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GATS 2000

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

TO

THE PHILIPPINES

GENERAL REMARKS

At the WTO Ministerial Conference in Doha in November 2001, Ministers agreed that initial requests for specific commitments should be submitted by 30 June 2002.

In line with this decision, and committed to the objectives and principles stated in the GATS, in particular Article IV and XIX GATS, as well as the negotiating guidelines agreed by the Council for Trade in Services on 29 March 2001, the EC encourages Philippines 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
- Telecommunications 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 current GATS commitments of the Philippines 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 doing so, 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 Philippines 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 corresponding CPC number. If this is not possible, 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 or list of activities proposed in its negotiating proposals 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 Philippines to present its offer in accordance with this approach.
- that any remaining limitation on market access (hereafter "MA") or on national treatment (hereafter "NT") are clearly described and only be inscribed in the market access or national treatment columns if the measure is of a nature foreseen by Articles XVI-XVII GATS.

The EC remains available to provide any clarification and answer any question on this request. Questions can be addressed to the European Commission via the EC GATS contact point (mailbox address: TRADE-GATS-CONTACT-POINTS@cec.eu.int), via the Delegation of the European Commission in Geneva, or directly to the European Commission (Directorate-General Trade, Unit D2 (Trade in services, including e-commerce), Brussels, B-1049, Belgium, fax 32-2-299 24 35).

Note: The EC reserves the right to revise and/or supplement this request. For each service sector, W120 classification has been followed unless expressly indicated and CPCs refer to the Provisional CPC classification. The precise scope for each sector is without prejudice to the EC's final positions on classification issues and to the EC's classification of their existing commitments.

HORIZONTAL COMMITMENTS

EC REQUEST TO THE PHILIPPINES

MODE 3

- Participation of foreign investors is limited for certain expressly reserved activities reserved by law to Philippine citizens (MA). **EC request:** Eliminate this requirement of citizenship for Mode 3.
- Executives and Managing officers have to be citizens of the Philippines. **EC Request:** Eliminate.
- Acquisitions of land (MA) require 60% local capital. Foreign investors may lease only private owned land. **EC request:** eliminate
- Access to domestic credit (NT) – dept-to-equity ratio for foreign companies. **EC Request:** eliminate

MODE 4

General

- Entry permitted only if there is no available Philippine citizen to fulfil the post. **EC request:** Dis-apply this requirement in relation to intra-corporate transferees. In other cases, please schedule this restriction in accordance with the Scheduling Guidelines for Economic Needs Tests as adopted by the General Council in March 2001.
- The EC seeks clarification of the relationship between the Philippines' horizontal Mode 4 commitments and the sector specific commitments in transport and tourism. Please also see the sectoral requests for the specific requests.

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 Philippines.

- Difficulties are experienced in transferring specialists with less than four years graduate level work experience. **EC Request:** Clarify how classification of “specialist” is determined.
- The EC requests that a commitment be made to allow as intra-corporate transferees «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

- No specific commitment has been made. EC Request: Make a commitment relating to Business Visitors who are not entering to themselves supply a services, but rather to either (a) establish a commercial presence or (b) negotiate and/or conclude sales contracts. The maximum length of stay should be at least 90 days in any 12 month period.

Contractual Service Supplier

- A contractual service supplier is a juridical person with no commercial presence in the Philippines, who has obtained a service contract in the Philippines requiring the presence of its employees in the Philippines in order to fulfil that contract. The EC considers that the Philippines commitments apply to contractual service suppliers subject to application of the horizontal restriction. **EC Request:** Confirm our understanding and indicate the maximum length of stay for contractual service suppliers.

Additional commitments

- Difficulties are experienced as a result of the length of time taken to process work permits. The EC wishes to discuss the possibility of taking additional commitments to address this issue.

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 PHILIPPINES

The Philippines has not committed this sector. The EC requests that this sector is committed as follows:

A. LEGAL SERVICES (CPC 861)

EC Request:

- Commit covering at least consultancy on public international law and on law of jurisdiction where the service supplier or its personnel are qualified lawyers.
- Modes 1, 2, 3: Take full commitments, i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

B. ACCOUNTING, AUDITING AND BOOKKEEPING SERVICES (CPC 862)

EC Request:

For accounting and bookkeeping services:

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

For auditing services:

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

D. ARCHITECTURAL SERVICES (CPC 8671)

E. ENGINEERING SERVICES (CPC 8672)

F. INTEGRATED ENGINEERING SERVICES (CPC 8673)

EC Request for each of the above sub-sectors:

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

The EC also invites Philippines to consider taking commitments in the sub-sectors of taxation services and urban planning and landscape architectural services.

