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GATS 2000

REQUEST FROM THE EC AND ITS MEMBER STATES (HEREAFTER THE EC)

TO

BRAZIL

GENERAL REMARKS

At the WTO Ministerial Conference in Doha in November 2001, Ministers agreed that initial requests for specific commitments should be submitted by 30 June 2002.

In line with this decision, and committed to the objectives and principles stated in the GATS, in particular Article IV and XIX GATS, as well as the negotiating guidelines agreed by the Council for Trade and Services on 29 March 2001, the EC encourages Brazil to participate actively in the negotiations.

The EC considers that the progressive liberalisation of services is of benefit for all members, including developing and least developed countries. In this context, the EC recognises the importance of liberalisation being underpinned by domestic regulatory frameworks designed to ensure the achievement of public policy objectives.

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

- Professional services
- Business services (Other than Professional services)
- Postal and courier services
- Telecommunication services
- Construction and related engineering services
- Distribution services
- Environmental services
- Financial services
- Tourism and travel related services
- News agency services
- Transport services
- Energy services

The EC proposes that Brazil'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. In so doing, the EC is not seeking the dismantling of public services nor the privatisation of state owned companies.

In conformity with the objectives set out in the EC's overall approach to services negotiations (document S/CSS/W/15), the EC reiterates its commitments to promote regulatory disciplines in accordance with Article VI:4 of the GATS. The EC, however, reserves its right to address at any time to Brazil specific requests concerning regulatory issues.

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. In that respect, the EC would like to recall the classification or list of activities proposed in its negotiating proposals with regard to postal and courier, environmental and energy services. While discussions on classification in these sectors are still ongoing, the EC would like to invite Brazil to present its offer in accordance with this approach.
- that any remaining limitation on market access (hereafter "MA") or on national treatment (hereafter "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 (mailbox address: TRADE-GATS-CONTACT-POINTS@cec.eu.int), via the Delegation of the European Commission in Geneva, or directly to the European Commission (Directorate-General Trade, Unit D2 (Trade in services, including e-commerce), Brussels, B-1049, Belgium, fax 32-2-299 24 35).

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 BRAZIL

ALL MODES

Subsidies

- Unbound on subsidies for Market Access. **EC Request:** Undertake commitments with regard to subsidisation of the private sector.
- National treatment is unbound for research and development subsidies. **EC Request:** Clarify the applicability and scope of the regime

MODE 3

Investment

- The Central Bank establishes procedures related to remittances and transfer of funds abroad.

EC Request: Clarification of the horizontal commitment is requested. If the term “procedures” comprises any kind of restriction, it should be eliminated on the grounds that it was not scheduled.

Commercial presence

- The juridical persons referred as "sole proprietorship" and "partnership" in Article XXVIII of the GATS are not considered as such under Brazilian law. **EC Request:** The reference included in Article XXVIII is non-exhaustive (including...) and the elimination of sole-proprietorship and partnership does not clarify if Brazilian law limits the possibility of establishing juridical persons or if similar forms of commercial presence appear under Brazilian law under different statutes/denominations. Eliminate this restriction.

MODE 4

Quantitative Restriction

- In certain sectors, at least 2/3 of workforce must be Brazilian. **EC Request :** Eliminate this requirement in relation to intra-corporate transfers of the categories covered by Brazil’s commitments (i.e. technical specialists, highly qualified professionals, managers and directors), as well as where the service supplier has no commercial presence in Brazil.

Definitions

- It is not clear what is meant by the terms “technical specialists”, “highly qualified professionals”, « managers » and « directors ». **EC Request :** Define these terms.

Specialised technicians and highly qualified professionals

- Approval by the Ministry of Labour required and company concerned must justify necessity of transfer. **EC Request:** Eliminate for technical specialists and all highly qualified professionals transferring as intra-corporate transferees or entering as business visitors.

Managers and Directors

- For managers and directors transferring as intra-corporate transferees, the transfer must be linked to the « provision of new technology, increase of productivity » or a minimum investment in Brazil. **EC Request :** Eliminate.

