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GATS 2000

REQUEST FROM THE EC AND ITS MEMBER STATES (HEREINAFTER EC)

TO

CANADA

GENERAL REMARKS

At the WTO Ministerial Conference in Doha in November 2001, Ministers agreed that initial requests for specific commitments should be submitted by 30 June 2002.

In line with this decision, and committed to the objectives and principles stated in the GATS, in particular Article IV and XIX GATS, as well as the negotiating guidelines agreed by the Council for Trade and Services on 29 March 2001, the EC encourages Argentina to participate actively in the negotiations.

The EC considers that the progressive liberalisation of services is of benefit for all members, including developing and least developed countries. In this context, the EC recognises the importance of liberalisation being underpinned by domestic regulatory frameworks designed to ensure the achievement of public policy objectives.

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

Professional services

Business services

Postal and courier services

Telecommunication services

Construction and related engineering services

Distribution services

Environmental services

Financial services

Tourism and travel related services

News agency services

Transport services

Energy services.

The EC proposes that Canada'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. In so doing, the EC is not seeking the dismantling of public services not the privatisation of state owned companies.

In conformity with the objectives set out in the EC's overall approach to services negotiations (document S/CSS/W/15), the EC reiterates its commitments to promote regulatory disciplines in accordance with Article VI:4 of the GATS. The EC, however, reserves its right to address at any time to Canada specific requests concerning regulatory issues.

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 the sector and sub-sector are clearly identified in accordance with the classification list in Document MTN.GNS/W/120 or other internationally recognised classification (e.g. Financial Services Annex) and corresponding CPC number. If this is not possible, the schedule should contain a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment. In that respect, the EC would like to recall the classification or list of activities proposed in its negotiating proposals with regard to postal and courier, environmental and energy services. While discussions on classification in these sectors are still ongoing, the EC would like to invite Canada to present its offer in accordance with this approach.

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 (mailbox address: TRADE-GATS-CONTACT-POINTS@cec.eu.int), via the Delegation of the European Commission in Geneva, or directly to the European Commission (Directorate-General Trade, Unit D2 (Trade in services, including e-commerce), Brussels, B-1049, Belgium, fax 32-2-299 24 35).

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 CANADA

MODES 1 AND 2

NT – Ontario: Tax measures resulting in differences of treatment with respect to payments for management services made to affiliated non-residents and requirement to appoint an Ontario agent for service of legal documents. EC Request: Clarify this tax regime.

NT – Alberta: First consideration may be given to service suppliers from within Alberta or Canada for large scale energy projects. EC Request: Remove this preference.

NT - Newfoundland and Nova Scotia: First consideration given to services provided within the province for petroleum operations. EC Request: Remove this preference.

MODE 3

MA – The acquisition of control of a Canadian business by a non-Canadian is subject to approval above a certain amount. EC Request: Eliminate this approval.

NT - Federal and sub-central tax measures (generally pertaining to small business) may result in a difference of treatment in respect of all or some “Canadian controlled private corporations”. EC Request: Clarify the compatibility of this measure with GATS Article XIV.

NT - Measures conferring a tax exemption or reduction to, or in respect of services supplies by, a service supplier owned by government. EC Request: Clarify the compatibility of this measure with GATS Article XIV.

NT – Limitations on participation in companies of which government disposes of its interest. EC Request: Clarify this restriction.

NT – Measures related to the supply of services required to be offered to the public may result in differential treatment in terms of benefits or price. EC Request: Clarify this restriction.

NT – A majority of the directors of federally incorporated corporations in Canada must be Canadian citizens or persons ordinarily resident in Canada. EC Request: Remove this requirement.

NT – Alberta, British Columbia, Manitoba, Newfoundland, Labrador, Ontario, and Saskatchewan: Residency requirements for directors. EC Request: Remove those residency requirements.

NT – Alberta, British Columbia, Manitoba, Newfoundland, Labrador, Ontario, Prince Edward Island, and Saskatchewan: Discriminations on real estate transactions. EC Request: Eliminate those restrictions.

