

ASEAN – HONG KONG, CHINA FREE TRADE AGREEMENT

**Specific Commitments¹ of ASEAN Member States (AMS) on
Educational 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	D. Adult education		
	Adult Education (CPC 924) Course with the maximum duration of 3 months (Private education)	1) None 2) None 3) (i) Through joint venture, with foreign equity participation shall not exceed 49%. (ii) Foreign employees not exceeding 10% of the workforce. 4) Unbound	1) None 2) None 3) Unbound 4) Unbound
	E. Other education services		
	Foreign Language Training Centre (CPC 929)	1) None 2) None	1) None 2) None

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.

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AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment
		3) Foreign Equity participation should not exceed 49%. 4) Unbound	3) Majority of senior managers in any such enterprise are Bruneian nationals 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	Additional commitment
Cambodia	C. Higher education services			
	Higher education services (CPC 923)	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	Cambodia will seek to establish an independent national accrediting process for market purposes in education and professional services which is in keeping with global practice.
	D. Adult education			
	Adult education (CPC 924)	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	Cambodia will seek to establish an independent national accrediting process for market purposes in education and professional services which is in keeping with global practice.
	E. Other education services			
	Other education services	1) None	1) None	Cambodia will seek to

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AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional commitment
	(CPC 929)	2) None 3) None 4) Unbound, except as indicated in the horizontal section	2) None 3) None 4) Unbound, except as indicated in the horizontal section	establish an independent national accrediting process for market purposes in education and professional services which is in keeping with global practice.

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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	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
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	Specific commitments on Market Access and National Treatment through any mode of supply shall not be construed to apply to the recognition of university degrees for the purposes of admission, registration and qualification for professional practice in Singapore.		
	D. Adult education		
	Adult education services (CPC 924 n.e.c.)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal Section	1) None 2) None 3) None 4) Unbound
	E. Other education services		
Short term training including language courses (CPC 92900 **)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal Section	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
Thailand	<u>Commitments undertaken in this schedule are subject to the following general conditions:</u>		
	<ul style="list-style-type: none"> - Specific commitments on Market Access and National Treatment through any mode of supply shall not be construed to apply to the recognition of degrees for the purpose of admission, registration and qualification for a higher education, employment or professional practice in Thailand - Services suppliers may be subject to notification or registration with the authority concerned 		
	A. Primary education services		
	A. <u>Primary education services</u> (CPC 921**) International and national school education services (CPC 9219)	1) Unbound 2) None 3) As indicated in 3.1 of the horizontal section 4) Unbound	1) Unbound 2) None 3) (a) the person of the representative of the juridical person who apply for a license must be of Thai national. (b) the school director and deputy director must be Thai nationals. (c) the school manager/executive manager must be Thai nationals. 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
	B. Secondary education services		
	B. <u>Secondary education services</u> (CPC 922**)	1) None	1) None
	General secondary education services (CPC 9221)	2) None	2) None
	Higher secondary education services (CPC 9222)	3) As indicated in 3.1 of the horizontal section	3) (a) the person of the representative of the juridical person who apply for a license must be of Thai national. (b) the school of director and deputy director must be Thai nationals.
	Technical and vocational education services (CPC 9223)		(c) the school manager/executive manager must be Thai nationals.
	Technical and vocational education services for handicapped students (CPC 9224)	4) Unbound	4) Unbound
	C. Higher education services		
	C. <u>Higher education services</u> (CPC923)	1) Unbound	1) Unbound
		2) None	2) 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
		3) Unbound 4) Unbound	3) Unbound 4) Unbound
	Science and technology faculty (part of CPC 92390)	1) None 2) None 3) As indicated in 3.2 of the horizontal section 4) Unbound	1) Unbound 2) None 3) At least half of the Members of the University Council must have Thai nationality and that services suppliers in this sector must comply with Private Higher Education Institution Act B.E. 2546 (2003) 4) Unbound
	D. Adult education		
	Professional and/or Short Courses Education Services (CPC 92400)	1) Unbound 2) None 3) As indicated in 3.1 of the horizontal section	1) Unbound 2) None 3) (a) the person of the representative of the juridical person who apply for a

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	<p>license must be of Thai national.</p> <p>(b) the school director and deputy director must be Thai nationals.</p> <p>(c) the school manager/executive manager must be Thai nationals.</p> <p>4) Unbound</p>
E. Other education services			
	<p>E. <u>Other education services:</u> (CPC 92900)</p> <p>Foreign language tuition services (CPC 92900**)</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) As indicated in 3.1 of the horizontal section</p> <p>(b) At least half of its director(s), and if applicable its managing director, must be the person of Thai nationality</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) (a) the person of the representative of the juridical person who apply for a license must be of Thai national.</p> <p>(b) the school director and deputy director must be Thai nationals.</p> <p>(c) the school manager/executive</p>

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AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment
		4) Unbound	manager must be Thai nationals. 4) Unbound

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Viet Nam	Only in technical, natural sciences and technology, business administration and business studies, economics, accounting, international law and language training fields.		
	With regard to points (C), (D), and (E) below: The education content must be approved by Viet Nam's Ministry of Education and Training.		
	B. Secondary education services		
	B. Secondary education services (CPC 922)	1) Unbound. 2) None. 3) Unbound. 4) Unbound, except as indicated in the horizontal section.	1) Unbound. 2) None. 3) Unbound. 4) Unbound, except as indicated in the horizontal section.
	C. Higher education services		
C. Higher education services (CPC 923)	1) Unbound. 2) None. 3) None	1) Unbound. 2) None. 3) Foreign teachers who wish to work in foreign-invested schools shall have at least 5 years of teaching experience, and their qualifications shall be recognized by the competent	

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, except as indicated in the horizontal section.	authority. 4) Unbound, except as indicated in the horizontal section.
D. Adult education			
	D. Adult education (CPC 924)	1) Unbound. 2) None. 3) None 4) Unbound, except as indicated in the horizontal section.	1) Unbound. 2) None. 3) Foreign teachers who wish to work in foreign-invested schools shall have at least 5 years of teaching experience, and their qualifications shall be recognized by the competent authority. 4) Unbound, except as indicated in the horizontal section.
E. Other education services			
	E. Other education services (CPC 929 including foreign language training)	1) Unbound. 2) None.	1) Unbound. 2) 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
		<p>3) None</p> <p>4) Unbound, except as indicated in the horizontal section.</p>	<p>3) Foreign teachers who wish to work in foreign-invested schools shall have at least 5 years of teaching experience, and their qualifications shall be recognized by the competent authority.</p> <p>4) Unbound, except as indicated in the horizontal section.</p>

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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).