REGIONAL COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT

PREAMBLE

The Parties to this Agreement,

RECALLING the Joint Declaration on the Launch of Negotiations for the Regional Comprehensive Economic Partnership adopted by the Heads of State or Government of the Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN" in this Agreement) and Australia, China, India, Japan, Korea, and New Zealand at Phnom Penh, Cambodia on 20 November 2012 which endorsed the Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership;

DESIRING to broaden and deepen economic integration in the region, strengthen economic growth and equitable economic development, and advance economic cooperation, through this Agreement, which will build upon existing economic linkages among the Parties;

ASPIRING to strengthen their economic partnership to create new employment opportunities, raise living standards, and improve the general welfare of their peoples;

SEEKING to establish clear and mutually advantageous rules to facilitate trade and investment, including participation in regional and global supply chains;

BUILDING upon their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization done at Marrakesh on 15 April 1994, and the existing free trade agreements between the Member States of ASEAN and their free trade partners, namely Australia, China, Japan, Korea, and New Zealand;

TAKING ACCOUNT OF the different levels of development among the Parties, the need for appropriate forms of flexibility, including provision for special and differential treatment, especially for Cambodia, Lao PDR, Myanmar, and Viet Nam as appropriate, and additional flexibility for Least Developed Country Parties;

CONSIDERING the need to facilitate the increasing participation of Least Developed Country Parties in this Agreement so that they can more effectively implement their obligations under this Agreement and take advantage of the benefits from this Agreement, including expansion of their trade and investment opportunities and participation in regional and global supply chains;

RECOGNISING that good governance and a predictable, transparent, and consistent business environment will lead to the improvement of economic efficiency and the development of trade and investment;

REAFFIRMING the right of each Party to regulate in pursuit of legitimate public welfare objectives;

RECOGNISING that the three pillars of sustainable development are interdependent and mutually reinforcing, and that economic partnership can play an important role in promoting sustainable development; and

FURTHER RECOGNISING the positive effect that regional trade agreements and arrangements can have in accelerating regional and global trade and investment liberalisation, and their role in strengthening the open, free, and rules-based multilateral trading system,

HAVE AGREED AS FOLLOWS:

Chapter 1. Initial Provisions and General Definitions

Article 1.1. Establishment of the Regional Comprehensive Economic Partnership as a Free Trade Area

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish the Regional Comprehensive

Economic Partnership as a free trade area in accordance with the provisions of this Agreement.

Article 1.2. General Definitions

For the purposes of this Agreement, unless otherwise provided in this Agreement:

(a) **AD Agreement** means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

(b) **Agreement** means the Regional Comprehensive Economic Partnership Agreement;

(c) **Agreement on Agriculture** means the Agreement on Agriculture in Annex 1A to the WTO Agreement;

(d) **Customs Valuation Agreement** means the Agreement on implementation of Article Vil of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

(e) **days** means calendar days, including weekends and holidays;

(f) **existing** means in effect on the date of entry into force of this Agreement;

(g) **GATS** means the General Agreement on Trade in Services in Annex 1B to the WTO Agreement;

(h) **GATT 1994** means the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

(i) **GPA** means the Agreement on Government Procurement in Annex 4 to the WTO Agreement;

(j) **Harmonized System** or **HS** means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, Chapter Notes, and Subheading Notes, as adopted and administered by the World Customs Organization, set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System done at Brussels on 14 June 1983, as may be amended, adopted and implemented by the Parties in their respective laws;

(k) **IMF** means the International Monetary Fund;

(l) **IMF Articles of Agreement** means the Articles of Agreement of the International Monetary Fund adopted at Bretton Woods on 22 July 1944;

(m) **Import Licensing Agreement** means the Agreement on Import Licensing Procedures in Annex 1A to the WTO Agreement;

(n) **juridical person** means any entity constituted or organised under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, association, or similar organisation;

(o) **Least Developed Country** means any country designated as such by the United Nations and which has not obtained graduation from the least developed country category;

(p) **Least Developed Country Party** means any Party that is a Least Developed Country;

(q) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(r) **Party** means any State or separate customs territory for which this Agreement is in force;

(s) **perishable goods** means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions;

(t) **person** means a natural person or a juridical person;

(u) **personal information** means any information, including data, about an identified or identifiable individual;

(v) **Preshipment Inspection Agreement** means the Agreement on Preshipment Inspection in Annex 1A to the WTO Agreement;

(w) **RCEP** means the Regional Comprehensive Economic Partnership;

(x) **RCEP Joint Committee** means the RCEP Joint Committee established pursuant to Article 18.2 (Establishment of the RCEP

Joint Committee);

(y) **Safeguards Agreement** means the Agreement on Safeguards in Annex 1A to the WTO Agreement;

(z) **SCM Agreement** means the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement;

(aa) **small and medium enterprise** means any small and medium enterprise, including any micro enterprise, and may be further defined, where applicable, in accordance with the respective laws, regulations, or national policies of each Party;

(bb) **SPS Agreement** means the Agreement on the Application of Sanitary and Phytosanitary Measures in Annex 1A to the WTO Agreement;

(cc) **TBT Agreement** means the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement;

(dd) **trade administration documents** means forms issued or controlled by a Party which must be completed by or for an importer or exporter in relation to the import or export of goods;

(ee) **Trade Facilitation Agreement** means the Agreement on Trade Facilitation in Annex 1A to the WTO Agreement;

(ff) **TRIPS Agreement** means the Agreement on Trade- Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement;

(gg) **Understanding on the Balance-of-Payments Provisions** means the Understanding on the Balance-of- Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

(hh) **WTO** means the World Trade Organization;

(ii) and **WTO Agreement** means the Marrakesh Agreement Establishing the World Trade Organization done at Marrakesh on 15 April 1994.

Article 1.3. Objectives

The objectives of this Agreement are to:

(a) establish a modern, comprehensive, high-quality, and mutually beneficial economic partnership framework to facilitate the expansion of regional trade and investment and contribute to global economic growth and development, taking into account the stage of development and economic needs of the Parties especially of Least Developed Country Parties;

(b) progressively liberalise and facilitate trade in goods among the Parties through, inter alia, progressive elimination of tariff and non-tariff barriers on substantially all trade in goods among the Parties;

(c) progressively liberalise trade in services among the Parties with substantial sectoral coverage to achieve substantial elimination of restrictions and discriminatory measures with respect to trade in services among the Parties; and

(d) create a liberal, facilitative, and competitive investment environment in the region, that will enhance investment opportunities and the promotion, protection, facilitation, and liberalisation of investment among the Parties.

Chapter 2. Trade In Goods

Section A. General Provisions and Market Access for Goods

Article 2.1. Definitions

For the purposes of this Chapter:

(a) **consular transactions** means any requirements that goods of a Party intended for export to the territory of another Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippersâ export declarations, or any other customs documentation required on or in connection with importation;

(b) **customs duties** means any customs or import duty and a charge of any kind imposed in connection with the importation of a good, but does not include any:

(i) charge equivalent to an internal tax imposed consistently with paragraph 2 of Article III of GATT 1994;

(ii) anti-dumping or countervailing duty applied consistently with Article VI of GATT 1994, the AD Agreement, and the SCM Agreement; or

(iii) fees or other charges commensurate with the cost of services rendered;

(c) **customs value of goods** means the value of goods for the purposes of levying ad valorem customs duties on imported goods;

(d) **duty-free** means free of customs duty;

(e) **import licensing procedure** means an administrative procedure requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body of the importing Party as a prior condition for importation into the territory of the importing Party; and

(f) **originating good** means a good that qualifies as an originating good in accordance with Chapter 3 (Rules of Origin).

Article 2.2. Scope

Except as otherwise provided in this Agreement, this Chapter shall apply to trade in goods among the Parties.

Article 2.3. National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of the other Parties in accordance with Article Ill of GATT 1994. To this end, Article Ill of GATT 1994 is incorporated into and made part of this Agreement, mutatis mutandis.

Article 2.4. Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, each Party shall reduce or eliminate its customs duties on originating goods of other Parties in accordance with its Schedule in Annex | (Schedules of Tariff Commitments).

2. For greater certainty, in accordance with the WTO Agreement, originating goods of other Parties shall be eligible, at the time of importation, for the most-favoured-nation applied rate of customs duty for those goods in a Party, where that rate is lower than the rate of customs duty provided for in that Party's Schedule in Annex I (Schedules of Tariff Commitments). Subject to its laws and regulations, each Party shall provide that an importer may apply for a refund of any excess duty paid for a good if the importer did not make a claim for the lower rate at the time of importation.

3. Further to subparagraph 1(b) of Article 4.5 (Transparency), each Party shall make publicly available any amendments to its most- favoured-nation applied rate of customs duty, and the latest customs duty to be applied in accordance with paragraph 1, as soon as practicable but not later than the date of the application.

Article 2.5. Acceleration of Tariff Commitments (1)

1. Nothing in this Agreement shall preclude the Parties from amending this Agreement in accordance with Article 20.4 (Amendments), to accelerate or improve the tariff commitments set out in their Schedules in Annex I (Schedules of Tariff Commitments).

2. Two or more Parties (2) may, based on mutual consent, consult on the acceleration or improvement of tariff commitments set out in their Schedules in Annex I (Schedules of Tariff Commitments). An agreement to accelerate or improve the tariff commitments between these Parties shall be implemented through a modification to their Schedules in Annex I (Schedules of Tariff Commitments) in accordance with Article 20.4 (Amendments). Any such acceleration or improvement of tariff commitments shall be extended to all Parties.

3. A Party may, at any time, unilaterally accelerate or improve its tariff commitments set out in its Schedule in Annex I (Schedules of Tariff Commitments). Any such acceleration or improvement of its tariff commitment shall be extended to all Parties. Such Party shall inform the other Parties as early as practicable before the new preferential rate of customs duty takes effect.

4. For greater certainty, following a Party's unilateral acceleration or improvement of its tariff commitments referred to in paragraph 3, that Party may raise its preferential customs duty to a level not exceeding the preferential rate of customs duty set out in its Schedule in Annex | (Schedules of Tariff Commitments) for the relevant year. Such Party shall inform the other Parties of the date from which the new preferential rate of customs duty takes effect, as early as practicable before such date.

(1) For greater certainty, this Article shall apply only to tariff commitments under this Agreement.

(2) 2 For the purposes of this paragraph, "two or more Parties" means some of, but not all of, the Parties.

Article 2.6. Tariff Differentials

1. All originating goods subject to tariff differentials (3) shall be eligible for preferential tariff treatment applicable to the originating goods of an exporting Party pursuant to the importing Party's tariff commitments set out in its Schedule in Annex I (Schedules of Tariff Commitments) at the time of importation, provided that the exporting Party is the RCEP country of origin.

2. The RCEP country of origin for an originating good shall be the Party where the good acquired its originating status in accordance with Article 3.2 (Originating Goods). With regard to subparagraph (b) of Article 3.2 (Originating Goods), the RCEP country of origin for an originating good shall be the exporting Party, provided that the production process, other than the minimal operations set out in paragraph 5, for that originating good occurred in that exporting Party.

3. Notwithstanding paragraph 2, for an originating good identified by an importing Party in its Appendix to its Schedule in Annex I (Schedules of Tariff Commitments), the RCEP country of origin shall be the exporting Party, provided that the good meets the additional requirement specified in that Appendix.

4. In the event that the exporting Party of an originating good is not established to be the RCEP country of origin in accordance with paragraphs 2 and 3, the RCEP country of origin for that originating good shall be the Party that contributed the highest value of originating materials used in the production of that good in the exporting Party. In that case, that originating good shall be eligible for preferential tariff treatment applicable to that originating good of the RCEP country of origin.

5. For the purposes of paragraph 2, a "minimal operation" is any operation set out below:

(a) preserving operations to ensure that the good remains in good condition for the purposes of transport or storage;

(b) packaging or presenting goods for transportation or sale;

(c) simple (4) processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;

(d) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;

(e) mere dilution with water or another substance that does not materially alter the characteristics of the good;

(f) disassembly of products into parts;

(g) slaughtering (5) of animals;

(h) simple painting and polishing operations;

(i) simple peeling, stoning, or shelling;

(j) simple mixing of goods, whether or not of different kinds; or

(k) any combination of two or more operations referred to in subparagraphs (a) through (j).

