

**Council for Trade in Services
Special Session**

**COMMUNICATION FROM AUSTRALIA, CANADA, THE EUROPEAN COMMUNITIES
AND ITS MEMBER STATES, HONG KONG CHINA, JAPAN, REPUBLIC OF KOREA,
MEXICO, NEW ZEALAND, NORWAY, PANAMA, SWITZERLAND, AND THE SEPARATE
CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU**

Common Views on Negotiation Objectives on Maritime Transport Services

The following communication dated 24 November 2005, from the delegations of Australia, Canada, The European Communities and its Member States, Hong Kong China, Japan, Republic of Korea, Mexico, New Zealand, Norway, Panama, Switzerland, The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu is being circulated to the Members of the Council for Trade in Services.

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1. The co-sponsors of this statement would like to reiterate our view that:
 - (a) Maritime transport is an important facilitator of world trade and is also a significant service in many developed and developing countries, making direct contributions to their competitiveness and the growth of their national GDP;
 - (b) In view of its importance, binding substantive liberalization of maritime transport services is crucial to ensuring the overall success of this current round of trade negotiations; and
 - (c) The Maritime Model Schedule is an important tool for negotiations and a basis for maritime transport liberalization.
 2. To this end, we urge other Members to make commitments in accordance with the attached Maritime Model Schedule, with particular reference to the following points:
 - (a) commitments on International Freight Transport (less cabotage) (CPC7212) Mode 1, Mode 2 and Mode 3 including but not limited to:
 - elimination of cargo reservation (Mode 1)
 - elimination of restrictions on foreign equity participation (Mode 3)
 - elimination of nationality requirements of board members (Mode 3)
 - elimination of preferential taxation (NT)
 - elimination of restrictions on right to establish a commercial presence (MA, Mode 3)
 - (b) commitments on a range of Maritime Auxiliary Services (Mode 1, 2 & 3)

- (c) additional commitments on the access to and use of port services
- (d) additional commitments on the access to and use of services necessary for the conduct of multimodal transport operations
- (e) elimination of MFN exemptions

3. We consider that a Member's level of development is an important consideration in the scheduling of commitments. Appropriate flexibility for individual Members in addressing the above elements in their commitments will be further considered taking into account the flexibilities provided in GATS Article XIX and IV as well as the Negotiating Guidelines.

DRAFT SCHEDULE ON MARITIME TRANSPORT SERVICES

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
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			<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non discriminatory terms and conditions</p> <ol style="list-style-type: none"> 1. Pilotage 2. Towing and the 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]

DRAFT SCHEDULE (continued)

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
MARITIME TRANSPORT SERVICES	1) (a) <u>Liner shipping</u> : 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	1) [(a) None 3) [(a) Unbound] (b) None 4) [(a) None] (b) None	1) See Note 3) (b) See Note
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.	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.	

* 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.

DRAFT SCHEDULE (continued)

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
	2) None 3) None ** 4) None	2) None 3) None 4) None	
Storage and Warehousing Services CPC 742 [as amended]	1) Unbound* 2) None 3) None ** 4) None	1) Unbound* 2) None 3) None 4) None	
Customs Clearance Services (as defined below - 5)	1) Unbound* 2) None 3) None ** 4) None	1) Unbound* 2) None 3) None 4) None	
Container Station and Depot Services (as defined below - 6)	1) Unbound* 2) None 3) None ** 4) None	1) Unbound* 2) None 3) None 4) None	

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

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

DRAFT SCHEDULE (continued)

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
Maritime Agency Services (as defined below - 7)	1) None	1) None	See Note.
[Maritime] Freight Forwarding Services (as defined below - 8)	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	See Note.

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 the EEC, "a Member State") and another port located in ... (name of the country or, for the 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 inland transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated service;
- (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 operator" 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].
