MYANMAR

Schedule of Specific Commitments



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MYANMAR - SCHEDULE OF SPECIFIC COMMITMENTS

For the 3rd Package of Commitments under ASEAN - China FTA Trade in Services

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
I. HORIZONTAL COMMITMENTS			
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		
All Sectors	3) (a) Commercial presence of foreign service suppliers and/or providers are permitted in accordance with Myanmar Companies Act 1914 , Partnership Act 1932, The Special Companies Act 1950, the Foreign Investment Law (2012) and existing Notifications of Myanmar Investment Commission, the Foreign Investment Rules (2013) and Myanmar Citizens' Investment Law (2013). As stipulated in the Foreign Investment Law (2012), the investment may be carried out in any of the following forms: (i) carrying out an investment by a foreigner with one hundred per cent foreign capital on the business permitted by the Commission; (ii) carrying out a joint venture between a foreigner and a citizen or the relevant Government department and organization; (iii) carrying out by any system contained in the contract which approved by both parties. The proposed investment may be refused subject to such implications as financial arrangements security risk involved and compliance with existing conditions. In forming the form of investment in Myanmar, it shall be formed as company in accord with existing law. (b) Incorporation of an enterprise, not involving a	3) (a) According to the Notification No. 167/ 2011, Non-Resident Foreigner will be subject to a withholding tax as follows; **Class of Income** — **Non-resident foreigner** - Interest — 15% - Royalties paid for the use of licenses, trademarks, patent rights etc. — 20% - Payments of contracts and buying goods within Myanmar and, by the consistent contracts, agreement or any kinds of agreement, performed for State organizations, city development committees, cooperative societies, companies registered and non-government organizations. — 3.5 % - Payments of contracts and buying goods inside Myanmar by the consistent contracts or agreement performed for the un-registered foreign entitles and foreign companies. — 3.5 %	

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
	state enterprise is to be made under the Myanmar Companies Act 1914. If the investment involves a state enterprise, incorporation shall be made under the Myanmar Companies Act 1914, Partnership Act 1932, Special Companies Act 1950, Myanmar Companies Act (Amendment) 1955, and Myanmar Companies Regulations 1957. (c) Services activities are restricted under section 3 of the State-owned Economic Enterprises Law (1989). However, these activities may be permitted by Cabinet notification according to the section 4 of the said law. <u>Tax</u> Under the section 27 of Foreign Investment Law promulgated on 2nd November 2012, the Myanmar Investment Commission shall, for the purpose of promoting foreign investments within the State, grant the investor the income tax exemption for a period of 5 consecutive years, inclusive of the year of commencement of production of goods or services. In addition, one or more than one or all of the remaining tax exemptions or tax reliefs may be granted if it is applied.	According to the 2014 Union Taxation Law, 'Income tax 35 percent shall be assessed upon non-resident foreigner's total income before deduction of allowance prescribed by Income Tax Law Section 6 and 6 (a), If the income is in foreign currency, the income tax must be paid with that foreign currency.' <u>Tax</u> According to the Sections 3 (k) of the Income Tax Law, it prescribes the resident foreigners as follows: (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; (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 share-holders; (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 Republic of the Union of Myanmar. - In this regards, foreign workers and staff who work at least six months (183 days) in Myanmar and the foreign enterprises formed in Myanmar may be assumed as the resident foreigners. (b) A foreign lawyer may perform service to client in Myanmar but are not allowed to practice in Myanmar courts of law. (c) The commercial presence of foreign services provider shall be subject to the licensing by the government authorities concerned. (d) According to the Farm-Land Law 2012 and the Transfer of Immoveable Property Restriction Law 1987, the Law	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
		Amending the Transfer of Immoveable Property Restriction Law (2005), 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.	
	4) (a) Subject to the Foreign Investment Law (2012) and Foreign Investment Rules (2013), Myanmar Immigration (Emergency Provisions) Act 1947, The Foreigners Act 1864, 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. (b) All foreign enterprises and foreign workers shall abide by <u>Business Visa*</u> Period for Permission of 70 days Period for Permission of stay Extension -up to 3 months** 36 US$ -Over 3 months-up to one year** 90 US$ [**with recommendation of Ministry concerned, Application Form, Passport (original & copy), Stay Form, (2) Recent Photos, FRC, Company Registration Card, Export & Import License] (Remark: In accordance with permission of Visa Confirming Board, Ministry of Immigration and Population has been obligating)	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. - Any expatriate entering into Myanmar shall abide by The Myanmar Immigration (Emergency Provisions) Act 1947, The Foreigners Act 1864, The Registration of Foreigners Act 1940, The 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 Labor, Employment and Social Security. - The Department of Labour, under the Ministry of Labour, Employment and Social Security performs registration for oversea workers who have been given the permission to stay in work by the Myanmar Investment Commission. - 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.	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
	(c) The Department of Labour, under the Ministry of Labour, Employment and Social Security performs registration for oversea workers who have been given the permission to stay in work by the Myanmar Investment Commission.		

