

GATS 2000

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

TO

DOMINICA

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 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 Dominica 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
- Telecommunication services
- Tourism and travel related services
- Transport

The EC proposes that Dominica'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 schedules 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 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 Dominica 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). If this is not possible, the schedule should contain a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.
- 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 position on classification issues and to the EC's classification of their existing commitments.

HORIZONTAL COMMITMENTS

EC REQUEST TO DOMINICA

MODE 3

Under MA, Dominica refers to the Income Tax Act, which stipulates that foreign investors and non-resident earners of income are subject to the withholding tax provision of this Act. **EC Request:** Remove the entry. If this measure is allowed under Article XIV of GATS, the entry does not need to appear in the schedule.

Under MA, Dominica refers to the Alien Landholding Act “the relevant provisions of the Laws of Dominica” and “relevant Acts pertaining to property acquisition, lease and rental and any operating condition that may be the subject of existing laws and regulations”. It is not clear which restrictions to market access these Acts may contain. **EC Request:** Please clarify directly in the horizontal commitments the provisions inconsistent with GATS Article XVI which are included in the laws of Dominica to ensure legal certainty, instead of making a simple reference to the provisions in force.

Under MA, Dominica indicates that it reserves a number of small business opportunities for nationals. **EC Request:** Please specify the definition of “small business opportunities”.

MODE 4

Dominica has made no specific horizontal commitments on Mode 4, but refers to its Immigration Laws and Work Permit Regulations.

Quantitative Restrictions

It is not clear whether any quantitative restrictions, or measures with similar effect, are applied under the Immigration Laws or the Work Permit Regulations. **EC Request:** Clarify whether any quantitative restrictions apply to intra-corporate transferees, business visitors or contractual service suppliers. (For definitions of these terms, see below.)

Economic Needs Tests

It would appear from the Schedule that Economic Needs Tests (ENTs) are applied to all potential employees who are foreign nationals (“Issue of permits is normally confined to people with managerial and technical skills which are in short supply or not available”). **EC Request:** Make a commitment not to apply ENTs to intra-corporate transferees or business visitors.

Definitions of terms used:

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 requests that commitments on intra-corporate transferees cover managers, executives and specialists (terms should be defined in the schedule), as well as «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 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. Business Visitors are usually granted entry for 90 days periods at a time.

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 DOMINICA

Dominica has not committed this sector. The EC requests Dominica to consider taking the following commitments:

A. LEGAL SERVICES (CPC 861)

- Commit covering at least consultancy on public international law and on law of jurisdiction where the service supplier or its personnel are qualified, lawyers
- Mode 3: Take full commitments, i.e. schedule "none" under MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

BUSINESS SERVICES (OTHER THAN PROFESSIONAL)

EC REQUEST TO DOMINICA

B. COMPUTER AND RELATED SERVICES

Dominica has committed this sector only partially. 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

Dominica has not committed this sector only partially. The EC requests that it be committed as follows:

c) Management consulting service (CPC 865)

d) Services related to management consulting (CPC 866)

For each of the above two 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".

TELECOMMUNICATION SERVICES

EC REQUEST TO DOMINICA

A competitive telecommunications market reduces costs for industry and private users, and facilitates and improves communication between both businesses and individuals. This enables companies in all sectors to react more quickly and adequately to the needs of consumers, to gain efficiency, raise their productivity and provide more goods and services more efficiently and at a better price. In particular, investments in this sector stimulate the development of electronic commerce, which can spur growth in almost all services sectors, regardless of the level of development of the country.

However, in order to achieve a really competitive telecommunications market in terms of price and supply, an adequate regulatory framework must be put in place, along the lines of the reference paper drafted during the telecommunications negotiations concluded in 1997. Such a regulatory framework is the necessary catalyst, if properly enforced, for competition to bear fruit where it is allowed.

Dominica has indeed already taken partial commitments in this sector, by committing to the reference paper of the Basic Telecommunications negotiations. The EC suggests that Dominica take further commitments in this sector by committing to open a number of sub-sectors to full competition and to foreign investment, particularly data transmission related services which provide the key infrastructure that benefits the rest of the economy. Thus, the schedule should read "None" for market access and national treatment in the following sub-sector: (CPC 7523) DATA TRANSMISSION SERVICES.

TOURISM AND TRAVEL RELATED SERVICES

EC REQUEST TO DOMINICA

Dominica has committed this sector only partially. The EC invites Dominica that it be committed as follows:

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

Clarify scope of commitments under this subsector with reference to CPC codes.

Hotel development

Mode 3:

Market Access: Subject to alien landholding regulations, exchange control regulations. **EC Request**: specify the limitations to market access contained in this regulation.

Hotel development of less than 50 rooms may be subject to an economic needs test. **EC Request**: specify the criteria for such a test.

National treatment is 'subject to withholding tax'. **EC Request**: Clarify this entry

Catering

Mode 3:

Market access and national treatment: consider taking commitments

B. TRAVEL AGENCIES AND TOUR OPERATORS SERVICES CPC 7471

Dominica has not made commitments for this subsector. **EC Request**: Consider taking commitments.

TRANSPORT SERVICES

EC REQUEST TO DOMINICA

Dominica has not committed the transport sector.

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

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"> 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 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)..