

Inventory of Limitation ASEAN Framework Agreement on Services REQUIREMENTS FOR FOREIGN TRADE IN SERVICES INDONESIA

General Requirements

- Commercial Presence is allowed in the form of (unless mentioned otherwise):
 - joint ventures: and/or
 - representative office
- Joint ventures are allowed in the form of Limited Liability Enterprise (Perseroan Terbatas/PT) with foreign equity limited to 49%:
- Indonesia restricts foreign investment in:
 - Casino and gaming facilities
 - Marine vessel certification and classification systems and radio frequencies
 - Bus and Taxi
 - Private television and radio broadcast
 - Film making
- Labour and Immigration Laws and Regulations :
 - Only directors and technical experts/advisors, unless mentioned otherwise, are allowed to stay for two years and could be extended for a maximum two times subject to two years extension each time.
 - managers and technical experts (intra corporate transfer) are allowed based on an economic needs test.
 - the entry and temporary stay of business visitor(s) is (are) permitted for a period of 60 days and could be extended maximum for 120 days.
- Business/Stay Visas:
 - Visa on Arrival, valid for up-to-7 days and up-to-30 days, and cannot be extended.
 - Business Visit Visa, valid for 60 days, it is extendable up to 180 days with every extension valid for 30 days.
 - Multiple Business Visit Visa, valid for 1 year, with every single entry only valid for 60 days maximum.
 - Visa Waiver Facility, valid for 30 days, and only given to certain nationalities.
 - Limited Stay Visa, valid varies from 1 month, 6 months, 1 year, and 2 years.
- The Income Tax Law provides that non-resident taxpayers will be subject to withholding tax of 20% if they derive the following income from Indonesian sources:
 - interest
 - royalties
 - dividends
 - fees from service performed in Indonesia
- Land Acquisition :
 - No foreigners (juridical and natural persons) are allowed to own land. However, a joint venture enterprise could hold the right for land use (Hak Guna Usaha) and building rights (Hak Guna Bangunan), and they may rent/lease land and property.
- Expatriate Charges :
 - Any foreign natural persons supplying services are subject to charges levied by Governments

Business Services

Legal Services

- Foreign lawyers (advocate):
 - allowed to work or take part in Indonesian law firm as employees or as experts in International Law, but shall not appear in courts and/or undertake legal proceedings under any circumstances:
 - forbidden to have double status as either an employee or a co-partner of a law firm as well as a representative of foreign law firm or of foreign companies and Indonesian companies
 - the ratio of foreign legal expert to Indonesian legal experts working in an Indonesian law firm is 1:4 and subject to a maximum of five

- allowed to transfer to another Indonesian law firm by submitting a letter of release from the previous office
 - not allowed to practice or open a law firm or branch in Indonesia
 - foreign lawyers in consulting services may only act as training consultant and are prohibited from conducting business for profit in an Indonesian firm.
 - obliged to transfer legal knowledge and professional capabilities to Indonesian Lawyers
 - obliged to transfer knowledge to education, legal research, or government institutions at least 10 hours each month free of charge
 - approval required to work as "legal consultants"
- Foreign law firms:
 - share of foreign lawyers (advocate) in Indonesian law firm must not exceed 20 %, and shall be limited to five foreign lawyers (advocate) per firm
 - may not enter into direct partnerships with Indonesia firms (or hire Indonesia attorneys) but may affiliate with local firm or establish a local consulting office.
 - cannot operate directly in Indonesia. A foreign law firm seeking to enter the market must establish a relationship with a local firm.

