

ANNEX XX
TRANSPORT AND AUXILIARY SERVICES

SECTION I

General Provisions

Article XX. 1: Scope and Coverage

1. This Annex applies to measures affecting trade in international road and maritime freight transport services including auxiliary services.
2. Where applicable and subject to the disciplines of Article V of the GATT 1994 this Annex also covers transit traffic.
3. This Annex shall not apply to services falling within the scope of cabotage.

Article XX. 2: Definitions

For the purposes of Section I of this Annex/Agreement;

“vehicle” means a motor vehicle or a coupled combination of vehicles registered in a Party, used exclusively for the carriage of goods;

“international road transport” means a laden or unladen journey undertaken by a vehicle, the point of departure and the point of arrival of which are in the territory of two different countries;

“auxiliary services to road freight transport” means services classified under CPC 741, 742, 748 and 749 which are supplied in support of international road freight transport services.

“professional driver” means an individual who acts as the steersman of a vehicle to provide road freight transport services and holds a valid driving license of the necessary category as well as if applicable professional qualification license given by the competent authorities of the Parties.

“service supplier” means any person that supplies road freight transport services as defined in CPC 7123

“transit” means transport of operation across the territory of a Party, in which goods are neither loaded nor unloaded and when the passage across such territory is only a portion of a complete journey beginning and terminating beyond the frontier of the Party across whose territory the traffic passes

“cabotage” means the transport operation, where goods are loaded and unloaded at two separate points within one Party, by a vehicle of another Party, including but not limited to transport of freight from seaport, airport or railway terminal of a Party to another point in the territory of that Party by a vehicle of another Party;

For the purposes of Section II of this Annex;

International maritime transport services means maritime transport of cargo between a port of a Party and a port of the other Party or a non-Party.

Maritime auxiliary services means the following services:

(i) “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 organized independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

1. the loading/discharging of cargo to/from a ship;
2. the lashing/unlashing of cargo;
3. the reception/delivery and safekeeping of cargoes before shipment or after discharge;

(ii) “storage and warehousing services” means storage services of frozen or refrigerated goods, bulk storage services of liquids or gases, and storage and warehousing services of other goods, including: cotton, grain, wool, tobacco, other farm products, and other household goods.;

(iii) “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;

(iv) “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;

(v) “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:

1. 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;
2. acting on behalf of the companies in organising the call of the ship or taking over cargoes when required;

(vi) “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;

services at the port mean pilotage; towing and the tug assistance; provisioning, fuelling and watering; garbage collecting and ballast waste disposal; port captain's services; navigation aids; shore-based operational services essential to ship operations including communications, water and electrical supplies; emergency repair facilities; anchorage, berth and berthing services;

multi-modal transport means the carriage of goods by at least two different modes of transport, involving an international sea-leg, on the basis of a single transport document¹ ;

¹ For the purpose of this definition, single transport document shall refer to a document that permits customers to conclude a single contract with a shipping company from a point of loading in one country to a point of delivery in the other country.

multi-modal transport operator means the person on whose behalf the bill of lading/ or multi-modal transport document, or any other document evidencing a contract of multi-modal carriage of goods, is issued and who is responsible for the carriage of goods pursuant to the contract of carriage;

crew member means the master and any other person, actually employed for duties on board during a voyage in the working or service of a vessel and included in the crew list.

Article XX. 3: Domestic Regulation

1. The Parties shall abolish and shall not adopt or maintain any administrative and technical requirements and procedures which could constitute a disguised restriction or have discriminatory effects on trade in services covered by this Annex.

2. In determining whether a Party is in conformity with Article 1, account shall be taken of international standards applied by that Party. In cases where Parties apply measures that deviate from the above mentioned international standards, their standards shall be based on non-discriminatory, objective and transparent criteria.

Section II - International Road Transport Services

Article XX. 4: *Quantitative measures*

1. No Party may maintain or adopt measures that limit the number of journeys including the ones in the form quotas in conjunction with an international road freight transport by vehicles of the other Party.

2. This Article shall not apply to transport to/from third countries as well as unladen entry for taking load.

Article XX. 5: *Passage Fees*

No Party shall impose any passage fees.

Article XX. 6: *Truck Waiting Areas*

Each Party shall ensure that truck waiting areas on its territory are organized on a non-discriminatory and a first come first served basis. Where applicable and economically feasible, each Party shall endeavour to ensure that real-time information on the availability of parking areas is made easily accessible along main transport routes.

