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SERVICES
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GATS 2000

Request from the EC and its Member States (hereinafter the EC)

to

Thailand

General remarks

This request covers horizontal commitments, MFN exemptions and the following service sectors:

- Professional services
- Business services (other than professional services)
- Postal and courier services
- Telecommunications services
- Construction and related engineering services
- Distribution services
- Environmental services
- Financial services (banking, insurance, securities, other)
- Tourism and travel related services
- News agency services
- Transport (air, maritime, land, other) services
- Energy

The EC proposes that Thailand's current GATS commitments are revised in accordance with this request. The EC is both seeking improved commitments and clarification of existing commitments as set out in this Request. The EC is furthermore looking for a reduction in scheduled limitations whether these are horizontal or sector specific in nature.

The EC further requests that commitments are entered in accordance with the scheduling guidelines adopted by the Council of Trade in Services on 23

March 2001 (S/L/92). In particular, for each commitment or limitation entered the EC requests:

- That any remaining limitation on market access (hereafter “MA”) or on national treatment (hereafter “NT”) are clearly described and only be inscribed in the market access or national treatment columns if the measure is of a nature foreseen by Articles XVI-XVII GATS.

The EC remains available to provide any clarification and answer any question on this request. Questions can be addressed to the European Commission via the EC contact point, via the Delegation of the European Commission in Geneva, or at the following EC officials in Directorate-General Trade Unit D2 (Trade in services, including e-commerce):

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Note : The EC reserves the right to revise and/or supplement this request. For each service sector, W120 classification has been followed unless expressly indicated and CPCs refer to the Provisional CPC classification. The precise scope for each sector is without prejudice to the EC's final positions on classification issues and to the EC's classification of their existing commitments.

HORIZONTAL COMMITMENTS

EC Request to Thailand

Mode 3

- Requirement to use foreign limited liability company, and with foreign participation not more than 49% of the registered capital, and the number of foreign shareholders must be less than half of the total number of shareholders (MA). **EC request:** Remove restrictions on foreign participation and number of shareholders.
- National treatment for mode 3 is unbound if not otherwise specified (NT). **EC request:** Improve commitment on the same basis as request for MA.

Mode 3 and Mode 4

- Acquisition of land is restricted for foreigners and domestic companies deemed foreigners are not allowed to purchase or own land, but may lease land and own buildings. Foreigners may also own part of condominiums. **EC request:** Remove existing limitations on lease of land and ownership of buildings. Expand scope of exemptions for leasing land and owning building to all services activities covered by this present request

Mode 4

Definitions :

- Clarify definitions of « managers », « senior executives » and « specialists ».

Intra-corporate transferees :

- Degree of affiliation between companies which is required in order for a transfer to be covered by provisions on intra-corporate transferees is not clear. **EC request :** Clarify.
- Intra-corporate transferees must have “satisfied the criteria for management needs stipulated by the Department of Employment”. The EC considers that this requirement is equivalent to an economic needs test as set out in the Scheduling Guidelines. **EC request:** Eliminate this requirement.
- The EC also requests that a commitment be made to allow as intra-corporate transferees « persons with a university degree or equivalent technical qualification who are transferring for career development purposes or to obtain training in business techniques or methods ». The maximum prior employment requirement should be one year.

Business Visitors :

- No specific commitment has been made for Business Visitors who are not entering to themselves supply a service, but rather to establish a commercial presence. **EC request :** Clarify extent of existing commitments in relation to such Business Visitors.

Contractual Service Suppliers :

- A contractual service supplier is a juridical person with no commercial presence in Thailand, who has obtained a service contract in Thailand which requires the presence of its employees in Thailand in order to fulfil that contract. **EC request :** Take commitments for natural persons employed in the service sectors listed below and seeking temporary entry as contractual service suppliers. Such natural persons can be required to have a university degree or equivalent technical qualification – plus the appropriate professional qualifications where this is required by domestic law. The length of stay may be limited to the length of the contract.

List of sectors :

1. Business Services

Legal Services

Accounting and bookkeeping services

Taxation services

Architectural services

Engineering Services

Integrated engineering services

Urban planning and landscape architectural services

Computer and Related Services

Research and Development Services

Advertising

Management consulting services

Services related to management consulting

Technical testing and analysis services

Related scientific and technical consulting services

Maintenance and repair of equipment

Photographic services

Convention services

Translation services

3. Construction and related engineering services

Site investigation work (CPC 5111)

4. Distribution Services

Wholesale trade services (CPC 622)

6. Environmental Services

Water for human use & wastewater management

Solid/hazardous waste management

7. Financial Services

Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services

Advisory, intermediation and other auxiliary financial services on all the activities listed in the subparagraphs (v) to (xv) of the classification of the Annex on Financial Services, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy

9. Tourism and Travel Related Services

Tourist Guide Services (CPC 7472)

Additional commitments.

- Difficulties are experienced as a result of the length of time taken to process permits. The EC wishes to discuss the possibility of taking additional commitments to address this issue.

Note : Mode 4 is covered horizontally in this part for all service sectors. The sectoral requests in the following pages only refer to mode 4 when specifically related to one particular service sector.

