



MEMORANDUM

FOR : The Directors
Legal Affairs Service
Environmental Management Bureau
Biodiversity Management Bureau
Mines and Geosciences Bureau
Forest Management Bureau
Land Management Bureau

FROM : **The Chief, Policy Studies Division and
In Charge, Office the Director for Policy and Planning Service**

SUBJECT : **REQUEST FOR CONCURRENCE ON THE PROTOCOL TO
IMPLEMENT THE 10TH PACKAGE OF COMMITMENTS UNDER
THE ASEAN FRAMEWORK AGREEMENT ON SERVICES (10TH
AFAS) AND ASEAN TRADE IN SERVICES AGREEMENT
(ATISA)**

DATE : **31 JUL 2024**

This refers to the letter dated 23 July 2024 from the Department of Trade and Industry – Bureau of International Trade Relations (DTI – BITR), requesting the certificate of concurrence of the Department for the two ASEAN internal integration agreements on Trade in Services, namely the: 1) the Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services (10thAFAS); and 2) ASEAN Trade in Services Agreement (ATISA).

The Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services (10th AFAS)

- The ASEAN Framework Agreement on Services (10th AFAS) was signed by the ASEAN Economic Ministers (AEM) on 15 December 1995. It provides an important legal platform for ASEAN Member States (AMS) to pursue progressive trade in services integration in the region. Through ten (10) successive rounds of negotiations from 1995, ASEAN broadened the coverage and reduced limitations on market access and national treatment across 155 service sectors, which went beyond efforts under the World Trade Organization (WTO). To date, the AFAS represents the Philippines' most progressive schedule of commitments in any of its Free Trade Agreements.
- The Protocol to implement the 10th AFAS was signed by all AMS on 11 November 2018. The Protocol contained a work programme to enable Myanmar, the Philippines, and Viet Nam to submit an interim Schedule of Specific Commitments (SOC) in lieu of a full commitment that meets the AFAS 10 thresholds set out at the 44th Meeting of ASEAN Economic Ministers on 28 August 2012.

- The 10th and final SOC of the Philippines under AFAS was approved by the Inter-Agency Committee on Trade in Services (IAC-TS) on 18 May 2023. The SOC was accepted by all AMS inter-sessionally on 31 May 2023 and subsequently endorsed by the Committee for the ASEAN Economic Community (CAEC) for ratification on 14 August 2023.
- The Services Sector which may fall within the purview of the Department are as follows:
 1. Environment Services;
 2. Engineering profession related to Mining and Sanitary; and
 3. Acquisition of Land

The ASEAN Trade in Services Agreement (ATISA).

- The ASEAN Trade in Services Agreement (ATISA) is an enhanced legal instrument of the existing 10th AFAS. The Agreement consolidates all AMS existing initiatives to enhance the liberalization of the services sector into a single economic integration agreement.'
- The ATISA contains additional commitments from AMS to transition from the existing WTO General Agreement on Trade in Services (GATS) **positive list modality** to a **negative listing modality** of commitments and includes specific Annexes on Financial Services, Telecommunication Services, and Air Transport Services.
- The ATISA was signed ad-referendum by all Member States on 07 October 2020. With the completion of the Philippines' AFAS 10 Package, all AMS will gradually transition its existing 10th AFAS SOC into a negative list (i.e. Schedule of Non-Conforming Measures) to enhance transparency and lower barriers to regional services trade.
- The ATISA and its Annexes will supersede the AFAS after seven (7) years from its entry into force (i.e. 05 April 2028).

Please be informed that the DTI is currently preparing all the due diligence documents for the Philippine ratification of the aforementioned agreements which includes the COC of the concerned agencies (*attached as Annex A is the sample format of the COC*). In this regard, we would like to request your concurrence on the two ASEAN internal integration agreements on Trade in Services, so we can facilitate the endorsement of the same to the Office of the Secretary.

We would appreciate receiving an advance copy of your responses on or before **02 August 2024** through these email addresses: policy@denr.gov.ph and psddivision@gmail.com. You may access the relevant documents provided by the DTI using this link: <https://tinyurl.com/msrb8vnz>.

For your information and consideration, please.


 FOR. LLARINA S. MOJICA

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Certificate of Concurrence for the two ASEAN internal integration agreements on Trade in Services:

- 1) Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services (10th AFAS); and
- 2) ASEAN Trade in Services Agreement (ATISA)

Annex	Description
A	Letter from the DTI
B	Sample Format of the COC.
C	Overview and Benefits of the Protocol to Implement the 10th, Package of Commitments under the AFAS
D	Overview and Benefits of the ATISA for the Philippines
E	Matrix of Philippines' Commitments under AFAS
	Please Access the following documents using this link https://tinyurl.com/msrb8vnz : a. Certified True Copy of the signed AFAS 10; b. Annexes of the AFAS 10 Horizontal; and c. Philippines' Horizontal Commitments in AFAS 10.



23 July 2024

Please refer to the attached Distribution List

Subject: Request for Certificates of Concurrence for the Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services and ASEAN Trade in Services Agreement

Dear Sirs/Mesdames,

This is with reference to the Philippines' ratification of two key ASEAN internal integration agreements on Trade in Services, namely the: i) Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services (10th AFAS); and ii) ASEAN Trade in Services Agreement (ATISA).

The AFAS, which was signed by ASEAN Economic Ministers (AEM) on 15 December 1995, provides an important legal platform for ASEAN Member States (AMS) to pursue progressive trade in services integration in the region. Through ten (10) successive rounds of negotiations from 1995, ASEAN broadened the coverage and reduced limitations on market access and national treatment across 155 services sectors, which go beyond efforts under the World Trade Organization (WTO). To date, the AFAS represents the Philippines most progressive schedule of commitments in any of its Free Trade Agreements.

