

<b>AD HOC 133 COMMITTEE SERVICES</b>
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<b>SOURCE : Commission</b>
<b>FOR : Discussion</b>
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**GATS 2000**

**Request from the EC and its Member States (hereinafter the EC)**

**to**

**the United States of America**

**General remarks**

This request covers horizontal commitments, MFN exemptions and the following service sectors:

- Professional services
- Business services
- Courier and postal services
- Telecommunication services
- Construction and related engineering services
- Distribution services
- Environmental services
- Financial services
- Tourism and travel related services
- Transport (air, maritime, land, other) services
- Energy services

The EC proposes that the United States of America's current GATS commitments are revised in accordance with this request. The EC is both seeking improved commitments and clarification of existing commitments as set out in this Request. The EC is furthermore looking for a reduction in scheduled limitations whether these are horizontal or sector specific in nature.

The EC further requests that commitments are entered in accordance with the scheduling guidelines adopted by the Council of Trade in Services on 23

March 2001 (S/L/92). In particular, for each commitment or limitation entered the EC requests:

that the sector and sub-sector are clearly identified in accordance with the classification list in Document MTN.GNS/W/120 or other internationally recognised classification (e.g. Financial Services Annex) and corresponding CPC number. If this is not possible, the schedule should contain a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.

that any remaining limitation on market access (thereafter "MA") or on national treatment (thereafter "NT") are clearly described and only be inscribed in the market access or national treatment columns if the measure is of a nature foreseen by Articles XVI-XVII GATS.

The EC remains available to provide any clarification and answer any question on this request. Questions can be addressed to the European Commission via the EC contact point, via the Delegation of the European Commission in Geneva, or at the following EC officials in Directorate-General Trade Unit D2 (Trade in services, including e-commerce) :

Country Desk Officer:	Nathalie CHAZE. (Tel : 32-2 299.00.98 e-mail : nathalie.chaze@cec.eu.int)
General issues:	J.A. Machado, Head of Unit (Tel : 32-2 299 63.10; e-mail : joao-luis.aguiar- machado@cec.eu.int) A. C. Jessen, Deputy Head of Unit (Tel: 32-2 299 24.57, email: anders.jessen@cec.eu.int)

*Note : The EC reserves the right to revise and/or supplement this request. For each service sector, W120 classification has been followed unless expressly indicated and CPCs refer to the Provisional CPC classification. The precise scope for each sector is without prejudice to the EC's final positions on classification issues and to the EC's classification of their existing commitments.*

## **HORIZONTAL COMMITMENTS :**

### **EC request to the United States of America**

#### **Mode 4**

##### **Intra-corporate transferees :**

The EC requests that a commitment be made to allow as intra-corporate transferees « persons with a university degree or equivalent technical qualification who are transferring for career development purposes or to obtain training in business techniques or methods ». The maximum prior employment requirement should be one year.

##### **Contractual Service Suppliers :**

A contractual service supplier is a juridical person with no commercial presence in The United States, who has obtained a service contract in The United States which requires the presence of its employees in The United States in order to fulfil that contract. EC request : Clarify scope of existing commitments in relation to contractual service suppliers employed in the following sectors.

List of sectors :

#### **1. Business Services**

Legal Services  
Accounting and bookkeeping services  
Taxation services  
Architectural services  
Engineering Services  
Integrated engineering services  
Urban planning and landscape architectural services  
Computer and Related Services  
Research and Development Services  
Advertising  
Management consulting services  
Services related to management consulting  
Technical testing and analysis services  
Related scientific and technical consulting services  
Maintenance and repair of equipment  
Photographic services  
Convention services  
Translation services

#### **3. Construction and related engineering services**

Site investigation work (CPC 5111)

4. Distribution Services

Wholesale trade services (CPC 622)

6. Environmental Services

Water for human use & wastewater management

Solid/hazardous waste management

7. Financial Services

Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services

Advisory, intermediation and other auxiliary financial services on all the activities listed in the subparagraphs (v) to (xv) of the classification of the Annex on Financial Services, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy

9. Tourism and Travel Related Services

Tourist Guide Services (CPC 7472)

**Additional commitments**

- Difficulties are experienced as a result of the length of time taken to process H1B visas as well as with visits linked to short-term projects work. The EC wishes to discuss the possibility of taking additional commitments to address these issues.

*Note : Mode 4 is covered horizontally in this part for all service sectors. The sectoral requests in the following pages only refer to mode 4 when specifically related to one particular service sector.*

**Acquisition of land:**

Mode 3 - NT: restrictions on ownership or purchase of land by non-US citizens in South Carolina, Oklahoma, Florida, Wyoming and Mississippi. EC Request: give national treatment to foreign-owned companies.

Mode 3 - NT: restrictions on purchase of public lands by non-US citizens in Hawaii, Idaho, Mississippi, Montana and Oregon. EC Request: give national treatment to foreign-owned companies.