NT – Alberta: Requirement of a resident attorney for service of legal documents. EC request: Remove this requirement.

Priority given by the Alberta Opportunity Fund to service suppliers owned and operated by Canadian citizens. EC Request: Clarify the scope of the Alberta Opportunity Fund.

NT – Newfoundland and Labrador: All non-resident businesses must engage a local agent for the purpose of collective bargaining and execution of conveyance and mortgages. EC Request: Eliminate this requirement

NT – Ontario: Restrictions on eligibility for investments from small business development corporations. EC Request: Remove those restrictions.

NT – Ontario: Tax measures may result in differences of treatment of corporations with respect to capital gains on shares of corporations resident in Canada. EC Request: Clarify the compatibility of this measure with GATS Article XIV

MODE 4

Intra-corporate transferees:

The EC requests that a commitment be made to allow as intra-corporate transferees without requiring an economic needs test « 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.

Contractual Service Suppliers:

A contractual service supplier is a juridical person with no commercial presence in Canada, who has obtained a service contract in Canada requiring the presence of its employees in Canada in order to fulfil that contract. Canada's commitments on "Professionals" include contractual service suppliers. EC Request:

- Eliminate licensing and certification requirements
- Move Foreign Legal Consultants and Urban Planners from Chart B to Chart A.
- For senior computer specialists, reduce the prior experience requirement down from 10 years.
- Expand Chart A to include other professionals services, in particular all lawyers, accountants and bookkeepers, persons working in the field of taxation services and landscape architects.

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 in time.

List of sectors:

1. Business 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

Interpreters

3. Construction and related engineering services

Site investigation work (CPC 5111)

4. Distribution Services

Wholesale trade services (CPC 622)

6. Environmental Services

All sub-sectors

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

Additional commitments.

Difficulties are experienced as a result of the length of time taken to process visas, work and residence 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 CANADA

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

A. LEGAL SERVICES (CPC 861)

This sub-sector is not committed for practice through Canadian qualified lawyers. EC Request: Extend sectoral coverage of commitments to consultancy on law of jurisdiction where the service supplier or its personnel are qualified lawyers.

Mode 3: MA – Commercial presence restricted to sole proprietorship or partnership. EC Request: Remove this restriction.

Mode 4: MA – Requirements of permanent residency (applicable in Prince Edward Island, Ontario and Newfoundland) or citizenship (applicable in Québec). EC Request: Remove those requirements in Ontario, Newfoundland and Québec.

Additional commitments: Requirement of prior practice in home country law applicable in several Canadian provinces. EC Request: Eliminate this requirement.

Additional commitments: Requirements of being “physically fit” and of completing mandatory continuing legal education programmes applicable in British Columbia and Saskatchewan. EC Request: Remove.

Additional commitments: Residency requirement in Ontario. EC Request: Eliminate this requirement.

B. ACCOUNTING, AUDITING AND BOOKKEEPING SERVICES (CPC 862)

Modes 1, 2 and 4: MA - Citizenship requirement for accreditation applicable in Manitoba and Québec as regards auditing.

EC Request: Remove this requirement.

Mode 2: MA – Commercial presence required in Saskatchewan, Newfoundland, Nova Scotia, Manitoba and Ontario as regards auditing. EC Request: Eliminate this requirement.

Mode 3: MA – Commercial presence restricted to sole proprietorship or partnership. EC Request: Remove this restriction.

D. ARCHITECTURAL SERVICES (CPC 8671)

Modes 1 and 4: MA - Citizenship requirement for accreditation applicable in Québec. EC Request: Eliminate this requirement.

Modes 1 and 4: NT - Residency requirement for accreditation applicable in several Canadian provinces. EC Request: Remove.

Mode 3: MA – Commercial presence restricted to sole proprietorship or partnership. EC Request: Remove this restriction.

E. ENGINEERING SERVICES (CPC 8672)

F. INTEGRATED ENGINEERING SERVICES (CPC 8673)

For each of these two sub-sectors:

Modes 1 and 2: MA – Requirement for a commercial presence applicable in Manitoba. EC Request: Remove this requirement.

