

# WORLD TRADE ORGANIZATION

WT/ACC/VNM/5

(98-3289)

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### Information on the Existing Regime in the Area of Services

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(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons			
		Market Access		National Treatment					
		Limitations	Relevant Regulations	Limitations		Relevant Regulations			
I. HORIZONTAL MEASURES									
All sectors and sub-sectors		(1) N.A.* (2) N.A.* (3) Commercial presence of foreign services suppliers in Vietnam is allowed in the following forms (except otherwise regulated by law): - business co-operation contracts; - representative offices; - joint venture enterprises; - 100% foreign capital enterprises (wholly foreign owned enterprises).  Representative offices of foreign services suppliers shall not engage in any profit-making activities in Vietnam  Foreign capital contribution of a joint venture enterprise shall not be less than 30% of the total legal capital except in cases stipulated by the Government. The duration of an enterprise with foreign invested capital and the duration of a business co-operation contract shall be determined by the Government and stated in the investment licence, but shall not exceed 50 years.				(1) N.A.* (2) N.A.* (3) Foreign services suppliers in Vietnam must comply with provisions of legislation which may be exclusively applicable to them, including taxation, certain service prices, being granted the right for leasing land but not using land-use rights for capital contribution, being granted, ownership of real estate (except land) for duration specified in the licence.			

(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

Market Access		National Treatment	
Limitations	Relevant Regulations	Limitations	Relevant Regulations
<p>Pursuant to regulations made by the Standing Committee of the National Assembly, the Government may, on a project by project basis, grant a longer duration but the maximum duration shall not exceed 70 years.</p> <p>(4) Foreign employers and employees must comply with the provisions of the laws on labour, foreign investment, immigration and other relevant legislation. The initial term of employment of a foreign employee shall not exceed a maximum of three years. Foreigners working in Vietnam must satisfy the following conditions:</p> <ul style="list-style-type: none"><li>- to be 18 years of age or older and healthy in accordance with the job requirements;</li><li>- to have professional expertise or work skills which Vietnamese cannot satisfy;</li><li>- to have no criminal conviction or civil record in respect of a breach of national security as stipulated by Vietnamese laws; must have no conviction or civil record in respect of any other crime or must not currently be subject to criminal prosecution or</li></ul>		<p>(4) Foreign employees working in Vietnam:</p> <ul style="list-style-type: none"><li>- are bound to apply for effective working permit;</li><li>- are bound to pay income tax at the special rates; and</li><li>- shall not be granted the right to real estate ownership.</li></ul> <p>Upon being remitted abroad or retained outside Vietnam, profits from investment in Vietnam shall be subject to withholding tax.</p>	

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		any criminal sentence which has not yet been discharged in accordance with Vietnamese and foreign laws.  The general director or the first deputy general director of a joint venture enterprise shall be a Vietnamese citizen. Enterprises with foreign owned capital and parties to a business co-operation contract shall have the right to recruit and employ labour in accordance with its business requirements with preference being given to Vietnamese citizens. Foreigners shall only be recruited for jobs which require a level of technical and management expertise which Vietnamese citizens cannot satisfy and training of Vietnamese citizens as replacements must be undertaken.					
II. SPECIFIC SERVICE SECTOR OR SUB-SECTOR							
1. BUSINESS SERVICES							
A. <u>Professional Services</u>		(1) NA <sup>*</sup> (2) NA <sup>*</sup> 3)	Decree No. 42/CP dated 8/7/1995 Promulgating the Regulation on Legal Consultancy Practices of Foreign Law Firms in Vietnam.	(1) NA <sup>*</sup> (2) NA <sup>*</sup> (3) Foreign law firm branches are not permitted to employ Vietnamese lawyers for their offices.			
(a) Legal services (CPC 861)		(a) Foreign law firms may be present in Vietnam solely in form of branch.					

(1) Cross-border supply;

(2) Consumption abroad;

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(4) Presence of natural persons

Market Access		National Treatment	
Limitations	Relevant Regulations	Limitations	Relevant Regulations
<p>The licence duration of a foreign law firm branch is five years, commencing from the licence issuing date and may be extended for a period of not more than 3 years per one extension. Each foreign law firm are allowed to set up maximum 2 branches in Vietnam.</p> <p>(b) The branch must have at least 1 foreign lawyer besides the chief of the branch.</p> <p>(c) A foreign law firm wishing to provide legal consultancy services in Vietnam must satisfy the following conditions:</p> <ul style="list-style-type: none"><li>- to prove access to and relations with foreign clients doing business or investment activities in Vietnam;</li><li>- to have a good reputation in providing legal consultancy services;</li><li>- to be of goodwill towards the State of Vietnam;</li><li>- to possess an operational plan, and undertaking to fulfil its obligations pursuant to the regulations and laws of Vietnam;</li><li>- to possess a physical establishment and facilities necessary for its operations.</li></ul> <p>(4) Foreign lawyers of foreign law firm branch in Vietnam must satisfy the following conditions:</p>		(4) N.A. *	

