

GATS 2000

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

TO

KUWAIT

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 Article IV and XIX GATS, as well as the negotiating guidelines agreed by the Council for Trade in Services on 29 March 2001, the EC encourages Kuwait 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 (other than professional 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 Kuwait'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 Kuwait 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 postal and courier, environmental and energy services. While discussions on classification in these sectors are still ongoing, the EC would like to invite Kuwait 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 measures 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 KUWAIT

MODE 3

- MA - Commercial presence in most sectors should be either through a Kuwaiti Agent or through a partnership with a Kuwaiti company. **EC Request:** Remove
- MA - Commercial presence conditioned on benefits in the form of technology transfer, R & D programs, technical or marketing assistance and educational or training of local manpower. **EC Request:** Precise the scope of these conditions
- MA - Commercial presence subject to authorisation and subject to an economic needs test. **EC Request:** Remove
- NT - Restriction on acquisition and trading of Kuwaiti shares by foreigners. **EC Request:** Remove
- NT - Acquisition of land and real estate not permitted to foreigners or to companies in which foreign national have a share holding. **EC Request:** Remove this prohibition

MODES 3 AND 4

- NT – Incentives and assistance for national services industries and services. **EC Request:** Precise that these incentives are extended to foreign service suppliers incorporating as a company in Kuwait

MODE 4

Definitions

- It is not clear what is meant by the terms "managers", "specialists" and, "skilled technicians". **EC Request:** Please define these terms.

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 your country.

The EC considers that Kuwait's horizontal Mode 4 commitments cover intra-corporate transfers of "managers, specialists and skilled technicians" without application of either quantitative restrictions or economic needs tests. **EC Request:**

- Please confirm this understanding and clarify whether there are any limitations in relation to the degree of affiliation which must exist between companies, the length of stay or minimum prior employment requirements.

- The EC also 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.

Business Visitors

A Business Visitor is a representative of a foreign services supplier who is seeking temporary entry into your country 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.

The EC considers that Kuwait's horizontal Mode 4 commitments cover Business Visitors who are “managers”, “specialists” or “skilled technicians” without application of either quantitative restrictions or economic needs tests. **EC Request:**

- Please confirm this understanding
- For Type (a) and (b) Business Visitors extend the commitment to all such Business Visitors. The maximum length of stay should be at least 90 days in any 12 month period
- For other Business Visitors clarify whether there are any limitations on the length of stay

Other

The EC considers that Kuwait's horizontal Mode 4 commitments cover the provision of services under contract where the service supplier has no commercial presence in Kuwait and where that service is provided by "managers", "specialists" and/ or "skilled technicians". **EC Request:**

- Please confirm this understanding and clarify whether there are any limitations on the length of stay.

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 KUWAIT

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

A. LEGAL SERVICES (CPC 861)

This sub-sector is not committed. **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 BOOKKEEPING SERVICES (CPC 862)

This sub-sector is not committed. **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)

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

For each of these sub-sectors [E to G]:

- Modes 1 and 2: MA and NT - These modes remain unbound. **EC Request:** Take full commitments, i.e. schedule “none” under MA and NT

The EC also invites Kuwait to consider taking commitments in the sub-sector of taxation services and improving current commitments in the sector of architectural services.

BUSINESS SERVICES (OTHER THAN PROFESSIONAL)

EC REQUEST TO KUWAIT

B. COMPUTER AND RELATED SERVICES

Kuwait has committed this sector only partially. The EC requests Kuwait to extend sectoral coverage to include “Other computer services” (CPCs 845 and 849) and schedule commitments 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 horizontal section.

F. OTHER BUSINESS SERVICES

NB. Requests on h) - services incidental to mining and j) - services incidental to energy distribution, are covered in the section "Energy Services" of this request.

Kuwait has committed this sector only partially. 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 and 2: MA and NT - These modes are unbound. **EC Request:** Take full commitments, i.e. schedule “none” under MA and NT.

