

BỘ KẾ HOẠCH VÀ ĐẦU TƯ CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập - Tự do - Hạnh phúc

Số: **7450** /BKĐT-KTDV

V/v triển khai kết quả phiên họp
lần thứ 99 của Ủy ban điều phối
dịch vụ ASEAN (CCS 99) theo
hình thức trực tuyến

Hà Nội, ngày **28** tháng 10 năm 2021

Kính gửi:

- Văn phòng Chính phủ;
- Các Bộ: Ngoại giao; Tư pháp; Công Thương; Tài chính; Giao thông vận tải; Y tế; Xây dựng; Tài nguyên và Môi trường; Văn hóa, Thể thao và Du lịch; Thông tin và Truyền thông; Lao động - Thương binh và Xã hội; Khoa học và Công nghệ; Giáo dục và Đào tạo; Nông nghiệp và Phát triển nông thôn; Công an (Cục An ninh Kinh tế); Ngân hàng Nhà nước Việt Nam.



Phiên họp lần thứ 99 của Ủy ban điều phối dịch vụ ASEAN (CCS 99) được tổ chức theo hình thức trực tuyến từ ngày 19-21/10/2021. Đoàn Việt Nam tham dự phiên họp gồm Bộ Kế hoạch và Đầu tư (Trưởng đoàn); Văn phòng Chính phủ; đại diện các Bộ: Công Thương; Tài chính; Công an; Ngoại giao; Tài nguyên và Môi trường; Y tế; Thông tin và Truyền thông. Bộ Kế hoạch và Đầu tư xin thông báo kết quả chính của phiên họp và đề xuất triển khai một số nội dung, cụ thể như sau:

I. KẾT QUẢ PHIÊN HỌP

1. Phê duyệt các hiệp định trong khuôn khổ CCS

Phê duyệt Nghị định thư thực hiện Gói cam kết dịch vụ thứ 10 (Gói 10): Cho đến thời điểm hiện nay có 08 quốc gia đã hoàn tất phê duyệt Nghị định thư thực hiện Gói 10 gồm: Brunei, Campuchia, Lào, Malaysia, Myanmar, Singapore, Thái Lan và Việt Nam.

Phê duyệt Hiệp định thương mại dịch vụ ASEAN (ATISA): Hiện nay, 05 quốc gia đã hoàn tất phê duyệt Hiệp định ATISA gồm: Brunei, Malaysia, Singapore, Thái Lan và Việt Nam (Chính phủ nước cộng hòa xã hội chủ nghĩa Việt Nam phê duyệt Hiệp định ATISA tại Nghị quyết số 131/NQ-CP ngày 18/10/2021), Bộ Ngoại giao Việt Nam đang tiến hành các thủ tục thông báo chính thức cho ASEAN.

CCS đề nghị các quốc gia thành viên khẩn trương hoàn tất các thủ tục phê duyệt trong nước đối với Nghị định thư Gói 10 (Indonesia và Philippines) và Hiệp định ATISA (Campuchia, Indonesia, Lào, Myanmar, Philippines) để nghị định thư và Hiệp định ATISA chính thức có hiệu lực.

2. Tự do hóa thương mại dịch vụ

2.1. Về Gói cam kết dịch vụ thứ 10 (Gói 10)

Tại phiên họp, Philippines cập nhật tình hình tham vấn nội bộ với các cơ quan liên quan về Gói 10. CCS đề nghị Philippines hoàn thành và đệ trình Bản chào Gói 10 trong thời gian sớm nhất.

2.2. Hiệp định thương mại dịch vụ ASEAN

Phiên họp tiếp tục thảo luận các nội dung trong khuôn khổ triển khai thực hiện Hiệp định ATISA gồm:

a) Nghĩa vụ ratchet

Tại phiên họp, một số quốc gia thành viên cho rằng quá trình chuyển đổi gói cam kết AFAS cuối cùng sang Danh mục các biện pháp không tương thích (NCM) được ngầm hiểu áp dụng nghĩa vụ ratchet theo thời gian ân hạn, đồng thời một số quốc gia thành viên cần thêm thời gian để chuyển đổi, xây dựng NCM. Để có cơ sở thảo luận tại phiên họp sắp tới, CCS đề nghị các quốc gia thành viên nêu rõ quan điểm về việc chấp thuận áp dụng nghĩa vụ ratchet tại thời điểm NCM có hiệu lực hoặc đề xuất thời gian ân hạn thực hiện nghĩa vụ ratchet nêu trên. Một số quốc gia thành viên nêu quan điểm: Hiệp định ATISA là hiệp định nội khối ASEAN, do vậy các nước thành viên cần dành đối xử tốt nhất cho nhau, đồng thời các cam kết về nghĩa vụ ratchet trong Hiệp định ATISA không nên thấp hơn trong Hiệp định đối tác kinh tế toàn diện khu vực (RCEP). Theo quy định tại khoản 4, Điều 11, kết quả đàm phán về việc áp dụng nghĩa vụ ratchet sẽ được thực thi ngay tại thời điểm NCM của các nước thành viên ASEAN có hiệu lực; đồng thời, “thời gian ân hạn” áp dụng nghĩa vụ ratchet sẽ được xem xét trước so với thời gian chuyển đổi xây dựng NCM.

CCS yêu cầu Ban Thư ký ASEAN nghiên cứu cách tiếp cận khả thi để áp dụng nghĩa vụ ratchet bao gồm thời gian ân hạn phù hợp trên cơ sở các Hiệp định thương mại đã ký kết như: RCEP, CPTPP để thảo luận tại phiên họp CCS sắp tới.

b) Mẫu/định dạng chung và tiêu đề/cam kết chung đối với Biểu Danh mục NCM của Hiệp định ATISA.

CCS thảo luận về dự thảo Mẫu biểu chung và tiêu đề/cam kết chung đối với Biểu Danh mục NCM của Hiệp định ATISA do Ban Thư ký ASEAN đệ

trình. Dự thảo này được xây dựng trên cơ sở các cam kết trong một số hiệp định thương mại tự do, đồng thời cần tiếp tục được CCS rà soát, điều chỉnh. Các ghi chú/tiêu đề cụ thể của mỗi quốc gia có thể được mô tả trong phần giải thích Biểu NCM của mỗi quốc gia. CCS đề nghị các quốc gia thành viên tiến hành tham vấn nội bộ, sửa đổi, bổ sung dự thảo Mẫu biểu chung và tiêu đề/cam kết chung để thảo luận tại phiên họp CCS sắp tới.

c) Kế hoạch xây dựng Biểu danh mục NCM của Hiệp định ATISA

Phiên họp thảo luận dự thảo Kế hoạch công tác xây dựng NCM trên cơ sở các mốc thời gian chuyển đổi trong Hiệp định ATISA do Ban Thư ký ASEAN đệ trình. Dự thảo Kế hoạch công tác tiếp tục được nghiên cứu và thảo luận tại phiên họp CCS sắp tới.

d) Danh mục các bước chuyển đổi

CCS xem xét dự thảo Danh mục các bước chuyển đổi cần thiết đối với các cam kết trong khuôn khổ AFAS sang NCM do Chủ tọa CCS soạn thảo. Danh mục này có thể được điều chỉnh trong quá trình thực hiện tùy thuộc vào tình hình thực tiễn của mỗi quốc gia.

Việc tiến hành rà soát kỹ thuật đối với Danh mục NCM do các quốc gia thành viên đệ trình rất quan trọng, để hỗ trợ thực hiện nội dung này CCS thống nhất cần thảo luận sâu hơn về kỹ thuật để chuyển đổi các Gói cam kết AFAS cuối cùng sang Danh mục NCM trên cơ sở tài liệu của Ban Thư ký ASEAN về rà soát kỹ thuật đối với Danh mục NCM đệ trình tại cuộc họp CCS 95. Đồng thời, CCS thống nhất yêu cầu Viện Nghiên cứu Kinh tế ASEAN và Đông Á (ERIA) đề xuất quan điểm đối với các nghiên cứu của Ban Thư ký ASEAN về việc xây dựng phương pháp luận để chuyển đổi các Gói cam kết AFAS từ cách tiếp cận chọn lọc sang cách tiếp cận chọn bỏ của Danh mục NCM.

2.3. Các quy tắc dịch vụ khả thi hoặc thỏa thuận để giải quyết các vấn đề mới hoặc đang phát sinh

a) Các quy tắc dịch vụ khả thi

Tại phiên họp, Thái Lan chia sẻ quan điểm, kinh nghiệm và cập nhật thông tin liên quan đến Sáng kiến chung của WTO (JSI) đối với Quy định trong nước về dịch vụ. Thái Lan đồng thời chia sẻ đánh giá về mối quan hệ tương đồng giữa nghĩa vụ về các quy định trong nước trong Hiệp định RCEP và các nội dung thảo luận hiện nay tại JSI. Các các nghĩa vụ JSI chỉ ràng buộc đối với những thành viên WTO mà các nghĩa vụ này này được mô tả trong Biểu cam kết cụ thể về thương mại dịch vụ của quốc gia đó, đồng thời được áp dụng trên cơ sở MFN, có nghĩa là các nhà cung cấp dịch vụ từ tất cả các thành viên WTO

sẽ được đối xử bình đẳng như nhau. Thái Lan khuyến khích các nước thành viên ASEAN khác tham gia JSI, hiện đã có 65 thành viên WTO tham gia.

Trên cơ sở tài liệu về tạo thuận lợi cho dịch vụ do Singapore đệ trình, CCS thảo luận phương hướng tạo thuận lợi cho dịch vụ như sau:

i) Cam kết phát triển hơn khái niệm tạo thuận lợi cho dịch vụ, cho phép các quốc gia thành viên tập trung vào các quy tắc và tiêu chuẩn khu vực trong lĩnh vực này, đồng thời cải thiện môi trường kinh doanh của ASEAN và mang lại lợi ích cho các doanh nghiệp của các quốc gia thành viên.

ii) Nghiên cứu, làm rõ hơn khái niệm tạo thuận lợi cho dịch vụ thông qua việc coi đây là nhiệm vụ ưu tiên hàng năm của CCS trong năm 2022, bảo đảm khả năng đưa ra một khuôn khổ tạo thuận lợi cho dịch vụ tương tự như Khung tạo thuận lợi đầu tư của ASEAN.

iii) Mời OECD/ERIA/AJC tiến hành các nghiên cứu song song về khái niệm tạo thuận lợi cho dịch vụ.

CCS đề nghị các nước thành viên tham vấn nội bộ về tài liệu do Singapore đề xuất để tiếp tục thảo luận và quyết định phương hướng tạo thuận lợi cho dịch vụ tại phiên họp CCS sắp tới.

b) Đề xuất dự án về Cách mạng công nghiệp 4.0 (4IR)

Do Chương trình Hợp tác Phát triển ASEAN-Australia Giai đoạn II (AADCP II) không hỗ trợ nghiên cứu về 4IR, CCS thống nhất đề nghị ERIA hỗ trợ nghiên cứu về 4IR trên cơ sở đề xuất dự án đã được CCS thông qua tại phiên họp CCS 98.

2.4. Thông báo AFAS và ATISA cho WTO

Trên cơ sở ý kiến của 07 quốc gia thành viên (Brunei, Indonesia, Malaysia, Philippines, Singapore, Thái Lan và Việt Nam), CCS tiến hành thảo luận về thời gian thông báo các gói cam kết trong khuôn khổ AFAS cho WTO đang triển khai trong khuôn khổ 03 cấp Bộ trưởng (Bộ trưởng kinh tế, Bộ trưởng giao thông vận tải, Bộ trưởng tài chính và thống đốc ngân hàng Nhà nước). CCS đề nghị các nước thành viên còn lại (Campuchia, Lào, Myanmar) khẳng định quan điểm của mình trước phiên họp sắp tới.

Việc thông báo AFAS và ATISA cho WTO trong thời gian sớm nhất là cần thiết, tuy nhiên việc cập nhật các gói cam kết được phê duyệt tiếp sau đòi hỏi một quy trình thông báo khác. Một số quốc gia thành viên nhấn mạnh tầm quan trọng việc thông báo các Gói cam kết của AFAS đã hoàn thành trong những năm trước. Các quốc gia thành viên cần tiến hành tham vấn thêm trong nước về vấn đề này và tiếp tục thảo luận tại cuộc họp CCS tiếp theo.

3. Hiệp định di chuyển thể nhân ASEAN (Hiệp định MNP)

3.1. Mẫu/Định dạng và Tiêu đề/Giải thích chung

Trên cơ sở nội dung 02 cuộc họp CCS đặc biệt về MNP, Ban Thư ký ASEAN đã soạn thảo Mẫu biểu MNP cho từng quốc gia thành viên, theo đó Tiêu đề/Giải thích chung áp dụng cho tất cả các quốc gia thành viên sẽ được đặt ở trang đầu của Biểu cam kết, tiêu đề cột (trong Bảng cam kết) được điều chỉnh cho phù hợp. Các nước thành viên thống nhất triển khai đàm phán trên cơ sở dự thảo Mẫu biểu đã được tổng hợp các nội dung chính đang thảo luận trong CCS, Mẫu biểu cuối cùng phụ thuộc vào việc giải quyết các tồn đọng về tiêu đề/giải thích chung và tiêu đề cột. Liên quan đến tiêu đề cột, Phòng các hiệp định và dịch vụ pháp lý của Ban Thư ký ASEAN (LSAD) cần thêm thời gian nghiên cứu, rà soát trước khi đưa ra khuyến nghị. Do vậy, CCS sẽ quyết định nội dung này tại cuộc họp CCS sắp tới.