6. Notwithstanding paragraphs 1 and 4, the importing Party shall allow an importer to make a claim for preferential tariff treatment at either:

(a) the highest rate of customs duty that the importing Party applies to the same originating good from any of the Parties contributing originating materials used in the production of such good, provided that the importer is able to prove such a claim. For greater certainty, originating materials refer only to those originating materials taken into account in the claim for originating status of the final good; or

(b) the highest rate of customs duty that the importing Party applies to the same originating good from any of the Parties.

7. Notwithstanding Article 20.8 (General Review), the Parties shall commence a review of this Article within two years of the date of entry into force of this Agreement and, thereafter, every three years or as agreed among the Parties to reduce or

eliminate the requirements of this Article and the number of tariff lines and conditions provided in a Party's Appendix to its Schedule in Annex I (Schedules of Tariff Commitments).

8. Notwithstanding paragraph 7, with respect to its Appendix to its Schedule in Annex I (Schedules of Tariff Commitments), a Party reserves the right to make amendments to its Appendix, including the additional requirement in this Appendix, in case of accession by another State or separate customs territory to this Agreement. Such amendments shall be subject to the agreement of all Parties and shall enter into force in accordance with Article 20.4 (Amendments) and Article 20.9 (Accession).

(3) The Parties understand that "tariff differentials" refers to different tariff treatment that an importing Party applies for the same originating good.

(4) For the purposes of this paragraph, "simple" describes an activity which does not need special skills, or machines, apparatus, or equipment especially produced or installed for carrying out the activity.

(5) For the purposes of this paragraph, "slaughtering" means the mere killing of animals

Article 2.7. Classification of Goods

The classification of goods in trade among the Parties shall be in conformity with the Harmonized System.

Article 2.8. Customs Valuation

For the purposes of determining the customs value of goods traded among the Parties, Article VII of GATT 1994, and Part I and the Interpretative Notes of Annex I of the Customs Valuation Agreement shall apply, mutatis mutandis.

Article 2.9. Goods In Transit

Each Party shall continue to facilitate customs clearance of goods in transit from or to another Party in accordance with paragraph 3 of Article V of GATT 1994 and the relevant provisions of the Trade Facilitation Agreement.

Article 2.10. Temporary Admission of Goods

1. Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes, if such goods:

(a) are brought into its customs territory for a specific purpose;

(b) are intended for re-exportation within a specific period; and

(c) have not undergone any change, except normal depreciation and wastage due to the use made of them.

2. Each Party shall, on request of the person concerned and for reasons its customs authority considers valid, extend the time limit for duty-free temporary admission provided for in paragraph 1 beyond the period initially fixed.

3. No Party shall condition the duty-free temporary admission of a good provided for in paragraph 1, other than to require that the good:

(a) be used solely by or under the personal supervision of a national or resident of another Party in the exercise of the business activity, trade, profession, or sport of that person;

(b) not be sold or leased while in its territory;

(c) be accompanied by a security or guarantee in an amount no greater than the customs duties, taxes, fees, and charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;

(d) be capable of identification when imported and exported;

(e) be exported on the departure of the person referred to in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, unless extended;

(f) be admitted in no greater quantity than is reasonable for its intended use; and

(g) be otherwise admissible into the Party's territory under its laws and regulations.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good, in addition to any other charges or penalties provided for in its laws and regulations.

Each Party shall permit a good temporarily admitted under this Article to be re-exported through a customs port (6) other than that through which it was admitted.

(6) For Lao PDR, “customs port” means an international customs port.

Article 2.11. Temporary Admission for Containers and Pallets

1. Each Party, as provided for in its laws and regulations, or the provisions of the related international agreements to which it is party, shall grant duty-free temporary admission for containers and pallets, regardless of their origin, in use or to be used in the shipment of goods in international traffic.

(a) For the purposes of this Article, "container" means an article of transport equipment (lift-van, movable tank, or other similar structure):

(i) fully or partially enclosed to constitute a compartment intended for containing goods;

(ii) of a permanent character and accordingly strong enough to be suitable for repeated use;

(iii) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

(iv) designed for ready handling, particularly when being transferred from one mode of transport to another;

(v) designed to be easy to fill and to empty; and

(vi) having an internal volume of one cubic metre or more.

"Container" shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. "Container" shall not include vehicles, accessories or spare parts of vehicles, or packaging or pallets. "Demountable bodies" shall be regarded as containers.

(b) For the purposes of this paragraph, "pallet" means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet; its overall height is reduced to the minimum compatible with handling by fork lift trucks or pallet trucks; it may or may not have a superstructure.

2. Subject to Chapter 8 (Trade in Services) and Chapter 10 (Investment), in respect of containers granted temporary admission pursuant to paragraph 1: (7)

(a) each Party shall allow a container used in international traffic that enters its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such container; (8)

(b) no Party shall require any security or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a container;

(c) no Party shall condition the release of any security that it imposes in respect of the entry of a container into its territory on the containerâs exit through any particular port of departure; and

(d) no Party shall require that the carrier bringing a container from the territory of another Party into its territory be the same carrier that takes the container to the territory of another Party.

(7) For greater certainty, nothing in this paragraph shall affect the right of a Party to adopt or maintain measures in accordance with Article 17.12 (General Exceptions) or Article 17.13 (Security Exceptions).

(8) For greater certainty, nothing in this subparagraph shall be construed to prevent a Party from adopting or maintaining highway and railway safety or security measures of general application, or from preventing a container from entering or exiting its territory in a location where the Party does not maintain a customs port. A Party may provide the other Parties with a list of ports available for exit of containers in accordance with its laws and regulations.

Article 2.12. Duty-free Entry of Samples of No Commercial Value

Each Party shall grant duty-free entry to samples of no commercial value, imported from the territory of another Party, subject to its laws and regulations, regardless of their origin.

Article 2.13. Agricultural Export Subsidies

1. The Parties reaffirm their commitments made in the Ministerial Decision of 19 December 2015 on Export Competition (WT/MIN(15)/45, WT/L/980), adopted in Nairobi on 19 December 2015, including elimination of scheduled export subsidy entitlements for agricultural goods.

2. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together to prevent their reintroduction in any form.

Article 2.14. Transposition of Schedules of Tariff Commitments

Each Party shall ensure that the transposition of its Schedule in Annex I (Schedules of Tariff Commitments), undertaken in order to implement Annex I (Schedules of Tariff Commitments) in the nomenclature of the revised HS following periodic amendments to the HS, is carried out without impairing the tariff commitments set out in Annex I (Schedules of Tariff Commitments).

Article 2.15. Modification of Concessions

In exceptional circumstances, where a Party faces unforeseen difficulties in implementing its tariff commitments, that Party may, with the agreement of all other interested Parties, and with the decision of the RCEP Joint Committee, modify or withdraw a concession contained in its Schedule in Annex I (Schedules of Tariff Commitments). In order to seek to reach such agreement, the Party proposing to modify or withdraw its concession shall inform the RCEP Joint Committee and engage in negotiations with any interested Parties. In such negotiations, the Party proposing to modify or withdraw its concession shall maintain a level of reciprocal and mutually advantageous concessions no less favourable to the trade of all other interested Parties than that provided for in this Agreement prior to such negotiations, which may include compensatory adjustments with respect to other goods. The mutually agreed outcome of the negotiations, including any compensatory adjustments, shall be reflected in Annex I (Schedules of Tariff Commitments) in accordance with Article 20.4 (Amendments).

Section B. Non-tariff Measures

Article 2.16. Application of Non-tariff Measures

1. A Party shall not adopt or maintain any non-tariff measure on the importation of any good of another Party or on the exportation of any good destined for the territory of another Party, except in accordance with its rights and obligations under the WTO Agreement or this Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted under paragraph 1 and shall ensure that any such measures are not prepared, adopted, or applied with the view to or with the effect of creating unnecessary obstacles to trade among the Parties.

Article 2.17. General Elimination of Quantitative Restrictions

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction other than duties, taxes, or other charges, whether made effective through quotas, import or export licences, or other measures, on the importation of any good of another Party or on the exportation of any good destined for the territory of another Party, except in accordance with its rights and obligations under the relevant provisions of the WTO Agreement. To this end, Article XI of GATT 1994 is incorporated into and made part of this Agreement, mutatis mutandis.

2. Where a Party adopts an export prohibition or restriction in accordance with subparagraph 2(a) of Article XI of GATT 1994, that Party shall, upon request:

(a) inform another Party or Parties of such prohibition or restriction and its reasons together with its nature and expected duration, or publish such prohibition or restriction; and

(b) provide another Party or Parties that may be seriously affected with a reasonable opportunity for consultation with respect to matters related to such prohibition or restriction.

Article 2.18. Technical Consultations on Non-tariff Measures

1. A Party may request technical consultations with another Party on a measure it considers to be adversely affecting its trade. The request shall be in writing and shall clearly identify the measure and the concerns as to how the measure adversely affects trade between the Party requesting technical consultations (hereinafter referred to as "the requesting Party" in this Article) and the Party to which a request has been made (hereinafter referred to as "the requested Party" in this Article).

2. Where the measure is covered by another Chapter, any consultation mechanism provided in that Chapter shall be used, unless otherwise agreed between the requesting Party and the requested Party (hereinafter collectively referred to as "the consulting Parties" in this Article).

3. Except as provided in paragraph 2, the requested Party shall respond to the requesting Party and enter into technical consultations within 60 days of the receipt of the written request referred to in paragraph 1, unless otherwise determined by the consulting Parties, with a view to reaching a mutually satisfactory solution within 180 days of the request. Technical consultations may be conducted via any means mutually agreed by the consulting Parties.

4. Except as provided in paragraph 2, the request for technical consultations shall be circulated to all the other Parties. Other Parties may request to join the technical consultations on the basis of interests set out in their requests. The participation of any other Party is subject to the consent of the consulting Parties. The consulting Parties shall give full consideration to such requests.

5. If the requesting Party considers that a matter is urgent or involves perishable goods, it may request that technical consultations take place within a shorter time frame than that provided for under paragraph 3.

6. Except as provided in paragraph 2, each Party shall submit an annual notification to the Committee on Goods regarding any use of technical consultations under this Article, whether as the requesting Party or the requested Party. This notification shall contain a summary of the progress and outcomes of the consultations.

7. For greater certainty, technical consultations under this Article shall be without prejudice to a Party's rights and obligations pertaining to dispute settlement proceedings under Chapter 19 (Dispute Settlement) and the WTO Agreement.

Article 2.19. Import Licensing Procedures

1. Each Party shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement. No Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Each Party shall, promptly after the date of entry into force of this Agreement for that Party, notify the other Parties of its existing import licensing procedures. The notification shall include the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this paragraph if:

(a) it has notified the procedures to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement (hereinafter referred to as "WTO Committee on Import Licensing" in this Chapter), together with the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement; and

(b) in the most recent annual submission due before the date of entry into force of this Agreement for that Party to the WTO Committee on Import Licensing in response to the annual questionnaire on import licensing procedures described in paragraph 3 of Article 7 of the Import Licensing Agreement, it has provided, with respect to those existing import licensing procedures, the information requested in that questionnaire.

3. Each Party shall notify the other Parties of any new import licensing procedure and any modification it makes to its existing import licensing procedures, to the extent possible 30 days before the new procedure or modification takes effect.

In no case shall a Party provide the notification later than 60 days after the date of its publication. A notification provided under this paragraph shall include the information specified in Article 5 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this paragraph if it notifies a new import licensing procedure or a modification to an existing import licensing procedure to the WTO Committee on Import Licensing in accordance with paragraph 1, 2, or 3 of Article 5 of the Import Licensing Agreement.

4. Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government website. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.

5. The notification required under paragraphs 2 and 3 is without prejudice to whether the import licensing procedure is consistent with this Agreement.