Modes 1, 2 and 4: MA - Citizenship requirement for accreditation applicable in Québec. EC Request: Eliminate this requirement.

Modes 1, 2 and 4: MA - Residency requirement for accreditation applicable in several Canadian provinces. EC Request: Remove.

Modes 1 and 4: NT – Residency requirement for accreditation applicable in Saskatchewan. EC Request: Remove this requirement.

G. URBAN PLANNING AND LANDSCAPE ARCHITECTURAL SERVICES (CPC 8674)

Modes 1 and 4: MA - Citizenship requirement for use of title applicable in Québec. EC Request: Remove this requirement.

Modes 1 and 4: NT – Residency requirement applicable in Newfoundland and Saskatchewan. EC Request: Eliminate this requirement.

BUSINESS SERVICES

EC REQUEST TO CANADA

B. COMPUTER AND RELATED SERVICES

General

EC Request: Schedule commitments at the two-digit level – i.e. CPC 84.

C. RESEARCH AND DEVELOPMENT SERVICES:

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

Canada has not committed this sub-Sector. **EC Request** for privately financed research and development:

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none" under MA and NT.

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

b. R&D Services on social sciences and humanities (CPC 852)

This sub-sector is not committed for « linguistics and language ».EC Request: For privately financed research and development, commit as for rest of CPC 852.

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

Canada has not committed this sub-Sector. **EC Request** for privately financed research and development:

Modes 1, 2 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

a. Involving own or leased property (CPC 821)

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

Modes 1 and 4: MA: Real Estate Services: Commercial presence requirement for five provinces. EC Request: Eliminate this requirement.

Modes 1 and 4: MA: Real Estate Agents: Commercial presence requirement for Alberta and Newfoundland. EC Request: Eliminate.

Modes 1 and 4: MA: Citizenship requirement for « chartered appraisers » in Quebec. EC Request: Eliminate.

Modes 1 and 4: NT – Residency requirement for real estate agents in several provinces plus Yukon. EC Request: Eliminate.

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)

Canada has not committed this sub-Sector. **EC Request:**

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none" under MA and NT.

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

c. Management consulting services (CPC 865)

This sub-sector has been committed at a five-digit level. EC Request: Commit at three-digit level.

Modes 1, 2 and 4: MA – Newfoundland and Quebec. Various permanent residency and/or citizenship requirements. EC Request: Eliminate.

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

Mode 1: MA – Ontario: Commercial presence requirement. EC Request: Eliminate.

Mode 2: MA – Commercial presence requirement. EC Request: Eliminate.

l. Security Services (CPC 87302 – 87309)

Mode 3: NT – Newfoundland. Citizenship/residency requirement for majority of board of directors. EC Request: Eliminate.

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

This sub-sector has been committed at a five-digit level. EC Request: Commit at four-digit level.

Mode 3: MA – Restriction on form of establishment for land surveyors: EC Request: Eliminate this restriction.

Modes 1 and 4: MA – British Columbia. Citizenship/permanent residency requirement for « Free Miner ». EC Request: Eliminate.

Modes 1 and 2: MA – Saskatchewan. Commercial presence requirement for land surveyors. EC Request: Eliminate this requirement.

Modes 1, 2 and 4: MA – Manitoba, Nova Scotia, Quebec – Citizenship requirement for land surveyors. EC Request: Remove.

Mode 2: MA – Newfoundland – Citizenship requirement for land surveyors. EC Request: Please explain why a citizenship requirement is indicated in this mode, whilst a residence requirement is indicated for modes 1 and 4. Eliminate.

Modes 1 and 4: MA – Newfoundland - Residence requirement for land surveyors. EC Request: Eliminate this requirement.

Modes 1, 2 and 4: NT – Ontario, British Colombia – Residence requirement for land surveyors. EC Request: Remove this requirement.

Modes 1 and 2: NT (and MA for Mode 2) – Ontario – In-province training required for land surveyors. EC Request: Eliminate.

