

# 2024 ASEAN SERVICES FACILITATION FRAMEWORK

*Adopted in Luang Prabang, Lao PDR on 9 March 2024*

<b>A. SHAPING A FAIR AND ENABLING ASEAN SERVICES ECONOMY.....</b>	<b>3</b>
1. DEVELOPMENT AND ADMINISTRATION OF MEASURES AFFECTING TRADE IN SERVICES.....	3
2. AUTHORISATION OF APPLICATIONS TO SUPPLY A SERVICE.....	5
3. ASSESSMENT OF QUALIFICATIONS.....	6
4. TRANSPARENCY OF MEASURES AND INFORMATION.....	6
5. INDEPENDENCE OF COMPETENT AUTHORITIES.....	7
6. FEES .....	7
7. BUSINESS NAMES .....	7
8. COOPERATION.....	8
<b>B. SUPPORTING MOBILITY AND A CONNECTED ASEAN SERVICES ECONOMY .....</b>	<b>8</b>
9. TEMPORARY ENTRY AND STAY OF SERVICE SUPPLIERS .....	8
10. ENHANCING UTILISATION OF MUTUAL RECOGNITION ARRANGEMENTS (“MRAS”)	
9	
<b>C. ADVANCING A DIGITAL ASEAN SERVICES ECONOMY.....</b>	<b>9</b>
11. USE OF DIGITAL AND INTERNET TECHNOLOGIES.....	9
12. SINGLE DIGITAL PLATFORM.....	10
<b>D. CREATING A SUSTAINABLE AND INNOVATIVE ASEAN SERVICES ECONOMY.....</b>	<b>10</b>
13. FUTURE WORKS .....	10
14. CIRCULAR ECONOMY .....	11
<b>E. PARTNERING WITH BUSINESSES TO SHAPE THE FUTURE OF ASEAN SERVICES ECONOMY TOGETHER .....</b>	<b>11</b>
15. STAKEHOLDER ENGAGEMENT .....	11
16. IMPLEMENTATION .....	11

## 2024 ASEAN SERVICES FACILITATION FRAMEWORK

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The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations ("ASEAN"), hereinafter collectively referred to as "Member States" or singularly as "Member State";

**RECALLING** the ASEAN Trade in Services Agreement ("ATISA") signed on 7 October 2020 in Manila, the Philippines, which aims, *inter alia*, to increase trade and investment in the area of services and create larger markets and greater economies of scale, and to reduce barriers to trade and investment in services and to create a predictable business environment;

**RECOGNISING** the importance of services facilitation as an essential policy measure to reduce and eliminate unnecessary regulatory and administrative measures on trade in services, which contributes to reducing the cost of doing business in the services sectors, and ultimately creates an enabling environment to facilitate service suppliers in conducting their cross-border businesses in an efficient manner;

**RECOGNISING** the right of Member States to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet their public policy objectives;

**ASPIRING** to fulfil the mandate of the ASEAN Economic Community Blueprint 2025 to establish possible disciplines on domestic regulations, while **ALSO ASPIRING** to implement the recommendation of the Mid-Term Review of this Blueprint for ASEAN to develop a framework and strategic plan to achieve ASEAN services integration and to improve competitiveness of services sectors beyond the ATISA;

**NOTING** the ASEAN Investment Facilitation Framework adopted by the ASEAN Economic Ministers and ASEAN Investment Area Council in 2021, that each Member State will endeavour to put in place in order to: (i) improve accessibility and transparency of measures of general application and information related to investment conducive to increased investment; (ii) streamline and expedite administrative procedures and requirements for the entry, retention and expansion of investment; and (iii) create favourable conditions for investment and doing business;

**ALSO NOTING** the successful conclusion of the negotiations on the Joint Initiative on Services Domestic Regulation at the World Trade Organisation ("WTO") as declared in the WTO document WT/L/1129 dated 2 December 2021, which aims at increasing transparency, predictability and efficiency of authorisation procedures for service providers hoping to do business in foreign markets;