PROFESSIONAL SERVICES

EC Request to Thailand

Thailand has committed this sector only partially. The EC requests that this sector is committed as follows:

a) Legal Services (CPC 861)

As regards consultancy on public international law and on law of jurisdiction where the service supplier or its personnel are qualified lawyers, remove restrictions as follows:

- Mode 1: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule none under MA and NT
- Mode 3: NT – Limits on foreign equity participation. **EC Request:** Remove
- Mode 4: MA and NT – This mode remains unbound. **EC Request:** Commit as referred to in the section “Horizontal commitments”

b) Accounting, auditing and bookkeeping services (CPC 862)

- Mode 1: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule none under MA and NT, for accounting and bookkeeping services
- Mode 3: NT – Limits on foreign equity participation. **EC Request:** Remove
- Mode 4: MA and NT – This mode remains unbound. **EC Request:** Commit as referred to in the section “Horizontal commitments”
- Auditing services are subject to a MFN exemption for bilateral agreements based on reciprocity treatment. **EC Request:** Remove. MFN exemptions based on reciprocal recognition of professional qualifications do not need to be schedules, as any mutual recognition agreement would be covered by GATS Article VII and subject to notification on the basis of this provision.

c) Taxation Services (CPC 863)

This sub-sector is not committed. **EC Request:**

- Modes 1, 2, 3: Take full commitments, i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

d) Architectural services (CPC 8671)

- Mode 1: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule none under MA and NT
- Mode 3: NT – Limits on foreign equity participation. **EC Request:** Remove
- Mode 4: MA and NT – This mode remains unbound. **EC Request:** Commit as referred to in the section “Horizontal commitments”
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e) Engineering services (CPC 8672)

- Mode 1: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule none under MA and NT
- Mode 3: NT – Limits on foreign equity participation. **EC Request:** Remove
- Mode 4: MA – This mode remains unbound for civil engineer. **EC Request:** Commit as referred to in the section “Horizontal commitments” also for civil engineers

f) Integrated engineering services (CPC 8673)

This sub-sector is not committed. **EC Request:**

- Modes 1, 2, 3: Take full commitments, i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

g) Urban planning and landscape architectural services (CPC 8674)

- Mode 1: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule none under MA and NT
- Mode 3: NT – Limits on foreign equity participation. **EC Request:** Remove
- Mode 4: MA and NT – This mode remains unbound. **EC Request:** Commit as referred to in the section “Horizontal commitments”

BUSINESS SERVICES (other than Professional Services)

EC Request to Thailand

General

The following restrictions apply in all sub-sectors where commitments have been made:

Mode 3: MA – Committed as referred to in the horizontal section, i.e. with foreign equity cap of 49% and form of establishment restriction. **EC request:** Disapply horizontal restrictions to all sub-sectors under Business Services.

Mode 3: NT – No national treatment limitation only where foreign equity cap of 49% is not exceeded. **EC request:** Take full commitment, i.e. schedule “none”.

B. Computer and Related Services:

General

This sub-sector has only been partially committed. **EC request:** Extend coverage to include rest of CPC 84 and schedule commitments at the two-digit level as follows:

Computer and Related Services (CPC 84):

Modes 1, 2 and 3: Take full commitments, i.e. schedule “none” under MA and NT;
Mode 4: Commit as referred to in the horizontal section.

In view of the rapid technological advances which have taken, and continue to take place, in this sub-sector, the EC proposes to seek clarification at a multilateral level as to what services are considered to be covered under CPC Prov 84.

C. Research and Development Services:

Thailand has not committed this Sector. The EC requests that it be committed as follows:

a. R&D Services on natural sciences (CPC 851)

c. Interdisciplinary R&D services. (CPC 853)

For each of the above sub-sectors:

- Modes 1 and 3: Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 4: Commit as referred to in the section "Horizontal commitments".

D. Real Estate Services:

Thailand has not committed this Sector. The EC requests that it be committed as follows:

a. Involving own or leased property (CPC 821)

b. On a fee or contract basis (CPC 822)

For each of the above sub-Sectors:

- Modes 1, 2, 3: Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 4: Commit as referred to in the section "Horizontal commitments".]

E. Rental and Leasing Services without Operators:

Thailand has not committed the following sub-Sectors. The EC requests that they be committed as follows:

a. Relating to ships (CPC 83103)

c. Relating to other transport equipment (CPC 83101 + 83102 + 83105)

For each of the above sub-sectors:

- Modes 1, 2, 3: Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 4: Commit as referred to in the section "Horizontal commitments".

d. Relating to other machinery (CPC 83106 – 83109)

Mode 1: MA and NT – This mode remains unbound. **EC request:** Take full commitments, i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

F. Other Business Services :

NB: Requests (if any) on (h) - services incidental to mining, and (j) - services incidental to energy distribution, are covered in those sections of the request dealing with Energy Services and Construction Services.

a. Advertising (CPC 871)

This sub-sector has only been partially committed. **EC request:** Extend sectoral coverage to all of CPC 871.

Mode 1: MA and NT – unbound. EC requests Take full commitments i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

b. Market research and Public Opinion Polling (CPC 864)

This sub-sector has only been partially committed. **EC request:** Extend sectoral coverage to all of CPC 864.

Mode 1: MA and NT – unbound. EC requests Take full commitments, i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

c. Management consulting services (CPC 865)

This sub-sector has only been partially committed. **EC request:** Extend sectoral coverage to all of CPC 865.