The ATISA on the other hand builds on the commitments of the AFAS. The Agreement consolidates all existing initiatives of AMS to enhance integration of ASEAN's services sector into a single economic agreement. The ATISA contains additional commitments from AMS including the transition from the existing WTO General Agreement on Trade in Services (GATS) positive list modality to a negative listing modality of commitments. The ATISA also includes specific Annexes, namely on Financial Services, Telecommunication Services, and Air Transport Services. The ATISA has enhanced market access commitments across the 155 subsectors and provides a stronger mechanism for regulatory cooperation.

The Protocol to Implement the 10th AFAS was signed by all AMS on 11 November 2018. The Protocol contained a work programme to enable Myanmar, the Philippines, and Viet Nam to submit an interim Schedule of Specific Commitments (SOC) in lieu of a full commitment that meets the AFAS 10 thresholds set out at the 44th Meeting of ASEAN Economic Ministers on 28 August 2012. The 10th and final SOC of the Philippines under AFAS was approved by the Inter-Agency Committee on Trade in Services (IAC-TS) on 18 May 2023. The SOC was accepted by all AMS inter-sessionally on 31 May 2023 and it was subsequently endorsed by the Committee for the ASEAN Economic Community (CAEC) for ratification on 14 August 2023.

The ATISA was signed ad-referendum by all Member States on 07 October 2020. With the completion of the Philippines' AFAS 10 Package, all AMS will gradually transition its existing AFAS 10 SOC into a negative list (i.e. Schedule of Non-Conforming Measures) to

OFFICE OF THE UNDERSECRETARY FOR INTERNATIONAL TRADE GROUP

enhance transparency and lower barriers to regional services trade.¹ The ATISA and its Annexes will supersede the AFAS after seven (7) years from its entry into force (i.e. 05 April 2028).

In view of the foregoing, the Department is in the process of preparing the documents for the ratification of the aforementioned agreements which includes the Certificate of Concurrence (COC) of agencies involved in the negotiations and consultations. In this regard, we respectfully request for your agency's COC, which would be attached as a supporting document in the request for ratification to the Department of Foreign Affairs.


To assist your agency, attached are the following documents:

1. Annex A: Certified True Copy of the signed AFAS 10;
2. Annex A.1: Annexes of the AFAS 10;
3. Annex B: Certified True Copy of the signed ATISA;
4. Annex C: Overview and Benefits of the Protocol to Implement the 10th, Package of Commitments under the AFAS;
5. Annex C.1: Philippines' Commitments under AFAS;
6. Annex D: Overview and Benefits of the ATISA for the Philippines;
7. Annex D.1: Philippines' Horizontal Commitments in AFAS 10;
8. Annex E: Sample Format of the COC.

We would appreciate receiving your COC by **14 August 2024**. Should you have further clarifications, please coordinate directly Ms. Kim Juliene O. Balfiños of the Bureau of International Trade Relations (BITR) through (e) KimJulieneBalfiños@dti.gov.ph.

Thank you for the continued support and cooperation extended to the Department.

Very truly yours,


Digitally signed by Gepty Allan
Batarra
Date: 2024.07.26 10:07:33 +08'00'
Atty. Allan B. Gepty
Undersecretary

DTS No. IN00344868
jdv/dce

¹ Under Article 12 (Transition to Schedules of Non-Conforming Measures), the ATISA requires the Philippines alongside Brunei Darussalam, Indonesia, Malaysia, Singapore, and Thailand, to transition to a negative list within seven (7) years from entry into force of the Agreement on 5 April 2021, i.e. 5 April 2028. The BITR expects to complete the preparation of the country's draft negative list in 2025.

CERTIFICATE OF CONCURENCE

This is to certify that the (NAME OF AGENCY) represented by the undersigned Official, has been consulted in the negotiations and finalization of the ***Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services and ASEAN Trade in Services Agreement*** and thus, hereby concur with its signing and ratification.

 (DATE)

(NAME OF HEAD OF AGENCY)
(Position)

Overview and Benefits of the Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services

Background

The ASEAN Framework Agreement on Services (AFAS), signed by the Economic Ministers in December 1995, provides an important legal platform for ASEAN Member States (AMS) to incrementally open their markets to foreign competition while also granting national treatment to service suppliers from the region. Through subsequent rounds of negotiations under the AFAS, ASEAN has continued to broaden the coverage of, and reduce the limitations on, market access and national treatment across services sectors, which go beyond similar efforts done in the World Trade Organization (WTO).

The AFAS follows the WTO General Agreement on Trade in Services (GATS) positive list approach, but with the goal of achieving deeper and more liberal commitments while maintaining the rules provided under the GATS.

ASEAN has been working to liberalize its services sectors since the establishment of the ASEAN Free Trade Area (AFTA) in 1995, in recognition of the sector's growing importance to the economy of each Member State and the region, as well as the need to enhance and strengthen trade in services within ASEAN. The services sector comprised 25 to 66 percent of the Gross Domestic Product (GDP) of AMS in 1995 and further increased to around 40 to 74 percent by 2016¹. Currently, the share to GDP of the services sector among AMS is between 32 percent (Brunei) to around 70.9 percent (Singapore) as of 2022². For the Philippines, GDP share of services increased from 45.4 percent to 61.22 percent between 1995 and 2022, respectively.²

ASEAN's export of services to the world market has also grown steadily. From less than a hundred billion dollars in 1995³ to US\$113.6 billion in 2005⁴, it has reached US\$319.2 billion in 2015, and almost triple in value in a span of two decades. ASEAN's services exports recorded a high of US\$462.4 billion in 2019 prior to the pandemic before settling at US\$348.3 billion in 2021.⁵

