

**LOOK-UP
BUSINESS SECTORS
ACCORDING TO
WTO
COMMITMENTS**



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Why?

1. Why should we look up the business sectors?

▶ For foreign investors, it is necessary to determine whether Vietnam has committed to opening up the expected business sectors?

▶ What are the specific conditions (market access conditions)?

▶ Are there additional separate licenses (business conditions) required?

Market access conditions for foreign investors:



- Charter capital ownership ratio of foreign investors in economic organizations;
 - Investment form;
 - Scope of investment activities;
 - The capacity of the investors and partners participating in investment activities;
- Other conditions as prescribed by law.

Classify

- Business sectors have not yet accessed the market:

Legal Basis (LB): Section A Appendix I Decree 31/2021/ND-CP

- Business sectors with conditional market access:

Legal Basis: Section B Appendix I Decree 31/2021/NĐ-CP

Therefore,

Foreign investors cannot make capital contributions, purchase shares, or carry out investment projects in all business sectors, instead, they must rely on Vietnam's Investment Law regulations. Accordingly, the Government will issue a list of business sectors with market access restrictions and foreign investors need to meet market access conditions to do business in those business sectors.



2. The principle applies to market access restrictions

- Except for business sectors on the List of business sectors with market access restrictions, foreign investors are allowed to access the market as prescribed for domestic investors.
- Foreign investors are not allowed to invest in business sectors that do not have market access.
- Business sectors with conditional market access shall meet market access conditions.
- Market access conditions for Vietnamese business sectors that have not yet committed to market access for foreign investors are applied as follows:

If Vietnamese law does not have restrictive regulations, foreign investors can access the market as prescribed for domestic investors;

If Vietnamese law has regulations, the regulations of Vietnamese law shall apply.

3. Definition of CPC code and commercial presence in the WTO Schedule Of Commitments



Results of negotiations between Vietnam and other members of the WTO in order to open the service market when joining the WTO.

Vietnam's commitment schedule when joining the WTO includes 3 parts: general commitments, specific commitments, and a list of most-favored-nation exemptions (MFN) treatment.

3.1. Definition of CPC code

- CPC code that identifies the service business sector and sub-sector in the Commitment Schedule.
- Each business sector and sub-sector in the Schedule of Commitments on Trade in Services corresponds to a CPC code.
- For example: (CPC 841: Computer and related services)
- Investors implementing investment activities in Vietnam shall clearly understand the regulations on market access restrictions for foreign investors. The CPC code is the basis for the collation investment business sectors in Vietnam's commitment schedule when joining the WTO;
- Choosing the appropriate CPC code will help foreign investors consider the feasibility of investing in Vietnam.
- Each CPC code regulates its own commitments to market openness;
- Foreign investors can implement investments in Vietnam when the business sector has been committed. Vietnam has no obligation to approve investment sectors without commitments.

3.2. Definition of the Commercial presence

Commercial presence includes economic organizations with foreign investment; representative offices and branches of foreign traders in Vietnam; Executive office of foreign investors in business cooperation contract (Clause 7, Article 3, Decree 152/2020/ND-CP)

Therefore, to look up business sectors according to the WTO Commitment Schedule, it is necessary to clearly understand market access restrictions and forms of permitted commercial presence of foreign investors when doing business in that business sector in Vietnam.

4. Methods of look-up

Look up the WTO Commitments Schedule on Vietnam's services

- Guide to Vietnam's commitments on trade in services in the WTO;
- Part II - Schedule of Specific Commitments in Services - List of Article II MFN Exemptions (hereinafter referred to as "Schedule of specific service commitments");

Step 1: Access the Schedule of Specific Commitments on Services

(<https://thuvienphapluat.vn/van-ban/Dau-tu/Cam-ket-318-WTO-CK-dich-vu-15435.aspx>) and look up keywords for expected business sectors.

Step 3: Collation description of this business sector in the Guide to Vietnam's commitments on trade in services in the WTO to clarify the scope in which investors are allowed to do business by looking up the CPC code or business sector's keywords.

Step 2: Review section (3) Commercial Presence and column "Market access restrictions" to determine the specific conditions that foreign investors shall meet (if any) when investing in the specific business sector in Vietnam.