Đối với tiêu đề/giải thích chung, hiện nay vẫn còn tồn đọng một số nội dung các quốc gia thành viên ASEAN cần tham vấn nội bộ gồm: dẫn chiếu CPC, giải thích về Section I và II,...

CCS thống nhất kết thúc thảo luận về 03 lựa chọn đối với tiêu đề/giải thích chung¹ mà thực hiện theo Mẫu biểu MNP chung do Ban Thư ký ASEAN soạn thảo nói trên.

3.2. Dự thảo nghị định thư

Trên cơ sở ý kiến của Indonesia, Philippines và Singapore, phiên họp tiến hành các thảo luận ban đầu về dự thảo Nghị định thư. CCS yêu cầu các quốc gia thành viên tiến hành tham vấn nội bộ bổ sung, chỉnh sửa lời văn của dự thảo Nghị định thư để thảo luận trọng phiên họp CCS sắp tới.

3.3. Thời gian đệ trình Biểu cam kết

CCS thống nhất hoãn việc đệ trình Biểu cam kết sửa đổi và hoàn thành Nghị định thư do các quốc gia thành viên cần tham vấn nội bộ và một số quốc gia thành viên tiến hành tổng tuyển cử vào tháng 5/2022. CCS điều chỉnh thời gian kết thúc đàm phán Nghị định thư và cập nhật Biểu cam kết cụ thể MNP, đồng thời lùi thời gian ký kết đến thời điểm diễn ra Hội nghị Bộ trưởng kinh tế ASEAN lần thứ 54 (AEM 54). Campuchia thông báo tại phiên họp, Nghị định

¹1) Tiêu đề/Giải thích chung áp dụng cho tất cả các quốc gia thành viên sẽ được đặt ở trang đầu của Biểu cam kết, do đó các nội dung bổ sung trong Biểu cam kết của từng quốc gia sẽ chỉ phản ánh các giải thích bổ sung của từng quốc gia đó.

2) Tiêu đề/Giải thích chung được lặp lại trong Biểu cam kết của mỗi quốc gia với những bổ sung cần thiết cho quốc gia này.

3) Tiêu đề/Giải thích chung làm khuôn mẫu chung để các quốc gia thành viên sử dụng với những điều chỉnh và bổ sung nhỏ khi cần thiết trong các Biểu cam kết tương ứng của quốc gia này.

thu MNP đang được Cambodia coi là một trong những nhiệm vụ ưu tiên trong vai trò Chủ tịch ASEAN năm 2022.

4. Chương trình công tác của CCS đến năm 2025

CCS tiếp tục thảo luận về Danh sách tổng hợp các nhiệm vụ chưa hoàn thành trong Chương trình công tác của CCS đến năm 2025. CCS yêu cầu các nước thành viên tham vấn, đề xuất và xác định các nhiệm vụ đối với 9 mục hoạt động mà nội dung chưa được xác định (mục hoạt động số 5, 6, 7, 8, 12, 13, 14, 15 và 16) để thảo luận tại cuộc họp tiếp theo. Đối với mục 7 và 8, hoạt động này có thể được giải quyết thông qua sáng kiến tạo thuận lợi cho dịch vụ hiện đang được CCS xem xét thảo luận.

5. Nội dung họp của các nhóm công tác chuyên ngành

5.1. Nhóm Dịch vụ chuyên môn (BSSWG)

Nhóm Dịch vụ chuyên môn, các Ủy ban MRA và các Nhóm công tác trực thuộc đã đạt được các một số kết quả nhất định. Theo đó BSSWG đã thông qua các điều khoản sửa đổi.

Liên quan đến nội dung về di chuyển qua lại của các kỹ sư ASEAN, căn cứ quyết định tại cuộc họp CCS-BSSWG vào ngày 30/7/2021, phiên họp đã yêu cầu ERIA tổ chức nghiên cứu về cung và cầu của các dịch vụ chuyên môn trong ASEAN. Cuộc họp đã ghi nhận dự thảo khái niệm của ARIA và các điều khoản tham chiếu cho nghiên cứu sắp tới, dự kiến hoàn thành vào khoảng tháng 4/2022.

5.2. Nhóm Dịch vụ y tế (HSSWG)

CCS ghi nhận các bước tiến của Nhóm Dịch vụ y tế và các nhóm công tác trực thuộc, bao gồm các sáng kiến ACRF. Liên quan đến Kế hoạch làm việc giai đoạn 2016-2025 của dịch vụ chăm sóc sức khỏe điện tử (e-Healthcare Services), Việt Nam chưa đề trình 04 Thông tư về chăm sóc sức khỏe điện tử và yêu cầu Việt Nam trình các thông tư này tại cuộc họp HSSWG tiếp theo. CCS mời Nhóm HSSWG tham dự phiên họp với ERIA sau khi nghiên cứu về cung và cầu của các dịch vụ chuyên môn trong ASEAN được hoàn thành và trình bày, dự kiến vào tháng 4/2022.

Cuộc họp cũng yêu cầu Việt Nam và một số quốc gia thành viên đệ trình thông tin về khuôn mẫu đối với du lịch chăm sóc sức khỏe trước cuộc họp HSSWG tiếp theo để phân tích thêm và hoàn thành việc biên soạn.

Việt Nam thông báo tại nhóm họp về việc hoãn đảm nhiệm vai trò Chủ tọa 04 nhóm công tác trực thuộc đến năm 2023 và đề xuất Brunei Darussalam, với tư cách là quốc gia thành viên tiếp theo đảm nhận chức Chủ tọa này. Tuy

nhiên, Brunei thông báo cần phải tham khảo ý kiến của các cơ quan cấp trên và đề nghị có thư yêu cầu chính thức từ Ban Thư ký ASEAN để hỗ trợ trong quá trình tham vấn. Ngoài ra, nhóm họp yêu cầu Việt Nam gửi thư chính thức trong vòng một tuần về việc hoãn đảm nhiệm vai trò Chủ tọa và để Brunei Darussalam xác nhận đảm nhiệm vai trò này vào cuối năm nay.

5.3. Nhóm Dịch vụ logistics và vận tải (LTSSWG)

CCS hoan nghênh việc nối lại cuộc họp của Nhóm Dịch vụ Logistics và vận tải, với sự tham gia tích cực của tất cả các quốc gia thành viên và mong đợi tiến độ công việc của nhóm LTSSWG đóng góp vào việc thực thi các biện pháp chiến lược AEC Blueprint 2025. CCS nhấn mạnh tầm quan trọng của sự phối hợp nội bộ để đảm bảo tất cả các quốc gia thành viên tiếp tục tham gia tích cực vào các cuộc họp LTSSWG trong tương lai.

CCS ghi nhận Báo cáo Đánh giá cạnh tranh và trung lập cạnh tranh của OECD về Lĩnh vực Logistics ở ASEAN được phát hành vào ngày 09/9/2021 như một phần của các sự kiện liên quan đến AEM lần thứ 53, đồng thời sự kiện đã được thông báo chính thức tại cuộc họp LTSSWG này.

6. Chủ tọa CCS năm 2022

Do Campuchia chưa thể đảm nhiệm vai trò Chủ tọa CCS, phiên họp thống nhất đề nghị bà Wan Wadrina Wan Abdul Wahab, Malaysia tiếp tục đảm nhiệm vai trò Chủ tọa CCS trong năm 2022.

7. Lịch tổ chức các cuộc họp CCS tiếp theo

CCS thống nhất tổ chức phiên họp CCS đặc biệt lần thứ 3 theo hình thức trực tuyến dự kiến diễn ra vào ngày 11-12/01/2021 để giải quyết các vấn đề còn tồn đọng về Biểu mẫu chung MNP. Đồng thời, CCS yêu cầu Ban Thư ký ASEAN mời đại diện LSAD tham dự phiên họp CCS đặc biệt này.

CCS thống nhất phiên họp CCS lần thứ 100 dự kiến sẽ được tổ chức từ ngày 22-24/02/2022. CCS yêu cầu Ban Thư ký ASEAN đăng cai tổ chức phiên họp này theo hình thức thông thường và trực tuyến (hybrid format). Các thành viên dự họp CCS sẽ tham gia họp thông thường nếu việc di chuyển và việc tổ chức họp thông thường được cho phép tại thời điểm diễn ra cuộc họp. Trong trường hợp tổ chức cuộc họp thông thường, cuộc họp của CCS sẽ được tổ chức, cuộc họp của các nhóm công tác chuyên ngành sẽ được tổ chức theo hình thức trực tuyến.

II. KIẾN NGHỊ TRIỂN KHAI KẾT QUẢ PHIÊN HỌP

Trên cơ sở kết quả thảo luận và thống nhất của phiên họp, để chuẩn bị cho phiên họp sắp tới, Bộ Kế hoạch và Đầu tư đề nghị các Bộ, ngành liên quan

ngiên cứu và có ý kiến đối với các nội dung sau (đặc biệt đối với các Bộ: Ngoại giao; Tư pháp; Lao động, Thương binh và Xã hội; Công Thương; Công an; Tài chính; Giao thông vận tải; Ngân hàng Nhà nước Việt Nam do có số lượng phân ngành lớn hoặc nội dung liên quan trực tiếp), cụ thể:

1. Hiệp định thương mại dịch vụ ASEAN (ATISA)

1.1. Nghĩa vụ ratchet

Đề nghị nêu rõ quan điểm về việc chấp thuận áp dụng nghĩa vụ ratchet tại thời điểm NCM có hiệu lực hoặc đề xuất thời gian ân hạn thực hiện nghĩa vụ ratchet.

Ngoài ra, đề nghị Bộ Công Thương: i) cung cấp tài liệu liên quan đến đàm phán nghĩa vụ ratchet trong Hiệp định RCEP và danh mục các ngành lĩnh vực được ngoại trừ khỏi nghĩa vụ ratchet (nếu có); ii) đánh giá khả năng áp dụng các nghĩa vụ ratchet trong Hiệp định RCEP sang Hiệp định ATISA; iii) đề xuất cụ thể về lời văn áp dụng nghĩa vụ ratchet trong Hiệp định ATISA (nếu có).

1.2. Mẫu/định dạng chung và tiêu đề/cam kết chung đối với Biểu Danh mục NCM

Đề nghị tiếp tục nghiên cứu, có ý kiến đối với tài liệu Mẫu biểu chung và tiêu đề/cam kết chung của danh mục NCM Hiệp định ATISA do Ban Thư ký ASEAN đệ trình (gửi kèm theo).

1.3. Kế hoạch xây dựng Biểu danh mục NCM của Hiệp định ATISA và Danh mục các bước chuyển đổi

Đề nghị nghiên cứu, có ý kiến đối với Kế hoạch công tác xây dựng NCM trên cơ sở các mốc thời gian chuyển đổi trong Hiệp định ATISA do Ban Thư ký ASEAN đệ trình và Danh mục các bước chuyển đổi cần thiết đối với các cam kết trong khuôn khổ AFAS sang NCM do Chủ tọa CCS soạn thảo, đề xuất phương án khả thi (nếu có).

1.4. Phê duyệt Hiệp định thương mại dịch vụ ASEAN

Đề nghị Bộ Ngoại giao tiến hành các thủ tục cần thiết thông báo việc phê duyệt Hiệp định ATISA của Việt Nam cho ASEAN theo nội dung Nghị quyết số 131/NQ-CP ngày 18/10/2021 của Chính phủ.

2. Hiệp định di chuyển thể nhân ASEAN (MNP)

2.1. Mẫu/Định dạng và Tiêu đề/Giải thích chung

Đề nghị tiếp tục cho ý kiến đối với dự thảo Biểu cam kết MNP đã cập nhật ý kiến của một số Bộ, ngành và nội dung Tiêu đề/Giải thích chung áp dụng

cho tất cả các quốc gia thành viên được đặt ở trang đầu của Biểu cam kết do Ban Thư ký ASEAN soạn thảo (gửi kèm theo).

2.3. Dự thảo Nghị định thư

Đề nghị tiếp tục cho ý kiến đối với dự thảo Nghị định thư đã được cập nhật ý kiến góp ý của Indonesia, Philippines và Singapore, đề xuất bổ sung, chỉnh sửa lời văn của dự thảo Nghị định thư (nếu có).

2.4. Tham dự phiên họp đặc biệt lần thứ 3 về Hiệp định MNP

Đề nghị cử cán bộ phối hợp với Bộ Kế hoạch và Đầu tư và tham dự phiên họp đặc biệt lần thứ 3 của Ủy ban điều phối dịch vụ ASEAN về Hiệp định MNP vào ngày 11-12/01/2022. Bộ Kế hoạch và Đầu tư sẽ gửi giấy mời tham dự và chương trình nghị sự của phiên họp sau khi thống nhất với Ban Thư ký ASEAN.

3. Nội dung họp của các nhóm công tác chuyên ngành

- Đề nghị Bộ Y tế triển khai các nội dung:

+ Chuẩn bị và đệ trình thông tin về khuôn mẫu đối với du lịch chăm sóc sức khỏe trước cuộc họp HSSWG tiếp theo.

+ Gửi thư chính thức về việc hoãn đảm nhiệm vai trò Chủ tọa của bốn nhóm công tác về chăm sóc sức khỏe đến năm 2023 và đề xuất Brunei Darussalam đảm nhận chức Chủ tọa này.

+ Cử đại diện tham dự phiên họp Nhóm dịch vụ Y tế, eHealth tiếp theo.