BUSINESS SERVICES (OTHER THAN PROFESSIONAL SERVICES)

EC REQUEST TO THE PHILIPPINES

B. COMPUTER AND RELATED SERVICES:

This sub-sector has not been committed. **EC request:** Commit at the two-digit level as follows:

Computer and Related Services (CPC 84):

- Modes 1, 2 and 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 (if any) on (h) - services incidental to mining, and (j) - services incidental to energy distribution, are covered in those sections of the request dealing with Energy Services and Construction Services.

The Philippines has not committed this Sector. The EC requests that it be committed as follows:

- a) Advertising (CPC 871)¹**
- b) Market research and Public Opinion Polling (CPC 864)**
- c) Management consulting services (CPC 865)**
- d) Services related to management consulting (CPC 866)**
- e) Technical testing and analysis services (CPC 8676)**
- m) Related scientific and technical consulting services (CPC 8675)**
- n) Maintenance and Repair of Equipment (not including transport equipment) (CPC 633 + 8861-8866)**

For each of the above sub-sectors:

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

¹ NB. Foreign ownership of advertising agencies limited to 30% (Philippines Constitution, Section 11, Article XVI). All executive and managing offices must be Philippine citizens.

l) Security Services (CPC 87302 – 87309)²

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

o) Building cleaning services (CPC 874)

Philippines has not committed this sub-sector. **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”

Grounds maintenance (part of CPC 88110) and

Washing and Cleaning Services (CPC 97011-97014)

Philippines has not committed these two-sub-sectors. **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”

The EC also invites the Philippines to consider taking commitments on Research and Development Services (CPC 85), Real Estate Services (CPC 82), Placement and supply of services personnel (CPC 872), packaging services (CPC 876), printing and publishing services (CPC 88442), and translation services (CPC 87905), as well as improving existing commitments in Rental and Leasing Services without Operators (CPC 831).

² Foreign equity investments prohibited – Section 4 of Republic Act (RA) 5487

POSTAL AND COURIER SERVICES

EC REQUEST TO THE PHILIPPINES

The Philippines has only partially committed this sector (commitments in courier services). 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 Philippines 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 HANDLING³ OF POSTAL ITEMS⁴, WHETHER FOR DOMESTIC OR FOREIGN DESTINATIONS:

- A. Handling of addressed written communications on any kind of physical medium⁵, including:**
 - Hybrid mail services
 - Direct mail
- B. Handling of addressed parcels and packages⁶**
- C. Handling of addressed press products⁷**
- D. Handling of items referred to in A. to C. above as registered or insured mail.**
- E. Express delivery services⁸ for items referred to in A. to C. above.**
- F. Handling of non-addressed items.**
- G. Document exchange.**
- H. Other services not elsewhere specified.**

³ The term "handling" should be taken to include clearance, sorting, transport and delivery.

⁴ "Postal item" refers to items handled by any type of commercial operator, whether public or private.

⁵ E.g. letter, postcards.

⁶ Books, catalogues are included hereunder.

⁷ Journals, newspapers, periodicals.

⁸ 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.

For sub-sectors B., C., E., F. and G.:

- Modes 1, 2 and 3: Undertake full commitments for market access and national treatment.
- Mode 4: Commit as referred to in the section « Horizontal commitments ».

For sub-sectors A. and D.:

- Modes 1, 2 and 3: Undertake commitments for market access and national treatment.
- Mode 4: Commit as referred to in the section « Horizontal commitments ».

The Philippine's current commitments:

- Mode 1: « Commercial presence is required». **EC request:** Delete restriction, schedule « None ».

TELECOMMUNICATION SERVICES

EC REQUEST TO THE PHILIPPINES

The Philippines have only partially committed this Sector. The EC requests that this Sector is committed as follows:

ALL MODES

There are no commitments in private leased circuit services, Electronic mail, , enhanced/value-added facsimile services, incl. store and forward, store and retrieve, code and protocol conversion. **EC request:** Make full commitments for all these sub-sectors, i.e. schedule “None”.

