ĐIỀU ƯỚC QUỐC TẾ

BỘ NGOẠI GIAO

CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập - Tự do - Hạnh phúc

Số: 25/2023/TB-LPQT

Hà Nội, ngày 30 tháng 10 năm 2023

THÔNG BÁO
Về việc điều ước quốc tế có hiệu lực

Thực hiện quy định tại Điều 56 của Luật Điều ước quốc tế năm 2016, Bộ Ngoại giao trân trọng thông báo:

Nghị định thư thực hiện Gói cam kết thứ 11 về dịch vụ vận tải hàng không trong khuôn khổ Hiệp định khung ASEAN về dịch vụ (Protocol to Implement the Eleventh Package of Commitments on Air Transport Services under the ASEAN Framework Agreement on Services), ký ngày 15 tháng 11 năm 2019 tại Hà Nội, có hiệu lực đối với Việt Nam từ ngày 02 tháng 9 năm 2022.

Bộ Ngoại giao trân trọng gửi bản sao Nghị định thư theo quy định tại Điều 59 của Luật nêu trên./.

TL. BỘ TRƯỞNG
KT. VỤ TRƯỞNG
VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ
PHÓ VỤ TRƯỞNG

Nguyễn Lương Ngọc

PROTOCOL TO IMPLEMENT THE ELEVENTH PACKAGE OF COMMITMENTS ON AIR TRANSPORT SERVICES UNDER THE ASEAN FRAMEWORK AGREEMENT ON SERVICES

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations ("ASEAN") (hereinafter collectively referred to as "Member States" or singularly "Member State");

NOTING the ASEAN Framework Agreement on Services ("AFAS") signed on 15 December 1995 in Bangkok, Thailand, which seeks to enhance cooperation in services amongst Member States, eliminate substantially restrictions to trade in services amongst Member States and liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by Member States under the General Agreement on Trade in Services ("GATS") of the World Trade Organization ("WTO");

NOTING the ASEAN Framework Agreement for the Integration of Priority Sectors together with the Roadmap for the Integration of Priority Sectors signed on 29 November 2004 in Vientiane, Lao PDR, and the ASEAN Framework (Amendment) Agreement for the Integration of Priority Sectors signed on 8 December 2006 in Cebu, Philippines, which includes Air Transport, provide measures to deepen and broaden internal economic integration and linkages, with the participation of the private sector, to realise an ASEAN Economic Community;

NOTING further the ASEAN Agreement on the Movement of Natural Persons signed on 19 November 2012 in Phnom Penh, Cambodia that facilitates the movement of natural persons of ASEAN in engaging in trade in goods, trade in services and investment in the region and that upon its entry into force, its Annex 1 shall supersede commitments made under the AFAS in relation to mode 4 (Movement of Natural Persons);

MINDFUL of the targets and timelines of the ASEAN Transport Strategic Plan 2016-2025 adopted by ASEAN Transport Ministers on 5 November 2015 in Kuala Lumpur, Malaysia that, amongst others, called for the conclusion of the packages of commitments covering all 13 subsectors to be phased in;

HAVING carried out subsequent negotiations pursuant to Article IV of the AFAS and finalised the Eleventh Package of Commitments;

DESIRING to set out in a schedule, the specific commitments that each Member State shall undertake, for which Member States shall accord preferential treatment to one another on a Most-Favoured-Nation basis,

HAVE AGREED AS FOLLOWS:

1. The Annexes to this Protocol shall consist of the consolidated schedules of each Member State's specific commitments, Schedules of Horizontal Commitments, and the Lists of Most-Favoured-Nation Exemptions, which shall form an integral part of this Protocol.

2. Subject to each Member State's Schedules of Specific Commitments and the Lists of Most-Favoured-Nation Exemptions, Member States shall accord preferential treatment in air transport services to one another on a Most-Favoured-Nation basis.

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3. This Protocol and its Annexes shall form an integral part of the AFAS.

4. This Protocol and the commitments set out in its Annexes shall enter into force on the 60th day after the deposit of the seventh Instrument of Ratification, Approval or Acceptance with the Secretary-General of ASEAN, and shall become effective only among the Member States that have ratified, approved or accepted it. For each Member State ratifying, approving or accepting the Protocol after the deposit of the seventh Instrument of Ratification, Approval or Acceptance, the Protocol and the commitments set out in its Annexes shall enter into force on the 60th day after the deposit by such Member State of its Instrument of Ratification, Approval or Acceptance.

