

GATS 2000

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

TO

THE KYRGYZ REPUBLIC

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 Kyrgyz Republic 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
- Transport services

The EC proposes that Kyrgyz Republic'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 Kyrgyz Republic 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.
- 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 THE KYRGYZ REPUBLIC

MODE 4

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 the Kyrgyz Republic. **EC request:**

- Extend existing commitments to include « 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 ».

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 THE KYRGYZ REPUBLIC

The Kyrgyz Republic has only partially committed this sector. The EC requests the Kyrgyz Republic to consider taking the following commitments in this sector.

F. INTEGRATED ENGINEERING SERVICES (CPC 8673)

- Mode 3: Allow foreign presence through different types of legal entities (at least joint ventures with national companies)

TRANSPORT SERVICES

EC REQUEST TO KYRGYZ REPUBLIC

Kyrgyz Republic has partly committed the transport sector. The EC requests Kyrgyz Republic to take the following commitments.

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 Kyrgyz Republic:

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

- 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 Kyrgyz Republic. 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 Kyrgyz Republic."

In this context Kyrgyz Republic 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.

H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT

c) Freight Transport Agency/Freight Forwarding Services (CPC 748) and Pre-Shipment Inspection (part of CPC 749)

Kyrgyz Republic has committed activities covered by CPC 748. **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)..