

MYANMAR

Schedule of Specific Commitments

MYANMAR - SCHEDULE OF SPECIFIC COMMITMENTS

For the 2nd Package of Commitments under ASEAN - China FTA Trade in Services

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments								
I. HORIZONTAL COMMITMENTS											
All Sectors ; For a service supplier of another Party who is natural person of that Party but is not national of that Party in mode 1,2,3,4: unbound											
ALL SECTORS	<p>(1) As specified in each sector</p> <p>(2) As specified in each sector</p> <p>(3) (a) Commercial presence of foreign service suppliers and/or providers are permitted in accordance with Myanmar Companies Act 1914 , Partnership Act 1932, Special Company Act (1950), Union of Myanmar Foreign Investment Law (1988), Union of Myanmar Citizens' Investment Law (1994).</p> <p>Under these laws: -</p> <p>(i) 100% Foreign investment , or</p> <p>(ii) Joint Venture with a Myanmar citizen or enterprise with a minimum of 35% equity is permitted. Form of incorporation can be partnership or limited company or branch/representative office under the Myanmar Companies Act (1914).</p> <p>The proposed investment may be rejected subject to such</p>	<p>(1) As specified in each sector</p> <p>(2) As specified in each sector</p> <p>(3) (a) According to the Notification No. 41/2010 dated 10-3-2010 issued by the Ministry of Finance and Revenue, the following kinds of payments to non-resident foreigners are subject to a withholding tax as follows;</p> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"><u>Class of Income</u></th> <th style="text-align: right;"><u>Non-resident foreigners</u></th> </tr> </thead> <tbody> <tr> <td>- Interests</td> <td style="text-align: right;">15%</td> </tr> <tr> <td>- Royalties paid for the use of licenses, trademarks, patent rights etc.</td> <td style="text-align: right;">20%</td> </tr> <tr> <td>- Payments made by the State Organizations, Development Committees, Cooperative Societies, Partnership Firms, Companies, Organizations formed and registered under any existing law, for purchasing of goods and receiving executing works under a contract or an a agreement or any consent</td> <td style="text-align: right;">3.5 %</td> </tr> </tbody> </table>	<u>Class of Income</u>	<u>Non-resident foreigners</u>	- Interests	15%	- Royalties paid for the use of licenses, trademarks, patent rights etc.	20%	- Payments made by the State Organizations, Development Committees, Cooperative Societies, Partnership Firms, Companies, Organizations formed and registered under any existing law, for purchasing of goods and receiving executing works under a contract or an a agreement or any consent	3.5 %	
<u>Class of Income</u>	<u>Non-resident foreigners</u>										
- Interests	15%										
- Royalties paid for the use of licenses, trademarks, patent rights etc.	20%										
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	<p>implications as financial arrangements security risk involved and compliance with existing conditions.</p> <p>(b) Incorporation of an enterprise, not involving the state enterprise is to be made under the Myanmar Companies Act 1914. Minimum share Capital requirements for companies and branches are as follows,</p> <ul style="list-style-type: none"> - Service Company- equivalent of K300,000 in USD. - Industrial Company-equivalent of K 1000,000 in USD. <p>Under this Law; If the investment involves a state enterprise, incorporation shall be made under the Myanmar Companies Act 1914, Partnership Act 1932, Myanmar Company Rules 1940, Special Company Act (1950), Special Company Act (Amendment) Act, 1955, 1959 .</p> <p>(c) According to the Land Nationalization Act 1953 and the Transfer of Immoveable Property Restriction Law (1987), foreign organizations and persons are not allowed to own land in Myanmar. State is</p>	<p>- Payments made by foreign entrepreneur or foreign company for receiving executing works and purchasing of goods locally under a contract or an agreement or any consent</p> <p style="text-align: right;">3.5%</p> <p>According to the Notification No. 115/2006 issued by the Ministry of Finance and Revenue, income tax shall be imposed in foreign currency on non-resident foreigners' total income at the rate of 35% (thirty five percent) in such foreign currency. However, if the income is under the heads professional income, business income, property income, undisclosed source of income and other source of income, the income tax calculated at the relevant rates mentioned in the table-which ranging from 5% to 40% exceeds the sum calculated at 35% , then the greater sum of income tax shall be paid.</p> <p><u>Tax</u> According to the Section 3 (k) of the Income Tax Law, it prescribes the Resident Foreigners as follows: (i) in the case of individual, a foreigner who resides in</p>	