Modes 1, 2 and 4: MA – Quebec – Citizenship requirement for subsurface surveying services. EC Request: Eliminate this requirement.

Modes 1 and 4: MA – Quebec – Citizenship requirement for professional technologists. EC Request: Remove this requirement.

Modes 1 and 4: MA – Quebec – Citizenship requirement for chemists. EC Request: Eliminate this requirement.

Modes 1 and 4: NT – British Columbia – Residency requirement for applied science technologists and technicians. EC Request: Eliminate.

Modes 1 and 4: NT – Ontario – Residency requirement for cadastral surveying. EC Request: Remove this requirement.

Modes 1 and 4: NT – Newfoundland – Residency requirement for Geoscientists. EC Request: Eliminate this requirement.

Mode 3: NT – Ontario – Ownership limitation for cadastral surveying. EC Request: Eliminate this limitation.

p. Photographic Services (CPC 875)

Canada has not committed this sub-Sector. **EC Request:**

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none" under MA and NT.

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

r. Printing and Publishing Services (CPC 88442)

Canada has not committed this sub-Sector. **EC Request:**

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none" under MA and NT.

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

t. Translation Services (CPC 87905)

Modes 1, 2 and 4: MA – Quebec – Citizenship requirement for certified translators. EC Request: Eliminate this requirement.

Mode 1: NT – Quebec – Citizenship requirement for certified translators. EC Request: Eliminate. In accordance with the Scheduling Guidelines adopted by the Council of Trade in Services (S/L/92 of March 2001), such an entry should not be scheduled under NT.

Grounds maintenance (part of CPC 88110) and

Washing and cleaning services (CPC 97011-97014)

Canada has not committed these two sub-sectors. **EC Request:**

Mode 3: Take full commitments, i.e. schedule “none” under MA and NT

Mode 4: Commit as referred to in the section “Horizontal commitments”

POSTAL AND COURIER SERVICES

EC REQUEST TO CANADA

Canada has only partially committed this sector (commitments in courier services). This request is based on the EC proposal for the classification in this sector. As it is still ongoing, the EC would like to invite Canada to present its offer in accordance with this proposal, without prejudice to the outcome of the discussion on the 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.

EC Request 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 ».

EC Request 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 ».

Canada's current commitments:

Market access, Mode 3: « Courier services (Nova Scotia and Manitoba): Economic needs test. (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.) ». EC Request: Remove the restriction.

TELECOMMUNICATION SERVICES

EC REQUEST TO CANADA

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

MODE 3:

There are ceilings on foreign equity participation (today 20% for direct investment, 33% for indirect investment). EC Request: Remove these ceilings.

There are ceilings on equity participation by one shareholder. In Nova Scotia, no person may vote more than 1,000 shares of Maritime Telegraph and Telephone Ltd. In Manitoba: no person or members of any one group of associated persons may beneficially own, other than by way of security, more than 10% of the total number of voting shares of Manitoba Telecom Services Inc. or of an affiliate. EC Request: Remove these ceilings.

The use of pay telephones to provide services on a resale basis and to provide local services is not permitted. EC Request: Remove this restriction.

Competition in the provision of interexchange voice telephone service in the serving areas of Northwestel Inc., Ontario Northland Transportation Commission, and Prince Rupert City Telephones, may be limited. EC Request: Remove this restriction.

Competition in the provision of local wireline telephone services in the serving areas of Northwestel Inc., Ontario Northland Transportation Commission, Prince Rupert City Telephones, Telus Communications (Edmonton) Inc. and the other independent telephone companies listed in CRTC Telecom Public Notice 95-15, may be limited. EC Request: Remove this restriction.

At least 80% of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadian. EC Request: Remove this limitation.

CONSTRUCTION AND RELATED ENGINEERING SERVICES

EC REQUEST TO CANADA

A. GENERAL CONSTRUCTION WORK FOR BUILDINGS (CPC 512)

Mode 3: NT – Requirement for construction contractors in Ontario and Newfoundland (a non-resident who will be consuming or using tangible personal property in Ontario is required to deposit 4 per cent of the amount to be paid under the contract or post a guarantee bond for the same; non-resident contractors in Newfoundland are required to deposit 6 per cent of the contract amount or a bond equivalent). EC Request: Remove these requirements.