Mode 1: MA and NT – unbound. **EC request:** Take full commitments, i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

Mode 4: MA and NT: This mode remains unbound for legal and auditing consultants. **EC request:** Commit as referred to in "Horizontal commitments".

d. Services related to management consulting (CPC 866)

Thailand has not committed this sub-Sector. The EC requests that it be committed as follows :

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 4 : Commit as referred to in the section "Horizontal commitments".

e. Technical testing and analysis services (CPC 8676)

This sub-sector has only been partially committed. **EC request:** Extend sectoral coverage to all of CPC 864.

Mode 1: MA and NT – unbound. **EC request:** Take full commitments, i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

k. Placement and supply services of personnel (CPC 872)

Thailand has not committed this sub-Sector. The EC requests that it be committed as follows :

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 4 : Commit as referred to in the section "Horizontal commitments".

l. Security Services (CPC 87302 – 87309)

Thailand has not committed this sub-Sector. The EC requests that it be committed as follows :

- Mode 3 : MA - Commit with no form of establishment or equity limitation. Full NT commitment - i.e. schedule "none".
- Mode 4 : Commit as referred to in the section "Horizontal commitments".

m. Related scientific and technical consulting services (CPC 8675)

Thailand has not committed this sub-Sector. The EC requests that it be committed as follows :

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 4 : Commit as referred to in the section "Horizontal commitments".

n. Maintenance and Repair of Equipment (not including transport equipment) (CPC 633 + 8861-8866)

Thailand has not committed this sub-sector. **EC request:** Commit as follows

- Modes 1, 2: Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 3,4 : Commit as referred to in the section "Horizontal commitments".

q. Packaging Services (CPC 876)

Mode 1: MA and NT – This mode remains unbound. **EC request:** Take full commitments, i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

Mode 4: MA and NT – This mode remains unbound. **EC request:** Commit as referred to in the section "Horizontal commitments".

r. Printing and Publishing Services (CPC 88442)

This sub-sector has not been committed for “newspaper publishing”. **EC request:** Extend sectoral coverage to all of CPC 88442.

Mode 1: MA and NT – This mode remains unbound. **EC request:** Take full commitments, i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

Mode 4: MA and NT – This mode remains unbound. **EC request:** Commit as referred to in the section "Horizontal commitments".

s. Convention Services (part of CPC 87909)

Thailand has not committed this sub-Sector. **EC request:** commit as follows :

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none" under MA and NT.
- Mode 4 : Commit as referred to in the section "Horizontal commitments".

t. Other (CPC 8790)

Translation Services (CPC 87905)

Mode 1: MA and NT – This mode remains unbound. **EC requests:** Take full commitments, i.e. schedule "none" under MA and NT.

Mode 3: - see general comment above.

POSTAL AND COURIER SERVICES

EC Request to Thailand

This request includes sub-sectors that are listed under the negotiating proposal of the EC (S/CSS/W/61). The work on the revision of classification of this sector is still underway. For this reason, the sub-sectors lack reference to CPC.

Thailand has not undertaken commitments in postal and courier services. The EC requests Thailand to commit this sector as follows, based on the EC proposal for the revised classification of postal and courier services:

Services relating to the handling¹ of postal items², whether for domestic or foreign destinations:

A. Handling of addressed written communications on any kind of physical medium³, including:

- Hybrid mail services

- Direct mail

B. Handling of addressed parcels and packages⁴

C. Handling of addressed press products⁵

D. Handling of items referred to in A. to C. above as registered or insured mail.

E. Express delivery services⁶ for items referred to in A. to C. above.

F. Handling of non-addressed items.

G. Document exchange.

H. Other services not elsewhere specified.

1 The term “handling” should be taken to include clearance, sorting, transport and delivery.

2 “Postal item” refers to items handled by any type of commercial operator, whether public or private.

3 E.g. letter, postcards.

4 Books, catalogues are included hereunder.

5 Journals, newspapers, periodicals.

6 Express delivery services may include, in addition to greater speed and reliability, value added elements such as collection from point of origin, personal delivery to addressee, tracing and tracking, possibility of changing the destination and addressee in transit, confirmation of receipt.

For sub-sectors B., C., E., F. and G. :

- Modes 1, 2 and 3 : Undertake full commitments for market access and national treatment.
- Mode 4 : Commit as referred to in the section « Horizontal commitments ».

For sub-sectors A. and D. :

- Modes 1, 2 and 3: Undertake commitments for market access and national treatment.
- Mode 4 : Commit as referred to in the section « Horizontal commitments ».

TELECOMMUNICATION SERVICES

EC Request to Thailand

Thailand has only partially committed this Sector. For basic telecommunications services, the EC notes that the results of internal legislation should have been bound as per the 1997 commitments (communications Acts were expected in 1997 on public basic telecommunications services, their results have not been registered in WTO commitments though promised by Thailand). The EC requests that this Sector is committed as follows :

All modes

There are no commitments in circuit-switched and packet-switched data transmission services, Electronic mail, Voice mail, On-line information and data base retrieval, electronic data interchange (EDI), enhanced/value-added facsimile services, incl. store and forward, store and retrieve, and code and protocol conversion. **EC request:** Make full commitments for all these sub-sectors, i.e. schedule "None".

There is an exclusive right of the Communications Authority of Thailand to link with Intelsat and Inmarsat. **EC request:** remove this restriction.

The voice, telex, telegraph and private leased services must be provided on a facilities basis. **EC request:** remove this obligation.