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access			National Treatment		
		Limitations	Relevant Regulations		Limitations		Relevant Regulations
		<ul style="list-style-type: none"><li>- to have previous experience in legal consultancy services for 5 or more years in a foreign law firm;</li><li>- to be not subject to criminal prosecution, serving a sentence, or have a current criminal conviction;</li><li>- to be of goodwill towards the State of Vietnam.</li></ul> Not allowed to provide legal consultancy services as a natural person.					
(b)	Accounting, auditing and bookkeeping services (CPC 862)	(1) N.A.* (2) N.A.* (3) Foreign accounting firms are permitted to establish joint venture enterprises and 100% foreign-owned capital enterprises.	Decree No. 07/CP dated 29/01/1994 of the Government.		(1)	N.A.*	
(c)	Taxation services (CPC 863)	100% foreign-owned auditing firms are only permitted to provide services for firms with foreign owned capital in Vietnam, projects invested by foreign countries and projects funded by foreign capital. Only up to 5 firms with foreign invested capital are licensed. This number will be reviewed in the year 2000.			(2)	N.A.*	
					(3)	N.A.*	

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	Market Access		National Treatment	
	Limitations	Relevant Regulations	Limitations	Relevant Regulations
	<p>(4) A foreign auditor must be hold his national auditing certificate recognized by the Vietnamese Ministry of Finance. Foreign auditors have to register in the List of Foreign Auditors which is under the Ministry of Finance's management. The foreign individual auditor is not allowed to provide auditing services as the natural person, he has to register to provide auditing services in a legally established auditing firms in Vietnam.</p>		<p>(4) N.A.*</p>	
(d) Architectural services (CPC 8671)	<p>(1) N.A.* (2) N.A.* (3) Foreign architectural designers are allowed to provide architectural services in Vietnam after gaining award of contract or being selected for contract implementation for each construction project.</p> <p>(4) A foreigner willing to undertake professional architectural designs for construction project must be a permanent resident of Vietnam and work in a legally established architectural organization in Vietnam.</p>	<p>Circular No. 01BXD/CSXD dated 15/4/1997 by the Ministry of Construction on Management of Projects with Foreign Investment and the Foreign Construction Tenders in Vietnam;</p> <p>Decision No. 91/BXD/CSXD dated 16/4/1993 by the Ministry of Construction on Regulations of Professional Architect</p>	<p>(1) N.A.* (2) N.A.* (3) Project architectural plans drawn up by a foreign architectural services supplier must be examined by at least one Vietnamese architect in chief to ensure the conformity of the plan with current regulations and standards of construction in Vietnam. (4) N.A.* , except as indicated in horizontal measures.</p>	<p>Decision No. 91/BXD/CSXD dated 16/4/1993 by the Ministry of Construction on Regulations of Professional Architect</p>

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

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
		Not allowed to provide architectural services as a natural person.			
(e)	Engineering services (CPC 8672)	(1) N.A.* (2) N.A.* (3) Foreign service suppliers can provide services after winning a contract award or being selected as a contract implementation and must apply for a permit on a case-by-case basis to implement the project in Vietnam.	Circular No. 01 BXD/CSXD dated 15/4/1997 by the Ministry of Construction on Management of Projects with Foreign Investment and the Foreign Construction Tenders in Vietnam	(1) N.A.* (2) N.A.* (3) The permit is granted for each project only. Being not allowed to provide services in relation to technical surveys for design of urban and rural plans, or sectoral master plan.	Decision No. 91/BXD-CSXD dated 16/4/1993 by the Ministry of Construction on Regulations of Professional Architect
(f)	Integrated engineering services (CPC 8673)	Foreign engineering consulting firms are not allowed to provide services in relation to topography, geological exploration and meteorological and hydrographical surveys, except the cases which Vietnam is not capable to carry out and formally request for foreign service . (4) A foreigner willing to provide these services must be a permanent resident of Vietnam and work in a legally established architectural organization in Vietnam. Not allowed to provide these services as a natural person.		(4) N.A.* except as indicated in horizontal measures.	



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		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
(g)	Urban planning (CPC 8674)	<p>(1) N.A.*</p> <p>(2) N.A.*</p> <p>(3) Foreign service suppliers can provide services after winning a contract award or being selected as a contract implementation and must apply for a permit on a case-by-case basis to implement the project in Vietnam. Foreign engineering consulting firms are not allowed to provide services in relation to topography, geological exploration and meteorological and hydrographical surveys, except the cases which Vietnam is not capable to carry out and formally request for foreign service.</p> <p>(4) A foreigner willing to provide these services must be a permanent resident of Vietnam and work in a legally established architectural organization in Vietnam. Individual natural person is not allowed to provide these services.</p>		<p>(1) N.A.*</p> <p>(2) N.A.*</p> <p>(3) Only granted the licence for each project. Being not allowed to provide services in relation to technical surveys for design of urban and rural plans, or sectoral master plan.</p> <p>(4) N.A.* except as indicated in horizontal measures</p>	
D.	<u>Real Estate Services</u>				
(a)	Involving own or leased property (CPC 821)	<p>(1) N.A.*</p> <p>(2) N.A.*</p> <p>(3) Foreign services suppliers are allowed to provide these services in the form of joint venture to construct the office buildings, apartments for rent.</p>	<p>Decree No. 56/CP;</p> <p>Decree No. 60/CP;</p> <p>Decree No. 193/CP.</p>	<p>(1) N.A.*</p> <p>(2) N.A.*</p> <p>(3) Only domestic economic organizations may be entitled to the use of land by the State and transferred land use right for residential and building purposes.</p>	
(b)	On a fee or contract basis (CPC 822)				