**DESIRING** to establish this non-legally binding ASEAN Services Facilitation Framework ("Framework") that each Member State will endeavour to put in place in order to: (i) increase cross-border trade and investment in the services sectors; (ii) reduce domestic barriers to trade and investment in services; and (iii) establish a favourable and predictable business environment for international trade and investment in the services sectors;

**HEREBY RECOGNISE** the following principles and actions regarding facilitation of international trade in services in ASEAN, which each Member State will endeavour to uphold and implement to the extent practicable and in accordance with its respective domestic laws and regulations, as well as its respective international obligations including applicable obligations under the ATISA and other ASEAN agreements:

## **A. SHAPING A FAIR AND ENABLING ASEAN SERVICES ECONOMY**

1. Development and Administration of Measures<sup>1</sup> Affecting Trade in Services
  - 1.1. Ensure that all measures affecting trade in services are administered in a reasonable, objective and impartial manner.
  - 1.2. Ensure that administrative procedures and documentation requirements do not act as barriers to the ability of service suppliers to provide their services, taking into account the varying sizes of services suppliers.
  - 1.3. Ensure that administrative procedures and documentation requirements are applied in a manner that does not unduly incur more time and costs than necessary to fulfil the government's policy objectives.
  - 1.4. Ensure that in adopting or maintaining measures relating to the authorisation<sup>2</sup> for the supply of a service:
    - 1.4.1. such measures are based on objective and transparent criteria<sup>3</sup>;
    - 1.4.2. the procedures are impartial, and that the procedures are adequate for applicants to demonstrate whether they meet the requirements, if such requirements exist;
    - 1.4.3. the procedures do not in themselves unjustifiably prevent the fulfilment of requirements; and
    - 1.4.4. such measures do not discriminate between men and women<sup>4</sup>.

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<sup>1</sup> "Measures" refers to laws, regulations and administrative guidelines of general application.

<sup>2</sup> "Authorisation" means the permission to supply a service, resulting from a procedure to which an applicant must adhere in order to demonstrate compliance with licensing requirements, qualification requirements, or technical standards.

<sup>3</sup> Such criteria may include, *inter alia*, competence and the ability to supply a service, including to do so in a manner consistent with the Member State's regulatory requirements, such as health and environmental requirements. Competent authorities may assess the weight to be given to each criterion.

<sup>4</sup> Differential treatment that is reasonable and objective, and aims to achieve a legitimate purpose, and adoption by Member States of temporary special measures aimed at accelerating *de facto* equality between men and women, will not be considered discrimination for the purposes of this provision.

- 1.5. Encourage the carrying out of impact assessment<sup>5</sup> in preparing measures within the scope of this Framework.
- 1.6. Encourage the offer of reasonable opportunities for service suppliers, on a non-discriminatory basis, to provide comments and take into consideration the potential impact of the proposed measure on service suppliers, which may include micro, small and medium enterprises, when conducting such impact assessments.

*Opportunity to Provide Comments before Entry into Force*

- 1.7. Encourage the advance publication of any laws and regulations of general application which may include licensing requirements and procedures, qualification requirements and procedures, and technical standards, relating to the supply of services that the Member State proposes to adopt and the purpose of such law and regulations.
- 1.8. Provide a reasonable opportunity for comments by interested persons from the Member States on any regulation of general application affecting trade in services that a Member State proposes to adopt, amend or repeal, before its adoption and publication.
- 1.9. Allow reasonable time between publication of the text of a measure referred to in Paragraph 1.7 and the date on which service suppliers must comply with the measure, except in urgent circumstances.

*Periodic Review*

- 1.10. Review, at appropriate intervals, to the extent practicable and in a manner consistent with its legal system for adopting measures, all measures affecting trade in services, to determine whether specific measures should be modified, streamlined, expanded or repealed so as to make the trade in services regime more effective in achieving each Member State's policy objectives

*Appeal or Review*

- 1.11. Maintain or institute judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, ensure that the procedures in fact provide for an objective and impartial review.
- 1.12. The provisions of Paragraph 1.11 will not be construed to require a Member State to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.
- 1.13. Ensure that the affected service supplier referred to in Paragraph 1.11 is provided with:

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<sup>5</sup> The impact assessment aims to consider, among others, the social, economic and environmental impact of the intended regulatory measure, as well as appropriate alternatives to a given measure.

