

Chapter 7

EAEU–VN FTA and ASEAN Framework Agreement on Services

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Chapter 7

EAEU–VN FTA and ASEAN Framework Agreement on Services

ASEAN Framework Agreement on Services (AFAS)

The ASEAN Framework Agreement on Services (AFAS) aims to gradually liberalise trade in services to improve competitiveness and efficiency of service supply amongst the 10 members. Its objectives are to:

- 1) Improve efficiency and competitiveness, diversify production capacity, supply, and distribution of services of their service suppliers within and outside ASEAN.
- 2) Substantially eliminate restrictions to trade in services amongst member states.
- 3) Liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by member states under the General Agreement on Trade in Services towards realising a free trade area in services.

AFAS focuses on the following nine priority sectors, with the year of signing of their respective protocols indicated:

- 1) Accountancy services (2009)
- 2) Medical practitioners (2009)
- 3) Dental practitioners (2009)
- 4) Nursing services (2006)
- 5) Engineering services (2005)
- 6) Architectural services (2007)
- 7) Surveying qualifications (2007)
- 8) Tourism professionals (2013)

Article III of AFAS urges member states to liberalise trade in services in many sectors within a reasonable time frame by (i) eliminating substantially all existing discriminatory measures and market access limitations amongst member states, and (ii) prohibiting new or more discriminatory measures and market access limitations. In support of the liberalisation of the above priority sectors, Article V of AFAS urged its member states to recognise the education or experience obtained, requirements met, or licences or certifications granted in another member state, for the licensing or certification of service suppliers.

Status of AFAS

As of 14 January 2018, AFAS is on its 10th package. According to the Summary of the Threshold Assessment for the 10th Package under AFAS, Cambodia has 110 sub-sectors scheduled in its specific commitment. The summary report revealed that Cambodia has achieved in 107 sub-sectors in all thresholds (all modes of supplies, except Mode 4 which remained unbound amongst all members). Still lagging in the grouping are Myanmar (met 98/110 sub-sectors), the Philippines (met 84/115 sub-sectors), and Viet Nam (met 89/106 sub-sectors). Thus, it can be inferred that Cambodia has been moving fast in liberalising the sub-sectors set in its specific commitments. For more details, see Table 57.

Table 57: Summary of Assessment of Specific Commitments of the 10th Package of AFAS

	B	C	I	L	My	Mm	P	S	T	V
Number of Sub-section Scheduled (x)	119	110	111	124	114	110	115	115	113	106
Priority Sectors (e-ASEAN, Healthcare, Tourism) (x1)	29	28	29	29	28	28	28	29	28	28
Logistics Sub-sector (x2)	8	9	8	9	9	7	9	8	8	9
Other Sub-sector	82	73	74	86	77	75	78	78	77	69
Analysis of Threshold Compliance (in Number of W/120 Sub-sectors)										
Compliance with mode 1 Threshold (a)	118	109	111	124	113	110	103	108	111	96
Compliance with mode 2 Threshold (b)	118	110	111	124	114	110	115	115	113	106
Compliance with mode 3 Threshold (c)	105	107	105	101	101	98	91	103	106	92
- Mode 3 Foreign Equity (d)	114	109	106	106	102	101	92	106	105	97
- Mode 3 National Treatment Limitations (e)	112	109	109	109	103	107	115	106	113	105
- Mode; 3 Market Access Limitations (f)	116	108	104	104	102	98	102	103	106	92
Compliance with All Thresholds	105	107	105	105	101	98	84	100	106	89
Overall Compliance taking into account flexibility (in Number of Modes of Supply)										
Compliance Modes of Supply (g)=(a)+(b)+(c) 326 Min	341	326	327	349	328	318	309	326	330	294
Distribution of Flexibility across Modes of Flexibility										
Exercised on Mode 1 (h1)=128-(a0=/ <128 29 Max	10	19	17	4	15	18	25	20	17	32
Exercised on Mode 1 (h2)=128-(b) with (b)=/ <128 29 Max	10	18	17	4	14	18	13	13	15	22
Exercised on Mode 1 (h3)=128-(c) with (c)=/ <128 29 Max	23	21	23	27	27	30	37	25	22	36
Total Flexibility Exercised (h)=(h1)+(h2)+(h3) 58 Max	43	58	57	35	56	66	75	58	54	90
Overall compliance (g), (h1), (h2), (h3), (h) All Comply	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No

ASEAN Framework Agreement on Services.

Source: See ASEAN Secretariat website.

AFAS and EAEU–VN FTA in service

The EAEU–VN FTA is a mega trade agreement between Viet Nam and a regional bloc, the EAEU. It was initiated in 2013 and entered into force in late 2016. This FTA is special because it incorporates services into its chapter. Section II of the agreement provides for trade in services.

The Trade in Services section of the EAEU–VN FTA shall not apply to measures affecting natural persons of a party to this chapter seeking access to the job market of the other party to this chapter. It shall also not apply to measures regarding citizenship, nationality, residence, or employment on a permanent basis. Similar to AFAS, natural persons in the EAEU–VN FTA may include (i) business visitors, (ii) intra-corporate transferees; (iii) installers or servicers, (iv) investors, (v) contractual services supplier. More importantly, the EAEU–VN FTA includes provisions on their establishment, commercial presence, and activities.

