

ASEAN – HONG KONG, CHINA FREE TRADE AGREEMENT

**Specific Commitments¹ of ASEAN Member States (AMS) on
Distribution Services**

Modes of supply²: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|------------------------------|-----------------------------|-------------------------------------|--|
| Brunei Darussalam | No commitment | Not applicable | Not applicable |

¹ As extracted from the Schedules of Specific Commitments of ASEAN Member States. The full schedules can be found in Trade and Industry Department's website at http://www.tid.gov.hk/english/ita/fta/hkasean/text_agreement.html.

² See explanatory note at Annex.

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|--|---|---|---|
| Cambodia | A. Commissions agents' services | | |
| | 1. Commission agents' services (CPC 621) | 1) None | 1) None |
| | | 2) None | 2) None |
| | | 3) None | 3) None |
| | | 4) Unbound, except as indicated in the horizontal section | 4) Unbound, except as indicated in the horizontal section |
| | B. Wholesale trade services | | |
| 2. Wholesale trade services | 1) None | 1) None | |
| Wholesale trade services of motor vehicles (CPC 61111) | 2) None | 2) None | |
| | 3) None | 3) None | |
| Sales of parts of motor vehicles (CPC 6113) | 4) Unbound, except as indicated in the horizontal section | 4) Unbound, except as indicated in the horizontal section | |
| Sales of motorcycles and related parts (CPC 6121) | | | |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|--|--|--|
| | Wholesale trade services of radio and television equipment, musical instruments and records, music scores and tapes (CPC 62244) | | |
| | C. Retailing services | | |
| | 3. Retailing services - Retail sales of motor vehicles (CPC 61112); - Sales of parts of motor vehicles (CPC 6113); - Sales of motorcycles and related parts (CPC 6121) For supermarkets and large department stores only ² : - Food and non-food | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----------------------|--|------------------------------|-----------------------------------|
| | <p>retailing services (CPC631+632), excluding sales of pharmaceutical goods, medical and orthopaedic goods (CPC63211).</p> <p>- Retailing services of radio and television equipment, music instruments, music scores, and audio and video records and tapes (CPC 63234)</p> <hr/> <p>² Large supermarkets and department stores are those of floor space no less than 2,000 m².</p> | | |
| D. Franchising | | | |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----------------|---|--|--|
| | 5. Franchising services (CPC 8929) | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section |
| E. Other | | | |
| | 6. Other - Retail sales of motor fuel (CPC 613) | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|------------------|-----------------------------|-------------------------------------|--|
| Indonesia | No commitment | Not applicable | Not applicable |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-------------------------------------|--|---|---|
| Lao PDR | <p>DISTRIBUTION SERVICES</p> <p>The distribution of goods under the Controlled List of the Ministry of Industry of Commerce - arms, ammunition, explosives and explosive substances, highly toxic chemicals, narcotics, cultural items, books, newspapers and magazines, precious metals and stones, medicines and medical equipment, endangered species, gambling machines, money printing machines, processed oil and crude oil, alcohols, tobacco products, rice - is excluded from commitments.</p> | | |
| | <p>B. Wholesale trade services</p> | | |
| | <p>B. Wholesale trade services (part of CPC 61111, 6113, 6121)</p> | <p>1) None.</p> <p>2) None.</p> <p>3) Unbound until 2nd February 2020. Thereafter, foreign equity participation limited to 49%. Subject to meeting economic need tests⁶.</p> <p>4) Unbound, except for executives and managers as per conditions in the horizontal section.</p> <p>_____</p> <p>⁶The main criteria include the number of existing service suppliers in a particular geographical area, the stability of market and geographical scale.</p> | <p>1) None.</p> <p>2) None.</p> <p>3) Unbound.</p> <p>4) Unbound, except for executives and managers as per conditions in the horizontal section.</p> |
| <p>C. Retailing Services</p> | | | |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|---|--|--|
| | <p>C. Retailing services (part of CPC 61112, 6113, 6121)</p> | <p>1) Unbound.</p> <p>2) Unbound.</p> <p>3) Unbound.</p> <p>4) Unbound, except for executives and managers as per conditions in the horizontal section.</p> | <p>1) Unbound.</p> <p>2) Unbound.</p> <p>3) Unbound.</p> <p>4) Unbound, except for executives and managers as per conditions in the horizontal section</p> |
| | <p>D. Franchising</p> | | |
| | <p>D. Franchising (part of CPC 8929)⁷</p> <p>⁷ As related to the provision of a distribution service which is subject to a specific commitment under Section II.4 of this Schedule.</p> | <p>1) None.</p> <p>2) None.</p> <p>3) Unbound until 2nd February 2020. Thereafter, foreign equity participation limited to 49%. Subject to meeting economic need tests⁸.</p> <p>4) Unbound, except for executives and managers as per conditions in the horizontal section.</p> <p>⁸The main criteria include the number of existing service suppliers in a particular geographical area, the stability of market and geographical scale.</p> | <p>1) None.</p> <p>2) None.</p> <p>3) Unbound.</p> <p>4) Unbound, except for executives and managers as per conditions in the horizontal section.</p> |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----------------|-----------------------------|-------------------------------------|--|
| Malaysia | No commitment | Not applicable | Not applicable |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|----------------|-----------------------------|-------------------------------------|--|
| Myanmar | No commitment | Not applicable | Not applicable |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|------------------------|----------------------|------------------------------|-----------------------------------|
| The Philippines | No commitment | Not applicable | Not applicable |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|---|---|---|-----------------------------------|
| Singapore | DISTRIBUTION SERVICES_ | | |
| | <u>Horizontal limitations on Market Access and National Treatment</u> | | |
| | Unless otherwise specified, distribution services of any product subject to import prohibition or non-automatic import licensing shall be excluded from the scope of these commitments. | | |
| | Singapore reserves the right and flexibility to modify and / or increase the list of products stipulated in the laws, regulations and other measures governing Singapore's import prohibition or non-automatic import licensing regime. | | |
| | A. Commission Agents' Services | | |
