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Page: 1/8

Council for Trade in Services

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**NOTIFICATION OF THAILAND'S PREFERENTIAL TREATMENT TO SERVICES AND
SERVICE SUPPLIERS OF LEAST DEVELOPED COUNTRIES**

The following notification from the delegation of Thailand, dated 17 February 2016, is being circulated to the Members of the Council for Trade in Services.

Thailand intends to make available to services and services suppliers of least-developed country Members in accordance with the decision by Ministers at the WTO's Eighth Ministerial Conference on Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/L/847), and the decision by Ministers at the WTO's Ninth Ministerial Conference on Operationalization of the Waiver Concerning Preferential Treatment to Services and Services Suppliers of Least-Developed Countries (WT/L/918).

The preferential treatment is made in sectors and modes of supply in response to a request by least-developed country Members which is subject to relevant laws and regulations of Thailand. This preference will remain in effect until the end of the waiver period.

THAILAND – SCHEDULE OF SPECIFIC COMMITMENTS

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
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	<p>3) Only a limited liability company incorporated and registered in Thailand pursuant to Thai laws and regulations is permitted.</p> <p>Other than additionally indicated or otherwise specified in the specific commitments, the limited liability company in sectors or sub-sectors in this schedule shall meet the following conditions:</p> <ul style="list-style-type: none"> a. foreign equity participation must not exceed 49 per cent of the registered capital; b. the number of foreign shareholders must be less than half of the total number of shareholders; and c. the power to name a majority of its directors or otherwise to legally direct its actions must be exercised by Thai national. 	3) Unbound	
	<p>4) Other than additionally indicated or otherwise specified in the specific commitments, temporary movement of natural persons of least-developed country Member is unbound except in the following categories:</p> <p>a. Business Visitor: A natural person seeking to enter or stay in the territory of Thailand temporarily, whose remuneration and financial support for the duration of the visit is derived from outside Thailand;</p>	4) Unbound	

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	<p>(i) as a representative of a goods seller/service supplier, for the purpose of negotiating the sale of goods or supply of services or entering into agreements to sell goods or supply services for that goods seller/service supplier, where such negotiations do not involve direct sale of goods or supply of services to the general public;</p> <p>(ii) as an employee of a juridical person of least-developed country Member only for the purpose of establishing an investment or setting up a commercial presence in the territory of Thailand;</p> <p>(iii) for the purpose of participating in business negotiations or meetings; or</p> <p>(iv) for the purpose of establishing an investment or setting up a commercial presence in the territory of Thailand.</p> <p><u>Duration of stay:</u> Entry and temporary stay for a period not exceeding ninety (90) days shall be granted, when applied for, to a business visitor;</p> <p>b. Intra-corporate Transferee: A natural person who is an employee of a juridical person established in the territory of least-developed country Member, who is transferred temporarily for the supply of a service through commercial presence (either through a representative office, branch, subsidiary or affiliate) in the territory of Thailand, and who has been an employee of that juridical person for a period not less than one (1) year immediately preceding the date of his/her application for admission, and who is:</p>		

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>(i) an executive: a natural person within the organisation who primarily directs the management of the organisation and exercises wide latitude in decision making and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the business; an executive would not directly perform tasks related to the actual provision of the service or services of the organisation;</p> <p>(ii) a manager: a natural person within the organisation who primarily directs the organisation/department/subdivision and exercises supervisory and control functions over other supervisory, managerial or professional staff; does not include a first-line supervisor unless employees supervised are professionals; does not include an employee who primarily perform tasks necessary for the provision of the service; or</p> <p>(iii) a specialist: a natural person within the organisation who possesses knowledge at an advanced level of expertise essential to the establishment/provision of the service and/or possesses proprietary knowledge of the organisation's service, research equipment, techniques or management; may include, but is not limited to, members of a licensed profession.</p>		