- Đề nghị Bộ Xây dựng cử đại diện tham dự các phiên họp tiếp theo của nhóm BSSWG và tiếp tục thực hiện các công việc của nhóm công tác. Chủ trì, phối hợp làm việc với các cơ quan liên quan về các vấn đề liên quan. Lưu ý các nội dung liên quan đến tạo điều kiện thuận lợi cho việc di chuyển của các chuyên gia ASEAN, các doanh nghiệp thiết yếu và các quan chức đi lại trong ASEAN, có tính đến nhu cầu ngăn chặn và kiểm soát sự lây truyền của đại dịch Covid-19, hiện đang được giải quyết thông qua Khung sắp xếp Hành lang Du lịch ASEAN (ATCAF).

- Đề nghị Bộ Giao thông vận tải cử đại diện tham dự các phiên họp nhóm công tác LTSSWG tiếp theo. Chủ trì, phối hợp tiếp tục thực hiện các công việc theo kế hoạch làm việc của nhóm công tác.

4. Các nội dung khác

- Đối với Các quy tắc dịch vụ khả thi hoặc thỏa thuận để giải quyết các vấn đề mới hoặc đang phát sinh: Đề nghị rà soát, nghiên cứu tài liệu do Singapore soạn thảo, đồng thời đề xuất phương hướng tạo thuận lợi cho dịch vụ (nếu có).

- Đối với Chương trình công tác của CCS đến năm 2025, đề nghị đề xuất và xác định các nhiệm vụ đối với 9 mục hoạt động mà nội dung chưa được xác định (mục hoạt động số 5, 6, 7, 8, 12, 13, 14, 15 và 16) nhằm thực hiện tất cả các nhiệm vụ chưa hoàn thành trong Chương trình công tác.

Đề nghị Quý Cơ quan nghiên cứu, góp ý kiến bằng văn bản về các nội dung thuộc lĩnh vực phụ trách và được đề xuất tham gia ý kiến tại các mục 1, 2, 3 và 4 phần II nêu trên, gửi về Bộ Kế hoạch và Đầu tư trước ngày **06/11/2021** để tổng hợp, báo cáo.

Bộ Kế hoạch và Đầu tư mong nhận được sự phối hợp chặt chẽ của Quý Cơ quan./.

Nơi nhận:

- Như trên;
- Vụ TCCB (để báo cáo);
- Vụ KTĐN;
- Lưu: VT, KTDV.



Võ Thành Thống

AMS' Positions on ATISA- Ratchet Obligation (without prejudice)

AMS	Ready to adhere to Ratchet Obligation upon EIF of NCM	Require grace period (please indicate how long)
Brunei Darussalam		
Cambodia		
Indonesia		
Lao PDR		
Malaysia		
Myanmar		
Philippines		
Singapore		
Thailand		
Viet Nam		

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SCHEDULE OF NON-CONFORMING MEASURES FOR THE ASEAN TRADE IN SERVICES AGREEMENT

EXPLANATORY NOTES

1. Annex I of the Schedule of each ASEAN Member State sets out, pursuant to Article 11 (Schedules of Non-Conforming Measures), existing measures of that Member State that do not conform to the obligations imposed by

- a) Article 6 (National Treatment);
- b) Article 7 (Most-Favoured-Nation Treatment);
- c) Article 8 (Market Access);
- d) Article 9 (Local Presence); and/or
- e) Article 10 (Senior Management and Board of Directors).

2. Annex II of the Schedule of each ASEAN Member State sets out, pursuant to Article 11 (Schedules of Non-Conforming Measures), the specific sectors, subsectors or activities for which that Member State may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by

- a) Article 6 (National Treatment);
- b) Article 7 (Most-Favoured-Nation Treatment);
- c) Article 8 (Market Access);
- d) Article 9 (Local Presence); or
- e) Article 10 (Senior Management and Board of Directors).

3. Each entry in both Annex I and Annex II sets out the following elements:

- a) **Sector** refers to the sector for which the entry is made;
- b) **Subsector**, where referenced, refers to the specific subsector for which the entry is made;
- c) **Industry Classification** refers, where applicable, to the activity covered by the non-conforming measure, according to:

- (i) The Provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991); or
 - (ii) Other domestic or international industrial classification codes, as may be specified in the Schedule of the respective ASEAN Member State;
- d) **Types of Obligations** specifies the obligations referred to in paragraphs 1 and 2 that, pursuant to Article 11 (Schedules of Non-Conforming Measures), do not apply to the listed measures;
- e) **Description of Measure** sets out the non-conforming measure for which the entry is made; and
- f) **Source of Measure** means the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:
- (iii) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and
 - (iv) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

4. In accordance with Article 11 (Schedules of Non-Conforming Measures), the Articles specified in the Type of Obligations element of an entry do not apply to the non-conforming measure identified in the Description element of that entry.

5. For greater certainty, the Description element of each of the entries in this Annex I is to be interpreted in accordance with the relevant cited sources of the non-conforming measures.

SCHEDULE OF <AMS X's NAME>

ANNEX I

1 [Numbering of NCM]

Sector	:	
Sub-sector	:	
Industry Classification	:	
Type of Obligation	:	
Description of Measure	:	
Source of Measure	:	

ANNEX II

1 [Numbering of NCM]

Sector	:	
Sub-sector	:	
Industry Classification	:	
Type of Obligation	:	
Description of Measure	:	
Source of Measure	:	

**Work Plan for Preparation of
Schedules of Non-Conforming Measures (NCMs)
Under the ASEAN Trade in Services Agreement (ATISA)**

Baseline Date (X): 5 April 2021 (Entry into Force of the ATISA)

Date	ASEAN-6	Viet Nam	CLM
Q1 / 2023	Submission of 1 st Draft		
Q1 / 2024			
Q3 / 2024	Submission of 2 nd Draft		
Q1 / 2025		Submission of 1 st Draft	
Q4 / 2025	Submission of Final Draft		
5 April 2026 (X+5)	Formal Submission		
Q3 / 2026		Submission of 2 nd Draft	
Q1 / 2027	Submission of Rev NCM		Submission of 1 st Draft
Q4 / 2027	Submission of Final NCM	Submission of Final Draft	
5 April 2028 (X+7)	AFAS no longer in force (end of transition)	Formal Submission	
Q1 / 2029		Submission of Rev NCM	Submission of 2 nd Draft
Q4 / 2029		Submission of Final NCM	
5 April 2030 (X+9)		AFAS no longer in force (end of transition)	
Q4 / 2033			Submission of Final Draft
5 April 2034 (X+13)			Formal Submission
Q1 / 2035			Submission of Rev NCM
Q4 / 2035			Submission of Final NCM
5 April 2036 (X+15)			AFAS no longer in force (end of transition)

Note:

- Technical verification will begin upon submission of draft NCM until next submission
- Submission of NCMs in financial and air transport services will be consolidated into the next submission of the respective AMS

Policy Considerations

Formal
Submission

- What will be the formality to mark this timeline? Signing of a Protocol immediately before this timeline?
- Would the formalisation of the NCMs be done through a Protocol?
- Would there be 3 Protocols, one for each cluster of AMS?
- Shall the NCMs be published at this time (with the disclaimer as per ATISA caveat of 2 years revision)?

AFAS no
longer in force

- What will be the formality to mark this timeline?
- Will there be another Protocol to sign? Or would this timeline be already specified in the Protocol signed above?
- Will the revised NCMs be simply uploaded administratively (without legal formality) upon approval by CCS?

Proposed Indicative Checklist for Preparing the ATISA Non-Conforming Measures (NCM)

NO.	ITEMS	STATUS
1.	Coverage of all trade in services sectors will include <u>horizontal</u> and <u>specific scheduled commitments</u> made under the 10 th AFAS package.	
2.	To cross check the Modes of supply with the existing measures and laws.	
3.	To do an inventory on all existing laws, regulations and rules or any other measures regulating the sectors made under the 10 th AFAS Package.	
4.	To do an inventory on all State measures governing and regulating the sectors made under the 10 th AFAS Package (if applicable).	
5.	Identifying the discrimination according to the Modes of supply based on the measures.	
6.	If the measure does not discriminate or is not inconsistent under the obligations of NT; MFN; MA; LP and SMD, there is no requirement to have an NCM.	
7.	To cross check draft NCMs with all the AFAS packages, to ensure consistency.	
8.	For all Ministries / Agencies to ensure that the NCMs are in accordance with the measures under their respective Ministries / Agencies / State.	
9.	Preparation of Country Specific Headnote.	

Notes:

All Ministries and Agencies are advised to familiarise themselves with “measures” that regulate the trade in services sector under their respective purview.

Article 5 (Definitions) provides:

- (a) “**measure**” means any measure by a Member State, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.
- (b) “measures by a Member State” means measures taken by:
 - (i) central, regional or local governments and authorities of a Member State; and
 - (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities of a Member State;
- (c) “measures by a Member State affecting trade in services” includes measures in respect of:
 - (i) the purchase, payment or use of a service;
 - (ii) the access to and use of, in connection with the supply of a service, services which are required by those Member States to be offered to the public generally; and
 - (iii) the presence, including commercial presence, of persons of a Member State for the supply of a service in the territory of another Member State.

Technical Verification of Schedules of Non-Conforming Measures (NCMs) under the ASEAN Trade in Services Agreement (ATISA)

INTRODUCTION

1. This paper is prepared based on the request of the 94th CCS Meeting (23-25 October 2019, Pasay City) on the subject of **technical verification process** for ensuring that the draft Schedules of Non-Conforming Measures (NCMs) under the ASEAN Trade in Services Agreement (ATISA) represent a **level of trade liberalisation** that is equal to or greater than the level of trade liberalisation of AFAS Packages, pursuant to paragraph 1 of Article 12 (Transition to Schedules of Non-Conforming Measures) of the ATISA.

2. This paper is therefore intended to **highlight the areas that may need to be assessed or discussed** by the CCS during the technical verification process, as well as to **identify issues that may need to be decided or confirmed** before commencing this process. In this context, it needs to be highlighted that while this paper is **not** intended to discuss about **how to transpose** the AFAS schedules into the ATISA NCMs¹, some of the issues encountered during the technical verification process may arguably be more considered as **scheduling issue**, rather than related to **equivalency of level of liberalisation**. Therefore, the areas discussed in this paper will touch upon both types of issues.

3. It needs to be emphasised that many of the issues listed in this paper are inter-related, and hence all the issues may need to be taken into account altogether.

EXCLUDED SECTORS AND MEASURES FROM THE NCMs

Excluded Sectors and Subsectors

4. The technical verification process will need to ensure that the following sectors and subsectors are **not** included in ATISA NCMs, unless otherwise they are clarified, discussed, and **approved** within the CCS:

- a) Services excluded under **Article 2 (Scope)** of the ATISA (**Note: exclusions in this Article actually also include some measures**)
- b) Sectors, subsectors, and/or subset of subsectors scheduled as entirely **“None”** across all modes of supply in the AFAS schedules.

¹ Guidelines or manual on how to transpose positive list schedules into negative list schedules have been extensively covered in several technical assistance projects extended to AMS from several ASEAN's Dialogue Partners.

5. A **possible exception** to paragraph 4b) rule above would be obligations related to Local Presence (LP) and Senior Management and Board of Directors (SMBD), subject to further deliberation by the CCS as discussed below in paragraph 28.

6. Other than the above, AMS may schedule various sectors and subsectors into the NCMs, including those sectors and subsectors that do not appear in current AFAS schedules, subject to other scheduling rules and requirements as to be discussed further in this paper.

Excluded Measures

7. The technical verification process shall also ensure that the following measures are **not** included in the ATISA NCMs, unless otherwise they are clarified, discussed, and **approved** within the CCS:

- a) First type are those measures **consistent with reservable ATISA obligations** (e.g. measures applied equally to all service suppliers²). While these measures still incur certain obligations to the service suppliers, they do not need to be scheduled.
- b) Second type are measures related to Section IV (**Regulatory Obligations and Disciplines**) of the ATISA, covering Articles 14 up to 24. These measures are subject to obligations and disciplines stipulated in those Articles, are not subject to reservations, and therefore should not be included in the NCM.

8. An arguable point related to paragraph 7b) above is Article 22 (**General Exceptions**). The Article allows such exceptions to be imposed by AMS “*Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services.*” This is also a similar rule as applied under the GATS. While in principle any breach to this rule is not allowed, there are some who argue that such breach may be scheduled. Therefore, should an AMS include measures related to general exceptions, those measures may need to be **considered** and **approved** by the CCS.

ANNEX I AND ANNEX II ISSUES

Annex I and Annex II: Horizontal Measures

9. The technical verification for horizontal measures (i.e. measures applicable to all sectors and subsectors) in both Annex I and Annex II may need to address at least two types of issues, namely:

- a) Necessity of scheduling those horizontal measures not scheduled under the horizontal section of AFAS schedules, and

² There are some technical elaborations under the GATS and relevant WTO documents (such as S/L/92) about equality of treatment, which could be formally identical or formally different treatments.

b) Allocation of horizontal measures between Annex I and Annex II.

10. On the first issue: given the different nature of negative list approach compared to positive list approach, it is not uncommon that countries schedule higher number of horizontal measures than what they would normally put into the horizontal section of their positive list schedules, and typically also with greater details. There may be some good reasons for some of those additions, including the applicability of horizontal measures which will also take into account sectors and subsectors not scheduled before under the positive list approach. For technical verification purpose, however, the necessity and appropriateness of those additions cannot be determined from the submitted draft schedule alone, as there could be a number of country-specific factors prompting the scheduling of those reservations. Therefore, each AMS will have to **explain** the reasons for including those horizontal measures for **consideration and approval** of the CCS.