6. A notification made under paragraph 3 shall state if, under any procedure that is a subject of the notification:

(a) the terms of an import licence for any product limit the permissible end users of the product; or

(b) the Party imposes any of the following conditions on eligibility for obtaining a licence to import any product:

(i) membership in an industry association;

(ii) approval by an industry association of the request for an import licence;

(iii) a history of importing the product, or similar products;

(iv) minimum importer or end user production capacity; (v) minimum importer or end user registered capital; or

(vi) a contractual or other relationship between the importer and distributor in the Party's territory.

7. Each Party shall, to the extent possible, answer within 60 days all reasonable enquiries from another Party regarding the criteria employed by its respective licensing authorities in granting or denying import licences. The importing Party shall publish sufficient information for the other Parties and traders to know the basis for granting or allocating import licences.

8. No application for an import licence shall be refused for minor documentation errors that do not alter the basic data contained therein. Minor documentation errors may include formatting errors, such as the width of a margin or the font used, and spelling errors which are obviously made without fraudulent intent or gross negligence.

9. If a Party denies an import licence application with respect to a good of another Party, it shall, on request of the applicant and within a reasonable period after receiving the request, provide the applicant with an explanation of the reason for the denial.

Article 2.20. Fees and Formalities Connected with Importation and Exportation

1. Each Party shall ensure, in accordance with paragraph 1 of Article Vill of GATT 1994, that all fees and charges of whatever character (other than import or export duties, charges equivalent to an internal tax or other internal charge applied consistently with paragraph 2 of Article Ill of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with importation or exportation are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. Each Party shall promptly publish details of the fees and charges that it imposes in connection with importation or exportation and shall make such information available on the internet.

3. No Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of another Party. No Party shall require that any customs documentation supplied in connection with the importation of any good of another Party be endorsed, certified, or otherwise sighted or approved by the importing Party's overseas representatives, or entities with authority to act on the importing Party's behalf, nor impose any related fees or charges.

Article 2.21. Sectoral Initiatives

1. The Parties may decide to initiate a work programme on sector-specific issues. Should the Parties decide to initiate such a work programme, it shall be established and overseen by the Committee on Goods. The Parties shall endeavour to finalise such a work programme no later than two years after the initiation of the work programme.

2. The Parties shall agree on the sectors to be included in such a work programme, taking into consideration the interests of

all the Parties, including those sectors proposed by Parties during the course of the negotiation of this Agreement or other sectors as may be identified by a Party.

3. Any work programme initiated under this Article should be conducted to:

(a) enhance the Parties' understanding of the issue;

(b) facilitate input from business and other relevant stakeholders; and

(c) explore the possible actions by the Parties that would facilitate trade.

4. Based on the outcome of any work programme initiated under this Article, the Committee on Goods may make recommendations to the RCEP Joint Committee.

Chapter 3. Rules of Origin

Section A. Rules of Origin

Article 3.1. Definitions

For the purposes of this Chapter:

(a) **aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants from seed stock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

(b) **CIF value** means the value of the imported good, inclusive of the cost of insurance and freight up to the port or place of entry into the country of importation;

(c) **competent authority** means the government authority or authorities designated by a Party and notified to the other Parties;

(d) **customs authority** means a customs authority as defined in subparagraph (a) of Article 4.1 (Definitions);

(e) **FOB value** means the value of the good free on board, inclusive of the cost of transport (regardless of the mode of transport) to the port or site of final shipment abroad;

(f) **fungible goods or materials** means goods or materials that are interchangeable for commercial purposes, whose properties are essentially identical;

(g) **Generally Accepted Accounting Principles** means those principles recognised by consensus or with substantial authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities; the disclosure of information; and the preparation of financial statements. These principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

(h) **good** means any merchandise, product, article, or material;

(i) **issuing body** means an entity designated or authorised by a Party to issue a Certificate of Origin and notified to the other Parties in accordance with this Chapter;

(j) **material** means a good that is used in the production of another good;

(k) **non-originating good** or **non-originating material** means a good or material which does not qualify as originating in accordance with this Chapter;

(l) **originating good** or **originating material** means a good or material which qualifies as originating in accordance with this Chapter;

(m) **producer** means a person who engages in the production of goods; and

(n) **production** means methods of obtaining goods including growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, aquaculture, trapping, hunting, manufacturing, producing, processing, or assembling.

Article 3.2. Originating Goods

For the purposes of this Agreement, a good shall be treated as an originating good if it is:

(a) wholly obtained or produced in a Party as provided in Article 3.3 (Goods Wholly Obtained or Produced);

(b) produced in a Party exclusively from originating materials from one or more of the Parties; or

(c) produced in a Party using non-originating materials, provided the good satisfies the applicable requirements set out in Annex 3A (Product-Specific Rules), and meets all other applicable requirements of this Chapter.

Article 3.3. Goods Wholly Obtained or Produced

For the purposes of Article 3.2 (Originating Goods), the following goods shall be considered as wholly obtained or produced in a Party:

(a) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi, and live plants, grown and harvested, picked, or gathered there;

(b) live animals born and raised there; (c) goods obtained from live animals raised there;

(d) goods obtained by hunting, trapping, fishing, farming, aquaculture, gathering, or capturing conducted there;

(e) minerals and other naturally occurring substances, not included in subparagraphs (a) through (d), extracted or taken from its soil, waters, seabed, or subsoil beneath the seabed;

(f) goods of sea-fishing and other marine life taken by vessels of that Party (1), and other goods taken by that Party or a person of that Party, from the waters, seabed, or subsoil beneath the seabed outside the territorial sea of the Parties and non-Parties, in accordance with international law, provided that, in case of goods of sea-fishing and other marine life taken from the exclusive economic Zone of any Party or non-Party, that Party or person of that Party has the rights to exploit (2) such exclusive economic zone, and in case of other goods, that Party or person of that Party has rights to exploit such seabed and subsoil beneath the seabed, in accordance with international law;

(g) goods of sea-fishing and other marine life taken by vessels of that Party from the high seas in accordance with international law;

(h) goods processed or made on board any factory ships of that Party, exclusively from the goods referred to in subparagraph (f) or (g);

(i) goods which are:

(i) waste and scrap derived from production or consumption there, provided that such goods are fit only for disposal, for the recovery of raw materials, or for recycling purposes; or

(ii) used goods collected there, provided that such goods are fit only for disposal, for the recovery of raw materials, or for recycling purposes; and

(j) goods obtained or produced there solely from goods referred to in subparagraphs (a) through (i), or from their derivatives.

(1) For the purposes of this Article, "factory ships of that Party" or "vessels of that Party" respectively, means factory ships or vessels: (a) which are registered in that Party; and (b) which are entitled to fly the flag of that Party. Notwithstanding the preceding sentence, any factory ship or vessel operating within the exclusive economic zone of Australia that meets the definition of "Australian boat" under the Fisheries Management Act 1991 (Commonwealth), as amended from time to time, or any successor legislation, shall be considered to be a factory ship or vessel of Australia respectively. For greater certainty, when such a factory ship or vessel is operating outside of the exclusive economic zone of Australia, the requirements of subparagraphs (a) and (b) of this footnote shall apply.

(2) For the purposes of determining the origin of goods of sea-fishing and other marine life, "rights to exploit" in this subparagraph include those rights of access to the fisheries resources of a coastal State, as accruing from any agreements or arrangements between a Party and the coastal State.

Article 3.4. Cumulation

1. Unless otherwise provided in this Agreement, goods and materials which comply with the origin requirements provided in Article 3.2 (Originating Goods), and which are used in another Party as materials in the production of another good or material, shall be considered as originating in the Party where working or processing of the finished good or material has taken place.

2. The Parties shall commence a review of this Article on the date of entry into force of this Agreement for all signatory States. This review will consider the extension of the application of accumulation in paragraph 1 to all production undertaken and value added to a good within the Parties. The Parties shall conclude the review within five years of the date of its commencement, unless the Parties agree otherwise.

Article 3.5. Calculation of Regional Value Content

1. The regional value content of a good, specified in Annex 3A (Product-Specific Rules), shall be calculated by using either of the following formulas:

(a) Indirect/Build-Down Formula

$$RVC = \frac{FOB - VNM}{FOB} \times 100$$

or

(b) Direct/Build-Up Formula

$$RVC = \frac{VOM + \text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Profit} + \text{Other Cost}}{FOB} \times 100$$

where:

RVC is the regional value content of a good, expressed as a percentage;

FOB is the FOB value as defined in subparagraph (e) of Article 3.1 (Definitions);

VOM is the value of originating materials, parts, or produce acquired or self-produced, and used in the production of the good;

VNM is the value of non-originating materials used in the production of the good;

Direct Labour Cost includes wages, remuneration, and other employee benefits; and

Direct Overhead Cost is the total overhead expense.

2. The value of goods under this Chapter shall be calculated, mutatis mutandis, in accordance with Article VII of GATT 1994 and the Customs Valuation Agreement. All costs shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the Party where the goods are produced.

3. The value of non-originating materials shall be:

(a) forimported materials, the CIF value of the materials at the time of importation; and

(b) for materials obtained within a Party, the earliest ascertainable price paid or payable.

4. A material of undetermined origin shall be treated as a non- originating material.

5. The following expenses may be deducted from the value of non- originating materials or materials of undetermined origin:

(a) the costs of freight, insurance, packing, and other transport-related costs incurred in transporting the goods to the producer;

(b) duties, taxes, and customs brokerage fees, other than duties that are waived, refunded, or otherwise recovered; and

(c) costs of waste and spillage, less the value of any renewable scrap or by-products.

Where the expenses listed in subparagraphs (a) through (c) are unknown or evidence is not available, then no deduction is

allowed for those expenses.

Article 3.6. Minimal Operations and Processes

Notwithstanding any provisions of this Chapter, the following operations when undertaken on non-originating materials to produce a good shall be considered as insufficient working or processing to confer on that good the status of an originating good:

(a) preserving operations to ensure that the good remains in good condition for the purposes of transport or storage;

(b) packaging or presenting goods for transportation or sale;

(c) simple (3) processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;

(d) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;

(e) mere dilution with water or another substance that does not materially alter the characteristics of the good;

(f) disassembly of products into parts;

(g) slaughtering (4) of animals;

(h) simple painting and polishing operations;

(i) simple peeling, stoning, or shelling;

(j) simple mixing of goods, whether or not of different kinds; or

(k) any combination of two or more operations referred to in subparagraphs (a) through (j).

(3) For the purposes of this Article, “simple” describes an activity which does not need special skills, or machines, apparatus, or equipment especially produced or installed for carrying out the activity.

(4) For the purposes of this Article, “slaughtering” means the mere killing of animals

Article 3.7. De Minimis

1. A good that does not satisfy a change in tariff classification pursuant to Annex 3A (Product-Specific Rules) is nonetheless an originating good if the good meets all of the other applicable requirements in this Chapter and:

(a) for a good classified in Chapters 01 through 97 of the HS Code, the value of non-originating materials that have been used in the production of the good and did not undergo the applicable change in tariff classification does not exceed 10 per cent of the FOB value of that good. The value of those non-originating materials shall be determined pursuant to paragraph 3 of Article 3.5 (Calculation of Regional Value Content); or

(b) for a good classified in Chapters 50 through 63 of the HS Code, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 per cent of the total weight of the good.

2. The value of non-originating materials referred to in paragraph 1 shall, however, be included in the value of non-originating materials for any applicable regional value content requirement.

Article 3.8. Treatment of Packing and Packaging Materials and Containers

1. Packing materials and containers for the transportation and shipment of a good shall not be taken into account in determining the originating status of any good.

2. Packaging materials and containers in which a good is packaged for retail sale, which are classified together with the good, shall not be taken into account in determining the originating status of the good, provided that:

(a) the good is wholly obtained or produced in a Party in accordance with subparagraph (a) of Article 3.2 (Originating Goods);

(b) the good is produced in a Party exclusively from originating materials from one or more of the Parties, in accordance with subparagraph (b) of Article 3.2 (Originating Goods); or

(c) the good is subject to a change in tariff classification or a specific manufacturing or processing operation requirement provided in Annex 3A (Product-Specific Rules).