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*Types of visa and Regulation for stay extension

No	Type of visa	Period for Permission of visa	Period for Permission of stay Extension	Fees of stay extension	Documents to be Needed	Ministry/board for stay extension permitted	Remark
1	Tourist visa	28 days		20 US$	-	-	-
2	Business Visa	70 days	-Up to 3 months - Over 3 months -Up to one year	36 US$ 90US$	- Recommendation of Ministry concerned - Application Form - Passport (original & copy) - Stay Form - (2) Recent Photos - FRC - Company Registration Card - Export & Import License	Visa confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration and Population has been obligating
3	Transit Visa	24 hours	-	18US$	-	-	-
4	Social Visa	28 days	-Up to 3 months -Over 3 months -Up to one year	36US$ 90US$	- National Registration Card (original &copy) - Household List (original & copy) - Recommendation of Township immigration officer concerned - Passport (original & copy) - Stay Form - (2)Recent Photos - FRC	Visa confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration and Population has been obligating

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No	Type of visa	Period for Permission of visa	Period for Permission of stay Extension	Fees of stay extension	Documents to be Needed	Ministry/board for stay extension permitted	Remark
5	GOC/DGOC Visa	Duration of assignment	Duration of assignment	Gratis	- Recommendation of Foreign Ministry - Copy of Application Form from Embassy - Passport (original & copy) - Stay Form - (2) Recent Photos	Visa confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration and Population has been obligating
6	SRV MJEV/MJSRV	-	- (6 months) within stay permit period for SRV - (1 Year) stay permit period for MJEV/ MJSRV	54 US$ 180US$	- Recommendation for Foreign Affair Ministry or Ministry concerned - Copy of Application Form organization concerned - Passport (original & copy) - Stay Form - (2) Recent Photos	Visa confirming Board	In accordance with permission of Visa Confirming Board, Ministry of Immigration and Population has been obligating

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
II. SPECIFIC COMMITMENTS			
BUSINESS SERVICES			
A. Professional Services			
Accounting auditing and bookkeeping services (CPC 862)	(1) None (2) None (3) - Joint venture or partnership with Myanmar Locally registered public accountants is encouraged after fulfilling the requirements prescribed by Foreign Investment Law, provided that the foreign counterpart must be qualified and duly registered as a practicing Public Accountant in his/ her country. - As Indicated in the Horizontal Commitment (4) None for Accounting and bookkeeping services, auditing service	(1) None (2) None (3) As indicated in market access (4) As indicated in market access	Foreign practising accountant holds an Accountancy Certificate or degree conferred by any foreign country and recognized by the Myanmar Accountancy council He/she is registered in the list of practising accountants managed by his/her country. Subject to MAC's licensing requirements.