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		(4) N.A. * except as indicated in horizontal measures		Only Vietnamese organizations and individuals possessing houses and having land use right for residential purpose are permitted to reside and transfer land use right. (4) N.A. *			
2 COMMUNICATION SERVICES							
(CPC 7511, 7512, 7521)		(1) Not permitted (2) N.A.* (3) Foreign service suppliers will be permitted to establish representative offices and enter into the business co-operation contracts with Vietnamese post and telecommunications service suppliers. Foreign capital contribution shall not exceed 49% of the total registered capital of the business cooperation contract project. (4) N.A. * except as indicated in horizontal measures		(1) Not permitted (2) N.A.* (3) N.A.*  (4) N.A. *			
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES							
(CPC 510)		(1) N.A.* (2) N.A.* (3) Foreign construction subcontractors are allowed only to provide services in Vietnam after winning the bid or being chosen in a particular project. A licence for implementing the project in Vietnam is requested.	Circular No. 01/BXD-CSXD.	(1) N.A.* (2) N.A.* (3) N.A.*			

(1) Cross-border supply;

(2) Consumption abroad;

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(4) Presence of natural persons

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
		(4) N.A.* except as indicated in horizontal measures		(4) N.A.*	
<b>7. FINANCIAL SERVICES</b>					
A.	<u>All Insurance and Insurance-Related Services</u> (CPC 812) including:	(1) Foreign service suppliers may provide reinsurance services, import-export goods insurance services, insurance broking services and reinsurance broking services.	Decree No. 100/CP dated 18/12/93 on Insurance Business;	(1) A minimum share of the reinsurance is to be sold to the National Reinsurance Corporation.	
-	Life insurance services (CPC 8121)	(2) Being limited in the share in each reinsurance operation. Vietnamese individuals and organizations are not allowed to purchase insurance abroad for risks arise in Vietnam except the content of the above mentioned point (1). For example, the risks relating to estate located in Vietnam.	Circular No. 78/1998/TT-BTC dated 9/6/198 on Re-Insurance Activities.	(2) N.A.*	
-	Non-life insurance services (CPC 8129)				
-	Reinsurance and retrocession services (CPC 81299)	Foreigners working in Vietnam are allowed to purchase insurance abroad			
-	Services auxiliary to insurance including insurance broking and agent services (CPC 8140)	(3) Foreign insurance suppliers are permitted to be present in Vietnam in the forms of: - joint-venture insurance company; - insurance company with 100% foreign owned capital;		(3) The requirements of legal capital for foreign wholly owned companies are higher than that of domestic and joint-venture enterprises. The details are as follows: - joint-venture enterprises: US\$2 mil.;	

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		<p>- representative offices. Foreign invested insurance companies are not allowed to provide compulsory insurance services.</p> <p>Compulsory insurance services include:</p> <p>- all risks insurance on construction and installation;</p> <p>- civil responsibility insurance for motor vehicle owners (up to the year 2000, insurance against fire is expected to be listed as a compulsory insurance);</p> <p>Foreign capital contribution in a insurance joint-venture shall not exceed 50% of the enterprise's registered capital;</p> <p>Foreign invested insurance enterprises may be subject to limitation on scope of client and operation;</p> <p>Limitations on re-insurance: At least 20% the re-insurance value must be ceded to National Re-insurance Corporation.</p> <p>(4) Foreign natural persons are not allowed to conduct insurance business under any form (including insurance agent) in Vietnam.</p>		<p>- branch of foreign insurance organization and insurance company with 100% foreign invested capital: US\$5mil.;</p> <p>- insurance broking joint-venture: US\$100,000;</p> <p>- branch of insurance broking company with 100% foreign invested capital: US\$300,000.</p>			
				(4) N.A. *			

(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
B.	<u>Banking and Other Financial Services</u>	<p>(1) State-owned enterprises satisfying the following conditions are allowed to receive foreign loans in principle of self-responsible for borrowing and repayment:</p> <ul style="list-style-type: none"> <li>- having profitable and sound operations;</li> <li>- having economic feasibility study approved by ministry or province;</li> <li>- terms and conditions of the loans to be approved by the Ministry of Finance and the State Bank;</li> <li>- having the final approval of the guarantor if a guarantor is requested.</li> </ul> <p>Non-State owned enterprises may receive loans in the principle of self-responsible for borrowing and repayment; having guarantee acceptance of a guarantor in case the guarantee is required</p> <p>Commercial banks satisfying economic needs, having projects to call for foreign loans will apply the ceiling borrowing approved by the State Bank.</p>	<p>Government Decree No. 58/CP dated 30/8/93 Regulations on management of borrowing and serving foreign loans;</p> <p>Regulations on guarantee and re-guarantee for foreign loans (issued with Decision No. 23-QD-NH14 of the Governor of the State Bank dated 21/2/1994;</p> <p>Decision No. 228/QD-NH5 dated 2/12/1993 of the Governor of the State Bank on issuing regulations on raising share capital from foreign shareholders by Vietnamese credit institutions;</p>	(1) N.A.*	