B. GENERAL CONSTRUCTION WORK FOR CIVL ENGINEERING (CPC 513)

This sub-sector is committed only partially. EC Request:

Extend commitments coverage to the whole sub-sector CPC 513:

Mode 3: Take full commitments, i.e. schedule “none” under MA and NT.

Mode 4: Commit as referred to in the section “Horizontal commitments”.

Mode 3: MA – Requirement for construction contractors in Ontario and Newfoundland (an applicant and holder of a water power site development permit in Ontario must be incorporated in Ontario). EC Request: Remove this requirement.

Mode 4: NT – Requirement for construction contractors in Ontario and Newfoundland (an applicant and holder of a water power site development permit in Ontario must be a resident of Ontario). EC Request: Remove this requirement.

DISTRIBUTION SERVICES

EC REQUEST TO CANADA

A. COMMISSION AGENTS' SERVICES (CPC 621, 6111+6113+6121)

The distribution of the following goods is not committed:

Food, beverages and tobacco (CPC 62112)

Pharmaceutical and medical goods (CPC 62117)

EC Request for these goods:

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none".

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

B. WHOLESALE TRADE SERVICES (CPC 622, 6111+6113+6121)

The distribution of the following goods is not committed:

motor vehicles (CPC 6111+6113+6121)

agriculture products and live animals (CPC 6221)

fisheries products (CPC 62224)

alcoholic beverages (CPC 62226)

musical scores, audio and video recordings (CPC 62244)

books, newspapers and other printed material (CPC 62262)

pharmaceutical and medical goods (CPC 62251)

surgical and orthopaedic instruments and devices (CPC 62252)

EC Request for these goods:

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none".

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

Mode 1: MA - Commercial presence is required for the sale of motor vehicles in Saskatchewan and Newfoundland. EC Request: Remove.

Mode 1: MA and NT - Restrictions to fish exports in Nova Scotia and Newfoundland. EC Request: Remove.

C. RETAILING SERVICES (CPC 631+632, 6111+6113+6121+613)

The distribution of the following goods is not committed:

liquor, wine and beer (CPC 63107)

pharmaceutical, medical and orthopaedic goods (CPC 63211)

musical scores, audio and video records and tapes (CPC 63234)

books, newspapers and other printed material (CPC 63253)

printed music (CPC 63251)

EC Request for these goods:

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none".

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

Mode 1: NT - Indirect tax measures that result in differences in treatment with respect to delivery by mail of goods in Canada. EC Request: clarify such restriction. The EC reserves its right to make a request on a future occasion.

E. OTHER (CPC 613)

Mode 1: MA - Economic needs test on retail petroleum. EC Request: Remove. (it is also suggested to commit this CPC under retailing services, not under "others").

ENVIRONMENTAL SERVICES

EC REQUEST TO CANADA

This request is based on the EC proposal for the classification of environmental services. While discussions on classification in this sector are still ongoing, the EC would like to invite Canada to present its offer in accordance with this proposal, without prejudice to the outcome of the discussion on the classification of the environmental services:

A. WATER FOR HUMAN USE & WASTEWATER MANAGEMENT

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

This sub-sector only concerns the distribution of water through mains' (i.e. urban sewage systems). This excludes any cross-border transportation either by pipeline or by any other means of transport nor does it imply access to water resources.

Extend sectoral coverage to include the above services.

Mode 3: Take commitments under MA and NT

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

FINANCIAL SERVICES

EC REQUEST TO CANADA

GENERAL

Mode 3: MA – Listing requirement for federally-regulated financial institutions having capital in excess of \$750 million. EC Request: Remove this requirement.

Mode 3: NT – Citizenship/residency requirement for half of directors of federally-regulated institutions. EC Request: Remove this requirement.

Mode 3: NT - Preference in government procurement in Ontario. EC Request: Eliminate this preference, in accordance with the Understanding on Commitments in Financial Services.

