

ASEAN – HONG KONG, CHINA

FREE TRADE AGREEMENT

CHAPTER 8 TRADE IN SERVICES

ANNEX 8-1

SCHEDULES OF SPECIFIC COMMITMENTS

SCHEDULE OF INDONESIA

INDONESIA – SCHEDULE OF SPECIFIC COMMITMENTS

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

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

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	<p>4) Subject to Indonesian Labour and Immigration Laws and Regulations, only directors, managers and technical experts/advisors, unless mentioned otherwise, are allowed to stay for two years and could be extended for a maximum two times subject to two years extension each time. Manager and technical experts (intra corporate transfer) are allowed based on an economic needs test.</p> <p>The entry and temporary stay of business visitor(s) is (are) permitted for a period of 60 days and could be extended maximum for 120 days.</p>	<p>Bangunan), and they may rent/lease land and property.</p> <p>4) Expatriate Charges</p> <p>Any foreign natural persons supplying services are subject to charges levied by Governments</p> <p>Labor Laws and Regulations</p> <p>Any expatriate employed by a joint venture enterprise, representatives office, and/or other types of juridical person and/or an individual services provider must hold a valid working permit issued by the Ministry of Manpower.</p> <p>Any juridical and natural persons shall meet professional qualification requirements.</p>	

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<p>Definitions:</p> <p>"Director": One or a group of persons entrusted by the shareholders of a services providing entity with the final overall control and direction of the enterprise, and legally responsible to act on behalf of the enterprises inside and/or outside of the court.</p> <p>"Manager": Senior employee of a service supplier who primarily directs the management of the organization, receiving general supervision or direction principally from the board of directors of the business, including directing the service supplier or a department or sub-division thereof, supervising or controlling the work of other supervisory, professional or managerial employee.</p> <p>"Technical Expert/Advisor": Person employed by a service supplier who possesses a standard of high or common (i) qualifications referring to a type of work or trade requiring specific technical knowledge or (ii) knowledge essential or proprietary to the service, research equipment, techniques or management.</p> <p>"Joint Operator": A joint operation is an undertaking between one or several foreign and Indonesian enterprises of temporary nature, to handle one or several project/businesses without establishing a new statutory body according to Indonesian laws.</p> <p>"Joint venture Enterprise": A joint venture enterprise is a legal entity organized under Indonesian law and having its domicile in Indonesia, in the form of cooperation between foreign capital and Indonesian (national) capital.</p> <p>"Contract Management": Contract management is a contract organized under Indonesian law in the form of cooperation on management of temporary nature between Indonesian (national) capital and foreign capital.</p> <p>Business visitor(s) is (are) natural person staying in Indonesia for the purpose of participating in business meeting, business contacts including negotiations for the sales of services and/or other similar activities including those who prepare for the establishment of a commercial presence in Indonesia, without acquiring remuneration and/or any other direct income from within Indonesia, and are not engaged in making direct sales or supplying services to general public.</p>			

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II. SECTOR-SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
F. Other Business Services			
<u>ENERGY SERVICES</u>			
General condition on energy services			
Indonesia's Schedule of Specific Commitments on energy services sector based on 2nd Revised Indonesian proposal of energy services classification.			
<p>Core analysis and other Lab Test, only for Isotop Analysis</p> <ul style="list-style-type: none"> - According to Indonesia Proposal of Energy Services Classification is under: Isotop Analysis (1A.2.7.3.) - According to W120 is under: Business Services on Technical Testing and Analysis Services (CPC 8676) 	<ul style="list-style-type: none"> 1) None 2) None 3) Joint operation through a representative office in Indonesia 4) Unbound 	<ul style="list-style-type: none"> 1) None 2) None 3) As specified in the Horizontal Section 4) Unbound 	

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<p>Geological and geophysical services, only for seismic data acquisition</p> <ul style="list-style-type: none"> - According to Indonesia Proposal of Energy Services Classification is under: Seismic Data Acquisition (1A.1.4.1.1.) - According to W120, Seismic Data Acquisition is under: Business Services on Subsurface Surveying Services (CPC 86752) 	<ul style="list-style-type: none"> 1) None 2) None 3) Joint operation through a representative office in Indonesia 4) Unbound 	<ul style="list-style-type: none"> 1) None 2) None 3) As specified in the Horizontal Section 4) Unbound 	
<p>Liquefaction and Gasification - only for Coal</p> <ul style="list-style-type: none"> - According to Indonesia Proposal of Energy Services Classification is under: <ul style="list-style-type: none"> - Coal Liquefaction (2.4.4.4.) - Coal Gasification (2.4.4.5.) 	<ul style="list-style-type: none"> 1) None 2) None 3) Joint operation through a representative office in Indonesia 4) Unbound 	<ul style="list-style-type: none"> 1) None 2) None 3) As specified in the Horizontal Section 4) Unbound 	