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		(2) Vietnamese enterprises can open and remit money in an account abroad after approved by the State Bank Foreign invested enterprises can open an account abroad to receive foreign loans remittance. (3) Credit institutions are allowed to be present in Vietnam in the following forms: - representative office, - branch of foreign bank, - joint-venture bank, - joint-venture finance leasing companies, - finance leasing companies with 100% foreign invested capital. According to the economic development requirements of Vietnam, the State Bank Governor decides on licensing foreign credit organizations operating in Vietnam. The licence duration of a branch of foreign bank or a joint-venture bank in Vietnam is not more than 20 years. If required, the licence duration may be extended by the State Bank’s approval. The extended duration can not be more than that of the initial licence.	Law on Foreign Investment in Vietnam;  Decree No. 189-HDBT of the Council of Ministers dated 15 June 1991 on Foreign Banks.	(2) N.A.*  (3) N.A.*			

(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

Market Access		National Treatment	
Limitations	Relevant Regulations	Limitations	Relevant Regulations
<p>(a) Foreign credit institution meeting the following conditions are allowed to open representative office in Vietnam:</p> <ul style="list-style-type: none"><li>- being established legally and having licence granted by the competent body of the country of origin;</li><li>- has been operating at least 5 years with sound reputation.</li></ul> <p>(b) The following conditions must be satisfied by the foreign bank who wish to establish its branch in Vietnam:</p> <ul style="list-style-type: none"><li>- coping with the economic development requirements of Vietnam;</li><li>- the foreign bank must undertake in writing to be liable for all obligations and commitments of its branch in Vietnam; the paid-up registered capital shall be no less than US\$15million;</li><li>- the foreign bank must have been operating in the country of origin no less than 5 years and with sound reputation.</li></ul>			

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		<p>(c) To enter into joint-venture with Vietnamese bank the foreign bank must satisfy the following conditions:</p> <ul style="list-style-type: none"><li>- coping with the economic development requirements of Vietnam;</li><li>- the prescribed capital of a joint-venture bank shall be no less than US\$10million;</li><li>- has feasible business plan for the first 3 years.</li></ul> <p>(d) Foreign finance leasing companies must satisfy the following conditions to register business operations in Vietnam: The conditions</p> <ul style="list-style-type: none"><li>- must be a sound reputation company and has three consecutive years of profitable business, established independent finance leasing company in accordance with the laws of Vietnam;</li><li>- the legal capital of the joint-venture and 100% foreign capital finance leasing companies shall be no less than US\$5million.</li></ul>					



(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

Market Access		National Treatment	
Limitations	Relevant Regulations	Limitations	Relevant Regulations
<p>Basing on the needs of economic development and domestic monetary market development, the Governor of the State Bank shall decide on the establishment of financing and banking service companies in Vietnam.</p> <p>The proportion of share capital of foreign shareholders:</p> <ul style="list-style-type: none"><li>- the capital contribution of a single foreign legal entity or one natural person is 10% maximum;</li><li>- the total capital contribution of foreign shareholders is maximum of 30% maximum;</li><li>- in the case of inheritance or after 5 years from the date of capital contribution the shareholder shall have the right to transfer their shares;</li></ul>			

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		<div>- foreign shareholders shall be only permitted in the Management Board with the maximum number of persons equal to the proportion of share contribution of total foreign shareholders and charter capital of the credit organization, but shall not have the right to hold the post of Chairman of Management Board.</div> <div>- natural person, who is a foreign shareholder is not permitted at the same time be a representative of a foreign juridical person in Vietnamese credit organizations;</div> <div>- natural person, who is foreign shareholder or representative of a foreign juridical person are not allowed to participate in Management Board of more than two Vietnamese credit organizations.</div>					
(4)		N.A. *, except as indicated in horizontal measures.		(4)		N.A. *	

(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
(a)	Deposit acceptance services (CPC 81115 - 81119)	<p>(1) N.A.*</p> <p>(2) Vietnamese enterprises can open and remit money in an account abroad after approved by the State Bank. Foreign invested enterprises can open an account abroad to receive foreign loans remittance.</p> <p>(3) Foreign service suppliers can provide services in the following forms:</p> <ul style="list-style-type: none"> <li>- foreign bank branches,</li> <li>- joint-venture banks.</li> </ul> <p>(4) N.A.* except as indicated in horizontal measures</p>	Decision No. 300/QD- NH5 dated 13/11/1996 issued by the Governor of State Bank.	<p>(1) N.A.*</p> <p>(2) N.A.*</p> <p>(3) Limitations on deposit acceptance of the joint-venture bank and foreign bank branches: The acceptance of deposits without term in Vietnamese Dong from Vietnamese individuals and Vietnamese organizations having no credit transaction with the banks shall not exceed 25% of total capital paid up by Bank of original country to it's branch or of charter capital of joint-venture banks</p> <p>(4) N.A.* except as indicated in horizontal measures</p>	
(b)	Lending of all types services (CPC 8113)	<p>(1) N.A.*</p> <p>(2) N.A.*</p> <p>(3) Foreign suppliers are allowed to be present in form of branch or joint-venture bank under the following conditions:</p>	Governmental Decree No. 58/CP dated 30/8/1993 on regulation of foreign borrows and payment of foreign loans	<p>(1) N.A.*</p> <p>(2) N.A.*</p> <p>(3) Branch of foreign bank and joint-venture bank:</p> <ul style="list-style-type: none"> <li>- are not allowed to accept land use right as mortgage;</li> </ul>	Land Law