INSURANCE

Mode 1: MA – MAT insurance is not fully committed. EC Request: Take full commitments in accordance with the Understanding

Mode 1: MA – Reinsurance and retrocession is not committed. EC Request: Take full commitments.

Mode 2: MA – Limit of 25% on the risks that can be reinsured by a non-life insurer. EC Request: Remove this restriction.

Mode 2: NT – Excise tax of 10% on premiums ceded abroad for direct insurance other than life personal accident, sickness and marine insurance. EC Request: Eliminate this tax.

Mode 2: NT – Fees in direct insurance premiums in Alberta and Saskatchewan. EC Request: Eliminate the fees.

Modes 1 and 2: MA and NT- No commitment has been taken on cross-border insurance of large risks, based on a definition to be determined in negotiations and accompanied by appropriate prudential regulations adopted by the regulatory authorities of the host country and protecting policy-holders, avoiding discriminations between operators, in line with the principles agreed in the OECD Framework for Insurance Market Liberalisation.

Mode 3: NT – Discriminatory capital requirements in Ontario. EC Request: Eliminate the discrimination.

Mode 3: NT – Citizenship requirement for directors in Quebec. EC Request: Remove this requirement.

Mode 3: MA – Unspecified approval for the acquisition of certain amounts of voting rights in Quebec and in British Columbia. EC Request: Eliminate those approvals.

Mode 3: MA – Monopoly on motor vehicle insurance in several provinces. EC Request: Open to competition.

Mode 1: MA – Intermediation of MAT insurance is not committed. EC Request: Take full commitments in accordance with the Understanding.

Modes 1 and 3: MA – Ontario, Prince Edward Island, Manitoba, New Brunswick, Alberta, British Columbia: In services auxiliary to insurance, a license is not issued to a corporation with headquarter outside Canada. EC Request: remove this restriction.

Mode 3: MA- Ontario: In services auxiliary to insurance, no license is provided to an insurance broker, agency or adjuster if majority-owned by non-residents, and grandfathered companies cannot expand. EC Request: Remove these restrictions.

BANKING AND OTHER FINANCIAL SERVICES

Pension fund management is not committed. EC Request: Take full commitments in mode 2 and 3, in accordance with the Understanding

Mode 3: NT – Citizenship requirements in Quebec, Ontario, Alberta, Manitoba, Nova Scotia and Saskatchewan. EC Request: Remove those requirements.

Mode 3: MA - Foreign banks are not allowed to have both a subsidiary and a lending branch concurrently. EC Request: Allow this possibility.

Mode 3: MA – Restrictions on deposit taking activities of branches compared to subsidiaries. EC Request: Remove the restrictions.

Mode 3: MA - Non-discriminatory limit of 10% for a shareholder in a Schedule 1 bank. EC Request: Remove this limit.

Mode 3: MA – Ceilings on foreign shareholding in Ontario, Quebec, Manitoba and Saskatchewan. EC Request: Remove those ceilings.

Mode 3: MA – Economic needs tests in Ontario, New Brunswick and Nova Scotia. EC Request: Remove the economic needs tests.

Mode 1: MA – Advisory and other auxiliary financial services are not committed in several provinces. EC Request: Commit.

MFN EXEMPTION

Insurance intermediation – Preferential access to the Ontario insurance services market is provided to non-resident individual US insurance agents. EC Request: Remove the preferential access.

TOURISM AND TRAVEL RELATED SERVICES

EC REQUEST TO CANADA

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

A. HOTELS AND RESTAURANTS (INCL. CATERING) (CPC 641-643)

Mode 3: MA - Nova Scotia: public vote requirement for new licences for sale of liquor on premises. EC Request: Clarify this requirement.

Mode 3: MA - Quebec: citizenship/permanent residency requirement for shareholders owning 10% or more voting shares of establishments selling liquor. EC Request: Remove this requirement.

Mode 3: MA - Saskatchewan: requirement that majority of shareholders must be Canadian, and that manager must be Canadian citizen or permanent resident. EC Request: Remove this requirement.