5. The Secretary-General of ASEAN shall promptly notify all Member States of any such deposit made pursuant to paragraph 4.

6. This Protocol shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to Implement the Eleventh Package of Commitments on Air Transport Services under the ASEAN Framework Agreement on Services.

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ASEAN SECRETARIAT GENERAL, THE ASEAN SECRETARIAT

DONE at **Ha Noi**, **Viet Nam**, this **Fifteenth of November** in the Year **Two Thousand and Nineteen,** in a single original copy in the English Language.

For Brunei Darussalam:

DATO ABDUL MUTALIB YUSOF
Minister of Transport and Infocommunications

For the Kingdom of Cambodia:

MAO HAVANNALL
Minister-in-Charge
State Secretariat of Civil Aviation

For the Republic of Indonesia:

DJOKO SASONO
Secretary General
Ministry of Transportation

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DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
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For the Lao People's Democratic Republic:

BOUNCHANH SINTHAVONG
Minister of Public Works and Transport

For Malaysia:

LOKE SIEW FOOK
Minister of Transport

For the Republic of the Union of Myanmar:

THANT SIN MAUNG
Union Minister for Transport and Communications

For the Republic of the Philippines:

ARTHUR P. TUGADE
Secretary of Transportation

5

For the Republic of Singapore:

KHAW BOON WAN
Coordinating Minister for Infrastructure and Minister for Transport

For the Kingdom of Thailand:

SAKSAYAM CHIDCHOB
Minister of Transport

For the Socialist Republic of Viet Nam:

NGUYEN VAN THE
Minister of Transport

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BRUNEI DARUSSALAM – SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE		3 With respect to existing commercial presence: • One of the 2 directors or where there are more than 2 directors at least 2 of them shall be ordinarily resident in Brunei Darussalam.	

BRUNEI DARUSSALAM – LIST OF MFN EXEMPTIONS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
All Sectors	Future liberalisation of measures affecting limitations on foreign equity or interest in companies established in Brunei Darussalam shall be carried out in a differentiated manner, and at the discretion of the relevant authorities.	All Countries	Indefinite	The measure would be applied in a differentiated manner to those investment that match Brunei Darussalam's specific development requirements with the abilities and facilities provided by foreign enterprises and their home countries. The objective is to maximise economic benefits of foreign participation in the Brunei Darussalam economy.
	Preferences for entry and temporary stay of workers from traditional sources of supply.	Traditional sources	Indefinite. Brunei Darussalam will periodically review this in the light of domestic and national policy considerations.	Due to the small population base the government needs to regulate the flow of foreign workers, both skilled and unskilled, to ensure social cohesion in Brunei Darussalam.
Legal Services	All measures pertaining to the provision of legal services in Brunei Darussalam.	All countries	Indefinite. Brunei Darussalam will keep the possibility of removing this exemption under review	The exemption is necessary as the establishment of foreign law firms in Brunei Darussalam is based on case-by-case approval.

BRUNEI DARUSSALAM – LIST OF MFN EXEMPTIONS

For the 11TH Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Radio and Television Radio and television is defined to include: - Free-to-air broadcasting - Cable and Pay television - Direct broadcasting by satellite - Tele text - All broadcasting services listed in Services Sectoral Classification List, MTN.GNS/W/120.	The Radio Television Brunei (RTB) accords preferential broadcast and transmission rights to selected countries with which it has signed bilateral agreements.	All countries. Currently, only Singapore, Malaysia and Indonesia are given preferential broadcast and transmission rights.	Brunei Darussalam will keep the possibility of removing the exemption under review.	To promote social economic and cultural relations.
Financial Services	Treatment with respect to the granting of approval to establish offshore banks and merchant banks, to expand existing operations and conduct new activities in the financial services sector may be accorded to service suppliers of another member in a differentiated manner or on the basis of reciprocity and at the discretion of the relevant authority.	All countries	Indefinite	To accord differentiated treatment to another member which accords favourable treatment to Brunei Darussalam financial institutions.