Host Country	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Brunei Darussalam	482.7	482.8	557.8	650.6	630.4	551.4	570.6	517.9	362.2	200.4
Cambodia	3,102.1	3,493.7	3,810.6	3,934.7	4,032.0	4,608.2	5,451.2	6,088.3	1,782.4	857.3
Indonesia	23,600.2	22,844.1	23,530.9	22,220.8	23,323.6	25,327.7	31,208.9	31,641.0	15,018.0	13,837.8
Lao PDR	643.4	760.6	784.4	844.1	834.9	780.5	921.4	1,179.2	346.2	125.3
Malaysia	40,552.3	42,110.2	42,347.6	34,647.1	35,582.4	37,097.4	40,240.5	41,097.4	22,117.0	20,626.6
Myanmar	1,233.0	2,760.1	3,113.8	3,753.4	3,785.1	3,817.8	4,453.5	6,282.8	4,218.1	2,771.7
Philippines	20,439.2	23,335.2	23,499.1	28,055.0	31,203.6	34,631.6	38,396.0	41,264.0	31,322.2	33,626.5
Singapore	129,448.4	142,027.7	153,771.0	153,202.4	151,028.8	171,015.8	205,115.0	215,504.0	209,781.8	220,777.2
Thailand	46,521.4	54,804.1	51,840.2	50,082.1	63,788.4	70,864.2	77,473.6	81,172.5	30,989.7	24,502.0
Viet Nam	8,220.0	10,710.0	12,231.0	12,580.0	22,511.7	22,828.3	27,040.0	37,258.1	25,303.3	22,782.0
ASEAN	275,800.7	303,458.5	317,265.8	319,200.4	337,512.7	371,780.7	431,069.8	462,496.1	342,699.7	348,348.9

Source: ASEAN Secretariat

Note: Based on IMF Estimate of Payments (Mens), P. 64/99

¹ ASEAN Services Report 2017.

² ASEAN Statistical Yearbook, 2022.

² World Bank based on national accounts data

³ Journal of ASEAN Economic Integration. ASEAN Studies Center. Chulalongkorn University. "Services Exports and Economic Growth in ASEAN Countries. (<https://journals.sagepub.com/doi/10.1177/2631684619883443>) 30 October 2019. Accessed on 7 July 2023.

⁴ ASEAN stats Database as of December 2016.

⁵ ASEAN Statistical Yearbook, 2022, Table 6.2 ASEAN Exports of Services, 2012-2021, p. 111.

On the other hand, the total value of intra-ASEAN exports also increased from US\$42.40 billion in 2010 to US\$57.84 billion in 2016, and reached a high of US\$72.39 billion in 2019 before declining to US\$43.33 billion at the height of the pandemic in 2021⁶. The continued liberalization of services in ASEAN, which began with the signing of the AFAS in 1995 and implemented through rounds of negotiations resulting in ten (10) Packages of Commitments, helped in creating a competitive services sector within the region and increased services trade with the rest of the world.

Source Country	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Brunei Darussalam	2,680.0	2,857.6	2,100.2	1,857.8	1,645.3	1,248.1	1,578.5	1,807.0	1,208.4	897.0
Cambodia	1,691.8	1,780.0	1,088.8	2,242.4	2,430.6	2,744.8	3,658.1	3,373.8	2,024.7	2,134.1
Indonesia	34,224.4	35,014.6	33,540.6	30,917.6	30,407.4	32,708.6	37,691.9	39,282.4	24,771.8	19,761.7
Laos PDR	738.6	1,067.1	1,150.1	1,078.5	1,022.4	1,118.4	1,154.1	1,248.3	443.6	252.1
Malaysia	43,226.6	45,154.6	45,819.0	40,128.8	40,143.0	42,372.2	44,581.2	43,723.0	32,388.8	35,577.4
Myanmar	1,482.5	2,197.7	2,197.9	2,298.0	2,315.0	2,090.5	3,457.1	3,653.0	3,254.7	2,001.4
Philippines	14,260.5	18,320.4	20,921.5	23,810.2	24,180.5	26,138.5	28,789.0	28,224.7	17,958.8	19,459.0
Singapore	132,509.6	149,712.9	188,882.1	181,696.0	168,481.9	181,417.3	200,443.1	205,728.5	203,012.6	223,428.8
Thailand	45,071.4	42,402.8	45,247.3	42,518.3	48,511.4	48,858.3	64,933.1	66,854.6	45,280.3	64,255.2
Viet Nam	11,050.0	13,533.0	13,519.0	16,703.0	17,838.2	16,707.9	20,374.0	21,982.0	20,330.3	20,662.0
ASEAN	197,874.4	215,045.0	234,931.6	227,951.4	222,125.7	236,001.1	254,061.2	255,586.0	162,510.0	197,487.7

Source: ASEAN Secretariat. Note: 1) Based on the Balance of Payments Manual, 4th Edition.

The Protocol to Implement the 10th AFAS Package of Commitments

The Protocol to Implement the 10th AFAS package, which was signed in December 2018, completes the liberalization packages comprised of eleven broad sectors (excluding financial services)⁷ with 128 services subsectors listed under the WTO Services Sectoral Classification List. Each package of commitments progressively liberalized services sectors through higher thresholds in terms of the total sectors offered, number of non-market access limitations and foreign equity participation for mode 3 (commercial presence), among others. A summary of the target thresholds for each AFAS package is attached as Annex C.1.

The Philippines secured market access commitments from AMS under the AFAS 10 Package in several subsectors such as Professional Services; Construction Services; Health and Related Services; Distribution Services, and Transport Services.

The Philippines submitted its final AFAS Package of Commitments on 18 May 2023, with 31 new offers for Modes 1 to 4 and Mode 3 improvements on four (4) existing ones.

