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Negotiating Group on Maritime Transport Services

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COMMUNICATION FROM THAILAND

Conditional Offer on Maritime Transport Services

The following communication is being circulated at the request of Thailand to Members of the Negotiating Group on Maritime Transport Services.

Thailand hereby submits its draft offer on maritime transport services to the Negotiating Group on Maritime Transport Services. The offer is conditional upon satisfactory initial commitments being received from other negotiating partners.

Thailand reserves the right to withdraw, modify or reduce this offer, in whole or in part, at any time prior to the conclusion of the negotiations.

Thailand further reserves the right to make technical changes, amendments or corrections to the offer.

THAILAND - CONDITIONAL OFFER 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
<p>TRANSPORT SERVICES</p> <p><u>Maritime Transport Services</u></p> <p>- Passenger transportation (CPC 7211 less cabotage transport: as defined below - 3.1)</p>	<p>(1) None</p> <p>(2) None</p> <p>(3)(a) Unbound for establishment of juridical person for the purpose of operating a fleet under the national flag of Thailand</p> <p>(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below-3.2) except branch office: as indicated in the horizontal section</p> <p>(4)(a) Ships' crews: Unbound</p> <p>(b) Other personnel: As indicated in the horizontal section</p>	<p>(1) None</p> <p>(2) None</p> <p>(3)(a) Unbound</p> <p>(b) None</p> <p>(4)(a) Unbound</p> <p>(b) Unbound, except as indicated in the horizontal section</p>	<p>The following services at the port provided by the government or government enterprise 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 tug assistance 3. Provisioning, fuelling and watering 4. Garbage collecting and ballast waste disposal 5. Port captain's service 6. Navigation aids

* A Thai captain of a Thai ship which sails regularly in certain compulsory pilotage area may be permitted to pilot the ship in the area.

THAILAND (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	
- Freight Transportation (CPC 7212 less cabotage transport: as defined below-3.1)		(1)*	None other than: traffic between Thailand-Vietnam may not be fully participated in by vessels of third countries.			(1)	None	7. Shore-based operational services essential to ship operations, water and electrical supplies 8. Emergency repair facilities 9. Anchorage, berth and berthing services 10. Inland transport services (internal waterways transport services, rail transport services, and road transport services)	
		(2)	None			(2)	None		
		(3)*(a)	Unbound for establishment of juridical person for the purpose of operating a fleet under the national flag of Thailand			(3)(a)	Unbound		
		(b)	Other forms of commercial presence for the supply of international maritime transport services (as defined below-3.2) except branch office: As indicated in the horizontal section			(b)	None other than: Shareholders of Thai maritime transport companies with ownership of Thai flag vessels may be granted exemption or reduced rates of income tax leviable on dividends paid by such companies		
		(4)(a)	Ships' crews: Unbound			(4)(a)	Unbound		
		(b)	Other personnel: As indicated in the horizontal section			(b)	Unbound except as indicated in the horizontal section		

* Domestic regulations may require certain liner shipping operators to be registered and to comply with certain conditions for conducting business in Thailand on non-discriminatory basis.

THAILAND (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 AUXILIARY SERVICES* - Maritime Freight Forwarding Services (as defined below-3.4)	(1) None	(1) Unbound			
	(2) None	(2) None			
	(3)** None other than that indicated in the horizontal section	(3) No limitation as long as foreign equity participation does not exceed 49%			
	(4) As indicted in the horizontal section	(4) Unbound except as indicated in the horizontal section			
- Maritime Cargo Handling Services (as defined below-3.5)	(1) Unbound	(1) Unbound			
	(2) None	(2) None			
	(3) As indicated in the horizontal section***	(3) No limitations as long as foreign equity participation does not exceed 49%.			
	(4) Unbound, except as indicated in the horizontal section	(4) Unbound, except as indicated in the horizontal section			

* Domestic Regulations may require registration of service suppliers, minimum paid-up capital, experienced personnel, etc., on non-discriminatory basis.