Services can be offered only on a facilities basis. **EC request:** Remove this restriction.

The services concerned are: Voice telephone services, Telegraph Services, Telex Services, Packet-switched data transmission services, Circuit-switched data transmission services, Facsimile services and Cellular Mobile Telephone Service

Remove the prohibition of resale of private leased lines.

Remove the obligation for Authorized international gateway and mobile cellular telephone service providers to install a set number of local exchange lines in designated areas.

MODE 1 – CROSS-BORDER SUPPLY

For Voice mail, On-line information and data base retrieval, Electronic data exchange and Videotex, services can be provided “only through duly enfranchised and certificated domestic public telecommunications carriers”. **EC request:** Remove this provision.

For some services, market access is unbound. The services concerned are: Voice telephone services, Telegraph Services, Telex Services, Packet-switched data transmission services, Circuit-switched data transmission services, Facsimile services, Cellular Mobile Telephone Service. **EC request:** Make full commitments for all these sub-sectors, i.e. schedule “None” for market access.

MODE 2 – CONSUMPTION ABROAD

For some services, market access is unbound under mode 2. The services concerned are: Voice telephone services, Telegraph Services, Telex Services, Packet-switched data transmission services, Circuit-switched data transmission services, Facsimile

services, and Cellular Mobile Telephone Service. **EC request:** Make full commitments for all these sub-sectors, i.e. schedule “None” for market access.

MODE 3 – COMMERCIAL PRESENCE

For some services, operation is subject to securing of: i)a Franchise from the Congress of the Philippines, ii) a Certificate of Public Convenience and Necessity (CPCN) from the National Telecommunications Commission. Remove the obligation to get a Certificate of Public Convenience and Necessity. The services concerned are: Voice telephone services, Telegraph Services, Telex Services, Packet-switched data transmission services, Circuit-switched data transmission services, Facsimile services, Cellular Mobile Telephone Service, Voice mail, On-line information and data base retrieval, Electronic data exchange and Videotex. **EC request:** Remove this requirement in the schedule as it should not affect market access or national treatment.

For some services, foreign equity is permitted up to 40%. The services concerned are: Voice telephone services, Telegraph Services, Telex Services, Packet-switched data transmission services, Circuit-switched data transmission services, Facsimile services, and Cellular Mobile Telephone Service. **EC request:** Remove this ceiling.

For some services, Resale of private leased lines is not allowed. The services concerned are: Voice telephone services, Telegraph Services, Telex Services, Packet-switched data transmission services, Circuit-switched data transmission services, Facsimile services, and Cellular Mobile Telephone Service. **EC request:** Remove this prohibition.

For some services, “Call back, dial back and other similar schemes which result in the same operation are not authorized”. The services concerned are: Voice telephone services, Telegraph Services, Telex Services, Packet-switched data transmission services, Circuit-switched data transmission services, Facsimile services, and Cellular Mobile Telephone Service. **EC request:** Remove this prohibition.

For the same services, there is a provision that provision of services is “Subject to the availability and efficient utilization of radio frequencies”. **EC request:** Remove this provision.

For the same services, the number of non-Filipino citizens in the Board of Directors of an entity needs to be proportionate to the aggregate share of foreign capital of that entity. **EC request:** Remove this restriction to national treatment.

For the same services, all executives and managers need to be citizens of the Philippines. **EC request:** Remove this restriction to national treatment.

MODE 4 – MOVEMENT OF NATURAL PERSONS

There are no commitments 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**), (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” for MA and NT**

ADDITIONAL COMMITMENTS

The Philippines have amended in some parts the reference paper of the Basic Telecommunications negotiations when including it in their schedule as additional commitments. **EC Request:** Commit fully 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 THE PHILIPPINES

GENERAL

The Philippines has not committed this Sector. The EC requests that this Sector is committed as follows:

ALL SUB-SECTORS (CPC 511 to CPC 518)

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

DISTRIBUTION SERVICES

EC REQUEST TO THE PHILIPPINES

Philippines has not committed this Sector. The EC requests that this Sector is committed as follows:

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

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

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

D. FRANCHISING (CPC 8929)

For each of the above sub-sectors:

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

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

Note: In accordance with the W120 classification, the EC Request on "Repair services of personal and household goods" (CPC 633) is included under "1. Business services / F. Other business / n. Maintenance and repair".