11. On the second issue: It is quite common in negative list FTAs that Parties schedule some, if not all, of their **existing** horizontal measures in Annex II instead of in Annex I notwithstanding the theoretical concept that countries shall reflect as much existing non-conforming measures in Annex I as possible. Similar to the first issue in the above paragraph, there could be good reasons for such placement but this could not be determined from the draft schedule alone. As such, each AMS will have to **explain** the reasons for including those existing horizontal measures under Annex II for consideration and approval of the CCS.

12. At this stage, given the lack of experience of a majority of AMS in preparing NCMs, it is **not** recommended that CCS set **numerical threshold** for scheduling horizontal reservations. The need for scheduling of some horizontal reservations, and their allocation between Annex I and Annex II, may have to be **discussed** and **approved** on a case-by-case basis. Nonetheless, AMS are encouraged to include a reasonable share of their reservations into Annex I, especially if the standstill obligation remains the rule (see discussions in paragraphs 17 to 19 below).

Annex I and Annex II: Overlaps

13. Another essential exercise in the technical verification of Annex I and Annex II scheduling is to ensure that there is **no overlap between Annex I and Annex II**. AMS will need to assess whether each of the Annex II reservations in their own schedule, as well as in other AMS' schedules, may be interpreted as nullifying one or more of the commitments scheduled under Annex I.

14. There is a scheduling technique where countries may insert provision such as *"This Annex II reservation will not be used in a way which undermines an Annex I commitment"* in the general note and/or in areas where there are obvious or potential overlaps. Notwithstanding, where overlaps are identified, the cases may still need to be **clarified** and **considered** within the CCS on a case-by-case basis.

Annex I: Existing vs. Bound Measures

15. Annex I is –by definition– a listing of ***existing*** measures in a country bound into its reservation list. This is a different concept from the positive list approach where the ***bound*** measures listed in the schedules may indeed reflect existing measures or may also reflect lower level of commitment that the country is ready to bind. Therefore, each AMS has the **responsibility to ensure** that the commitments that they schedule in Annex I are ***the actual measures prevailing*** in their respective countries.

16. The technical verification process will ***only*** be able to ensure that the measures inscribed in Annex I are ***no less liberal than existing AFAS commitments*** for the same set of sectors/subsectors. The verification process ***may not be able to verify*** whether the Annex I measures are the *de facto* existing measures without undertaking actual regulatory check for each scheduled sectors/subsectors in each AMS. Unless AMS are able to commit time and resources to cross-check and make sure the compliance of another AMS, there is a need for **trust** among AMS that everyone schedules their Annex I faithfully.

Annex I: Standstill vs. Ratchet Obligations

17. Paragraph 1(c) of ATISA Article 11 (Non-Conforming Measures) provides for **standstill** obligation for Annex I. However, paragraph 4 of the same Article mandates the CCS to commence discussion on **ratchet** commitment upon entry into force of the ATISA. CCS shall also note that under the RCEP process, all countries (including ASEAN) have ***already agreed*** on ratchet obligation for Annex I.

18. The decision on this obligation is likely to impact how much sectors and subsectors that each AMS are willing to schedule into Annex I. Should the existing agreed ATISA text on standstill be maintained, AMS shall be able to schedule a significant majority of their AFAS commitments in Annex I (actually at even higher level since that Annex I reflects the *de facto* level instead of bound level), given that current positive list commitments are ---technically speaking--- of standstill nature against the scheduled level. Should ratchet obligation be eventually decided and applied under the ATISA, AMS may need to calibrate their commitments in the various sectors and subsectors for inclusion in Annex I.

19. Therefore, CCS will need to **commence discussion and decision on ratchet obligation** early, if possible, earlier than the timeline envisaged in the ATISA. This takes into account the consideration that AMS may need such clarity in deciding how many, and which, subsectors to be scheduled under Annex I.³

³ It is technically doable to allow for ***both*** standstill and ratchet obligations to co-exist in Annex I with markings to differentiate them in the schedule. However, the Secretariat is not aware of existence of such scheduling practice in actual agreements. Besides, such differentiated level of commitments may create unnecessary confusion and uncertainty to the private sector.

Annex I: Extent of Scheduling of Sectoral Measures

20. This refers to how many **sectoral measures** that each AMS shall schedule, in addition to the horizontal measures, **under Annex I** instead of under Annex II. Notwithstanding the issue of standstill vs. ratchet obligation discussed above, countries always have the option of scheduling their various measures in either Annex I or Annex II. For countries who wish to preserve as much policy space as possible, there is always a tendency to schedule as few measures as possible under Annex I.

21. On this matter, CCS may need to decide on the following options to ensure that the **number of sectors/subsectors scheduled under Annex I** of each AMS in the ATISA NCMs are useful, credible, business-friendly, and business-facilitating:

- a) To be **negotiated** within the CCS plenary, or
- b) To be subjected to a **threshold** number set by the CCS.

22. The setting of threshold for this scheduling (e.g. Annex I shall include at least x% of total subsectors scheduled under AFAS which are not entirely scheduled as 'None'; or shall be at least y% of total NCMs scheduled in the ATISA) may require further reflection and deliberation, given that transposition from positive list to negative list schedules is not a direct one-to-one mapping and that most AMS do not have experience in scheduling negative list. In addition, the scheduling of Annex I is likely to be also affected by the decision of whether it remains a standstill obligation or a ratchet obligation as discussed in the above section. Therefore, a possible timing for discussing possible threshold could either be:

- a) Together with the discussion on standstill vs. ratchet obligation (Note: this takes into account that by that time AMS should have gained some sense of their readiness to schedule Annex I based on their experience in preparing draft NCMs); or
- b) After the first batch of AMS submitted and explained their draft NCMs.

23. Notwithstanding the eventual decision on this matter, AMS are encouraged to schedule as many existing measures as possible into Annex I, especially if standstill obligation is maintained as discussed in the above section.

Annex II: Reservations without Existing Measures

24. It is not uncommon that countries preserve policy space on certain sensitive matters for which no existing measures prevail (i.e. the countries concerned are not able to list the source of such measure in their Annex II NCM). Given that there is no formal legal basis for inscribing such reservations, the scheduling AMS may need to **explain** the details of the reservations and the necessity for their inclusion for **consideration** and **approval** of other AMS.

OBLIGATION-SPECIFIC ISSUES

Local Presence and Senior Management and Board of Directors

25. Local Presence (LP) and Senior Management and Board of Directors (SMBD) are typical negative-list obligations, and are not explicitly referred to in the main text of positive-list GATS-type agreements. Some AMS do schedule such measures under Market Access (MA) and/or National Treatment (NT) column in a number of sectors/subsectors in their existing AFAS schedules, and therefore these measures may continue to be scheduled in the ATISA NCMs, now under the respective LP and/or SMBD disciplines.

26. However, LP and SMBD restrictions were not non-existent before and even had been recognised even under the GATS. The WTO document S/L/92 on the Guidelines for the Scheduling of Specific Commitments under the GATS mentioned the following:

- a) Commercial presence requirement under cross-border trade arguably amounts to an “unbound” (page 13);
- b) A requirement of certain forms of commercial presence could rule out cross-border supply (page 33);
- c) “Residency requirement for managers and the members of the board of directors of a company” (page 17) and “A non-national needs permission to become a director of a financial institution” (page 18) are listed as examples of frequently occurring NT restrictions; and
- d) “Limitations on the nationality or residency of directors or board members” (page 33) is included in the NT column of the model schedule of commitments on basic telecommunications.

27. Therefore, AMS **should have scheduled** these two restrictions in all sectors and subsectors in their current AFAS Packages, where these two restrictions do occur. Nonetheless, as LP and SMBD are not explicitly stated in the text of positive-list agreements, the necessity of scheduling these two limitations in positive list schedules might be subject to policy debate. Notwithstanding the debates, given that LP and SMBD are now explicit obligation under the ATISA, AMS shall still **stock-take** of their breach of these obligations across **all** sectors and subsectors, whether scheduled or not in existing AFAS packages, for appropriate scheduling into the ATISA NCM.

28. In terms of technical verification process, then, any **additional** scheduling of LP and SMBD reservation for existing sectors and subsectors under the AFAS packages may have to be **clarified** to and **approved** by the CCS. It is further recommended that AMS (a) do not reserve LP and SMBD broader or more than necessary (e.g. broad LP and SMBD reservation for all sectors and subsectors not scheduled under AFAS), and (b) as much as possible schedule them under Annex I rather than Annex II.

Market Access and National Treatment

29. Existing Market Access (MA) and National Treatment (NT) measures are relatively easier and direct for assessment during technical verification process:

- a) AMS shall not impose more restrictive MA and NT measures in their Annex I or Annex II on the sectors and subsectors which are already scheduled under AFAS.

Note: More liberal reservation (less restrictions) on these sectors and subsectors shall be expected under the ATISA NCM, especially in Annex I where AMS shall make reservation at existing regime instead of bound commitments.

- b) Scheduling of MA and NT measures for sectors and subsectors not scheduled under existing AFAS packages may require **explanations** to other AMS for consideration.

Technically speaking, reservations on sectors and subsectors not scheduled in AFAS packages do not violate the requirement of equivalency against AFAS schedules. However, explanations would be useful for transparency purpose, and ideally also to ensure that AMS do not restrict their markets more than necessary.

Most-Favoured-Nation Treatment

30. The scheduling, and hence the technical verification, for Most-Favoured-Nation (MFN) treatment reservations under the ATISA may not be straightforward for at least two factors: (a) applicability of current MFN exemptions to all countries in the world; and (b) automatic MFN obligation under the ATISA. In addition, unlike the scheduling of MFN exemptions under AFAS, there will also be a separate scheduling for MFN exemptions in financial services.

31. On current MFN exemptions scheduled under the AFAS, a significant majority of these exemptions make reference to treatments to ***all countries in the world*** (some cases refer to WTO members, some other cases refer to any country in the world where the AMS concerned have bilateral or reciprocal arrangements). However, in the context of ATISA the MFN Article explicitly makes reference to treatment to ***other AMS***. To some extent, nonetheless, these exempted lists under the AFAS may still be useful basis to schedule MFN reservations under the ATISA. Therefore, AMS may wish to **reflect** on the ***relevance*** of some MFN exemptions in the context of ATISA, and ***make appropriate adjustments*** accordingly. This is particularly needed for those exemptions where there have been ***no cases nor potential*** of AMS being affected by the exemption. Therefore, it would be helpful for each AMS to **clarify** on all the cases of maintenance of existing exemptions in the ATISA, especially those applicable to all countries in the world. Furthermore, should the transposition of AFAS commitments into ATISA NCMs result in additional MFN reservations beyond the current MFN exemptions, this also have to be **clarified** for CCS consideration.

32. On automatic MFN obligation, this is a new obligation under the ATISA and as such there is no basis for technical verification for this obligation against existing AFAS commitments. Similar with the other new ATISA obligations discussed above, AMS are encouraged to **minimise** the extent of their reservations (and **avoid broad carve-outs**) of this automatic MFN obligations, and **explain** their proposed automatic MFN reservations, if any, for consideration of other AMS.

33. On financial services, ATISA provides for ***separate scheduling*** of MFN exemptions for these services, as they are only subject to negotiated MFN provision instead of automatic MFN. While the scheduling and consideration of this list is not

under the purview of the CCS, given that the NCM for financial services will still need to be synchronised with all other NCMs under the CCS purview (pursuant to the decision of the 94th CCS meeting), coordination with the WC-FSL may also be needed to ensure that the list of MFN exemptions for financial services be ready for endorsement together with the overall ATISA NCMs.

SCHEDULING FORMAT

34. Prior to submission of draft ATISA NCMs, CCS may also need to **discuss** or **confirm** the common template for the NCM schedules, along with the common headnote. CCS may note that the CCI used to conduct discussions on these matters when preparing for the reservation lists under the ACIA. CCS also may note that, unlike the RCEP process where a common template for the schedules was not discussed during the negotiations, under the ATISA process the CCS will have several years to prepare the NCMs and to discuss all related matters, including the common template and common headnote.

35. Related to the issue of scheduling format, under the RCEP process there have been cases of few countries embedding positive-list schedules (mainly market access obligations) into their NCM schedules, while financial services have been scheduled by most countries using positive list approach. Under the ATISA process, at least for services under the purview of the CCS, given that AMS will have a number of years to prepare the NCMs, it is recommended that all AMS submit NCM lists using the to-be-agreed common template ***without such “hybrid” scheduling format.***

PREPARING FOR THE TECHNICAL VERIFICATION

36. As a re-cap, the most critical exercises for CCS prior to submission of ATISA NCMs and undertaking technical verification are

- a) policy discussions on applicability of ratchet obligation to Annex I (see paragraph 19); and
- b) common template and common headnote for the ATISA NCMs (see paragraph 34).

37. CCS decision on the extent of scheduling Annex I as compared to Annex II (i.e. whether requiring a negotiation process or subject to threshold: see paragraph 21) will also be helpful. The sooner that CCS discuss on this, the better.