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According to W120 is under: Services Incidental to Manufacturing (CPC 884)			
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES			
A. General construction work for building			
Construction work for building (CPC 512 except CPC 51210)	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) Joint operation by establishing a representative office in Indonesia. License for representative office shall be valid for 3 years and can be extended.</p> <p>(b) Joint venture company by fulfilling the requirements as specified in the Horizontal Section and the Foreign Capital Investment Law.</p> <p>Not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) (a) 1. License fee requirement</p> <p>2. Registered foreign company shall form a joint operation with local partner(s) which is (are) registered by Construction Services Development Board and having qualification A/Big.</p> <p>(b) Local partner(s) in joint venture shall be registered by Construction Services Development Board and having qualification A/Big.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	partner(s). 4) Unbound, except as indicated in the Horizontal Section	4) Unbound, except as indicated in the Horizontal Section	
B. General construction work for civil engineering			
Construction work for civil engineering (CPC 513)	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) Joint operation by establishing a representative office in Indonesia. License for representative office shall be valid for 3 years and can be extended.</p> <p>(b) Joint venture company by fulfilling the requirements as specified in the Horizontal Section and the Foreign Capital Investment Law.</p> <p>Not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) (a) 1. License fee requirement</p> <p>2. Registered foreign company shall form a joint operation with local partner(s) which is (are) registered by Construction Services Development Board and having qualification A/Big.</p> <p>(b) Local partner(s) in joint venture shall be registered by Construction Services Development Board and having qualification A/Big.</p>	

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	partner(s). 4) Unbound, except as indicated in the Horizontal Section	4) Unbound, except as indicated in the Horizontal Section	
C. Installation and assembly work			
Assembly and erection of prefabricated construction (CPC 514)	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) Joint operation by establishing a representative office in Indonesia. License for representative office shall be valid for 3 years and can be extended.</p> <p>(b) Joint venture company by fulfilling the requirements as specified in the Horizontal Section and the Foreign Capital Investment Law.</p> <p>Not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) (a) 1. License fee requirement</p> <p>2. Registered foreign company shall form a joint operation with local partner(s) which is (are) registered by Construction Services Development Board and having qualification A/Big.</p> <p>(b) Local partner(s) in joint venture shall be registered by Construction Services Development Board and having qualification A/Big.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	partner(s). 4) Unbound, except as indicated in the Horizontal Section	4) Unbound, except as indicated in the Horizontal Section	
E. Other			
Pre-erection work at construction system (CPC 511 except CPC 51110 and 51113)	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) Joint operation by establishing a representative office in Indonesia. License for representative office shall be valid for 3 years and can be extended.</p> <p>(b) Joint venture company by fulfilling the requirements as specified in the Horizontal Section and the Foreign Capital Investment Law.</p> <p>Not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) (a) 1. License fee requirement</p> <p>2. Registered foreign company shall form a joint operation with local partner(s) which is (are) registered by Construction Services Development Board and having qualification A/Big.</p> <p>(b) Local partner(s) in joint venture shall be registered by Construction Services Development Board and having qualification A/Big.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	partner(s). 4) Unbound, except as indicated in the Horizontal Section	4) Unbound, except as indicated in the Horizontal Section	
Renting Services related to equipment for construction or demolition of building or civil engineering works, with operator (CPC 518)	1) Unbound 2) None 3) (a) Joint operation by establishing a representative office in Indonesia. License for representative office shall be valid for 3 years and can be extended. (b) Joint venture company by fulfilling the requirements as specified in the Horizontal Section and the Foreign Capital Investment Law. Not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign partner(s).	1) Unbound 2) Unbound 3) (a) 1. License fee requirement 2. Registered foreign company shall form a joint operation with local partner(s) which is (are) registered by Construction Services Development Board and having qualification A/Big. (b) Local partner(s) in joint venture shall be registered by Construction Services Development Board and having qualification A/Big.	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	4) Unbound, except as indicated in the Horizontal Section	4) Unbound, except as indicated in the Horizontal Section	
Foundation work including pile driving (CPC 51510)	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) Joint operation by establishing a representative office in Indonesia. License for representative office shall be valid for 3 years and can be extended.</p> <p>(b) Joint venture company by fulfilling the requirements as specified in the Horizontal Section and the Foreign Capital Investment Law.</p> <p>Not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign partner(s).</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) (a) 1. License fee requirement</p> <p>2. Registered foreign company shall form a joint operation with local partner(s) which is (are) registered by Construction Services Development Board and having qualification A/Big.</p> <p>(b) Local partner(s) in joint venture shall be registered by Construction Services Development Board and having qualification A/Big.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	4) Unbound, except as indicated in the Horizontal Section	4) Unbound, except as indicated in the Horizontal Section	
Gas fitting construction work (CPC 51630)	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) Joint operation by establishing a representative office in Indonesia. License for representative office shall be valid for 3 years and can be extended.</p> <p>(b) Joint venture company by fulfilling the requirements as specified in the Horizontal Section and the Foreign Capital Investment Law.</p> <p>Not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign partner(s).</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) (a) 1. License fee requirement</p> <p>2. Registered foreign company shall form a joint operation with local partner(s) which is (are) registered by Construction Services Development Board and having qualification A/Big.</p> <p>(b) Local partner(s) in joint venture shall be registered by Construction Services Development Board and having qualification A/Big.</p>	