Below is a comparative matrix of the country's AFAS commitments, which includes sectors under the AFAS 10 Package and all previous Packages vis-a-vis the commitments made under the GATS. In terms of the total number of sectors scheduled, the Philippines improved on its GATS commitments by cumulatively scheduling a total of 171 sectors/sectors from the 38 sectors initially scheduled under the GATS Uruguay Round, and which are already in line with existing domestic laws and regulations.

⁶ ASEAN stats database as of December 2022.
⁷ These are the sectors covered under the AFAS 10 Package: Business, Communication, Construction and Related Engineering, Distribution, Educational, Environmental, Health Related and Social, Tourism and Travel Related, Recreational, Cultural, and Sporting, Transport, and Other Services not included elsewhere.

Table 1: Comparison of the Philippines' commitments under the AFAS and the GATS

Services Sector	Total number of sectors scheduled	
	GATS	AFAS 10
BUSINESS SERVICES	0	53
Professional Services	0	21
Computer and Related Services	0	5
Research and Development Services	0	3
Real Estate Services	0	2
Rental/Leasing Services Without Operators	0	4
Other Business Services	0	18
COMMUNICATION SERVICES	5	32
Postal Services	0	1
Courier Services	1	1
Telecommunication services	4	24
Audio Visual Services	0	5
Other Communication Services	0	1
CONSTRUCTION AND RELATED ENGINEERING SERVICES	0	6
DISTRIBUTION SERVICES	0	5
EDUCATIONAL SERVICES	0	6
ENVIRONMENTAL SERVICES	0	6
FINANCIAL SERVICES	15	0
All Insurance and Insurance-Related services	4	0
Banking and Other Financial Services	11	0
HEALTH AND RELATED SOCIAL SERVICES	0	4
TOURISM AND TRAVEL RELATED SERVICES	4	5
RECREATIONAL, CULTURAL AND SPORTING SERVICES	0	5
TRANSPORT SERVICES	14	42
Maritime Transport	3	13
Internal Waterways	0	5
Air Transport	3	0
Rail Transport	2	6
Road Transport	2	8
Pipeline Transport	0	2
Auxiliary Services to All Modes of Transport	4	7
Other Transport Services	0	1
OTHER SERVICES NOT INCLUDED ELSEWHERE	0	7
TOTAL	38	171

Table 2 lists the new sectors/subsectors offered under the AFAS 10 Package compared to the previous AFAS Packages. These include new offers made under Professional Services, Other Business Services, Telecommunications Services, Education Services, and Internal Waterways Transportation Services.

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Table 2: List of new sectors/subsectors offered under the Philippines' AFAS 10 package

No.	Sector/Subsector	CPC	MA Mode 3 Inscription
PROFESSIONAL SERVICES			
1	Integrated Engineering Services on Sanitation Works	8673**	Corporate practice is not allowed.
2	Medical and Dental Services	9312	Corporate practice is not allowed.
3	Other Professional Services: Naval architecture and marine engineering services	8672**	Corporate practice is not allowed.
4	Other Professional Services: Weather forecasting and warning services	Part of 83550 CPC Ver. 1.1	Up to 70% foreign equity participation is allowed
OTHER BUSINESS SERVICES			
5	Graphic Design Services	Part of 83490 CPC Ver. 1.1. 871**	Up to 100% foreign equity participation is allowed
6	Services incidental to energy distribution Maintenance of electric meters	Ver. 1.1: Part of 69112	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration
7	Other Security Services: Digital Fingerprinting Capture services	85290** CPC version 2.1	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration
TELECOMMUNICATIONS SERVICES			
8	Online information provision services extended to a particular telecommunications company covered by a private contract; provided the service provider may not engage in mass media	84300 CPC version 1.1	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
9	Circuit-switched data transmission services extended to a particular telecommunication company covered by a private contract	7523**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
10	Facsimile services extended to a particular telecommunication company covered by a private contract	7521**+7529* *	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.

Table 2: List of new sectors/subsectors offered under the Philippines' AFAS 10 package

No.	Sector/Subsector	CPC	MA Mode 3 Inscription
11	Voice mail extended to a particular telecommunication company covered by a private contract	7523**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
12	On-line information and data base retrieval extended to a particular telecommunication company covered by a private contract	7523**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
13	Electronic data interchange (EDI) extended to a particular telecommunication company covered by a private contract	7523**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
14	Electronic mail services extended to a particular telecommunication company covered by a private contract	7523**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
15	Value added facsimile service extended to a particular telecommunication company covered by a private contract (CPC 7523**)	7523**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
16	Protocol conversion services extended to a particular telecommunication company covered by a private contract	** (CPC n.a.)	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
17	Other Communications services: Customer billing and collection services except for debt collection	75490**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
EDUCATION SERVICES			
18	Primary education services established by religious groups and mission boards for children of foreign diplomatic personnel	92110**	Up to 70% foreign equity participation is allowed provided that control and administration of educational institutions shall be vested in citizens of the Philippines.

Table 2: List of new sectors/subsectors offered under the Philippines' AFAS 10 package

No.	Sector/Subsector	CPC	MA Mode 3 Inscription
19	Secondary education services established by religious groups and mission boards for children of foreign diplomatic personnel	922**	Up to 70% foreign equity participation is allowed provided that control and administration of educational institutions shall be vested in citizens of the Philippines.
INTERNAL WATERWAYS TRANSPORT SERVICES			
20	<p>Freight Transportation</p> <p>Carriage of a Foreign Cargo by a Foreign Vessel. – A foreign vessel:</p> <p>(a) Arriving from a foreign port, shall be allowed to carry a foreign cargo to its Philippine port of final destination, after being cleared at its port of entry;</p> <p>(b) Arriving from a foreign port, shall be allowed to carry a foreign cargo by another foreign vessel calling at the same port of entry to the Philippine port of final destination of such foreign cargo;</p> <p>(c) Departing from a Philippine port of origin through another Philippine port to its foreign port of final destination, shall be allowed to carry a foreign cargo intended for export; and</p> <p>(d) Departing from a Philippine port of origin, shall be allowed to carry a foreign cargo by another foreign vessel through a domestic transshipment port and transferred at such domestic transshipment port to its foreign port of final destination.</p>	7222**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
21	Rental of vessels without crew	7223**	None. Bareboat charter or lease contract subject to approval by the Maritime Industry Authority (MARINA).
22	<p>Maintenance and repair of vessels</p> <p>Repair of Philippine-registered ships</p> <p>a) Dry docking ship repair</p> <p>b) Afloat ship repair</p>	8868**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.