Intra-corporate transferees

- Confirm our understanding that labour market testing is not applied to “managers” or “directors”.
- The EC requests that a commitment be made to allow as intra-corporate transferees without requiring an economic needs test « 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.

Business Visitors

A Business Visitor is a representative of a foreign service supplier who is seeking temporary entry into your country for one of the following purposes: (a) to hold meetings and/or to negotiate the sale of services; (b) to conclude contracts to sell services; or (c) to set up a Mode 3 presence. A Business Visitor does not himself directly provide services or sell to the public.

The EC considers that Brazil’s horizontal Mode 4 commitments cover Business Visitors who are “managers”, “directors”, “specialised technicians” or “highly qualified professionals”. **EC Request:**

- Please confirm this understanding
- For Type (a) and (b) Business Visitors extend the commitment to all such Business Visitors. The maximum length of stay should be at least 90 days in any 12 month period.
- For other Business Visitors, clarify whether there are any limitation on the length of stay.

Other

The EC considers that Brazil’s horizontal Mode 4 commitments cover the provision of services under contract where the service supplier has no commercial presence in Brazil and where that service is provided by “managers”, “directors”, “specialised technicians” and/or “highly qualified professionals”. **EC Request:**

- Please confirm this understanding and clarify whether there are any limitations on the length of stay.

Additional commitments

- Difficulties are experienced as a result of the length of time taken to process work and residence permits as well as with the notarisation of documents. The EC wishes to discuss the possibility of taking additional commitments to address this issue.

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.

PROFESSIONAL SERVICES

EC REQUEST TO BRAZIL

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

A. LEGAL SERVICES (CPC 861)

This sub-sector is not committed. **EC Request:**

- Commit covering at least consultancy on public international law and on law of jurisdiction where the service supplier or its personnel are qualified lawyers.
- 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”

B. ACCOUNTING, AUDITING AND BOOKKEEPING SERVICES (CPC 862)

- Mode 1: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule “none”, under MA and NT for accounting and bookkeeping services
- Mode 2: MA and NT – This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule “none”, under MA and NT for the entire CPC 862
- Mode 3: MA – Prohibitions concerning participation of non-residents in juridical persons and use of foreign names. **EC Request:** Remove
- Mode 3: NT – Requirements concerning registration and use of standards. **EC Request:** Remove. In accordance with the Scheduling Guidelines adopted by the Council of Trade in Services (S/L/92 of March 2001), such entry does not need to be scheduled

D. ARCHITECTURAL SERVICES (CPC 8671)

- Modes 1 and 2: MA and NT – These modes remain unbound. **EC Request:** Take full commitments, i.e. schedule none, under MA and NT
- Mode 3: MA – Obligation to join Brazilian service suppliers in a “consórcio”. **EC Request:** Remove

E. ENGINEERING SERVICES (CPC 8672)

- This sub-sector is not committed for engineering design services (CPC 86726). **EC Request:** Extend sectoral coverage of commitments to this CPC
- Modes 1 and 2: MA and NT – These modes remain unbound. **EC Request:** Take full commitments, i.e. schedule none under MA and NT
- Mode 3: MA – Obligation to join Brazilian service suppliers in a “consórcio”. **EC Request:** Remove

F. INTEGRATED ENGINEERING SERVICES (CPC 8673)

This sub-sector is not committed. **EC Request :**

- 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”

G. URBAN PLANNING AND LANDSCAPE ARCHITECTURAL SERVICES (CPC 8674)

- Modes 1 and 2: MA and NT – These modes remain unbound. **EC Request:** Take full commitments, i.e. schedule none under MA and NT
- Mode 3: MA – Obligation to join Brazilian service suppliers in a “consórcio”. **EC Request:** Remove

The EC also invites Brazil to consider taking commitments in the sub-sector of taxation services.

BUSINESS SERVICES (OTHER THAN PROFESSIONAL SERVICES)

EC REQUEST TO BRAZIL

B. COMPUTER AND RELATED SERVICES:

This sub-sector has not been committed. **EC Request:** Commit at the two-digit level as follows:

Computer and Related Services (CPC 84):

- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none” under MA and NT;
- Mode 4: Commit as referred to in the horizontal section.