A number of provision in the schedule should have no impact on market access and national treatment: These are:

- "Each service to be supplied in Thailand requires a specific governmental licence."
- "Due to scarce resources, the number of licences may be limited
- "Licences are granted only to service suppliers duly constituted according to the Thai legislation, which requires head office and management located in the Thai territory."

EC request: remove these provisions.

Modes 1 and 2

There are two obligations: traffic shall be routed through a gateway in Thailand operated by a supplier duly licensed; and the provision of concerned services shall be agreed by the suppliers duly licensed of both ends. to go through a gateway for basic telecommunications services. **EC request:** remove these obligations.

Mode 3 – Commercial presence

There are foreign equity caps (20% for voice, telex, telegraph and private leased services and 40% for data base access services). **EC request:** remove these caps.

There are also caps on the percentage of the number of foreign shareholders in the total number of shareholders of the company (20% for voice, telex, telegraph and private leased services and 40% for data base access services). **EC request:** remove these caps.

For value added services there is a legal entity requirement (“Such company shall be permitted under the built-transferred-operated concept”). **EC request:** remove this requirement.

For value added services there is also a requirement on the network (“must use public telecommunication network under national telecommunication authorities”). **EC request:** remove this requirement.

Additional commitments

EC request: Commit to the full reference paper of the Basic Telecommunications negotiations.

CONSTRUCTION AND RELATED ENGINEERING SERVICES

EC Request to Thailand

General

Thailand has committed this Sector only partially. The EC requests that this Sector be committed as follows:

All sub-sectors (CPC 511 to CPC 518)

- Mode 3: NT – Foreign equity participation limited to 49%. **EC Request:** Remove this restriction.
- Mode 3: MA – Subject to horizontal restrictions. **EC Request:** Remove these restrictions.
- Mode 4: MA – This Mode remains unbound for civil engineers. **EC Request:** Remove this exclusion.

C. Installation and assembly work (CPC 514+516)

This sub-sector is not committed for CPC 514 (*assembly and erection of prefabricated constructions*). **EC Request for this CPC:**

- Mode 3: Take full commitments, i.e. schedule “none” under MA and NT.
- Mode 4: Commit as referred in the section “Horizontal commitments”.

D. Building completion and finishing work (CPC 517)

E. Other (CPC 511+515+518)

The 2 above-mentioned sub-sectors are not committed. **EC Request:**

- Mode 3: Take full commitments, i.e. schedule “none” under MA and NT.
- Mode 4: Commit as referred in the section “Horizontal commitments”.

Note : "MA" refers to commitments scheduled under the "Market Access" column. "NT" under the "National treatment" column.

DISTRIBUTION SERVICES

EC Request to Thailand

Thailand has only partially committed this Sector. The EC requests that this Sector is committed as follows :

A. Commission agents' services (CPC 621, 6111+6113+6121)

The distribution of motor vehicles (CPC 6111+6113+6121) is not committed.

EC Request:

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

B. Wholesale trade services (CPC 622, 6111+6113+6121)

C. Retailing services (CPC 631+632, 6111+6113+6121+613)

D. Franchising (CPC 8929)

Thailand has not committed the above 3 sub-sectors. The EC requests that these Sectors are committed as follows :

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

Note : In accordance with the W120 classification, the EC Request on "Repair services of personal and household goods" (CPC 633) is included under "1. Business services / F. Other business / n. Maintenance and repair".

ENVIRONMENTAL SERVICES

EC Request to Thailand

The EC requests Thailand to commit the following subsectors, and schedule existing commitments accordingly, based on the EC proposal for the classification of environmental services.

The EC asks clarification on the coverage of commitments under points A in the schedule of Thailand, in particular environmental protection and environmental abatement services.

A. Water for human use & wastewater management

- Water collection, purification and distribution services through mains, except steam and hot water

Extend sectoral coverage to include the above services, and take full commitments in that subsector for mode 2 and 3.

- Waste water services (CPC 9401)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

B. Solid/hazardous waste management

- Refuse disposal services (CPC 94020)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

- Sanitation and similar services (CPC 94030)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

C. Protection of ambient air and climate

- Services to reduce exhaust gases and other emissions and improve air quality (CPC 94040)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

D. Remediation and cleanup of soil & water

- Treatment, remediation of contaminated/polluted soil and water (part of CPC 94060)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

E. Noise & vibration abatement

- Noise abatement services (CPC 94050)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

F. Protection of biodiversity and landscape

- Nature and landscape protection services (part of CPC 94060)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

G. Other environmental & ancillary services

- Other environmental protection services not classified elsewhere (CPC 94090)

Mode 3

National treatment: Remove limitation of 49% foreign equity for NT.

FINANCIAL SERVICES

EC Request to Thailand

General

- **EC Request:** Undertake commitments in accordance with the Understanding on Commitments in Financial Services.
- **EC Request:** Follow the classification of the Annex on Financial Services.
- Mode 3: MA - No licences for wholly owned subsidiaries. **EC Request:** Bind.
- Mode 3: MA - Prohibition on direct branching in all sectors.
EC Request: Commit direct branching.