Accounting, Auditing and Bookkeeping Services

- Foreign firms:
 - are not allowed to provide Tax Return Services
 - can only access or operate in the Indonesian territory in the form of a cooperation agreements with local firms
 - must operate through technical assistance arrangements with local firms
 - the use of International name or network name is subject to approval by the Ministry of Finance
- Foreign accountants:
 - residency requirement
 - requirement of registration and be a member of the Indonesian Institute of Accountants
 - pass the public accountant certification examination administered by IAI (Indonesian Institute of Accountants)
 - have at least one thousand hours experience within the last five years
 - foreign agents and auditors may act only as consultants and cannot sign audit reports
 - local retraining is required for a full license

Architectural/ Engineering/ Integrated Engineering/ Urban Planning and Landscape Architectural Services

- a) Joint Operation:
 - by establishing a representative office in Indonesia
 - Local partner(s) in Joint Operation shall be registered by the Construction Services Development Board and having qualification A/Big
- b) Joint venture:
 - Foreign Equity Participation is limited to 49% of the capital share
 - Local partner(s) in Joint Venture shall be registered by the Construction Services Development Board and having qualification A/Big

Computer Related Services

- Commercial presence is allowed only through a locally incorporated joint-venture corporation in the form of Limited Liability Enterprise (Perseroan Terbatas/PT) with Indonesian individuals or Indonesian-controlled corporations or both and the aggregate foreign shareholding in the joint-venture corporation shall not exceed 49 percent for:
 - Consultancy services related to the installation of computer hardware
 - Software implementation services
 - Database services

Interdisciplinary Research and Development Services

- Joint operation is allowed through:

- a representative office
- a joint venture with foreign equity limited to 49% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT)

Other Business Services

- Commercial presence is allowed through joint venture with foreign equity limited to 49% for:
 - management consulting services
 - technical testing and analysis services
 - maintenance and repair of equipment
 - market research services
 - convention services

Advertising Services

- Commercial presence is allowed through limited liability company, unless stipulated otherwise.

Technical Testing Analysis

- For energy related technical testing services: Commercial presence is allowed in the form of joint operation through a representative office in Indonesia for:
 - core analysis and other lab test, only for isotope analysis
 - geological and geophysical services, only for seismic data acquisition
 - liquefaction and gasification only for coal

Services Incidental to energy distribution

- Commercial presence is allowed through representative office in Indonesia

Communication

Courier Services

- Courier services:
 - limited corporation or cooperative business incorporation
 - small and medium scale services are reserved for SMEs
 - limitation on weights of Universal Postal Service items
 - foreign postal operator shall cooperate with domestic postal operator
 - foreign postal operator shall operate through joint ventures with shares majority owned by domestic postal operator
 - the shares of domestic postal operator that will cooperate with foreign postal operator, shall not be owned by foreign citizens or foreign business entities affiliated with, domestic postal operator
 - foreign postal operator and its affiliates shall cooperate with only one domestic postal operator
 - the operational areas of the cooperation between foreign postal operator and domestic postal operator are limited in the capital of province that has international airport and/or seaport

Telecommunication Services

- Commercial presence is allowed in the form of joint venture, joint operation, or contract management with foreign equity limited to 49% for:
 - Local Services
 - Long Distance Services
 - International Services
 - Packet-switched public data network Services
 - Telex Services
 - Telegraph Services
 - Domestic Cellular Paging and Payphone Services
 - Internet Access Services
- Requirement of joint venture with local private sector, with foreign equity limited to 51% for:
 - Telex Services

- (ii) Telegraph Services
- (iii) Facsimile
- (iv) Regional and National Paging Service
- Higher paid up capital is required of foreign service suppliers than of domestic services suppliers (this measure will be eliminated in the year 2020) for :
 - Voice mail services
 - Electronic mail services
 - Computer time sharing services
 - Video text services
 - Electronic mail box
 - File transfer services
 - Home telemetering alarm
 - Entertainment services
 - Management information services
- Local services for the following are provided exclusively until 2011 by PT Telkom and 5 regional joint operation scheme operators:
 - Public Switched Telephone Services
 - Circuit Switched Public Data Network Services
 - Teleconferencing Services