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.

a) Advertising (CPC 871)

- Mode 1 : MA – Limitation in the amount of foreign participation. **EC Request :** Eliminate this limitation.
- Mode 1 : NT – This mode remains unbound. **EC Request :** Take full commitments.
- Mode 2 : MA and NT – This mode remains unbound. **EC Request.** Take full commitments, i.e. schedule « none » under MA and NT.
- Mode 3 : MA – Foreign equity limitation. **EC Request :** Eliminate.
- Mode 3 NT - Prior residence requirement for film producers. **EC Request :** Eliminate.

b) Market research (CPC 86401)

- Modes 1 and 2: MA and NT - These modes remains unbound. **EC Request :** Take full commitments, i.e. schedule « none » under MA and NT.

c) Management consulting services (CPC 865)

- Modes 1 and 2: MA and NT - These modes remains unbound. **EC Request :** Take full commitments, i.e. schedule « none » under MA and NT.

d) Services related to management consulting (CPC 866)

For 86601, Modes 1 and 2 : MA and NT - These modes remains unbound. **EC Request :** Take full commitments, i.e. schedule « none » under MA and NT.

This sub-sector is not committed for « Arbitration and Conciliation Services » or « Other management services n.e.c » (CPC 86602, 86609. **EC Request:**

- 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".

e) Technical testing and analysis services (CPC 8676)

Brazil 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".

l) Security Services (CPC 87302 – 87309)

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

- Mode 3 : MA - Commit with no form of establishment or equity limitation. Full NT commitment - i.e. schedule "none".
- Mode 4 : Commit as referred to in the section "Horizontal commitments".

m) Related scientific and technical consulting services (CPC 8675)

Brazil 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".

n) Maintenance and Repair of Equipment (not including transport equipment) (CPC 633 + 8861-8866)

Brazil 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".

t) Translation Services (CPC 87905)

- Modes 1 and 2: MA and NT - These modes remains unbound. **EC Request** : Take full commitments, i.e. schedule « none » under MA and NT.

« Official translators » are excluded. **EC Request** :

- 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".

Grounds maintenance (part of CPC 88110) and

Washing and Cleaning Services (CPC 97011-97014)

Brazil has not committed these two sub-sectors. The EC requests that is be committed as follows:

- Mode 3: Take full commitments, i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”.

The EC also invites Brazil to consider taking commitments in Research and Development Services (CPC 85), Rental and Leasing Services without Operators (CPC 831), Placement and supply services of personnel (CPC 872), packaging services (CPC 876), printing and publishing services (CPC 88442) and convention services (part of CPC 87909).

POSTAL AND COURIER SERVICES

EC REQUEST TO BRAZIL

Brazil has only partially committed this sector (commitments in courier services). This request is based in the EC proposal for the classification of postal and courier services. While discussions on classification in this sector are still ongoing, the EC would like to invite Argentina to present its offer in accordance with this proposal, without prejudice to the outcome of the discussion on the classification of postal and courier services:

SERVICES RELATING TO THE HANDLING¹ OF POSTAL ITEMS², WHETHER FOR DOMESTIC OR FOREIGN DESTINATIONS:

A. Handling of addressed written communications on any kind of physical medium³, including:

- Hybrid mail services

- Direct mail

B. Handling of addressed parcels and packages⁴

C. Handling of addressed press products⁵

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

E. Express delivery services⁶ 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.

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 ».

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 BRAZIL

By failing to ratify its offer made in the telecommunications negotiations concluded in 1997, Brazil has not committed this Sector. The EC requests that Brazil bind the offer made in 2000 under the certification procedure and remove the remaining restrictions, which are the following:

HORIZONTAL COMMITMENTS FOR THE SECTOR

- There is an obligation to use satellites that occupy orbital positions notified by Brazil, and there are exclusivity rights to Embratel for access to Intelsat and Inmarsat. **EC Request:** Remove these restrictions.
- Direct foreign ownership is prohibited and there is a possibility for the executive to arbitrarily restrict the level of foreign ownership. **EC Request:** Remove these restrictions.
- Operators are requested to get approval of ANATEL for the supply of any “new service”. Operators upgrade the quality of their services regularly or offer combined services as a normal practice of business and manner. **EC Request:** Explain what a “new service” is under ANATEL practices and when operators need to get additional licences.