**Taxation measures****Modes 1, 2 and 3 - NT: direct taxes at the federal level**

differential tax treatment between trusts organised in the US and trusts not organised in the US. EC Request: eliminate, as this measure falls under Article XIV of GATS and therefore does not need to be scheduled.

reciprocity provision on income tax. EC Request: eliminate this measure.

**Modes 1, 2 and 3 - NT taxes other than direct taxes at the federal level**

Excise tax in connection with transfer of property to a foreign entity. EC Request: eliminate this discrimination.

Excise tax on income of foreign private foundations. EC Request: the EC would appreciate clarification, as this measure appears to be a direct tax.

**Subsidies**

Mode 3 - NT : National treatment is unbound for research and development subsidies. EC Request: Clarify the applicability and scope of the regime.

Federal small business administration loans restricted to US citizens. EC Request: commit national treatment for foreign owned companies.

## **PROFESSIONAL SERVICES**

### **EC request to the United States of America**

The USA has committed this sector only partially. The EC requests that this sector is committed as follows:

#### **Legal Services (CPC 861)**

In several States, this sub-sector is not committed or partially committed for practice of international public law or of third country law (additional commitments). **EC Request:** For all States, extend sectoral coverage of commitments to consultancy on international public law and on law of jurisdiction where the service supplier or its personnel are qualified lawyers.

Modes 1, 2 and 3: MA - Supply of services through a qualified US lawyer restricted to natural persons. **EC Request:** Remove this restriction.

Modes 3 and 4: MA - Supply of services through a qualified US lawyer restricted by citizenship requirement for practice before the US Patent and Trademark Office. **EC Request:** Remove this restriction.

Mode 3: MA - In 35 States this mode remains unbound for consultancy on law of jurisdiction where the service supplier is a qualified lawyer. **EC Request:** Remove and allow market access.

Modes 3 and 4: NT - In-state residency requirement applicable in Michigan, Texas and Washington for consultancy on law of jurisdiction where the service supplier is a qualified lawyer. **EC Request:** Remove this requirement.

Mode 4: MA - This mode remains unbound in 35 States and is subject to the establishment of an in-state office in the District of Columbia, Minnesota, New Jersey, New York and Ohio. **EC Request:** Commit for all States as referred to in the section "Horizontal commitments".

Conditions mentioned in footnotes: Prior practice requirements when licensing as foreign legal consultant in the USA. **EC Request:** Remove this requirement.

#### **Accounting, auditing and bookkeeping services (CPC 862)**

Mode 3: MA - Obligation to incorporate in Iowa.  
**EC Request:** Remove this requirement.

Mode 4: MA - Obligation of establishing an in-state office in several States.  
**EC Request:** Remove this requirement.

Mode 4: MA - Citizenship requirement in North Carolina.

**EC Request:** Remove this requirement.

Mode 4: NT - Residency requirement in several States.

**EC Request:** Remove this requirement.

**Architectural services (CPC 8671)**

**Urban planning and landscape architectural services (CPC 8674)**

For each of these two sub-sectors:

Mode 4: MA - Local licensing of two-thirds of the officers, partners and/or directors of an architectural firm in Michigan. **EC Request:** Remove this requirement.

**Engineering services (CPC 8672)**

**Integrated engineering services (CPC 8673)**

For each of these two sub-sectors:

Mode 4: MA - Citizenship requirement in the District of Columbia. **EC Request:** Remove this requirement.

Mode 4: NT - In-state residency requirement in Idaho, Iowa, Kansas, Maine, Mississippi, Nevada, Oklahoma, South Carolina, South Dakota, Tennessee, Texas and West Virginia. **EC Request:** Remove this requirement.

## **BUSINESS SERVICES (other than professional services)**

### **EC request to the United States of America**

#### **B. Computer and Related Services**

##### **General**

In view of the rapid technological advances which have taken, and continue to take place, in this sub-sector, the EC proposes to seek clarification at a multilateral level as to what services are considered to be covered under CPC Prov 84.

#### **C. Research and Development Services**

The United States has not committed this Sector. The EC requests that it be committed as follows :

- a. R&D Services on natural sciences (CPC 851)
- b. R&D Services on social sciences and humanities (CPC 852)
- c. Interdisciplinary R&D services. (CPC 853)

For each of the above sub-sectors :

Modes 1 and 3 : Take full commitments, i.e. schedule "none" under MA and NT.

Mode 4 : Commit as referred to in the section "Horizontal commitments".

#### **D. Real Estate Services**

- a. Involving own or leased property (CPC 821) and
- b. On a fee or contract basis (CPC 822)

Mode 4: MA - US citizenship requirement for real estate broker in New York  
EC Request: remove this requirement.