38. In submitting the ATISA NCMs, given the extent of areas where clarifications are helpful ---and even needed--- for other AMS in considering and approving the draft NCMs, it is recommended that AMS also supplement clarificatory notes to their draft NCMs. Based on the above discussion points, the clarificatory notes ***will include, but not limited to,*** the following areas, as applicable and relevant to their draft schedules:

- a) Inclusion of sectors/subsectors and measures which should have been excluded, as discussed in paragraph 4 to 8;
- b) Scheduling of horizontal measures not in existence in AFAS schedules;

- c) Reasons for scheduling of those existing horizontal measures under Annex II instead of under Annex I;
- d) Scheduling of Annex II reservations where existing measures do not exist;
- e) Areas of overlaps between Annex II and Annex I;
- f) Scheduling of LP and SMBD reservations in sectors and subsectors under the AFAS Packages, particularly if these were not scheduled before under AFAS;
- g) Scheduling of MA and NT measures for sectors and subsectors not scheduled under AFAS; and
- h) Scheduling of MFN reservation, particularly on the maintaining of MFN reservations applicable to all countries in the world into the ATISA, inclusion of automatic MFN reservations, and inclusion of additional MFN reservations not scheduled before.

39. CCS will also need to coordinate with WC-FSL counterparts not only to ensure that the submission of ATISA NCMs in financial services are timely in line with the ATISA provisions, but also the submission of MFN exemptions in financial services.

40. Last but not least, given the likelihood of NCMs under the RCEP process be ready earlier than the ATISA, the technical verification process will also need to **ensure** that the ATISA NCMs are not more restrictive than the RCEP NCMs.

⌘

Concept Paper on Services Facilitation

In line with the AEC Blueprint 2025¹, the Coordinating Committee on Services (CCS) undertook to *develop a concept paper on possible services disciplines and/or agreement to address new or emerging issues related to services in ASEAN (e.g. digitalisation of services, sector-specific disciplines on domestic regulation etc.)* as an Annual Priority for 2021. This paper develops the concept of services facilitation and the possibilities it offers for the next step for services integration and cooperation in ASEAN.

Background

2. The services sector is a crucial component of ASEAN's economy. It has grown over the years on the back of technological advances and has also become a key engine of economic recovery from the COVID-19 pandemic. During the last 14 years, ASEAN's total Trade in Services has more than tripled from US\$252.2 billion in 2005 to US\$844.6 billion in 2019. In the same period, total ASEAN exports of services increased nearly fourfold from US\$112.5 billion to US\$444.8 billion, while total ASEAN imports of services increased nearly threefold from US\$139.6 billion to US\$399.8 billion.² With the region's services sector poised to expand even more, it is opportune for ASEAN Member States (AMS) to work together to tap into new opportunities and position ourselves for growth.

3. At present, the 1995 General Agreement on Trade in Services (GATS) is the first and only set of multilateral rules governing international trade in services. Within the GATS and in plurilateral Free Trade Agreements (FTAs), including those that ASEAN Member States (AMS) are party to, there are several disciplines that help facilitate trade in services, including articles on transparency and domestic regulations. There are ongoing multilateral efforts to improve the trade in services environment, including at the World Trade Organisation (WTO) through the Joint Statement Initiative (JSI) on Domestic Regulations.

4. Within ASEAN, there has yet to be a coherent and coordinated approach to services facilitation. While the concepts of goods facilitation and investment facilitation are well established, the equivalent for services is noticeably less developed. Ongoing efforts to further services integration have focused mostly on improved market access commitments and text-based provisions. The ASEAN Framework Agreement on Services (AFAS) and subsequently the ASEAN Trade in Services Agreement (ATISA) offer AMS

¹ Relevant AEC Blueprint 2025 action lines include: A2.5 on "Simplify and streamline domestic rules and procedures related to investment in the services sectors", A2.7.1 on "Explore possible areas where AMS can adopt guidelines or directives on domestic regulations, such as enhancing transparency on domestic regulation/publication of existing measures" and A2.7.2 on "Establish possible disciplines on domestic regulations based on best practices"

² Source: ASEAN Key Figures 2020

the widest market access to each other's services sectors. At the multilateral level, several AMS have joined the WTO JSI on Domestic Regulations and other AMS are considering their participation.

Concept of Services Facilitation

5. As ASEAN works toward deeper integration of its services sector, regional businesses will benefit from AMS working together on services facilitation which would entail **end-to-end support that enables the seamless provision of services to the regional market**. This would complement the benefits of market access liberalisation and commitments made in text-based provisions in areas such as domestic regulations and transparency. There are four key benefits for ASEAN to develop and operationalise the concept of services facilitation:

- a. ASEAN could **spearhead and be a demonstrative model** by setting regional standards to improve the trading environment for services suppliers. It would also allow AMS to cooperate beyond trade agreements and not be bounded by negotiations timelines.
- b. ASEAN services providers could benefit from an **improved business environment** including from clearer procedures and simplified channels that facilitate cross-border services provision to the regional market.
- c. As the ease of services trade is a key determinant of foreign direct investment, ASEAN could be positioned as an **attractive investment destination** to foreign service providers with clear, predictable, and transparent rules that govern the services sector.
- d. AMS could benefit from **strengthened implementation of services agreements** including the ATISA, including by leveraging synergies across existing disciplines.

6. For services facilitation to help our companies better take advantage of prevailing market access and enhance the usability of article commitments that AMS have made, we can cooperate on key elements that are business-centric and have an operational focus. This is not unfamiliar to ASEAN as there are similar provisions in Transparency and Cooperation articles across various ASEAN and ASEAN+1 Free Trade Agreements (FTAs).

7. While the concept of services facilitation would need to be developed further, potential elements that ASEAN could further collaborate on under this concept could include:

- a. Mapping of business journey of regional services providers to identify gaps and challenges in end-to-end services delivery.
 - b. Identification of key bodies across AMS for businesses to obtain information, access capacity building resources, and report potential barriers.
 - c. Process to identify and develop solutions for challenges faced by services suppliers in first and last mile services delivery.
 - d. Capacity building to improve understanding of services trade across the region, including improving information and data collection.
 - e. Mechanism for AMS to address the identified barriers, including for such issues to be reported to CCS.
8. To operationalise the concept of services facilitation, we could begin by potentially adopting a more coordinated approach and pursue greater coherence and collaboration through a set of non-legally binding guidelines or a framework. This could offer the following.
- a. More flexibility in addressing operational issues. The impact on services providers is at the operational level. AMS need to be able to react quickly and address emerging challenges and specific barriers. It is unwieldy to have to renegotiate FTA articles to address operational level details.
 - b. Ability to build on the approach over time and react to business needs. The challenges that businesses face often require the flexibility of an iterative approach where AMS better understand the issue and can converge on a common solution. We may not know the full universe of the challenges that businesses face.
 - c. Serve as a pilot and pathfinder approach. The issues that are identified through the focus on services facilitation can be a pathfinder for AMS to explore how to bring in relevant changes as text commitments at a time when all AMS are ready, catering to the domestic considerations of AMS by adopting a business-led approach.³

³ ASEC had identified 14 potential disciplines, including a) Single points of contact; b) Rights of recipients of services; c) Simplification of business procedures and formalities; d) Processing/administration of applications; e) Independence of competent authorities; f) Transparency and publication (incl. for measures, technical standards, licensing requirements, and related information); g) Opportunity to comment prior to adoption of measures; h) Adoption of technical standards; i) Acceptance of authenticated copies of documents; j) Acceptance of electronic applications ;k) Necessity tests; l) Conduct of examinations for authorisation to supply service; m) Sustainable development goals and circular economy;

Next Steps

9. CCS could set the development of a services facilitation framework as an Annual Priority for 2022. As mentioned above, this could be a non-legally binding framework, akin to the ASEAN Investment Facilitation Framework.

10. In parallel, AMS could explore the concept of services facilitation further by inviting the Organisation for Economic Cooperation and Development's (OECD), Economic Research Institute for ASEAN and East Asia (ERIA), and ASEAN-Japan Centre (AJC) to conduct studies on services facilitation. CCS could take the findings into account as we implement the proposed framework.

For CCS Consideration and Discussion:

- To commit to further develop the concept of services facilitation, which would allow AMS to spearhead regional rules and standards in this area, while enhancing ASEAN's business environment and bringing benefit to local businesses.
- To further explore the concept of services facilitation by setting it as a CCS Annual Priority for 2022, with the potential deliverable of a services facilitation framework akin to the ASEAN Investment Facilitation Framework.
- To invite the OECD/ERIA/AJC to conduct parallel studies on the concept of services facilitation.

* * * * *

Prepared by: CCS Singapore
Discussed with: CCS Chair, CCS Malaysia, ASEC
Date: 15 Oct 21

n) Gender equality. However, to ensure efforts to negotiate further disciplines are effective and beneficial to businesses, CCS can adopt a bottom-up approach through the services facilitation concept.

<p style="text-align: center;">PROTOCOL TO ^[PH: AMEND THE SCHEDULE] ^[ID: ADOPT THE COMMON FORMAT SCHEDULE] ^[SG: REVISE AND STANDARDISE THE SCHEDULING] OF COMMITMENTS UNDER THE ASEAN AGREEMENT ON THE MOVEMENT OF NATURAL PERSONS</p>	<p>Deleted: IMPLEMENT THE SECOND PACKAGE</p>
<p>The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, 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 as "Member State".</p>	<p>Deleted: (Deleted:);</p>
<p>RECALLING the ASEAN Agreement on ^[PH: the] Movement of Natural Persons ("ASEAN MNP Agreement") signed on 19 November 2012 in Phnom Penh, Cambodia, which seeks to facilitate the movement of natural persons engaged in the conduct of trade, in goods, trade in services and investment between Member States;</p>	<p>Deleted: ;</p>
<p>NOTING the mandate of the ASEAN Economic Community Blueprint adopted at the 27th ASEAN Summit held on 21 November 2015 in Kuala Lumpur, Malaysia that facilitating movement of skilled labour and business visitors is one of the [integral] ^[SG: key] elements of a highly integrated and cohesive economy [characterising] ^[SG: characteristic of] the ASEAN Economic Community ("AEC"), [which] ^[SG: and] include^[SG: s] the strategic measure to expand and deepen commitments under the ASEAN MNP Agreement where appropriate;</p>	<p>Commented [A1]: MTI-ASEAN We made edits to reflect language used in the AEC Blueprint 2025</p> <p>Commented [A2]: PH (18 Oct 2021): PH can agree</p>
<p>HAVING carried out discussions to review the Schedules of Commitments under the ASEAN MNP Agreement as set out by each Member State for the temporary entry or temporary stay in its territory of natural persons of other Member States pursuant to Article 6 ("Schedules of Commitments for the Temporary Entry and Temporary Stay of Natural Persons").</p>	<p>Commented [A3]: PH (18 Oct 2021): PH can agree</p>
<p>DESIRING to improve ^[SG: the] current Schedule of Commitments by ^[ID: standardising the format of scheduling MNP commitments across all AMS.] ^[SG: revising the Schedules of Commitments and standardising their scheduling by adopting a common headnote and format across all AMS for the scheduling of these revised Schedules of Commitments.] ^{[PH: and explore the development of a work programme to pursue further}</p>	<p>Commented [A4]: MTI-ASEAN We have proposed these edits to clarify the objective of this Protocol, per MTI's instructions that the purpose of the Protocol is to set out a common headnote as well as additional commitments in AMS' revised schedules of commitments of AMS.</p>

liberalisation of the MNP SOC pursuant to Article 7 of the MNP Agreement].

NOTING the decision of SEOM 3/52 and 53rd AEM to urge CCS to finalise the MNP Schedules of Commitments using an agreed common format within 2021.

[^{ID}: **AFFIRMING** the commitment to adopt the Common Format Schedule of Commitments under the ASEAN MNP Agreement under the terms as specified in this Protocol.]

[^{SG}: **AFFIRMING** the commitment to adopt revised Schedules of Commitments and to standardise the scheduling of such commitments under the ASEAN MNP Agreement under the terms as specified in this Protocol.]

HAVE AGREED AS FOLLOWS:

[^{ID}: 1. This Protocol aim to adopt the new common format of Schedule of Commitments under the ASEAN MNP Agreement with no backtracking of commitments] [^{PH}: and explore the development of a work programme to pursue further liberalisation of the MNP SOC pursuant to Article 7 of the MNP Agreement.]

[^{SG}: 1. This Protocol adopts a new common headnote for the Schedules of Commitments under the ASEAN MNP Agreement as follows.]

2. The Annexes to this Protocol shall consist of the schedules of each Member State's [^{ID}: of Horizontal Commitments and] Specific Commitments.

[^{PH}: 2. The Annexes to this Protocol shall consist of each Member State's schedules of Horizontal Commitments and Specific Commitments.]

[^{SG}: 2. The Annexes to this Protocol shall consist of each Member State's revised Schedule of Commitments for the temporary entry and temporary stay of natural persons. Each Member State's revised Schedule of Commitments may include additional commitments to further liberalise the movement of natural persons, but shall not include revisions that decrease the level of that Member State's commitments as it existed at the date of the entry into force of the ASEAN MNP Agreement.]

Commented [A5]: PH (18 Oct 2021):
In addition to ID's edits, PH suggests inserting this language based on SEOM 3/52 and AEM 53.

Deleted: [
Deleted: eliminate substantially all restrictions in the temporary cross-border movement of natural persons involved in the provision of trade in goods, trade in services and investment within the provisions of this Agreement

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Commented [MTI-ASEAN6]: We have proposed this amendment for the common headnote to be indicated clearly. Otherwise, we could also include the headnote as an annex.

Deleted: Schedule of

Commented [MTI-ASEAN7]: We have proposed this language to reflect "no backtracking of commitments" that CCS has agreed on.