3. If a good is subject to a regional value content requirement, the value of the packaging materials and containers in which the good is packaged for retail sale shall be taken into account as originating materials or non-originating materials of the good, as the case may be, in calculating the regional value content of the good.

Article 3.9. Accessories, Spare Parts, and Tools

1. For the purposes of determining the originating status of a good, accessories, spare parts, tools, and instructional or other information materials presented with the good shall be considered as part of the good and shall be disregarded in determining whether all the non-originating materials used in the production of the good have undergone the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 3A (Product-Specific Rules), provided that:

(a) the accessories, spare parts, tools, and instructional or other information materials presented with the good are not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts, tools, and instructional or other information materials presented with the good are customary for the good.

2. Notwithstanding paragraph 1, if a good is subject to a regional value content requirement, the value of the accessories, spare parts, tools, and instructional or other information materials presented with the good shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the good, provided that:

(a) the accessories, spare parts, tools, and instructional or other information materials presented with the good are not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts, tools, and instructional or other information materials presented with the good are customary for the good.

Article 3.10. Indirect Materials

1. An indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in accordance with the Generally Accepted Accounting Principles in the records of the producer of the good.

2. For the purposes of this Article, "indirect material" means a good used in the production, testing, or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

(a) fuel and energy; tools, dies, and moulds;

(b) spare parts and goods used in the maintenance of equipment and buildings;

(c) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings;

(d) gloves, glasses, footwear, clothing, and safety equipment and supplies;

(e) equipment, devices, and supplies used for testing or inspecting goods;

(f) catalysts and solvents; and

(g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Article 3.11. Fungible Goods or Materials

The determination of whether fungible goods or materials are originating shall be made either by physical segregation of

each of the fungible goods or materials or, where commingled, by the use of an inventory management method which is recognised in the Generally Accepted Accounting Principles of the exporting Party, and should be used throughout the fiscal year.

Article 3.12. Materials Used In Production

If a non-originating material undergoes further production such that it satisfies the requirements of this Chapter, the material shall be treated as originating when determining the originating status of the subsequently produced good, regardless of whether that material was produced by the producer of the good.

Article 3.13. Unit of Qualification

1. The unit of qualification for the application of this Chapter shall be the particular good which is considered as the basic unit when determining classification under the Harmonized System.

2. When a consignment consists of a number of identical goods classified under a single tariff line, each good shall be individually taken into account in determining whether it qualifies as an originating good.

Article 3.14. Treatment for Certain Goods

The Parties and signatory States shall enter into discussions on the treatment for certain goods under this Chapter upon the request of a Party and conclude such discussions within three years from the start of the discussions. The treatment for certain goods under this Chapter shall be subject to agreement of all the Parties and signatory States by consensus.

Article 3.15. Direct Consignment

1. An originating good shall retain its originating status as determined under Article 3.2 (Originating Goods) if the following conditions have been met:

(a) the good has been transported directly from an exporting Party to an importing Party; or

(b) the good has been transported through one or more Parties other than the exporting Party and the importing Party (hereinafter referred to as âintermediate Partiesâ in this Article), or non-Parties, provided that the good:

(i) has not undergone any further processing in the intermediate Parties or the non-Parties, except for logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve it in good condition or to transport it to the importing Party; and

(ii) remains under the control of the customs authorities in the intermediate Parties or the non-Parties.

2. Compliance with subparagraph 1(b) shall be evidenced by presenting the customs authorities of the importing Party either with customs documents of the intermediate Parties or the non-Parties, or with any other appropriate documentation on request of the customs authorities of the importing Party.

3. Appropriate documentation referred to in paragraph 2 may include commercial shipping or freight documents such as airway bills, bills of lading, multimodal or combined transport documents, a copy of the original commercial invoice in respect of the good, financial records, a non-manipulation certificate, or other relevant supporting documents, as may be requested by the customs authorities of the importing Party.

Section B. Operational Certification Procedures

Article 3.16. Proof of Origin

1. Any of the following shall be considered as a Proof of Origin:

(a) a Certificate of Origin issued by an issuing body in accordance with Article 3.17 (Certificate of Origin);

(b) a Declaration of Origin by an approved exporter in accordance with subparagraph 1(a) of Article 3.18 (Declaration of Origin); or

(c) a Declaration of Origin by an exporter or producer in accordance with subparagraph 1(b) of Article 3.18 (Declaration of Origin), and subject to paragraphs 2 and 3,

based on information available that the good is originating.

2. Australia, Brunei Darussalam, China, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Viet Nam shall implement subparagraph 1(c) no later than 10 years after their respective dates of entry into force of this Agreement. Cambodia, Lao PDR, and Myanmar shall implement subparagraph 1(c) no later than 20 years after their respective dates of entry into force of this Agreement.

3. Notwithstanding paragraph 2, a Party may elect to seek a longer extension period, up to a maximum of 10 years, in which to implement subparagraph 1(c), by notifying the Committee on Goods of that decision.

4. The Parties shall commence a review of this Article on the date of entry into force of this Agreement for all signatory States. This review will consider the introduction of Declaration of Origin by an importer as a Proof of Origin. The Parties shall conclude the review within five years of the date of its commencement, unless the Parties agree otherwise. (5)

5. A Proof of Origin shall:

(a) be in writing, or any other medium, including electronic format as notified by an importing Party;

(b) specify that the good is originating and meets the requirements of this Chapter; and

(c) contain information which meets the minimum information requirements as set out in Annex 3B (Minimum Information Requirements).

6. Each Party shall provide that a Proof of Origin remains valid for one year from the date on which it is issued or completed.

(5) Notwithstanding this paragraph, Japan may, from the date of the entry into force of this Agreement for it, consider a Declaration of Origin by an importer as a Proof of Origin in the same manner as Proof of Origin under paragraph 1. In that case, Japan shall not conduct a verification process by means referred to in subparagraphs 1(b) through (d) of Article 3.24 (Verification) regarding the Declaration of Origin by the importer. The Declaration of Origin shall only be completed by the importer where that importer has sufficient information to prove that the good qualifies as an originating

Article 3.17. Certificate of Origin

1. A Certificate of Origin shall be issued by the issuing body of an exporting Party upon an application by an exporter, a producer, or their authorised representative.

2. The exporter, producer, or their authorised representative shall apply in writing or by electronic means for a Certificate of Origin, to the issuing body of the exporting Party in accordance with the exporting Party's laws, regulations, and procedures.

3. A Certificate of Origin shall:

(a) be in a format to be determined by the Parties;

(b) bear a unique Certificate of Origin number;

(c) be in the English language; and

(d) bear an authorised signature and official seal of the issuing body of the exporting Party. The signature and seal shall be applied manually or electronically.

4. A Certificate of Origin may:

(a) indicate two or more invoices issued for single shipment; or

(b) contain multiple goods, provided that each good qualifies as an originating good separately in its own right.

5. In circumstances where a Certificate of Origin contains incorrect information, the issuing body of the exporting Party may:

(a) issue a new Certificate of Origin and invalidate the original Certificate of Origin; or

(b) make modifications to the original Certificate of Origin by striking out errors and making any additions or corrections. Any changes shall be certified by the authorised signature and official seal of the issuing body of the exporting Party.

6. Each Party shall provide the names, addresses, specimen signatures, and impressions of official seals of its issuing body to the other Parties. Such information shall be submitted electronically through the RCEP Secretariat established pursuant

to subparagraph 1(i) of Article 18.3 (Functions of the RCEP Joint Committee) (hereinafter referred to as "RCEP Secretariat" in this Chapter), for dissemination to the other Parties. Any subsequent changes shall be promptly submitted to the RCEP Secretariat in the same manner for dissemination to the other Parties. The Parties shall endeavour to establish a secured website to display such information from the last three years, and such website shall be accessible to the Parties.

7. Notwithstanding paragraph 6, a Party shall not be required to provide the specimen signatures of its issuing body to the RCEP Secretariat for dissemination to the other Parties if it has established its own secured website, containing relevant information of the Certificates of Origin it issues, including their Certificate of Origin numbers, HS Codes, descriptions of goods, quantities, dates of issuance, and names of the exporters, that is accessible to the Parties. The Parties shall review the requirement to provide specimen signatures of the issuing bodies three years after the date of entry into force of this Agreement for all signatory States.

8. Where a Certificate of Origin has not been issued at the time of shipment due to involuntary errors, omissions, or other valid causes, or in the circumstances referred to in subparagraph 5(a), a Certificate of Origin may be issued retrospectively but no later than one year after the date of shipment. In that case, the Certificate of Origin shall bear the words "ISSUED RETROACTIVELY".

9. In the event of theft, loss, or destruction of an original Certificate of Origin, the exporter, producer, or their authorised representative may apply in writing to the issuing body of the exporting Party for a certified true copy of the original Certificate of Origin. The copy shall:

(a) be issued no later than one year after the date of issuance of the original Certificate of Origin;

(b) be based on the application for the original Certificate of Origin;

(c) contain the same Certificate of Origin number and date as the original Certificate of Origin; and

(d) be endorsed with the words "CERTIFIED TRUE COPY".

Article 3.18. Declaration of Origin

1. A Declaration of Origin referred to in Article 3.16 (Proof of Origin) may be completed by:

(a) an approved exporter within the meaning of Article 3.21 (Approved Exporter); or

(b) an exporter or a producer of the good, subject to paragraphs 2 and 3 of Article 3.16 (Proof of Origin).

2. A Declaration of Origin shall:

(a) be completed in accordance with Annex 3B (Minimum Information Requirements);

(b) be in the English language;

(c) bear the name and signature of the certifying person; and

(d) bear the date on which the Declaration of Origin was completed.

Article 3.19. Back-to-back Proof of Origin

1. Subject to Article 3.16 (Proof of Origin), an issuing body, approved exporter, or exporter of an intermediate Party may issue a back-to-back Proof of Origin provided that:

(a) a valid original Proof of Origin or its certified true copy is presented;

(b) the period of validity of the back-to-back Proof of Origin does not exceed the period of validity of the original Proof of Origin;

(c) the back-to-back Proof of Origin contains relevant information from the original Proof of Origin in accordance with Annex 3B (Minimum Information Requirements);

(d) the consignment which is to be re-exported using the back-to-back Proof of Origin does not undergo any further processing in the intermediate Party, except for repacking or logistics activities such as unloading, reloading, storing, splitting up of the consignment, or labelling only as required by the laws, regulations, procedures, administrative decisions, and policies of the importing Party, or any other operations necessary to preserve a good in good condition or to transport a good to the importing Party;

(e) for partial export shipments, the partial export quantity shall be shown instead of the full quantity of the original Proof of Origin, and the total quantity re-exported under the partial shipment shall not exceed the total quantity of the original Proof of Origin; and

(f) information on the back-to-back Proof of Origin includes the date of issuance and reference number of the original Proof of Origin.

2. The verification procedures referred to in Article 3.24 (Verification) shall also apply to the back-to-back Proof of Origin.

Article 3.20. Third-party Invoicing

An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer of a good provided that the good meets the requirements in this Chapter.

Article 3.21. Approved Exporter

1. Each Party shall provide for the authorisation of an exporter who exports goods under this Agreement as an approved exporter, in accordance with its laws and regulations. An exporter seeking such authorisation must apply in writing or electronically and must offer to the satisfaction of the competent authority of the exporting Party all guarantees necessary to verify the originating status of the good for which a Declaration of Origin is completed. The competent authority of an exporting Party may grant the status of approved exporter subject to any conditions which it considers appropriate, including the following:

(a) that the exporter is duly registered in accordance with the laws and regulations of the exporting Party;

(b) that the exporter knows and understands the rules of origin as set out in this Chapter;

(c) that the exporter has a satisfactory level of experience in export in accordance with the laws and regulations of the exporting Party;

(d) that the exporter has a record of good compliance, measured by risk management of the competent authority of the exporting Party;

(e) that the exporter, in the case of a trader, is able to obtain a declaration by the producer confirming the originating status of the good for which the Declaration of Origin is completed by an approved exporter and the readiness of the producer to cooperate in verification in accordance with Article 3.24 (Verification) and meet all requirements of this Chapter; and

(f) that the exporter has a well-maintained bookkeeping and record-keeping system, in accordance with the laws and regulations of the exporting Party.

