COMMUNICATION FROM THE NORDIC COUNTRIES

Proposal for a common approach to Maritime Transport Services
under the GATS Agreement

Addendum

The following communication is circulated at the request of the Nordic countries to the members of the Group of Negotiations on Services.

This communication contains explanatory notes to paragraphs 3, 5 and 6 of MTN.GNS/W/135. It has been produced by the Nordic countries in close co-operation with several other delegations. The new explanatory note to paragraph 6 replaces the one contained in MTN.GNS/W/135/Add.1.
International Shipping (paragraph 3)

Paragraph 3(b) foresees commitments by Parties to undertake in particular the following actions:

- Elimination of cargo sharing agreements, as being inconsistent with the m.f.n. discipline;
- Progressive elimination of unilateral cargo reservation schemes and opening of access to non-military government cargoes, as measures to open market access;
- Progressive elimination of discriminatory measures affecting foreign shipping companies in the supply of international shipping services as compared with national companies. This does not extend to support systems falling within the scope of Article XV of the framework.

The priorities to achieve in these actions, as well as the conditions under which flexibility can be provided to developing countries in this programme, should be further discussed and detailed at a later stage.

Auxiliary services as supplied by maritime transport operators (paragraph 5)

Paragraph 5 aims at ensuring a progressive liberalization of auxiliary services which normally are, or may be, offered by suppliers of international shipping services (see illustrative list).

Auxiliary services may be provided by the maritime transport operator directly, or sub-contracted with a local company.

Each Party shall commit itself not to impose new restrictions on such auxiliary services which are supplied or offered by maritime transport operators, relating to cargoes which are transported on vessels.

The kind of liberalization foreseen may for some services induce shipping companies to request the right to establish locally a subsidiary and/or an agency in order to supply these auxiliary services. The issue of establishment is, however, also to be covered directly by the framework agreement.

In the case of loading/unloading the emphasis may be on the possibility for the vessel to use its own equipment when practicable, or for the local agency/subsidiary to rent or use its own equipment.

The standstill set out in paragraph 5a shall be implemented. In addition, Parties should make commitments to remove existing restrictive measures with respect to certain items.
Illustrative list of auxiliary services relevant to paragraph 5

- Loading and unloading;
- Cargo handling within the port or inland terminal confines;
- Stevedoring, warehousing and storage;
- Clearing cargo with customs, including making cargo available for inspection when required;
- [Customs brokerage];
- Onward transport on a through bill of lading;
- [Freight forwarding].

Auxiliary services as required by maritime transport operators
(paragraph 6)

Each Party shall ensure that access to and use of publicly available port infrastructure services (see illustrative list) offered within or from its territory is accorded to maritime transport services and suppliers of such services of other Parties on reasonable and non-discriminatory terms and conditions.

In this view, Parties shall ensure that when such services are supplied by monopolies or exclusive service providers, these providers operate in accordance with commercial considerations and shall not act in a manner inconsistent with the Parties commitments under this agreement.

When port infrastructure services for the provision of maritime transport services are supplied by private operators, Parties shall not prevent any services supplier under its jurisdiction from acting in accordance with the principle set out above, nor prevent maritime transport service suppliers of other Parties to choose freely among available services suppliers.

Reasonable terms and conditions commit each Party to ensure that rules and practices governing access to and use of such facilities shall be administered in an objective, impartial and transparent manner, including as regards the charges collected for the use of these services. However, Parties will not be required to construct new or expand existing port infrastructure services in order to meet the commitments referred to above.

Non-discriminatory terms and conditions commit each Party to accord to services and service providers of any other Party, in respect of all measures affecting the access to and use of port infrastructure services treatment no less favourable than it accords to its own like services and like service providers.

Repair of ships and related equipment is not covered by this commitment.
Illustrative list of auxiliary services relevant to paragraph 6

- Pilotage;
- Towing and tug assistance;
- Anchorage, berths and berthing services;
- Lightering and water taxi services;
- Provisioning, fuelling and watering;
- Garbage collection and ballast waste disposal;
- Stevedoring and terminal services, including warehousing and storage;
- Port captains' services;
- Navigation aid services;
- Freight transport agency services;
- Cargo handling services (container and other cargo);
- Shore based operational services essential to ship operations including communications and electronic data interchange networks and water and electrical services;
- Marine surveys and classification societies for the purpose of providing accurate documentation and certification of cargo and vessels;
- Customs agencies services.