#### **E. Rental and Leasing Services without Operators :**

The United States has not committed the following sub-Sector. The EC requests that it be committed as follows :

- a. Relating to ships (CPC 83103)

For the above sub-sector :

Modes 1, 2, 3 : Take full commitments, i.e. schedule "none" under MA and NT.

Mode 4 : Commit as referred to in the section "Horizontal commitments".

## **F. Other Business Services :**

*NB: Requests (if any) on (h) - services incidental to mining, and (j) - services incidental to energy distribution, are covered in those sections of the request dealing with Energy Services and Construction Services.*

### **e. Technical testing and analysis services (CPC 8676)**

The United States has not committed this sub-Sector. The EC requests that it be committed as follows :

Modes 1, 2, 3 : Take full commitments, i.e. schedule "none" under MA and NT.

Mode 4 : Commit as referred to in the section "Horizontal commitments".

## **I. Security Services (CPC 87302 – 87309)**

Mode 3: MA - permanent resident alien status or US citizenship required to own contract security companies in Maine. EC Request: remove this requirement.

### **m. Related scientific and technical consulting services (CPC 8675)**

The United States has not committed the following sub-sectors: land surveying for the purpose of establishing legal boundaries, aerial surveying and aerial map-making. EC Request: Extend sectoral coverage to all of CPC 8675.

### **r. Printing and Publishing Services (CPC 88442)**

This sub-sector has not been committed for "printing". EC Request: Extend sectoral coverage to all of CPC 88442.

Mode 3: MA - "A single company/firm is not allowed to own a combination of newspaper, radio and/or TV broadcast stations serving the same local market." EC Request: clarify applicability and scope of the regime.

### **t. Other (CPC 8790)**

**Translation Services (CPC 87905)**

The United States has not committed this sub-Sector. The EC requests that it be committed as follows :

Modes 1, 2, 3 : Take full commitments, i.e. schedule "none" under MA and NT.

Mode 4 : Commit as referred to in the section "Horizontal commitments".

## **POSTAL AND COURRIER SERVICES**

### **EC request to the United States of America**

This request includes sub-sectors that are listed under the negotiating proposal of the EC (S/CSS/W/61). The work on the revision of classification of this sector is still underway. For this reason, the sub-sectors lack reference to CPC.

The United States has only partially committed this sector (commitments in courier services). The EC requests United States to commit this sector as follows, based on the EC proposal for the revised classification of postal and courier services:

#### **Services relating to the handling<sup>1</sup> of postal items<sup>2</sup>, whether for domestic or foreign destinations:**

##### **A. Handling of addressed written communications on any kind of physical medium<sup>3</sup>, including:**

**- Hybrid mail services**

**- Direct mail**

##### **B. Handling of addressed parcels and packages<sup>4</sup>**

##### **C. Handling of addressed press products<sup>5</sup>**

##### **D. Handling of items referred to in A. to C. above as registered or insured mail.**

##### **E. Express delivery services<sup>6</sup> for items referred to in A. to C. above.**

##### **F. Handling of non-addressed items.**

##### **G. Document exchange.**

##### **H. Other services not elsewhere specified.**

1 The term "handling" should be taken to include clearance, sorting, transport and delivery.

2 "Postal item" refers to items handled by any type of commercial operator, whether public or private.

3 E.g. letter, postcards.

4 Books, catalogues are included hereunder.

5 Journals, newspapers, periodicals.

6 Express delivery services may include, in addition to greater speed and reliability, value added elements such as collection from point of origin, personal delivery to addressee, tracing and tracking, possibility of changing the destination and addressee in transit, confirmation of receipt.

**EC request for sub-sectors B., C., E., F. and G. :**

Modes 1, 2 and 3 : Undertake full commitments for market access and national treatment.

Mode 4 : Commit as referred to in the section « Horizontal commitments ».

**EC request for sub-sectors A. and D. :**

Modes 1, 2 and 3 : Undertake commitments for market access and national treatment.

Mode 4 : Commit as referred to in the section « Horizontal commitments »

## **TELECOMMUNICATION SERVICES**

### **EC request to the United States of America**

The United States have only partially committed this Sector. The EC requests that this Sector is committed as follows :

#### **Mode 3 - Establishment**

Comsat has exclusive rights to links with Intelsat and Inmarsat. EC request: remove this restriction.

Direct Ownership of a common carrier radio license may not be granted to or held by

- (a) foreign government or the representative thereof
- (b) non-U.S. citizen or the representative of any non-U.S. citizen
- (c) any corporation not organized under the laws of the United States or
- (d) U.S. corporation of which more than 20% of the capital stock is owned or voted by a foreign government or its representative, non-U.S. citizens or their representatives or a corporation not organized under the laws of the United States

EC request: remove these restrictions.

#### **Additional Commitments**

In the additional commitments made by the United states, there is a restriction on the Reference Paper concerning interconnection obligations. Rural local exchange carriers may be exempted by a state regulatory authority for a limited period of time from the obligations of section 2.2. with regard to interconnection with competing local exchange carriers. Also, Rural telephone companies do not have to provide interconnection to competing local exchange carriers in the manner specified in section 2.2. until ordered to do so by a state regulatory authority.