Exclusively covers only consultancy services related to operation of power plant and network
- For internet telephony services, as an initial step the number of ITSP operators is limited to five operators. It will later be expanded to 15 ISP operators whose business in internet telephony services shall join the existing ITSP operators.
- Access granted for five foreign services provider companies, in addition to the existing companies for :
 - Voice mail services
 - Electronic mail services
 - Computer time sharing services
 - Video text services
 - Electronic mail box
 - File transfer services
 - Home telemetering alarm
 - Entertainment services
 - Management information services
- Natural persons for management and technical expert is limited to 20 persons for :
 - (i) Local services
 - (ii) Long Distance Services
 - (iii) International:
 - (iv) Packet-switched public data network services
 - (v) Telex Services
 - (vi) Telegraph Services
 - (vii) Domestic Cellular Paging and Payphone Services
 - (viii) Internet Access Services
 - (ix) Voice Telephone Services
 - (x) Packet-switched data transmission services
 - (xi) Facsimile
 - (xii) Private leased circuit services
 - (xiii) On-line information and database retrieval
 - (xiv) Electronic data interchange (EDI)
 - (xv) Enhanced/ value added facsimile services, including store and forward, store and retrieve
 - (xvi) On-line information and or data processing (including transaction processing)
- Restrictions on the construction, management and operation of cell-towers.

Audio Visual

- Film production services shall only be provided by Indonesian citizens in the form of limited companies or cooperatives. However, an Indonesian film company can cooperate with foreign film company for film production, engineering services, and the use of foreign artists or foreign crew.
- Foreign films require translations

Construction Services

- Joint Operation:
 - by establishing a representative office in Indonesia
 - Local partner(s) in Joint Operation shall be registered by the Construction Services Development Board and having qualification A/Big
- Joint Venture
 - Foreign Equity Participation is limited to 55% of the capital share of a Limited Liability Enterprise (Perseroan Terbatas/PT)
 - Local partner(s) in Joint Venture shall be registered by the Construction Services Development Board and having qualification A/Big.

Distribution

Wholesale & Retail Distribution Services

- Foreign investment allowed only for:
 - Supermarket with store space more than 1200 m²;
 - Department Store with store space more than 2000 m²;
 - Minimarket with store space more than 400 m²,
 - Community Store and Convenience Store.
- Commercial presence is allowed through a limited liability company, unless stipulated otherwise.
- Foreign equity of up to 100% allowed in other sectors/sub sector subject to approval.
- For wholesale trade services of food, beverages, and tobacco; and of textile, clothing and footwear with minimum space above 5,000 meter square: commercial presence is allowed through a limited liability company, and foreign equity is limited to 49%.
- Foreign suppliers should support the local small and medium retailers, including cooperative and traditional retailers.

Direct Selling (Multi Level Marketing) Services

- Commercial presence is allowed through a limited liability company, unless stipulated otherwise.
- Foreign equity is allowed up to 60 %.
- Requirement of support for the local small and medium retailers, including cooperative and traditional retailers.

Education

- Secondary and post secondary technical and vocational education services:
 - requires local partnership.
 - foreign equity limited to 49%
 - limited to of Jakarta, Surabaya, Bandung, Yogyakarta, and Medan
 - mutual recognition arrangement between relevant institutions on credits, programs, and certifications is required.
 - requirement of listing in the Ministry of Education's List of Accredited Foreign Education and accreditation of the local partner.
 - provision of religious and civic education
- Higher education services:

- requires cooperation with local providers in non-profit educational legal entities such as a foundation or an organisation of social nature
- commercial presence is allowed in the form of joint ventures through a limited liability company subject to maximum 49% of foreign equity.
- other cooperative arrangements such as management contract, twinning, credit program transfers permitted.
- Approval for natural persons engaged in education activities is granted on a case by case basis
- Foreign language instructors must be native speakers and must be fluent in Bahasa Indonesia.

Environmental Services

- Commercial presence is permitted only through environmental institution which is registered in Indonesia and must establish partnership with local partner, with foreign equity allowed up to maximum of 49%.
- Other conditions:
 - Requirement of use of local professional manpower, transfers of know how & technology to local professional manpower.
 - The service provider providing waste treatment facility is forbidden to import waste and refuse due to the high risk pollution in the transportation of the waste and refuse.
 - Environmental institutions must be managed by a person with environmental professional license issued by the Government of Indonesia and chaired by an Indonesian environmental professional
 - Integrated hazardous waste treatment facility services for oil sludge and waste mercury treatment restricted to particular areas. The services provider must be equipped with modern and sophisticated technology and environmental safety.