- 1.13.1. a reasonable opportunity to support or defend its position and submit all relevant information; and
  - 1.13.2. a decision based on the evidence and submissions by the affected service supplier or, where required by the Member State's laws and regulations, the record compiled by the administrative authority.
- 1.14. The decision in Subparagraph 1.13.2 should be implemented by the authority entrusted with administrative enforcement, subject to appeal or further review as provided for in each Member State's laws and regulations.

2. Authorisation of Applications to Supply a Service

- 2.1. Where authorisation is required by the domestic laws and regulations for the supply of a service, within a reasonable period of time:
  - 2.1.1. provide an indicative timeframe for processing an application;
  - 2.1.2. endeavour to permit submission of an application at any time throughout the year.<sup>6</sup> If a specific time period for the submission of an application exists, ensure that the competent authorities allow a reasonable period for the submission of an application;
  - 2.1.3. provide information concerning the status of the application;
  - 2.1.4. ascertain the completeness of an application that is submitted by an applicant;
  - 2.1.5. inform the applicant of the decision concerning the application, to the extent possible in writing<sup>7</sup>, for an application that is considered complete under domestic laws and regulations.
  - 2.1.6. in the case of an incomplete application:
    - 2.1.6.1. inform the applicant that the application is incomplete; and
    - 2.1.6.2. identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies, upon request of the applicant; and
  - 2.1.7. in the case of termination or denial of an application, to the maximum extent possible, inform the applicant in writing and without delay, the reasons why an application is terminated or denied, and if applicable the procedures for resubmission of an application. The applicant will have the possibility of resubmitting at its discretion, a new application.

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<sup>6</sup> Competent authorities are not required to start considering applications outside of their official working hours and working days.

<sup>7</sup> "In writing" may include in electronic form.

2.2. Ensure that authorisation, once granted, enters into effect without undue delay, subject to applicable terms and conditions.

3. Assessment of Qualifications

3.1. If licensing or qualification requirements include the completion of an examination, ensure that the competent authorities:

3.1.1. schedule the examination at reasonably frequent intervals;

3.1.2. provide a reasonable period of time to enable interested persons to submit an application;

3.1.3. encourage to accept requests in electronic format to take such examinations; and

3.1.4. consider, to the extent practicable, the use of electronic means in other aspects of examination processes.

3.2. Adopt the technical standards developed through open and transparent processes, and encourage any body, including relevant international organisations<sup>8</sup>, designated to develop technical standards, to use open and transparent processes.

3.3. Provide adequate procedures to verify the competence of the professionals, with respect to professional services<sup>9</sup>.

4. Transparency of Measures and Information

4.1. Publish promptly all relevant measures and all international agreements which pertain to, or affect, trade in services, at the latest by the time of their entry into force, except in emergency situations.

4.2. Ensure the measures and international agreements referred to in Paragraph 4.1 are available on the internet and, to the extent possible, in the English language.

4.3. Include the requirements and procedures for obtaining, maintaining, amending and renewing authorisation for such information referred to in Paragraph 4.1 above, *inter alia*, where it exists:

4.3.1. the requirements and procedures;

4.3.2. contact information of relevant competent authorities;

4.3.3. fees;

4.3.4. technical standards;

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<sup>8</sup> "Relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of at least all Members of the WTO.

<sup>9</sup> As classified under Business Services Sector of the WTO document MTN.GNS/W/120.

- 4.3.5. procedures for appeal or review of decisions concerning applications;
  - 4.3.6. procedures for monitoring or enforcing compliance with the terms and conditions of licenses or qualifications;
  - 4.3.7. opportunities for public involvement, such as through hearings or comments; and
  - 4.3.8. indicative timeframes for processing an application.
- 4.4. Encourage the maintenance or establishment of appropriate mechanisms for responding to enquiries from service suppliers or persons seeking to supply a service regarding the measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services.<sup>10</sup>
  - 4.5. This Framework does not require any Member State to provide confidential information, the disclosure of which would impede law enforcement efforts, or would otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular public or private juridical persons, public or private.