Mode 3: MA - Quebec: sale of liquor is limited to federally incorporated companies. EC Request: Eliminate this limitation.

Mode 3: NT - Ontario: discriminatory taxation of non-residents acquiring recreational property. EC Request: Remove this discrimination.

Mode 3: NT - Ontario: citizenship requirement for majority of board of directors for establishments selling alcoholic beverages. EC Request: Remove the citizenship requirement and clarify the difference between permanent resident and ordinarily resident (remove if means permanent residency).

Mode 3: NT- Alberta at least one director of an establishment selling alcoholic beverages must be a permanent resident. EC Request: Remove this requirement.

Mode 3: NT- Newfoundland, Nova Scotia and Alberta: Agents or managers of establishments selling alcoholic beverages must be Canadian citizens, resident in the province. EC Request: Remove this requirement.

Mode 4: MA - Limitations going beyond horizontal commitments (residency and citizenship requirements for sale of alcoholic beverages). EC Request: Remove those limitations.

B. TRAVEL AGENCIES AND TOUR OPERATORS SERVICES (CPC 7471)

Mode 1: MA - Ontario: requirement of commercial presence for travel agencies and travel wholesalers. EC Request: Eliminate this requirement.

Mode 1: MA - Quebec: requirement of commercial presence for travel agencies. EC Request: Remove this requirement.

Mode 1: NT - Quebec: residency requirement for travel agents and travel counsellors. EC Request: Eliminate this requirement.

Mode 1: NT - Ontario: residency requirement for travel agents and wholesalers. EC Request: Remove this requirement.

Mode 3: NT - British Columbia: requirement that one of the partners/directors of a corporation must be resident of British Columbia. EC Request: Eliminate this requirement.

Mode 4: limitations going beyond horizontal commitments (residency requirement for travel agents and travel counsellors in Quebec, for travel agents and wholesalers in Ontario). EC Request: Eliminate this limitation.

C. TOURIST GUIDES SERVICES (CPC 7472)

EC Request: Extend the sectoral coverage to include tourist guide services, and undertake full commitments.

NEWS AGENCY SERVICES

EC REQUEST TO CANADA

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

EC Request (CPC 962):

Modes 1, 2 and 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 CANADA

Canada has general restrictions related to the transport sector on the acquisitions of businesses, with special thresholds for non-Canadians.

A. MARITIME TRANSPORT

Canada has specific commitments with certain restrictions for maritime transport. Restrictions relate in particular to: international transport and a clarification of restrictions in the Coastal Trade Act (cabotage), and for cargo-handling, customs clearance, maritime agency services port-services which 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 requests the following additional maritime commitments from Canada:

- 6) **Equipment.** To facilitate planning of their businesses operators should be allowed to reposition their own equipment, such as empty containers, between ports of Canada, 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 Canada.”

- 7) **International cargo.** With the development of containerisation and high frequency networking services and with the ever-larger vessels having to limit direct port calls for physical or economic reasons, the feeding of cargoes between main ports and way ports is becoming more important as an integral

part of efficient international maritime transport. An international maritime transport supplier should be allowed to operate feeder services for its international cargo between ports of Canada. This is requested to be committed in a new footnote:

“10. International maritime transport suppliers can operate vessels of any flag for the purposes of pre- and onward carriage of the international cargo between ports of Canada.”

In this context Canada 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 sub-federal/regional entity] remains excluded.

A final request related to maritime transport is:

8) **Rental and leasing** of vessels with crew (CPC 7213, 7223).
Canada has no commitments for this activity.

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:

Canada 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 to in the section “Horizontal commitments”

C. AIR TRANSPORT

1) **Maintenance and repair of aircraft and parts thereof.**

EC Request:

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

Canada currently has a restriction on maintenance of aircraft and engines in mode 2.

2) **Selling and marketing.**

Canada has no commitments for this activity.

EC Request:

Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT

Mode 4: Commit as referred to in the section “Horizontal commitments”

3) **Computer Reservation Systems.**

Canada has no commitments under NT for this activity.

