

ARTICLE 189

Clearing and payment systems

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article does not confer access to the Party's lender of last resort facilities.

SECTION 6

INTERNATIONAL MARITIME TRANSPORT SERVICES

ARTICLE 190

Scope and definitions

1. This Section applies to measures of a Party affecting the supply of international maritime transport services in addition to Chapters 1, 2, 3, 4 and Section 1 of this Chapter.

2. For the purposes of this Section and Chapters 1, 2, 3 and 4 of this Title, the following definitions apply:

- (a) "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 ports of different Member States, including the direct contracting with providers of other transport services, with a view to covering door-to-door or multimodal transport operations under a single transport document, but does not include the right to provide such other transport services;
- (b) "door-to-door or multimodal transport operations" means the transport of international cargo using more than one mode of transport, that includes an international sea-leg, under a single transport document;
- (c) "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;
- (d) "maritime auxiliary services" means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services, maritime freight forwarding services and storage and warehousing services;

- (e) "maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators but not including the direct activities of dockers if the workforce is organised independently of the stevedoring or terminal operator companies; the activities covered include the organisation and supervision of:
 - (i) loading or discharging of cargo to or from a ship;
 - (ii) the lashing or unlashng of cargo; and
 - (iii) the reception or delivery and safekeeping of cargoes before shipment or after discharge;
- (f) "customs clearance services" means activities consisting in carrying out, on behalf of another party, customs formalities concerning import, export or through transport of cargoes, irrespective of whether these services are the main activity of the service supplier or a usual complement of its main activity;
- (g) "container station and depot services" means activities that consist of storing, stuffing, stripping or repairing of containers and making containers available for shipment, whether in port areas or inland;

- (h) "maritime agency services" means activities that consist 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, issuance of bills of lading on behalf of the lines or companies, acquisition and resale of the necessary related services, preparation of documentation and provision of business information; and
 - (ii) acting on behalf of the lines or companies organising the call of the ship or taking over cargoes when required;
- (i) "feeder services" means, without prejudice to the scope of activities that may be considered cabotage under the relevant national legislation, 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, provided such international cargo is "en route", that is, directed to a destination, or coming from a port of shipment, outside the territory of that Party;
- (j) "maritime freight forwarding services" means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the arrangement of transport and related services, preparation of documentation and provision of business information;

- (k) "port services" means services provided inside a maritime port area or on the waterway access to such area by the managing body of a port, its subcontractors, or other service providers to support the transport of cargo or passengers; and
- (l) "storage and warehousing services" means storage services of frozen or refrigerated goods, bulk storage services of liquids or gases, and other storage or warehousing services.

ARTICLE 191

Obligations

1. Without prejudice to non-conforming measures or other measures referred to in Articles 133 and 139, each Party shall implement the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis by:

- (a) according to ships flying the flag of the other Party, or operated by service suppliers of the other Party, treatment no less favourable than that accorded to its own ships with regard to, *inter alia*:
 - (i) access to ports;
 - (ii) the use of port infrastructure;

- (iii) the use of maritime auxiliary services; and
 - (iv) customs facilities and the assignment of berths and facilities for loading and unloading, including related fees and charges;
- (b) making available to international maritime transport service suppliers of the other Party, on terms and conditions which are both reasonable and no less favourable than those applicable to its own suppliers or vessels or to vessels or suppliers of a third country (including fees and charges, specifications and quality of the service to be provided), the following port services: pilotage, towing and tug assistance, provisioning, fuelling 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;
- (c) permitting 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 the United Kingdom or between ports of a Member State; and
- (d) permitting international maritime transport service suppliers of the other Party to provide feeder services between ports of the United Kingdom or between ports of a Member State, subject to the authorisation by the competent authority where applicable.

2. In applying the principle referred to in paragraph 1, a Party shall:
- (a) not introduce cargo-sharing arrangements in future agreements with third countries concerning international 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;
 - (b) not adopt or maintain a measure that requires all or part of any international cargo to be transported exclusively by vessels registered in that Party or owned or controlled by natural persons of that Party;
 - (c) abolish and abstain from introducing any unilateral measures or administrative, technical and other obstacles which could constitute a disguised restriction or have discriminatory effects on the free supply of international maritime transport services; and
 - (d) not prevent international maritime transport service suppliers of the other Party from directly contracting with other transport service suppliers for door-to-door or multimodal transport operations.