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p><u>Duration of stay:</u></p> <ol style="list-style-type: none"> 1. Entry and temporary stay for an initial period not exceeding one (1) year shall be granted, when applied for, to an intra-corporate transferee. 2. Such temporary stay may be extended for a further three (3) terms of not more than one (1) year each. <p>4) Presence of natural persons of least-developed country Member shall not include any type or category of foreign natural persons prohibited or not allowed by the Working of Alien Act B.E. 2551 (2008), the Immigration Act B.E. 2522 (1979) or by other relevant laws and regulations.</p> <p>Presence of natural persons of least-developed country Member shall meet the criteria and requirements stipulated by the Working of Alien-Act B.E. 2551 (2008), the Immigration Act B.E. 2522 (1979) or by other relevant laws and regulations.</p> <p>3), 4) A natural person of least-developed country Member or a limited liability company shall obtain a license or permission in any sector or subsector where it is required by a specific law or regulation.</p> <p>A natural person of least-developed country Member or a limited liability company who receives other special privileges or incentives from Thai authorities to supply services may not claim benefits under this Schedule.</p> <p>3), 4) The Land Code of Thailand B.E. 2497 (1954) and any relevant laws and regulations shall apply to acquisition and usage of land of a natural person of least-developed country Member or a limited liability company.</p>		

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Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
II. SECTOR SPECIFIC COMMITMENTS		
1. Camping and camp site services (CPC 64195)	1) Unbound 2) None 3) As indicated in the horizontal - Services must be operated only: (i) in the private area solely owned by a Thai national; and (ii) outside the area of national parks and protected areas as specified by relevant laws and regulations. 4) As indicated in the horizontal section	1) Unbound 2) None 3) Unbound 4) Unbound
2. Theme parks and amusement parks (CPC 96194)	1) Unbound 2) None 3) As indicated in the horizontal section - Services must be operated only in the private area solely owned by a Thai national. 4) As indicated in the horizontal section	1) Unbound 2) None 3) Unbound 4) Unbound
3. Foreign language tuition services (CPC 92900)	1) Unbound 2) None 3) As indicated in the horizontal section - At least half of its director(s), and if applicable its managing director, must be Thai national. - The criteria and requirement stipulated in the Private School Act B.E. 2550 (2007) and its amendments shall be met. 4) Unbound	1) Unbound 2) None 3) Unbound 4) Unbound

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Sector or Subsector	Limitations on Market Access		Limitations on National Treatment
4. Holiday center and holiday home services (CPC 64192)	1) Unbound 2) None 3) As indicated in the horizontal section - Services must be operated only: (i) in the private area solely owned by a Thai national; and (ii) outside the area of national parks and protected areas as specified by relevant laws and regulations.		1) Unbound 2) None 3) Unbound 4) Unbound
5. Maritime agency services (as defined below - 3.2)	1) Unbound 2) None 3) As indicated in the horizontal section 4) As indicated in the horizontal section		1) Unbound 2) None 3) Unbound 4) Unbound
6. Maritime cargo handling (as defined below - 3.1)	1) Unbound 2) None 3) As indicated in the horizontal section Supplying of services in an area under 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 (1951). 4) As indicated in the horizontal section		1) Unbound 2) None 3) Unbound 4) Unbound

NOTE TO THE MARITIME TRANSPORT 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 "Maritime cargo handling services" means any activity exercised by a stevedore company, including a terminal operator, but not including the direct activities of a docker when this workforce is organised independently of the stevedore company or terminal operator. The activities include the organisation and supervision of:
 - a. the loading/discharging of cargo to/from a ship;
 - b. the lashing/unlashing of cargo;
 - c. the reception/delivery and safekeeping of cargoes before shipment or after discharge.
 - 3.2 "Maritime agency services" means any activity consisting of representing as an agent, business interests of one or more shipping lines, for the following purposes:
 - a. 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;
 - b. acting on behalf of the shipping lines organizing the call of a ship or taking over cargoes when required.
