

PLURILATERAL NEGOTIATIONS ON ENERGY SERVICES

Additional elements further to the first plurilateral meeting in Geneva

This paper is meant to provide additional information and clarifications as a follow-up to the first plurilateral meeting on Energy services. This document builds upon the collective request and some of the questions raised by recipient Members in Geneva, providing the technical elements of the replies that the co-sponsors made in the meeting.

This paper deals with the following topics :

- ownership of natural resources
- illustrative examples regarding the correspondence between the CPC classification and energy services
- examples of energy-related services being provided under modes 1-2
- neutrality of the collective request with regard to energy source
- scheduling issues

1. Ownership of natural resources

As it is said in the request itself, the request does not extend to ownership of natural resources. It may be necessary to precise what it exactly covers, especially in the oil and gas sectors.

It is recalled that states have sovereignty in their territories (including the territorial sea) and sovereign rights over natural resources on their continental shelves. They are empowered to regulate the exploration, development and exploitation of the resource. They often grant the right for exploration and production to state-owned or private companies (or joint companies in which the state-owned company often holds a major share) in the form of a licence or on the basis of a production-sharing agreement.

To carry out the production of the resource, the licensee often contracts for a number of specific activities necessary to support the production of oil or gas. The scope of the collective request on Energy services includes a range of such services. The licensee obtains these services by entering into contracts with a range of energy service suppliers.

The service supplier provides the service to the licensee and receives payment according to the contract between the licensee and the service supplier. Depending on the terms of the contract negotiated between the government and the oil or gas production company, the licensee (or licensees) usually becomes the owner, in whole or in part, of the energy resource thus produced, and may have the right to market and sell it. By contrast, the energy service supplier usually does not take ownership of the resource.

The collective request on Energy services does not address the relationship between states and those entities authorized to produce the natural resources. Only measures affecting trade in services provided by service suppliers to the latter fall within the scope of the request.

2. Precisions regarding the correspondence between CPC sub-sectors and energy services

The collective request on Energy services results from a convergence of views on where energy services can be found in the W/120 classification. It requests commitments in at least the attached set of sub-sectors which reflects a chain of upstream and downstream inter-related energy services. This list is not intended to cover the whole range of energy activities, nor does it mean that each individual requesting country does not seek liberalization of energy services that are not included in the list, but it constitutes a set of inter-related activities in which co-sponsors share a common interest.

In order to give some illustration about which energy services can be found under the CPC codes included in the list, a number of examples of energy-related activities with their CPC correspondence will be found below. Again, this list of examples is not exhaustive, and is just intended to help the understanding of the request :

Category	Illustrative example	To be found under...	CPC number
Examples of services for exploration and development of the resource	Location of mineral deposits, oil and gas by studying the properties of the earth and rock formations and structures.	Geological, geophysical and other scientific prospecting services	86751
	Gathering services of information on subsurface earth formations.	Subsurface surveying services	86752
	Gathering services of information on the earth's surface for the purpose of preparing maps intended to be used for exploitation of an oil field	Surface surveying services	86753
	Preparation of geological or surface maps to be used for mining, preparation of sunshine, stream or wind maps to identify the potential resource in renewable energies.	Map-making services	86754
	Project management services for developing a project of exploitation of an oil field or a wind power project	Services related to management consulting	866
	Design services for a mining plant	Engineering design services for industrial processes and production	86725

	<p>On land site preparation On land rig installation Drilling Drilling bits services Casing and tubular services Mud engineering and supply Solids control Fishing and downhole special operations Wellsite geology and drilling control Core taking Well testing Wireline services Supply and operation of completion fluids (brines) Supply and installation of completion devices Cementing (pressure pumping) Stimulation services (fracturing, acidising, and pressure pumping) Workover and well repair services Plugging and abandoning of wells</p>	<p>Services incidental to mining (at oil and gas fields)</p>	883
	<p>Tunnelling, overburden removal and other development and preparation work of mineral properties and sites, except for mining oil and gas</p>	<p>Site preparation work for mining</p>	5115
	<p>Testing and analysis of chemical or physical properties</p>	<p>Composition and purity testing and analysis services Testing and analysis services of physical properties</p>	86761 86762
Examples of design and construction services for	<p>Design of an energy facility, its construction, its installations and processes</p>	<p>Engineering services</p>	8672
	<p>Fully integrated engineering services for the construction of a turnkey energy production plant</p>	<p>Integrated engineering services</p>	8673
	<p>Testing and analysis services of the mechanical and electrical characteristics of a turbine</p>	<p>Testing and analysis services of integrated mechanical and electrical system</p>	86763