MODE 3 - ESTABLISHMENT

- There can be only up to two suppliers of local, long distance inter-regional and international voice telephone services and up to four suppliers of long distance intra-regional voice telephone services. **EC Request:** Remove these limits.
- There are also duopoly restrictions in the States of Amazonas, Roraima, Amapá and Maranhão for mobile services. **EC Request:** Remove these limits.

ADDITIONAL COMMITMENTS

EC Request: Commit to the full reference paper of the Basic Telecommunications negotiations.

CONSTRUCTION AND RELATED ENGINEERING SERVICES

EC REQUEST TO BRAZIL

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

D. BUILDING COMPLETION AND FINISHING WORK (CPC 517)

This sub-sector is not committed. **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”.

E. OTHER (CPC 511+515+518)

This sub-sector is not committed for CPC 515 (special trade construction) and CPC 518 (renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator). **EC Request** for these CPCs:

- Mode 3: Take full commitments, i.e. schedule “none” under MA and NT.
- Mode 4: Commit as referred in the section “Horizontal commitments”.

DISTRIBUTION SERVICES

EC REQUEST TO BRAZIL

Brazil has only partially committed this Sector. The EC requests that this Sector is committed as follows :

A. COMMISSION AGENTS' SERVICES (CPC 621, 6111+6113+6121)

This sub-sector is not committed. **EC Request:**

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".

B. WHOLESALE TRADE SERVICES (CPC 622, 6111+6113+6121)

The distribution of the following goods is not committed :

- motor vehicles (CPC 6111+6113+6121)
- fuels and related goods (CPC 62271)

EC Request for these goods:

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".
- Modes 1 and 2 : These Modes remain unbound. **EC Request:** Take full commitments, i.e. schedule "none".

C. RETAILING TRADE SERVICES (CPC 631+632, 6111+6113+6121+613)

The distribution of motor vehicles (CPC 6111+6113+6121+613) is not committed.

EC Request:

- Modes 1, 2, 3 : Take full commitments, i.e. schedule "none".
- Mode 4 : Commit as referred in the section "Horizontal commitments".
- Modes 1 and 2 : These Modes remain unbound. **EC Request:** Take full commitments, i.e. schedule "none".

D. FRANCHISING (CPC 8929)

- Mode 1 : M.A. - Franchise contracts must be in conformity with domestic regulation. **EC Request** : Remove. This is covered by Art VI.
- Mode 1 : N.T. - Unbound. **EC Request** : Take full commitments, i.e. schedule "none".
- Mode 2 : This Mode remains unbound. **EC Request** : Take full commitments, i.e. schedule "none".

ENVIRONMENTAL SERVICES

EC REQUEST TO BRAZIL

Brazil has not undertaken commitments in environmental services. This request is based on the EC proposal for the classification of environmental services. While discussions on classification in this sector are still ongoing, the EC would like to invite Brazil to present its offer in accordance with this proposal, without prejudice to the outcome of the discussion on the classification of environmental services:

A. WATER FOR HUMAN USE & WASTEWATER MANAGEMENT

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

This sub-sector only concerns the distribution of water through mains' (i.e. urban sewage systems). This excludes any cross-border transportation either by pipeline or by any other means of transport, nor does it imply access to water resources.

- Mode 3: Take commitments under MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

Waste water services (CPC 9401)

- Mode 3: Take full commitments, i.e. schedule "none" under MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

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)

EC Request for each of the above sub-sectors :

- Modes 1 (where technically feasible), 2 and 3 : Undertake full commitments for market access and national treatment.
- Mode 4 : Refer to horizontal commitments.

FINANCIAL SERVICES

EC REQUEST TO BRAZIL

Brazil has committed this sector only partially. The EC requests that it be committed as follows:

GENERAL

- Brazil has not yet accepted the Fifth protocol. **EC Request:** Ratify.
- **EC Request:** Undertake commitments in accordance with the Understanding on Commitments in Financial Services.