Table 2: List of new sectors/subsectors offered under the Philippines' AFAS 10 package

No.	Sector/Subsector	CPC	MA Mode 3 Inscription
23	Pushing and towing services Pushing and towing services on inland waterways and on canals, when provided by foreign-registered tugboats. Included are towing services of oil rigs, floating cranes, dredging vessels, buoys and of hulls and incomplete vessels, on a fee or contract basis	7224**	None.
24	Supporting services for internal waterways and transport Operation of graving dock for Philippine-registered ships a) Building yard b) Float dock c) Synchro Lift d) Other equivalent facilities, such as but not limited to, ship breaking and ship recycling	745*	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
25	Services provided by space laboratories Limited to multidisciplinary laboratory facilities for research and testing that can be made available on a time-shared basis to government agencies and private entities	CPC ver. 1.1: Part of 66300	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
26	Pushing and Towing Services Towing Services for defective trains provided by designated maintenance provider	71130**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
27	Supporting services for rail transport services Sale and/or reloading of tickets/ cards	CPC ver. 1.1 part of 67400	Up to 100% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
28	Rental of commercial vehicles with operator Rental services concerning cargo vans, with driver, for the transport of agricultural goods subject to the following conditions:	7124**	Up to 70% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.

Table 2: List of new sectors/subsectors offered under the Philippines' AFAS 10 package

No.	Sector/Subsector	CPC	MA Mode 3 Inscription
	<p>a. the owner of the motor vehicle and its lessee must be persons engaged in agriculture and;</p> <p>a. the owner enters into a special contract whereby motor vehicle is offered for hire or compensation to a third party for operation by the latter for a limited time and for specific purpose directly connected with the cultivation of his or their farm, the transportation, processing, and marketing of agricultural products of such third party.</p>		
29	<p>Passenger Transportation</p> <p>Airport limousine transportation with driver and ancillary to a hotel (i.e. operated and owned by the hotel for the benefit of their guests/clients but not for hire)</p>	71214**	Up to 100% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
30	<p>Freight Transportation</p> <p>Transportation of refrigerated goods in specialty refrigerated trucks operated by business owners for exclusive use in the course of their business</p>	71231**	Up to 100% foreign equity participation is allowed subject to qualification and licensing requirements and procedures including registration.
31	<p>Other transport services</p> <p>Freight consolidation and break-bulk services</p>		Up to 100% foreign equity participation is allowed subject to subject to qualification and licensing requirements and procedures including registration

In addition, improvements were made on the following existing commitments:

- **Freight transport agency services** (CPC 74800**) up to 70% foreign equity participation
- **Professional Congress Organizers** (up to 70% foreign equity participation)
- **International freight forwarding by sea** (up to 100% foreign equity participation allowed subject to approval of the SEC)
- **Mining Engineering** (Foreign-owned/-controlled corporations may be granted permits for certain agreements and/or activities)

On the other hand, the Philippines can take advantage of the following market access commitments in sectors that were not offered in previous packages and were liberalized by other AMS under AFAS 10, as shown below:

Table 3: List of selected new sectors/subsectors offered by other AMS in AFAS 10

ASEAN Member State	Sector/subsector
Brunei	Architectural services Engineering services Integrated engineering services Urban planning and landscape architectural services
Cambodia	Research and experimental development services on agricultural sciences Research and experimental development services on economics Interdisciplinary research and experimental development services
Indonesia	Motion picture and video tape production and distribution services Technical and vocational secondary education services (electronic automotive) Hotels and Restaurants: a) Hotels 3, 4, and 5 starred b) Hotels 1, 2 starred c) Motel Lodging Services d) Letting services of furnished accommodations e) Meal Serving Services with Full Restaurant Services f) Beverage serving services with entertainment
Lao PDR	Architectural services Engineering services Integrated engineering services Urban planning and landscape architectural services
Malaysia	Residential property management services on a fee or contract basis Consulting services related to the advisory, guidance and operational assistance concerning management of the transmission of non-conventional energy, power plant and network. Executive search services Professional and/or Short Courses Education Services (excluding teaching local language)
Myanmar	Legal Services a) Legal advisory and representation services in the different fields of law b) Other legal advisory and information service Taxation Services a) Business tax planning and consulting services b) Business tax preparation and review services c) Other tax related services

ASEAN Member State	Sector/subsector
Singapore	Internal Waterways Transport: Passenger transportation Freight transportation Rental of vessels with crew Maintenance and repair of vessels Pushing and towing services Supporting services for internal waterway transport
Thailand	Telecommunications Services Packet-switched data transmission services Circuit-switched data transmission services Electronic data interchange (EDI)
Vietnam	Computer and Related Services Consultancy services related to the installation of computer hardware Software implementation services Data processing services Data base services

With progressive liberalization in ASEAN, the ratification of AFAS 10 will enable local service providers to take advantage of these liberalized sectors, as well as benefit from new ideas and processes arising out of the opening up of the services sector.

Ratifying the Protocol will enable the Philippines to enjoy the benefits from the implementation of improved package of commitments which were negotiated among AMS. The Protocol will provide predictability, increase transparency and reflect clearly the liberalization achievements of the ASEAN Economic Community.