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Architectural Services (CPC 8671)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	
Engineering Services (CPC 8672)	(1) Unbound due to lack of technical feasibility (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) None (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	
Integrated Engineering Services (CPC 8673)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	
Landscape Architectural Services (CPC 86742)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
B. Computer and Related Services			
Consultancy services related to the installation of computer hardware (CPC 841)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	Subject to comply with the provisions of existing rules and regulations
Software implementation Services (CPC 842) (i) System and software consulting Services (CPC 8421) (ii) System analysis services (CPC 8422) (iii) System design services (CPC 8423) (iv) Programming services (CPC 8424) (v) System maintenance services (CPC 8425)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	Subject to comply with the provisions of existing rules and regulations

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Data processing services (CPC 843) (i) Input processing services (CPC 8431) (ii) Data-processing and tabulation services (CPC 8432) (iii) Time- sharing services (CPC 8433) (iv) Other data processing services (CPC 8439)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	Subject to comply with the provisions of existing rules and regulations
Data base services (CPC 844)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	Subject to comply with the provisions of existing rules and regulations
Other (CPC 845-849) (i) Maintenance and repair services of office machinery (CPC 845) (ii) Other computer services (CPC 849) - Data-processing services (CPC 8491) - Other computer services (CPC 8499) - System integration services - Software development services	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	Subject to comply with the provisions of existing rules and regulations

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
E. Rental/Leasing Services without Operator			
Rental and leasing of Studio Recording Equipment (CPC 83109)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	
F. Other Business Services			
Advertising Services (CPC 871)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	
Translation and interpretation services (CPC 87905)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Printing and Publishing (CPC 88442)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	
COMMUNICATION SERVICES			
C. Telecommunication Services			
Telecommunication Services (CPC 7523) Telex Services (CPC 7523**) Telegraph Services (CPC 7522)	(1) None* (2) None* (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) None* (2) None* (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	* Subject to comply with the provisions of existing rules and regulations.

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Electronic mail services (CPC 7523**) Voice mail services(CPC 7523**) Electronic Data Interchange (EDI) (CPC 7523**)	(1) (a) Subject to comply with the provision of existing rules and regulations (b) Subject to Utilization of the National Gateway only	(1) Unbound	* Subject to comply with the provisions of existing rules and regulations.
On-line information and data base retrieval (CPC 7523**)	(2) None*	(2) None*	
Code and protocol conversion (CPC 7523**)	(3) As indicated in the Horizontal Commitment	(3) As indicated in the Horizontal Commitment	
On-line information and / or data processing (CPC 843**)	(4) As indicated in the Horizontal Commitment	(4) As indicated in the Horizontal Commitment	
D. Audio Visual Services			
Motion Picture and Video Tape Production Services (CPC 96121)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	
Cinema Theatre Services and Motion Picture Projection Services (CPC 9615)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Construction and Engineering Related Services			
Construction Work for Buildings (CPC 512)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	
Construction Work for Civil Engineering Services(CPC 513)	(1) Unbound * (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) None (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	
Assembly and Erection of Prefabricated Construction (CPC 514)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	

* Unbound due to lack of technical feasibility

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Installation Work (CPC 516)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	
Building Completion and Finishing Work (CPC 517)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	
Pre-erection Work at Construction Site (CPC 511)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	
Special Trade Construction(CPC 515)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Renting Services Related to Equipment for Construction or Demolition of Building or Civil Engineering Work with Operator (CPC 518)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) None (4) Unbound	
EDUCATIONAL SERVICES			
Primary Education Services (CPC 921) - Preschool education services (CPC 9211) - Other primary education services (CPC 9219)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	All kinds of education services are to be regulated by Ministry of Education.
Secondary education services - General secondary education services (CPC 9221) - Technical & vocational secondary education services (CPC 9223) - Technical & vocational secondary school type education services for handicapped students (CPC 9224)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	All kinds of education services are to be regulated by Ministry of Education.

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Higher education services (CPC 923) - Post-secondary education services (CPC 9231/92310) - Other higher education services (CPC 9239/92390)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	All kinds of education services are to be regulated by Ministry of Education.
Adult education services (CPC 924) Professional and / or short courses education services - Language courses and training - Business courses	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	All kinds of education services are to be regulated by Ministry of Education.
Other education services (CPC 929/9290/92900) - Skills training services covering the provision of training for technical, supervisory & production related functional levels in new and emerging technologies as follows:(1) automated manufacturing technology; (2) advanced materials technology; (3) biotechnology; (4) electronic; (5) Other services information technology; (6) avionic	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) Unbound	All kinds of education services are to be regulated by Ministry of Education.