## 5. Independence of Competent Authorities

Ensure that the competent authorities reach and administer their decisions in a manner independent of any supplier of the service for which authorisation is required.

## 6. Fees

- 6.1. Ensure that applicable authorisation fees<sup>11</sup> charged by competent authorities are reasonable, transparent, published in an easily accessible manner and do not in themselves restrict the supply of the relevant service.
- 6.2. Accord an adequate period between the publication of new or amended authorisation fees and their entry into force, except in urgent circumstances. Such fees will not be applied until information about them has been published.

## 7. Business Names

Permit foreign service suppliers to use, without undue restrictions, the business names under which they ordinarily trade in the territories of the other Member States, and otherwise ensure that the use of business names is not unduly restricted.

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<sup>10</sup> It is understood that resource constraints may be a factor in determining whether a mechanism for responding to enquiries is appropriate.

<sup>11</sup> Authorisation fees include licensing fees and fees relating to qualification procedures; they do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

## 8. Cooperation

Facilitate communication and cooperation among Member States on matters relating to services facilitation, including through the exchange of information on procedural requirements, best practices, technical assistance and capacity building.

## **B. SUPPORTING MOBILITY AND A CONNECTED ASEAN SERVICES ECONOMY**

### 9. Temporary Entry and Stay of Service Suppliers

- 9.1. Publish, online where possible, information on the current requirements for temporary entry and stay of service suppliers, including explanatory materials, relevant forms and documents, that will enable interested persons to become acquainted with those requirements.
- 9.2. Maintain or establish contact points or other mechanisms to respond to inquiries from interested persons regarding regulations affecting the temporary entry or temporary stay of service suppliers.
- 9.3. Allow reasonable time between the publication of new regulations affecting the temporary entry or temporary stay of service suppliers and their effective date.
- 9.4. The information referred to in Paragraph 9.1 should include, where applicable, the following information, *inter alia*:
  - 9.4.1. categories of visas and work permits<sup>12</sup> or any similar type of authorisation regarding entry and temporary stay;
  - 9.4.2. documentation and evidence required and conditions to be met;
  - 9.4.3. method of filing and options on where to file, such as consular offices or online;
  - 9.4.4. processing time;
  - 9.4.5. application fees;
  - 9.4.6. period of validity of the visas and work permits<sup>13</sup>;
  - 9.4.7. conditions for extensions or renewal;
  - 9.4.8. reference to relevant immigration laws of general application; and
  - 9.4.9. review and/or appeal procedures, where these exists.
- 9.5. Ensure that documents required for applications for the granting of entry and temporary stay are relevant and commensurate with the purpose for which they are collected.

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<sup>12</sup> In the case of Viet Nam, stay permits.

<sup>13</sup> In the case of Viet Nam, stay permits.

- 9.6. Notify the applicant of the following, upon request and within a reasonable period after receiving a complete application for an immigration formality from a service supplier of another Member State:
  - 9.6.1. the receipt of the application;
  - 9.6.2. the status of the application; and
  - 9.6.3. the decision concerning the application including, if approved, the period of stay and other conditions.
- 9.7. Promptly process complete applications concerning temporary entry and temporary stay, including extension applications thereof.

#### **10. Enhancing Utilisation of Mutual Recognition Arrangements (“MRAs”)**

- 10.1. Identify ways to enhance the utilisation of existing MRAs.
- 10.2. Encourage the consideration, in consultation with the relevant bodies, of any form of arrangements for the mutual recognition of professional qualifications, licensing, or registration in professional services sectors of mutual interest.
- 10.3. Explore the possibility of MRAs in new areas to facilitate the recognition of skills needed for the new economy.