| Commission agents' services except for: pharmaceutical and medical goods and cosmetics (CPC 621, except CPC 62117) | 1) None 2) None 3) None 4) Unbound except as indicated in the horizontal Section | 1) None 2) None 3) None 4) Unbound | |
| B. Wholesale Trade Services | | | |
| Wholesale trade services except for pharmaceutical goods and medical goods and surgical and orthopaedic instruments (CPC 622**) | 1) None 2) None 3) None 4) Unbound except as indicated in the | 1) None 2) None 3) None 4) Unbound | |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|----------------------|------------------------------|-----------------------------------|
| | | horizontal Section | |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|--|---|--|---|
| Thailand | A. Commission agents' services | | |
| | <u>Commission agents' services</u> (CPC 62111 to 62118) | 1) Unbound | 1) Unbound |
| | | 2) None | 2) None |
| | | 3) As indicated in 3.1 of the horizontal section | 3) As indicated in the horizontal section |
| | | 4) Unbound | 4) Unbound |
| | B. Wholesale trade services | | |
| | <u>Wholesale trade services:</u> Wholesale trade services of sports goods (including bicycles) (CPC 62266) | 1) Unbound | 1) Unbound |
| | | 2) None | 2) None |
| | | 3) As indicated in 3.1 of the horizontal section | 3) As indicated in the horizontal section |
| | | 4) Unbound | 4) Unbound |
| D. Franchising | | | |
| <u>Franchising services:</u> Other non-financial intangible assets (CPC 8929) | 1) Unbound | 1) Unbound | |
| | 2) None | 2) None | |
| | 3) As indicated in 3.1 of the horizontal section | 3) As indicated in the horizontal section | |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|---|---|--|
| | | 4) Unbound | 4) Unbound |
| | E. Other | | |
| | <u>Other:</u> Mail order retail trade services of Books, newspapers, magazines and stationery (CPC Version 1.1: part of 623) | 1) Unbound 2) None 3) As indicated in 3.1 of the horizontal section 4) Unbound | 1) Unbound 2) None 3) As indicated in the horizontal section 4) Unbound |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|----------|--|---|---|
| Viet Nam | <p>DISTRIBUTION SERVICES</p> <p><u>Measures applicable to all sub-sectors in Distribution Services:</u></p> <p>Cigarettes and cigars, books, newspapers and magazines, video records on whatever medium, precious metals and stones, pharmaceutical products and drugs²¹, explosives, processed oil and crude oil, rice, cane and beet sugar are excluded from the commitments.</p> <p>_____</p> <p>²¹ For the purposes of this schedule "pharmaceuticals and drugs" do not include non-pharmaceutical nutritional supplements in tablet, capsule or powdered form.</p> | | |
| | A. Commission agents' services | | |
| | <p>Commission agents' services (CPC 621, 61111, 6113, 6121)</p> | <p>1) Unbound, except none for:</p> <ul style="list-style-type: none"> - Distribution of products for personal use; - Distribution of legitimate computer software for personal and commercial use. <p>2) None.</p> <p>3) None, except:</p> | <p>1) Unbound, except as indicated in Mode 1, market access column.</p> <p>2) None.</p> <p>3) None.</p> |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|------------------------------------|--|---|
| | | <p>Foreign-invested companies engaging in distribution services will be permitted to engage in the commission agents', wholesale and retail business of all legally imported and domestically produced products.</p> <p>The establishment of outlets for retail services (beyond the first one) shall be allowed on the basis of an Economic Needs Test (ENT)²³.</p> <p>4) Unbound, except as indicated in the horizontal section.</p> <hr/> <p>²³ Applications to establish more than one outlet shall be subject to pre-established publicly available procedures, and approval shall be based on objective criteria. The main criteria of the ENT include the number of existing service suppliers in a particular geographic area, the stability of market and geographic scale.</p> | <p>4) Unbound, except as indicated in the horizontal section.</p> |
| | B. Wholesale trade services | | |
| | Wholesale trade services | 1) Unbound, except none for: | 1) Unbound, except as indicated in Mode |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|------------------------------|---|---|
| | (CPC 622, 61111, 6113, 6121) | <ul style="list-style-type: none"> - Distribution of products for personal use; - Distribution of legitimate computer software for personal and commercial use. <p>2) None.</p> <p>3) None, except:</p> <p>Foreign-invested companies engaging in distribution services will be permitted to engage in the commission agents', wholesale and retail business of all legally imported and domestically produced products.</p> <p>The establishment of outlets for retail services (beyond the first one) shall be allowed on the basis of an Economic Needs Test (ENT)²³.</p> <p>4) Unbound, except as indicated in the</p> | <p>1, market access column.</p> <p>2) None.</p> <p>3) None.</p> |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|------------------------------|---|---|---|
| | | <p>horizontal section.</p> <hr/> <p>²³ Applications to establish more than one outlet shall be subject to pre-established publicly available procedures, and approval shall be based on objective criteria. The main criteria of the ENT include the number of existing service suppliers in a particular geographic area, the stability of market and geographic scale.</p> | <p>4) Unbound, except as indicated in the horizontal section.</p> |
| C. Retailing Services | | | |
| | <p>Retailing services (CPC 631 + 632, 61112, 6113, 6121)²²</p> <hr/> <p>²² 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.</p> | <p>1) Unbound, except none for:</p> <ul style="list-style-type: none"> - Distribution of products for personal use; - Distribution of legitimate computer software for personal and commercial use. <p>2) None.</p> <p>3) None, except:</p> | <p>1) Unbound, except as indicated in Mode 1, market access column.</p> <p>2) None.</p> <p>3) None.</p> |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|-----------------------|--|---|
| | | <p>Foreign-invested companies engaging in distribution services will be permitted to engage in the commission agents', wholesale and retail business of all legally imported and domestically produced products.</p> <p>The establishment of outlets for retail services (beyond the first one) shall be allowed on the basis of an Economic Needs Test (ENT)²³.</p> <p>4) Unbound, except as indicated in the horizontal section.</p> <hr/> <p>²³ Applications to establish more than one outlet shall be subject to pre-established publicly available procedures, and approval shall be based on objective criteria. The main criteria of the ENT include the number of existing service suppliers in a particular geographic area, the stability of market and geographic scale.</p> | <p>4) Unbound, except as indicated in the horizontal section.</p> |
| | D. Franchising | | |
| | Franchising services | 1) None. | 1) None. |

