

**Protocol to Implement the Fifth Package of Commitments on Financial Services  
under the ASEAN Framework Agreement on Services**

**MYANMAR  
SCHEDULE OF SPECIFIC COMMITMENTS**

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**SCHEDULE OF HORIZONTAL COMMITMENTS UNDER AFAS**

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

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
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**I. HORIZONTAL COMMITMENTS<sup>1</sup>**

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

	<p>3) (a) Commercial presence of foreign service suppliers and/or providers are permitted in accordance with Myanmar Companies Act 1914 , Partnership Act 1932, Special Company Act (1950) , Union of Myanmar Foreign Investment Law (1988), Union of Myanmar Citizens' Investment Law (1994).</p> <p>Under these laws:</p> <p>(i) 100% Foreign investment , or</p> <p>(ii) Joint Venture with a Myanmar citizen or enterprise with a minimum of 35% equity is permitted. Form of incorporation can be sole proprietorship, partnership or limited company.</p>	<p>3) (a) The Income Tax Law 1974, prescribed that non-resident (foreigner) will be subject to a withholding tax is as follows;</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 60%;"><b>Class of Income</b></th> <th style="text-align: right;"><b>Non resident foreigners</b></th> </tr> </thead> <tbody> <tr> <td>▪ Interest</td> <td style="text-align: right;">15%</td> </tr> <tr> <td>▪ Royalties for use of licenses, trademarks, patent rights etc.</td> <td style="text-align: right;">20%</td> </tr> <tr> <td>▪ Payments to contractors made by Government Organizations, Municipalities and Co-operative Societies</td> <td style="text-align: right;">3.5 %</td> </tr> <tr> <td>▪ Payment for work done to foreign contractors</td> <td style="text-align: right;">3%</td> </tr> </tbody> </table>	<b>Class of Income</b>	<b>Non resident foreigners</b>	▪ Interest	15%	▪ Royalties for use of licenses, trademarks, patent rights etc.	20%	▪ Payments to contractors made by Government Organizations, Municipalities and Co-operative Societies	3.5 %	▪ Payment for work done to foreign contractors	3%	
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<sup>1</sup> The horizontal commitments of Myanmar shall apply only to the new subsector(s) added to her schedule of commitments as an outcome of the negotiations for further liberalization of trade in services under the AFAS, particularly, in the case of financial services, on financial sub-sectors included to her schedule of commitments as an outcome of the fifth round negotiations completed in 31 December 2010 and marked as “(\*NS)” in her sector specific commitments. The horizontal commitments made by Myanmar will not affect her commitments for the sectors/subsectors that were made under the General Agreement on Trade in Services under the Uruguay Round and commitments made as an outcome of the earlier rounds of negotiations for financial services liberalization under the AFAS

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	<p>The proposed investment may be refused subject to such implications as financial arrangements security risk involved and compliance with existing conditions</p> <p>(b) Incorporation of an enterprise, not involving a state enterprise is to be made under the Myanmar Companies Act 1914. Minimum share Capital requirements for companies and branches are as follows,</p> <ul style="list-style-type: none"> <li>- Service Company- equivalent of K 300,000 in USD.</li> <li>- Industrial Company- equivalent of K 1000,000 in USD.</li> </ul> <p>Under this Law; If the investment involves a state enterprise, incorporation shall be made under the Myanmar Companies Act 1914 , Partnership Act 1932, Myanmar Company Rules 1940, Special Company Act (1950), Special Company Act (Amendment) Act, 1955, 1959 .</p>	<p>According to the Notification No. 115/2006, income tax shall be paid in foreign currency of non-resident foreigners' total income at the rate of 35% (thirty five percent) in such foreign currency.</p> <p><u>Tax</u> According to the Sections 3 (k) of the Income Tax Law, it prescribes the Resident foreigners as follows:</p> <ul style="list-style-type: none"> <li>(i) in the case of individual, a foreigner who resides in Myanmar for not less than one hundred and eighty- three days during the income year;</li> <li>(ii) in the case of a company, a company formed under the Myanmar Companies Act or any other existing law wholly or partly with foreigner shareholders;</li> <li>(iii) in the case of an association of persons other than a company, an association formed wholly or partly with foreigners and where the control, management and decision making of its affairs is situated and exercised wholly in the Union of Myanmar.</li> </ul>	