BRUNEI DARUSSALAM – LIST OF MFN EXEMPTIONS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Banking and other financial services	Under a currency interchange ability agreement between Brunei Darussalam and Singapore, the currency issuing authorities of Brunei Darussalam and Singapore would: - accept from banks, notes and coins by the other issuing authority, at par and without charge and to exchange such notes and coins into the currency of the country concerned; and - arrange for repatriation at the expense of the respective currency issuing authority, the notes and coins issued by the other currency issuing authority and to receive at par the equivalent in any agreed currency.	Singapore	Indefinite, until either country terminates the agreement.	The currency interchange ability agreement was entered into in 1967 arising from special historical and economic ties between Brunei Darussalam and Singapore.

BRUNEI DARUSSALAM – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Repair and Maintenance Services (CPC8868)	1) None 2) None 3) Up to 80% foreign equity	1) None 2) None 3) Unbound	

BRUNEI DARUSSALAM – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Selling and Marketing of Air Transport Services	1) None 2) None 3) Unbound	1) None 2) None 3) Unbound	

BRUNEI DARUSSALAM – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Computer Reservation System Services (CPC 7523)	1) None 2) None 3) Up to 80% foreign equity	1) None 2) None 3) Unbound	

BRUNEI DARUSSALAM – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Leasing with Crew (CPC 734)	1) None 2) None 3) Up to 60% foreign equity	1) None 2) None 3) Unbound	

BRUNEI DARUSSALAM – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Leasing without Crew (CPC 83104)	1) None 2) None 3) Up to 80% foreign equity	1) None 2) None 3) Unbound	

BRUNEI DARUSSALAM – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Airfreight Forwarding Services	1) None 2) None 3) Up to 51% foreign equity	1) None 2) None 3) Unbound	

CAMBODIA– SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
Subsidies		(3). (4). Unbound for subsidies, including for research and development	
Tax measures		(1). (2). (3) None with respect to taxes	
Land		(3) Non-Cambodian natural and juridical persons may lease but not own land.	
Acquired rights	The conditions of ownership, management, operation, juridical form and scope of activities as set out in a license or other form of approval establishing or authorising the operation or supply of services by an existing foreign service supplier, will not be made more restrictive than those in existence as of the date of Cambodia's accession to the WTO.		
Investment incentives	(3) Investors, seeking incentives under the provisions of the Law on Investment, shall have the obligation to provide adequate and consistent training to Cambodian staff, including for promotion to senior positions.	(3) None	

CAMBODIA– SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Presence of natural persons	(4) Unbound except for measures concerning the entry and temporary stay of a natural person who falls in one of the following categories: <u>Business visitors</u> A natural person who: - enters Cambodia for the purposes of participating in business meetings, establishing business contacts including negotiations for the sale of services and/or other similar activities; - stays in Cambodia without receiving income from within Cambodian sources; - does not engage in making direct sales to the general public or supplying services. Entry visa for business visitors shall be valid for a period of 90 days for an initial stay of 30 days, which may be extended.	(4) Unbound, except for measures affecting the categories referred to under market access.	

CAMBODIA– SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
	Persons responsible for setting up of a commercial establishment: Persons working in an executive or managerial position, receiving remuneration from an entity as defined below, who are responsible for the setting up, in Cambodia, of a commercial presence of a service provider of a Member, that will support employment of persons described in a, b, and c below. The subject persons are not subject to a maximum duration of stay. Intra-Corporate Transferees Natural persons who have been employed by a juridical person of another member for a period of not less than 1 year and who seek temporary entry to provide services through a branch, subsidiary and affiliate in Cambodia and who are: a) Executives: without requiring compliance with labour market tests, persons within an organisation who primarily direct the management of the organisation, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or shareholders of the		

CAMBODIA– SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
	business. Executives would not directly perform tasks related to the actual supply of a service or services of the organisation. b) Managers: without requiring compliance with labour market tests, natural persons employed by a juridical entity and who possess knowledge at an advanced level of expertise or proprietary knowledge of a juridical entity product, service, research, equipment, techniques, or management, and who primarily direct the organisation or a department of the organisation, supervise and control the work of other supervisory, professional or managerial employees; have the authority to hire and fire or recommend hiring, firing or other personnel actions; and exercise discretionary authority over day-to-day operations. They do not include first-line supervisors, unless the employees supervised are professionals, nor do they include employees who primarily perform tasks necessary for the supply of the service.		

CAMBODIA– SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
	c) Specialists: Natural persons, within an organisation who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organisation's services, research equipment, techniques, or management. Temporary residency and work permit is required for the natural persons in the categories defined under intra-corporate transferees. Such permits are issued for two years and may be renewed annually up to maximum of total five years.		