OVERVIEW AND BENEFITS OF THE ASEAN TRADE IN SERVICES AGREEMENT FOR THE PHILIPPINES

Background

As endorsed by the 44th ASEAN Economic Ministers (AEM) on 28 August 2012, the negotiations for the ASEAN Trade in Services Agreement (ATISA) was brought about by the policy objective to enhance the existing ASEAN Framework Agreement on Services (AFAS) signed in 1995. The AFAS is an initial framework agreement that reaffirms the commitment of ASEAN to the WTO General Agreement on Trade in Services (GATS), and which has since been used as a legal instrument to enhance further liberalization of the services sector in the region.¹

The negotiations of the ATISA was undertaken by the ASEAN Coordinating Committee on Services (CCS) which began formal discussion in November 2013.² To help fast-track the negotiations, the Philippines during its ASEAN 2017 Chairmanship, pushed for the substantial conclusion of the ATISA as one of its economic priority deliverables. The establishment of a dedicated Task Force on ATISA (TF-ATISA) was also pursued to intensify negotiations, similar to previous efforts made by the region in the respective negotiations of the ASEAN Trade in Goods Agreement (ATIGA) and ASEAN Comprehensive Investment Agreement (ACIA) both signed on 26 February 2009.

At the sidelines of the 33rd ASEAN Summit and Related Summits held on 10-15 November 2018, AEM welcomed the finalization of the negotiations for the ATISA and tasked AMS to commence respective domestic procedures to sign the Agreement at the 25th AEM Retreat scheduled on 22-23 April 2019 in Phuket, Thailand.

Key Features of the ATISA

The ASEAN Trade in Services Agreement (ATISA) is an enhanced legal instrument of the existing ASEAN Framework Agreement on Services (AFAS) signed at the 5th ASEAN Summit on 15 December 1995. The Agreement consolidates all existing initiatives of ASEAN Member States (AMS) to enhance the liberalization of the services sector into a single economic integration agreement.

The ATISA contains thirty-eight (38) articles and features provisions that respond to the deepening integration efforts of ASEAN post-1995, particularly the emerging regional architecture following the adoption of the AEC Blueprint and additional commitments made by AMS through ASEAN Plus One FTA Trade in Services Agreements (i.e. ASEAN-China, ASEAN-Korea, ASEAN-India, ASEAN-Australia-New Zealand, ASEAN-Japan).

¹ Through the launch of successive packages known as Schedule of Specific Commitments (SOC) involving the Trade in Services sector, AFAS served as a legal instrument to broaden the coverage and reduce limitations to market access and national treatment limitations that goes beyond ASEAN' commitments under the WTO (GATS). The Tenth and Final AFAS Package was signed by the Philippines on 29 August 2018 during the 50th AEM Meeting in Singapore.

² The CCS is a sectoral body that reports to the AEM and Senior Economic Officials.

The ATISA is comprised of rules and disciplines governing services trade in ASEAN (**APPENDIX A**). The progress in the obligations of the ATISA are GATS-Plus in nature and takes into consideration the agreement's hybrid listing architecture:

Core Obligations	General and Specific Obligations	General Provisions and Exceptions	Relation with Other/Related Agreements	Facilitation/ Cooperation
<ul style="list-style-type: none"> • National Treatment • Most-Favoured-Nation (MFN) Treatment • Market Access • Non-Conforming Measures • Local Presence • Senior Management and Board of Directors 	<ul style="list-style-type: none"> • Transparency • Domestic Regulations • Recognition of Service Suppliers • Payments and Transfers • Monopolies and Exclusive Service Suppliers 	<ul style="list-style-type: none"> • General Exceptions • Security Exceptions • Denial of Benefits 	<ul style="list-style-type: none"> • Transitional Arrangement Relating to the AFAS • Relation to the ACIA • Relation to the ASEAN Agreement on MNP 	<ul style="list-style-type: none"> • Increasing the Participation of Micro, Small and Medium Enterprises in the ASEAN Economic Community • Technical assistance • Increasing Participation of CLM*V • Private Sector Engagement

The ATISA also contains specific Annexes with respect to facilitating and promoting trade in key sectors of the region. The relevant obligations under the Annexes on Financial Services, Telecommunications Services, and Air Transport Services are attached as **APPENDIX B**.

Transition to the Negative List. This specific feature of the ATISA reflects the commitment of AMS to gradually move from the existing WTO GATS positive list modality and adopt a negative list schedule of commitment.³

Under Article 12 (Transition to Schedules of Non-Conforming Measures), all AMS, including the Philippines, shall specifically submit two Schedules of Non-Conforming Measures (NCMs) under the Negative List Approach.

- a. Annex I shall comprise of existing measures that is maintained at the central, regional and local levels of government, and which are inconsistent with the obligations under National Treatment, Most-Favoured-Nation Treatment, Market Access, Local Presence, and Senior Management and Board of Directors.⁴
- b. Annex II shall comprise of any future measure that a Party adopts or maintains with respect to sectors, subsectors or activities. Obligations under National Treatment, Most-Favoured-Nation Treatment, Market Access, Local Presence, and Senior Management and Board of Directors will also not apply.

³ The method of arranging the barriers and constraints that are maintained in services trade agreement is called scheduled commitment. The positive list is used in the GATS concluded in 1995 while the negative list was initiated by the 1994 NAFTA agreement.

⁴ Measures refer to law, regulation, rule, procedure, decision, administrative action, or any other form relating to the conduct of Trade in Services.

It is critical to note that market access commitments under the ATISA will be subjected to a transition period before taking into effect. Under Article 36 (Transitional Arrangement Relating to the AFAS), the AFAS and its Implementing Protocols (i.e. AFAS 10) will only be superseded by the ATISA and its Annexes after 7 years from entry into force.⁵ This entails until such time, what will prevail is the Protocol to Implement the 10th AFAS Package which was signed by the Philippines on 29 August 2018 during the 50th AEM Meeting in Singapore.

