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Council for Trade in Services

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**NOTIFICATION OF INDIA'S PREFERENTIAL TREATMENT TO SERVICES AND
SERVICE SUPPLIERS OF LEAST-DEVELOPED COUNTRIES**

The following notification from the delegation of India, dated 29 September 2015, is being circulated to the Members of the Council for Trade in Services.

The Permanent Mission of India to the WTO in Geneva has the honour to notify to the World Trade Organization Council for Trade in Services the preferential treatment which has been made available by India to services and service suppliers of Least Developed Countries in accordance with the decision by the Ministers at the WTO's Eighth Ministerial Conference on Preferential Treatment to Services and Service Suppliers of Least Developed Countries (WT/L/847), and the decision by Ministers at the WTO's Ninth Ministerial Conference on Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/L/918), with effect from 1 December 2015.

The preferential treatment is made in sectors and modes of supply that are of particular export interest to Least Developed Countries, as set out in The Collective Request Pursuant to the Bali Decision on the Operationalization of the LDC Services Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least developed Countries (S/C/W/356). India intends to maintain these preferences for the period of the waiver.

DESCRIPTION OF PREFERENTIAL TREATMENT TO LDC SERVICES AND SERVICE SUPPLIERS RELATED TO GENERAL AGREEMENT ON TRADE IN SERVICES (GATS) ARTICLE XVI MEASURES IN RESPONSE TO THE LDC COLLECTIVE REQUEST SUBMITTED ON 21 JULY 2014**1.1 Introduction**

The following preferential treatment is made available for LDC Services and Service Suppliers with respect to the application of Article XVI of the General Agreement on Trade in Services. All other aspects remain the same as under India's GATS Schedule of Commitments (GATS/SC/42).

1.2 Horizontal Section

Measures with regard to temporary entry and stay of natural persons of a LDC who fall in any of the following categories in accordance with the terms and conditions specified below.

a. Contractual Service Suppliers – Employees of juridical persons of LDC

Natural persons of LDC who are employees of juridical persons of a LDC who travel to India temporarily for short periods of stay of up to one year in order to perform a service pursuant to a contract between their employer and a juridical person located in India, where the employer does not have an affiliate office in India. The natural person shall possess the necessary academic credentials and qualifications relevant to the service to be provided, and has obtained wherever necessary, registration with the relevant professional body. Remuneration for such services must be paid solely to the employer.

The service contract in respect of which a contractual service supplier can be granted entry has to be obtained in one of the sectors listed below:

- Engineering Services (CPC 8672)
- Integrated Engineering Services (CPC 8673)
- Computer and Related Services (CPC 84)
- Management Consulting Services (excluding all services relating to legal consultancy) (CPC 86501**, 86502**, 86503**, 86505**, 86506**, 86509**)
- Project Management Services other than for construction (CPC 86601)
- Hotel and other lodging services (CPC Ex. 641)
- Travel agency and tour operator services (CPC 7471)
- Tourist Guides conversant in a foreign language other than English (CPC 7472**), subject to a numerical ceiling of 250 tourist guides from LDC countries present in India at any one time¹
- Language teachers (of any foreign language other than English)
- Specialist Chefs
- Sportspersons

b. Independent Professionals

Natural persons of LDC who travel to India temporarily for short periods of stay, up to twelve months with permission for extending for a maximum of three months in order to perform a service pursuant to a contract between them and a juridical person located in India. The natural person shall possess the necessary academic credentials and qualifications and has obtained,

¹ This numerical quota will cumulatively apply for temporary entry by Contractual Service Suppliers and Independent Professionals seeking entry as tourist guides.

wherever necessary, registration with the professional body. The remuneration for the services rendered is to be paid solely to the natural person.