2. The competent authority of an exporting Party shall:

(a) make its approved exporter procedures and requirements public and easily available;

(b) grant the approved exporter authorisation in writing or electronically;

(c) provide the approved exporter an authorisation code which must be included in the Declaration of Origin; and

(d) promptly include the information on the authorisation granted in the approved exporter database referred to in paragraph 6.

3. An approved exporter shall have the following obligations:

(a) to allow the competent authority of an exporting Party access to records and premises for the purposes of monitoring the use of authorisation, in accordance with Article 3.27 (Record-Keeping Requirement);

(b) to complete Declarations of Origin only for goods for which the approved exporter has been allowed to do so by the competent authority of an exporting Party and for which it has all appropriate documents proving the originating status of the goods concerned at the time of completing the declaration;

(c) to take full responsibility for all Declarations of Origin completed, including any misuse; and

(d) to promptly inform the competent authority of an exporting Party of any changes related to the information referred to in subparagraph (b).

4. Each Party shall promptly include the following information of its approved exporters in the approved exporter database:

(a) the legal name and address of the exporter;

(b) the approved exporter authorisation code;

(c) the issuance date and, if applicable, the expiry date of its approved exporter authorisation; and

(d) a list of goods subject to the authorisation, at least at the HS Chapter level.

Any change in the items referred to in subparagraphs (a) through (d), or withdrawals or suspensions of authorisations, shall be promptly included in the approved exporter database.

5. Notwithstanding paragraph 4, no Party shall be required to provide the information referred to in that paragraph to the approved exporter database if it has established its own secured website, containing the above information, that is accessible to the Parties.

6. The RCEP Joint Committee may designate the custodian of the approved exporter database, which shall be accessible online by the Parties.

7. The competent authority of the exporting Party shall monitor the use of the authorisation, including verification of the Declarations of Origin by an approved exporter, and withdraw the authorisation where the conditions referred to in paragraph 1 are not met.

8. An approved exporter shall be prepared to submit at any time, on request of the customs authorities of the importing Party, all appropriate documents proving the originating status of the goods concerned, including statements from the suppliers or producers in accordance with the laws and regulations of the importing Party as well as the fulfilment of the other requirements of this Chapter.

Article 3.22. Claim for Preferential Tariff Treatment

1. An importing Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good on the basis of a Proof of Origin.

2. Unless otherwise provided in this Chapter, an importing Party shall provide that, for the purposes of claiming preferential tariff treatment, the importer shall:

(a) make a declaration in its customs declaration that the good qualifies as an originating good;

(b) have a valid Proof of Origin in its possession at the time the declaration referred to in subparagraph (a) is made; and

(c) provide an original or a certified true copy of the Proof of Origin to the importing Party if required by the importing Party.

3. Notwithstanding paragraphs 1 and 2, the importing Party may not require a Proof of Origin if:

(a) the customs value of the importation does not exceed US$ 200 or the equivalent amount in the importing Party's currency or any higher amount as the importing Party may establish; or

(b) it is a good for which the importing Party has waived the requirement,

provided that the importation does not form part of a series of importations carried out or planned for the purpose of evading compliance with the importing Party's laws and regulations governing claims for preferential tariff treatment under this Agreement.

4. The customs authority of the importing Party may require, where appropriate, the importer to submit supporting evidence that a good qualifies as an originating good, in accordance with the requirements of this Chapter.

5. The importer shall demonstrate that the requirements referred to in Article 3.15 (Direct Consignment) have been met and provide such evidence on request of the customs authority of the importing Party.

6. Where a Proof of Origin is submitted to the customs authority of an importing Party after the expiration of the period of time for its submission, such Proof of Origin may still be accepted, subject to the importing Party's laws, regulations, or administrative practices, when failure to observe the period of time results from force majeure or other valid causes beyond the control of the importer or exporter.

Article 3.23. Post-Importation Claims for Preferential Tariff

1. Each Party, subject to its laws and regulations, shall provide that where a good would have qualified as an originating good when it was imported into that Party, the importer of the good may, within a period specified by its laws and regulations, and after the date on which the good was imported, apply for a refund of any excess duties, deposit, or guarantee paid as the result of the good not having been granted preferential tariff treatment, on presentation of the following to the customs authority of that Party:

(a) a Proof of Origin and other evidence that the good qualifies as an originating good; and

(b) such other documentation in relation to the importation as the customs authority may require to satisfactorily evidence the preferential tariff treatment claimed.

2. Notwithstanding paragraph 1, each Party may require, in accordance with its laws and regulations, that the importer notify the customs authority of that Party of its intention to claim preferential tariff treatment at the time of importation.

Article 3.24. Verification (6)

1. For the purposes of determining whether a good imported into one Party from another Party qualifies as an originating good under this Chapter, the competent authority of the importing Party may conduct a verification process by means of:

(a) a written request for additional information from the importer;

(b) a written request for additional information from the exporter or producer;

(c) a written request for additional information to the issuing body or competent authority of the exporting Party;

(d) a verification visit to the premises of the exporter or producer in the exporting Party to observe the facilities and the production processes of the good and to review the records referring to origin, including accounting files; (7) or

(e) any other procedures to which the concerned Parties may agree.

2. The importing Party shall:

(a) for the purposes of subparagraph 1(b), send a written request with a copy of the Proof of Origin and the reasons for the request to the exporter or producer of the good, and the competent authority of the exporting Party;

(b) for the purposes of subparagraph 1(c), send a written request with a copy of the Proof of Origin and the reasons for the request to the issuing body or competent authority of the exporting Party; and

(c) for the purposes of subparagraph 1(d), request the written consent of the exporter or producer whose premises are going to be visited, and the competent authority of the exporting Party and state the proposed date and location for the visit and its specific purpose.

3. On request of the importing Party, a verification visit to the premises of the exporter or producer may be conducted with the consent and assistance of the exporting Party, according to the procedures agreed between the importing Party and exporting Party.

4. For a verification under subparagraphs 1(a) through (d), the importing Party shall:

(a) allow the importer, exporter, producer, or the issuing body or competent authority of the exporting Party between 30 and 90 days from the date of receipt of the written request for information under subparagraphs 1(a) through (c) to respond;

(b) allow the exporter, producer, or the competent authority to consent or refuse the request within 30 days of the date of its receipt of the written request for a verification visit under subparagraph 1(d); and

(c) endeavour to make a determination following a verification within 90 and 180 days of the date of its receipt of the information necessary to make the determination.

5. For the purposes of paragraph 1, the importing Party shall provide a written notification of the result of verification with the reasons for that result to the importer, exporter, or producer of the good, or the issuing body or competent authority of the exporting Party that received the verification request.

6. The customs authority of the importing Party may suspend the application of preferential tariff treatment while waiting for the result of verification. The importing Party shall permit the release of the good, but may require that such release be

subject to lodgment of a security in accordance with its laws and regulations.

(6) For the purposes of this Article, a Party may designate one of its contact points designated pursuant to Article 3.33 (Contact Points) as a single contact point for the verification of its exported goods with a view to facilitating the verification.

(7) A verification visit under this subparagraph shall only be undertaken after a verification process in accordance with subparagraph (c) has been conducted.

Article 3.25. Denial of Preferential Tariff Treatment

1. The customs authority of the importing Party may deny preferential tariff treatment where:

(a) the good does not meet the requirements of this Chapter; or

(b) the importer, exporter, or producer of the good fails or has failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment.

2. If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.

3. The customs authority of the importing Party may determine that a good does not qualify as an originating good and may deny preferential tariff treatment where:

(a) the customs authority of the importing Party has not received sufficient information to determine that the good is originating;

(b) the exporter, producer, or the competent authority of the exporting Party fails to respond to a written request for information in accordance with Article 3.24 (Verification); or

(c) the request for a verification visit in accordance with Article 3.24 (Verification) is refused.

Article 3.26. Minor Discrepancies or Errors

The customs authority of an importing Party shall disregard minor discrepancies or errors, such as slight discrepancies between documents, omissions of information, typing errors, or protrusions from the designated field, provided that these minor discrepancies or errors do not create doubt as to the originating status of the good.

Article 3.27. Record-keeping Requirement

1. Each Party shall require that:

(a) its exporters, producers, issuing bodies, or competent authorities retain, for at least a period of three years from the date of issuance of the Proof of Origin, or a longer period in accordance with its relevant laws and regulations, all records necessary to prove that the good for which the Proof of Origin was issued was originating; and

(b) its importers retain, for at least a period of three years from the date of importation of the good, or a longer period in accordance with its relevant laws and regulations, all records necessary to prove that the good for which preferential tariff treatment was claimed was originating.

2. The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval, including in digital, electronic, optical, magnetic, or written form, in accordance with the Partyâs laws and regulations.

Article 3.28. Consultations

The Parties shall consult when necessary to ensure that this Chapter is administered effectively, uniformly, and consistently in order to achieve the spirit and objectives of this Agreement.

Article 3.29. Electronic System for Origin Information Exchange

The Parties may develop an electronic system for origin information exchange to ensure the effective and efficient

implementation of this Chapter in a manner jointly determined by the relevant Parties.

Article 3.30. Transitional Provisions for Goods In Transit

A Party shall grant preferential tariff treatment to an originating good that, on the date of entry into force of this Agreement for that Party:

(a) was being transported to that Party in accordance with Article 3.15 (Direct Consignment); or

(b) had not been imported into that Party, if a valid claim under Article 3.22 (Claim for Preferential Tariff Treatment) for preferential tariff treatment is made within 180 days of the date of entry into force of this Agreement for that Party. Article 3.31: Penalties Each Party shall adopt or maintain appropriate penalties or other measures against violations of its laws and regulations relating to this Chapter.

Article 3.32. Communication Language

Communications between the importing Party and the exporting Party shall be conducted in the English language.

Article 3.33. Contact Points

Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate one or more contact points for the implementation of this Chapter and notify the other Parties of the contact details of that contact point or those contact points. Each Party shall promptly notify the other Parties of any change to those contact details.

Article 3.34. Transposition of Product-specific Rules

1. Prior to the entry into force of any amended version of the Harmonized System, the Parties shall consult to prepare updates to this Chapter and Annex 3A (Product-Specific Rules) that are necessary to reflect changes to the Harmonized System.

2. The Parties shall ensure that the transposition of Annex 3A (Product-Specific Rules) is carried out without impairing the Product-Specific Rules and is completed in a timely manner.

3. The transposition of Annex 3A (Product-Specific Rules) that is in the nomenclature of any revised Harmonized System following periodic amendments to the Harmonized System, shall be adopted by the RCEP Joint Committee, upon recommendation of the Committee on Goods. The Parties shall promptly publish the adopted transposition of Annex 3A (Product-Specific Rules) in the nomenclature of the revised Harmonized System.

4. For the purposes of this Article, âtranspositionâ means the measures necessary to support the effective implementation of the Product-Specific Rules set out in Annex 3A (Product-Specific Rules), to reflect the periodic updates of the Harmonized System nomenclature.

Article 3.35. Amendments to Annexes

Amendments relating only to Annex 3A (Product-Specific Rules) and Annex 3B (Minimum Information Requirements) may be endorsed by the RCEP Joint Committee by consensus. The amendment shall enter into force in accordance with Article 20.4 (Amendments). (8)

(8) For Japan, for the purposes of this Article, "the completion of their respective applicable legal procedures" referred to in Article 20.4 (Amendments) shall be read as "the completion of internal procedures within the Government of Japan".

