

WORLD TRADE ORGANIZATION

RESTRICTED

S/NGMTS/W/28

25 June 1996

(96-2647)

Negotiating Group on Maritime Transport Services

Original: Spanish

COMMUNICATION FROM THE REPUBLIC OF CUBA

Conditional Offer on Maritime Transport Services

Cuba submits herewith its conditional offer in the context of the work of the Negotiating Group on Maritime Transport Services.

Cuba is prepared to undertake commitments on an MFN basis subject to the obtention of reciprocal commitments on an MFN basis by the other WTO Members. Accordingly, Cuba might be able to review and harmonize the privileges granted in respect of goods transport to those countries which have entered into bilateral trade and maritime shipping agreements with Cuba.

Cuba reserves the right to maintain, modify or reduce this offer. It also reserves the right to make technical changes and to correct any inaccuracy, omission or error.

CUBA - CONDITIONAL OFFER ON MARITIME TRANSPORT SERVICES¹

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

Sector or subsector	Limitations on market access XVI	Limitations on national treatment XVII	Additional commitments XVIII
Maritime Transport Services			
- International transport (freight and passengers)	(1)(a) Scheduled liner shipping: Unbound	(1)(a) Unbound	See Annex I.
CCP 7211 and 7212 less cabotage transport	(1)(b) Bulk, tramp, and other international shipping, including passenger transportation: Unbound	(1)(b) Unbound	
	(2) None	(2) None	
	(3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of Cuba: the possibility of registering foreign companies to operate ships under the Cuban flag is excluded.	(3)(a) None	
	(3)(b) Other forms of commercial presence for the supply of international maritime services: None	(3)(b) None	
	(4)(a) Ships' crews: Unbound, except as indicated in the horizontal section.	(4)(a) Unbound, except as indicated in the horizontal section.	

¹See Annex II, for comments and definitions.

CUBA (continued)

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

Sector or subsector	Limitations on market access XVI	Limitations on national treatment XVII	Additional commitments XVIII
Maritime Auxiliary Services - Maritime cargo handling services	(4)(b) Key personnel employed in relation to a commercial presence: Unbound, except as indicated in the horizontal section.	(4)(b) Unbound, except as indicated in the horizontal section.	
	(1) Unbound*	(1) Unbound*	
	(2) None	(2) None	
	(3) None**	(3) None	
- Storage and warehousing services (CCP 742)	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
	(1) Unbound*	(1) Unbound*	
	(2) None	(2) None	
	(3) None**	(3) None	
	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	

CUBA (continued)

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

Sector or subsector	Limitations on market access XVI	Limitations on national treatment XVII	Additional commitments XVIII
- Customs clearance services	(1) Unbound*	(1) Unbound*	
	(2) None	(2) None	
	(3) Unbound	(3) Unbound	
	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
- Container station and depot services	(1) Unbound*	(1) Unbound*	
	(2) None	(2) None	
	(3) Unbound**	(3) Unbound	
	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
	(1) Unbound	(1) Unbound	
	(2) None	(2) None	
	(3) Unbound	(3) Unbound	
- Maritime agency services	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
	(1) Unbound	(1) Unbound	
	(2) None	(2) None	
	(3) Unbound	(3) Unbound	
	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	

CUBA (continued)

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

Sector or subsector	Limitations on market access XVI	Limitations on national treatment XVII	Additional commitments XVIII
- Freight forwarding services	(1) Unbound	(1) Unbound	
	(2) None	(2) None	
	(3) Unbound	(3) Unbound	
	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
	(1) Unbound	(1) Unbound	
	(2) None	(2) None	
	(3) None	(3) None	
	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
- Maintenance and repair services	(1) Unbound	(1) Unbound	
	(2) None	(2) None	
	(3) None	(3) None	
	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	

Notes:

*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.

ANNEX I

To Cuba's Conditional Offer on Maritime Transport Services

When the following port services are not subject to any of the obligations under Article XXVIII(c)(ii), they may be made available to suppliers of international maritime transport services on reasonable and non-discriminatory terms and conditions:

- (1) Pilotage;
- (2) Towing and tug assistance;
- (3) Provisioning, fuelling and watering;
- (4) Garbage collection and ballast waste disposal services;
- (5) Port captain's services;
- (6) Navigation aids;
- (7) Shore-based services essential to ship operations, including communications and electrical supplies;
- (8) Emergency repair facilities;
- (9) Anchorage, berth and berthing services.

ANNEX II

To Cuba's Conditional Offer on Maritime Transport Services

Comments

1. The horizontal commitments referred to in this conditional offer are those specified in the Schedule of Specific Commitments reproduced in document GATS/SC/24.

The modes of supply described in this conditional offer and some of the unbound aspects of the offer are being examined with a view to binding them in accordance with Law No. 77 (New Foreign Investment Act), which has superseded Law No. 50.

2. Cuba would be prepared to undertake commitments on an MFN basis subject to obtaining reciprocal commitments on an MFN basis by the other WTO Members. Accordingly, Cuba might be able to review and harmonize the privileges granted in respect of goods transport to those countries which have entered into bilateral trade and maritime shipping agreements with Cuba.

3. Cuba reserves the right to maintain, modify or reduce this offer. It also reserves the right to make technical changes and to correct any inaccuracy, omission or error.

Definitions

1. International (maritime) transport: Transportation of freight by seagoing vessel from the port of loading in one country to the port of discharge in another country.

2. Cabotage: Transportation by seagoing vessel between ports located in Cuban territory.

3. Maritime cargo handling services: 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 covered include the organization and supervision of:

- The loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo; and
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. Customs clearance services: 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.

5. Container station and depot services: 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.

6. Maritime agency services: 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 organizing the call of the ship or taking over cargoes when required.

7. Freight forwarding services: The activity consisting of organizing and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

8. Other forms of commercial presence for the supply of international maritime transport services: 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 not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery.

These activities include:

- (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 service;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerized information systems and electronic data interchange;
- (e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally with any locally established shipping agency;
- (f) acting on behalf of other companies, organizing the call of a ship or taking over cargoes when required.