<p>3. Subject to each Member State's Schedule of Commitments, Member States shall accord preferential treatment to one another on a <u>Most-Favoured-Nation</u> basis.</p>	<p>Commented [ASEC8]: PH: We will wait for LSAD's feedback on the matter</p>
<p>4. This Protocol and its Annexes shall form an integral part of the ASEAN MNP Agreement.</p>	
<p>[PH: 5. This Protocol and its Annexes shall enter into force after all Member States have notified or, where necessary, deposited instruments of ratification with the Secretary-General of ASEAN, which shall not take more than 180 days after the signing of this Protocol.]</p> <p>[5. This Protocol and the commitments set out in its Annexes shall enter into force ninety (90) days after the date of signature of this Protocol. [SG: Upon entry into force of this Protocol, the Schedules of Commitments in the Annexes to this Protocol shall supersede the Schedules of Commitments previously made by Member States under the ASEAN MNP Agreement on [insert date the existing SOCs entered into force.]</p>	<p>Commented [ASEC9]: PH prefers merging para 5-7 into one for clarity - similar to Article 16 – Entry into Force of the ASEAN Agreement on MNP. The current text allows different dates of entry into force. We suggest that the merged paragraph read as follows:</p> <p>PH proposes that entry into force of the Protocol is after all Member States have completed their domestic procedures, and that all Member States agree to 180 days:</p> <p>Commented [MTI-ASEAN10]: We suggest stating clearly that these schedules will supersede the existing Schedules of Commitments of AMS. In this regard, please see paragraph 4 of our advice of 15 July 2021.</p>
<p>6. Member States shall complete their internal procedures for the entry into force of this Protocol and its Annexes. Each Member State shall, upon the completion of its internal procedures for the entry into force of this Protocol, notify the Secretary-General of ASEAN in writing.</p>	
<p>7. Where a Member State is unable to notify the completion of its internal procedures within ninety (90) days of the date of signature, the rights and obligations of that Member State under this Protocol and its Annexes shall commence on the date on which the Member State notifies the completion of its internal procedures.]</p>	
<p>8. This Protocol and its Annexes shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State. The Secretary-General of ASEAN shall also promptly furnish notifications made pursuant to this Protocol to each Member State.]</p>	
<p>IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to <u>Adopt the Common Format Schedule of Commitments</u> under the ASEAN Agreement on Movement of Natural Persons.</p>	<p>Deleted: Implement</p> <p>Deleted: Second Package</p>

Timeline for 2nd Package of MNP Commitments

ACTIVITIES	TIMELINE
SOC	
1. ASEC to circulate blank template for AMS to include additional headnotes and SOCs	14 Oct
2. CA, MY and PH to resubmit MNP SOC incorporating missing past commitments.	To be determined at 3 rd special CCS on MNP
3. CCS to finalise the common headnote and templates	To be determined at 3 rd special CCS on MNP
4. AMS to submit their draft 2 nd Package of MNP SOC using the common template	To be determined at 3 rd special CCS on MNP
5. All AMS to complete technical verification of each other's SOC	To be determined at 3 rd special CCS on MNP
6. AMS to submit final draft of 2 nd Package of MNP SOC	To be determined at 3 rd special CCS on MNP
7. ASEC to circulate formatted SOCs	To be determined at 3 rd special CCS on MNP
8. AMS to confirm formatted SOCs	To be determined at 3 rd special CCS on MNP
Protocol	
9. ASEC to circulate draft protocol	27 September 2021
10. CCS to discuss draft protocol	CCS 99 and 3 rd special CCS
11. AMS to send further comments on the draft protocol	To be determined at 3 rd special CCS on MNP
12. ASEC to circulate revised draft protocol	Q2 2022
13. CCS to finalise draft protocol	CCS 101
14. AMS conclude domestic process for signing	By Prep-SEOM for 54 th AEM
15. AEM to sign the protocol	54 th AEM

ASEAN AGREEMENT ON
THE MOVEMENT OF NATURAL PERSONS

ANNEX I
SCHEDULE OF COMMITMENTS FOR
THE TEMPORARY ENTRY OR TEMPORARY STAY OF NATURAL PERSONS¹
VIET NAM

This initial schedule is without prejudice to Viet Nam's rights to amend, withdraw or modify it in any manner whatsoever and at any point in time before the conclusion of the review of the ASEAN MNP Agreement. Viet Nam reserves the right to add, modify or withdraw the schedule prior to the date of entry into force.

¹ Note: The scheduling of specific commitments follows the Guidelines for the Scheduling of Specific Commitments (WTO Document S/L/92, dated March 28,2001). The Guidelines shall not, however, be construed as being legally binding

Para 1	<p>Agreed on the following text (subject to confirmation by Viet Nam)</p> <p>The following schedule sets out the commitments of ASEAN Member States and the general conditions and limitations governing those commitments in accordance with Article 6 (Schedules of Commitments for Temporary Entry and Temporary Stay of Natural Persons) in relation to the supply of services by a service supplier of an ASEAN Member State through the presence of natural persons of that ASEAN Member State in the territory of the Granting Member State, which apply only in relation to the categories of persons set out in this schedule.</p>
Para 2	<p>Some AMS expressed the view that the inclusion of this paragraph may pose legal ambiguity and requested for removal of this paragraph. Notwithstanding, most AMS indicated flexibility on the inclusion of this paragraph as slightly amended (subject to confirmation by Viet Nam)</p> <p>ASEAN Member States have the right to adopt and maintain any revisions, modifications, or amendments in accordance with Article 15 (Revisions, Modifications and Amendments) of this Schedule of Commitments.</p>
Para 3	<p>To be put in country-specific headnote, if necessary (subject to confirmation by Viet Nam)</p> <p>A natural person shall meet criteria in obtaining a license, permission, visa, etc. in any sector or subsector committed in this Schedule where it is required by existing laws, rules or regulations in each ASEAN Member States.</p>
Para 4	<p>Agreed on the following text (subject to confirmation by Viet Nam)</p> <p>For greater certainty, in accordance with Paragraph 3 of Article 4 (Grant of Temporary Entry or Temporary Stay), ASEAN Member States may deny temporary entry or temporary stay to natural persons of another Member State who do not comply with paragraphs 1(a) and 1(b) of Article 4.</p>
Para 5	<p>The placement of this paragraph and whether it will be part of a common headnote will be further discussed at the next meeting.</p> <p>[References to "CPC" in the Schedules of Commitments in this Annex refers to the provisional CPC codes as used in the Provisional Central Product Classification, Central Product Classification Version 1.1, Central Product Classification Version 2.0, or Central Product Classification Version 2.1 (Statistical Papers Series M No.77, Department of International Economic and Social Affairs, Statistical)]</p>
Para 6 and 7	<p>To be put into the SOC of applicable AMS (namely Cambodia, Indonesia, Lao PDR, Myanmar, Philippines, Thailand and Viet Nam) pending decision on the title of the heading.</p>

	<p>Section I refers to horizontal commitments and Section II refers to sector specific commitments. An empty (blank) conditions and [limitations] [measures] in Section II means that the conditions and [limitations] [measures] of the horizontal section shall apply or could be read as "unbound, except as indicated in the section I".</p>
Para 8	<p>Agreed for inclusion (ID, MY, TH); flexible (CA, PH); to further consult (SG); to confirm (BN, LA, MM, VN)</p> <p>[^{SG}- For greater certainty, all commitments set out in this schedule are treated in accordance with the applicable laws and regulations in each ASEAN Member States.] The Schedules of other Member States shall not be used to interpret a Member State's commitments or obligations under the Agreement.</p>

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SECTION I: HORIZONTAL COMMITMENTS

Vietnam reserves the right to adopt or maintain measures related to temporary entry or temporary stay of natural persons of a Member State into the territory of Vietnam, except for measures as specified in this section, and subject to other measures of exceptions as may be specified in the sector-specific section.

The following sets out Viet Nam's commitments on categories of Natural Persons and its respective conditions and limitations for the entry and temporary stay, including length of stay in accordance with Article IV (Grant of Temporary Entry or Temporary Stay) and Article VI (Schedules of Commitments for Temporary Entry or Temporary Stay).

Until such time as Viet Nam adopts domestic laws, regulations or policies which enable it to accord substantially the same treatment to the permanent residents of another country as it does to the nationals of that country, the obligations of Viet Nam with respect to the permanent residents of the other Parties shall be limited to its obligations under the GATS, as specified in its Protocol of Accession to the WTO, and the obligations of the other Parties with respect to the permanent residents of Viet Nam, shall be limited to their obligations under the GATS.

Categories of Natural Persons	Conditions and Limitations
<p>(a) Intra-corporate transferees</p> <p>Intra-corporate transferees refer to managers, executives and specialists of a foreign enterprise which has established a commercial presence in the territory of Viet Nam, temporarily moving to that commercial presence and who have been previously employed by the foreign enterprise for at least one year.</p> <p>Managers and executives are those who primarily direct the management of the foreign enterprises which have established commercial presence in Viet Nam, receiving only general supervision or direction from the board of directors or stockholders of the business or their equivalent, including directing the establishment or a department or subdivision of the establishment, supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and fire or recommend hiring, firing or other personnel actions, and who do not directly perform tasks concerning the actual supply of the services of the establishment.</p> <p>Specialists are natural persons working within an organization who possess knowledge at an advance</p>	<p>Intra-corporate transferees shall be granted entry and a stay permit for an initial period of three years which may be extended subject to the term of operation of those entities in Viet Nam. At least 20% of the total number of managers, executives and specialists shall be Vietnamese nationals. However, a minimum of 3 non-Vietnamese managers, executives and specialists shall be permitted per enterprise.</p>

Categories of Natural Persons	Conditions and Limitations
<p>level of expertise and with knowledge of the organization's services, research equipment, techniques or management. In assessing such knowledge, account will be taken not only of knowledge specific to the commercial presence, but also of whether the person has a high level of skills or qualification referring to a type of work or trade requiring specific technical knowledge. Specialists may include, but are not limited to, members of licensed professions.</p>	
<p>(b) Other personnel</p> <p>Other personnel refer to managers, executives and specialists, as defined in (a) above, who cannot be substituted by Vietnamese and who are employed outside Viet Nam's territory by a foreign enterprise which has established a commercial presence in the territory of Viet Nam with a view to participating in the foreign enterprise's activities in Viet Nam.</p>	<p>Other personnel shall be granted entry and a stay permit in conformity with the term of the concerned employment contract or for an initial period of three years whichever is shorter, which may be extended subject to the employment contract between them and the commercial presence.</p>
<p>(c) Service sales persons</p> <p>Services sales persons refer to persons who are not based in the territory of Viet Nam and receiving no remuneration from a source located within Viet Nam, and who are engaged in activities related to representing a service provider for the purpose of negotiating for the sale of the services of that provider where: (i) such sales are not directly made to the general public; and (ii) the salesperson is not directly engaged in supplying the service.</p>	<p>The stay of these salespersons is limited to a 90-day period.</p>
<p>d) Persons responsible for setting up a commercial presence</p> <p>Persons responsible for setting up a commercial presence refers to managers and executives (as defined in (a) above) within a juridical person, who are responsible for the setting up, in Viet Nam, of a commercial presence of a service provider of a Party when (i) these people are not engaged in making direct sales or supplying services; and (ii) the service provider has its principal place of business in the territory of a Party other than Viet Nam and has no other commercial presence in Viet Nam.</p>	<p>The stay of these persons is limited to a 90-day period.</p>

Categories of Natural Persons	Conditions and Limitations
<p>e) Contractual service suppliers (CSS)</p> <p>Contractual service suppliers refers to natural persons who are employees of a foreign enterprise having no commercial presence in Viet Nam, who have been employed by the foreign enterprise having no commercial presence in Viet Nam for a period of no less than 2 years and have met the requirements prescribed for "specialist" above, and who possess: (a) a university degree or a technical qualification document demonstrating knowledge of an equivalent level; (b) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws and regulations of Viet Nam; and (c) at least 5 years of professional experience in the sector.</p>	<p>CSS may enter and stay in Viet Nam for a period of 90 days or for the duration of the contract, whichever is less provided that the following conditions and requirements shall be applied:</p> <ul style="list-style-type: none"> - The foreign enterprise has obtained a service contract from a Vietnamese enterprise engaged in business operation in Viet Nam. The competent authority of Viet Nam must be able to establish the necessary procedures to guarantee the bona fide character, of the contract. - The number of these persons covered by the service contract shall not be larger than necessary to fulfil the contract, as it may be decided by the laws and regulations and requirement of Viet Nam. - The entry of these persons is allowed for computer and related services (CPC 841-845, 849) and engineering services (CPC 8672).

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SECTION II: SECTOR-SPECIFIC COMMITMENTS

This Section sets out Viet Nam's sectoral commitments in relation to the entry and temporary stay of the natural persons (as defined in the Horizontal Section) of ASEAN Member States in the territory of Viet Nam.

References to "CPC" in this Schedule refers to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No.77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

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Sector or Sub-Sector	Conditions and Limitations
1. BUSINESS SERVICES	
A. Professional Services	
(a) Legal services (CPC 861, excluding: <ul style="list-style-type: none"> - participation in legal proceedings in the capacity of defenders or representatives of their clients before the courts of Viet Nam; - legal documentation and certification services of the laws of Viet Nam) (c) Taxation services (CPC 863) (d) Architectural services (CPC 8671) (g) Urban planning and urban landscape architectural services (CPC 8674) (i) Veterinary services (CPC 932) ²	Unbound, except as indicated in the horizontal section.
(b) Accounting and auditing and bookkeeping services (CPC 862)	Unbound, except as indicated in the horizontal section. Foreign auditors are allowed to provide auditing services in Viet Nam under the following conditions: <ul style="list-style-type: none"> - Legally resident in Viet Nam for at least 1 year. - Possess auditor certificate granted by Viet Nam Ministry of Finance or accountant/auditor certificate issued by foreign institution recognised by Viet Nam Ministry of Finance and pass an examination on Viet Nam laws and regulations; - Be registered in the list of practicing auditors managed by Viet Nam Ministry of Finance or Viet Nam Association of Certified Public Accountants (VACPA). - Have the employment contract with an auditing firm being established and operating under the laws of Vietnam.
(e) Engineering services (CPC 8672) (f) Integrated engineering services	Unbound, except as indicated in the horizontal section.

