

**Council for Trade in Services
Special Session**

COMMUNICATION FROM JAPAN

Review of Progress in Maritime Transport Services

The following communication, dated 5 December 2007, from the delegation of Japan as coordinator of a collective request in this sector, is being communicated to Members of the Council for Trade in Services.

I. INTRODUCTION

At this juncture of the Doha Round negotiations, it is valuable in terms of substance and transparency to convey to Members the sense of requesting Members of the state of play in this sector. This report is based on plurilateral discussions but the information presented here only represents the general views of the co-sponsors of the request. The co-sponsors would welcome the engagement of recipients and hope that future discussions will allow further progress towards meeting the objectives of the plurilateral request.

Safe, reliable and competitive maritime transport services benefit the economy as a whole, and are key factors of efficiency for the production of both goods and services. Maritime Transport is an important facilitator of world trade, and this role becomes even more apparent and crucial in an expanded and diversified world trade system. A proper treatment of this sector in the world trade system through the GATS Agreement is thus essential.

II. MARITIME TRANSPORT SERVICES PLURILATERAL REQUEST

A group of fourteen Members (Australia, Canada, China^(*), European Communities, Hong Kong, China, Iceland, Japan, Republic of Korea, Mexico, New Zealand, Norway, Panama, Switzerland, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu) co-sponsored a collective request on Maritime Transport Services pursuant to paragraph 7 of Annex C of Hong Kong Ministerial Declaration. It was addressed to 25 recipient Members. All co-sponsors have also deemed themselves recipients of the request. The request covers a wide-range of Maritime Transport Services in accordance with the Maritime Model Schedule. It is composed of the key elements below. (*) China co-sponsors the collective request which is addressed to a recipient member.

Four plurilateral meetings were held between April 2006 and September 2007. During the meetings, participants provided responses and indications as to how existing commitments and potential offers might relate to this collective request, including the ability to bind commitments at existing levels of market access and remove limitations that represent discriminatory barriers to trade in these sectors. Four recipients did not participate in any of the plurilateral meetings, so that their flexibility to make new or improved offers in this sector is unknown.

III. OVERALL STATUS OF PLURILATERAL DISCUSSIONS

Many participants, including recipients, emphasized in the plurilateral meetings that Maritime Transport Services play a pivotal role from the standpoint of global trade.

The majority of co-sponsors substantially meet the request. Some co-sponsors that do not fully meet the request indicated that they would be ready to improve their offers on International Maritime Transport Service and Maritime Auxiliary Services.

On the other hand, regarding recipients, gaps between their commitments and the request have not been bridged. Some recipients have indicated that they are exploring the possibilities to make new or improved commitments, but none of them has been clearly indicated. In addition, some recipients have clearly indicated that they would not make new or improved commitments and some other recipients suggested that their improved offers depended on progress of negotiations on other sectors such as Agriculture and NAMA.

Co-sponsors appreciated, to some extent, positive indications received from some recipients, but were seriously concerned that their offers would still be far from meeting the plurilateral requests. Co-sponsors strongly encourage recipients, including deemed recipients, to further make new or improved offers in accordance with the plurilateral requests.

IV. REVIEW OF PROGRESS ON ELEMENTS OF THE PLURILATERAL REQUEST

International Maritime Transport Services: All co-sponsors and more than half of recipients have met all or some of the requests. In the plurilateral meetings, one co-sponsor and two recipients have indicated that they are exploring the possibilities to make new or improved commitments. Six recipients have indicated that they are not expected to make new or improved commitments.

Maritime Auxiliary Services: All co-sponsors and nine recipients have met all or some of the requests. In the plurilateral meetings, one co-sponsor has clearly indicated that it would improve its commitments. Four co-sponsors and four recipients have indicated that they are exploring the possibilities to make new or improved commitments. Four recipients have indicated that they would not make new or improved commitments.

Additional commitments on the access to and use of port services: All co-sponsors and six recipients have met all or some of the requests. In the plurilateral meetings, one recipient has indicated that it is exploring the possibilities to make new commitments. Five recipients have indicated that they would not make new or improved commitments.

Additional commitments on the access to and use of services necessary for the conduct of multimodal transport operations: Eight co-sponsors and one recipient have met the request.

MFN exemptions: Some co-sponsors and recipients have registered MFN exemptions. Several participants have indicated the possibility of removing some MFN exemptions in improved offers, though many would remain.

V. REQUEST ELEMENTS: (SEE ATTACHED THE PLURILATERAL REQUEST)

ATTACHMENT

Collective request in Maritime Services

1. Overall Objectives for the Plurilateral Negotiations

Further to paragraphs 25 through 27 of the Hong Kong Ministerial Declaration, and in accordance with paragraphs 7 and 11 (b) of Annex C of the Hong Kong Ministerial Declaration, recalling that maritime transport is an important facilitator of world trade and a significant service making direct contributions to Members' economy and competitiveness for many developed and developing Members, the Mission of Japan is pleased to present the delegation of [recipient Member] with a collective request in the Maritime Transport Services sector on behalf of the following interested Members: Australia, Canada, the European Communities and its Member States, Hong Kong China, Iceland, Japan, Republic of Korea, Mexico, New Zealand, Norway, Panama, Switzerland, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

These interested Members would also like to refer to the Decision on Maritime Transport Services adopted by the Council for Trade in Services on 28 June 1996 (S/L/24) where it was agreed that negotiations will be resumed on the basis of existing or improved offers. The Members would further like to refer to the Joint Statement on the Negotiations on Maritime Transport Services issued on 3 March 2003 (TN/S/W/11) which more than 50 Members subscribed to, including a substantial number of developing Members. The Joint Statement called for active participation, meaningful liberalization and a broad coverage of this sector in the negotiations and in the WTO/GATS framework.

