

**Council for Trade in Services
Special Session**

Original: English

THAILAND

Conditional Initial Offer

The following initial conditional offer has been received from the delegation of Thailand on 29 August 2003 with the request that it be circulated to Members of the Council for Trade in Services.

Pursuant to paragraph 15 of the Ministerial Declaration of 14 November 2001, Thailand submits herewith its initial offer in the framework of the ongoing services negotiations under the General Agreement on Trade in Services (GATS) and in the context of the Doha Development Agenda (DDA).

This initial offer is conditional upon the outcome of the negotiations stipulated by the GATS particularly on Article X (Emergency Safeguard Measures) as well as upon other WTO Members making substantive offers in sectors where Thailand has interests as indicated through requests submitted and bilateral discussion. It is also conditional upon the balanced outcomes of the DDA negotiations.

Thailand reserves its right to modify, extend, reduce, withdraw in whole or in part any of this offer at any time prior to the conclusion of the current services negotiations. Thailand further reserves the right to make technical amendments to this offer and make corrections to rectify any errors, omissions, or inaccuracies in this offer as well as to clarify and interpret the terms and conditions of this offer.

The classification of service sectors in this initial offer is based on the 1991 Provisional Central Product Classification (CPC) of the United Nations Statistical Office, unless otherwise specified. The ordering is based on the Services Sectoral Classification list contained in document MTN.GNS/W/120 dated 10 July 1991.

The editorial conventions used in this initial offer follow the guidelines established by the WTO Secretariat in JOB(02)/88, i.e.,:

- **BOLD** – New text
- ~~STRIKE OUT~~ – Deleted text
- *ITALICS* – Where any new or deleted text constitutes merely a technical refinement that does not alter the scope or substance of an existing commitment

In addition:

{ } – information annotated solely for the purposes of explanations and does not form part of the proposed commitment

THAILAND – SCHEDULE OF SPECIFIC COMMITMENTS

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
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	<p>3) Unless otherwise specified at the sector-specific level, commercial presence in sectors or subsectors in this schedule is permitted only through a limited liability company which is registered in Thailand and which meets the following conditions:</p> <p>(a) Foreign equity participation must not exceed 49 per cent of the registered capital; and</p> <p>(b) The number of foreign shareholders must be less than half of the total number of shareholders of the company concerned.</p> <p>4) Unless otherwise specified at the sector-specific level, temporary movement of natural persons is <u>unbound</u> except in the following categories.</p>	<p>3) Unless otherwise specified, national treatment for this mode of delivery is unbound</p> <p>3) Unless otherwise specified at the sector-specific level, for commercial entity incorporated pursuant to Thailand's laws and regulations with foreign equity participation not exceeding 49 percent of the registered capital : None</p> <p>Others : Unbound, including subsidies</p> <p>4) <i>Unbound, except as provided in the MA column</i> Contractual Service Suppliers : Unbound</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
	<p>I. Business Visitor : (a) A natural person who stays in Thailand for not more than 90 days for the purpose of participating in business meetings or contacts, entering into contract to sell or purchase services, visiting of business establishments or other similar activities; and entering with a purpose to establish a commercial presence in Thailand. Such temporary entry will be permitted for an initial period of not more than 90 days and may be extended for a further period of not more than one year.</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
	<p>II. Intra-corporate Transferee : (b) A corporate transferee of the managerial or executive level or a specialist, provided that such person has been employed by the company concerned outside Thailand for a period of not less than one year immediately preceding the date of his or her application for admission and has satisfied the criteria for management needs¹¹¹⁾ stipulated by the Department of Employment. Temporary entry The temporary stay is limited to a one year period and may be extended for a further two three terms of not more than one year each.</p>		

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>Manager is defined as :</p> <p>A person within an organization who primarily directs the organization, or a department or sub-division of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or recommend hiring, firing, or other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations. Does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p> <p>Executive is defined as :</p> <p>A person within an organization who primarily directs the management of the organization, establishes the goals and policies of the organization, exercises wide latitude in decision-making, and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. An executive would not directly perform tasks related to the actual provision of a service or services of the organization.</p> <p>Specialist is defined as :</p> <p>A person within an organization who possesses knowledge at an advanced level of continued expertise and who possesses proprietary knowledge of the organization's</p>		

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	<p>III. Contractual Service Supplier :</p> <p>Access is subject to the following conditions and those in sector-specific commitments, where applicable :</p> <ul style="list-style-type: none"> - A contractual service supplier is defined as a natural person who is engaged in the supply of a contracted service on a temporary basis as an employee of a juridical person who has no commercial presence in Thailand. - The juridical person has obtained a service contract for a period not exceeding three months from a juridical person incorporated in Thailand. - The service contract shall comply with the laws, regulations and requirements of Thailand. - The natural person seeking access has met the requirements prescribed for “Specialist” above and been offering such service as an employee of the juridical person supplying the service for at least the year immediately preceding the date of his or her application for admission. - The natural person must possess the necessary academic qualifications and professional experience as specified for the sector or activity concerned, and satisfies the criteria for management needs stipulated by the Department of Employment (as appeared in footnote 1) - The temporary entry shall be for a period of not more than three months or 		