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	4) Unbound, except as indicated in the Horizontal Section	4) Unbound, except as indicated in the Horizontal Section	
7. FINANCIAL SERVICES			
Non-Banking Sub-Sector			
General condition on Non Banking Financial Services Sub-sector:			
<ol style="list-style-type: none"> 1. The share ownership of foreign services suppliers is bound at the prevailing laws and regulations. The conditions of ownership and the percentage share of ownership as stipulated in the respective shareholder agreement establishing the existing individual joint venture in non banking financial services shall be respected. No transfer of ownership shall take place without the consent of all parties in the joint venture concerned. 2. In addition to the Horizontal Measures, temporary entry will be granted to technical expert(s)/advisor(s) for no longer than 3 (three) months per person for any given year. 3. Share of non-bank financial companies listed in the stock exchange may be 100% owned by foreign investors. 4. In relation to the presence of natural person, only directors, managers, and experts/advisors can be assumed by expatriates with maximum stay of 3 (three) years and can be extended. 5. All joint venture companies shall provide training for their employees. 			
Factoring Services (CPC 8113)	<ol style="list-style-type: none"> 1) Unbound except for international factoring transaction 2) None 3) As specified in the Horizontal Section and 	<ol style="list-style-type: none"> 1) Unbound 2) None 3) As specified in General Condition 	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p style="text-align: center;">General Conditions</p> <p>4) Unbound, except as indicated in the Horizontal Section</p>	<p>4) Unbound, except as indicated in the Horizontal Section</p>	
9. TOURISM AND TRAVEL RELATED SERVICES			
A. Hotels and restaurants (incl. catering)			
<p>Hotel (CPC 64110)</p> <p>(3, 4 and 5 starred hotels)</p>	<p>1) None</p> <p>2) None</p> <p>3) In East Indonesia and Sumatra FEP is up to 100%</p> <p>4) Unbound, except for:</p> <p style="margin-left: 20px;">a. Top Management Level in Hotel business comprised of:</p> <p style="margin-left: 40px;">i. General Manager</p> <p style="margin-left: 40px;">ii. Food and Beverage Manager</p> <p style="margin-left: 40px;">iii. Comptroller (only for 4 and 5 starred</p>	<p>1) None</p> <p>2) None</p> <p>3) Higher paid-up capital is required of foreign services suppliers than of domestic suppliers. This measure will be eliminated in the year 2020.</p> <p>4) Unbound, except as indicated in the Horizontal Section</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p style="text-align: center;">hotels)</p> <p style="text-align: center;">iv. Marketing Director (only for 4 and 5 starred hotels)</p> <p style="text-align: center;">b. Highly-skilled Professionals comprised of:</p> <p style="text-align: center;">i. Executive Chef</p> <p style="text-align: center;">ii. Sous Chef (only for 4 and 5 starred hotels)</p> <p style="text-align: center;">iii. Specialty Cook</p>		
<p>Tourist Resorts including:</p> <ul style="list-style-type: none"> - Hotels (3,4, and 5 star) - Golf Courses and other Sport Facilities 	<p>1) None</p> <p>2) None</p> <p>3) In East Indonesia and Sumatra FEP is up to 100%</p> <p>4) Unbound, except for Resort Managers</p>	<p>1) None</p> <p>2) None</p> <p>3) Higher paid-up capital is required of foreign services suppliers than of domestic suppliers. This measure will be eliminated in the year 2020.</p> <p>4) Unbound, except as indicated in the Horizontal Section</p>	

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Meal Serving Services with Full Restaurant Services (CPC 64210)	<ul style="list-style-type: none"> 1) None 2) None 3) FEP is up to 51% in all areas 4) Unbound, except for: <ul style="list-style-type: none"> a. Top Management Level in Hotel Business comprised of: <ul style="list-style-type: none"> i. General Manager ii. Food and Beverage Manager iii. Resident Manager iv. Comptroller (only for 4 and 5 starred hotels) v. Marketing Director (only for 4 and 5 starred hotels) 	<ul style="list-style-type: none"> 1) None 2) None 3) Subject to prevailing local government's laws regarding to the moral or public order in accordance with Article XIV (a) of the GATS 4) Unbound, except as indicated in the Horizontal Section 	

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	b. Highly-skilled professionals comprised of: <ul style="list-style-type: none"> i. Executive Chef ii. Sous Chef (only for 4 and 5 starred hotels) iii. Specialty Cook 		
B. Travel agencies and tour operators services			
Travel Agent and Tour Operator (TA & TO) (CPC 74710)	1) None 2) None 3) Maximum services providers total up to 30 TA & TO 4) Unbound, except for technical advisor	1) None 2) None 3) Tour operator must be Travel Agent located in Jakarta and Bali 4) Unbound, except as indicated in the Horizontal Section	