

Decree 163/2017 on logistic services in Vietnam

Decree 163 of the Government on logistics services was issued on 30 December 2017 (**Decree 163/2017**). It is going to take effect on 20 February 2018 and replace Decree 140 of the Government on logistics services dated 5 September 2007 (**Decree 140/2007**). Below are salient changes in Decree 163/2017.

Decree 163/2017 no longer requires the logistics services providers to meet the condition of adequate equipment and personnel. That condition was applied to some logistics services, but under Decree 163/2017, the logistics services providers have only to meet conditions specific to the logistics service that they provide.

Decree 163/2017 allows foreign investors to apply, at their discretion, investment conditions regarding logistics services under an international treaty where multiple treaties are applicable.

Decree 163/2017 classifies logistics services in accordance with Vietnam's commitments to the WTO. By contrast, Decree 140/2007 has its own classification of logistics services which is not consistent with the description of logistics services under the WTO Commitments. And the investment conditions and foreign ownership limit provided in Decree 163/2017 are generally consistent with the WTO Commitments. Therefore, it is easier to compare the Decree 163/2017 with the WTO Commitments.

The table below sets out the applicable foreign ownership limit under Decree 163/2017, to the extent possible, in comparison with Decree 140/2007:

No.	Decree 140/2007 Business line	Decree 140/2007 Foreign ownership limit	Decree 163/2017 Business line (same or similar)	Decree 163/2017 Foreign ownership limit
1.	Domestic and international maritime transport of goods	<ul style="list-style-type: none"> 49% of a joint venture (JV) for domestic transport Unlimited for international transport 	Freight transport services as part of maritime transport services <i>Dịch vụ vận tải hàng hóa thuộc dịch vụ vận tải biển</i>	49%
2.	Domestic and international inland waterway transport of goods	49% of a JV	Freight transport services as part of internal waterway transport services <i>Dịch vụ vận tải hàng hóa thuộc dịch vụ vận tải đường thủy nội địa</i>	49%
3.	Domestic and international road transport of goods	51% of a JV	Freight transport services as part of road transport services <i>Dịch vụ vận tải hàng hóa thuộc dịch vụ vận tải đường bộ</i>	51%; or Carry out with a business cooperation contract (BCC).

No.	Decree 140/2007 Business line	Decree 140/2007 Foreign ownership limit	Decree 163/2017 Business line (same or similar)	Decree 163/2017 Foreign ownership limit
4.	Transport agency services (<i>Dịch vụ đại lý vận tải</i>)	<ul style="list-style-type: none"> · 51% of a JV until 11 January 2014 · Not clear but probably Unlimited from 11 January 2014 	Freight transport agency service <i>Dịch vụ đại lý vận tải hàng hóa</i>	No provision. 100% FIE is allowed (WTO Commitments)
5.	Goods unloading services	50% of a JV	Container handling services (except for services provided at airports) <i>Dịch vụ xếp dỡ container (trừ dịch vụ cung cấp tại các sân bay)</i>	50%; or Carry out with a BCC.
6.	Storage and warehousing services	<ul style="list-style-type: none"> · 51% until 11 January 2014 · Unlimited from 11 January 2014 	Warehousing services as part of all transport modes support <i>Dịch vụ kho bãi thuộc dịch vụ hỗ trợ mọi phương thức vận tải</i>	No provision. 100% FIE is allowed (WTO Commitments)
7.	Containers warehousing services	<ul style="list-style-type: none"> · 51% until 11 January 2014 · Unlimited from 11 January 2014 	Container warehousing services as part of sea transport services <i>Dịch vụ kho bãi container thuộc dịch vụ hỗ trợ vận tải biển</i>	No provision. 100% FIE is allowed (WTO Commitments)
8.	Goods collection services	<p>Not clear but probably 51% until 11 January 2014 and unlimited thereafter.</p> <p>Shall be subject to discrete regulations of the Government</p>	Retail support services including management of inventory goods, and collection, collation and classification of goods and their redistribution and delivery <i>Dịch vụ hỗ trợ bán lẻ, bao gồm cả hoạt động quản lý hàng lưu kho, thu gom, tập hợp, phân loại hàng hóa, phân</i>	Not clear but maybe not permitted

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			<i>phối lại và giao hàng</i>	
9.	Customs clearance services	<ul style="list-style-type: none"> · 51% of a JV until 11 January 2014 · Not clear but probably unlimited from 11 January 2014 	Customs clearance services as part of maritime transport services <i>Dịch vụ thông quan thủ tục dịch vụ hỗ trợ vận tải biển</i>	No ownership limitation but 100% FIE is not allowed; Carry out with a BCC.
10.	Repair services for transport and maritime-going vessels equipment for shipping companies	Not clear but maybe not permitted	No similar services	Not clear but maybe not permitted
11.	Import and export entrustment services	Not clear but maybe not permitted	No similar services	Not clear but maybe not permitted
12.	International freight forwarding	Same as "Transportation agency services"	Freight transport agency services;	Same as freight transport agency services
13.			Courier services <i>Dịch vụ chuyển phát</i>	No provision. 100% FIE is allowed (WTO Commitments)
14.			Other services comprising bill of lading inspection, freight brokerage services, freight inspection, sampling and weighing services; goods receipt and acceptance services; and preparation of transport documents <i>Dịch vụ khác, bao gồm các hoạt động sau: kiểm tra vận đơn, dịch vụ môi giới vận tải hàng hóa, kiểm định hàng hóa, dịch vụ lấy mẫu và xác định trọng lượng;</i>	No ownership limitation but 100% FIE is not allowed.

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			<i>dịch vụ nhận và chấp nhận hàng; dịch vụ chuẩn bị chứng từ vận tải</i>	
15.			Wholesaling support services <i>Dịch vụ hỗ trợ bán buôn</i>	Not clear but maybe not permitted
16.			Transport services as part of rail transport services <i>Dịch vụ vận tải hàng hóa thuộc dịch vụ vận tải đường sắt</i>	49%.
17.			Air carriage services <i>Dịch vụ vận tải hàng không</i>	According to the provisions of the Law on Civil Aviation of Vietnam: · 30% of a FIE; · 49% of the biggest shareholder (Vietnamese entity) of such FIE; · Share transfer of non-FIE to foreign investor can be done after 2 years as from the date on which the company is licensed to provide air carriage services.
18.			Multimodal transport services <i>Dịch vụ vận tải đa phương thức</i>	Not clear but maybe not permitted
19.			Customs brokerage services <i>Dịch vụ đại lý làm thủ tục hải quan</i>	Not clear but maybe not permitted
20.			Technical testing and analysis services	100% FIE is allowed (WTO)

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			<i>Dịch vụ phân tích và kiểm định kỹ thuật</i>	Commitments) Except for services closed to private sector competition, <ul style="list-style-type: none"> No ownership limitation (but 100% FIE is not allowed) after 3 years such services opened to private sector competition; 100% FIE is allowed after 5 years such services opened to private sector competition.
21.	Other transport support services	Not allowed to provide these services unless otherwise provided in an international treaty of which Vietnam is a member.	Other transport support services <i>Các dịch vụ hỗ trợ vận tải khác</i>	Not clear but maybe not permitted

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