INSURANCE

- Mode 3: MA and NT- In direct insurance (life and non-life), reinsurance and insurance intermediation, direct branching, is not allowed. **EC Request:** Allow direct branching.
- Modes 1 and 2: MA and NT – MAT insurance is only partly committed. **EC Request:** Take full commitments in accordance with the Understanding.
- Mode 3: MA- In life and non-life insurance, requirement of enactment of a Presidential decree for the establishment of a commercial presence (i.e. case-by-case authorisation by the Executive Branch). **EC Request:** Eliminate this requirement.
- Modes 1 and 2: MA and NT - Reinsurance and retrocession are unbound. **EC Request:** Take full commitments.
- Mode 3: MA and NT – State monopoly on reinsurance and retrocession services. **EC Request:** Open to competition and undertake full commitments for reinsurance and retrocession services.
- Modes 1 and 2: MA and NT- Unbound in insurance intermediation (agencies and brokers). **EC Request:** Commit intermediation of reinsurance and of MAT insurance in accordance with the Understanding.

BANKING AND OTHER FINANCIAL SERVICES

- Various activities are not covered: credit, charge and debit cards, pension fund management, and provision and transfer of financial information. **EC Request:** Take full commitments in modes 1,2 and 3 for provision and transfer of financial information, in modes 2 and 3 in other sub-sectors, and commit in mode4 as referred to in the section “Horizontal commitments”.
- Mode 2: MA and NT- Unbound in all sub-sectors. **EC Request:** Take full commitments.
- Mode 3: MA- For all financial institutions, requirement of a case-by-case authorisation by Presidential decree (subject to unspecified criteria) for the establishment of a commercial presence. **EC Request:** Eliminate this restriction.

- Mode 3: MA- Existence of discriminatory limitations on the expansion of the number of branches (including ATMs). **EC Request:** Remove this limitation.
- Mode 3: Foreign banks' branches and subsidiaries cannot establish as "universal banks". **EC Request:** Allow establishment as universal banks.
- Modes 1 and 2: MA and NT- Unbound for advisory services. **EC Request:** Take full commitments.
- Mode 3: NT – Forbidden to maintain accounts denominated in foreign currencies in Brazil. **EC Request:** Open up this possibility.
- Mode 3: Only Brazilian financial institutions are entitled to provide asset management services for federal and State agencies and companies. **EC Request:** Open these asset management services to foreign companies established in Brazil.
- Mode 3: Only State-owned banks are entitled to provide commercial banking services to federal, state or municipal agencies and companies. **EC Request:** Open to competition these services.

TOURISM AND TRAVEL RELATED SERVICES

EC REQUEST TO BRAZIL

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

A. HOTELS AND RESTAURANTS (INCL. CATERING) (CPC 641-643)

Extend sectoral coverage to include beverage serving services (CPC 643), and take full commitments in that subsector.

CPC 641 and 642

- Mode 2: Undertake full commitments for MA and NT.
- Mode 3: National treatment: remove discrimination for established companies with regard to tax credit incentives.

B. TRAVLE AGENCIES AND TOUR OPERATORS SERVICES (CPC 7471)

Extend sectoral scope to include travel agency and tour operator services and undertake full commitments in mode 1, 2 and 3.

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

C. TOURIST GUIDES SERVICES (CPC 7472)

Extend sectoral scope to include travel agency and tour operator services and undertake full commitments in mode 1, 2 and 3.

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

NEWS AGENCY SERVICES

EC REQUEST TO BRAZIL

Brazil has not committed this sector (CPC 962). The EC requests that this Sector be committed as follows:

EC Request (CPC 962):

- Modes 1-3: Take full commitments, i.e. schedule “none” under MA and NT.
- Mode 4: Commit as referred to in the section “Horizontal commitments”.