Article XX. 7: *Transparency*

1. Each Party shall make publicly available on internet, in a consolidated form, all relevant necessary information on conditions for the supply of services covered by this Section.

2. The information referred to in paragraph 1 shall include, inter alia, laws, rules and regulations pertaining to;

- (a) weight and dimensions for vehicles,

- (b) fiscal charges,
- (c) border formalities,
- (d) traffic bans,
- (e) social regulations and environmental regulations
- (f) penalties and fines

3. Each Party shall provide information on internet concerning any amendments, new regulations and international agreements affecting the supply of services covered by this Section.

Article XX. 9: Specific Routes

Requirements to follow specific routes set by each Party to service suppliers of another Party shall be applied on a non-discriminatory basis.

Article XX. 10: Mandatory Modes

No Party may adopt or maintain any discriminatory measure that prevents service suppliers of the other Party to use their preferred mode of transport² and their preferred transporter whether private or public.

Article XX. 11: Penalties and Fines

1. Each Party shall ensure that penalties and fines charged by its competent authorities for an infringement are non-discriminatory.

Where possible, each Party shall ensure that the service suppliers are informed about the legal basis of the penalties and fines charged by its competent authorities, and the available appeal procedures.

Article XX. 12: Perishable Goods

Parties recognize the essential role of road transport for the timely delivery of perishable goods³ to the market and with a view to preventing avoidable loss or deterioration of perishable goods, each Party shall endeavor to ensure that their timely delivery is not impaired by any measure, except when such measure is caused by safety or security reasons.

Article XX. 14: Access to and Use of the Public Infrastructure

1. Each Party shall permit service suppliers of the other Party the access to or use of the public infrastructure and/or services necessary for the supply of these services under reasonable and

² For further clarity, the preferred mode of transport includes continuation of the transport operation by road.

³ For purposes of this provision, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

non-discriminatory terms and conditions⁴. Fees or charges imposed by a Party for access to and use of infrastructure shall be set at a reasonable level and commensurate with the cost of providing the infrastructure.

2. No Party may deny service suppliers of another Party to access to cargo handling equipment.

3. A Party cannot adopt or maintain measures that deny services or service suppliers of the other Party with regard to entry/exit of land border crossing points, the use of road infrastructure and roadside facilities, access to seaports and logistics facilities.

Article XX. 15: Management and Operation of Infrastructure

1. If the competent authority of a Party requires suppliers of services auxiliary to road freight transport to deposit a financial guarantee in order to supply such services on its territory, it shall set such guarantee at a reasonable level having regard to the risk involved, and shall release the guarantee in a reasonable time upon fulfillment of requirements by the service supplier.

2. When a Party transfers the management and operation of a public infrastructure for services auxiliary to road freight transport, the competent authorities of each Party shall endeavor to rely on an open and transparent process that considers the overall public interest and to rely generally on market-based approaches. Each Party shall:

- (a) ensure that suppliers of the other Party are not prevented from participation in such processes;
- (b) conduct such process in a transparent and impartial manner;
- (c) avoid conflicts of interest.

Article XX. 16: Mutual Recognition of Documents

For the purpose of road transport as defined in Article 3, each Party shall recognise as valid the:

- (a) vehicle's certificates; and
- (b) driving licences of professional drivers;

duly issued by the competent authority of another Party in accordance with the Convention on Road Traffic done at Vienna on 8 November 1968.

Article XX. 17: Procedures for Professional Drivers

Professional drivers of a Party may stay in the territory of the other Party without a visa for a maximum period of 90 days in any 180-day period.

⁴ These terms and conditions do not cover the port fees or charges imposed by the Parties or private entities operating the port.

Article XX. 20: Multimodal Transport Operations

Parties shall not adopt or maintain any measure that would deny multimodal transport operators access to, and use of, road, rail, port or inland waterways transport services and related auxiliary services on reasonable and non-discriminatory terms and conditions for the purpose of carrying out multimodal transport operations, including the ability of the multimodal transport operator to arrange for the conveyance of its cargo on a timely basis, including priority over other cargo which has entered the port at a later date.

Article XX. 23: Relationship with other Agreements

In case of an inconsistency between any provision of this Agreement affecting the services covered by this Annex and a provision of another Agreement the Agreement most favourable to the service supplier shall apply.