Benefits of the ATISA

The ASEAN Trade in Services Agreement is a legal instrument that aims to facilitate the region's expanding services sector by providing a rules-based framework to increase supply chain roles, trade and investment flows, reduce barriers to trade through greater transparency, as well as promoting participation of Micro, Small and Medium Enterprises (MSMEs).

The following are the general principles adopted in the agreement:

- a. **Builds-upon existing ASEAN services agreements.** The ATISA is a modern Trade in Services legal instrument that provides more preferential treatment individual service suppliers as compared to previous agreement's signed by the Philippines with ASEAN's Dialogue Partners. The Agreement provides for strengthening of mutual recognition of the professional service sector, promotes transparency of regulation to facilitate the mobility of professionals and skilled labor in the region, among others;
- b. **Promotes mutually beneficial economic partnership.** The ATISA provides a cooperation framework between relevant ASEAN governments on the conduct of services trade in the region. The Agreement reaffirms the importance of regulatory cooperation in the area of Mutual Recognition Arrangements, human resource development and increasing the participation of MSMEs in the conduct of trade and investment activities;
- c. **Provides special and differential treatment.** In consideration of the different levels of development of AMS, the ATISA recognizes the need to give due consideration to Cambodia*, Lao PDR*, Myanmar* and VietNam in terms of their ongoing reforms to strengthen domestic services capacity⁶; and
- d. **Adheres to the multilateral trade rules.** The ATISA supports the multilateral trading system and is consist with Article V of the GATS that promotes greater liberalization through economic integration agreements;

⁵ This transition will apply to all AMS with exception of Viet Nam that is given up to 9 years, while Cambodia, Lao PDR and Myanmar are given a maximum of 15 years to submit.

⁶ The asterisk (*) denotes Least Developed Countries as determined by criteria issued by ECOSOC's Committee for Development Policy.

As the services sector accounts for about 60.6% of the Philippines' GDP in 2019, the new commitments of AMS in the ATISA will facilitate a more binding legal environment for Filipino service suppliers in the region.⁷ Such commitments pertain to the commitment of ASEAN towards greater market access accorded to services exporters of the country being treated no less favourably than service providers; the removal or reduction of restrictions on foreign capital participation, the number of service providers or operations, the value of service transactions, the number of persons employed, and the types of legal entity or joint venture requirements; and the allowance of international transfers and payments for transactions relating to specific commitments without any restrictions.

The Philippines stands to gain market access from ASEAN Member States under the ATISA in a number of subsectors, such as Professional Services, Construction and Related Engineering Services, Health and Related Services, Distribution Services, and Transport Services.

The ATISA also contains a mechanism to support MSME cooperation. The Agreement provides for a framework to be mutually agreed upon that allows respective governments to develop and promote capacity building and information dissemination, such as trainings, mentoring, workshops and seminars. This is considered a key feature of the ATISA to support the participation of MSMEs in the region's production base, as well as an addition to the commitment of ASEAN to technical assistance.

Through the implementation of the ATISA, the liberalization of services in ASEAN is thus expected to create a more transparent and competitive environment that leads to better and efficient services delivery, and the overall development of this sectors of the economy.

Transitioning AFAS 10 Horizontal Commitments in the ATISA

In view of the move from the existing WTO GATS positive list modality and adopt a negative list schedule of commitment, the Department is undertaking a transition exercise to ensure that its horizontal and sector-specific commitments under the AFAS are reflected in Annex I and Annex II. The formal submission of Schedules of Non-Conforming Measures for the Philippines is by 5 April 2026.

The horizontal limitations in AFAS include limitations relating to activities expressly reserved by law to citizens of the Philippines (i.e. foreign equity limited to a minority share), acquisition of land, and access to domestic credit. These commitments will be transitioned to the ATISA schedule. The horizontal commitments for the 10th Package of Commitments under AFAS is attached as Annex D.1.

⁷ Source: Philippine Statistics Authority

APPENDIX A: Basic principles/obligations of services liberalization found in the ATISA:

Principles/Obligations	Definition
Non-Discrimination	Members must treat services and services suppliers of any other Member no less favourably than those from other countries.
Most-Favoured Nation (MFN)	Members must grant each other the most favourable treatment accorded to any of their trading partners.
Market Access	In terms of access to the market of a Member, services and services suppliers of any other Member must be accorded the same treatment specified in its schedule of commitments.
National Treatment	Services and services suppliers of a Member must be permitted access to the market of another Member on the same terms as those accorded to domestic services or services providers.
Non-Conforming Measures (NCMs)	<p>Allows for the maintenance of non-conforming measures (or reservations to the core disciplines of the ATISA). Such non-conforming measures may be maintained to uphold existing laws and regulations at the: i) central level of government; ii) regional level of government; and iii) local level of government.</p> <p>In addition, Members will also maintain an Annex II with respect to non-application of ATISA obligations to sectors, subsectors or activities identified. These latter measures that may apply to sectors, sub-sectors or services activities, effectively constitute permanent exceptions to the Agreement.</p>
Local Presence	Sets out a prohibition on the establishment of maintenance of a requirement to establish a commercial presence (in the form of a representative office or enterprise) as a condition to provide services on a cross-border basis. This effectively guarantees the freedom of cross-border trade in services.
Domestic Regulation	Consistent with the text of the WTO GATS Article VI on Domestic Regulation. This obligation requires Members to provide information concerning the status of an application relevant to the conduct of services trade in a Member State, which should be based on "objective and transparent criteria", and are "not more burdensome than necessary to ensure the quality of the service".
Mutual Recognition	Provides for the possibility for Members to recognize the education or experience obtained, requirements met, or licenses or certifications granted in another Member State, for the purpose of licensing or certification of service suppliers. To further facilitate the mobility of professionals and skilled labour, Member States shall encourage