Insurance

- Modes 1 and 2: MA and NT - MAT insurance. **EC Request:** Schedule according to Understanding.
- Mode 3: MA and NT - Restrictions on foreign ownership of domestic insurers (25% of core insurance businesses; up to 49% for insurance consultancy, claims handling and actuarial service companies).
EC Request: Remove those restrictions.
- Mode 3: MA - Prohibition on wholly-owned foreign subsidiaries.
EC Request: Eliminate this prohibition.
- Mode 3: MA and NT - Economic needs test. **EC Request:** Eliminate the test.
- Mode 3: MA and NT - Approval of licence by Minister of Finance following agreement from the Minister's Cabinet. **EC Request:** Simplify the approval.
- Mode 3: MA - Ban on direct branching. **EC Request:** Allow direct branching.
- Mode 3: MA - Compulsory reinsurance cessions (ranging from 5-20%).
EC Request: Eliminate compulsory cessions.
- Mode 3: MA and NT - Limits on national treatment if foreign shares exceed 49% in insurance consultancy, average and loss adjustment and actuarial services. **EC Request:** Remove those limits.
- Mode 3: MA and NT - Foreign share of brokerage houses is limited.
EC Request: Remove restriction.

- Mode 3: MA and NT - Prohibition on foreigners from working in insurance brokerages. **EC Request:** Eliminate this prohibition.

- Mode 3: MA and NT - Restrictions imposed on underwriting.
EC Request: Remove those restrictions.

- Mode 3: MA and NT - Restrictions on offshore reinsurance placements.
EC Request: Remove those restrictions.

- Mode 3: MA - Mandatory reinsurance deposit requirement.
EC Request: Eliminate deposit requirement.

- Mode 3: MA and NT - Local retention policy (for fire business and other classes). **EC Request:** Remove this restriction.

- Mode 4: MA – Requirement of an approval of the Insurance Commissioner for senior managerial personnel, specialists and technical assistants.
EC Request: Remove this approval.

Banking and other financial services

- Modes 1 and 2: MA and NT - Provision and transfer of financial information and financial data processing. **EC Request:** Schedule according to Understanding.

- Mode 3: MA - Limitation to 49% of foreign portfolio investment in domestic companies. **EC Request:** Eliminate this ceiling.

- Mode 3: MA and NT - Limits on new access to domestic market for foreign banks with existing offshore licences. **EC Request:** Remove those limits.

- Mode 3: MA and NT - Limitation of foreign banks to three full branches, one outside Bangkok area. **EC Request:** Eliminate this limitation.

- Mode 3: MA - Pension fund management is not committed.
EC Request: Bind.

- Mode 3: MA and NT - Limitation of off-site ATMs by defining as a branch.
EC Request: Remove this limitation.

- Mode 3: MA and NT - Limitation of foreign bank access to local ATM networks. **EC Request:** Remove this restriction.

- Mode 3: NT - Requirement applied to foreign banks lending domestically to pay withholding tax on funds brought in from outside the country.
EC Request: Eliminate this requirement.

- Mode 3: MA - Limits on number of foreign banks entering offshore banking market. **EC Request:** Remove those limits.
- Mode 3: NT - Prohibition of offshore foreign banks from local currency dealing. **EC Request:** Eliminate this prohibition.
- Mode 3: NT - Capital requirements are stricter for foreign firms than for domestic firms. **EC Request:** Eliminate the discrimination.
- Mode 3: NT - Foreign banks' branches are not allowed to use parent's capital to meet prudential requirements. **EC Request:** Allow such a possibility.
- Mode 3: MA and NT - Restriction of net open position limit for foreign banks to percentage of local branch capital, not of consolidated capital. **EC Request:** Remove this restriction.
- Mode 3: MA and NT - Requirement that foreign bank branch capital be 100% invested in specific domestic securities. **EC Request:** Eliminate this requirement.
- Mode 3: MA and NT - Limitation of stock exchange listings for overseas companies to those with Thai majority, etc. **EC Request:** Remove this limitation.
- Mode 3: MA and NT - Requirements to be met by licensed financial institution or to register as trading company that cannot take deposits. **EC Request:** Remove those requirements.
- Mode 4: MA and NT - Limitations on the number of foreign personnel. **EC Request:** Eliminate those limitations.

TOURISM AND TRAVEL RELATED SERVICES

EC Request to Thailand

A. Hotels and restaurants (incl. catering) (CPC 641-643)

Extend sectoral scope to include all hotel and lodging services (all of CPC 641), and restaurant services (all of CPC 642 and 643), and undertake full commitments.

Mode 3

National treatment: The EC understands this entry as binding national treatment only up to 49% foreign equity ownership. Bind national treatment without limitations on foreign equity ownership.

B. Travel agencies and tour operators services (CPC 7471)

Mode 1

Market access and national treatment: Bind this mode, and undertake full commitments.

Mode 3

Market access: Remove nationality requirement for 50% of members of the board of directors of the company.

National treatment: We understand this entry as binding national treatment only up to 49% foreign equity ownership. Bind national treatment without limitations on foreign equity ownership.

C. Tourist guides services (CPC 7472)

Extend sectoral coverage to include tourist guide services, and undertake full commitments

D. Other

Hotel management services

Mode 3

National treatment: We understand this entry as binding national treatment only up to 49% foreign equity ownership. Bind national treatment without limitations on foreign equity ownership.

NEWS AGENCY SERVICES

EC request to Thailand

Thailand has not committed this sector (CPC 962). The EC requests that this Sector be committed as follows:

EC Request (CPC 962):

- Modes 1-3: Take full commitments, i.e. schedule “none” under MA and NT.
- Mode 4: Commit as referred to in the section “Horizontal commitments”.