1) Security Services (CPC 87302 - 87309)

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

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

The EC also invites Kuwait to consider taking commitments in Rental and Leasing Services without Operators (CPC 833) supply Services of Personnel (CPC 872), as well as imposing existing commitments on Research and Development Services (CPC 85) convention services part of CPC 87909) and Translation services (CPC 89705)

POSTAL AND COURIER SERVICES

EC REQUEST TO KUWAIT

Kuwait has not committed this sector. This request is based on the EC proposal for the classification of postal and courier services. While discussions on classification in this sector are still ongoing, the EC would like to invite Kuwait 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 : Take full commitments, i.e. schedule “none” for MA and NT
- Mode 4 : Commit as referred to in the section “Horizontal commitments”

EC Request for sub-sectors A. and D. :

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

TELECOMMUNICATION SERVICES

EC REQUEST TO KUWAIT

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

ALL MODES

There are no commitments for all sub-sectors, i.e. for Voice telephone services (CPC 7521)/ Packet-switched data transmission services (CPC 7523**), Circuit-switched data transmission services (CPC 7523**), Telex services (CPC 7523**), Telegraph services (CPC 7522), Facsimile services (CPC 7521**+7529**), Private leased circuit services (CPC 7522**+7523**), Electronic mail (CPC 7523**)/ Voice mail (CPC 7523**), On-line information and data base retrieval (CPC 7523**), Electronic data interchange (EDI) (CPC 7523**), Enhanced/ value-added facsimile services, incl. store and forward, store and retrieve (CPC 7523**), Code and protocol conversion (n.a.) and Other.

EC Request: Make full commitments for all these sub-sectors, i.e. schedule “None”.

ADDITIONAL COMMITMENTS

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

The (**) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance (e.g. voice mail is only a component of CPC item 7523).

CONSTRUCTION AND RELATED ENGINEERING SERVICES

EC REQUEST TO KUWAIT

Kuwait has not committed sub-sector E. OTHER (CPC 511 +515+518). The EC requests that it be committed as follows:

E. OTHER (CPC 511+515+518)

- 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 KUWAIT

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

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

- Modes 1 and 2 : MA and NT - These modes remain unbound. **EC Request:** Take full commitments, i.e. schedule “none” under MA and NT

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

- Modes 1 and 2 : MA and NT - These modes remain unbound. **EC Request:** Take full commitments, i.e. schedule “none” under MA and NT.

C. RETAILING SERVICES

- Modes 1 and 2 : MA and NT - These modes remain unbound. **EC Request:** Take full commitments, i.e. schedule “none” under MA and NT.

D. FRANCHISING

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

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

ENVIRONMENTAL SERVICES

EC REQUEST TO KUWAIT

Kuwait has committed this sector only partially. 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 Kuwait 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 an cross-border transportation either by pipeline or by any other means of transport, nor does it imply access to water resources.

EC Request:

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

C. PROTECTION OF AMBIENT AIR AND CLIMATE

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

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

- Mode 3 : Undertake full commitments for MA and NT.
- Mode 4 : Refer to horizontal commitments.

D. REMEDIATION AND CLEANUP OF SOIL & WATER

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

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

- Mode 3 : Undertake full commitments for MA and NT.
- Mode 4 : Refer to horizontal commitments.

E. NOISE & VIBRATION ABATEMENT

Noise abatement services (CPC 94050)

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

- Mode 3 : Undertake full commitments for MA and NT.
- Mode 4 : Refer to horizontal commitments.

F. PROTECTION OF BIODIVERSITY AND LANDSCAPE

Nature and landscape protection services (part of CPC 94060)

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

- Modes 1 (where technically feasible), 2 and 3: Undertake full commitments for MA and NT.
- Mode 4 : Refer to horizontal commitments.

G. OTHER ENVIRONMENTAL & ANCILLARY SERVICES

Other environmental protection services not classified elsewhere (CPC 94090)

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

- Modes 1 (where technically feasible), 2 and 3: Undertake full commitments for MA and NT.
- Mode 4 : Refer to horizontal commitments.

FINANCIAL SERVICES

EC REQUEST TO KUWAIT

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

GENERAL

- **EC Request:** Undertake commitments in accordance with the Understanding on Commitments in Financial Services.
- Mode 4: MA and NT - Unbound except as indicated in item (3) in the market access column. **EC Request:** Schedule “unbound except as indicated in the horizontal section”.

INSURANCE

The insurance sector is not committed. **EC Request:**

- Modes 1 and 2: Take full commitments in MAT insurance, reinsurance and retrocession, and services auxiliary to insurance, including intermediation, in accordance with the Understanding.
- Mode 3: Take full commitments in all insurance subsectors as listed in classification of the Annex on Financial Services, i.e. direct insurance (life and non-life), reinsurance and retrocession, insurance intermediation (such as brokerage and agency), and services auxiliary to insurance.
- Mode 4: Commit as referred to in the section “Horizontal commitments”

BANKING AND OTHER FINANCIAL SERVICES

- Mode 3: MA and NT - Prior approval needed for foreign banks in which Kuwaiti financial or banking institutions are shareholders. **EC Request:** Remove this limitation.
- Mode 3: MA and NT - Foreign participation in Kuwaiti banks is limited to 40% of the capital. **EC Request:** Eliminate this ceiling.
- Mode 3: MA and NT - Direct branching is not committed. **EC Request:** Commit direct branching.