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

| AMS | Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment |
|-----|----------------------|--|--|
| | (CPC 8929) | 2) None. 3) None. Branching is allowed. 4) Unbound, except as indicated in the horizontal section. | 2) None. 3) None, except that the chief of the branch has to be a resident in Viet Nam. 4) Unbound, except as indicated in the horizontal section. |

- End -

EXPLANATIONS OF THE FOUR MODES OF SUPPLY FOR TRADE IN SERVICES

Cross Border Supply (Mode 1)

The cross border mode of supply refers to the supply of service from the area of an FTA party into the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 1, a service supplier of the other Party of the FTA (i.e. Party B) can supply the service within the area of Party B to service consumers in the area of Party A, without being physically present in the area of Party A. An example is the supply of consultancy service through telecommunications, fax or mail etc.

Consumption Abroad (Mode 2)

The consumption abroad mode of supply refers to the supply of service in the area of an FTA party to the service consumer of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 2, a service supplier of Party B can, within the area of Party B, provide the service to consumers of Party A who are present in the area of Party B. An example is the supply of hotel services.

Commercial Presence (Mode 3)

The commercial presence mode of supply refers to the supply of service by a service supplier of an FTA party, through commercial presence in the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 3, a service supplier of Party B can provide the service within the area of Party A through commercial presence in the area of Party A. This covers the presence of juridical persons (e.g. corporations, joint ventures, partnership, sole proprietorship, trust, association) as well as representative offices, branches etc.

Movement of Natural Person (Mode 4)

The movement of natural person mode of supply refers to the supply of service by a service supplier of an FTA party, through the presence of their natural persons in the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 4, a service supplier of Party B can provide the service within the area of Party A through the presence of natural persons of Party B. This covers natural persons who are themselves service suppliers, as well as natural persons who are employees of service suppliers (e.g. accountants of accounting firms).