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<ul style="list-style-type: none"> - Consultancy services related to the installation of computer hardware (CPC 84100) - Software implementation services (CPC 84210+84220+84230+84240+84250) - Data processing services (excluding those provided over public telecommunications network) (CPC 84310+84320+84330+ 84390) - Data base services (excluding those provided over public telecommunications network) (CPC 84400) - Other computer services : Software training services for staff of clients (part of CPC 84900) - General Management Consulting Services (CPC 86501) - Engineering Services (CPC 86721 to 86727 + 86729) (except civil engineer) - Hotel Lodging Services (CPC 64110) - Restaurant Services (CPC 64210) 		

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>3),4) Regarding a Acquisition and usage of land: according to the Land Code of Thailand, foreign nationals or domestic companies which are deemed foreigners are not allowed to purchase or own land in Thailand. However, they may lease land and own buildings. Foreigners are also allowed to own part of condominium units under the laws and regulations governing the ownership of condominiums.</p>	<p>3), 4) <i>Acquisition and usage of land: Unbound, except as provided in the MA column</i></p>	
II. SECTOR SPECIFIC COMMITMENTS			
<p>11. TRANSPORT SERVICES</p> <p>A. <u>Maritime Transport Services</u></p>			<p>The following services at the port provided by the government or government enterprise are made available, to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:</p>

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(a) Passenger transportation (CPC 7211 less cabotage transport: as defined below - 3.1)	1) None 2) None 3) (a) Unbound for establishment of juristic person for the purpose of operating a fleet under the national flag of Thailand	1) None 2) None 3) (a) Unbound	1. Pilotage ^{2[4]} 2. Towing and tug assistance 3. Provisioning, fuelling and watering 4. Garbage collecting and ballast waste disposal

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
(b) Freight transportation (CPC 7212 less cabotage transport: as defined below - 3.1)	<p>(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 3.2) except branch office: As indicated in the horizontal section.</p> <p>4) (a) Ships' crews: Unbound (b) Other personnel: As indicated in the horizontal section</p> <p>1) None other than: Traffic between Thailand-China and Thailand-Vietnam may not be fully participated in by vessels of third countries. 2) None</p>	<p>(b) None</p> <p>4) (a) Unbound (b) None <i>Unbound, except as provided in the horizontal section</i></p> <p>1) None 2) None</p>	<p>5. Port captain's service 6. Navigation aids 7. Shore-based operational services essential to ship operations, water and electrical supplies 8. Emergency repair facilities 9. Anchorage, berth and berthing services</p> <p>1) See Note to the schedule</p>

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) (a) Unbound for establishment of juristic person for the purpose of operating a fleet under the national flag of Thailand (b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 3.2) except branch office: As indicated in the horizontal section	3) (a) Unbound (b) None other than: (i) Shareholders of Thai maritime transport companies with ownership of Thai flag vessels may be granted exemption or reduced rates of income tax leviable on dividends paid by such companies	(b) See Note to the schedule
	4) (a) Ships' crews: Unbound (b) Other personnel: As indicated in the horizontal section	(ii) Exporters or importers of goods shipped from or to Thailand by Thai flag vessels may be entitled to special deduction of not more than 50 per cent of the freight values or other expenses paid in the ordinary course of carriage of such goods from their net income for the purpose of calculation of income tax 4) (a) Unbound (b) None Unbound, except as provided in the horizontal section	

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(e) International towing (CPC 7214)	1) None 2) None 3) (a) Unbound for establishment of juristic person for the purpose of operating a fleet under the national flag of Thailand (b) Other forms of commercial presence for the supply of international towing service (as defined below - 3.2) except branch office: As indicated in the horizontal section 4) (a) Ships' crews: Unbound (b) Other personnel: As indicated in the horizontal section	1) None 2) None 3) (a) Unbound (b) None 4) (a) Unbound (b) None <i>Unbound, except as provided in the horizontal section</i>	
(f) Supporting Services for maritime transport (CPC 745) Shore reception facilities (collection of waste/oily water from ships)	1) Unbound 2) None 3) None other than that indicated in the horizontal section 4) As indicated in the horizontal section	1) Unbound 2) None 3) No limitations as long as foreign equity participation does not exceed 49 per cent <i>None</i> 4) None <i>Unbound, except as provided in the horizontal section</i>	

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
Port captain's services attached to specific foreign vessels	1) None 2) None 3) None other than that indicated in the horizontal section 4) As indicated in the horizontal section	1) None 2) None 3) No limitations as long as foreign equity participation does not exceed 49 per cent <i>None</i> 4) None <i>Unbound, except as provided in the horizontal section</i>	
Marine surveys and classification societies for the purpose of providing accurate documentation and certification of vessels	1) None other than those under regulations stipulated by the Harbour Department 2) None 3) None other than that indicated in the horizontal section 4) As indicated in the horizontal section	1) None 2) None 3) No limitations as long as foreign equity participation does not exceed 49 per cent <i>None</i> 4) None <i>Unbound, except as provide in the MA column</i>	
Freight forwarding services	1) Unbound 2) None 3) None other than that indicated in the horizontal section 4) As indicated in the horizontal section	1) Unbound 2) None 3) No limitations as long as foreign equity participation does not exceed 49 per cent <i>None</i> 4) None <i>Unbound, except as provided in the horizontal section</i>	