- Mode 3: MA and NT - Participation in a Kuwaiti investment company, in a Kuwaiti exchange company and in a Kuwaiti company licensed to provide settlement and clearing services, advisory and other auxiliary financial services, or financial information is limited to 49% of the capital. **EC Request:** Remove these ceilings. "
- Mode 3: MA and NT - The underwriting and the exchange of foreign securities are allowed only through a Kuwaiti agent and after a licence has been issued. **EC Request:** Eliminate these limitations.
- Mode 3: MA and NT - Restriction on private placement of investment funds and on authorisation of overseas funds. **EC Request:** Eliminate these restrictions.
- Mode 1: MA and NT - Unbound for advisory and other auxiliary financial services. **EC Request:** Take full commitments, i.e. schedule "none".

TOURISM AND TRAVEL RELATED SERVICES

EC REQUEST TO KUWAIT

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

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

- Only restaurant services and catering services are committed. Requirement for economic (needs) test without criteria for the inclusion of catering. **EC Request:** Extend sectoral coverage to include hotel services (CPC 641). Remove requirement for economic needs test.
- Mode 2: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule “none” for MA and NT.

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

- Modes 1 and 2: MA and NT – These remain unbound. **EC Request:** Take full commitments, i.e. schedule “none” for MA and NT.

C. TOURIST GUIDES SERVICES (CPC 7472)

- Mode 2: MA and NT. This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule “none” for MA and NT.

NEWS AGENCY SERVICES

EC REQUEST TO KUWAIT

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

EC Request (CPC 962):

- 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”.

TRANSPORT SERVICES

EC REQUEST TO KUWAIT

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

MFN EXEMPTIONS

Air Transport Services. Kuwait has a general MFN exemption for measures which pertain to repair and maintenance services, selling and marketing of air transport services and computer reservation system (CRS) services. **EC Request:** Eliminate exemptions or narrow scope by specifying the practices and measures targeted by the exemption.

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 Kuwait:

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

- 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 Kuwait. 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 Kuwait."

In this context Kuwait 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 parish [or other relevant entity] remains excluded.

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 in the section "Horizontal commitments"

2) Selling and marketing

EC Request:

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

3) Computer Reservation Systems

EC Request:

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

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

EC Request:

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

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

EC Request:

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

F. ROAD TRANSPORT

b) Freight Transportation (CPC 7123)

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 less 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</p> <p>(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"> 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 |

| <u>Sector or Sub-Sector</u> | <u>Limitations on Market Access</u> | <u>Limitations on National Treatment</u> | <u>Additional Commitments</u> |
|--|---|---|-------------------------------|
| 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.

ENERGY SERVICES

EC REQUEST TO KUWAIT

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

The EC 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:

A. SERVICES RELATED TO EXPLORATION AND PRODUCTION

Services incidental to mining (CPC 883)

This sub-sector is not committed. **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”.

Construction and related engineering services (CPC 511)

This sub-sector is not committed. **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”.

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:**

- Mode 3 : Take commitments.
- Mode 4 : Commit as referred to in the section “Horizontal commitments”.

Transportation of petroleum and natural gas (CPC 71310)

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

- Modes 3 : Take commitments.
- Mode 4 : Commit as referred to in the section "Horizontal commitments".

D. STORAGE SERVICES

Bulk storage services of liquids or gases (CPC 74220)

This sub-sector is not committed. **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”.

E. SERVICES FOR THE SUPPLY OF ENERGY

E.1 Wholesale of energy products

Wholesale trade services of electricity

EC Request:

- Mode 3 : Take commitments.
- 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 full commitments for the supply to industrial customers.
- Mode 4 : Commit as referred to in the section “Horizontal commitments”.

E.3 Trading of energy products

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”.

E.4 Brokering of energy products

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”.

G. SERVICES RELATED TO DECOMMISSIONING

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”.

MFN EXEMPTIONS

EC REQUEST TO KUWAIT

- MFN exemption in the area of air transport. **EC Request:** Refer to the Request in the sector of “Transport services” in this respect