ENVIRONMENTAL SERVICES

EC REQUEST TO THE PHILIPPINES

The Philippines has not undertaken commitments in environmental services. 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 the Philippines to present its offer in accordance with this proposal, without prejudice to the outcome of the discussion on the classification of environmental services:

A. WATER FOR HUMAN USE & WASTEWATER MANAGEMENT

Water collection, purification and distribution services through mains, except steam and hot water

This sub-sector only concerns the distribution of water ‘through mains’ (i.e. urban sewage systems). This excludes any cross-border transportation either by pipeline or by any other means of transport, nor does it imply access to water resources.

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

Waste water services (CPC 9401)

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

B. SOLID/HAZARDOUS WASTE MANAGEMENT

Refuse disposal services (CPC 94020)

Sanitation and similar services (CPC 94030)

C. PROTECTION OF AMBIENT AIR AND CLIMATE

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

D. REMEDIATION AND CLEANUP OF SOIL & WATER

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

E. NOISE & VIBRATION ABATEMENT

Noise abatement services (CPC 94050)

F. PROTECTION OF BIODIVERSITY AND LANDSCAPE

Nature and landscape protection services (part of CPC 94060)

G. OTHER ENVIRONMENTAL & ANCILIARY SERIVCES

Other environmental protection services not classified elsewhere (CPC 94090)

For each of the above sub-sectors:

- Modes 1 (where technically feasible), 2 and 3: Undertake full commitments for market access and national treatment.
- Mode 4: Refer to horizontal commitments.

FINANCIAL SERVICES

EC REQUEST TO THE PHILIPPINES

The Philippines have committed this sector only partially. The EC requests that it be committed as follows:

GENERAL

- The Philippines have not yet accepted the Fifth protocol. **EC Request:** Ratify.
- **EC Request:** Undertake commitments in accordance with the Understanding on Commitments in Financial Services.
- **EC Request:** Follow the classification of the Annex on Financial Services.
- Mode 3: MA and NT - Economic needs test. **EC Request:** Eliminate the test.

INSURANCE

- Mode 3: MA – In all subsectors, limits on foreign shareholding (51% in life and non-life insurance, 40% in reinsurance and insurance auxiliary services). **EC Request:** Eliminate these caps.
- Mode 3: MA – In all subsectors limitations on the number of non-citizens in domestic companies' Boards to one third. **EC Request:** Remove this limitation.
- Mode 3: MA – In all subsectors direct branching is not committed. **EC Request:** Commit direct branching.
- Mode 3: MA – The legal form of establishment is limited to companies. **EC Request:** Allow the establishment of associations of underwriters.
- Mode 4: NT – Unbound in all subsectors. **EC Request:** Schedule “unbound, except as indicated in the horizontal section”.
- Modes 1 and 2: MA and NT – MAT insurance is only partly committed. **EC Request:** Commit MAT insurance in accordance with the Understanding.
- Insurance intermediation, such as brokerage and agency, is not committed. **EC Request:** Take full commitments in modes 1 and 2 for intermediation of reinsurance and of MAT insurance in accordance with the Understanding, in mode 3 for the whole subsector and commit as referred to in the horizontal section in mode 4.
- Mode 1: MA and NT – Unbound in insurance auxiliary services. **EC Request:** Take full commitments, i.e. schedule “none”
- Modes 1 and 2: MA – Priority cession requirements in reinsurance. **EC Request:** Eliminate priority cession requirements.
- Mode 3: MA – Existence of discriminatory capital requirements according to the level of foreign shareholding. **EC Request:** Clarify why this limitation has not been scheduled.

- Mode 3: Access of foreign insurers to business in all BOT and privatisation projects is not committed. **EC Request:** Commit such an access.

