

THE PHILIPPINES

Schedule of Specific Commitments

(For the First Package of Commitments)

THE PHILIPPINES - SCHEDULE OF SPECIFIC COMMITMENTS

Sector/subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
HORIZONTAL SECTION			
All Sectors included in this Schedule	<p>3) In Activities Expressly Reserved by Law to Citizens of the Philippines (i.e., foreign equity is limited to a minority share):</p> <p>The participation of foreign investors in the governing body of any corporation engaged in activities expressly reserved to citizens of the Philippines by law shall be limited to the proportionate share of foreign capital of such entities.</p> <p>All executive and managing officers must be citizens of the Philippines.</p> <p><u>Acquisition of Land</u></p> <p>All lands of the public domain are owned by the State. Only citizens of the Philippines or corporations or associations at least 60 per cent of whose capital is owned by such citizens may own land other than public lands and acquire public lands through lease</p> <p>Foreign investors may lease only private lands.</p>	<p>3) Access to Domestic Credit</p> <p>A foreign firm, engaged in non-manufacturing activities availing itself of peso borrowings, shall observe, at the time of borrowing, the prescribed 50:50 debt-to-equity ratio. Foreign firms covered are:</p> <ul style="list-style-type: none"> - partnerships more than 40 per cent of whose capital is owned by non-Filipino citizens; and - corporations, more than 40 per cent of whose total subscribed capital stock is owned by non-Filipino citizens. <p>This requirement does not apply to banks and non-bank financial intermediaries.</p> <p>Banks are prohibited from extending peso loans to non-residents.</p> <p>1), 2), 3), 4) All measures taken by local government units are unbound.</p>	

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	<p>4) <u>Entry and Temporary Stay of Natural Persons Supplying Services</u></p> <p>Non-resident alien may be admitted to the Philippines for the supply of a service after a determination of the non-availability of a person in the Philippines who is competent, able and willing, at the time of application, to perform the services for which the alien is desired.</p> <p>1), 2), 3), 4) All measures taken by local government units are unbound.</p>		
SECTOR-SPECIFIC SECTION			
1. BUSINESS SERVICES			
F. Other Business Services			
h. Services Incidental to Mining (883)			
Oil and Gas Exploration and Development	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 100 percent foreign equity participation is allowed provided there is President's approval.</p> <p>The Constitution allows the President to enter into service contract agreement with foreign-owned corporation for technical, financial or other forms of</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p>	

Sector/subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>assistance involving large-scale exploration, development and utilization of petroleum.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) Unbound</p>	
Geothermal Exploration and Development	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound</p>	
Coal Exploration and Development	<p>1) Unbound*</p> <p>2) None</p>	<p>1) Unbound*</p> <p>2) None</p>	

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	<p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>3) None</p> <p>4) Unbound</p>	
<p>j. Services Related to Energy Distribution (887)</p> <p>Energy distribution networks such as pipelines for transmission, distribution and supply of natural gas, and power transmission and distribution lines</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>4) Unbound</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound</p>	
<p>2. COMMUNICATION SERVICES</p>			
<p>A./B. Postal/Courier Services</p> <p>a. Domestic Mail Services</p> <p>1) Ordinary Mail</p> <p>2) Registered Mail¹</p>	<p>1) Commercial presence is required.</p> <p>2) None</p> <p>3) Entry is subject to the following requirements:</p>	<p>1) None</p> <p>2) None</p> <p>3) Entry is subject to the following requirements and conditions:</p>	

¹ Postal services that are only offered by the Philippine Postal Corporation (PPC)

Sector/subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
3) Express Mail 4) Domestic Parcel 5) Business Reply ² 6) Printed Matters b. International Mail Services 1) Ordinary Mail 2) Registered Mail ³ 3) Express Mail 4) Printed Matters 5) International Parcels c. Money Order Service (Domestic and International) ⁴	A. Foreign equity is permitted up to 40 percent; and B. Philippine Government authority to operate private express and/or messengerial delivery services. 4) Provision of postal/courier services is reserved only to Filipino citizens.	A. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital of that entity; and B. All executives and managers must be citizens of the Philippines. 4) Provision of postal/courier services is reserved only to Filipino citizens.	
C. Telecommunication services			
The following services are offered only on a facilities basis, for public use, using either wired or wireless technology except cable television (CATV). a. Voice telephone services (7521) <ul style="list-style-type: none"> • Local services • Toll services • Domestic • International 	1) Unbound ⁵ 2) None 3) Entry is subject to the following requirements and conditions: <ul style="list-style-type: none"> A. Franchise from Congress of the Philippines B. Certificate of Public Convenience and Necessity (CPCN) from the National 	1) None 2) None 3) Entry is subject to the following requirements and conditions: <ul style="list-style-type: none"> A. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital of that entity. 	The Reference Paper on Regulatory Principles will be reviewed in the future in accordance with the developments of its laws and regulations.

