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## CHAPTER 9

### SERVICES AND INVESTMENT

#### SECTION E

#### REGULATORY FRAMEWORK

#### SUB-SECTION 6

#### INTERNATIONAL MARITIME TRANSPORT SERVICES

#### ARTICLE 9.80

##### Scope

In addition to Chapters II (Investment Liberalisation) and III (Cross-Border Trade in Services) and IV (MNP) this Section shall apply to measures of a Party affecting the supply of international maritime transport services.

#### ARTICLE 9.81

##### Definitions

1. For the purpose of this Section and Chapters II, and III and IV of this Title:
  - (a) ‘container station and depot services’ means activities consisting in storing, stuffing, stripping or repairing of containers and making containers available for shipment, whether in port areas or inland;

- (b) ‘customs clearance 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 supplier or a usual complement of its main activity;
- (c) ‘door-to-door or multimodal transport operations’ means the transport of cargo using more than one mode of transport, involving an international sea-leg, under a single transport document;
- (d) ‘feeder services’ means the pre- and onward transportation by sea of international cargo, including containerised, break bulk and dry or liquid bulk cargo, between ports located in the territory of a Party<sup>1</sup>. The international cargo should be "en route" i.e. directed to a destination, or coming from a port of shipment, outside the territory of that Party;
- (e) ‘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;
- (f) ‘international cargo’ means cargo transported between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States of the European Union;
- (g) ‘international maritime transport services’ means the transport of passengers or cargo by sea-going vessels between a port of one Party and a port of the other Party or of a third country, or between a port of one Member State of the European Union and a port of another Member State of the European Union. It includes direct contracting with providers of other transport services, with a view to cover door-to-door or multimodal transport operations under a single transport document<sup>2</sup>, but does not include the right to provide such other transport services;
- (h) ‘international maritime transport services supplier of a Party’ means:

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<sup>1</sup> For greater certainty, the transport of passengers or cargo between a port and a vessel for the purposes of loading or discharge of the vessel is not considered a feeder service. Such services shall be considered a port service for the purpose of this Section.

<sup>2</sup> A single transport document is a document, such as a contract (that may be supported by other documents), which provides evidence that the cargo is being transported as part of a single international transport operation. These documents may be in electronic form, where applicable.

(i) a juridical person of a Party, as defined in Article 1.2 (Definitions) when supplying international maritime transport services; or

(ii) a juridical person of a third country owned or controlled by a natural person of a Party, if any of its vessels are registered in accordance with the law of that Party and flying the flag of that Party, when supplying international maritime transport services using those vessels.

(i) 'maritime agency services' means activities consisting of 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:

(i) 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;

(ii) acting on behalf of the companies by organising the call of the vessel or taking over cargoes when required.

(j) 'maritime auxiliary services' means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services and maritime freight forwarding services;

(k) '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 organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

(i) the loading or discharging of cargo to or from a vessel;

(ii) the lashing or unlashings of cargo;

(iii) the reception or delivery and safekeeping of cargoes before shipment or after discharge; and

(l) 'port services' means services provided to port users inside a maritime port area or on the waterway access to the port by a provider of port services, the managing body of a port, its subcontractors, or other service providers, to support the transport of cargo or passengers.

## Article 9.82

### Obligations

1. The obligations contained in this Article shall not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article X.X (Non-Conforming Measures investment) or, Article X.X (Non-Conforming Measures services).

2. Each Party recognises the principle of unrestricted access to the international maritime markets and trades on a commercial, reasonable and non-discriminatory basis. To this end, each Party shall:

(a) accord to vessels supplying an international maritime transport service and flying the flag of the other Party, and international maritime transport service suppliers of the other Party, treatment no less favourable than it accords, in like situations, to its own vessels or international maritime transport service suppliers, or to vessels or international maritime transport service suppliers of a non-Party with regard to, inter alia:

(i) access to ports;

(ii) the use of port infrastructure and services of ports, such as pilotage, towing and tug assistance, provisioning, bunkering and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, emergency repair facilities, anchorage, berth, berthing and unberthing services and shore-based operational services essential to ship operations, including communications, water and electrical supplies;

(iii) the use of maritime auxiliary services;

(iv) access to customs facilities; and

(v) the assignment of berths and facilities for loading and unloading,

including related fees and charges, specifications and quality;

(b) permit international maritime transport service suppliers of the other party, subject to the authorisation by the competent authority where applicable, to re-position owned or leased empty containers, which are not being carried as cargo against payment, between ports of Australia or between ports of a Member State of the European Union; and

(c) permit international maritime transport service suppliers of the other Party to provide feeder services between their national ports, subject to the authorisation by the competent authority where applicable.

3. The Parties shall not:

(a) introduce cargo-sharing arrangements in future agreements with third countries concerning maritime transport services, including dry and liquid bulk and liner trade, and terminate, within a reasonable period of time, such cargo-sharing arrangements in case they exist in previous agreements; or

(b) maintain or introduce a measure that requires all or part of any international cargo to be transported exclusively by vessels registered in that country and/or owned or controlled by nationals of that country.

## Article 9.83

### Information Exchange

1. The Parties shall endeavour to exchange information on matters relating to the implementation of this Section, including regulatory developments and matters relating to enforcement such as the identification, registration and contact details of international maritime transport service suppliers. Each Party shall endeavour to respond to requests from the other Party for such information, in a timely manner.

2. On the date of the entry into force of this Agreement, each Party shall designate a contact point for the implementation of this Section and shall notify its contact point to the other Party. A Party shall promptly notify the other Party of any change to its contact point.