The service contract in respect of which an independent professional can be granted entry has to be obtained in one of the sectors listed below:

- Engineering Services (CPC 8672)
- Integrated Engineering Services (CPC 8673)
- Computer and Related Services (CPC 84)
- Management Consulting Services (excluding all services relating to legal consultancy) (CPC 86501**, 86502**, 86503**, 86505**, 86506**, 86509**)
- Project Management Services other than for construction (CPC 86601)
- Hotel and other lodging services (CPC Ex. 641)
- Travel agency and tour operator services (CPC 7471)
- Tourist Guides conversant in a foreign language other than English Language (CPC 7472**), subject to a numerical ceiling of 250 tourist guides from LDC countries present in India at any one time²

c. Installers or Servicers

Natural persons of LDC who are installers or servicers of machinery and/or equipment, and who are employed or appointed by a juridical person of LDC supplying such machinery and/or equipment to a person in India, where such installation and/or servicing by the juridical person is a condition of purchase of the said machinery and/or equipment by the person in India. For the purpose of clarification, installers or servicers shall only perform installing or servicing activities of the machinery and/or equipment which is the subject of the supply contract, and shall receive remuneration from the juridical person of the LDC supplying such machinery and/or equipment.

Temporary entry to an installer and servicer of LDC who otherwise meets its criteria for the grant of an immigration visa, for duration of three months in a year or the period of contract, whichever is less, can be provided.

Market Access for all the above mentioned categories is subject to the following:

- i. Requirement of requisite visa and the conditions attached to temporary entry and stay under such a visa for each of the categories specified above including:
 - Fulfilment of specific requirements regarding information in support of the application and required documentation
 - Proof of Contract
 - Possession of requisite educational and professional qualifications relevant to the service to be provided including work experience, and registration with the relevant professional body, where required.
- ii. Minimum wage requirements in respect of foreign nationals as prescribed.

1.3 Sector-Specific Preferential Treatment

The following preferential treatment is made available with respect to the application of measures described in Article XVI of the General Agreement on Trade in Services, subject to limitations set out in the Horizontal Section of this document read with India's Schedule of Specific Commitments (GATS/SC/42).

² This numerical quota will cumulatively apply for temporary entry by Contractual Service Suppliers and Independent Professionals seeking entry as tourist guides.

Unless otherwise stated, all CPC references correspond to the 1991 provisional Central Product Classification (CPC) of the United Nations Statistical Office. The appearance of ** against individual CPC listings indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance. The entry "Unbound*" means unbound due to lack of technical feasibility.

Sector or Subsector	Limitations on Market Access
1. BUSINESS SERVICES	
A. Professional Services	
(e) Engineering Services (CPC 8672)	1) None 2) None 3) None except that establishment would be only through a company incorporated in India. 4) Unbound except as indicated in the horizontal section
(f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None except that establishment would be only through a company incorporated in India 4) Unbound except as indicated in the horizontal section
B. Computer and Related Services (CPC 84)	
(c) Management consulting services excluding all services relating to legal consultancy (CPC 86501**, 86502**, 86503**, 86505**, 86506**, 86509**)	1) None 2) None 3) None except that the establishment would be only through a company incorporated in India 4) Unbound except as indicated in the horizontal section
F. Other Business Services	
(d) Project Management Services other than for construction (CPC 86601)	1) None 2) None 3) None except that the establishment would be only through a company incorporated in India. 4) Unbound except as indicated in the horizontal section

Sector or Subsector	Limitations on Market Access
(o) Building cleaning services (CPC 874)	1) Unbound* 2) Unbound* 3) None except that the establishment would be only through a company incorporated in India. 4) Unbound except as indicated in the horizontal section
(q) Packaging services (CPC 876)	1) None 2) None 3) None except that the establishment would be only through a company incorporated in India. 4) Unbound except as indicated in the horizontal section
(s) Convention services (CPC 87909**)	1) None 2) None 3) None except that the establishment would be only through a company incorporated in India. 4) Unbound except as indicated in the horizontal section
9. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotels and other lodging services (CPC Ex. 641)	1) None 2) None 3) None except that the establishment would be only through a company incorporated in India 4) Unbound except as indicated in the horizontal section
B. Travel Agency and Tour Operator Services (CPC 7471)	1) None 2) None 3) None except that the establishment would be only through a company incorporated in India 4) Unbound except as indicated in the horizontal section
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audio-visual services)	
A. Entertainment Services (including Theatre and Live bands) (CPC 9619**)	1) Unbound 2) None 3) None except that the establishment would be only through a company incorporated in India. 4) Unbound except as indicated in the horizontal section
D. Sporting and other recreational services (CPC 964**) (excluding lottery, gambling and betting services)	1) None 2) None 3) None except that the establishment would be only through a company incorporated in India. 4) Unbound except as indicated in the horizontal section.