CAMBODIA– – LIST OF MFN EXEMPTIONS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Audiovisual services				
Production and distribution of television programmes and cinematographic works	Measures based upon co production agreements of audiovisual works, which confer National Treatment to audiovisual works covered by such agreements.	Countries with which such bilateral or plurilateral agreements are in force, now or in the future	Indefinite	The aim of these agreements is to promote cultural links between the countries concerned
Production and distribution of television programmes and cinematographic works	Measures granting the benefit of support programmes (such as "Fonds d'aide a la production de l'agence intergouvernmental de la Francophonie") to audiovisual works, and suppliers of such works meeting origin criteria.	Countries with which bilateral and plurilateral agreements have been signed in the area of cultural cooperation.	Indefinite	These programmes aim at preserving and promoting the cultural identity of countries with which Cambodia has a long-standing cultural links
Production and distribution of audiovisual works through broadcasting transmission to the public	Measures which extend National Treatment to audiovisual works which meet certain origin criteria regarding access to broadcasting transmission.	Countries with which bilateral or plurilateral agreements concluded in the area of cultural cooperation.	Indefinite	These measures aim, within the sector, to promote cultural values both within Cambodia, and with other countries, including in the region
Land transport	Facilitation of transport and transit transport agreements.	Existing and future bilateral or plurilateral agreements	Indefinite	The need to promote tourism and trade in transport services especially among the neighbouring countries.

CAMBODIA– – LIST OF MFN EXEMPTIONS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Internal waterways	Establishes procedures, charges, and specific regulations applicable for ships of countries concerned operating in Mekong river basin	Existing and future bilateral or plurilateral agreements	Indefinite	Ensure and facilitate navigation in the Mekong river.
Maritime transport	Establishes procedures, charges, and specific regulations for maritime transport applicable for ships of countries concerned operating in Siam Gulf.	Existing and future bilateral or plurilateral agreements	Indefinite	Ensure and facilitate navigation in the Siam Gulf.

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CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Repair and Maintenance Services (CPC8868)	1) None 2) None 3) As indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Selling and Marketing of Air Transport Services	1) None 2) None 3) Unbound	1) None 2) None 3) Unbound	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Computer Reservation System Services (CPC 7523)	1) None 2) None 3) Unbound	1) None 2) None 3) Unbound	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Leasing with Crew (CPC 734)	1) None 2) None 3) None, other than that indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Leasing without Crew (CPC 83104)	1) None 2) None 3) None, other than that indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Air Freight Forwarding Services	1) None 2) None 3) None other than that indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Catering Services	1) None 2) None 3) None other than that indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Refueling Services	1) None 2) None 3) None other than that indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Line Maintenance	1) None 2) None 3) None other than that indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

CAMBODIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Cargo Handling Services	4) None 5) None 6) None other than that indicated in the horizontal section	4) None 5) None 6) As indicated in the horizontal section	

INDONESIA – SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	3) Commercial Presence of the foreign service provider(s) may be in the form of joint venture and/or representative office, unless mentioned otherwise. Joint venture should meet the following requirements: (i) should be in the form of Limited Liability Enterprise (Perseroan Terbatas/PT). (ii) not more than 49% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign partner(s).	3) The Income Tax Law provides that non-resident taxpayers will be subject to withholding tax of 20% if they derive the following income from Indonesian source: (a) interest (b) royalties (c) dividend (d) fee from service performed in Indonesia The tax rate can be changed due to tax treaty. Land Acquisition Undang-Undang Pokok Agraria (Land Law) No. 5 of 1960 stipulates that no foreigners (juridical and natural persons) are allowed to own land. However, a joint venture enterprise could hold the right for land use (Hak Guna Usaha) and building rights (Hak Guna Bangunan), and they may rent/lease land and property. Any juridical and natural persons should meet professional qualification requirements.	

INDONESIA – SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
	4) Subject to Indonesian Labour and Immigration Laws and Regulations, only directors, managers and technical experts/advisors, unless mentioned otherwise, are allowed to stay for two years and could be extended for a maximum two times subject to two years' extension each time. Manager and technical experts (intra corporate transfer) are allowed based on an economic needs test. The entry and temporary stay of business visitor(s) is (are) permitted for a period of 60 days and could be extended maximum for 120 days.	4) Expatriate Charges Any foreign natural persons supplying services are subject to charges levied by Governments Labour Laws and Regulations Any expatriate employed by a joint-venture enterprise, representatives office, and/or other types of juridical person and/or an individual services provider must hold a valid working permit issued by the Ministry of Manpower and Transmigration.	