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

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
		<ul style="list-style-type: none"> <li>- the total outstanding extended to one customer must be less than 10% of the appropriated capital of the supplier (or registered capital) and reserve fund;</li> <li>- the total outstanding extended to the 10 biggest customers must be less than 30% of grand total outstanding extended by the supplier;</li> <li>- the total value of capital mobilized in term of Vietnam Dong shall not exceed the ratio stipulated by the Governor of the State Bank.</li> </ul> <p>(4) N.A. *, except as indicated in the horizontal measures</p>	<p>Circular No 07/TT-NH7 dated 26/3/1994 on borrowing to pay foreign loans of enterprises</p> <p>Decree No 189/HDBT dated 15/6/1991 on operation of foreign bank and joint-venture.</p>	<ul style="list-style-type: none"> <li>- are allowed to guarantee only foreign businesses which attending tender of projects in Vietnam and to grant loans to those tender-winning foreign business for implementing the projects.</li> </ul> <p>Detailed limitations to be specified in the licence.</p> <p>(4) N.A. *, except as indicated in the horizontal measures</p>	<p>Decision No. 217/QDD-NH1 dated 17/8/1996 on regulations on mortgage and guarantee bank loans.</p>
(c)	Finance leasing services (CPC 8112)	<p>(1) N.A. *</p> <p>(2) N.A. *</p> <p>(3) Foreign suppliers are allowed to be present in forms of horizontal sectoral (banking) services:</p>	<p>Decree No. 64/CP dated 9/10/1995 on Promulgating Temporary Regulations on Operation and Functions of the Finance Leasing Companies in Vietnam.</p>	<p>(1) N.A. *</p> <p>(2) N.A. *</p> <p>(3) N.A. *</p>	

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		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
		<ul style="list-style-type: none"> <li>- the total value of leased assets shall not exceed 30% of self-mobilized capital of the leasing company. In case such value exceeds this ratio, a State Bank's permit in written form is required;</li> <li>- lease time of a leased asset must be at least equal to 60% of required full depreciated time of the leased asset</li> <li>- it shall not utilise more than 25% of it's statutory capital for the purpose of procurement for leasing company's usage;</li> <li>- it's total borrowing capital shall not exceed 20 times of it's own capital;</li> <li>- finance leasing company shall not be allowed to take deposits in any form.</li> </ul>	Circular No. 03/TT-NH5 dated 9/2/1996 of the State Bank of Vietnam on Providing Guidelines on Implementation of Temporary Regulations on Operation and Functions of the Finance Leasing Company in Vietnam.		
		(4) N.A. *, except as indicated in the horizontal measures		(4) N.A. *	
(d)	Payment and money transmission services (CPC 81339**)	(1) N.A.* (2) N.A.* (3) Foreign suppliers are allowed to be present in forms of horizontal sectoral (banking) services. (4) N.A.*		(1) N.A.* (2) N.A.* (3) N.A.*  (4) N.A.*	

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(e)	Guarantee and commitments services (CPC 81199**)	(1)	N.A.*	Decision No. 23-QD/NH14 dated 21/2/1994 of regulation on guarantee, re-guarantee to borrow foreign capital		(1)	N.A.*		
		(2)	N.A.*			(2)	N.A.*		
		(3)	A bank providing guarantee services shall establish Guarantee and Re-guarantee Fund:			(3)	N.A.*		
			- the total guarantees and re-guarantees must not exceed 20 times of the Fund's capital.						
			- the total guarantees and re-guarantees for one customer shall not exceed 10% of total value of guarantees and re-guarantees. Total value of guarantees of the 10 biggest customers must not exceed 30% of total value of assets guaranteed by the bank.						
			Prior to providing guarantee, re-guarantee services of 10% more than the total allowed value of guarantees, re-guarantees, the Fund has to submit its request to the State Bank for approval.						
		(4)	N.A.* , except as indicated in horizontal measures.			(4)	N.A.*		
(g)	Trading for own account or for account of customers (CPC 81333 + 81339**)	(1)	N.A.*			(1)	N.A.*		
		(2)	N.A.*			(2)	N.A.*		
		(3)	Foreign bank branch and joint venture bank are allowed to do business within it’s licence terms:			(3)	N.A.*		

(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

Market Access		National Treatment	
Limitations	Relevant Regulations	Limitations	Relevant Regulations
<p>(a) Buying and selling foreign currency;</p> <p>(b) Participating in interbanking foreign currency market:</p> <ul style="list-style-type: none"><li>- total value of foreign currency for single transaction in the market must be US\$50,000.00 minimum,</li><li>- exchange rate to be determined by the State Bank.</li></ul> <p>(c) Applying exchange rate and interest rate instruments such as SWAPS and FORWARD: the commercial banks are allowed to carry out FORWARD transaction on the inter-banking market.</p> <p>(d) Participating in Bill markets, including Bill market for banks and between banks and customers:</p> <ul style="list-style-type: none"><li>- issued, transferable and valid bonds to be transacted in the Bill purchasing market:</li></ul>			