² Postal services that are only offered by the Philippine Postal Corporation (PPC)

³ Postal services that are only offered by the Philippine Postal Corporation (PPC)

⁴ Postal services that are only offered by the Philippine Postal Corporation (PPC)

⁵ Shall be reviewed in the future in accordance with the developments of its laws and regulations.

Sector/subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<ul style="list-style-type: none"> b. Packet-switched data transmission services (7523**) c. Circuit-switched data transmission services (7523**) d. Telex Services (7523**) e. Telegraph Services (7522) f. Facsimile services (7521**+7529**) g. Private Leased Circuit Services (7522**+7523) • Cellular Mobile Telephone Service (75213) • Satellite services 	<p>Telecommunications Commission</p> <ul style="list-style-type: none"> C. Foreign equity is permitted up to 40 percent. D. Resale of private leased lines is not allowed⁶. E. Private leased circuit services shall not be connected to a public network (PSTN). F. Call back, dial back and other similar schemes, which result in the same operation, are not authorized. G. Subject to the availability and efficient utilization of radio frequencies. H. Only duly enfranchised and certificated telecommunications, broadcast and/or cable TV entities can access satellite space segment service providers. I. Philippine satellite operators shall be given the preference to provide the space segment capacity requirements of 	<ul style="list-style-type: none"> B. All executives and managers must be citizens of the Philippines. 	

⁶ Enfranchised public telecommunications entities (PTE) may be authorized to sell/resell private leased lines.

Sector/subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>enfranchised entity after all factors are equally considered.</p> <p>J. Satellite space segment service provisioning in the Philippines shall be on the basis of reciprocal arrangements.</p> <p>4) Service suppliers must be Filipino citizens.</p>	<p>4) Service suppliers must be Filipino citizens.</p>	
<p>Data and message transmission services</p> <ul style="list-style-type: none"> • Data network services (75231) • Electronic message and information services (75232) 	<p>1) Unbound⁷</p> <p>2) None</p> <p>3) Entry is subject to the following requirements and conditions:</p> <ul style="list-style-type: none"> a. Franchise from Congress of the Philippines b. Certificate of Public Convenience and Necessity (CPCN) from the National Telecommunications Commission c. Foreign equity is permitted up to 40 percent. d. Resale of private leased lines is not allowed⁸. 	<p>1) None</p> <p>2) None</p> <p>3) Entry is subject to the following requirements and conditions:</p> <ul style="list-style-type: none"> A. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital of that entity. B. All executives and managers must be citizens of the Philippines. 	

⁷ Shall be reviewed in the future in accordance with the developments of its laws and regulations.

⁸ Enfranchised public telecommunications entities (PTE) may be authorized to sell/resell private leased lines.

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	<ul style="list-style-type: none"> e. Private leased circuit services shall not be connected to a public network (PSTN). f. Call back, dial back and other similar schemes, which result in the same operation, are not authorized. g. Subject to the availability and efficient utilization of radio frequencies. h. Only duly enfranchised and certificated telecommunications, broadcast and/or cable TV entities can access satellite space segment service providers. i. Philippine satellite operators shall be given the preference to provide the space segment capacity requirements of enfranchised entity after all factors are equally considered. j. Satellite space segment service provisioning in the Philippines shall be on the basis of reciprocal arrangements. <p>4) Service suppliers must be Filipino citizens.</p>	<p>4) Service suppliers must be Filipino citizens.</p>	

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<p>Philippine Reference Paper on Regulatory Principles in Telecommunications Services</p> <p>The commitments in telecommunication services are in accordance with the General Agreement on Trade in Services and its Annex on Telecommunications. In support of market access commitments undertaken, the following principles will form the basis for the regulatory framework in basic telecommunications.</p> <p>1. <u>Competitive safeguard</u></p> <p>Appropriate measures shall be maintained for the purpose of preventing suppliers from engaging in or continuing anti-competitive practices.</p> <p>2. <u>Interconnection</u></p> <p>In order to achieve viable, efficient, reliable and universal telecommunications services, a fair and reasonable interconnection of facilities of authorized public network operators and other providers of telecommunications services shall be provided.</p> <p>Interconnection shall be at any technically feasible point in the network, under non-discriminatory terms and conditions, in a timely fashion, and on terms and conditions that are fair, transparent and reasonable.</p> <p>A service supplier requesting interconnection with another supplier will have recourse after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.</p> <p>3. <u>Universal Service</u></p> <p>Universal service obligations, as may be defined by the appropriate Authority, shall be administered in a transparent, non-discriminatory and competitively neutral manner. Authorized international gateway and mobile cellular telephone service providers are required by law to install a set number of local exchange lines in designated areas.</p> <p>4. <u>Public availability of licensing criteria</u></p> <p>Where a license is required, the following shall be made publicly available:</p> <p>(a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a license;</p> <p>(b) the terms and conditions of individual licenses</p> <p>The reasons for the denial of a license will be made known to the applicant upon request.</p>			