EC Request:

Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT

Mode 4: Commit as referred to 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 to 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 to in the section “Horizontal commitments”

F. ROAD TRANSPORT

b) **Freight Transportation (CPC 7123).**

EC Request:

Mode 3: Take full commitments, i.e. schedule “none”, under MA and NT

Mode 4: Commit as referred to in the section “Horizontal commitments”

Canada has specific commitments for this activity, but restricted to only some parts of the classification (CPC 71231-71234). Economic need tests are scheduled. Additional restrictions in some provinces.

H. SERVICES AUXILARY TO ALL MODES OF TRANSPORT

Canada has commitments for the relevant activities. Clarify restrictions on licensed Customs Brokers in Mode 3 (juridical persons, partnership requirements).

MFN EXEMPTIONS

- Fishing-related services: Licences for access to Canadian waters for specific purposes are granted only to fishing vessels from a country with which Canada has favourable fishery relations. **EC Request:** Remove this exemption.
- Reciprocity condition for the exemption from taxes in air and maritime transport. **EC Request:** Remove or clarify where existing measures are not compliant.
- Preferential treatment for the supply of repair and maintenance services. **EC Request:** Eliminate this exemption.
- Provisions in bilateral air agreements on selling and marketing of air transport services. **EC Request:** Remove or specify which elements/ practices are covered.

ANNEX 1: SCHEDULE ON MARITIME TRANSPORT SERVICES

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
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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 2) None 3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound (b) Other forms of commercial presence for the supply of international maritime transport services (as defined below – 2): none 4) (a) Ships' crews: unbound (b) Key personnel employed in relation to a commercial presence as defined under mode 3b) above: Unbound except as in horizontal section	1) (a) None (b) None 2) None 3) (a) Unbound (b) None 4) (a) Unbound (b) Unbound except as in horizontal section	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

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
MARITIME AUXILIARY SERVICES Maritime Cargo Handling Services (as defined below – 4)	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 2) None 3) None** 4) Unbound except as in horizontal section	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 2) None 3) None 4) Unbound except as in horizontal section	
Storage and warehousing Services CPC 742	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	
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	
Container Station and Depot Services (as defined below – 6)	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 Agency Services (as defined below – 7)	1) None 2) None 3) None 4) Unbound except as in horizontal section	1) None 2) None 3) None 4) Unbound except as in horizontal section	
(Maritime) Freight Forwarding Services (as defined below - 8)	1) None 2) None 3) None 4) Unbound except as in horizontal section	1) None 2) None 3) None 4) Unbound except as in horizontal section	

* 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.

Transport Services

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 (CPC 6423).addressed under the EC request on tourism and travel related 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 CANADA

This Request includes services that are listed under the negotiating proposal of the EU (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 wishes to underline the significant contribution of an appropriate use of energy for the promotion of sustainable development.

The EC requests that this area is committed as follows:

C. SERVICES RELATED TO NETWORKS

C.1 Operation of transportation/transmission and distribution facilities

Services incidental to energy distribution (including operation of transmission/distribution of electricity)

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

Modes 3: Take commitments

Mode 4: Commit as referred to 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

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

E. SERVICES FOR THE SUPPLY OF ENERGY

E.1 Wholesale of energy products

Wholesale trade services of electricity

EC Request:

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

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

E.2 Retail Sale of energy products

Retail sale trade services of electricity

EC Request:

- Mode 3: Take commitments for the supply to industrial customers
- Mode 4: Commit as referred in the section "Horizontal commitments"

E.3 Trading of energy products

EC Request:

Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”.

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

E.4 Brokering of energy products

EC Request:

Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”.

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

G. SERVICES RELATED TO DECOMMISSIONING

EC Request:

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

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

MFN EXEMPTIONS

EC REQUEST TO CANADA

GENERAL

- Compulsory arbitration of investor/state investment disputes. **EC Request:**
Remove this MFN exemption as it does not have to be scheduled.

SECTORAL

- See EC Requests on sectoral MFN exemptions in sectoral Requests.