INDONESIA - SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Definitions:

"**Director**": One or a group of persons entrusted by the shareholders of a services providing entity with the final overall control and direction of the enterprise, and legally responsible to act on behalf of the enterprises inside and/or outside of the court.

"Manager": Senior employee of a service supplier who primarily directs the management of the organisation, receiving general supervision or direction principally from the board of directors of the business, including directing the service supplier or a department or sub-division thereof, supervising or controlling the work of other supervisory, professional or managerial employee or having the authority to hire or fire or recommend such or other personnel actions.

"Technical Expert/Advisor" Person employed by a service supplier who possesses a standard of high or common (i) qualifications referring to a type of work or trade requiring specific technical knowledge or (ii) knowledge essential or proprietal to the service, research equipment, techniques or management.

"**Joint Operator**" A joint operation is an undertaking between one or several foreign and Indonesian enterprises of temporary nature, to handle one or several project/businesses without establishing a new statutory body according to Indonesian laws

"Joint venture Enterprise" A joint venture enterprise is a legal entity organised under Indonesian law and having its domicile in Indonesia, in the form of cooperation between foreign capital and Indonesian (national) capital

"Contract Management". Contract management is a contract organised under Indonesian law in the form of cooperation on management of temporary nature between Indonesian (national) capital and foreign capital.

"Business visitors(s)" natural person(s) staying in Indonesia for the purpose of participating in business meeting, business contacts including negotiations for the sales of services and/or other similar activities including those who prepare for the establishment of a commercial presence in Indonesia, without acquiring remuneration and/or any other direct income from within Indonesia, and are not engaged in making direct sales or supplying services to general public.

INDONESIA – LIST OF MFN EXEMPTIONS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Banking Services *	Measures relating to a joint-venture bank of national and foreign origin under which entry of foreign bank in Indonesia is allowed on a reciprocity basis (Pursuant to Articles 14(3) the Ministry of Finance Decrees No. 220/KMK.017/1993 dated 26th February 1993) With respect to joint-venture banks, licenses can only be granted to foreign banks of countries which adopt reciprocal policies regarding Indonesian banks	All countries which adopt reciprocal policies regarding Indonesia banks	Suspended until the end of the period of 60 days beginning on 1 November 1997 as stipulated in the Second Decision on Financial Services adopted by the Council for Trade in Services on 21 July 1995	To guarantee equal treatment to Indonesian nationals wishing to establish and operate bank abroad
Movement of Personnel (semi-skilled workers)	Low level occupations are reserved for Indonesian citizens. Based on Government Policy, limited exemptions may be granted to citizens of certain countries.	Nationals of Malaysia, Singapore, Brunei Darussalam, Papua New Guinea and Australia have been granted limited access to low level occupations	Indefinite	Development of the region is being undertaken and for the confirmation of this programme, it is decided to grant limited access to low level occupations to citizens at a limited number of countries
Construction Services (government funded projects)	Measures relating to preferential short listing in international competitive bidding	Nationals of Brunei Darussalam, Malaysia, The Philippines, Singapore and Thailand have been granted special treatment	These measures shall be maintained as long as the treaties of ASEAN remain in force	The implementation of a preferential short listing scheme for ASEAN contractors enhances the advancement of civil works, industrial construction and the economic development of the ASEAN region

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INDONESIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Repair and Maintenance Services (CPC8868)	1) None 2) None 3) Should be in the form of limited liability enterprise with maximum foreign equity 49%	(1) None (2) None (3) As indicated in the horizontal section	

INDONESIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Selling and Marketing of Air Transport Services	1) None 2) None 3) Should be in the form of limited liability enterprise with maximum foreign equity 49%	1) None 2) None 3) As indicated in the horizontal section	

INDONESIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Computer Reservation System Services (CPC 7523)	1) None 2) None 3) Should be in the form of limited liability enterprise with maximum foreign equity 49%	1) None 2) None 3) As indicated in the horizontal section	

INDONESIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Leasing without Crew (CPC 83104)	1) None 2) None 3) Commercial presence of foreign service supplier and/or providers is permitted up to 49%	1) None 2) None 3) None	

INDONESIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Air Freight Forwarding Services	1) None 2) None 3) Should be in form of limited liability enterprise with maximum foreign equity 49%	1) None 2) None 3) As indicated in horizontal section	

INDONESIA – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Catering Services	1) None 2) None 3) Should be in form of limited liability enterprise with maximum foreign equity 49%	1) None 2) None 3) As indicated in horizontal section	

LAO PDR – SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	3) Commercial presence of foreign service suppliers can be in the following form: - A wholly domestic or foreign-owned investment; - A joint venture between domestic and foreign investors; - A business cooperation by contract. - A joint venture between a state-owned enterprise and a private enterprise; - A public-private partnership (PPP). A company is considered a joint venture when it has at least 10% foreign equity The commercial presence of foreign service suppliers is subject to approval by the concerned competent authorities. Enterprises with foreign capital require an investment licence, which sets out the terms of operation, and a business cooperation contract.	3) Foreign service suppliers in the Lao PDR may lease land within the Lao PDR and transfer their leasehold interest. They may own improvements on land and other movable property and transfer those ownership interests. Foreign investors shall provide adequate training opportunities to Lao PDR nationals. Tax measures, generally pertaining to small and medium enterprises, may result in a difference of treatment in favour of Lao PDR services and service suppliers.	

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LAO PDR – SCHEDULE OF COMMITMENTS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
	Approval shall be in accordance with sectoral laws, regulations, government order, decision and instruction and companies shall operate in compliance with them.		

LAO PDR - LIST OF MFN EXEMPTIONS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Computer Reservation Systems	Market Access and national treatment are on reciprocal basis, and on the provisions of the bilateral Air Services Agreement	All countries with whom Laos has signed agreements on bilateral air services, currently they are: - Indonesia - Malaysia - Cambodia - Singapore - Myanmar - Vietnam - China - Thailand	Expiry date or termination of the bilateral agreements on air services. This will be reviewed for purpose of further development	Reciprocal basis and/or bilateral agreement
Auditing Services	Bilateral agreement based on reciprocity treatment	Countries in which related services can be supplied by Lao nationals.	Indefinite	Reciprocal basis
Publishing Newspaper	Permission granting has to be based on bilateral agreement	Countries which have agreements with Laos	Indefinite	Reciprocal basis

LAO PDR - LIST OF MFN EXEMPTIONS

For the 11th Package of Commitments under ASEAN Framework Agreement on Services

Sector or sub sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Legal services		All countries	Indefinite	Can be approved on case by case approval
Banking and other financial services	Measures affecting the supply of banking and other financial services to be granted on a bilaterally favorable basis with countries Laos has agreements	All countries	Indefinite	For reciprocity purpose, and the financial stability

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Repair and Maintenance Services (CPC8868)	1) None 2) None 3) As indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Selling and Marketing of Air Transport Services	1) None 2) None 3) Can be in the following forms: • A joint venture with one or more domestic Lao investors; • A wholly foreign-owned enterprise (100% foreign invested companies) • A branch or representative office a) to be approved by Government competent authority prior to licensing by Foreign Investment Management Committee b) Foreign equity not less than 30% (for joint venture)	1) None 2) None 3) As indicated in the horizontal section	

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Computer Reservation System Services (CPC 7523)	1) None 2) None 3) Can be in the following forms: • A joint venture with one or more domestic Lao investors; • A whooly foreign-owned enterprise (100% foreign invested companies) • A branch or representative office a) to be approved by Government competent authority prior to licensing by Foreign Investment Management Committee b) Foreign equity not less than 30% (for joint venture)	1) None 2) None 3) As indicated in the horizontal section	

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Leasing with Crew (CPC 734)	1) None 2) None 3) As indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Leasing without Crew (CPC 83104)	1) None 2) None 3) As indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Airfreight forwarding services (CPC 74800)	1) None 2) None 3) As indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Catering Services	1) None 2) None 3) As indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

LAO PDR – SCHEDULE OF SPECIFIC COMMITMENTS

Mode of Supply: 1) Cross-border 2) Consumption abroad 3) Commercial Presence

Sector or Sub-Sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Aircraft Line Maintenance	1) None 2) None 3) As indicated in the horizontal section	1) None 2) None 3) As indicated in the horizontal section	

(Xem tiếp Công báo số 1295 + 1296)