Sector or Subsector	Limitations on Market Access
<p>11 A. MARITIME TRANSPORT AND MARITIME AUXILIARY SERVICES</p> <p><u>Headnote:</u> Preferences specified below are subject to domestic laws, entry requirements, rules and regulations and the terms and conditions of the Directorate General of Shipping, Reserve Bank of India and any other competent authority in India. For supply of services through commercial presence under Mode 3, it will be only by establishing a company registered under any Central Act or State Act in India and having its principal place of business in India.</p> <p>This Schedule does not include any preferences on "Cabotage" or "Maritime Transport Services" which are described as transportation of passengers or goods between any port located in India and any other port also located in India and traffic originating and terminating in the same port located in the country and further includes transportation of passengers or goods between a port located in India and installation and structures situated on the continental shelf of India.</p> <p>This Schedule also does not include any preferences on offshore transport which refers to shipping services involving the transportation of passengers or goods between a port located in India and any location installation or structure associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of India, the seabed of the Indian coastal seas and the subsoil of the seabed, or situated on the continental shelf of India.</p> <p>Definitions related to Section 11.A. are included in the Appendix.</p>	
Maritime Towing and Pushing Services (CPC 7214**)	<ol style="list-style-type: none"> 1) Unbound* 2) None 3) None, except as indicated in the Headnote. Also, for operating a ship under the Indian flag, a registered company, or a cooperative society under any Central Act or State Act having its principal place of business in India, must be established. 4) Unbound except as indicated in the horizontal section.
Maritime Cargo Handling services	<ol style="list-style-type: none"> 1) Unbound* 2) None 3) None, except as indicated in the Headnote. 4) Unbound except as indicated in the horizontal section.
Storage and Warehousing services in Ports	<ol style="list-style-type: none"> 1) Unbound* 2) None 3) None, except as indicated in the Headnote. 4) Unbound except as indicated in the horizontal section.
Customs Clearance Services	<ol style="list-style-type: none"> 1) Unbound* 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.
Maritime Agency Services	<ol style="list-style-type: none"> 1) Unbound 2) None 3) None except as provided in the Headnote 4) Unbound except as indicated in the horizontal section.

Sector or Subsector	Limitations on Market Access
Maritime Freight Forwarding Services	1) Unbound 2) None 3) None, except as indicated in the Headnote 4) Unbound except as indicated in the horizontal section.
Maintenance and repairs of sea going vessels	1) Unbound 2) None 3) None, except as indicated in the Headnote. 4) Unbound except as indicated in the horizontal section.

DESCRIPTION OF PREFERENTIAL TREATMENT TO LDC SERVICES AND SERVICE SUPPLIERS RELATED TO MEASURES BEYOND GATS ARTICLE XVI IN RESPONSE TO THE LDC COLLECTIVE REQUEST SUBMITTED ON 21 JULY 2014

2.1 Technical Assistance and Capacity Building

INTRODUCTION

India has several on-going schemes related to training and capacity building activities under which many LDC are covered.

In addition, India will also design new schemes and programmes aimed at providing technical assistance to LDC service suppliers in certain service sectors. Such programmes and their duration will be designed on the basis of institutional capacity and resource availability. These will also be subject to periodic review. India will also positively consider requests from LDC for any programmes targeting specific sectors and service suppliers where there is a perceived requirement for such training and capacity building.