EC request: remove these restrictions.

#### **MFN exemption**

The United States has registered an MFN exemption on one-way satellite transmission of DTH and DBS television services and of digital audio services. EC request: remove this MFN exemption.

## **CONSTRUCTION AND RELATED ENGINEERING SERVICES**

### **EC request to the United States of America**

#### **General**

The United States has committed this Sector only partially. The EC requests that this Sector be committed as follows:

#### **All sub-sectors (CPC 511 to CPC 518)**

Sector coverage: the United States has specifically excluded "Marine Dredging" from this Sector. **EC Request:** Remove this exclusion and specify that commitments in this sub-sector cover dredging services.

Mode 4: MA - An in-state office must be maintained by all contractors in Michigan. **EC Request:** Remove this requirement.

## **DISTRIBUTION SERVICES**

### **EC request to the United States of America**

United States of America has only partially committed this Sector. The EC requests that this Sector is committed as follows :

#### **All sub-sectors**

**EC Request :** include the CPCs as indicated below in the appropriate sector column :

- A. Commission agents' services (CPC 621, 6111+6113+6121)
- B. Wholesale trade services (CPC 622, 6111+6113+6121)
- C. Retailing services (CPC 631+632, 6111+6113+6121+613)
- D. Franchising (CPC 8929)

#### **B. Wholesale trade services (CPC 622)**

#### **C. Retailing services (CPC 631+632, 6111+6113+6121)**

For B and C., the distribution of the following goods is not committed :

- alcoholic beverages
- military equipment.

#### **EC Request:**

for alcoholic beverages :

Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".

Mode 4 : Commit as referred in the section "Horizontal commitments".

for military equipment: clarify the scope of the exclusion in particular by identifying more precisely the goods excluded (e.g. arms, ammunitions, explosives).

## **ENVIRONMENTAL SERVICES**

### **EC request to the United States of America**

The EC requests the United States to commit the following sub-sectors, and schedule existing commitments accordingly, based on the EC proposal for the classification of environmental services.

For all sub-sectors, remove limitations on activities covered.

#### **A. Water for human use & wastewater management**

Water collection, purification and distribution services through mains, except steam and hot water

Extend sectoral coverage to include the above services, and take full commitments in that sub-sector for mode 2 and 3.

Waste water services (CPC 9401)

#### **B. Solid/hazardous waste management**

Refuse disposal services (CPC 94020)  
Sanitation and similar services (CPC 94030)

#### **C. Protection of ambient air and climate**

Services to reduce exhaust gases and other emissions and improve air quality (CPC 94040)

#### **D. Remediation and cleanup of soil & water**

Treatment, remediation of contaminated/polluted soil and water (part of CPC 94060)

#### **E. Noise & vibration abatement**

Noise abatement services (CPC 94050)

#### **F. Protection of biodiversity and landscape**

Nature and landscape protection services (part of CPC 94060)

#### **G. Other environmental & ancillary services**

Other environmental protection services not classified elsewhere (CPC 94090)

## **FINANCIAL SERVICES**

### **EC request to the United States of America**

#### **A. Insurance**

Mode 1: NT - Discriminatory federal excise taxes on premiums ceded abroad (1% in reinsurance and life insurance, 4% in non-life insurance).  
**EC Request:** Eliminate this discrimination.

Mode 1: NT - Requirement that ships built with Government aid can only be placed outside the US if the risk is first offered in the US market.  
**EC Request:** Remove this requirement.

Modes 1 and 2: MA and NT - State-level compulsory reinsurance cessions. **EC Request:** Eliminate the compulsory cessions.

Modes 1 and 2: MA and NT - Insurance for large commercial risks (except MAT insurance) is unbound. **EC Request:** Take commitments.

Modes 1 and 2: NT - Restrictive measures on business with non-admitted reinsurers, amounting to a deposit or letter of credit requirement.  
**EC Request:** Remove those restrictions.

Modes 1 and 3: MA - In direct insurance and reinsurance, government-owned or government-controlled companies are not authorised to conduct business in various States. **EC Request:** Eliminate this ban.

Mode 3: MA - No mechanism for licensing initial entry of a foreign insurance company as a subsidiary or a branch in various States.  
**EC Request:** Remove this restriction.

Mode 3: NT - Discrimination against alien reinsurers of US Treasury listed insurers in excess of their Treasury list limit. **EC Request:** Remove this discrimination.

Mode 3: MA - Requirements for priority cessions to domiciled insurers.  
**EC Request:** Eliminate those requirements.

Mode 3: MA - No agreed NAIC model law, which would avoid companies being obliged to obtain a licence in each individual State in which they wish to set up operations (branch or subsidiary). **EC Request:** Promote adoption by NAIC of such a model law.