(1) Cross-border supply;		(2) Consumption abroad:		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		+ treasury bill, + promissory notes issued by commercial banks under permission of the State Bank, + State Bank bill; - participating in bond market under supply-demand balance. Buying and selling price of State Bank bill is stipulated by the State Bank; - total value of single inter-banking transaction is VND10 mln. minimum. (e) Participating in the bid of treasury bills. (4) N.A. *, except as indicated in horizontal measures					
				(4) N.A.*			
8. HEALTH RELATED AND SOCIAL SERVICES							
(CPC 9311)		(1) N.A.* (2) N.A.* (3) Foreign services suppliers are allowed to be present in form of:	Government Decree No. 06/CP dated 29/1/1994 on guidelines for the	(1) N.A.* (2) N.A.* (3) N.A.*			



(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

Market Access		National Treatment	
Limitations	Relevant Regulations	Limitations	Relevant Regulations
<ul style="list-style-type: none"><li>- joint-venture hospital;</li><li>- joint-venture diagnosis clinic;</li><li>- cooperation business on the basis of medical technical contracts;</li><li>- 100% foreign capital diagnosis and treatment clinic.</li></ul> <p>The diagnosis and treatment clinic to be certified and approved by the Ministry of Health. Such certificate has the initial validity of 5 years from the issuing date.</p> <p>Requirement for minimum registered capital: US\$20 mil. for hospital services; US\$2 mil. for general diagnosis clinic services; US\$1 mil. for specialized diagnosis clinic services.</p> <ul style="list-style-type: none"><li>- number of patient beds based on an economic needs requirement.</li></ul>	<p>Ordinance on Private Medical Performance;</p> <p>Circular No. 07/BYT-TT on guidelines for the Ordinance on Private Medical Performance;</p> <p>Law on Foreign Investment in Vietnam;</p> <p>Circular No. 22/BYT-TT dated 29/1/1994; annex providing guidelines of foreign investment law in diagnosis and treatment services.</p>		

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		<p>- project duration: 20 years and 30 years for projects with registered capital of less than US\$20 mil. and more than US\$20 mil. respectively. At the end of the said duration, if the foreign partner transfers assets to Vietnamese party without compensation, the original duration could be extended for 5 years more. The extra large projects could be granted longer duration.</p> <p>(4) Foreign medical employees must be general or specialized doctors having working experience for at least 5 years in hospitals. Foreign director of hospital with foreign invested capital must hold professional certificates accepted by the Vietnam Ministry of Health.</p>		(4) N.A. *			
9. TOURISM AND TRAVEL-RELATED SERVICES							
A. <u>Hotels</u> (excluding food serving services)		<p>(1) N.A. *</p> <p>(2) N.A. *</p> <p>(3) Foreign suppliers are permitted to be present under the forms of joint-venture and 100% foreign invested capital in certain circumstances.</p>	<p>Circular No. 215/UB/LXT dated 8/2/1995 of State Committee for Cooperation and Investment guiding foreign investment in Vietnam.</p>	<p>(1) N.A. *</p> <p>(2) N.A. *</p> <p>(3) N.A. *</p>			

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

	Market Access		National Treatment	
	Limitations	Relevant Regulations	Limitations	Relevant Regulations
	(4) N.A. *, except as indicated in horizontal measures.		(4) N.A. *	
- Restaurant services	(1) N.A. * (2) N.A. * (3) Restaurant services are permitted to be supplied as a package with investment in hotel business. (4) N.A. *, except as indicated in horizontal measures.	Circular No. 215/UB/LXT dated 8/2/1995 of State Committee for Cooperation and Investment guiding foreign investment in Vietnam.	(1) N.A. * (2) N.A. * (3) N.A. *  (4) N.A. *	
B. <u>Travel Agency and Tour Operator Services</u> (CPC 7471)	(1) Permitted (2) N.A. * (3) Foreign suppliers are allowed to provide services in the form of joint-venture: - duration of a joint-venture with legal capital of US\$1-1.5 mill. is 7-10 years. Maximum duration of a joint-venture with legal capital of US\$1.5-2 million is 15 years; - foreign capital contribution must not exceed 49% of joint-venture's legal capital; The minimum amount of legal capital is US\$1 million;	Circular No. 972/TCDL dated 25/8/1997 by Administration of Tourism on management of tourism and travel operation.	(1) N.A. * (2) N.A. * (3) N.A. *	