TRANSPORT SERVICES

EC Request to Thailand

A. Maritime transport

Thailand has specific commitments on maritime transport. Restrictions relate in particular to cargo-sharing (Mode 1), national treatment (preferences to Thai vessels). Auxiliary services such as cargo-handling, customs clearance and container stations are not committed.

EC request: Take commitments in accordance with the attached model schedule (Annex 1). In particular for the following areas:

- 1) International transport (freight and passengers) CPC 7211 and 7212
- 2) Additional commitments for access to and use of ports facilities
- 3) Maritime auxiliary services (maritime cargo handling, storage and warehouse services, customs clearance services, container station and depot services, maritime agency services)
- 4) Multimodal activities: for inland forwarding of cargoes - commit the ability to rent or lease - or to have access to and use of multimodal facilities (as specified in the note to the schedule).
- 5) Definitions – commit definitions as specified in the model schedule.

The EC also request the following additional maritime commitments from Thailand:

- 6) Equipment. To facilitate planning of their businesses operators should be allowed to reposition their own equipment, such as empty containers, between ports of Thailand, when it is not carried against payment. This is requested to be committed in a new footnote:
“9. Movement of own equipment. International maritime transport suppliers can move/reposition their own equipment (i.e. empty containers, flatbeds etc.) on their own vessels between ports of Thailand.”
- 7) International cargo. Notwithstanding the general exclusion of “cabotage” in the definitions of the model schedule (see Annex 1) an international maritime transport supplier should be allowed to operate feeder services for its own international cargo between ports of Thailand. This is requested to be committed in a new footnote:
“10. Notwithstanding the exclusion of “cabotage” in definition 1 above international maritime transport suppliers can operate vessels for the purposes of pre- and onward carriage of the international cargo between ports of Thailand”

In this context Thailand may wish to take the one or more of the following principles into concern:

- Size of the port. Only valid for international cargo relayed between national ports handling more than [25.000 TEU] on an annual basis.
- Binding existing ad hoc practices. To the extent exceptions are already granted for use of foreign flagged vessels such practices could be bound to explicitly cover pre- and onward carriage of international cargo.
- Geographical limitations: Transport of international cargo between ports within the same province [or other relevant regional entity] remains excluded.

A final request related to maritime transport is:

8) Rental and leasing of vessels with crew (CPC 7213, 7223).

EC request:

- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as in horizontal commitments.

B. Internal waterways:

Thailand has no commitments for this activity.

c) Rental and leasing of vessels with crew (CPC 7213, 7223)

EC request:

- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

C. Air transport

1) Maintenance and repair of aircraft and parts thereof.

Thailand has specific commitments for this activity, with a restrictions related to establishment (Mode3 unbound)

EC request:

- Modes 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

2) Selling and marketing.

Thailand has specific commitments for this activity, with a restrictions related to establishment (selling restriction to air lines offices and one general agent, limitations on telecom uses) and in the national treatment (for VAT rates reciprocity)

EC request:

- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

3) Computer Reservation Systems.

EC request:

- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

4) Groundhandling services, as specified in the attached definitions (Annex 2).

EC request:

- Modes 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

5) Airport management services, as specified in the attached definitions (Annex 2).

EC request:

- Mode 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

F. Road transport

b) Freight Transportation (CPC 7123).

Thailand has specific commitments for this activity, with a restrictions related to establishment (Mode 3 – not less than half of the board of directors to be Thai nationals) and restricted to only some parts of the classification (CPC 71231+71233). Product restrictions.

EC request:

- Mode 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

d) Maintenance and Repair of Road Transport Equipment (CPC 6112)

EC request:

- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

H. Services Auxiliary to All Modes of Transport

b) Storage and Warehouse Services (CPC 742)

Thailand has specific commitments for this activity, with a restrictions related national treatment (foreign ownership limited to 49%)

EC request:

- Modes 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

c) Freight Transport Agency/Freight Forwarding Services (CPC 748) and Pre-Shipment Inspection (part of CPC 749).

Thailand has specific commitments for this activity, with a restrictions related national treatment (foreign ownership limited to 49%). Pre-shipment inspection (part of 749) is not included.

EC request:

- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

MFN exemptions:

Transport services (Selling and marketing)

Thailand has a MFN exemption for selling and marketing of maritime transport services, and selling and marketing of air transport services. It allows for value added tax in using different rates based on a reciprocal basis.

EC request: Remove to avoid discrimination among suppliers.

Aircraft repair and maintenance Services:

Thailand has a MFN exemption that allows it to grant permission to airlines of those countries which treat Thai carriers on reciprocal basis

EC request: Remove (see EC request under air transport).

Maritime transport (access to cargo):

Thailand has three MFN exemption relating to access to cargo (covering agreement with USA – for 10 year period) and two on direct cargo-sharing agreements (with China for 10 year period) and Vietnam.

EC request: Remove exemption (see EC requests for maritime transport based on the model schedule, which precludes such cargo-sharing/reservation).

Road transport

Thailand has a MFN exemption for road transport (international road transport

Services, Passenger transportation, Freight transportation, Rental of non-commercial vehicles with/without driver) allowing for measures in bilateral agreements on a reciprocity basis.

EC request: Limit exemptions to relevant measures (for example taxation issues and country of registrations for vehicles).