Mode 3: NT - No access for foreign insurers (due to a change in internal rules of the American organisation International Traffic in Arms Regulations

(ITAR)) to technical information essential to the rating of space risks in the USA. **EC Request:** Allow access to the information.

Mode 3: MA - In direct insurance, requirements of US citizenship and residency for members of the board and incorporators in various States. **EC Request:** Remove those requirements.

Mode 3: NT - In brokerage and agency services, higher license fees may be charged for non-residents. **EC Request:** Eliminate this discrimination.

Modes 1 and 3: MA - In services auxiliary to insurance, licenses are not issued to non-residents, are limited to certain lines of insurance or are subject to citizenship requirement in various States. **EC Request:** Take full commitments.

## **B. Banking and other financial services**

Modes 1 and 2: MA - Impossibility for foreign mutual funds to make public offerings in the US. **EC Request:** remove this restriction.

Modes 1, 2 and 3: MA - Supervision of European mother company of mutual funds set by European managers under the Investment Advisers Act as amended in 1994/1995. **EC Request:** Limit supervision to entities in the USA.

Modes 1 and 2: MA - Prohibition for European electronic securities markets (cash markets and options markets) to place remote-access facilities ("trading screens") in the US. **EC Request:** remove this prohibition.

Modes 1 and 2: MA - Prohibition placed on non-US licensed institutions and brokerage houses from dealing on US futures and options markets for US customers other than on a fully disclosed basis to and through a US broker. **EC Request:** remove this prohibition.

Mode 3: NT - Discriminatory registration requirement for foreign banks under the Investment Advisers Act of 1940 to engage in securities advisory and investment management services. **EC Request:** Remove this discrimination.

Mode 3: MA - Disproportionate asset pledge requirements for foreign banks' branches, either federally-licensed or State-licensed in various States, in particular New York. **EC Request:** Remove this restriction.

Mode 3: MA - Expansion via establishment or acquisition of a branch is unbound. **EC Request:** Take commitments.

Mode 3: MA - In various States, no possibility of initial establishment of State-chartered subsidiaries, branches, representative offices, or savings and loan associations. **EC Request:** Remove this restriction.

Mode 3: MA - Citizenship requirements, both at federal (directors of national banks) and State level (directors and incorporators of depository financial institutions, collection agency services), as well as residency requirements at State level (directors and incorporators of depository financial institutions. **EC Request:** Remove those requirements.

Mode 3: MA - Requirement that foreign qualified employees of non-US licensed institutions who wish to become National Futures Association Approved persons must be sponsored by a US institution, notwithstanding that they may have met all Commodity Futures Trading Commission and National Futures Association educational requirements. **EC Request:** Eliminate this requirement.

Mode 3: MA - Unbound for the authority to act as a sole trustee of an indenture for a bond offering. **EC Request:** take commitments.

Mode 3: MA - Unbound for the granting or continuation of status of primary dealer in US Government debt. **EC Request:** take commitments.

### **MFN exemptions**

Insurance - Reciprocity condition. **EC Request:** Remove the reciprocity condition.

Banking - Reciprocity tests in various States. **EC Request:** Eliminate the reciprocity tests.

Trustee services - Reciprocity condition. **EC Request:** Remove the reciprocity condition.

Primary dealing in US Government debt - Reciprocity condition. **EC Request:** Eliminate the reciprocity condition.

**TOURISM AND TRAVEL RELATED SERVICES**

**EC request to the United States of America**

**C. Tourist guides services (CPC 7472)**

Mode 3: Market Access: EC Request: Remove limitations on number of concessions available for commercial operations.

## **TRANSPORT SERVICES**

### **EC request to the United States of America**

#### **A. Maritime transport**

USA has no commitment for maritime transport.

**EC Request:** Take commitments in accordance with the attached model schedule (Annex 1). In particular for the following areas:

- 1) International transport (freight and passengers) CPC 7211 and 7212
- 2) Additional commitments for access to and use of ports facilities
- 3) Maritime auxiliary services (maritime cargo handling, storage and warehouse services, customs clearance services, container station and depot services, maritime agency services)
- 4) Multimodal activities: for inland forwarding of cargoes - commit the ability to rent or lease - or to have access to and use of multimodal facilities (as specified in the note to the schedule).
- 5) Definitions - commit definitions as specified in the model schedule.