facilities to produce, transform and supply energy	Construction works for a mining shaft	Construction works for mining and manufacturing	5136
	Construction work of long distance overland or submarine pipelines and power transmission lines (cables)	Construction works for long distance pipelines, communication and power lines (cables)	5134
	Construction work of local gas pipelines and local power transmission lines (cables)	Construction works for local pipelines and cables; ancillary works	5135
	Renting services of equipment for construction or demolition with operator	Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator	518
Examples of services for operation, management, and maintenance of energy equipment and facilities	Repair services of machinery, electrical machinery, apparatus	Repair services incidental to metal products, machinery and equipment	8861-8866
	Advisory, guidance and operational assistance services concerning methods for improving productivity, reducing production costs and improving the quality of production	Production management consulting services	86505
Examples of services for the commercialization of energy products	Wholesaling services of solid (e.g. coal and lignite), liquid (e.g. petroleum oils), and gaseous fuels (e.g. natural gas)	Wholesale trade services of solid, liquid and gaseous fuels and related products	62271
	Retailing services of combustibles such as fuel oils, bottled gas, coal and lignite for heating or cooking	Retail sales of fuel oil, bottled gas, coal and wood	63297
Examples of services for the final energy consumer	Study of the energy efficiency of an alternative process, technology or plant layout	Advisory and consultative engineering services	86721
	Mechanical and electrical engineering design services for the power system of a building	Engineering design services for mechanical and electrical installations for buildings	86723

3. Illustrative examples of provision of energy services on a cross-border basis

Some energy-related services may be and currently are provided through cross-border mode of supply. Here are some illustrative examples :

1.F.e Technical testing and analysis services (CPC 8676)

- Tests and analysis using mock-up models can be done in the country of the service provider for a client in another country.
- Samples can be sent in another country for testing and analysis (the purchaser of the service is in the country of origin of the material or in a third country).

1.F.h Services incidental to mining (CPC 883)

- Services incidental to mining (1.F.h, CPC 883) have been described as including services such as casing and tubular services, cementing (pressure pumping) , drilling, drilling bit services, fishing and downhole special operations , mud engineering and supply, plugging and abandoning of wells, solids control, stimulation services (fracturing, acidizing and pressure pumping), wireline services and workover and well repair services.
- As in many other sectors, through **remote diagnostic and consulting services** a service provider may deal with some of the issues arising on an oil field.
- **E-production solutions** are now part of the way the industry operates in many parts of the world. For example, crews no longer have to travel to the wellsite to change sheaves and belts to match reservoir inflow to the well.
- **Monitoring services** may be provided on a cross-border basis (e.g. monitor status and production information from wells to help improve operating efficiencies – this would enable remote control over pumping).

1.F.m Related scientific and technical consulting services (CPC 8675)

- Geological, geophysical and other scientific prospecting services (CPC 86751) include the services of **analysing the results** of subsurface surveys, the study of earth sample and core, and assistance and advice in developing and extracting mineral resources. These analysis and studies may be performed abroad.
- Map-making services (CPC 86754) consist in the preparation and revision of maps of all kinds using results of survey activities, other maps, and other information sources (but gathering of information itself is classified under subsurface and surface surveying services). These services may be performed abroad.

1.F.n Maintenance and repair of equipment (CPC 8861-8866)

- Under mode 2, maintenance and repair services of machinery, of electrical apparatus, of precision instruments may be performed on the property of the consumer sent abroad.

In addition, many engineering services, management consulting services and services related to management consulting may be provided through cross-border mode of supply and do not require any type of commercial presence.

4. What does neutrality regarding the source of energy mean ?

The collective request on Energy services is neutral with respect to energy source. This means that no energy source is excluded from the scope of the request. In the absence of any limitation to certain energy resources in a Member's schedule, commitments in a given energy-related service sector apply to trade in this service whatever the energy source (of course subject to feasibility).

5. How to schedule specific conditions imposed on foreign service suppliers through production-sharing agreements ? What happens if exclusive rights exist ?

In many cases, the resource is developed through a state monopoly in partnership with a foreign company. The existence of a state monopoly or the conditions of partnerships with foreign production companies do not have to be scheduled, as they only relate to production, which is outside the scope of the collective request on Energy services.

As far as provision of energy services is concerned, if a monopoly or exclusive rights exist for service suppliers, they have to be scheduled in accordance with GATS Article XVI.

In some cases, a foreign company entering into a partnership with the state-owned company for oil or gas production is imposed conditions regarding its contracts with service suppliers, such as a requirement to contract only or in priority with local service suppliers. Insofar as such restrictions fall within the scope of the GATS, they have to be inscribed in the Member's schedule of specific commitments, either in the National Treatment column (if they are only discriminatory) or in the Market Access column (if they constitute a Market Access limitation under the terms of GATS Article XVI).