Annex 1: SCHEDULE ON MARITIME TRANSPORT SERVICES

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
TRANSPORT SERVICES MARITIME TRANSPORT SERVICES International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u> cabotage transport	1) (a) <u>Liner Shipping</u> : none (b) <u>Bulk, tramp, and other international shipping, including passenger transportation</u> : none	1) (a) None (b) None	The following services at the port are made available to international maritime transport suppliers on reasonable and no discriminatory terms and conditions 1. Pilotage 2. Towing and tug assistance 3. Provisioning, fuelling and watering 4. Garbage collecting and ballast waste disposal 5. Port Captain's services 6. Navigation aids 7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies 8. Emergency repair facilities 9. Anchorage, berth and berthing services 1) See note
TRANSPORT SERVICES MARITIME TRANSPORT SERVICES International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u>	2) None	2) None	

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
cabotage transport (cont.)	<p>3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below – 2): none</p> <p>4) (a) Ships' crews: unbound</p> <p>(b) Key personnel employed in relation to a commercial presence as defined under mode 3b) above: Unbound except as in horizontal section</p>	<p>3) (a) Unbound</p> <p>(b) None</p> <p>4) (a) Unbound</p> <p>(b) Unbound except as in horizontal section</p>	3) (b) See Notes 2, 3,
MARITIME AUXILIARY SERVICES Maritime Cargo Handling Services (as defined below – 4)	<p>1) Unbound* except for – no limitation on transshipment (board to board or via the quay) and/or on the use of on-board cargo handling equipment</p> <p>2) None</p>	<p>1) Unbound* except for no limitation on transshipment (board to board or via the quay) and/or on the use of on-board cargo handling equipment</p> <p>2) None</p>	

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Storage and warehousing Services CPC 742	3) None** 4) Unbound except as in horizontal section 1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section	3) None 4) Unbound except as in horizontal section 1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section	
Customs Clearance Services (as defined below – 5)	1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section	1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section	
MARITIME AUXILIARY SERVICES (cont.)			
Container Station and Depot Services (as defined below – 6)	1) Unbound* 2) None 3) None**	1) Unbound* 2) None 3) None	

* A commitment on this mode of delivery is not feasible.

** Public utility concession or licensing procedures may apply in case of occupation of the public domain.

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Maritime Agency Services (as defined below – 7)	4) Unbound except as in horizontal section 1) None 2) None 3) None	4) Unbound except as in horizontal section 1) None 2) None 3) None	
(Maritime) Freight Forwarding Services (as defined below - 8)	4) Unbound except as in horizontal section 1) None 2) None 3) None 4) Unbound except as in horizontal section	4) Unbound except as in horizontal section 1) None 2) None 3) None 4) Unbound except as in horizontal section	

NOTE TO THE SCHEDULE

Where road, rail, inland waterways (and) (related) (auxiliary) services are not otherwise fully covered in (this) (a Member's) schedule, a multimodal transport operator shall have the ability to rent or lease trucks, railway carriages or barges, and related equipment, for the purpose of inland forwarding of cargoes, or have access to, and use of, these forms of multimodal activities on reasonable and non-discriminatory terms and conditions for the purpose of carrying out multimodal transport operations. (« Reasonable and non-discriminatory terms and conditions » means, for the purpose of (multimodal transport operations), (this additional commitment), the ability of the multimodal transport operator to arrange for the conveyance of its merchandise on a timely basis, including priority over other merchandise which has entered the port at a later date).

DEFINITIONS

1. Without prejudice to the scope of activities which may be considered as « cabotage » under the relevant national legislation, this schedule does not include « maritime cabotage services », which are assumed to cover transportation of passengers or goods between a port located in ... (name of country or, for EEC, « a Member State ») and another port located in ... (name of the country or, for EEC, « the same Member State ») and traffic originating and terminating in ... the same port located in (name of country, or for the EEC, « a Member State ») provided that this traffic remains within ... (name of country or « this Member State »)'s territorial waters.
2. « Other forms of commercial presence for the supply of international maritime transport services » means the ability for international maritime transport service suppliers of other Members to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);
- (e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

- (f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.
3. « Multimodal transport operators » means the person on whose behalf the bill of lading /multimodal transport document, or any other document evidencing a contract of multimodal carriage of goods, is issued and who is responsible for the carriage of goods pursuant to the contract of carriage.
4. « Maritime cargo handling services » means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:
- the loading/discharging of cargo to/from a ship;
 - the lashing/unlashing of cargo;
 - the reception/delivery and safekeeping of cargoes before shipment or after discharge.
5. « Customs clearance services » (alternatively « customs house brokers' services ») means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.
6. « Container station and depot services » means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.
7. « Maritime agency services » means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:
- marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
 - acting on behalf of the companies organising the call of the ship or taking over cargoes when required.
8. « Freight forwarding services » means (the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information).

Annex 2 Facilitating air transport services

Ground-handling Services

Efficient ground-handling is essential to the proper functioning of air transport and competition between operators in this area ensures that proper use is made of air transport infrastructure. It helps reduce the operating costs of airlines and improves the quality of service for airport users.