The EC also request the following additional maritime commitments from USA:

- 6) Equipment. To facilitate planning of their businesses operators should be allowed to reposition their own equipment, such as empty containers, between ports of USA, when it is not carried against payment. This is requested to be committed in a new footnote:

*"9. Movement of own equipment. International maritime transport suppliers can move/reposition their own equipment (i.e. empty containers, flatbeds etc.) on their own vessels between ports of USA."*

- 7) International cargo. Notwithstanding the general exclusion of "cabotage" in the definitions of the model schedule (see Annex 1) an international maritime transport supplier should be allowed to operate feeder services for its own international cargo between ports of USA. This is requested to be committed in a new footnote:

*"10. Notwithstanding the exclusion of "cabotage" in definition 1 above international maritime transport suppliers can operate vessels for the purposes of pre- and onward carriage of the international cargo between ports of USA"*

In this context USA may wish to take the one or more of the following principles into concern:

Size of the port. Only valid for international cargo relayed between national ports handling more than [25.000 TEU] on an annual basis.

Binding existing ad hoc practices. To the extent exceptions are already granted for use of foreign flagged vessels such practices could be bound to explicitly cover pre- and onward carriage of international cargo.

Geographical limitations: Transport of international cargo between ports within the same state [or other relevant sub-federal/regional entity] remains excluded.

A final request related to maritime transport is:

- 8) Rental and leasing of vessels with crew (CPC 7213, 7223).  
EC Request:

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none", under MA and NT

Mode 4: Commit as in horizontal commitments.

The USA has currently restricted this activity to international transport.

### **B. Internal waterways:**

The USA has no commitment for this activity.

- c) Rental and leasing of vessels with crew (CPC 7213, 7223)  
EC Request:

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none", under MA and NT

Mode 4: Commit as referred in the section "Horizontal commitments"

### **C. Air transport**

- 1) Maintenance and repair of aircraft and parts thereof.  
EC Request:

Modes 2 and 3: Take full commitments, i.e. schedule "none", under MA and NT

Mode 4: Commit as referred in the section "Horizontal commitments"

- 2) Selling and marketing.  
USA has no commitment for this activity.  
EC Request:

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none", under MA and NT

Mode 4: Commit as referred in the section "Horizontal commitments"

- 3) Computer Reservation Systems.  
USA has no commitment for this activity.  
**EC Request:**  
Modes 1, 2 and 3: Take full commitments, i.e. schedule "none", under MA and NT  
Mode 4: Commit as referred in the section "Horizontal commitments"
- 4) Groundhandling services, as specified in the attached definitions (Annex 2).  
**EC Request:**  
Modes 2 and 3: Take full commitments, i.e. schedule "none", under MA and NT  
Mode 4: Commit as referred in the section "Horizontal commitments"
- 5) Airport management services, as specified in the attached definitions (Annex 2).  
**EC Request:**  
Mode 3: Take full commitments, i.e. schedule "none", under MA and NT  
Mode 4: Commit as referred in the section "Horizontal commitments"

*Air Transport Services*

USA has a MFN exemption for measures which pertain to selling and marketing of air transport services (including sales, other than by airlines, of passenger charters and forwarding of air freight other than by airlines) and to operation and regulation of computer reservation system (CRS) services, as described in the Annex on Air Transport Services.

**EC Request:**

Remove elements concerning freight forwarding (see EC request for air transport/auxiliary services). Limit exemption for selling/marketing and CRS systems by specifying the practices targeted by the exemption.

**F. Road Transport Services**

USA has an MFN exemption for issuance of trucking licenses for cross border licensing on a reciprocity basis.

**EC Request:** Clarify under which circumstances these benefits from agreements would also apply to a Community company authorised and established in the USA (see road transport where the EC request opening of Mode 3 for freight transportation).

**H. Services Auxiliary to All Modes of Transport**

The USA has no commitment for these sub-groups

- b) Storage and Warehouse Services (CPC 742)

**EC Request:**

Modes 2 and 3: Take full commitments, i.e. schedule "none", under  
MA and NT

Mode 4: Commit as referred in the section "Horizontal commitments"

c) Freight Transport Agency/Freight Forwarding Services (CPC 748) and  
Pre-Shipment Inspection (part of CPC 749)

**EC Request:**

Modes 1, 2 and 3: Take full commitments, i.e. schedule "none", under  
MA and NT

Mode 4: Commit as referred in the section "Horizontal commitments"

**Annex 1: SCHEDULE ON MARITIME TRANSPORT SERVICES**

Sector or Sub-Sector TRANSPORT SERVICES	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>MARITIME TRANSPORT SERVICES</b></p> <p>International Transport (freight and passengers) CPC 7211 and 7212 less cabotage transport</p>	<p>1) (a) <u>Liner Shipping</u>: none</p> <p>(b) <u>Bulk, tramp, and other international shipping, including passenger transportation</u>: none</p>	<p>1) (a) None</p> <p>(b) None</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and no discriminatory terms and conditions</p> <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies</li> <li>8. Emergency repair facilities</li> <li>9. Anchorage, berth and berthing services</li> </ol> <p>1) See note</p>