TRANSPORT SERVICES

EC REQUEST TO BRAZIL

A. MARITIME TRANSPORT

Brazil has no commitments 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 Brazil:

- 6) **Equipment.** To facilitate planning of their businesses operators should be allowed to reposition their own equipment, such as empty containers, between ports of Brazil, 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 Brazil.”

- 7) **International cargo.** With the development of containerisation and high frequency networking services and with the ever-larger vessels having to limit direct port calls for physical or economic reasons, the feeding of cargoes between main ports and way ports is becoming more important as an integral part of efficient international maritime transport. An international maritime transport supplier should be allowed to operate feeder services for its international cargo between ports of Brazil. This is requested to be committed in a new footnote:

“10. International maritime transport suppliers can operate vessels of any flag for the purposes of pre- and onward carriage of the international cargo between ports of Brazil.”

In this context Brazil 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.

C. AIR TRANSPORT

Brazil has no commitments for 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.

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.

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”

F. ROAD TRANSPORT

b) Freight Transportation (CPC 7123).

Brazil has specific commitments for this activity, but restricted to only some parts of the classification (CPC 71231,71233 and 71234) and with a 20% ownership limitation.

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”

d) Maintenance and Repair of Road Transport Equipment (CPC 6112)

Brazil 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”

H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT

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

Brazil 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”

MFN EXEMPTIONS

Land Transport

- Brazil has an MFN exemption for cross-border supply (relating to an agreement on International Land Transport) and provides for national treatment for authorized suppliers of signatories in respect of international transport of cargo and passengers.

EC Request: Clarify under which circumstances these benefits would also apply to an European company authorised and established in Brazil (see road transport where the EC request opening of Mode 3 for freight transportation).

Maritime transport (Ocean shipping - cargo):

- Brazil has an MFN exemption that allows measures in bilateral agreements concerning cargo sharing and cargo reservation and measures providing for access to cargo on a reciprocity. **EC Request:** Remove exemption (see EC Requests for maritime transport based on the model schedule, which precludes such cargo-sharing/reservation).

ANNEX 1: SCHEDULE ON MARITIME TRANSPORT SERVICES

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
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Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>TRANSPORT SERVICES MARITIME TRANSPORT SERVICES International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u> cabotage transport</p>	<p>1) (a) <u>Liner Shipping</u>: none (b) Bulk, tramp, and other international shipping, including passenger transportation; none</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 (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 (b) Key personnel employed in relation to a commercial presence as defined under mode 3b) above: Unbound except as in horizontal section</p>	<p>1) (a) None (b) None</p> <p>2) None</p> <p>3) (a) Unbound (b) None</p> <p>4) (a) Unbound (b) Unbound except as in horizontal section</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"> 1. Pilotage 2. Towing and tug assistance 3. Provisioning, fuelling and watering 4. Garbage collecting and ballast waste disposal 5. Port Captain’s services 6. Navigation aids 7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies 8. Emergency repair facilities 9. Anchorage, berth and berthing services

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
MARITIME AUXILIARY SERVICES 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	
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

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 (CPC 6423)- addressed under the EC request on tourism and travel related 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 BRAZIL

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 wishes to underline the significant contribution of an appropriate use of energy for the promotion of sustainable development.

The EC requests that this area is committed as follows :

A. SERVICES RELATED TO EXPLORATION AND PRODUCTION

CPC 883: Services incidental to mining

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".

CPC 8675: Related scientific and technical consulting services

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".

C. SERVICES RELATED TO NETWORKS

C.1 Operation of transportation/transmission and distribution facilities

Services incidental to energy distribution (including operation of transmission/distribution of electricity)

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".

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".

E. SERVICES FOR THE SUPPLY OF ENERGY

E.1 Wholesale of energy products

CPC 62271: Wholesale trade services of solid, liquid and gaseous fuels and related products

EC Request:

- Mode 3 : Take full commitments, i.e. schedule “none”.
- Mode 4 : Commit as referred in the section "Horizontal commitments".

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.2 Retail Sale of energy products

Retail sale trade services of electricity

- Mode 3: Take commitments for the supply to industrial customers
- 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

EC REQUEST TO BRAZIL

The EC Requests are addressed under the transport sectoral chapter.