Step 4: Look up Appendix I of Decree 31/2021/ND-CP to determine whether the business sectors have not accessed the market (section A) or conditional market access (section B) and collate Market access conditions posted at the National Investment Information Portal



Step 5: Convert CPC code to VSIC code

VSIC (Vietnam Standard Industrial Classification System) is the Vietnamese economic industry system used when establish an enterprise, regulated in Decision 27/2018/QD-TTg Promulgating the Vietnamese economic industry system effective from August 20, 2018.

The list of Vietnam's economic industry system includes 5 levels and the industry code used for enterprise registration is the level 4 industry code.

Look up the expected business sector keywords or the content of the CPC code available in Decision No. 27/2018/QD-TTg to determine the industry code when registering an enterprise:

(<https://thuvienphapluat.vn/van-ban/Doanh-nghiep/Quy-et-dinh-27-2018-QD-TTg-ban-hanh-He-thong-nganh-kinh-te-Viet-Nam-387358.aspx>)

Step 6: Look up the business sector that the investor plans to choose in the List of conditional business sectors (Appendix IV Investment Law 2020)



Step 7: Look up the specific conditions of each conditional business sector according to the regulations of specialized laws.



Example: Look up computer services

Step 1: Access the Schedule of Specific Commitments on Services (<https://thuvienphapluat.vn/van-ban/Dau-tu/Cam-ket-318-WTO-CK-dich-vu-15435.aspx>) and look up the keyword "computer services". Accordingly, computer services belong to CPC 841-845, CPC 849 - Computer services and related services

Step 2: Review section (3) Commercial presence and column "Market access restrictions". The commitments shows that the conditions for this service have expired, therefore, foreign investors are allowed to establish 100% foreign-owned in Vietnam to provide this service

Phương thức cung cấp: (1) Cung cấp qua biên giới (2) Tiêu dùng ở nước ngoài (3) Hiện diện thương mại (4) Hiện diện của thể nhân

Ngành và phân ngành	Hạn chế tiếp cận thị trường	Hạn chế đối xử quốc gia	Cam kết bổ sung
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B. Dịch vụ máy tính và các dịch vụ liên quan (CPC 841-845, CPC 849)

	<p>(1) Không hạn chế.</p> <p>(2) Không hạn chế.</p> <p>(3) Không hạn chế, ngoại trừ:</p> <p>Trong vòng 2 năm kể từ ngày gia nhập WTO, các doanh nghiệp 100% vốn đầu tư nước ngoài chỉ được cung cấp dịch vụ cho các doanh nghiệp có vốn đầu tư nước ngoài tại Việt Nam.</p> <p>Sau 3 năm kể từ khi gia nhập, cho phép thành lập chi nhánh.</p> <p>(4) Chưa cam kết, trừ các cam kết chung.</p>	<p>(1) Không hạn chế.</p> <p>(2) Không hạn chế.</p> <p>(3) Không hạn chế, ngoại trừ trường chi nhánh phải là người thường trú tại Việt Nam.</p> <p>(4) Chưa cam kết, trừ các cam kết chung.</p>	
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Step 3: Collate the description of this business sector in the Guide to Vietnam's commitments on trade in services in the WTO to clarify the scope in which investors are allowed to do business by looking up CPC code 841 or the keyword "computer services".

MỤC 84: DỊCH VỤ MÁY TÍNH VÀ CÁC DỊCH VỤ LIÊN QUAN

Dịch vụ tư vấn liên quan tới lắp đặt phần cứng máy tính

84100. Dịch vụ tư vấn liên quan tới lắp đặt phần cứng máy tính

Dịch vụ hỗ trợ khách hàng trong việc lắp đặt phần cứng máy tính (thiết bị phần cứng) và mạng máy tính.

For this service, there are no restrictions on market access, foreign investors are allowed to establish enterprises with 100% foreign-owned.

Step 4: Convert CPC code to VSIC code

	62	620			Lập trình máy vi tính, dịch vụ tư vấn và các hoạt động khác liên quan đến máy vi tính
			6201	62010	Lập trình máy vi tính
			6202	62020	Tư vấn máy vi tính và quản trị hệ thống máy vi tính
			6209	62090	Hoạt động dịch vụ công nghệ thông tin và dịch vụ khác liên quan đến máy vi tính

THANK YOU!

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