

## **GATS 2000**

### **REQUEST FROM THE EC AND ITS MEMBER STATES (HEREAFTER THE EC)**

**TO**

**KENYA**

#### **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 Kenya 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 and the following service sectors:

- Professional Services
- Business services (Other than Professional services)
- Telecommunication services
- Construction and related engineering services
- Distribution services
- Environmental services
- Financial services
- News agency services
- Transport services

The EC proposes that Kenya'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 nor 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 commitment 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 Kenya 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/or corresponding CPC number. If there is no appropriate classification, 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 proposed in its negotiating proposal with regard to environmental services. While discussions on classification in these sectors are still ongoing, the EC would like to invite Kenya 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 GATS 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 KENYA

### MODE 3

Commercial presence requires that foreign service providers incorporate or establish the business locally. The EC understands 'establishment' as covering all forms of commercial presence as defined in GATS article XXVIII. **EC request:** Clarify if any of the forms of commercial presence defined in Article XXVIII are not covered by Kenya's horizontal commitment.

### MODE 4

#### **Definitions**

- It is not clear what is meant by “management and expert jobs”. **EC request:** Define these terms in the schedule

#### **Intra-corporate transferees**

An intra-corporate transferee (ICT) is an employee of a foreign firm, who is temporarily transferred to an affiliate of that firm (branch, subsidiary, office, joint venture etc.) in Kenya. The EC considers that Kenya's current commitments cover intra-corporate transferees who are in “management and expert jobs”. **EC request:**

- Minimum prior employment requirement not specified. **EC request:** Indicate in schedules
- Maximum length of stay not specified. **EC request:** Indicate in schedule.
- 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.
- Requirement that the conditions for employment of foreign nationals be “agreed upon by the contracting parties and approved by Government (sic)”. **EC request:** Please clarify what this means in practice for the employment of foreign nationals. Make a commitment exempting ICTs from the application of any Economic Needs Test or equivalent measure.
- Make a commitment 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 ».

## **Business Visitors**

A Business Visitor is a representative of a foreign services supplier who is seeking temporary entry into the territory of Kenya for one of the following purposes: (a) to hold meetings and/ or to negotiate the sale of services; (b) to conclude contracts to sell services; or (c) to set up a Mode 3 presence. A Business Visitor does not himself directly provide services or sell to the public. Business Visitors are usually granted entry for 90 days periods at a time. Kenya has made no commitments in relation to Business Visitors. **EC request:**

- Make a commitment relating to Business Visitors who are not entering to themselves supply a service, but rather to carry out one of the alternatives listed above. The maximum length of stay should be at least 90 days in any 12 month period.

## **Contractual Service Suppliers**

A contractual service supplier is a juridical person with no commercial presence in Kenya, who has obtained a service contract in Kenya requiring the presence of its employees in Kenya in order to fulfil that contract. Kenya has made no commitments in relation to contractual service suppliers. **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 in time.

List of sectors

### 1. Business Services

Legal services

Accounting and bookkeeping services

Engineering Services

Integrated engineering services

Computer and Related Services

Management consulting services

Services related to management consulting

Related scientific and technical consulting services

### 6. Environmental services

Sub-sectors A-D, G and F

## 7. Financial Services

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

Advisory 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

*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 KENYA**

Kenya has not committed this sector. The EC requests that it be committed as follows:

### **A. LEGAL SERVICES (CPC 861)**

#### **EC Request:**

- Commit covering at least consultancy on public international law and on law of jurisdiction where the service supplier or its personnel are qualified lawyers
- 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”

### **B. ACCOUNTING, AUDITING AND BOOKEEPING SERVICES (CPC 862)**

#### **EC Request:**

For accounting and bookkeeping services

- 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”

For auditing services:

- Modes 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. ENGINEERING SERVICES (CPC 8672)**

### **F. INTEGRATED ENGINEERING SERVICES (CPC 8673)**

**EC Request** for each of these two sub-sectors:

- Modes 1, 2, 3: Take commitments under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

The EC also invites Kenya to consider taking commitments in the sub-sectors of taxation services and architectural services.