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	<p>(e) Services activities are restricted under section 3 of the State Economic Enterprises Law. However, these activities may be permitted by cabinet notification according to the</p> <p>Tax Under The Myanmar Foreign Investment Law, the Commission shall, for the purpose of promoting foreign investments within the States, grant the investor exemption or relief from taxes.</p> <p>4) a) Subject to the Union of Myanmar Foreign Investment Law, Myanmar Immigration (Emergency Provisions) Act 1947, The Foreigners Act 1846, The Registration of Foreigners Act 1940, The Registration of Foreigners Rules 1948 and Immigration rules and regulations, management level is allowed to stay up to one year and may be extendable there on subject to the approval of concerned agencies.</p> <p>(b) All foreign enterprises and foreign workers shall abide by</p>	<ul style="list-style-type: none"> <li>- In this regards, foreign workers and staff who work at least one year in Myanmar and the foreign enterprises formed in Myanmar may be assumed as the resident foreigners. The existing Notification No. 124/2006 by the Ministry of Finance and Revenue determined that the income tax for the resident foreigners earn income in foreign currency under the head "Salaries" shall be paid at the rate of 15% (fifteen percent) in such foreign currency.</li> <li>- However, the income of the resident foreigner who operating economic enterprises such as companies formed in Myanmar shall be calculated in accordance with clause 5 (B) of the Income Tax Regulation and paid in foreign currency. The corporate tax rate is 30% (thirty percent)</li> <li>- A judicial person may perform service to client in Myanmar but are not</li> </ul>	

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	<p>Business Visa*</p> <p>Period for Permission of Visa 70 days</p> <p>Period for Permission of stay Extension</p> <ul style="list-style-type: none"> <li>- up to 3 months** 36US\$</li> <li>- Over 3 months 90 US\$</li> </ul> <p>[**with recommendation of Ministry concerned, Application Form, Passport (original &amp; copy), Stay Form, (2) Recent Photos, FRC, Company Registration Card, Export &amp; Import License]</p> <p>(Remark: In accordance with permission of Visa Confirming Board, Ministry of Immigration has been obligating)</p> <p>(c) The Department of Labour, under the Ministry of Labour performs registration for overseas workers who have been given the permission to stay in work by the Myanmar Investment Commission. The duration of registration is six months and the registration fee is 5 FEC for one person.</p>	<p>allowed to practice in Myanmar courts of law.</p> <p>(b) The commercial presence of foreign services provider shall be subject to the licensing by the government authorities concerned</p> <p>(c) According to the Land Nationalization Act 1953 and the Transfer of Immoveable Property Restriction Law 1987, foreign organizations and persons are not allowed to own land in Myanmar. However, land may be acquired on long term lease, depending on individual circumstance.</p> <p>4) - Any expatriate engage in joint venture, representative offices or other types of judicial person and / or individual services provider shall receive the approval of the respective authority.</p> <p>- Any expatriate entering into Myanmar shall abide by The Myanmar Immigration (Emergency Provisions) Act 1947, The Foreigners Act 1846, The Registration of Foreigners Act 1940, The</p>	

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		<p>Registration of Foreigners Rules 1948 and Immigration rules , regulations and procedures of Myanmar - Individual services providers who work with the approval of respective authorities shall register themselves with the Department of labour, the Ministry of labour.</p> <ul style="list-style-type: none"> <li>- The Department of Labour, under the Ministry of Labour performs registration for overseas workers who have been given the permission to stay in work by the Myanmar Investment Commission.</li> <li>- Regarding the recognition of the educational certificates and technical standard certificate, Myanmar only determines equivalent factor depend on syllabus, contents, volume, time frame. Myanmar needs syllabus, contents, volume, time frame in English of respective countries.</li> </ul>	