For specialised groundhandling suppliers the following activities are requested:

- Ground Administration – supervision and administration at the airport (CPC 7461);
- Passenger Handling – assisting arriving, departing and transfer passengers (CPC 7461);
- Baggage Handling – handling baggage in the sorting area (CPC 7461);
- Freight and Mail Handling – physical handling of freight and mail, dealing with security and customs procedures (CPC 74110 (container handling services) and 74190 (other cargo handling services));
- Ramp Handling – marshalling and moving the aircraft, loading and unloading of aircraft, transport of passengers, freight, supplies (CPC 7469).
- Aircraft Services – cleaning the aircraft, heating and cooling, removal of snow and ice (CPC 7469);
- Fuel and Oil Handling – organisation and provision of fuel and oil;
- Aircraft Maintenance – covered specifically by the Annex as above;
- Flight Operations and Crew Administration – preparation of the flight, inflight and post-flight assistance, crew administration;
- Surface Transport – organisation and execution of transport within airport – except to and from aircraft;
- Catering Services – administration, storage, preparation and delivery of bar and food supplies (CPC 6423). *[Catering is listed for only for information purposes as this activity is classified and committed by Thailand as part of tourism services]*

Airport management services

Airport management services constitute the core activities of airport services providers and cover: Airport operation services (excl. cargo handling), including passenger air terminal services and ground services on air fields, including runway operating services, on a fee or contract CPC 74610.

Activities are also related to “other management consulting services” (CPC 86509) and activities separately specified under “other management services not elsewhere classified”(CPC 86609). A commitment will allow services suppliers to take an equity stake in - and engage in the overall operation and

management of - airports when these are open for investments from private operators. Thereby it will bind existing common practices in the sector.

ENERGY SERVICES

EC Request to Thailand

This request includes services that are listed under the negotiating proposal of the EC (S/CSS/W/60) . The work on the classification of these services is still underway. For this reason, some activities therefore lack reference to CPC.

The EC requests that this area is committed as follows:

A. Services related to exploration and production

- CPC 883: Services incidental to mining

EC Request:

- Mode 3 : Take full commitments on National Treatment (Eliminate limitation for foreign participation to capital)

- CPC 8675: Related scientific and technical consulting services

This sub-sector is not committed. **EC Request:**

- Mode 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

- CPC 511: Construction and related engineering services

This sub-sector is not committed. **EC Request:**

- Mode 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

- CPC 51360: Construction and related engineering services

EC Request:

- Mode 3 : Take full commitments on National Treatment (Eliminate limitation for foreign participation to capital)

B. Services related to the construction of energy facilities

B.1 Construction of energy facilities

- CPC 513: Construction work for civil engineering
 - CPC 51340: For long distance pipelines, communication and power lines (cables)
 - CPC 51350: For local pipelines and cables; ancillary works
 - CPC 51360: For constructions for mining and manufacturing

EC Request:

- Mode 3 : Take full commitments on National Treatment (Eliminate limitation for foreign participation to capital)

B.2 Installation and assembly work

- CPC 516: Installation and assembly work

EC Request:

- Mode 3 : Take full commitments on National Treatment (Eliminate limitation for foreign participation to capital)

C. Services related to networks

C.1 Operation of transportation/transmission and distribution facilities

- CPC 887: Services incidental to energy distribution

This sub-sector is not committed. **EC Request:**

- Modes 3 : Take commitments for operation of networks not part of the integrated system.

- Mode 4 : Commit as referred in the section "Horizontal commitments".

- CPC 71310: Transportation of petroleum and natural gas

This sub-sector is not committed. **EC Request:**

- Modes 3 : Take commitments for operation of networks not part of the integrated system.

- Mode 4 : Commit as referred in the section "Horizontal commitments".

D. Storage services

- CPC 74220: Bulk storage services of liquids or gases

EC Request:

- Mode 3 : Take full commitments on National Treatment (Eliminate limitation for foreign participation to capital)

E. Services for the supply of energy

E.1 Wholesale of energy products

- CPC 62271: Wholesale trade services of solid, liquid and gaseous fuels and related products

This sub-sector is not committed. **EC Request:**

- Mode 3 : Take full commitments, i.e. schedule "none".

- Mode 4 : Commit as referred in the section "Horizontal commitments".

- Wholesale trade services of electricity

EC Request:

- Modes 3 : Take full commitments, i.e. schedule "none".

- Mode 4 : Commit as referred in the section "Horizontal commitments".

E.2 Retail sale of energy products

- CPC 63297: Retail sale of fuel oil, bottled gas, coal and wood

This sub-sector is not committed. **EC Request:**

- Mode 3 : Take full commitments, i.e. schedule "none".

- Mode 4 : Commit as referred in the section "Horizontal commitments".

E.3 Trading of energy products

EC Request:

- Modes 1, 2, 3 : Take full commitments, i.e. schedule “none”.
- Mode 4 : Commit as referred in the section "Horizontal commitments".

E.4 Brokering of energy products

EC Request:

- Modes 1, 2, 3 : Take full commitments, i.e. schedule “none”.
- Mode 4 : Commit as referred in the section "Horizontal commitments".

F. Services for the final use

F.1 Energy audit

- CPC 86505: Production management consulting services

EC Request:

- Mode 3 : Take full commitments on National Treatment (Eliminate limitation for foreign participation to capital)

F.2 Energy management

- CPC 86505: Production management consulting services

EC Request:

- Mode 3 : Take full commitments on National Treatment (Eliminate limitation for foreign participation to capital)

G. Services related to decommissioning

EC Request:

- Modes 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".