(1) Cross-border supply;		(2) Consumption abroad;		(3) Commercial presence;		(4) Presence of natural persons	
		Market Access		National Treatment			
		Limitations	Relevant Regulations	Limitations		Relevant Regulations	
		- operating inbounds (making arrangements for foreign tourists to and from Vietnam only, excluding domestic travel operations).  (4) N.A. *, except as indicated in horizontal measures		(4) N.A. *			
C.	<u>Tourist Guide Services</u> (CPC 7472)	(1) Not permitted (2) N.A.* (3) Not permitted (4) Not permitted	Regulation of the Administration of Tourism on tourist guide dated 10/4/1994.	(1) Not permitted (2) N.A.* (3) Not permitted (4) Not permitted			
11. TRANSPORT SERVICES							
A.	<u>Maritime Transport Services</u>	(1) Foreign maritime carriers can only carry freight, passengers between Vietnamese seaports under permission of the Minister of Transportation in particular circumstances (2) NA* (3) Foreign maritime carriers are permitted to provide maritime freight, passenger transportation services by establishing joint-venture or conducting business co-operation contracts.  (4) Number of foreign personnel on a vessel owned by joint-venture enterprises is limited to 30% of vessel’s crew. Either master or mate must be Vietnamese.	Government Decree No. 10/1998/ND-CP dated 23/1/1998.  Governmental Decree No. 91/CP dated 23/8/1997.	(1) Seaport charges and fees may be higher for foreign vessels and boats than Vietnamese vessels and boats operating between Vietnamese seaports. (2) NA* (3) Vessels, boats of enterprises operating under the Law on Foreign Investment in Vietnam could be subject to seaport charges, fees higher than those imposed on vessels, boats of Vietnamese persons, organization when operating between Vietnamese seaports. (4) N.A. *, except as indicated in horizontal measures		Decision No. 127/VGCP-CNTD-DV dated 28/10/1997 of the Governmental Pricing Committee.	
(a)	Passenger transportation (CPC 7211)						
(b)	Freight transportation (CPC7212)						

(1) Cross-border supply;

(2) Consumption abroad;

(3) Commercial presence;

(4) Presence of natural persons

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
(f)	Supporting Services for Maritime Transport (CPC 7452, 7459, 748)	(1) N.A.* (2) N.A.*  (3) Foreign services suppliers are not permitted to supply maritime transportation agency services, maritime broking services and pilot services in Vietnam. (4) N.A.* , except as indicated in horizontal measures	Decision No. 2188/QD-VT dated 23/10/1992 of the Minister of Transportation;  Decision No. 2884/QD-PC dated 17/11/1994 of the Minister of Transportation.	(1) N.A.* (2) N.A.*  (3) N.A.*  (4) N.A.*	
B.	<u>Internal Waterways Transport</u>				
(a)	Passenger transportation (CPC 7221),	(1) Foreign carriers are permitted to supply waterway freight and passenger transportation services within Vietnam only with permission of the Minister of Transportation. (2) N.A.*	Decree No. 40/CP dated 5/7/1996 of the Government;  Decree No. 10/1998/ND-CP dated 23/1/1998 of the Government.	(1) N.A.*  (2) N.A.* (3) N.A.*	
(b)	Freight transportation (CPC 7222)	(3) Foreign carriers are permitted to supply internal waterway passenger transportation services by establishing joint-venture or conducting business co-operation contract. (4) N.A.* , except as indicated in horizontal measures		(4) N.A.*	
C.	<u>Air Transport Services</u>				
(d)	Maintenance and repair of aircraft	(1) N.A.* (2) N.A.* (3) 2 joint-ventures are permitted only. Foreign capital contribution is not allowed more than 40% of legal capital.	Law on Vietnam Civil Aviation;  Law on Foreign Investment in Vietnam.	(1) N.A.* (2) N.A.* (3) N.A.*	

(2) Consumption abroad:

(3) Commercial presence;

(4) Presence of natural persons

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
		(4) N.A.*		(4) N.A.*	
(e)	Supporting services for air transport	(1) CRS suppliers can provide the services under requirements of airlines companies having regular flights to Vietnam. Each airlines company is allowed to nominate one CRS supplier.	Law on Vietnam Civil Aviation.	(1) N.A.*	
-	Computer reservation services (CRS) (CPC 746*)	(2) N.A.* (3) Airlines companies having regular flights to Vietnam are permitted to supply services via: - joint-venture; - ticket booking office; - general agent. Foreign suppliers can set up joint-venture providing this services in Vietnam. Foreign capital contribution must not exceed 40% of the joint-venture's legal capital. Foreign airline companies having regular flights to Vietnam are allowed to use CRS only in their ticket booking offices or general agents in order to serve their own activities. (4) N.A.* , except as indicated in horizontal measures	Bilateral Aviation Agreements	(2) N.A.* (3) N.A.*	
				(4) N.A.*	
-	Sale and marketing of air products services	(1) N.A.* (2) N.A.*	Law on Vietnam Civil Aviation;	(1) N.A.* (2) N.A.*	

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

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
		(3) Only foreign airlines having flights to Vietnam are allowed to provide this service. (4) N.A. *, except as indicated in horizontal measures.	Bilateral Aviation Agreements.	(3) N.A. * (4) N.A. *	
E.	<u>Rail Transport Services</u>	(1) N.A. * (2) N.A. *	Governmental Decree No. 10/1998/ND-CP dated 23/1/1998.	(1) N.A. * (2) N.A. *	
(a)	Passenger Transportation (CPC 7111),	(3) Foreign services suppliers are permitted to supply freight or passenger rail services by establishing joint-venture enterprises or conducting business co-operation contract.		(3) N.A. *	
(b)	Freight transportation (CPC 7112)	(4) N.A. *, except as indicated in horizontal measures		(4) N.A. *	
F.	<u>Road Transport Services</u>	(1) N.A. * (2) N.A. *	Governmental Decree No. 10/1998/ND-CP dated 23/1/1998.	(1) N.A. * (2) N.A. *	
(a)	Passenger transportation	(3) Foreign carriers are permitted to supply passenger road transportation services by setting up joint-venture with Vietnamese counterparts or conducting business co-operation contract.		(3) N.A. *	
(b)	Freight transportation	(4) N.A. *, except as indicated in horizontal measures		(4) N.A. *	
H.	<u>Services Auxiliary to All Modes of Transport</u>	(1) N.A. * (2) N.A. *	Decision No 1991 QD/VT dated 28/9/1992 of the Minister of Transportation.	(1) N.A. * (2) N.A. *	
(c)	Freight transport agency services (CPC 748)	(3) Foreign suppliers are not allowed to provide freight transportation agency services. (4) N.A. *		(3) N.A. * (4) N.A. *	