## **BUSINESS SERVICES (OTHER THAN PROFESSIONAL)**

### **EC REQUEST TO KENYA**

#### **B. COMPUTER AND RELATED SERVICES**

Kenya has not committed this sector. The EC requests that it be committed at the two-digit level as follows:

##### **Computer and Related Services (CPC 84)**

- 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”

#### **F. OTHER BUSINESS SERVICES**

*NB. Requests [if any] on h) – services incidental to mining and j) – services incidental to energy distribution, are covered in the section "Energy services" of this request.*

Kenya has not committed this sector. The EC requests that it be committed as follows:

##### **a) Advertising (CPC 871)**

##### **b) Market research (CPC 86401)**

##### **c) Management consulting service (CPC 865)**

##### **d) Services related to management consulting (CPC 866)**

##### **e) Technical testing and analysis services (CPC 8676)**

##### **m) Related scientific and technical consulting services (CPC 8675)**

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

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”.

The EC also invites Kenya to consider taking commitments in Rental and Leasing Services without Operators (CPC 831).

# TELECOMMUNICATION SERVICES

## EC REQUEST TO KENYA

Kenya has committed this sector only partially. The EC requests that it be committed as follows:

### **Modes 1 and 2**

International call-back is prohibited. **EC request:** as competition in international services is introduced from 2003 on, remove this restriction.

For all basic services for non-public use, the schedule reads “None except through the network of Telkom Kenya Ltd. Or monopoly”. **EC request:** explain what this means.

For satellite based services, the schedule indicates that there are no restrictions for MA except as provided for under GMPCS MOU. **EC request:** explain what restriction is imposed in practice

Mobile services can only be provided through the network of Telkom Kenya Ltd. and subsequent licensed International gateway operator. **EC request:** suppress this limitation.

### **Mode 3**

Foreign investment is limited to 30%. **EC request:** eliminate this ceiling.

The provision of all basic services for non-public use (except private leased circuit services) as well as the provision of all value-added services can be done only over facilities of licensed operators (i.e. Telekom Kenya). For all basic services for non-public use the breakout and resale of excess capacity are additionally not permitted. **EC request:** eliminate these limitations.

## **CONSTRUCTION AND RELATED ENGINEERING SERVICES**

### **EC REQUEST TO KENYA**

Kenya has not committed this sector. The EC requests that it be committed as follows:

**A. GENERAL CONSTRUCTION WORK FOR BUILDINGS (CPC 512)**

**B. GENERAL CONSTRUCTION WORK FOR CIVIL ENGINEERING (CPC 513)**

**C. INSTALLATION AND ASSEMBLY WORK (CPC 514+516)**

**D. BUILDING COMPLETION AND FINISHING WORK (CPC 517)**

**E. OTHER (CPC 511+515+518)**

**EC Request** for each of the above sub sectors

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

## **DISTRIBUTION SERVICES**

### **EC REQUEST TO KENYA**

Kenya has not committed this Sector. The EC invites it to commit this Sector as follows:

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

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

For each of the above sub-sectors:

- Modes 1, 2, 3: Consider undertaking commitments for market access and national treatment.
- Mode 4: Commit as referred in the section “Horizontal commitments”

*Note: The EC is prepared to discuss exceptions for a very limited number of extremely sensitive goods, such as arms, ammunitions and explosives.*

*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 KENYA**

Kenya has not committed this sector. 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 Kenya to present its offer in accordance with this proposal, without prejudice to the outcome of the discussion on the classification of 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.

- Mode 3: Market access and national treatment: Take commitments.
- Mode 4: Market access and national treatment: Refer to horizontal commitments

**Wastewater services (CPC 9401)**

- Mode 3: Market access and national treatment: Take commitments.
- Mode 4: Market access and national treatment: Refer to horizontal commitments

### **B. SOLID/HAZARDOUS WASTE MANAGEMENT**

**Refuse disposal services (CPC 94020)**

- Mode 3: Market access and national treatment: Take commitments.
- Mode 4: Market access and national treatment: Refer to horizontal commitments

**Sanitation and similar services (CPC 94030)**

- Mode 3: Market access and national treatment: Take commitments.
- Mode 4: Market access and national treatment: Refer to horizontal commitments

### **C. PROTECTION OF AMBIENT AIR AND CLIMATE**

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

- Mode 3: Market access and national treatment: Take commitments.