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<p>5. <u>Independent regulators</u></p> <p>The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.</p> <p>The regulation of telecommunication suppliers shall rely principally on an administrative process that is stable, transparent and fair, giving due emphasis to technical, legal, economic and financial considerations, and with due regard to the observance of due process at all times.</p> <p>A national consultative forum shall be maintained to allow interaction among the telecommunications industries, user groups, and academic and research institutions on important issues in the field of communications.</p> <p>6. <u>Allocation and use of scarce resources</u></p> <p>Any procedures for the allocation and use of scarce resources, which are frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.</p>			
<p>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</p>			
<p>Constructions for mining and manufacturing (5136**)</p> <p>Construction for large-scale mining development projects covered by Financial and Technical Assistance Agreements (FTAA)</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 100 percent foreign equity participation is allowed, provided that the requirements of the FTAA under the Philippine Mining Act (RA 7942) are met. However, a Special Contractor's License is required to undertake construction activities.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) A Contractor's License (Regular or Special) issued by the PCAB is required to undertake construction activities. The Regular Contractor's License is reserved for, and issued only to, Filipino sole proprietorships or partnerships/corporations with at least 60 Filipino equity and duly organized and existing under and by virtue of Philippine laws. A Special Contractor's</p>	

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	4) Unbound	License may be given to foreign companies on a project-to-project basis. 4) Unbound	
6. ENVIRONMENTAL SERVICES			
Sewerage Service (9401)	<p>1) Unbound*</p> <p>2) None</p> <p>3) For participation in public and/or private sewerage services, up to 40 percent foreign equity participation is allowed.</p> <p>For participation in public and/or private sewerage services in Metro Manila, it is subject to negotiations and agreement with concessionaires (i.e., Manila Water and Maynilad) and approval/regulation by the Metropolitan Waterworks and Sewerage System (MWSS). If the parties agreed (MWSS & the two concessionaires), amendment of the Concession Agreement shall be made.</p> <p>For areas outside Metro Manila, entry into public and/or private sewerage services is subject to the following:</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p>	

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	<p>a. Where Local Water Districts (LWDs) exist, participation or entry should be in the form of partnership or corporation which may then enter into a BOT Scheme or other similar schemes or other forms of contractual agreements/arrangements with the LWDs.</p> <p>b. In the absence of existing LWDs, entry should still be in the form of partnership or corporation; however, the contractual agreements/arrangements that may be entered into will be with local government unit/s concerned.</p> <p>4) Unbound</p>	<p>4) Unbound</p>	
9. TOURISM AND TRAVEL RELATED SERVICES			
Hotel Lodging Services (64110)	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal commitments</p> <p>4) None, except as indicated in the horizontal commitments</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal commitments</p> <p>4) None</p>	
Restaurants (CPC 6421-64310)	1) Unbound*	1) Unbound*	

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	<p>2) None</p> <p>3) Foreign nationals may wholly operate a restaurant provided that the minimum paid in capital of US\$2.5 million is complied; provided further that pre-qualification requirements are complied in accordance with appropriate government agencies.</p> <p>Foreign nationals may also establish branches provided that the minimum paid in capital of US\$ 830,000.00 per restaurant are complied.</p> <p>Limitations listed in the horizontal section also apply.</p>	<p>2) None</p> <p>3) Foreign nationals may wholly operate a restaurant provided that the minimum paid in capital of US\$2.5 million are maintained.</p> <p>Prior notification for cessation of operation</p> <p>Foreign nationals may also establish additional branches provided that the minimum paid in capital of US\$ 830,000 per restaurant are maintained.</p> <p>Prior notification for opening and closing of branches/stores.</p> <p>Provided further that 30% local inventory requirement, public offering requirement under certain conditions and prohibitions to engage in certain restaurant activities are complied.</p> <p>Every registered foreign restaurant are to submit to the Department of Trade and Industry the following reports:</p> <p>a. A general information sheet in the prescribed form showing, among others, the accredited stores of the enterprise and the status of operations of the entity;</p>	