** Please note that: Storage and warehousing services has been offered under the heading "Services auxiliary to all modes of transport" (See GATS/SC/85 on page 52). Road transport of containerized freight has been offered under the heading "Road transport services" (See GATS/SC/85 on page 50)

*** Supplying of services in the area under the jurisdiction of the Port Authority of Thailand is subject to certain conditions set up by the Ministerial Regulations issued under the Port Authority of Thailand Act B.E. 2494

THAILAND (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
- Customs Clearance Services (as indicated below-3.6)		(1) Unbound*	(3) As indicated in the horizontal section. In addition a customs broker must be a natural person of Thai nationality and must obtain a licence from the Customs Department	(1) Unbound	(3) No limitations as long as foreign equity participation does not exceed 49%. In addition a customs broker must be a natural person of Thai nationality and must obtain a licence from the Customs Department
		(2) None		(2) None	
		(4) Unbound, except as indicated in the horizontal section		(4) Unbound, except as indicated in the horizontal section	
		(1) Unbound*		(1) Unbound*	
- Container Station and Depot Services (as defined below-3.7)		(2) None	(3) As indicated in the horizontal section. In addition a service supplier must meet other requirements as stipulated by the Customs Department and must obtain permission from the Department	(2) None	(4) Unbound, except as indicated in the horizontal section
		(3) As indicated in the horizontal section. In addition a service supplier must meet other requirements as stipulated by the Customs Department and must obtain permission from the Department		(3) Unbound	
		(4) Unbound, except as indicated in the horizontal section		(4) Unbound, except as indicated in the horizontal section	

* Unbound, due to lack of technical feasibility.

THAILAND (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-3.8)	(1) Unbound	(1) Unbound		
	(2) None	(2) None		
	(3) As indicated in the horizontal section*	(3) No limitation as long as foreign equity participation does not exceed 49%		
	(4) Unbound, except as indicated in the horizontal section	(4) Unbound, except as indicated in the horizontal section		

* Domestic Regulations may require registration of service suppliers, minimum paid-up capital, experienced personnel, etc., on non-discriminatory basis.

NOTE TO THE SCHEDULE

1. Where road, rail, inland waterways and related auxiliary services are not otherwise fully covered in this 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.
2. "Reasonable and non-discriminatory terms and conditions" means, for the purpose of multimodal transport operations, the ability of multimodal transport operator to arrange for the conveyance of its merchandise on a timely basis, including priority over other merchandise which enter the port at a later date.
3. Definitions
 - 3.1 "Cabotage", for the purpose of this schedule, means the transportation or towage of passengers or goods, between a port or place located in Thai waters and another port or place located in Thai waters.
 - 3.2 "Other forms of commercial presence for the supply of international maritime transport services", for the purpose of this schedule, means the ability for international maritime transport service suppliers of other members to undertake locally the following:
 - (a) Marketing and sales of maritime transport services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself;
 - (b) The procurement, on their own account of any transport and related services, necessary for the supply of the integrated service;
 - (c) The preparation of documentation concerning transport documents, customer documents, or other documents related to the origin and character of the goods transported;
 - (d) Setting upon any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally with any locally established shipping agency: As indicated in the horizontal section.

THAILAND (continued)

- 3.3 "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.
- 3.4 "Maritime freight forwarding services" means the activity consisting of organizing and monitoring shipment operations on behalf of shippers, through the procurement of transport and related services, preparation of documentation and provision of business information.
- 3.5 "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 organized independently of the stevedoring or terminal operator companies. The activities include the organization 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.
- 3.6 "Customs Clearance Services" means activities consisting of carrying out on behalf of another party customs formalities concerning the import, export or through transport of cargoes, whether this service is the main activities of the service supplier or a usual complement of its main activities.
- 3.7 "Container Station and Depot Services" means activities consisting of storing containers whether in port or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.
- 3.8 "Maritime Agency Services" means activities consisting of representing as an agent, the business interests of one or more shipping lines, for the following purposes:
- marketing and sales of maritime transport and related services, from quotation to invoicing, and issuing of bill of lading of the shipping lines; procurement and resale of the necessary related services, preparation of documentation, and provision of business information;
 - acting on behalf of the shipping lines organising the call of a ship or taking over cargoes when required.