Chapter 4. Customs Procedures and Trade Facilitation

Article 4.1. Definitions

For the purposes of this Chapter:

(a) **customs authority** means any authority that is responsible under the law of each Party for the administration and enforcement of its customs laws and regulations;

(b) **customs laws and regulations** means the statutory and regulatory provisions relating to the importation, exportation, movement, or storage of goods, the administration and enforcement of which are specifically charged to a customs authority, and any regulations made by a customs authority, under its statutory powers;

(c) **customs procedure** means the measures applied by the customs authority of a Party to goods and to the means of transport that are subject to its customs laws and regulations;

(d) **express consignment** means all goods imported by or through an enterprise that operates a consignment service for the expeditious cross-border movement of goods and assumes liability to the customs authority for those goods; and

(e) **means of transport** means various types of vessels, vehicles, and aircrafts which enter or leave the customs territory of a Party carrying natural persons, goods, or articles.

Article 4.2. Objectives

The objectives of this Chapter are to:

(a) ensure predictability, consistency, and transparency in the application of customs laws and regulations of each Party;

(b) promote efficient administration of customs procedures of each Party, and the expeditious clearance of goods;

(c) simplify customs procedures of each Party and harmonise them to the extent possible with relevant international standards;

(d) promote cooperation among the customs authorities of the Parties; and

(e) facilitate trade among the Parties, including through a strengthened environment for global and regional supply chains.

Article 4.3. Scope

This Chapter shall apply to customs procedures applied to goods traded among the Parties and to the means of transport which enter or leave the customs territory of each Party.

Article 4.4. Consistency

1. Each Party shall ensure that its customs laws and regulations are consistently implemented and applied throughout its customs territory. For greater certainty, this does not prevent the exercise of discretion granted to the customs authority of a Party where such discretion is granted by that Party's customs laws and regulations, provided that the discretion is exercised consistently throughout that Party's customs territory and in accordance with its customs laws and regulations.

2. In fulfilling the obligation in paragraph 1, each Party shall endeavour to adopt or maintain administrative measures to ensure consistent implementation and application of its customs laws and regulations throughout its customs territory, preferably by establishing an administrative mechanism which assures consistent application of the customs laws and regulations of that Party among its regional customs offices.

3. Each Party is encouraged to share with the other Parties its practices and experiences relating to the administrative mechanism referred to in paragraph 2 with a view to improving the operations thereof.

4. If a Party fails to comply with the obligations in paragraphs 1 and 2, another Party may consult with that Party on the matter in accordance with the consultation procedures under Article 4.20 (Consultations and Contact Points).

Article 4.5. Transparency

1. Each Party shall promptly publish, on the internet to the extent possible, the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested persons to become acquainted with them:

(a) procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures), and required forms and documents;

(b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

(c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation, or transit;

(d) rules for the classification or valuation of products for customs purposes;

(e) laws, regulations, and administrative rulings of general application relating to rules of origin;

(f) import, export, or transit restrictions or prohibitions;

(g) penalty provisions for breaches of import, export, or transit formalities;

(h) procedures for appeal or review;

(i) agreements to which it is party, or parts thereof with any country or countries relating to importation, exportation, or transit; and

(i) procedures relating to the administration of tariff quotas.

2. In particular, each Party shall make available, and update to the extent possible and as appropriate, the following through the internet:

(a) a description (1) of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested persons of the practical steps needed for importation, exportation, and transit;

(b) the forms and documents required for importation into, exportation from, or transit through the territory of that Party; and

(c) contact information for the enquiry points as well as information on how to make enquiries on customs matters as provided for in Article 4.6 (Enquiry Points).

3. To the extent possible, when developing new, or amending existing, customs laws and regulations, each Party shall publish, or otherwise make readily available such proposed new or amended customs laws and regulations and provide a reasonable opportunity for interested persons to comment on the proposed customs laws and regulations, unless such advance notice is precluded.

4. Each Party shall, to the extent practicable and in a manner consistent with its laws and regulations and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them is otherwise made publicly available, as early as possible before the date of their entry into force, in order to enable traders and other interested persons to become acquainted with them.

5. Nothing in this Article shall be construed as requiring the publication or provision of information other than in the language of the Party.

(1) Each Party has the discretion to state on its website the legal limitations of this description

Article 4.6. Enquiry Points

Each Party shall designate one or more enquiry points to answer reasonable enquiries of interested persons concerning customs matters and to facilitate access to forms and documents required for importation, exportation, and transit.

Article 4.7. Customs Procedures

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, and transparent, and facilitate trade, including through the expeditious clearance of goods.

2. Each Party shall ensure that its customs procedures, where possible and to the extent permitted by its customs laws and regulations, conform with the standards and recommended practices of the World Customs Organization.

3. The customs authority of each Party shall review its customs procedures with a view to simplifying such procedures to facilitate trade.

Article 4.8. Preshipment Inspection

1. Each Party shall not require the use of preshipment inspections in relation to tariff classification and customs valuation.

2. Without prejudice to the rights of any Party to use other types of preshipment inspection not covered by paragraph 1, each Party is encouraged not to introduce or apply new requirements regarding their use.

3. Paragraph 2 refers to preshipment inspections covered by the Preshipment Inspection Agreement, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

Article 4.9. Pre-arrival Processing

1. Each Party shall adopt or maintain procedures allowing for the submission of documents and other information required for the importation of goods, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

2. Each Party shall provide, as appropriate, for advance lodging of documents and other information referred to in paragraph 1 in electronic format for pre-arrival processing of such documents.

Article 4.10. Advance Rulings

1. Each Party shall, prior to the importation of a good from a Party into its territory, issue a written advance ruling to an importer, exporter, or any person with a justifiable cause, or a representative thereof, who has submitted a written request containing all necessary information, with regard to:

(a) tariff classification;

(b) whether the good is an originating good in accordance with Chapter 3 (Rules of Origin);

(c) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts, in accordance with the Customs Valuation Agreement; and

(d) such other matters as the Parties may agree.

2. A Party may require that an applicant have legal representation or registration in that Party. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination. (2) (3)

3. Each Party shall adopt or maintain procedures for issuing advance rulings which:

(a) specify the information required to apply for an advance ruling;

(b) provide that each Party may at any time during the course of an evaluation of an application for an advance ruling, request that the applicant provide additional information, which may include a sample of the goods, necessary to evaluate the application;

(c) ensure that an advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information in the possession of the decision- maker; and

(d) ensure that the advance ruling includes the relevant facts and the basis for its decision.

4. Each Party shall issue an advance ruling in the official language of the issuing Party or in the language it decides. The advance ruling shall be issued in a reasonable, specified, and time-bound manner, and to the extent possible within 90 days, to the applicant on the receipt of all necessary information. Each Party shall specify and make public such time period for the issuance of an advance ruling prior to such an application. Should the customs authority have reasonable grounds to issue the advance ruling later than the specified period after the receipt of the application, it shall notify the applicant of the grounds for such a delay prior to the end of the specified period.

5. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the relevant facts, circumstances, and the basis for its decision to decline to issue the advance ruling.

6. A Party may reject a request for an advance ruling where the additional information requested, in writing, in accordance with subparagraph 3(b) is not provided within a reasonable, specified period, which is determined at the time of the request

for additional information and the Party requests the additional information from the applicant in writing.

7. Each Party shall provide that an advance ruling shall be valid from the date it is issued, or another date specified in the ruling, provided that the laws, regulations, and administrative rules, and facts and circumstances, on which the ruling is based remain unchanged. Subject to paragraph 8, an advance ruling shall remain valid for at least three years.

8. Where a Party revokes, modifies, or invalidates an advance ruling, it shall promptly provide written notice to the applicant setting out the relevant facts and the basis for its decision, where:

(a) there is a change in its laws, regulations, or administrative rules;

(b) incorrect information was provided or relevant information was withheld;

(c) there is a change in a material fact or circumstances on which the advance ruling was based; or

(d) the advance ruling was in error.

9. Where a Party revokes, modifies, or invalidates an advance ruling with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false, or misleading information.

10. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it.

11. Each Party shall publish, at a minimum:

(a) the requirements for an application for an advance ruling, including the information to be provided and the format;

(b) the time period by which it will issue an advance ruling; and

(c) the length of time for which an advance ruling is valid.

12. Each Party may make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

(2) On request of a Party, the Parties may review the requirements of this paragraph in terms of their contribution towards the trade facilitation through the Committee on Goods.

(3) Each Party shall ensure that its registration process is transparent, applications are considered in a timely manner, and the decision made on an application, and the reasons for it, are promptly advised to the applicant in writing.

Article 4.11. Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade among the Parties. For greater certainty, this paragraph shall not require a Party to release a good if its requirements for release have not been met.

2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that allow goods to be cleared from customs within a period no longer than that required to ensure compliance with its customs laws and regulations and, to the extent possible, within 48 hours of the arrival of goods and lodgement of all the necessary information for customs clearance.

3. If any goods are selected for further examination, such an examination shall be limited to what is reasonable and necessary, and undertaken and completed without undue delay.

4. Each Party shall adopt or maintain procedures allowing the release of goods, prior to the final determination of customs duties, taxes, fees, and charges if such determination is not done prior to, or upon arrival or as rapidly as possible after arrival and provided that all other regulatory requirements have been met. As a condition for such release, a Party may require a guarantee in accordance with its laws and regulations that does not exceed the amount the Party requires to ensure payment of customs duties, taxes, fees, and charges ultimately due for the goods covered by the guarantee.

5. Nothing in this Article shall affect the right of a Party to examine, detain, seize or confiscate or deal with the goods in any manner consistent with its laws and regulations.

6. With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Party shall provide for the release of perishable goods from customs control:

(a) under normal circumstances in the shortest possible time, and to the extent possible in less than six hours after the arrival of the goods and submission of the information required for release; and

(b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of its customs authority.

Article 4.12. Application of Information Technology

1. Each Party shall, to the extent possible, apply information technology to support customs operations based on internationally accepted standards for expeditious customs clearance and release of goods.

2. Each Party shall, to the extent possible, use information technology that expedites customs procedures for the release of goods, including the submission of data before the arrival of the shipment of those goods, as well as electronic or automated systems for risk management targeting.

3. Each Party shall endeavour to make its trade administration documents available to the public in electronic versions.

4. Each Party shall endeavour to accept trade administration documents submitted electronically as the legal equivalent of the paper version of these documents.

5. In developing initiatives that provide for the use of paperless trade administration, each Party is encouraged to take into account international standards or methods made under the auspices of international organisations.

6. Each Party shall cooperate with other Parties and in international fora to enhance the acceptance of trade administration documents submitted electronically.

Article 4.13. Trade Facilitation Measures for Authorised Operators

1. Each Party shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 3, to operators who meet specified criteria, (hereinafter referred to as "authorised operators" in this Chapter). Alternatively, a Party may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

2. The specified criteria to qualify as an authorised operator shall be related to compliance, or the risk of non-compliance, with requirements specified in a Party's laws, regulations, or procedures.

(a) Such criteria, which shall be published, may include:

(i) an appropriate record of compliance with customs and other related laws and regulations;

(ii) a system of managing records to allow for necessary internal controls;

(iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and

(iv) supply chain security.

(b) Such criteria shall not:

(i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and

(ii) to the extent possible, restrict the participation of small and medium enterprises.

3. The trade facilitation measures provided pursuant to paragraph 1 shall include at least three of the following measures: (4)

(a) low documentary and data requirements, as appropriate;

(b) low rate of physical inspections and examinations, as appropriate;

(c) rapid release time, as appropriate;

(d) deferred payment of duties, taxes, fees, and charges;

(e) use of comprehensive guarantees or reduced guarantees;

(f) a single customs declaration for all imports or exports in a given period; and

(g) clearance of goods at the premises of the authorised operator or another place authorised by a customs authority.

4. Each Party is encouraged to develop authorised operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.

5. In order to enhance the trade facilitation measures provided to operators, each Party shall afford to other Parties the possibility of negotiating mutual recognition of authorised operator schemes.

