FACT SHEET - SERVICES

AANZFTA will promote greater certainty and transparency for Australian service suppliers doing business in the region.

This is achieved through a range of commitments by ASEAN countries that:

- bind existing levels of market openness in various service sectors;
- discipline domestic regulatory measures;
- guarantee certain legal protections for investment in their territories (see Fact Sheet – Investment for further detail).

Market openness

ASEAN countries have made substantial, commercially meaningful improvements on existing WTO commitments in a range of sectors.

Many of these AANZFTA commitments go beyond the offers made by ASEAN countries in the WTO Doha Round.

A built-in review provision will ensure that further improvements can be negotiated over time as ASEAN countries progressively liberalise their services sectors.

Some of the "WTO plus" commitments by ASEAN countries include:

<u>Professional Services</u>

- Malaysia has committed to aggregate 40 per cent foreign equity participation in locally registered partnerships or Malaysian <u>accounting</u> firms and to 30 per cent foreign equity participation in multidisciplinary joint ventures in <u>architecture</u> and <u>engineering</u> firms. Brunei has committed to allow 40 per cent foreign equity in architectural firms.
- The Philippines has bound arrangements under which Australian accountants, landscape architects, civil, mechanical, metallurgical and sanitary engineers can practice under temporary permits issued by its Professional Regulation Commission.

- In legal services, Indonesia has committed to permit foreign lawyers to work or take part in Indonesian law firms as employees or experts in international law[3] and Vietnam has bound arrangements under which foreign law firms can employ Vietnamese lawyers and foreign lawyers can practice in Vietnamese law firms to advise on foreign/international law.

Construction, mining and energy-related services

- In construction services, Indonesia and Malaysia have committed to allowing joint ventures with aggregate foreign equity of 55 and 49 per cent respectively. Brunei Darussalam has committed to allow foreign equity in construction firms of 50 per cent.

- In mining and energy related services, the Philippines has made commitments that allow up to 100 per cent foreign equity for construction of large scale mining development projects covered by a financial and technical assistance agreement under the Philippine Mining Act. Thailand has committed to allowing 49 per cent foreign equity for firms providing 'related scientific and technical consulting services' in relation to oil and gas exploration (e.g. geological and geophysical prospecting and surveys).

- The Philippines also made commitments that allow up to 100 per cent foreign equity, subject to the President's approval, for oil and gas exploration and development and 40 per cent foreign equity for geothermal exploration and development; coal exploration and development; pipeline transport; and services related to energy distribution or power generation (up to 100 per cent foreign equity is allowed for construction of power plants under the "build-operate-transfer" scheme).

Education Services

- Malaysia has committed to allow joint ventures in higher education with foreign equity up to 51 per cent, subject to relevance of courses to Malaysia's education objectives. It has also committed to allow temporary entry and stay of lecturers and experts and professionals (subject to numerical caps) and contractual service suppliers in the education sector for periods of stay of up to 10 years.

- Laos has committed to allowing foreign higher education service suppliers to establish a commercial presence with up to 100 per cent foreign equity.

- The Philippines has committed to allowing 40 per cent foreign equity in the establishment of education institutions to engage in twinning programs in the fields

[3] The share of foreign lawyers in Indonesian law firms must not exceed 20 per cent and must be limited to five foreign lawyers per firm.

of agriculture, industrial, environment, natural resource management, engineering, architecture, science and technology and health-related programs and to allowing temporary entry and stay of experts in these fields for periods of stay of one year, which may be extended.

- Vietnam has committed to reduce the experience requirement for Australian teachers in higher, secondary and other education services (including foreign language training) from five to three years and to expand the (WTO-committed) fields of study that can be delivered by foreign education suppliers.[4]

- Thailand has committed to allowing 49 per cent foreign equity in foreign language tuition services and to allowing temporary entry for teachers employed by firms established in the secondary, higher, adult education and foreign language tuition services sub-sectors (period of stay of one year with possibility of extension).

Financial services

- In banking services, the Philippines and Indonesia have committed to foreign equity of 55 and 51 per cent respectively for acquisition of an existing domestic bank.
- In insurance services, Indonesia has committed to allowing foreign equity participation of 80 per cent for Australian service suppliers.

Telecommunications

- Malaysia has committed to allowing foreign equity of 49 per cent for acquisition of shares in existing licensed operators (the option of a locally incorporated joint venture with foreign equity of up to 49 per cent is also bound in some sub-sectors, e.g., mobile telephone services and data and message transmission services).

Regulatory disciplines

ASEAN countries have committed to a range of “WTO plus” regulatory disciplines that provide:

- a platform for the negotiation of mutual recognition agreements between interested competent bodies in Australia and ASEAN countries;

[4] Agriculture, architecture, building, business administration, management, computer science, construction, information systems, dental services, economics, education, engineering, environment, surveying, health, community services, land and marine resources, animal husbandry, language studies, law, legal studies, life sciences, manufacturing, mathematics, medical science, medicine, multi-field education, nursing, pharmacy, physical sciences, science, services, culinary and hospitality, transport, veterinary science, visual and performing arts.

- obligations on regulators not to place undue restrictions on the use of business names;

- enhanced procedural transparency and review and appeal disciplines in relation to licensing procedures;

- legal protections for Australian investments in ASEAN countries, including the right to international arbitration (investor-state dispute settlement) for alleged breaches.

In addition, specific “WTO plus” regulatory disciplines apply to **financial** and **telecommunications** services.

Australian financial institutions will benefit from disciplines to promote greater transparency and timely processing of license applications in ASEAN countries.

Australian telecommunications providers will benefit from disciplines that aim to ensure a level playing field with major domestic suppliers in ASEAN countries, which may own or control essential network facilities. For example, Parties will be required to prevent anti-competitive conduct and ensure that major suppliers provide interconnection, leased circuit services and co-location of equipment on reasonable, non-discriminatory terms and conditions. Some obligations are subject to transitional arrangements for some countries (see Fact Sheet – Telecommunications Regulatory Disciplines for more detail).