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	<p>the sole owner of all land. Land may be acquired on long term lease, depending the type of business and the investment amount.</p> <p>(d) Subject to the Union of Myanmar Foreign Investment Law, Myanmar Immigration (Emergency Provisions) Act 1947, The Foreigners Act 1864, The Registration of Foreigners Act 1940, The Registration of Foreigners Rules 1948 and Immigration rules and regulations, management level is allowed to stay up to one year and may be extendable there on subject to the approval of concerned agencies.</p> <p>(e) According to the section 3 of the State-Owned Economic Enterprises Law, twelve Economic activities are restricted. However, these activities may be permitted by the Cabinet, by notification according to the section 4 of the said law.</p> <p>(f) All foreign enterprises and foreign workers shall abide by</p>	<p>Myanmar for not less than one hundred and eighty- three days during the income year;</p> <p>(ii) in the case of a company, a company formed under the Myanmar Companies Act or any other existing law wholly or partly with foreigner shareholders;</p> <p>(iii) in the case of an association of persons other than a company, an association formed wholly or partly with foreigners and where the control, management and decision making of its affairs is situated and exercised wholly in the Union of Myanmar.</p> <p>- In this regards, foreign workers and staffs who working at least one hundred and eighty three days in Myanmar and the foreign enterprises formed in Myanmar may be assumed as the resident foreigners. The existing Notification No. 124/2006 by the Ministry of Finance and Revenue determined that the income tax for the resident foreigners earn income in foreign currency under the head "Salaries" shall be paid at the rate of 15% (fifteen percent) in such foreign currency.</p>	

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	<p><u>Business Visa*</u> Period for Permission of Visa 70 days</p> <p>Period for Permission of stay Extension</p> <ul style="list-style-type: none"> - Up to 3 months** 36US\$ - Over 3 months-up to one year** 90 US\$ <p>[**with recommendation of Ministry concerned, Application Form, Passport (original & copy), Stay Form, (2) Recent Photos, FRC, Company Registration Card, Export & Import License]</p> <p>(Remark: In accordance with permission of Visa Confirming Board, Ministry of Immigration has been obligating)</p> <p><u>Tax</u> Under the Union of Myanmar Foreign Investment Law Section 21, for the purpose of promoting foreign investments within the State, the Commission shall grant the tax exemption and/ or relief</p> <p>(4) The Department of Labour, under the Ministry of Labour performs registration for overseas workers</p>	<ul style="list-style-type: none"> - However, the income of the resident foreigner who operating economic enterprises such as companies formed in Myanmar shall be calculated in accordance with Regulation 5-B of the Income Tax Regulation and paid in foreign currency. The corporate tax rate is 30% (thirty percent) - A judicial person may perform service to client in Myanmar but are not allowed to practice in Myanmar courts of law. (b) The commercial presence of foreign services provider shall be subject to the licensing by the government authorities concerned. (c) According to the Transfer of Immoveable Property Restriction Law (1987), foreign organizations and persons are not allowed to own land in Myanmar. However, land may be acquired on long term lease, depending on the type of business and the investment amount. <p>(4) - Any expatriate engage in joint venture, representative offices or other types of judicial person and</p>	

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	<p>who have been given the permission to stay in work by the Myanmar Investment Commission. The duration of registration is six months and the registration fee is 5 FEC for one person.</p>	<p>/ or individual services provider shall receive the approval of the respective authority.</p> <ul style="list-style-type: none"> - Any expatriate entering into Myanmar shall abide by The Myanmar Immigration (Emergency Provisions) Act 1947, The Foreigners Act 1864, The Registration of Foreigners Act 1940, The Registration of Foreigners Rules 1948 and Immigration rules , regulations and procedures of Myanmar - Individual services providers who work with the approval of respective authorities shall register themselves with the Department of labour, the Ministry of Labour. - The Department of Labour, under the Ministry of Labour performs registration for overseas workers who have been given the permission to stay in work by the Myanmar Investment Commission . - Regarding the recognize the educational certificates and technical standard certificate, Myanmar only determines equivalent factor depend on syllabus, contents, volume, time frame. Myanmar needs syllabus, contents, volume, time frame in English of respective countries. 	