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	<p>4) None, except as provided in the horizontal commitment</p>	<p>b. An audited financial statement and income tax return;</p> <p>c. Certification by responsible officer of the company showing the maintenance of the required minimum capital unless the foreign investor has notified the SEC and the DTI of its intention to repatriate its capital and cease operations in the Philippines</p> <p>Qualified foreign restaurant are not allowed to engage in certain retailing activities outside their accredited branches through the use of mobile or rolling stores or carts, the use of sales representatives, door-to-door selling, and sari-sari stores and such other similar retailing activities.</p> <p>Limitations listed in the horizontal section shall apply.</p> <p>4) None</p>	
Travel Agencies (74710)	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal commitments for Professional Services</p> <p>4) None, except as indicated in the</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal commitments</p> <p>4) None</p>	

Sector/subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	horizontal commitments		
Professional Congress Organizers	1) None 2) None 3) 60% foreign equity is allowed 4) Subject to horizontal commitment	1) None 2) None 3) None 4) None	
12. OTHERS			
ENERGY SERVICES			
Services Related to Power Generation			
Construction and operation of power plants <i>(as provided under the BOT scheme)</i>			
Construction of Power Plants	1) Unbound* 2) None 3) Up to 100 percent foreign equity is allowed under the BOT scheme. However, a Special Contractor's License is required to undertake construction activities.	1) Unbound* 2) None 3) A Contractor's License (Regular or Special) issued by the PCAB is required to undertake construction activities. The Regular Contractor's License is reserved for, and issued only to, Filipino sole proprietorships or partnerships/corporations with at least 60 Filipino equity and duly organized and existing under and by virtue of Philippine laws. A Special Contractor's License may be given to foreign companies on a project-to-project basis	

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	4) Unbound	such as BOT. 4) Unbound	
Operation of Power Plants	1) Unbound* 2) None 3) None, except electric cooperative operation, is limited to Filipinos. 4) Unbound	1) Unbound 2) None 3) None 4) Unbound	
Services Related to the Supply of Energy			
Oil Refinery	1) Unbound* 2) None 3) Initial Public Offering (IPO) for 10 percent of common stock on commencement of refinery operation. 4) Unbound	1) Unbound* 2) None 3) None 4) Unbound	
Oil Terminals/Depots	1) Unbound* 2) None 3) None 4) Unbound	1) Unbound* 2) None 3) None 4) Unbound	

MOST-FAVOURED-NATION TREATMENT EXEMPTION LIST

Sector or subsector	Description of measure indicating its inconsistency with MFN Provisions	Intended Duration	Conditions creating the need for the exemption ⁹
ALL SECTORS Entry and temporary stay of natural persons supplying services	A special visa category is provided for traders and investors of countries with which the Philippines has concluded treaties on entry rights for traders and investors. Under this special category, the labor market test is waived and simplified entry procedures are provided.	Expiry date or termination of bilateral treaties on entry rights for traders and investors	To facilitate entry into the Philippines, on the basis of reciprocity, of foreign nationals for purposes of trade, investment and related activities.
Financial Services			
Commercial banking	Authorization for foreign financial service suppliers to establish commercial presence or expand existing Operations in commercial banking in the Philippines shall be subject to a reciprocity test.	Indefinite	To ensure Philippine financial service suppliers are accorded full market access and national treatment in the foreign financial service market.
Financing Companies	Authorization for foreign financial service suppliers to establish commercial presence in commercial banking shall be subject to a reciprocity test.	Indefinite	To ensure Philippine financial service suppliers are accorded full market access and national treatment in the foreign financial service market.
Investment Houses	In approving foreign equity applications in Investment Houses, the appropriate regulatory authority shall approve such applications only if the same or similar rights are enjoyed by Philippine nationals in the applicant's country.	Indefinite	To ensure Philippine financial service suppliers are accorded full market access and national treatment in the foreign financial service market.
Maritime Transport Services			
Liner cargo trade	Executive Order 769 provides for a	Indefinite	Ensure effective participation of

⁹ Descriptions in this column shall be construed as information provided for reference purposes only and do not form part of the Philippines' commitments.

Sector or subsector	Description of measure indicating its inconsistency with MFN Provisions	Intended Duration	Conditions creating the need for the exemption ⁹
	<p>preferential cargo sharing arrangement with countries which are parties to the UNCTAD Liner Code</p> <p>Under the above-mentioned arrangement, a Party to the UNCTAD Liner Code effectively implementing the Code is assured of at least 40 percent share of its bilateral export and import Liner cargo trade with the Philippines.</p>		Philippine ocean-going fleet in Philippine liner cargo trade.