Technical Assistance:

At least 25% of all technical assistance and capacity building opportunities offered by the Ministry of External Affairs, Government of India would be earmarked for LDC.

India would accord priority in providing preferential treatment in training of LDC professionals and service suppliers or providing consultancy services in areas such as:

- i. Training programmes in financial services – India's Central Bank (the Reserve Bank of India, RBI) conducts training programmes in important areas of central banking. India endeavours to maintain a share of 50% for natural persons of LDC out of total international participants in the various international training programmes conducted by the RBI. India would not charge course fees from LDC applicants for such training programmes.
- ii. Consultancy courses for natural persons of LDC: India proposes to conduct specially designed courses for around 1000 natural persons of LDC each year in areas such as Management Consulting and Technical Consulting. The Government of India would bear the fee component of these programmes.
- iii. India would earmark seats for natural persons of LDC in Central Institutes of Hotel Management (at the rate of one seat per LDC) at concessional rates.
- iv. India would also accord priority in training of natural persons of LDC and providing consultancy services in areas such as insurance services; promotion of the MSME, agriculture and rural development sectors in LDC, development of their railway

infrastructure and professional services such as chartered accountancy and company / corporate secretary services.

India welcomes proposals for Audio-Visual co-production agreements with the LDC on mutually agreed terms.

To promote trade and tourism exports of LDC:

- i. India would provide free space to the LDC during the upcoming Indian edition of the Global Exhibition on Services (GES) and every year thereafter in this annual event. The first edition of the Indian Global Exhibition on Services was held in New Delhi, India during 23-25 April 2015.
- ii. India welcomes proposals for bilateral agreements with LDC on tourism cooperation, on mutually agreed terms.

2.2 Visa related measures

India would waive visa fees for natural persons of LDC applying for Indian Business and Employment visas.

APPENDIX

DEFINITIONS RELATED TO SECTION 11.A. – MARITIME TRANSPORT AND MARITIME AUXILIARY SERVICES

1. "Maritime Cargo Handling Services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dock workers, when this workforce is organized independently of the stevedoring or terminal operator companies. The activities covered, include the organization 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.

The organization and supervision includes the arrangements for (1) engaging skilled workers (dockworkers), (2) using all necessary equipment for on board or shore use and appropriate storage space, whether by ownership, rental or otherwise, (3) the checking of parcels and markings, the weighing and measuring of cargo, and (4) the administrative duties and responsibilities related to the services.

2. "Maritime Freight Forwarding Services" means the activity of organizing and monitoring shipments on behalf of shippers through providing such services as the arrangement of actual transport and related services, consolidation, aggregation, packing of cargo, preparation of documentation and provision of business information.

3. "Maritime Agency Services" means activities in representing, within a given geographic area, the business interests of-one or more shipping lines or shipping companies for the following purposes:

- marketing and sales of maritime transport and related activities from quotation to invoicing (cargo booking and canvassing)
- issuance of bills of lading on behalf of the companies;
- acquisition and resale of other necessary related services (settlement of disbursements and claims) preparation of documentation, and provision of business information;
- acting on behalf of the companies in organizing the call of the ship or taking control of cargoes;
- to make arrangement in order to get all necessary port services required by the foreign vessel during its stay in Indian Ports;
- to appoint a stevedoring company for cargo loading and unloading on behalf of its principal;
- to collect freight on behalf of the principal.

4. "Custom Clearance Services" (alternatively Customs House Agents/Brokers) means activities consisting of carrying out on behalf of another party customs formalities concerning import export or through transport for cargoes irrespective of whether this is the main or secondary activity of the services provider.

5. "Maintenance and Repairs of Vessels" means services such as repairs and management of vessels, mending, fixing or overhauling of a vessel, management of crew and marine insurance, provided on behalf of a maritime passenger or cargo transport business, or vessel leasing business.