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	competent authorities (e.g. Professional Regulation Commission) to negotiate mutual recognition agreements or arrangements in sectors they deem appropriate.
Senior Management and Board of Directors	In accordance with domestic laws and regulation, Member States shall not require its citizens to be appointed in senior management positions of investing corporation, trust, partnership, joint venture, sole proprietorship or, association, to appoint to senior management positions. Notwithstanding, requirement that a majority of the board of directors of a juridical person of that Member State be of a particular nationality or resident in the territory of the Member State may still be upheld.
Denial of Benefits	Sets out the conditions under which service suppliers from the Parties can benefit from the Agreement. This is similar to a provision on rules of origin for trade in goods. Basically, benefits can be denied when: <ul style="list-style-type: none"> • the supply of any service is supplied from or in the territory of a non- Member State; • in the case of a maritime transport service, the vessel is registered under the laws of a non-Member and by a person of a non-Member State which operates and/or uses the vessel in whole or in part; • corporation, trust, partnership, joint venture, sole proprietorship or, association is from a non-ASEAN member state.
Payments and Transfers	Except under circumstances of external financial difficulties, threat, serious economic or financial disturbance, Member States shall allow transfers and payments relating to the cross-border supply of services to be effected freely and without delay and in a freely usable currency.
Monopolies and Service Suppliers	Member State shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner that is inconsistent with MFN and NCMs.

APPENDIX B: Relevant provisions found in the following Annexes of the ATISA:

<p>Annex on Financial Services</p>	<p>Financial services include the facilitation and promotion of the following activities:</p> <p><i>Insurance and insurance-related services</i></p> <ol style="list-style-type: none"> 1. direct insurance (including co-insurance): <ol style="list-style-type: none"> i. life; ii. non-life; 2. reinsurance and retrocession; 3. insurance intermediation, such as brokerage and agency; and 4. services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services; <p><i>Banking and other financial services (excluding insurance)</i></p> <ol style="list-style-type: none"> 5. acceptance of deposits and other repayable funds from the public; 6. lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction; 7. financial leasing; 8. all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts; 9. guarantees and commitments; 10. trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following: <ol style="list-style-type: none"> i. money market instruments (including cheques, bills, certificates of deposits); ii. foreign exchange; iii. derivative products including, but not limited to, futures and options; iv. exchange rate and interest rate instruments, including products such as swaps, forward rate agreements; v. transferable securities; vi. other negotiable instruments and financial assets, including bullion; 11. participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues; 12. money broking; 13. asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services; 14. settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments; 15. provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and 16. advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (5) through (15), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
<p>Annex on Telecommunication Services</p>	<p>The Annex on Telecommunication Services include commitments on trade in public telecommunications transport networks and services, and is governed by the following provisions that promote non-discrimination:</p>

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- **Access and Use:** Member States shall ensure that access to and use of public telecommunications transport networks and services in a timely fashion and on transparent, reasonable and non-discriminatory terms and conditions.
- **Number Portability Mobile Services:** Member States shall endeavor to ensure that providers allow number portability for mobile services in accordance with its domestic laws and regulations.
- **Competitive Safeguard:** Member States shall adopt or maintain relevant laws and regulations that prevent anti-competitive practices.
- **Treatment by Major Suppliers towards subsidiaries and affiliates:** Member States shall ensure no less favourable treatment towards suppliers of public telecommunications transport networks and services of another Member State.
- **Resale:** Member State shall ensure no unreasonable or discriminatory conditions or limitations on the resale of public telecommunications transport services is imposed.
- **Interconnection:** Member States ensure that suppliers of public telecommunications transport networks or services of another Member State may interconnect their facilities in its territory.
- **Provisioning and Pricing of Leased Circuit Services:** Member States ensure that the provision of leased circuit services that facilitate flow of the telecommunications sector are on terms and conditions, and at rates, that are reasonable.
- **Co-location:** Member States in accordance with respective domestic laws and regulations, ensure that suppliers of public telecommunications transport networks or services from another Member State are allowed to locate their equipment within the major supplier's buildings.
- **Independent Telecommunications Regulatory Body:** Member State shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services.
- **Universal Service:** a Member State has the right to define the kind of universal service obligations it wishes to maintain.

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	<ul style="list-style-type: none">• Licensing: where a license, concession, permit, registration or other type of authorization is required, this will be made publicly available by Member States.• Allocation and Use of Scarce Resources: Member States shall carry out its procedures for the allocation and use of scarce resources related to telecommunications, including frequencies and numbers, in an objective, timely, transparent and non-discriminatory manner.• Transparency: Member States shall ensure that relevant information on conditions affecting access to and use of public telecommunications transport networks and services is publicly available.• International Mobile Roaming: Member States shall endeavor to cooperate promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade among the Member States and enhance consumer welfare.• International Submarine Cable Landing Station: Member States ensures non-discriminatory treatment for Member States that have authorized the operation of an international submarine cable landing station as a public telecommunications transport network.
Annex on Air Transport Ancillary Services	<p>The following are air transport ancillary services committed by ASEAN Member States in the ATISA and are reflected in the 10th Package of Commitments on Air Transport Services under AFAS:</p> <ul style="list-style-type: none">• Aircraft Repair and Maintenance Services• Selling and Marketing of Air Transport Services• Computer Reservation System (CRS) Services• Aircraft Leasing without Crew.• Aircraft Leasing with Crew• Airfreight Forwarding Services• Cargo Handling• Aircraft Catering Services• Refuelling Services• Aircraft Line Maintenance• Ramp Handling• Baggage Handling• Passenger Handling