This request identifies specific objectives for liberalization in Maritime Transport Services, while recognizing the flexibilities provided for individual developing Members in accordance with Article XIX:2 of the GATS. The aforementioned interested Members are also deemed to be recipients of this request.

In accordance with paragraph 7 of Annex C of the Hong Kong Ministerial Declaration, this collective request is intended to complement, and not supersede, the bilateral request-offer negotiations and the specificity of bilateral requests.

The Mission of Japan has the further pleasure to invite [recipient member] to participate in a plurilateral discussion of this request, which will be organized in Geneva during the Services cluster taking place from 27 March to 7 April 2006.

Please note that 24 other Members have received this collective request in the Maritime Transport Services sector.

The aforementioned interested Members reserve the right to modify the content of this request. Additional interested Members may also be identified in the future.

2. Requests

The Maritime Model Schedule remains an important tool for negotiations and represents the basis for making commitments on maritime transport services. The requested Members are urged to make new or improved commitments in accordance with the attached Maritime Model Schedule, with particular reference to the following points:

- (a) commitments on International Freight Transport (less cabotage) (CPC7212) Mode 1, Mode 2 and Mode 3 including but not limited to {as per Page 2 of the Maritime Model Schedule, Section under "Maritime Transport Services"}:
 - elimination of cargo reservation (Mode 1)
 - elimination of restrictions on foreign equity participation (Mode 3)
 - elimination of restrictions on the right to establish a commercial presence (MA, Mode 3)
 - elimination of nationality requirements of board Members (Mode 3)
 - elimination of any other preferential treatment (NT)
 - (b) commitments on Maritime Auxiliary Services (Mode 1, 2 & 3) including but not limited to {as per Pages 2-4 of the Maritime Model Schedule, Section under "Maritime Auxiliary Services" and as defined in the Note to the Maritime Model Schedule}
 - elimination of restrictions on foreign equity participation (Mode 3)
 - elimination of restrictions on the right to establish a commercial presence (Mode 3)
 - full commitments on consumption abroad and cross-border supply subject to technical feasibility (Mode 1 and 2)
 - (c) additional commitments on the access to and use of port services {as per Page 1 of the Maritime Model Schedule under the Additional Commitments column}
 - (d) additional commitments on the access to and use of services necessary for the conduct of multimodal transport operations {as per Page 5 of the Maritime Model Schedule under Note to the Schedule}
 - (e) elimination of MFN exemptions
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MODEL SCHEDULE ON MARITIME TRANSPORT SERVICES

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>TRANSPORT SERVICES</p> <p>MARITIME TRANSPORT SERVICES</p> <p>International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u> cabotage transport</p>			<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non discriminatory terms and conditions</p> <ol style="list-style-type: none"> 1. Pilotage 2. Towing and the 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

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>MARITIME TRANSPORT SERVICES</p> <p>International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u> cabotage transport (cont.)</p>	<p>1) (a) Liner shipping: None</p> <p>(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]</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 indicated in the horizontal section</p>	<p>1) (a) None</p> <p>(b) None</p> <p>2) None</p> <p>3) [(a) Unbound]</p> <p>(b) None</p> <p>4) (a) Unbound</p> <p>(b) Unbound, except as indicated in the horizontal section</p>	<p>1) See Note</p> <p>3) (b) See Note</p>

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
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 indicated in the 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 indicated in the horizontal section	
Storage and Warehousing Services CPC 742	1) Unbound* 2) None 3) None** 4) Unbound, except as indicated in the horizontal section	1) Unbound* 2) None 3) None 4) Unbound, except as indicated in the horizontal section	
Customs Clearance Services (as defined below - 5)	1) Unbound* 2) None 3) None** 4) Unbound, except as indicated in the horizontal section	1) Unbound* 2) None 3) None 4) Unbound, except as indicated in the 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.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
Container Station and Depot Services (as defined below - 6)	1) Unbound* 2) None 3) None** 4) Unbound, except as indicated in the horizontal section	1) Unbound* 2) None 3) None 4) Unbound, except as indicated in the horizontal section	
Maritime Agency Services (as defined below - 7)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	See Note.
[Maritime] Freight Forwarding Services (as defined below - 8)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	See Note.

* 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 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 and 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 member or, for the EC, "a Member State") and another port located in _____ (name of the member or, for the EC, "the same Member State") and traffic originating and terminating in _____ the same port located in (name of member or, for the EC, "a Member State") provided that this traffic remains within _____ (name of member or, for the EC, "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 service;
- (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 operator" 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.