6. The Parties are encouraged to cooperate, where appropriate, in developing their respective authorised operator schemes using the contact points designated pursuant to Article 4.20 (Consultations and Contact Points) and the Committee on Goods through the following:

(a) exchanging information on such schemes and on initiatives to introduce new schemes;

(b) sharing perspectives on business views and experiences, and best practices in business outreach;

(c) sharing information on approaches to mutual recognition of such schemes; and

(d) considering ways to enhance the benefits of such schemes to promote trade, and, in the first instance, to designate customs officers as coordinators for authorised operators to resolve customs issues.

(4) Measures listed in subparagraphs (a) through (g) will be deemed to be provided to authorised operators if it is generally available to all operators.

Article 4.14. Risk Management

1. Each Party shall adopt or maintain a risk management system for customs control.

2. Each Party shall design and apply risk management in a manner so as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions on international trade.

3. Each Party shall concentrate customs control and, to the extent possible other relevant border controls, on high risk consignments and expedite the release of low risk consignments. Each Party may also select, on a random basis, consignments for such controls as part of its risk management.

4. Each Party shall base risk management on the assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, inter alia, HS code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

Article 4.15. Express Consignments

1. Each Party shall adopt or maintain customs procedures to expedite the clearance of express consignments for at least those goods entered through air cargo facilities while maintaining appropriate customs control and selection, (5) by:

(a) providing for pre-arrival processing of information related to express consignments;

(b) permitting, to the extent possible, the single submission of information covering all goods contained in an express consignment, through electronic means;

(c) minimising the documentation required for the release of express consignments;

(d) providing for express consignment to be released under normal circumstances as rapidly as possible, and within six hours when possible, after the arrival of the goods and submission of the information required for release;

(e) endeavouring to apply the treatment in subparagraphs (a) through (d) to shipments of any weight or value recognising that a Party is permitted to require additional entry procedures, including declarations and supporting documentation and payment of duties and taxes, and to limit such treatment based on the type of good, provided that the treatment is not limited to low value goods such as documents; and

(f) providing, to the extent possible, fora de minimis shipment value or dutiable amount for which customs duties and taxes

will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of GATT 1994, shall not be subject to this provision.

2. Nothing in paragraph 1 shall affect the right of a Party to examine, detain, seize, confiscate or refuse the entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems. Further, nothing in paragraph 1 shall prevent a Party from requiring, as a condition for release, the submission of additional information and the fulfilment of non- automatic licensing requirements.

(5) In cases where a Party has an existing procedure that provides the treatment in this Article, this provision would not require that Party to introduce separate expedited release procedures.

Article 4.16. Post-clearance Audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with its customs and other related laws and regulations.

2. Each Party shall select a person or a consignment for post- clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct post- clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved, the Party shall, without delay, notify the person whose record was audited of the:

(a) results;

(b) reasons for the results; and

(c) person's rights and obligations.

3. The Parties acknowledge that the information obtained in post- clearance audit may be used in further administrative or judicial proceedings.

4. Each Party shall, wherever practicable, use the result of post- clearance audit in applying risk management.

Article 4.17. Time Release Studies

1. Each Party is encouraged to measure the time required for the release of goods by its customs authority periodically and in a consistent manner, and to publish the findings thereof, using tools such as the Guide to Measure the Time Required for the Release of Goods issued by the World Customs Organization with a view to:

(a) assessing its trade facilitation measures; and

(b) considering opportunities for further improvement of the time required for the release of goods.

2. Each Party is encouraged to share with the other Parties its experiences in the time release studies referred to in paragraph 1, including methodologies used and bottlenecks identified.

Article 4.18. Review and Appeal

1. Each Party shall provide that any person to whom its customs authority issues an administrative decision (6) has the right, within its territory, to:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and

(b) a judicial appeal or review of the decision. (7)

2. The legislation of a Party may require that an administrative appeal or review be initiated prior to a judicial appeal or review.

3. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.

4. Each Party shall ensure that, in a case where the decision on appeal or review under subparagraph 1(a) is not given either:

(a) within set periods as specified in its laws or regulations; or

(b) without undue delay,

the petitioner has the right to either further appeal to or further review by the administrative authority or the judicial authority or any other recourse to the judicial authority. (8)

5. Each Party shall ensure that the person referred to in paragraph 1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to procedures for appeal or review where necessary.

6. Each Party shall ensure that the person referred to in paragraph 1 is not treated unfavourably merely because that person seeks review of an administrative decision or omission referred to in paragraph 1.

7. Each Party is encouraged to make this Article applicable to an administrative decision issued by a relevant border agency other than its customs authority.

8. The decision, and the reasons for the decision, of an administrative or judicial review or appeal shall be provided in writing.

(6) For the purposes of this Article, "administrative decision" means a decision with a legal effect that affects the rights and obligations of a specific person in an individual case. It shall be understood that an administrative decision referred to in this Article covers an administrative action within the meaning of Article X of GATT 1994 or failure to take an administrative action or decision as provided for in a Partyâs laws and regulations and legal system. For addressing such failure, a Party may maintain an altemative administrative mechanism or judicial recourse to direct the customs authority to promptly issue an administrative decision in place of the right to appeal or review under subparagraph â(a).

(7) Brunei Darussalam may comply with this paragraph by establishing or maintaining an independent body to provide impartial review of the determination.

(8) Nothing in this paragraph shall prevent a Party from recognising administrative silence on appeal or review as a decision in favour of the petitioner in accordance with its laws and regulations.

Article 4.19. Customs Cooperation

1. The customs authority of each Party may, as deemed appropriate, assist the customs authorities of other Parties, in relation to:

(a) the implementation and operation of this Chapter;

(b) developing and implementing customs best practice and risk management techniques;

(c) simplifying and harmonising customs procedures;

(d) advancing technical skills and the use of technology;

(e) application of the Customs Valuation Agreement; and

(f) such other customs issues as the Parties may mutually determine.

2. Each Party shall, to the extent possible, provide the other Parties with timely notice of any significant administrative change, modification of a law or regulation, or similar measure related to its laws or regulations that govern importations or exportations, that is likely to substantially affect the operation of this Chapter. The notice can be made in the English language or the Party's language and will be provided to the contact point designated pursuant to Article 4.20 (Consultations and Contact Points).

3. The customs authority of a Party may, as deemed appropriate, share with other Parties, information and experiences on development of customs administration.

4. Each Party shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Parties with whom itshares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade.

Article 4.20. Consultations and Contact Points

1. A Party may at any time request consultations with another Party regarding any significant customs matter arising from the operation or implementation of this Chapter, providing relevant details related to the matter. Such consultations shall be conducted through the respective contact points designated pursuant to paragraph 3 and shall commence within 30 days following the date of the receipt of the request, unless the relevant Parties determine otherwise.

2. In the event that such consultations fail to resolve the matter, the requesting Party may refer the matter to the Committee on Goods.

3. Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate one or more contact points for the purposes of this Chapter and notify the other Parties of the contact details and other relevant information, if any. Each Party shall promptly notify the other Parties of any change to those contact details.

Article 4.21. Implementation Arrangement

Recognising the different levels of readiness of Parties in implementing some of the commitments under this Chapter, Parties shall be given a period of time as identified in Annex 4A (Period of Time to Implement the Commitments) during which the full implementation of specified commitments shall commence.

Chapter 5. Sanitary and Phytosanitary Measures

Article 5.1. Definitions

For the purposes of this Chapter:

(a) the definitions provided in Annex A of the SPS Agreement shall apply;

(b) relevant definitions developed by Codex Alimentarius Commission, the World Organisation for Animal Health, and the International Plant Protection Convention shall be taken into account;

(c) competent authorities means those authorities within each Party recognised by the national government as responsible for developing and administering the sanitary and phytosanitary measures within that Party; and

(d) emergency measure means a sanitary or phytosanitary measure that is applied by an importing Party to a relevant exporting Party to address an urgent problem of human, animal or plant life or health protection that arises or threatens to arise in the Party applying the measure.

Article 5.2. Objectives

The objectives of this Chapter are to:

(a) protect human, animal or plant life or health in the Parties through the development, adoption, and application of sanitary and phytosanitary measures, while facilitating trade by minimising the negative effects on trade among the Parties;

(b) enhance the practical implementation of the SPS Agreement;

(c) enhance the transparency and understanding of the development and application of sanitary and phytosanitary measures of the Parties;

(d) strengthen cooperation, communication, and consultation among the Parties in the field of sanitary and phytosanitary measures; and

(e) encourage the Partiesâ participation in the development and adoption of international standards, guidelines, and recommendations.

Article 5.3. Scope

This Chapter shall apply to all sanitary and phytosanitary measures of the Parties, which may, directly or indirectly, affect trade among the Parties.

Article 5.4. General Provision

Each Party affirms its rights and obligations with respect to each other Party under the SPS Agreement.

Article 5.5. Equivalence

1. The Parties shall strengthen cooperation on equivalence in accordance with the SPS Agreement while taking into account the relevant decisions of the WTO Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as "WTO SPS Committee" in this Chapter) and international standards, guidelines, and recommendations.

2. An importing Party shall recognise the equivalence of a sanitary or phytosanitary measure if an exporting Party objectively demonstrates to the importing Party that the exporting Party's measure achieves the same level of protection as the importing Party's measure, or that the exporting Party's measure has the same effect in achieving the objective as the importing Party's measure.

3. In determining the equivalence of a sanitary or phytosanitary measure, the importing Party shall take into account available knowledge, information, and experience, as well as the regulatory competence, of the exporting Party.

4. A Party shall, upon request, enter into consultation with the aim of achieving bilateral recognition arrangements on the equivalence of specified sanitary or phytosanitary measures. The recognition of equivalence under such bilateral recognition arrangements may be with respect to a single measure, a group of measures, or on a systems-wide basis. For this purpose, reasonable access shall be given by the exporting Party, upon request, to the importing Party for inspection, testing, and other relevant procedures.

5. As part of the consultation for equivalence recognition, on request of the exporting Party, the importing Party shall explain and provide:

(a) the rationale and objective of its measures; and

(b) the specific risks its measures are intended to address.

6. The exporting Party shall provide necessary information in order for the importing Party to commence an equivalence assessment. Once the assessment commences, the importing Party shall, upon request, and without undue delay, explain the process and plan for making an equivalence determination.

7. The consideration by a Party of a request from another Party for recognition of the equivalence of its measures with regard to a specific product, or group of products, shall not be in itself a reason to disrupt or suspend ongoing imports from the Party of the product or products in question.

8. When an importing Party recognises the equivalence of an exporting Party's specific sanitary or phytosanitary measure, group of measures, or measures on a systems-wide basis, the importing Party shall communicate the decision in writing to the exporting Party and implement the measure within a reasonable period of time. The rationale shall be provided in writing by the importing Party in the event that the decision is negative.

9. The Parties involved in a positive determination of equivalence are encouraged, where mutually agreed, to share information and experiences at the Committee on Goods.

Article 5.6. Adaptation to Regional Conditions, Including Pest- or Disease-free Areas and Areas of Low Pest or Disease Prevalence

1. The Parties recognise the concepts of regional conditions, including pest- or disease-free areas and areas of low pest or disease prevalence. The Parties shall take into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

2. The Parties may cooperate on the recognition of regional conditions with the objective of acquiring confidence in the procedures followed by each Party for such recognition.

3. On request of an exporting Party, an importing Party shall, without undue delay, explain its process and plan for making a determination of regional conditions.

4. When an importing Party has received a request for a determination of regional conditions from an exporting Party and has determined that the information provided by the exporting Party is sufficient, it shall initiate the assessment within a reasonable period of time.

5. For such an assessment, reasonable access shall be given by the exporting Party, upon request, to the importing Party for inspection, testing, and other relevant procedures.

6. On request of the exporting Party, the importing Party shall inform the exporting Party of the status of the assessment.

7. When an importing Party recognises specific regional conditions of an exporting Party, the importing Party shall communicate that decision to the exporting Party in writing and implement the measures within a reasonable period of time.

8. If the evaluation of the evidence provided by the exporting Party does not result in a decision by the importing Party to recognise the regional conditions, the importing Party shall provide the exporting Party with the rationale for its decision in writing within a reasonable period of time.

9. The Parties involved in a determination recognising regional conditions are encouraged, where mutually agreed, to report the outcome to the Committee on Goods.