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***Types of Visa and Regulations for stay extension**

Sr. No	Type of Visa	Period for Permission of Visa	Period for Permission of Stay Extension	Fees of stay extension	Documents to be Needed	Ministry/board for stay extension permitted	Remark
1.	Tourist Visa	28 days	14 days	36 US\$	- Recommendation of Ministry concerned - Application Form - Passport (original & copy) - Stay Form - (2) Recent Photos	Visa Confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration has been obligating
2.	Business Visa	70 days	- Up to 3 months - Over 3 months up to one year	36 US\$ 90 US\$	- Recommendation of Ministry concerned - Application Form - Passport (original & copy) - Stay Form - (2) Recent Photos - FRC - Company Registration Card - Export & Import License		
3	Transit Visa	24 hours	-	-	-	-	-
4.	Social Visa	28 days	- Up to 3 months - Over 3 months up to one year	36 US\$ 90 US\$	- National Registration Card (original & copy) - Household list (original & copy) - recommendation of Township Immigration Officer concerned - Passport (original & copy) - Stay Form - (2) recent Photos - FRC	Visa Confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration has been obligating
5.	GOC/DGOC Visa	Duration of assignment	Duration of assignment	Gratis	- Recommendation of Foreign Ministry - Copy of Application Form from Embassy - Passport (original & copy) - Stay Form - (2) Recent Photos	Visa Confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration has been obligating
6.	SRV/MJSRV	6 months	6 months 1 Year	54 US\$ 180 US\$	- Recommendation for Foreign Affair Ministry or Ministry concerned - Copy of Application from organization concerned - Passport (original & copy) - Stay Form - (2) Recent Photos	Visa Confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration has been obligating

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II. SECTOR-SPECIFIC COMMITMENTS			
AIR TRANSPORT SERVICES			
1. Aircraft Repair and Maintenance Services	(1) None	(1) None	
	(2) None	(2) None	
	(3) As indicated in the Horizontal Commitments	(3) As indicated in the Horizontal Commitments	
	(4) As indicated in the Horizontal Commitments	(4) As indicated in the Horizontal Commitments	
2. Selling and Marketing of Air Transport Services	(1) None	(1) None	
	(2) None	(2) None	
	(3) As indicated in the Horizontal Commitments	(3) As indicated in the Horizontal Commitments	
	(4) As indicated in the Horizontal Commitments	(4) As indicated in the Horizontal Commitments	

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3. Computer Reservation System Services	(1) None, except that service providers must use public telecommunication networks under national telecommunication authorities in accordance with prescribed rules and regulations. (2) Subject to commercial arrangements with licensed operator(s) (3) Unbound (4) Unbound	(1) Unbound (2) None (3) Unbound (4) Unbound	

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BUSINESS SERVICES			
1. Accounting auditing and bookkeeping services (CPC 862)	(1) None (2) None (3) - Joint venture or partnership with Myanmar Locally registered public accountants is encouraged after fulfilling the requirements prescribed by Foreign Investment Law, provided that the foreign counterpart must be qualified and duly registered as a practicing Public Accountant in his/ her country. - As Indicated in the Horizontal Commitment (4) None for Accounting and bookkeeping services, auditing service	(1) None (2) None (3) As indicated in market access (4) As indicated in market access	Foreign practising accountant holds an Accountancy Certificate or degree conferred by any foreign country and recognized by the Myanmar Accountancy council He/she is registered in the list of practising accountants managed by his/her country. Subject to MAC's licensing requirements.

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2. Engineering Services (CPC 8672)	(1) Unbound due to lack of technical feasibility (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) None (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	
3. Translation and interpretation services (CPC 87905)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	
4. Rental and leasing of Studio Recording Equipment (CPC 38109)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	

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5. Advertising Services (CPC 871)	(1) Unbound (2) None (3) Unbound (4) Unbound	(1) Unbound (2) None (3) Unbound (4) Unbound	
6. Printing and Publishing (CPC 89)	(1) Unbound (2) None (3) Unbound (4) Unbound	(1) Unbound (2) None (3) Unbound (4) Unbound	
CONSTRUCTION SERVICES			
1. Construction Work for Civil Engineering Services (CPC 513)	(1) Unbound * (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) None (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	

* Unbound due to lack of technical feasibility

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FINANCIAL SERVICES			
1. Actuarial Services	(1) None	(1) (a) According to the existing laws & regulations such as: Myanma insurance Law 1993 and Insurance Business Law 1996 etc. (b) As indicated in the Horizontal Commitments	
	(2) None	(2) (a) According to the existing laws & regulations such as : Myanma insurance Law 1993 and Insurance Business Law 1996 etc. (b) As indicated in the Horizontal Commitments	
	(3) Unbound	(3) Unbound	
	(4) Unbound	(4) Unbound	
2. Average and Loss adjustment services (CPC 8143)	(1) None	(1) None	
	(2) None	(2) None	
	(3) As indicated in the Horizontal Commitment	(3) As indicated in the Horizontal Commitment	
	(4) As indicated in the Horizontal Commitment	(4) As indicated in the Horizontal Commitment	