Healthcare-Related and Social Services

Healthcare-Related Services

- General Conditions:
 - Commercial presence of the foreign service providers is permitted only through health institution which is registered in Indonesia and must establish partnership with local partner
 - Foreign Equity limited to 65% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT)
 - A non Indonesian health professional employed as managers or as technical experts shall have at least two Indonesian understudies during his/her term.
- Hospital services:
 - Hospital establishments limited 200 beds or above and to the cities of Medan and Surabaya.
 - Hospitals shall be managed by a Board of Directors, chaired by an Indonesian medical doctor.
 - Foreign health professionals are obliged to transfer medical knowledge and professional capabilities to Indonesian health professionals.
 - Foreign Equity limited to not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT)
- Clinics of specialised medical and dental services:
 - Clinic of specialised medical services is limited to registered health institutions, with 3 sub specialist/super specialist/complex medical care
 - Clinic of specialised dental services is limited to registered health institution, with specialist dental care, provided by hospitals with more than 50 dental units and chairs
 - Establishment limited to the capital of provinces in East Indonesia region.
 - The medical/dental clinic should be managed by Indonesian medical doctor/dentist.
 - Foreign doctors have to do evaluation of the medical system in Indonesian universities, be fluent in Bahasa Indonesia and undergo an adaptation programme.

- Foreign Equity limited to not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT)
- Nursing services
 - Limited to specialist care
 - Foreign nurse professionals:
 - only as trainer/consultant, and can not deliver direct nursing services to patients
 - must have a valid nursing licence issued by Ministry of Health of Indonesia and relevant health authorities
 - are obliged to transfer nursing knowledge and professional capabilities to Indonesian nurses
 - shall have at least 2 Indonesian understudies during his/her term
 - are allowed to work for only 2 years but this can be extended
 - fluency in Indonesian language
 - Foreign Equity limited to not more than 51% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT)
- Veterinary Services:
 - The local partner should be registered with Ministry of Agriculture
 - Must hold a valid working permit issues by Ministry of Manpower and Transmigration
 - Subject to relevant Indonesian laws and regulations regarding veterinary and livestock services, and labour and immigration.
- For poultry farms consultant services:
 - commercial presence is allowed only through a locally incorporated joint venture with Indonesian individuals or both, and foreign equity is limited to 51%
 - ownership shall be restricted to veterinarian professionals with professionals qualification relevant to the services provided and recognised, registered, and certified by relevant professionals bodies and agencies in Indonesia
 - the company must be recognised, registered, and certified by relevant professionals bodies and agencies in Indonesia
 - juridical and natural persons should have following professional qualification requirements :
 - relevant formal education
 - special certification related to the expertise
 - working experiences with a relevant sound international organisation for at least 2 years
 - experiences in dealing with tropical animal diseases
 - good command of Indonesian language both written and spoken
 - no record against law in their home country

Social Services

- Commercial presence is allowed through a limited liability company, and foreign equity is limited to 49%.

Tourism and Travel-Related Services

Hotels, Motels and Letting Services of Furnished Accommodation

- Hotels lodging services -foreign equity:
 - 100% in Eastern Part of Indonesia, Kalimantan, Bengkulu, Jambi, Sulawesi and East Nusa Tenggara (NTT).
 - 51% for other areas.
- Motel lodging and letting services of furnish accommodation, :
 - maximum foreign equity participation is 49% for certain parts of East Indonesia (Sulawesi, Papua, Mollucas, Nusa Tenggara)
- For Hotel services, higher paid-up capital is required of foreign services suppliers than of domestic services suppliers in eastern part of Indonesia, Kalimantan, Bengkulu, Jambi, Sulawesi. This measure will be eliminated in the year 2020
- Entry of top management and highly skilled professionals:

- Hotels: Top management comprise General Managers, Food and Beverage Managers, Resident Manager Controllers, Marketing Directors and highly skilled professionals comprised of Executive Chef, Sous Chef and Specialty Cook
- Motels and Letting services: Top management and highly skilled professionals.