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

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
12.	OTHER SERVICES NOT INCLUDED ELSEWHERE				
A.	<u>Industrial Services</u>	(1) N.A.* (2) N.A.*	Mineral Law dated 20/3/1996;	(1) N.A.* (2) N.A.*	
(a)	Mineral exploration services	(3) (a) Mineral exploration in continental shelf (except oil and gas): - each company may be granted 5 exploration licences maximum. The exploration area of one licence is less 200 km2. (b) Exploration of precious metals : - each company may be granted 5 exploration licences maximum. The exploration area of one licence is less 50 km2. (c) Exploration of coal, metal and other non-metal minerals: - each company may be granted 5 exploration licences maximum. The exploration area of one licence is less 100 km2. (d) Exploration of mineral water: - each company may be granted 5 exploration licences maximum. The exploration area of one licence is less 1 km2. (4) N.A.* except as indicated in horizontal measures	Decree No. 68/CP dated 6/11/1996 detailed the implementation of the Mineral Law.	(3) N.A.*	
				(4) N.A.*	



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

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
(b)	Mineral mining and processing services	(1) N.A.* (2) N.A.* (3) Foreign service suppliers are permitted to be present in Vietnam in the forms of joint-venture or 100% foreign invested capital company (except exploitation of gemstones). - the duration of exploitation shall be based on the feasibility study and deposit capacity of the mine; - export of raw mineral materials is limited (4) N.A.* except as indicated in horizontal measures.	Law on Foreign Investment in Vietnam.	(1) N.A.* (2) N.A.* (3) N.A.* (4) N.A.*	
B.	<u>Services in Petroleum Industry</u>				
(a)	Petroleum exploration services	(1) N.A.* (2) N.A.* (3) Services suppliers are permitted to conduct product sharing contract (PSC), joint-venture contract, business co-operation contract. The exploration area of one contract is not of more than 2 lots (maximum 4 lots for special case) - duration of above contracts is not more than 26 years (36 years for special case).	Petroleum Law.	(1) N.A.* (2) N.A.* (3) N.A.*	

(1) Cross-border supply;

(2) Consumption abroad:

(3) Commercial presence;

(4) Presence of natural persons

		Market Access		National Treatment	
		Limitations	Relevant Regulations	Limitations	Relevant Regulations
		(4) N.A.* except as indicated in horizontal measures		(4) N.A.*	
C.	<u>Fishery Services</u>	(1) N.A.*	Decree No. 93/CP dated 27/11/1993;	(1) N.A.*	
(a)	Services incidental to fishing	(2) N.A.*	Decree No. 15/CP dated 19/3/1996;	(2) N.A.*	
		(3) Foreign suppliers are permitted to be present in form of joint ventures:	Circular No. 02 TS/TT dated 25/6/1994.	(3) N.A.*	
		- subject to economic needs, joint venture company may be allowed to operate fishing in Vietnamese territorial waters at the long distance;			
		- foreign personnel on a vessel is limited to one third of the crew;			
		- either Master or mate must be a Vietnamese citizen.			
		(4) N.A.* except as indicated in horizontal measures		(4) N.A.*	

\* Limitation-specific policy not available. To be formulated and notified later.

# LIST OF ARTICLE II (MFN) EXEMPTIONS

Sectors or sub-sectors	Description of measures (to be applied to sector) indicating its inconsistency with Article II	Countries to which the measures applied	Intended duration	Conditions creating the need for the exemption
All sectors		ASEAN Countries	Indefinite	Bilateral or regional agreements
<u>Air transport</u> - Aircraft repairing and maintenance services; - selling and marketing of air transport products services; - computer reservation services;	Bilateral agreement based on reciprocity treatment.	Countries which have been conducting Bilateral Aviation Agreement with Vietnam.	Indefinite.	Based on reciprocity treatment.
International maritime freight transport	Cargo sharing: - Maritime Agreement between the Government of Vietnam and the Government of Kingdom of Thailand.	The Kingdom of Thailand	10 years	Bilateral Agreement
Sea-transport services - Internal road freight transportation by lorry; - cargo storage and warehousing; - container yard	The three subsectors are subject to preferential treatment under Maritime Agreement between Vietnam and Singapore	Republic of Singapore	10 years	Bilateral Agreement
Fishery services	Bilateral agreement based on reciprocity treatment	All countries	Indefinite	Reserving and developing natural resources on the basis of reciprocity treatment.