### **C. ADVANCING A DIGITAL ASEAN SERVICES ECONOMY<sup>14</sup>**

#### **11. Use of Digital and Internet Technologies**

- 11.1. Encourage the adoption of digital technologies to improve application, approval, renewal and aftercare processes for the supply of services.
- 11.2. Encourage the establishment or maintenance of online platforms for the administration of applications, renewals and aftercare needs for the supply of services.
- 11.3. Encourage the use of electronic copies of documents that are authenticated in accordance with the respective Member State’s domestic laws and regulations, in place of original documents.
- 11.4. Encourage the option of using an electronic payment for fees and charges collected by competent authorities for administering supply of services, including fees and charges for the authorisation for supply of services.

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<sup>14</sup> For greater certainty, implementation of this section will take into account the capacity and resources of Member States in advancing the digital ASEAN services economy.

11.5. Encourage the maintenance of collaboration mechanisms related to cyber security which may include exchange of best practices.

12. Single Digital Platform

12.1. Encourage the minimisation of the requirement for an applicant to approach more than one competent authority for each application for authorisation to supply services.

12.2. Encourage the establishment or maintenance of a single digital platform for the submission of all documents required by the agencies or regulatory bodies involved in the application for the supply of services.

12.3. Encourage the publication of measures adopted or maintained by Member States related to the supply of service through a single digital platform.

12.4. Encourage the provision of information on the single digital platform in a manner that is sufficiently clear, precise and up-to-date so as to enable a service supplier to be informed of:

12.4.1. the agencies or regulatory bodies involved in the applications for the supply of services;

12.4.2. the documents required by each competent authority for any specific supply of services application; and

12.4.3. the estimated period of time required to process an application associated with any specific supply of service application.

12.5. Encourage the provision of a single digital platform for service suppliers to pay authorisation fees and taxes associated with the supply of service.

12.6. Encourage the creation of resilient platforms and the facilitation of a trusted environment for communications with service suppliers

**D. CREATING A SUSTAINABLE AND INNOVATIVE ASEAN SERVICES ECONOMY**

13. Future Works

Explore activities to further facilitate trade in services in ASEAN through, *inter alia*, but not limited to the following:

13.1. study global best practices in promoting the growth of the services sector;

13.2. identify new services that are required to support a sustainable and innovative services economy and discuss how ASEAN can facilitate the provision of these services in the region;

13.3. encourage Member States to review their respective services-related domestic policies. This may include the streamlining of application processes or rethinking of traditional requirements, taking into account business feedback;

- 13.4. collaborate with other relevant ASEAN Working Groups to adopt a more holistic approach to the provision of service;
- 13.5. encourage the implementation of policies that are targeted at promoting the growth of services innovation; and
- 13.6. consider the adoption of negative list scheduling of services commitments for ASEAN Agreements to ensure that they are transparent, accessible, and business friendly.

14. Circular Economy

- 14.1. Encourage the development and interlinkages of services industries that contribute to the circular economy, including through removal of applicable barriers.
- 14.2. Encourage non-discriminatory policy incentives to foster a transition to the circular economy including but not limited to eco-design policies, recycling requirements, circular procurement, and eco- labelling.
- 14.3. Encourage the adoption of Environmental, Social, and Corporate Governance principles in supplying services and financial reporting of service suppliers.
- 14.4. Monitor and keep up with evolving international developments and practices in circular economy pertaining to trade in services.

**E. PARTNERING WITH BUSINESSES TO SHAPE THE FUTURE OF ASEAN SERVICES ECONOMY TOGETHER**

15. Stakeholder Engagement

- 15.1. Encourage the consideration of mechanisms for regular consultation and dialogue with relevant stakeholders, with a view to soliciting updates and inputs on their business and services facilitation needs and challenges.
- 15.2. Taking into account the outcomes of Paragraph 15.1, encourage the adoption of mechanisms for the regular evaluation and update of services measures, and consider making use of relevant international performance indicators, with a view to ensuring that the services trade environment remains conducive and responsive to evolving business practices and needs.

16. Implementation

Work towards the implementation of this Framework and regularly update the ASEAN Coordinating Committee on Services.

**ADOPTED** at the Thirtieth ASEAN Economic Ministers Retreat Meeting, this 9<sup>th</sup> day of March in the Year Two Thousand and Twenty-Four, in a single original copy in the English language.