Restaurants and Beverage Outlets

- Restricted to maximum foreign equity participation of 49% for certain parts of East Indonesia (Sulawesi, Papua, Mollucas, Nusa Tenggara).
- Entry allowed for top management and highly skilled professional beverage services Travel Agent, Tour Operator and Tour Leader Services
- Commercial presence is allowed with foreign equity limited to 49% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT)
- Maximum service providers:
 - 55 Travel Agents
 - 55 Tour Operators
- Restricted to inbound tour operators in Jakarta and Bali.
- Requirement of license from Regional Investment Coordinating Body to establish TA&TO in Bandung and Denpasar districts (Bali).

Tourism Consultancy Services

- Joint venture, joint operation and contract management with foreign equity limited to 51%
- Must be registered to Indonesian Ministry of Justice as Indonesian company. In the case of cooperation with a national company, it is required, to do; Joint venture, joint operation and Contract management.

International Hotel Operator

- Joint venture with maximum foreign equity participation is 51%
- In the case of cooperation with a national company, it is required to do Management Contract.
- Entry of top management and highly skilled professional :
 - Top management level in hotel business comprised of General Manager, Food and Beverage Manager, Resident Manager Controller, Marketing Director
 - Highly skilled professional comprised of Executive Chef, Sous Chef and Specialty Cook

Professional congress organiser

- Only in certain parts of East Indonesia (Sulawesi, Papua, Moluccas, Nusa Tenggara)
- foreign equity participation is permitted up to 51

Golf Courses and other facilities

- 100% foreign equity allowed in eastern part of Indonesia, Kalimantan, Bengkulu, Jambi and Sulawesi and East Nusa Tenggara (NTT).
- For other parts of Indonesia, requirement of a joint venture with foreign equity is limited to 51%:
 - higher paid-up capital is required of foreign services suppliers than of domestic services suppliers.
 - these measures will be eliminated in the year 2020.
- Only Resort Manager is allowed.

Tourist Resorts:

- Covers Hotel (3, 4 and 5 stars) Marinas, not include marina facilities and hotel management
- In eastern part of Indonesia, Kalimantan, Bengkulu, Jambi and Sulawesi, 100% of capital share can be owned by foreign investor.
- For other areas, the maximum foreign equity participation is 51%.
- Higher paid-up capital is required of Foreign Service suppliers than of domestic service suppliers.

Transport Services

International Maritime Freight and Passenger Transport Services

- Commercial presence is allowed through :
 - owner's representative
 - joint venture (with an Indonesian shipping company) with foreign equity limited to 60%.
- Commercial presence is allowed only through joint venture company, and foreign equity is limited to:
 - 49%, for:
 - Vessels Salvage and Refloating Services
 - Maritime Freight Forwarding Services
 - Storage services of frozen or refrigerated goods
 - Other storage or warehousing services
 - Pushing and Towing Services for Maritime Transport (Excluding Cabotage)
 - Storage and warehousing services Outside Port Area and 1st Area for: Storage services of frozen or refrigerated goods and Other storage or warehousing services
 - 60%, for:
 - Maritime Cargo Handling Services
 - Rental of Vessel without Crew
 - Foreign shipping company is required to appoint an Indonesian Shipping Company or a joint venture shipping company as its general agent.

Internal Waterways Transport Services

- Commercial presence is allowed through joint venture with foreign equity limited to 49% Rail Transport Services
- Commercial presence is allowed through joint venture with foreign equity limited to 49%
- Railway services can be provided only by the State Owned Companies.

Road Transport Services

- Commercial presence is allowed through joint venture with foreign equity limited to 49%
- No foreign company is allowed to operate passenger transportation services.

Other Services

Spa services

- Commercial presence is allowed through joint venture with foreign equity limited to 49%