The paper is weak for policy discussions in a way because agricultural, environmental, healthcare, energy, and a few main services sectors are not covered, given that the UNCOMTAD and the World Bank's Service Trade Restrictiveness Index (STRI) data use only four main sectors attached with other operational sub-sectors for data interpretation. As such, it might be incomplete from a policy perspective on the above-mentioned missing service sectors. From the data, Cambodia's policy towards constructing an FTA with EAEU's members will consider the following sectors and sub-sectors.

1. Financial Services

Cambodia's commitment under AFAS 10 signals more liberalisation in trade in services. Amongst its 110 thresholds in its scheduled commitment under AFAS 10, the country has liberalised 107 sub-sectors of service. The country has an average of only 23.7% in financial services to be restricted, meaning, the rest or 72.3% are liberalised. Amongst this 72.3%, banking is completely open (0% restriction), followed by 15% in insurance. This level of restrictiveness sees tradability in the finance sector between Cambodia and Armenia whose restrictiveness in financial service is only 2.6% on average, leaving the other 97.4% open for liberalisation. Within that financial service average of restrictiveness, Belarus's banking sector is 100% open (0% restrictiveness) and its insurance sector is only 6.7% restricted. Another EAEU country, Kyrgyzstan, is also a possible partner for Cambodia's banking service outreach. Kyrgyzstan's finance sector is only restricted at 8.4% at average. Within this percentage, Kyrgyzstan's banking is completely liberalised (0% restrictiveness), followed by 21.7% in insurance. From this analysis, Cambodia's rising financial institution, ACLEDA, might see this space for its operational outreach from Asia to the EAEU, especially in Armenia and Kyrgyzstan, given the favourable level of openness in financial service, especially banking, in these two countries. At the same time, EAEU's banks might also trade their financial services and share banking technologies and experts with Cambodia. The rest of the EAEU members, namely, Belarus, Kazakhstan, and Russia, do not have favourable levels of liberalisation for Cambodia's financial service supplies. Back then, Cambodia's share of ASEAN's exports of financial service is 0.11%, a better level than that of Brunei (0%), the Lao PDR (0%), and Myanmar (0.01%).

2. Telecommunication Services

Cambodia's telecommunication sector, which also includes information technology and computer science, still lags behind many countries in ASEAN, namely, Singapore, Malaysia, Indonesia, Thailand, and even Viet Nam. The country's share in the region in terms of export is only 0.38%, only higher than the Lao PDR and Brunei. Cambodia's import of such sector is high, that is, at 0.47% of ASEAN. This signals the country's information and communications technology (ICT) sector's needs for structural economic reform, following its fast progress to the digital and e-commerce economy. Unlike in transport or other business sectors, Cambodia's present context prepares the country for imports of new, innovative technologies to create a smooth transition into the digital economy. Cambodia's restrictiveness in ICT is 25%, implying that the country is more open to such service supply from abroad. Russia, amongst other EAEU countries, has a great potential to supplement Cambodia's weakness in such sector. Russia's share of EAEU's export of ICT is very high, at 85.11%, followed by Belarus, Kazakhstan, Armenia, and Kyrgyzstan. The Industry 4.0 revolution also constitutes to be a motive and rationale for Cambodia to be more liberalised in accepting ICT supply from technologically advanced countries as Russia. However, as seen in the Key Restrictiveness Index in Trade in Service, Cambodia's limitation in importing much ICT lies in its national security protection policy and the limited ability to operationalise such system at full utility at this stage of development.

3. Transport Services

Under the General Agreement on Trade in Services, transport services cover air, maritime, land, and services auxiliary to all modes of transport. In the Cambodia–EAEU case, supply of transport service cannot cover land transport given the distance and absence of land connectivity between the two. However, other transport services can be tradable. Cambodia's share of ASEAN's export of transport services is only 0.55%, given the largest portion led by Singapore's 70.76%. Cambodia's weakness in maritime and air transport still looms, yet reform is possible. Cambodia could improve the linkages on aviation services that allow the development of tourism between Cambodia and EAEU countries. It could liberalise air and maritime transport for EAEU countries, especially Russia. Russia leads in personal, cultural, and recreational service imports, which might best be related to Cambodia's current policy on attracting tourists. Thus, greater liberalisation of Cambodia in transport services to more than 64.5% – Cambodia's restrictiveness in transport is currently at 35.5% – could positively impact overall services, mainly tourism.

4. Professional Services

Professional services include two main sub-sectors: accounting and legal services. EAEU countries share almost a common level of restrictiveness in trade in professional services. Armenia and Russia have 32% restrictiveness, while Kazakhstan and Kyrgyzstan share the same at 28% restrictiveness and Belarus alone having the highest, at 40% restrictiveness in trade in professional services. Yet compared with Cambodia, those EAEU members are far more liberalised. Cambodia has 60% restrictiveness in professional services. Thus, it is rational for Cambodia to bring this sector to the negotiation tables. Russia is more liberalised (80%) in importing accounting and auditing services, of which Cambodia is a great supplier. In legal advice for foreign law, each country in the EAEU is 80% liberalised while Cambodia is 90% liberalised. However, it restricts 50% for legal advice on domestic laws, and 100% for

foreign representation in the court. A potential barrier to Cambodia's possible supply of legal services to EAEU countries is language, as those countries hardly use English. Thus, if Cambodia expects to gain in such sector in the upcoming FTA with the EAEU, it must ensure it can supply both technical skills and operational languages.