BANKING AND OTHER FINANCIAL SERVICES

- Provision and transfer of financial information and financial data processing is not committed. **EC Request:** Take full commitments in modes 1, 2 and 3, and commit as referred in the section “Horizontal commitments” in mode 4.
- Pension fund management is not covered. **EC Request:** Take full commitments in modes 2 and 3, and commit as referred to in the section “Horizontal commitments” in mode 4.
- Mode 3: MA – At least 70% of the assets or resources of the banking system must be held by domestic banks that are majority-owned by Filipinos. **EC Request:** Remove this limitation.
- Mode 3: MA – Limits on foreign shareholding in various subsectors. **EC Request:** Suppress these caps.
- Mode 3: MA - Limited number of licences for branches of commercial banks. **EC Request:** Eliminate this limit.
- Mode 3: MA - Restriction applied to foreign banks for use of “Net Due to Head Office” to 4:1 ratio to assigned capital. **EC Request:** Remove the restriction.
- Mode 3: MA – Nationality requirements for members of the Board in various subsectors. **EC Request:** Remove these nationality requirements.
- Mode 3: MA - Requirement of unspecified criteria in order to authorise certain functions of commercial and investment banks. **EC Request:** Specify the criteria.
- Mode 3: MA – Application of specific requirements on lending to SMEs and agro-business. **EC Request:** Clarify why these limitations have not been scheduled.
- Mode 3: Foreign banks’ branches are not allowed to use parent’s capital to meet prudential requirements, even if their home country regulation and supervision has implemented Basle or equivalent standards. **EC Request:** Allow branches to use parent’s capital to meet prudential requirements.
- Mode 3: Regulation on branch capital: the guarantee granted by the branch’s head office or by another foreign bank for additional lending volume is not taken into account. **EC Request:** Take into account the guarantee extended by the branch’s head office or by another foreign bank for additional volume.

MFN EXEMPTION

- Commercial banking – Reciprocity condition. **EC Request:** Remove the reciprocity condition
- Investment houses – Reciprocity condition. **EC Request:** Remove the reciprocity condition.

TOURISM AND TRAVEL RELATED SERVICES

EC REQUEST TO THE PHILIPPINES

The Philippines have committed this sector only partially. The EC requests that it be committed as follows.

The EC suggests to the Philippines to make reference to tourism and travel related services as classified in W/120 and refer to the relevant CPC codes.

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

Tourism accommodation facilities

Mode 3

Market access: Remove foreign equity limitation of 40% for certain forms of accommodation facilities.

Specialty Restaurants:

Extend coverage to include all restaurant services, and undertake full commitments. Mode 3:

Allow foreign equity participation also for restaurants not being part of the facilities of a hotel.

Mode 4

Market access: Clarify if the conditions set out in the horizontal commitments apply in addition to the conditions set out in the Tripartite Agreement.

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

Extend coverage to include also tour operator services, and undertake full commitments.

Mode 1

Market access: Remove requirement of commercial presence for the provision of travel agency services.

Mode 3

Market access: Remove foreign equity limitation of 40% .

Mode 4

Market access: Remove nationality requirement for managers and executives.

C. TOURIST GUIDES SERVICES (CPC 7472)

Extend sectoral coverage to include tourist guide services, and undertake full commitments

D. OTHER

Professional congress organisers

Mode 3

Market access: Remove foreign equity limitation of 40%.

NEWS AGENCY SERVICES

EC REQUEST TO THE PHILIPPINES

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

EC Request (CPC 962):

- Modes 1-3: 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 THE PHILIPPINES

The Philippines have made commitments in transport, with a general restriction on public utilities (minimum 60% local capital) and on time limitations for technical positions, and request of local understudies.

- Mode 4: For all transport subsectors the Philippines has scheduled the following restrictions: “Only aliens qualified to hold technical positions may be employed within the first five years of operation of the enterprise, their stay shall not exceed five years upon entry”. **EC Request:** Clarify how this restriction relate to the limitation on non-resident aliens in the horizontal section, as well as to the limitation concerning aliens as supernumeraries (maximum six months) listed under maritime transport services (international transport)

A. MARITIME TRANSPORT

The Philippines has specific commitments with certain restrictions for maritime transport. Restrictions relate in particular to government cargoes. No auxiliary or port services are committed.

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 request the following additional maritime commitments from the Philippines:

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

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

7) International cargo. With the development of containerisation and high frequency networking services and with ever-larger vessels having to limit direct port calls for physical or economic reasons, the feeding of cargoes between 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 own international cargo between ports of the Philippines. This is requested to be committed in a new footnote:

“10. International maritime transport suppliers can operate vessels of any flag for the purpose of pre-and onward carriage of the international cargo between ports of the Philippines.”