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3. Foreign Bank's Representative Offices services	(1) Unbound * (2) Unbound (3) - Foreign Banks are allowed to open their representative offices in Myanmar** - As indicated in the Horizontal Commitment (4) Unbound	(1) Unbound (2) Unbound (3) Unbound (4) Unbound	
HEALTHCARE SERVICES			
1. Dental Services (CPC 93123)	(1) None (2) None (3) - Commercial presences of foreign service suppliers are permitted in accordance with The Law relating to Private Health Care Services, 2007. Under the Union of Myanmar Foreign Investment Law 1988, joint venture with Myanmar citizen or enterprise with 51% foreign equity is permitted. - As indicated in the Horizontal Commitment	(1) None (2) None (3) - Commercial presences of foreign service suppliers are permitted in accordance with The Law relating to Private Health Care Services, 2007. Under the Union of Myanmar Foreign Investment Law 1988, joint venture with Myanmar citizen or enterprise with 51% foreign equity is permitted. - As indicated in the Horizontal Commitment	

* Unbound due to lack of technical feasibility

** Subject to the approval of the Central Bank of Myanmar according to the Central Bank of Myanmar Law and Financial Institutions of Myanmar Law

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
	(4) Unbound	(4) Unbound	
2. Deliveries and related services, Nursing Services, Physiotherapist and paramedical personnel (CPC 93191)	(1) None (2) None (3) - Commercial presences of foreign service suppliers are permitted in accordance with The Law relating to Private Health Care Services, 2007. Under the Union of Myanmar Foreign Investment Law 1988, joint venture with Myanmar citizen or enterprise with 51% foreign equity is permitted. - As indicated in the Horizontal Commitment (4) Unbound	(1) None (2) None (3) - Commercial presences of foreign service suppliers are permitted in accordance with The Law relating to Private Health Care Services, 2007. Under the Union of Myanmar Foreign Investment Law 1988, joint venture with Myanmar citizen or enterprise with 51% foreign equity is permitted. - As indicated in the Horizontal Commitment (4) Unbound	

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MARITIME TRANSPORT SERVICES			
1. Storage and Warehousing Services	(1) Unbound due to lack of technical feasibility (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) Unbound (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	
2. International Passenger Transport (Excluding Cabotage)	(1) Unbound (2) None (3) Unbound (4) Unbound	(1) Unbound (2) None (3) Unbound (4) Unbound	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
3. International Freight Transport (Excluding Cabotage)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) Unbound (4) Unbound	
4. Maritime cargo handling services	(1) Unbound due to lack of technical feasibility (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) Unbound (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	

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TELECOMMUNICATION SERVICES			
Telecommunication Services (CPC 7523) 1. Telex Services (CPC 7523**) 2. Telegraph Services (CPC 7522)	(1) None* (2) None* (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) None* (2) None* (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	* Subject to comply with the provisions of existing rules and regulations.
3. Electronic mail services (CPC 7523**) 4. Voice mail services (CPC 7523**) 5. Electronic Data Interchange (EDI) (CPC 7523**) 6. On-line information and data base retrieval (CPC 7523**) 7. Code and protocol conversion (CPC 7523**) 8. On-line information and / or data processing (CPC 843**)	(1) (a) Subject to comply with the provision of existing rules and regulations (b) Subject to Utilization of the National Gateway only (2) None* (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) Unbound (2) None* (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	* Subject to comply with the provisions of existing rules and regulations.

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9. Motion Picture and Video Tape Production Services (CPC 96121)	(1) Unbound (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitment	(1) Unbound (2) None (3) Unbound (4) As indicated in the Horizontal Commitment	
10. Cinema Theatre Services and Motion Picture Projection Services (CPC 9615)	(1) Unbound (2) None (3) Unbound (4) Unbound	(1) Unbound (2) None (3) Unbound (4) Unbound	
TOURISM AND TRAVEL RELATED SERVICES			
1. Hotels (CPC 641-643)	(1) None (2) None (3) None (4) None	(1) None (2) None (3) Unbound (4) Unbound	

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2. Travel Agencies and Tour Operators Services (CPC 7471)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	

Note : For a service supplier of another party who is natural person of that Party but is not national of that Party in mode 1,2,3,4: unbound