²Excluding keeping micro-organism strain for veterinary.

(CPC 8673)	As for limitations on market access, foreign engineering services suppliers can bring into Viet Nam only management, technical personnel that Viet Nam cannot provide; others as indicated in the Horizontal Measures.	
B. Computer and Related Services (CPC 841-845, CPC 849)	Unbound, except as indicated in the horizontal section.	
C. Research and Development Services		
(a) R&D services on natural sciences (CPC 851)		
E. Rental/Leasing Services without Operators		
(b) Relating to aircraft (CPC 83104)		
(d) Relating to other machinery and equipment (CPC 83109)		
F. Other Business Services	Unbound, except as indicated in the horizontal section. The advertising for wines and spirits shall be subject to State regulations, which are applied on a non-discriminatory basis.	
(a) Advertising services (CPC 871, excluding advertising for cigarettes)		
(b) Market research services (CPC 864, excluding 86402)		Unbound, except as indicated in the horizontal section.
(c) Management consultant services (CPC 865)		
(d) Services related to management consulting: - CPC 866, except CPC 86602 - Arbitration and conciliation services for commercial disputes between businesses (CPC 86602**)		
(e) Technical testing and analysis services (CPC 8676, excluding conformity testing of transport vehicles and certification of transport vehicles)		
(f) Services incidental to agriculture, hunting and forestry (CPC 881) ³		
(h) Services incidental to mining (CPC 883)		Unbound, except as indicated in the horizontal section. The commitments are made without prejudice to the rights of the Government of Viet Nam to set out the necessary
The specified commitments are not understood to cover the following activities: supply of equipment, materials and chemicals, supply base services, offshore/marine support vessels,		

³Excluding services relating to investigation, evaluation and exploitation for natural forest including exploitation of woods and wild, rare and precious animals hunting and trapping, aerial photographing, aerial seed planting and aerial chemicals spraying and dusting, micro-bial plant, animal genetic resource in agriculture. For the avoidance of ambiguity, animal husbandry and the improvement of breeding stock are included in this commitment.

accommodation and catering, helicopter services.	regulations and procedures to regulate the oil and gas related activities carried out within the territory or jurisdiction of Viet Nam in full conformity with the rights and obligations of Viet Nam under the GATS.
i) Services incidental to manufacturing (CPC 884 and 885)	Unbound, except as indicated in the horizontal section.
(m) Related scientific and technical consulting services ⁴ (CPC 86751, 86752 and 86753 only)	
(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633)	
2. COMMUNICATION SERVICES	
B. Courier Services (CPC 7512**) * Express delivery services ⁵ , i.e. services consisting of collection, sorting, transport and delivery, whether for domestic or foreign destination, of: (a) Written communication ⁶ , on any kind of physical medium, including: - Hybrid mail service; - Direct mail. Except for the handling of items of written communication the price of which is less than: - 10 times the tariff for the handling of a standard domestic letter in the first weight level for domestic shipments; - US\$9 for international shipments; provided that the gross weight of these items is less than 2,000 grams. (b) Parcels ⁷ and other goods. * Handling of non-addressed items.	Unbound, except as indicated in the horizontal section.
C. Telecommunication Services	

⁴ The supply of services related to prospecting, surveying, exploration and exploitation is subject to the applicable laws and regulations of Viet Nam.

⁵ Express delivery services may include, in addition to greater speed and reliability, value added elements such as collection from point of origin, personal delivery to addressee, tracing and tracking, possibility of changing the destination and address in transit, confirmation of receipt.

⁶ Written communication includes letters, postcards, hand writings, or printed matters such as books, newspapers, periodicals, magazines, or commercial documents such as bills and invoices, etc.

⁷ Books, catalogues are included hereunder.

Commitments hereunder are made in accordance with "Notes for Scheduling Basic Telecom Services Commitments" (S/GBT/W/2/REV.1) and "Market Access Limitations on Spectrum Availability" (S/GBT/W/3) in WTO. For the purpose of these commitments, a "non-facilities based service supplier" means a service supplier which does not own transmission capacity but contracts for such capacity including submarine cable capacity, including on a long-term basis, from a facilities-based supplier. A non facilities-based supplier is not otherwise excluded from owning telecommunications equipment within their premises and permitted public service provision points (POP).

<p><u>Basic telecommunication services</u></p> <p>(a) Voice telephone services (CPC 7521)</p> <p>(b) Packet-switched data transmission services (CPC 7523**)</p> <p>(c) Circuit-switched data transmission services (CPC 7523**)</p> <p>(d) Telex services (CPC 7523**)</p> <p>(e) Telegraph services (CPC 7523**)</p> <p>(f) Facsimile services (CPC 7521** + 7529**)</p> <p>(g) Private leased circuit services (CPC 7522** + 7523**)</p> <p>(o*) Other services</p> <ul style="list-style-type: none"> - Videoconference services (CPC 75292) - Video Transmission services, excluding broadcasting⁸ - Radio based services includes: <ul style="list-style-type: none"> + Mobile telephone (terrestrial and satellite) + Mobile data (terrestrial and satellite) + Paging + PCS + Trunking - Internet Exchange Service (IXP)⁹ 	<p>Unbound, except as indicated in the horizontal section.</p>
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⁸ Broadcasting is defined as the uninterrupted chain of transmission required for the distribution of TV and radio programme signals to the general public, but does not cover contribution links between operators.

⁹ Services providing internet access service (IAS) suppliers with connection between them and to the international Internet backbone.

<u>Basic telecommunication services:</u> (o*) Other services - Virtual Private Network (VPN) ¹⁰	Unbound, except as indicated in the horizontal section.
<u>Value-added services</u> (h) Electronic mail (CPC 7523 **) (i) Voice mail (CPC 7523 **) (j) On-line information and database retrieval (CPC 7523**) (k) Electronic data interchange (EDI) (CPC 7523**) (l) Enhance/value-added facsimile services, incl. store and forward, store and retrieve (CPC 7523**) (m) Code and protocol conversion (n) On-line information and data processing (incl. transaction processing) (CPC 843**)	Unbound, except as indicated in the horizontal section.
<u>Value added services</u> (o) Other - Internet Access Services IAS ¹¹	

¹⁰ Services, provided on commercial terms, establishing and managing a private network over public (shared) networks for the purpose of carrying out, on a non-profit basis, voice and data telecommunications between members of a closed user group defined prior to the creation of the VPN. Such group may include a corporate group or organization, or a group of legal entities with an established relationship affiliated through the pursuit of a common interest. Initial members of a closed user group using VPN service must be listed in a dialling or routing plan approved by the Competent Authority and subject to its oversight. VPN service suppliers shall notify to the Competent Authority changes of membership at least two working weeks prior to actually commencing commercial service and can commence commercial service provided that no objection from the Competent Authority is issued during these two weeks. Members are not allowed to resell VPN services to unaffiliated third parties. Virtual private networks are not allowed to carry/transfer traffic of/between unaffiliated third parties. VPN services can be offered by licensed foreign-invested service suppliers bundled with Internet access service and value-added services from (h) to (n).

¹¹ Services providing internet access to the end users.

D. Audiovisual Services	
With regard to motion picture production, distribution and projection services, all films must have their content censored by Viet Nam's competent authorities.	
(a) Motion picture production (CPC 96112, excl. video tape)	Unbound, except as indicated in the horizontal section.
- Motion picture distribution (CPC 96113, excl. video tape)	
(b) Motion picture projection service (CPC 96121)	
(e) Sound recording	
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES	
A. General construction work for building (CPC 512)	Unbound, except as indicated in the horizontal section.
B. General construction work for civil engineering (CPC 513)	As for limitations on market access, foreign engineering services suppliers can bring into Viet Nam only management, technical personnel that Viet Nam cannot provide; others as indicated in the Horizontal Measures.
C. Installation and assembly work (CPC 514, 516)	
D. Building completion and finishing work (CPC 517)	
E. Other (CPC 511, 515, 518)	
4. DISTRIBUTION SERVICES	
<u>Measures applicable to all sub-sectors in Distribution Services:</u>	
Cigarettes and cigars, books, newspapers and magazines, video records on whatever medium, precious metals and stones, pharmaceutical products and drugs ¹² , explosives, processed oil and crude oil, rice, cane and beet sugar are excluded from the commitments.	
A. Commission agents' services (CPC 621, 61111, 6113, 6121)	Unbound, except as indicated in the horizontal section.
B. Wholesale trade services (CPC 622, 61111, 6113, 6121)	
C. Retailing services (CPC 631 + 632, 61112, 6113, 6121) ¹³	
D. Franchising services	

¹² For the purposes of this schedule "pharmaceuticals and drugs" do not include non-pharmaceutical nutritional supplements in tablet, capsule or powdered form.

¹³ For transparency purposes, this commitment includes multi-level sales by properly trained and certified Vietnamese individual commission agents away from a fixed location for which remuneration is received both for the sales effort and for sales support services that result in additional sales by other contracted distributors.

(CPC 8929)	
5 EDUCATIONAL SERVICES	
<p>Only in technical, natural sciences and technology, business administration and business studies, economics, accounting, international law and language training fields.</p> <p>With regard to point (B1), (B2), (C), (D), (E) below, the following additional fields of study are allowed: agriculture, architecture, building, business administration, management, computer science, construction, information systems, dental services, economics, education, engineering, environment, surveying, health, community services, land and marine resources, animal husbandry, language studies, law, legal studies, life sciences, manufacturing, mathematics, medical science, medicine, multi-field education, nursing, pharmacy, physical sciences, science, services, culinary and hospitality, transport, veterinary science, visual and performing arts.</p> <p>With regard to points (B), (B1), (B2), (C), (D), and (E) below: The education content must be approved by Viet Nam's Ministry of Education and Training.</p>	
B. Secondary education services (CPC 922), excluding B1, B2	Unbound, except as indicated in the horizontal section.
B1. Higher secondary education services (CPC 9222) only for students who have completed 9 years of general education as specified by Vietnamese relevant laws and regulations	
B2. Technical and vocational secondary education services (CPC 9223), only for students who have completed 9 years of general education as specified by Vietnamese relevant laws and regulations	
C. Higher education services (CPC 923)	
D. Adult education (CPC 924)	
E. Other education services (CPC 929, including foreign language training)	
6. ENVIRONMENTAL SERVICES	
Access to certain geographic areas may be restricted for national security reasons ¹⁴ .	
A. Sewage Services (CPC 9401)	Unbound, except as indicated in the horizontal section.
B. Refuse disposal services (CPC 9402) ¹⁵	

¹⁴ For greater transparency, this commitment allows the maintenance or adoption of limitations or restrictions for national security reasons that would be justified under Article XIV and Article XIV bis of the GATS.

¹⁵ Import of refuse is forbidden by law. Treatment and disposal of hazardous waste is regulated by Law.

C. Sanitation and similar services (CPC 9403)	
D. Nature and landscape protection services (CPC 9406)	
E. Other services - Cleaning services of exhaust gases (CPC 94040) and noise abatement services (CPC 94050)	
Environmental impact assessment services (CPC 94090*)	
7. FINANCIAL SERVICES	
A. Insurance and Insurance-Related Services	Unbound, except as indicated in the horizontal section.
a. Direct insurance (a) Life insurance, excl. health insurance services (b) Non-life insurance services	
b. Reinsurance and retrocession	
c. Insurance intermediation (such as brokerage and agency)	
d. Services auxiliary to insurance (such as consultancy, actuarial, risk assessment and claim settlement)	
B. Banking and Other Financial Services	
Commitments with respect to banking and other financial services are undertaken in accordance with relevant laws and regulations promulgated by competent authorities of Viet Nam to ensure the consistency with Article VI of the GATS and Para 2 (a) of the GATS Annex on Financial Services.	
As a general rule and on a non-discriminatory basis, the offer of banking and other financial services or products is subject to relevant institutional and juridical form requirements.	
(a) Acceptance of deposits and other repayable funds from the public	Unbound, except as indicated in the horizontal section.
(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction	
(c) Financial leasing	Unbound, except as indicated in the horizontal section.
(d) All payment and money transmission services, including credit, charge and debit cards, travellers' cheques and bankers drafts	

<p>(e) Guarantees and commitments</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <ul style="list-style-type: none"> - Money market instrument (including cheques, bills, certificates of deposits); - Foreign exchange; - Exchange rate and interest rate instrument incl products such as swaps, forward rate agreements; - Bullion. <p>(h) Money broking</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services</p> <p>(j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments</p> <p>(k) Provision and transfer of financial information and financial data processing and related software by suppliers of other financial services</p> <p>(l) Advisory, intermediation and other auxiliary financial services on all activities listed in subparagraphs from (a) to (k), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy</p>	
<p>C. <u>Securities</u></p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <ul style="list-style-type: none"> - Derivative products incl. futures and options; - Transferable securities; 	<p>Unbound, except as indicated in the horizontal section.</p>