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>TRANSPORT SERVICES MARITIME TRANSPORT SERVICES</b></p> <p>International Transport (freight and passengers) CPC 7211 and 7212 less cabotage transport (cont.)</p>	<p>2) None</p> <p>3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none</p> <p>4) (a) Ships' crews: unbound</p> <p>(b) Key personnel employed in relation to a commercial presence as defined under mode 3b) above: Unbound except as in horizontal section</p>	<p>2) None</p> <p>3) (a) Unbound</p> <p>(b) None</p> <p>4) (a) Unbound</p> <p>(b) Unbound except as in horizontal section</p>	<p>3) (b) See Notes 2, 3,</p>

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>MARITIME AUXILIARY SERVICES</b> Maritime Cargo Handling Services (as defined below - 4)	1) Unbound* except for - no limitation on transshipment (board to board or via the quay) and/or on the use of on-board cargo handling equipment 2) None 3) None** 4) Unbound except as in horizontal section	1) Unbound* except for no limitation on transshipment (board to board or via the quay) and/or on the use of on-board cargo handling equipment 2) None 3) None 4) Unbound except as in horizontal section	
Storage and warehousing Services CPC 742	1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section	1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section	
Customs Clearance Services (as defined below - 5)	1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section	1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section	
	1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section	1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section	

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>MARITIME AUXILIARY SERVICES</b> (cont.)			
Container Station and Depot Services (as defined below - 6)	1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section	1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section	
Maritime Agency Services (as defined below - 7)	1) None 2) None 3) None 4) Unbound except as in horizontal section	1) None 2) None 3) None 4) Unbound except as in horizontal section	
(Maritime) Freight Forwarding Services (as defined below - 8)	1) None 2) None 3) None 4) Unbound except as in horizontal section	1) None 2) None 3) None 4) Unbound except as in horizontal section	

\* 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.

## NOTE TO THE SCHEDULE

Where road, rail, inland waterways (and) (related) (auxiliary) services are not otherwise fully covered in (this) (a Member's) 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. (« Reasonable and non-discriminatory terms and conditions » means, for the purpose of (multimodal transport operations), (this additional commitment), the ability of the multimodal transport operator to arrange for the conveyance of its merchandise on a timely basis, including priority over other merchandise which has entered the port at a later date).

## DEFINITIONS

1. Without prejudice to the scope of activities which may be considered as « cabotage » under the relevant national legislation, this schedule does not include « maritime cabotage services », which are assumed to cover transportation of passengers or goods between a port located in ... (name of country or, for EEC, « a Member State ») and another port located in ... (name of the country or, for EEC, « the same Member State ») and traffic originating and terminating in ... the same port located in (name of country, or for the EEC, « a Member State ») provided that this traffic remains within ... (name of country or « this Member State »)'s territorial waters.
2. « Other forms of commercial presence for the supply of international maritime transport services » means 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 however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (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 services;
- (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 computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

- (e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;
- (f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.
3. « Multimodal transport operators » 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.
4. « 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 organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation 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.
5. « Customs clearance services » (alternatively « customs house brokers' services ») means 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.
6. « Container station and depot services » means 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.
7. « Maritime agency services » means 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 organising the call of the ship or taking over cargoes when required.
8. « Freight forwarding services » means (the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information).

## **Annex 2 Facilitating air transport services**

### **Ground-handling Services**

Efficient ground-handling is essential to the proper functioning of air transport and competition between operators in this area ensures that proper use is made of air transport infrastructure. It helps reduce the operating costs of airlines and improves the quality of service for airport users.

For specialised groundhandling suppliers the following activities are requested:

Ground Administration - supervision and administration at the airport (CPC 7461);

Passenger Handling - assisting arriving, departing and transfer passengers (CPC 7461);

Baggage Handling - handling baggage in the sorting area (CPC 7461);

Freight and Mail Handling - physical handling of freight and mail, dealing with security and customs procedures (CPC 74110 (container handling services) and 74190 (other cargo handling services);

Ramp Handling - marshalling and moving the aircraft, loading and unloading of aircraft, transport of passengers, freight, supplies (CPC 7469).

Aircraft Services - cleaning the aircraft, heating and cooling, removal of snow and ice (CPC 7469);

Fuel and Oil Handling - organisation and provision of fuel and oil;

Aircraft Maintenance - covered specifically by the Annex as above;

Flight Operations and Crew Administration - preparation of the flight, inflight and post-flight assistance, crew administration;

Surface Transport - organisation and execution of transport within airport - except to and from aircraft;

Catering Services - administration, storage, preparation and delivery of bar and food supplies (CPC 6423). [Catering is listed for only for information purposes as this activity is classified and committed by USA as part of tourism services]

### **Airport management services**

Airport management services constitute the core activities of airport services providers and cover: Airport operation services (excl. cargo handling), including passenger air terminal services and ground services on air fields, including runway operating services, on a fee or contract CPC 74610.

Activities are also related to "other management consulting services" (CPC 86509) and activities separately specified under "other management services not elsewhere classified" (CPC 86609). A commitment will allow services

suppliers to take an equity stake in - and engage in the overall operation and management of - airports when these are open for investments from private operators. Thereby it will bind existing common practices in the sector.

