COMMUNICATION FROM MALAYSIA

Conditional Offer by Malaysia of Initial Commitments on International Trade in Services

The Government of Malaysia attaches particular importance to the satisfactory conclusion of the Multilateral Negotiations on International Trade in Services. There is little dispute that services will increasingly become more important to the Malaysian economy. Presently, the services sector in Malaysia is already fairly open to foreign participation. As a matter of national policy, Malaysia would like to restate the importance of a multilateral framework for trade in services which provides for measures for selective and progressive liberalization, and initiatives by developed parties to strengthen the domestic services capacity of the developing countries and to provide them with effective access to world market in trade in services.

Accordingly, Malaysia is prepared to make initial commitments under the General Agreement on Trade in Services (GATS) as set out in the list attached. This offer is conditional and is subject to the satisfactory resolution of key areas in the negotiations on the Framework Agreement itself, including the sectoral annexes.

Malaysia reserves the right to review, modify, reduce or withdraw in whole or parts of this offer, subject to or depending on the degree to which other parties provide equivalent and mutually acceptable offers.

The initial commitments made in this offer shall be subject to the following general limitations, conditions and qualifications:

(a) national socio-economic policy objectives;

(b) compliance with Malaysian policies, laws, regulation, guidelines at federal, state and local authority levels in respect of all modes of delivery and sectors/sub-sectors covered in this offer;

(c) movement of consumers and personnel is subject to Malaysia's Immigration and Labour Laws, Regulations, Guidelines and Procedures;

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(d) commercial presence requires that foreign service provider incorporate or establish the business locally in accordance with the relevant provisions of Malaysian laws and when so required, regulations imposed by States and regulatory bodies, and is subject to Federal and State Laws, Acts, Ordinances and regulations pertaining to land and building acquisition, lease and rental and any operating conditions that may be imposed;

(e) in respect of joint-ventures with resident Malaysian individuals or companies, commitments on market access and national treatment are subject to current guidelines on joint-ventures;

(f) current prudential and regulatory requirements, qualifications, code of ethics and requirements of professional competency will continue to apply in respect of commitments in market access and national treatment; and

(g) regulations, laws and practices under the jurisdiction of the states of Sabah and Sarawak which relate to the services sector, will apply in those two states.
Explanatory Notes on Malaysia's Conditional List of Offers

1. Medical Sub-Speciality Services - This refers to a service rendered by a qualified person who has specialized in a specific area within a particular medical discipline in Neurosurgery, Neurology, Cardiology, Cardiothoracic Surgery.

2. Private Hospitals - Any premises other than a government hospital or institution in which two or more patients are maintained at the same time and includes any private maternity home and any private nursing home.

3. Construction Project Management - This consists of establishments or persons engaged in providing consultancy services to employers or building owners in the management of construction projects from inception to completion and which may include the selection and coordination of the work of the consultants, contractors and sub-contractors involved in the project.

4. Telecommunications Consultancy - Consultancy in specific areas of International Value Added Network (IVAN) and Services, Rural Telecommunications Development and Human Resource Development only.

5. Hotel and Hotel Business - The business of providing lodging or sleeping accommodation and may include other incidental services such as the provision of food or drink and laundrette.

6. Tourism Project - A tourism project, other than a hotel business, exclusively carried out for purposes connected with the promotion of tourism in Malaysia.

7. Tour Services - Any business of providing all or any of the following services:

   (i) the organizing or conducting for sale or commission of inbound or outbound tours;

   (ii) selling, arranging or making available for commission tickets entitling a person to travel on any conveyance either by land, sea or air; and

   (iii) selling, arranging or making available for commission accommodation places within Malaysia or outside Malaysia.

8. Maritime Container and Conventional Bulk Freight Carriage - The transportation of containerized cargo and/or bulk cargo by sea and does not include the transportation of the same before the post of loading and beyond the post of discharge.