<ul style="list-style-type: none"> - Other negotiable instruments and financial assets, excluding bullion. (g) Participation in issues of all kinds of securities incl. under-writing and placement as an agent (publicly or privately), provision of services related to such issues (i) Asset management, such as portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services (j) Settlement and clearing services for securities, derivative products, and other securities-related instruments (k) Provision and transfer of financial information, and related software by suppliers of securities services (l) Advisory, intermediation and other auxiliary securities-related excluding (f), including investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy (for other services under (l), refer to (l) under banking sector) 	
8. HEALTH-RELATED AND SOCIAL SERVICES	
<ul style="list-style-type: none"> A. Hospital services (CPC 9311) B. Medical and dental services (CPC 9312) covering: <ul style="list-style-type: none"> - General medical services (CPC 93121) - Specialised medical services (CPC 93122) - Dental services (CPC 93123) C. Nursing services, physiotherapists and para-medical personnel (CPC 93191) D. Other human health services F. Health related and social services <ul style="list-style-type: none"> Social services (CPC 933) - Social services with accommodation (CPC 	<p>Unbound, except as indicated in the horizontal section.</p>

9331) - Social services without accommodation (CPC 9332)	
9. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotel and restaurant including - Lodging services (CPC 64110) - Catering food (CPC 642) and drink services (CPC 643)	Unbound, except as indicated in the horizontal section.
B. Travel agencies and tour operator services (CPC 7471)	
C. Others - Tourist theme park	
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES	
A. Entertainment services (including theatre, live bands and circus services) (CPC 9619)	Unbound, except as indicated in the horizontal section.
D. Other - Electronic games business (CPC 964**)	
11. TRANSPORT SERVICES	
A. Maritime Transport Services	Unbound, except as indicated in the horizontal section.
(a) Passenger transportation less cabotage (CPC 7211)	
(b) Freight transportation less cabotage (CPC 7212)	
(c) Rental of vessels with crew (CPC 7213)	
(d) Maintenance and repair of vessels (CPC 8868*)	
Maritime Auxiliary Services	
- Container handling services (CPC 7411) ¹⁶	
- Maritime Agency Services (CPC 7454*)	
- Customs Clearance Services ¹⁷	
- Container Station and Depot Services ¹⁸	
B. Internal Waterways Transport	Unbound, except as indicated in the horizontal section.
(a) Passenger transport (CPC 7221)	
(b) Freight transport (CPC 7222)	

¹⁶ Public utility concession or licensing procedures may apply in case of occupation of the public domain.

¹⁷ "Customs clearance services" (alternatively "customs house brokers' 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 provider or a usual complement of its main activity.

¹⁸ "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

(c) Maintenance and repair of vessels (CPC 8868*)	
C. Air Transport Services	As indicated in the horizontal section.
(a) Selling and marketing of Air transport services	
(b) Computer reservation services (CPC 7523)	
(c) Maintenance and repair of aircraft (CPC 8868)	
(d) Aircraft Leasing with Crew (CPC 734)	
(e) Air Freight Forwarding Services	
E. Rail Transport Services	Unbound, except as indicated in the horizontal section.
(a) Passenger transportation (CPC 7111)	
(b) Freight transportation (CPC 7112)	
F. Road Transport Services	Unbound, except as indicated in the horizontal section.
(a) Passenger transportation (CPC 7121+7122)	
(b) Freight transportation (CPC 7123)	
H. Services Auxiliary to all Modes of Transport	Unbound, except as indicated in the horizontal section.
(a) Maritime cargo handling services (CPC 741)	
(b) Container handling services, except services provided at airports (part of CPC 7411)	
(c) Container handling services (CPC 7411) ¹⁹	
(d) Storage and warehouse services (CPC 742)	
(e) Freight transport agency services (CPC 748) ²⁰	
(f) Ship broking services	
(g) Other (part of CPC 749) ²¹	

¹⁹ Public utility concession or licensing procedures may apply in case of occupation of the public domain.

²⁰ Including freight forwarding services. These services mean the activities consisting of organizing and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

²¹ Include the following activities: bill auditing; freight brokerage services; freight inspection, weighing and sampling services; freight receiving and acceptance services; transportation document preparation services. These services are provided on behalf of cargo owners.

CCS Work Program 2025

Notes:
 Purple fonts : LTSSWG action lines (2)
 Blue fonts : HSSWG action lines (2)
 Green fonts : SOMHD action lines (3)

No.	Unimplemented Action Line	Deliverables	Source	Sectoral Body /AMS	Latest Status (20 Oct 2021)
Annual Priorities 2021					
1	Commence Preparation for Transitioning AFAS to ATISA	Commence discussion on the ratchet mechanism issue, detailed timeline, and common template for the ATISA Schedules of Non-Conforming Measures	AP 2021	CCS	CCS commenced discussions on ratchet, timeline and common template at its 98 th meeting in June 2021.
2	Finalise the revised Schedule of Commitment under the ASEAN Agreement on Movement of Natural Persons (MNP) using common scheduling format (SAP-A5.20)	Final revised MNP schedules of all AMS (using the agreed common format). Final legal instrument to put into effect the revised MNP Schedules	AP 2021 AEC-Blueprint 2025	CCS	CCS is finalising the common headnote and template for submission of AMS within 2021. CCS discussed the draft Protocol to implement the 2 nd Package of MNP commitments on 1 Oct 2021.
3	Finalise the pilot OECD-ASEAN STRI Exercise to improve transparency of domestic regulations in the services sectors	- Finalised OECD-ASEAN STRI (pilot exercise) - Commence discussion on next steps, including how it should be published and monitored.	AP 2021	CCS	Preliminary ASEAN STRI databases for all AMS are on the verification process with respective AMS. Preliminary STRI indices are on track to be calculated for all AMS by September 2021. Summary and communication of findings to AMS are expected to be carried out also by September 2021.

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No.	Unimplemented Action Line	Deliverables	Source	Sectoral Body /AMS	Latest Status (20 Oct 2021)
4	Develop a concept paper on possible services disciplines and/or agreement to address new or emerging issues related to services in ASEAN (e.g. digitalisation of services, sector-specific disciplines on domestic regulation, etc.)	A concept paper on possible services disciplines and/or agreement to address new or emerging issues related to services in ASEAN	AP 2021	CCS	CCS explored issues of facilitating trade in services including guidelines or framework for services facilitation. CCS Chair will work with MY, SG and ASEC to develop a non-paper on facilitation of TIS for consideration at CCS 99 (19-21 Oct 2021)
Housekeeping Issues					
5	Complete the 10th AFAS Package	10 AMS' Final AFAS 10 Packages	Housekeeping Issues	CCS	9 AMS have completed their AFAS 10 Packages. PH is at the final stage of finalising its AFAS 10 Package.
6	Commence notification of AFAS to the WTO	<i>No deliverable/indicator set</i>	Housekeeping Issues	CCS	CCS 98 (June 2021) requested AMS to consult domestically on the AFAS packages across the 3 Ministerial tracks that would be notified, for further deliberation at CCS 99.
AEC Blueprint 2025 - Action Lines					
7	A2.5 Simplify and streamline domestic rules and procedures related to investment in the services sectors		AEC-Blueprint 2025	CCS	
8	A2.7.1 Explore possible areas where AMS can adopt guidelines or directives on domestic regulations, such as enhancing transparency on domestic regulation/publication of existing measures		AEC-Blueprint 2025	CCS	
9	A2.7.2 Establish possible disciplines on domestic regulations based on best practices	- Completion of disciplines on domestic regulations,	AEC-Blueprint 2025	CCS	

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No.	Unimplemented Action Line	Deliverables	Source	Sectoral Body //AMS	Latest Status (20 Oct 2021)
		including under the ATISA - Completion of guidelines or directives on domestic regulations			
	A2.7.4 Develop capability and capacity building of participating AMS' government officials (including the upskilling of government department and agency staff whose work impacts supply chain and logistics performance)	- Identified training needs for government department and agencies staff - Developed training programs that suit the need of the clients - Certification of trained government employees	AEC-Blueprint 2025	LTSSWG	<u>as of 31st LTSSWG (19 Oct 2021):</u> LTSSWG agreed to pursue this project further and requested all AMS to review and provide inputs interessionally for consideration at the next Meeting.
	A2.7.5 Submit, present, compile and publish the existing coordinating mechanism for logistics sectors in AMS	- Presentation of coordinating mechanism of logistics services among LTSSWG Members - Published and updated compilation of the coordinating mechanisms in ASEAN Logistics and Services Website	AEC-Blueprint 2025	LTSSWG	<u>as of 31st LTSSWG (23 Oct. 2021):</u> - 7 AMS (CA, MY, MM, PH, SG, TH and VN) have submitted and presented their coordinating mechanism for logistics sector. ID and LA have no existing structure or specific coordinating mechanism for logistics sectors. SG will update its information and BN will submit before LTSSWG 32. - 6 Coordinating Mechanism of (CA, MY, MM, PH, TH and VN) have been uploaded to the LTSSWG webpage.

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No.	Unimplemented/Action Line	Deliverables	Source	Sectoral Body /AMS	Latest Status (20 Oct 2021)
10	A2.9.1 Conduct regular engagements with industry associations on best practices in regulatory regime in various services sectors	Regular joint meetings and activities with CCI and the industry associations	AEC-Blueprint 2025	CCS	
11	A2.9.2 Conduct regular joint activities with CCI on promotion of investment in the services sector such as trade expo, investment forums, as well as the InvestASEAN website	Regular technical cooperation activities	AEC-Blueprint 2025	CCS	
12	A2.9.3 Undertake other technical cooperation activities as may be appropriate and agreed upon		AEC-Blueprint 2025	CCS	
13	A5.20 Review and enhance the commitments under the MNP within the agreed targets and timeline where appropriate:		AEC-Blueprint 2025	CCS	
14	A5.21 Review existing documentation requirements under ASEAN MRAs, AQRF, and MNP for possible enhancement and streamlining where appropriate and necessary		AEC-Blueprint 2025	CCS	
15	C7.108.1 Promote PPP investments in the provision of universal healthcare		AEC-Blueprint 2025	CCS	
16	C7.108.2 Consider further liberalisation of healthcare services sectors with more emphasis on provision of universal healthcare		AEC-Blueprint 2025	CCS	
	C7.109.4 Develop and strengthen the individual country Nursing Curriculum through mapping of AMS Nursing Curriculum	Mapping of AMS nursing curriculum is conducted in at least 5 AMS	AEC-Blueprint 2025	AJCCN	<i>as of AJCCN 33 (11 Oct 2021);</i> Completed by 9 AMS. VN is to present at 34 th AJCCN.

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No.	Unimplemented Action Line	Deliverables	Source	Sectoral Body / AMS	Latest Status (20 Oct 2021)
	C7.112 Implement the Work Plans of AJCCM, AJCCD, and AJCCN	Work Plans of AJCCM, AJCCD and AJCCN are implemented and discussed in respective meetings	AEC-Blueprint 2025	HSSWG	Implementation of each group's Work Plan is ongoing and on-track.
ASEAN Comprehensive Recovery Framework (ACRF)					
17	1b.3. Facilitate safe and speedy travel of suppliers of essential services, in accordance with receiving countries' health protocols <i>(Note: could be part of initiative of travel facilitation scheme for ASEAN professionals)</i>	Mechanism to facilitate travel for Essential Services Suppliers	ACRF	CCS and DGICM	<p>DGICM: Partially completed</p> <p>Developed a Concept Note for the facilitation of travel of suppliers of essential services.</p> <p>ASEAN Health Protocol concept note being finalized with expected support from GIZ for technical assistance.</p> <p>Inclusion in the Agenda Items during the 4th ASEAN Heads of Major Immigration Checkpoints Forum (AMICF) and 24th DGICM.</p> <p><u>CCS 99 proposed that this initiative is considered as completed following completion of the ATCAF.</u></p>
18	3a.4. Ratify the ATISA and have the Agreement entered into force	Entry into force of ATISA	ACRF	CCS	ATISA entered into force on 5 April 2021. To date 4 AMS have ratified the agreement (BN, MY, SG, TH).

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No.	Unimplemented Action Line	Deliverables	Source	Sectoral Body /AMS	Latest Status (20 Oct 2021)
19	3g.9. Explore the possibility of developing specific schemes to allow ASEAN professionals (esp. those certified under ASEAN MRAs) to provide services in other AMS on a short-term basis. (Note: the above-proposed mechanism for Essential Services Suppliers could be a subset of this scheme)	Mechanism to facilitate travel for ASEAN professionals	ACRF	CCS and DGICM	DGICM: Partially completed Developed a Concept Note for the facilitation of travel of ASEAN professionals <u>CCS 99 proposed that this initiative is considered as completed following completion of the ATCAF.</u>
	1b.2 Agreement on having a list of essential services	Agreed list of essential services	ACRF	SOMHD in consultation with CCS and other relevant bodies	<u>Initial discussion between the Chairs of HSSWG, AJCCN, AJCCM, AJCCD, TWG-ADE, and TWG-eHS and the SOMHD Chair and Vice-Chair will be conducted before the ASEAN Health Ministers Meeting (AHMM) which will be held on 15-19 November 2021.</u>
	1d.1 Exchange of experiences and trainings of health professionals for pandemic handling, including mental health.	Mechanism to facilitate travel for Essential Services Suppliers	ACRF		
	4b.8. Enhance / facilitate the use of digitalisation in healthcare, where appropriate e.g. in areas such as telemedicine	Study report and recommendations on facilitative frameworks required to facilitate the digitalisation of health	ACRF		

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