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
FINANCIAL SERVICES			
Actuarial Services	(1) None	(1) According to the existing laws & regulations and subject to the permission of Insurance Business Supervisory Board.	
	(2) None	(2) None	
	(3) None	(3) According to the existing laws & regulations and subject to the permission of Insurance Business Supervisory Board.	
	(4) None	(4) According to the existing laws & regulations and subject to the permission of Insurance Business Supervisory Board.	
Average and Loss adjustment services (CPC 8143)	(1) None	(1) None	
	(2) None	(2) None	
	(3) None	(3) None	
	(4) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Supervisory Board.	(4) None	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Foreign Bank's Representative Offices services	(1) Unbound *	(1) Unbound	
	(2) Unbound	(2) Unbound	
	(3) - Foreign Banks are allowed to open their representative offices in Myanmar** - As indicated in the Horizontal Commitment	(3) Unbound	
	(4) Unbound	(4) Unbound	

* Unbound due to lack of technical feasibility

** Subject to the approval of the Central Bank of Myanmar according to the Central Bank of Myanmar Law and Financial Institutions of Myanmar Law

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
HEALTHCARE SERVICES			
Dental Services (CPC 93123)	(1) None (2) None (3) - Commercial presences of dental surgeons will be permitted according to Myanmar Dental Council Law. - As indicated in the Horizontal Commitment (4) Unbound	(1) None (2) None (3) - Commercial presences of dental clinics will be permitted according to Myanmar Dental and Oral Surgery Council Law. - As indicated in the Horizontal Commitment (4) Unbound	
Deliveries and related services, Nursing Services, Physiotherapist and paramedical personnel (CPC 93191)	(1) None (2) None (3) - Commercial presences of health care providers will be permitted according to Myanmar Medical Council Law (2015), Myanmar Nurse and Midwifery Council Law (2015). - As indicated in the Horizontal Commitment (4) Unbound	(1) None (2) None (3) - Commercial presences of health care providers will be permitted according to Myanmar Medical Council Law (2015), Myanmar Nurse and Midwifery Council Law (2015). - As indicated in the Horizontal Commitment (4) Unbound	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
TOURISM AND TRAVEL RELATED SERVICES			
Hotels (CPC 641-643)	(1) None (2) None (3) None (4) None	(1) None (2) None (3) Unbound (4) Unbound	
Travel Agencies and Tour Operators Services (CPC 7471)	(1) None (2) None (3) None (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
TRANSPORT SERVICES			
A. Maritime Transport Services			
International Passenger Transport Services (Excluding Cabotage) (CPC 7211)	(1) None (2) None (3) Unbound (4) Unbound	(1) None (2) None (3) Unbound (4) Unbound	
International Freight Transport (Excluding Cabotage)	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) Unbound (4) Unbound	
C. Air Transport Services			
Aircraft Repair and Maintenance Services	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Selling and Marketing of Air Transport Services	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	(1) None (2) None (3) As indicated in the Horizontal Commitments (4) As indicated in the Horizontal Commitments	
Computer Reservation System Services	(1) None, except that service providers must use public telecommunication networks under national telecommunication authorities in accordance with prescribed rules and regulations. (2) Subject to commercial arrangements with licensed operator(s) (3) Unbound (4) Unbound	(1) Unbound (2) None (3) Unbound (4) Unbound	
H. Services auxiliary to all modes of transport			
Maritime cargo handling services	(1) Unbound due to lack of technical feasibility (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) Unbound (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	

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Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
Maritime Storage and Warehousing Services	(1) None (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	(1) None (2) None (3) As indicated in the Horizontal Commitment (4) As indicated in the Horizontal Commitment	
Maritime Freight Forwarding Services (CPC 7480)	(1) None (2) None (3) Joint Venture with a Myanmar Citizen or enterprise up to 80% equity is permitted (4) Unbound	(1) None (2) None (3) None (4) Unbound	