## **ENERGY SERVICES**

### **EC request to the United States of America**

This request includes services that are listed under the negotiating proposal of the EC (S/CSS/W/60). The work on the classification of these services is still underway. For this reason, some activities therefore lacks reference to CPC.

The EC requests that this area is committed as follows :

#### **A. Services related to exploration and production**

CPC 511 and CPC 513: Construction and related engineering services

Mode 4: MA - An in-state office must be maintained by all contractors in Michigan. EC Request: Remove this requirement.

#### **B. Services related to the construction of energy facilities**

##### **B.1 Construction of energy facilities**

CPC 513: Construction work for civil engineering

CPC 51340: For long distance pipelines, communication and power lines (cables)

CPC 51350: For local pipelines and cables; ancillary works

CPC 51360: For constructions for mining and manufacturing

Mode 4: MA - An in-state office must be maintained by all contractors in Michigan. EC Request: Remove this requirement.

##### **B.2 Installation and assembly work**

CPC 516: Installation and assembly work

Mode 4: MA - An in-state office must be maintained by all contractors in Michigan. EC Request: Remove this requirement.

#### **C. Services related to networks**

##### **C.1 Operation of transportation/transmission and distribution facilities**

- CPC 71310: Transportation of petroleum and natural gas

This sub-sector is not committed. EC Request:

Modes 3 : Take commitments for operation of networks not part of the integrated system.

Mode 4 : Commit as referred in the section "Horizontal commitments".

## **D. Storage services**

- CPC 74220: Bulk storage services of liquids or gases

This sub-sector is not committed. EC Request:

Mode 3 : Take full commitments, i.e. schedule "none".

Mode 4 : Commit as referred in the section "Horizontal commitments".

## **E. Services for the supply of energy**

### **E.1 Wholesale of energy products**

Wholesale trade services of electricity

EC Request:

Modes 3 : Take full commitments, i.e. schedule "none".

Mode 4 : Commit as referred in the section "Horizontal commitments".

### **E.3 Trading of energy products**

EC Request:

Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".

Mode 4 : Commit as referred in the section "Horizontal commitments".

### **E.4 Brokering of energy products**

EC Request:

Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".

Mode 4 : Commit as referred in the section "Horizontal commitments".

## **G. Services related to decommissioning**

EC Request:

Modes 3 : Take full commitments, i.e. schedule "none".

Mode 4 : Commit as referred in the section "Horizontal commitments".

## **MFN Exemptions**

### **Pipeline Transport**

The USA has an MFN exemption regarding the acquisition of right-of-way for oil or gas pipelines across on-shore federal lands or acquisition of leases or interests in certain minerals on on-shore federal lands. Such MFN exemption establishes also a condition of reciprocity for 100 per cent interest by non-US citizens in a domestic corporation carrying the above mentioned activities.

**EC Request:** Clarify in detail the different cases of application of the MFN and the conditions and criteria for the application and evaluation of the reciprocity conditions. Eliminate the MFN exemption.

## **MFN EXEMPTIONS**

### **EC request to the United States of America**

#### **General**

##### **Taxation measures :**

More favourable treatment benefiting resident of countries contiguous to the United States. **EC Request:** the EC is of the view that this measure is covered by Article XIV (e). In this case, this should be eliminated as this is not necessary.

Benefits available under the US IRC with respect to US possession: **EC Request:** the EC is of the view that these measures are linked to avoidance of double taxation. In this case, such measures are covered by Article XIV(e) and should therefore be eliminated.

Benefits available under the US IRC with respect to CBI beneficiary countries. **EC Request:** clarify the regime.

Reciprocal reduction of taxation on income derived from the international operation of aircraft or of taxation of certain earnings derived from the use of railroad rolling stock. **EC Request:** the EC is of the view that such measures are included in bilateral tax treaties covered by Article XIV (e). In this case, this exemption is not necessary and should be eliminated.

Denial of statutory reduction of double taxation because the country participates in a an international boycott. **EC Request:** eliminate this exemption.

Measures permitting less favourable taxation for citizens, corporations or products of a foreign country based on discriminatory or extraterritorial taxes, more burdensome taxation, or other discriminatory conduct. **EC Request:** eliminate the measures.

Measures permitting less favourable taxation of corporations of foreign country based on discriminatory conduct. **EC Request:** eliminate the measures.

Tax exemption for earnings derived from the operation of a communications satellite system, pursuant to the Communications Satellite. **EC request:** eliminate this measure.

General exception for sub-federal tax measures. **EC Request:** eliminate this exception.

**Land use:**

Reciprocity provision in Wyoming. **EC Request:** eliminate this measure.

**Sectoral MFN exemptions**

See EC request on telecommunications services, financial services, transport services and energy services.