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

- Size of the port. Only valid for international cargo relayed between national ports handling more than [25.000 TEU] on an annual basis.
- Binding existing ad hoc practices. To the extent exceptions are already granted for use of foreign flagged vessels such practices could be bound to explicitly cover pre- and onward carriage of international cargo.
- Geographical limitations: Transport of international cargo between ports within the same province/chartered city [or other relevant regional entity] remains excluded.

A final request related to maritime transport is:

8) **Rental and leasing of vessels with crew (CPC 7213, 7223).**

EC request:

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

C. AIR TRANSPORT

The Philippines has commitments for repair and maintenance of aircraft and parts thereof.

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

The Philippines has commitments for road transport (passengers, freight and maintenance and repair).

b) Freight Transportation (CPC 7123).

The Philippines has commitments for this activity with a restrictions on Mode 3 (authorisation and economic needs tests)

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”

H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT

The Philippines has commitments for these auxiliary services, where only restrictions are those genera to all transport. CPC references are not committed.

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”

MFN EXEMPTIONS

The Philippines has a MFN-exemptions where cabotage transport and access to domestic shipping is reserved for Philippine owned or registered vessels, and measures allow limited access to domestic shipping is granted to countries with which the Philippines has concluded agreements on Amity, Commerce and Navigation.

EC request: Consider to limit or specific in the context of EC requests for maritime transport and in particular opening for feeder services

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 passengers) CPC 7211 and 7212 <u>less</u> cabotage transport</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

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 EEC, « a Member State ») and another port located in ... (name of the country or, for 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 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 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).

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). [Catering is listed for only for information purposes as this activity is requested from Philippines as part of tourism services]

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 THE PHILIPPINES

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 lacks 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

CPC 883: Services incidental to mining

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

- Mode 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

CPC 8675: Related scientific and technical consulting services

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

- Mode 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

CPC 511 and CPC 513: Construction and related engineering services

These sub-sectors are not committed. **EC Request:**

- Mode 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

B. SERVICES RELATED TO THE CONSTRUCTION OF ENERGY FACILITIES

B.1 Construction of energy facilities

CPC 513: Construction work for civil engineering

CPC 51340: For long distance pipelines, communication and power lines (cables)

CPC 51350: For local pipelines and cables; ancillary works

CPC 51360: For constructions for mining and manufacturing

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

- Mode 3 : Take full commitments, i.e. schedule "none".

- Mode 4 : Commit as referred in the section "Horizontal commitments".

B.2 Installation and assembly work

CPC 516: Installation and assembly work

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

- Mode 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred 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:**

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

CPC 71310: Transportation of petroleum and natural gas

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

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

E. SERVICES FOR THE SUPPLY OF ENERGY

E.1 Wholesale of energy products

CPC 62271: Wholesale trade services of solid, liquid and gaseous fuels and related products

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

- Mode 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

Wholesale trade services of electricity

EC Request:

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

E.2 Retail sale of energy products

CPC 63297: Retail sale of fuel oil, bottled gas, coal and wood

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

- Mode 3 : Take full commitments, i.e. schedule "none".

- Mode 4 : Commit as referred in the section "Horizontal commitments".

E.3 Trading of energy products

EC Request:

- Modes 1, 2, 3 : Take full commitments for non-network energy products and commitments for network-energy products
- Mode 4 : Commit as referred in the section "Horizontal commitments".

E.4 Brokering of energy products

EC Request:

- Modes 1, 2, 3 : Take full commitments for non-network energy products and commitments for network-energy products
- Mode 4 : Commit as referred in the section "Horizontal commitments".

F. SERVICE FOR THE FINAL USE

F.1 Energy audit

CPC 86505: Production management consulting services

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

- Mode 3 : Take full commitments, i.e. None.
- Mode 4 : Commit as referred in the section "Horizontal commitments".

F.2 Energy management

CPC 86505: Production management consulting services

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

- Mode 3 : Take full commitments, i.e. None.
- Mode 4 : Commit as referred in the section "Horizontal commitments".

G. SERVICES RELATED TO DECOMMISSIONING

EC Request:

- Modes 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".