9. Maritime Salvage Operations - Operations of saving a ship, her equipment on cargo from loss or damage at sea.
10. Consultancy in Pharmaceutical Services - Open to high technology in methodology and operational techniques in:

(i) biotechnology - new techniques for influencing the process and production of living cells and those in relation to new drug development and new method of producing drugs;

(ii) basic material development;

(iii) new systems of drug delivery; and

(iv) vaccine production.

11. Hospital Pharmacy Services - Services provided by pharmacists that directly contribute towards more effective patient care in a hospital set-up.
Conditional List of offers from Malaysia

<table>
<thead>
<tr>
<th>Sector or Sub-Sector</th>
<th>Limitations and Conditions on Market Access in respect to the following modes of delivery</th>
<th>Conditions and Qualifications on National Treatment</th>
</tr>
</thead>
</table>

1. Medical Sub-Speciality Services
   - (1) None
   - (2) None
   - (3) Unbound
   - (4) Unbound
   - (1) None
   - (2) None
   - (3) Unbound
   - (4) Unbound

2. Private Hospital Services
   - (1) Not Applicable
   - (2) None
   - (3) Unbound
   - (4) Unbound
   - (1) Not Applicable
   - (2) Unbound
   - (3) Unbound
   - (4) Unbound

3. Construction Project Management
   - (1) None
   - (2) None
   - (3) Standstill but subject to the relevant government laws, regulations and policies
   - (4) Unbound
   - (1) None
   - (2) Unbound
   - (3) Unbound
   - (4) Unbound

4. Telecommunications Consultancy Relating to IVAN, Rural Telecom Devt., HRD.
   - (1) Unbound
   - (2) None
   - (3) i. Joint ventures only with a Malaysian registered company and be locally incorporated.
   - (1) Unbound
   - (2) Unbound
   - (3) Unbound
ii. Maximum foreign equity is 30 per cent.

iii. Subject to issuance of licence and approved by the relevant Malaysian authorities.

iv. Composition of management to be consistent with current administrative requirement.

(4) Unbound

5. Hotel and Hotel Services
   (1) Not Applicable
   (2) None
   (3) Unbound
   (4) Unbound

6. Tourism Projects
   (1) Not Applicable
   (2) None
   (3) Unbound
   (4) Unbound

7. Tour Services
   (1) None
   (2) None
   (3) Requirement of license from the Ministry of Culture, Arts & Tourism. Renewable Annually
   (4) Unbound

   i. Joint ventures only and be locally incorporated. Maximum foreign equity participation is 30 per cent
   (4) Unbound
8. Maritime container and conventional bulk freight carriage

- (1) None except for Government and public agencies cargoes
- (2) None
- (3) i. Representative office or local agents to service foreign lines
  ii. Foreign party intending to fly the Malaysian flag must establish joint ventures with maximum foreign participation at 49 per cent
- (4) Unbound

(1) Reservation of certain cargoes for national carriers
- (2) None
- (3) Unbound

9. Maritime Salvage Operation

- (1) Unbound
- (2) None
- (3) Standstill
- (4) Unbound

10. Airline Office Services (Sales and Marketing)

- (1) None
- (2) None
- (3) Branch Office or General Sales Agent
- (4) Unbound

11. Non-scheduled Charter International Flights (Passenger)

- (1) None
- (2) No limitations for group inclusive tours only
- (3) Unbound
- (4) Unbound

12. Consultancy in Pharmaceutical Services

- (1) Open only to high technology in methodology and operational techniques in:
  (a) Biotechnology
  (b) Vaccine Production

(1) Unbound
(c) Basic Material Manufacture
(d) Manufacture of New Systems of Drug Delivery

(2) None

(3) (a) Same as for cross-border delivery but entry for a specific purpose and for a limited time period only
(b) Joint ventures only with a maximum of 30 per cent foreign equity

(4) Unbound

13. Hospital Pharmacy

(1) Not Applicable
(2) None
(3) Joint ventures only with a maximum of 30 per cent foreign equity
(4) Unbound