- Mode 4: Market access and national treatment: Refer to horizontal commitments

#### **D. REMEDIATION AND CLEANUP OF SOIL & WATER**

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

- Mode 3: Market access and national treatment: Take commitments.
- Mode 4: Market access and national treatment: Refer to horizontal commitments

#### **F. PROTECTION OF BIODIVERSITY AND LANDSCAPE**

##### **Nature and landscape protection services (part of CPC 94060)**

- Mode 1, 3: Market access and national treatment: Take commitments.
- Mode 4: Market access and national treatment: Refer to horizontal commitments

#### **G. OTHER ENVIRONMENTAL & ANCILLARY SERVICES**

##### **Other environmental protection services not classified elsewhere (CPC 94090)**

- Mode 1 and 3: Market access and national treatment: Take commitments.
- Mode 4: Market access and national treatment: Refer to horizontal commitments

## FINANCIAL SERVICES

### EC REQUEST TO KENYA

Kenya has committed this sector only partially. The EC requests that it be committed as follows:

#### INSURANCE

- Mode 3: MA - In life insurance, one third of the capital must be owned by Kenyan nationals. **EC Request:** Remove this cap on foreign shareholding.
- Modes 1 and 2: NT - Unbound in non-life insurance. **EC Request:** Take full commitments in MAT insurance in accordance with the Understanding on Commitments in Financial Services.
- Mode 3: NT - Unbound in non-life insurance. **EC Request:** Schedule “none”.
- Modes 1 and 2: MA and NT - In insurance intermediation (such as brokerage and agency), unbound in MAT insurance intermediation. **EC Request:** Take full commitments in MAT insurance intermediation, in accordance with the Understanding on Commitments in Financial Services.
- Mode 3: MA - In insurance broking, 60% of the capital must be owned by Kenyan nationals. **EC Request:** Remove this cap on foreign shareholding.
- Mode 3: MA and NT – Agency services are restricted to Kenyan nationals. **EC Request:** Remove this nationality requirement.
- Modes 1, 2 and 3: MA - Existence of mandatory cessions. **EC Request:** Eliminate these requirements.

#### BANKING AND OTHER FINANCIAL SERVICES

- Trading of negotiable instruments and other financial assets, underwriting of securities, money broking, pension fund management, settlement and clearing services, and provision and transfer of financial information are not covered. **EC Request:** Take full commitments in modes 1, 2 and 3 for provision and transfer of financial information and in modes 2 and 3 for all the other subsectors.
- Mode 3: NT - Unbound in all subsectors listed in the schedule. **EC Request:** Schedule “none”.
- Mode 3: MA - In asset management, 30% of the capital must be owned by Kenyan nationals. **EC Request:** Remove this cap on foreign shareholding.

## **NEWS AGENCY SERVICES**

### **EC REQUEST TO KENYA**

Kenya has not committed this sector (CPC 962). The EC invites Kenya to consider committing this sector as follows:

#### **EC Request (CPC 962):**

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

# TRANSPORT SERVICES

## EC REQUEST TO KENYA

Kenya has partly committed this sector. The EC requests that it be committed as follows:

### **A. MARITIME TRANSPORT**

**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 Kenya:

- 6) **Equipment:** To facilitate planning of their businesses, operators should be allowed to reposition their equipment, such as empty containers, between ports of Kenya, when it is not carried against payment. This is requested to be committed in a new footnote:

*“9. Movement of equipment. International maritime transport suppliers can move/reposition equipment (i.e. empty containers, flatbeds etc.) on their vessels between ports of Kenya.”*

- 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 Kenya. 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 Kenya."*

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

- Size of the port.
- 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 entity] remains excluded.

### **C. AIR TRANSPORT**

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

Kenya has a commitment for this activity, with a restriction on commercial presence (Mode 3, MA and NT). **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**

Kenya has a commitment for this activity, with a restriction on commercial presence (Mode 3, MA and NT). **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**

Kenya has a commitment for this activity, with a restriction on commercial presence (Mode 3, MA and NT). **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)**

Kenya has a commitment for this activity, with a restriction on commercial presence (Mode 3, MA and NT). **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)**

Kenya has a commitment for this activity, with a restriction on commercial presence (Mode 3, MA and NT). **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)**

**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)**

**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"

**ANNEX 1: SCHEDULE ON MARITIME TRANSPORT SERVICES**

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

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 the 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 the 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 the 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 the 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 the 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 the 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.

## 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 (as defined below - 3) 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] ... and another port located in ... [name of the country], traffic originating and terminating in the same port located in [name of country] provided that this traffic remains within ... [name of country]'s territorial waters and transportation of passengers and goods between a port located in ... [name of the country] ... and installations or structures situated on the continental shelf of [name of the country].
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 constituted 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 operation 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).

### **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.