Article 5.7. Risk Analysis

1. The Parties shall strengthen their cooperation on risk analysis in accordance with the SPS Agreement while taking into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

2. When conducting a risk analysis, an importing Party shall:

(a) ensure that the risk analysis is documented and that it provides the relevant exporting Party or Parties with an opportunity to comment, in a manner to be determined by the importing Party;

(b) consider risk management options that are not more trade restrictive than required (1) to achieve its appropriate level of sanitary or phytosanitary protection; and

(c) select a risk management option that is not more trade restrictive than required to achieve its appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.

3. On request of an exporting Party, an importing Party shall inform the exporting Party of the progress of a specific risk analysis request, and of any delay that may occur during the process.

4. Without prejudice to emergency measures, no Party shall stop the importation of a good of another Party solely for the reason that the importing Party is undertaking a review of a sanitary or phytosanitary measure, if the importing Party permitted importation of the good of the other Party at the time of the initiation of the review.

(1) For the purpose of subparagraphs (b) and (c), a risk management option is not more trade restrictive than required unless there is another option reasonably available, taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

Article 5.8. Audit (2)

1. In undertaking an audit, each Party shall take into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

2. An audit shall be systems-based and conducted to assess the effectiveness of the regulatory controls of the competent authorities of the exporting Party to provide the required assurances and meet the sanitary and phytosanitary measures of the importing Party (3)

3. Prior to the commencement of an audit, the importing Party and exporting Party involved shall exchange information on the objectives and scope of the audit and other matters related specifically to the commencement of an audit.

4. The importing Party shall provide the exporting Party with an opportunity to comment on the finding of an audit and take any such comments into account before making its conclusions and taking any action. The importing Party shall provide a report or its summary, setting out its conclusions in writing to the exporting Party within a reasonable period of time. The importing Party shall inform the exporting Party if a request is required to provide such report or summary.

(2) For greater certainty, without affecting the implementation of this Article, nothing in this Article prevents a Party from adopting or maintaining halal requirements for food and food products in accordance with Islamic law.

(3) For greater certainty, nothing in this paragraph prevents an importing Party from performing an inspection of a facility for the purposes of determining if the facility conforms with the importing Party's sanitary or phytosanitary requirements or conforms with sanitary or phytosanitary requirements that the importing Party has determined to be equivalent to its sanitary or phytosanitary requirements.

Article 5.9. Certification

1. In applying certification requirements, each Party shall take into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

2. An exporting Party shall ensure that the documents, including certificates, that are required by an importing Party and provided by the competent authorities of the exporting Party, to demonstrate the fulfilment of the sanitary and phytosanitary requirements of the importing Party, are in the English language, unless the importing Party and exporting Party agree otherwise. (4) When the importing Party requires such documents, the importing Party shall endeavour to provide the requirements for such documents in the English language. Upon request, the importing Party shall provide a summary or explanation of such requirements.

3. The Parties recognise that an importing Party may, as appropriate, allow assurances with respect to sanitary or phytosanitary requirements to be provided through means other than certificates, and that different systems may be capable of meeting the same sanitary and phytosanitary objectives.

4. Where certification is required for trade in a good, the importing Party shall ensure that such certification requirements are applied only to the extent necessary to protect human, animal or plant life or health.

5. Without prejudice to each Party's right to import controls, the importing Party shall accept certificates issued by the competent authorities of the exporting Party that are in compliance with the regulatory requirements of the importing Party.

4 For greater certainty, this provision does not prevent the Parties from including information for certification in other languages in addition to the English language.

Article 5.10. Import Checks

1. In applying import checks, each Party shall take into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

2. Import checks, conducted in accordance with the importing Party's laws, regulations, and sanitary and phytosanitary requirements, shall be based on the sanitary and phytosanitary risk associated with importations. In the event that import checks reveal a non- compliance, the final decision or action taken by the importing Party shall be appropriate to the sanitary and phytosanitary risk associated with the importation of the non-compliant product.

3. If an importing Party prohibits or restricts the importation of a good of an exporting Party on the basis of non-compliance of that good found during an import check, the importing Party shall notify the importer or its representatives and, if the importing Party considers necessary, the exporting Party of such non-compliance.

4. When significant or recurring sanitary or phytosanitary non- compliance associated with exported consignments is identified by the importing Party, the Parties concerned shall, on request of either Party, discuss the non-compliance to ensure that appropriate remedial actions are taken to reduce such non- compliance.

Article 5.11. Emergency Measures

1. If a Party adopts an emergency measure that is necessary for the protection of human, animal or plant life or health and that may have an effect on trade, that Party shall immediately notify the relevant exporting Parties in writing through the contact point or contact points designated under Article 5.15 (Contact Points and Competent Authorities) or already established communication channels of the Parties.

2. The relevant exporting Parties may request discussions with the Party adopting an emergency measure referred to in paragraph 1. Such discussions shall be held as soon as practicable. Each Party participating in the discussions shall endeavour to provide relevant information, and shall take due account of any information provided through the discussions.

3. If a Party adopts an emergency measure, it shall review that measure within a reasonable period of time or on request of the exporting Party. The importing Party may, if necessary, request relevant information and the exporting Party shall endeavour to provide the relevant information to assist the importing Party in its review of the adopted emergency measure. The importing Party shall provide the result of the review to the exporting Party upon request. If the emergency measure is maintained after the review, the importing Party should review the measure periodically based on the most recent available information, and upon request, shall explain the reason for the continuation of the emergency measure.

Article 5.12. Transparency

1. The Parties recognise the importance of transparency as set out in Annex B of the SPS Agreement.

2. The Parties recognise the importance of the exchange of information on the development, adoption, and application of sanitary and phytosanitary measures that may have significant effects on trade among the Parties.

3. In implementing this Article, the Parties shall take into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

4. Each Party shall notify proposed measures or changes to sanitary or phytosanitary measures that may have a significant effect on the trade of other Parties through the online WTO Sanitary and Phytosanitary Measures Notification Submission System, the contact points designated under Article 5.15 (Contact Points and Competent Authorities), or already established communication channels of the Parties.

5. Unless urgent problems of health protection arise or threaten to arise, or the measure is of a trade facilitating nature, a Party shall normally allow a period of at least 60 days for other Parties to provide written comments after it makes a notification pursuant to paragraph 4. A Party shall consider reasonable requests from another Party to extend the comment period.

6. As part of the comment period referred to in paragraph 5, on request of another Party and if appropriate and feasible, the notifying Party shall consider any scientific or trade concerns and the availability of alternatives that the other Party may raise regarding the proposed measure.

7. Upon request, a Party shall, within 30 days of the request, provide the requesting Party with the documents or a summary of the documents describing the requirements of draft sanitary or phytosanitary measures notified to the WTO pursuant to paragraph 4, in the English language.

8. Following the notification of sanitary or phytosanitary measures to the WTO, upon request, a Party shall provide the requesting Party with the documents or a summary of the documents describing the requirements of the adopted sanitary or phytosanitary measures, within a reasonable period of time as agreed by the relevant Parties, in the English language.

9. A Party, on reasonable request of another Party, shall provide relevant information and clarification regarding any sanitary or phytosanitary measure to the requesting Party, within a reasonable period of time, including:

(a) the sanitary or phytosanitary requirements that apply to the import of specific products;

(b) the status of the requesting Party's application; and

(c) procedures for authorising the import of specific products.

10. An exporting Party shall provide timely and appropriate information to relevant Parties through the contact points designated under Article 5.15 (Contact Points and Competent Authorities) or already established communication channels of the Parties, where there is a significant change in animal or plant health status or food safety issues in that exporting Party that may affect trade.

11. An importing Party shall provide timely and appropriate information to relevant Parties through the contact points designated under Article 5.15 (Contact Points and Competent Authorities) or already established communication channels of the Parties, where there is:

(a) significant or recurring sanitary or phytosanitary non-compliance associated with exported consignments identified by the importing Party; or

(b) a sanitary or phytosanitary measure adopted provisionally against or affecting the export of another Party considered necessary to protect human, animal or plant life or health within the importing Party.

12. An exporting Party shall, to the extent possible and as promptly as possible, provide information to the importing Party if

the exporting Party identifies that an export consignment that may be associated with a significant sanitary or phytosanitary risk has been exported.

Article 5.13. Cooperation and Capacity Building

1. The Parties shall explore opportunities for further cooperation among the Parties, including capacity building, technical assistance, collaboration, and information exchange, on sanitary and phytosanitary matters of mutual interest, consistent with this Chapter, subject to the availability of appropriate resources.

2. Any two or more Parties may cooperate on any matter, including sector specific proposals, of mutual interest under this Chapter.

3. In undertaking cooperation activities, the Parties shall endeavour to coordinate with bilateral, regional, or multilateral work programmes, with the objective of avoiding unnecessary duplication and maximising the use of resources.

4. The Parties are encouraged to share information and the experiences of their cooperation activities with other Parties at the Committee on Goods.

Article 5.14. Technical Consultation

1. Where a Party considers that a sanitary or phytosanitary measure is affecting its trade with another Party, it may, through the contact points designated under Article 5.15 (Contact Points and Competent Authorities) or already established communication channels, request a detailed explanation of the sanitary or phytosanitary measure. The other Party shall respond promptly to any request for such explanation.

2. A Party may request to hold technical consultations with another Party in an attempt to resolve any concerns on specific issues arising from the application of the sanitary or phytosanitary measure. The requested Party shall respond promptly to any reasonable request for such consultation. The consulting Parties shall make every effort to reach a mutually satisfactory resolution.

3. Where a Party requests technical consultations, these shall take place within 30 days of the receipt of the request, unless otherwise agreed. Such consultation should aim to resolve the matter within 180 days of the date of the request, or a time frame agreed by the consulting Parties.

4. The technical consultations may be conducted via teleconference, videoconference, or through any other means agreed by the consulting Parties.

Article 5.15. Contact Points and Competent Authorities

1. Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party:

(a) designate one or more contact points to facilitate communication on matters covered under this Chapter;

(b) notify the other Parties of the contact details of that contact point or those contact points; and

(c) when more than one contact point is designated, specify a contact point that serves as the focal point to respond to enquiries from another Party on the appropriate contact point with which to communicate.

2. Each Party shall provide the other Parties, through the contact points, a description of its competent authorities and the division of their functions and responsibilities.

3. Each Party shall notify the other Parties of any change to the contact points and significant changes in the structure, organisation, and division of responsibility within its competent authorities. Each Party shall keep this information up to date.

4. The Parties recognise the importance of the competent authorities in the implementation of this Chapter. Accordingly, the competent authorities of the Parties may cooperate with each other on matters covered by this Chapter in a manner to be agreed. The Parties are encouraged to share information and experiences of such cooperation of their competent authorities with the Committee on Goods where the Parties agree to do so.

Article 5.16. Implementation

The Parties may, where mutually agreed, develop bilateral or plurilateral arrangements to set out mutually determined understandings and details for applying this Chapter. The Parties that have adopted such arrangements under this Chapter are encouraged, where mutually agreed, to report such arrangements to the Committee on Goods.

Article 5.17. Dispute Settlement

1. Chapter 19 (Dispute Settlement) shall not apply to this Chapter at the entry into force of this Agreement.

2. The non-application of Chapter 19 (Dispute Settlement) shall be subject to review two years after the date of entry into force of this Agreement. In the course of the review, Parties shall give due consideration to the application of Chapter 19 (Dispute Settlement) to either the whole or parts of this Chapter. Such a review shall be completed within three years from the date of entry into force of this Agreement. After which those Parties that are ready shall proceed to apply Chapter 19 (Dispute Settlement) to this Chapter as between one another. A Party that is not ready will consult other Parties and may apply Chapter 19 (Dispute Settlement) to this Chapter when it becomes party to any future free trade agreement or economic agreement in which it takes on a similar obligation.

Chapter 6. Standards, Technical Regulations, and Conformity Assessment Procedures

Article 6.1. Definitions

For the purposes of this Chapter, the terms and their definitions provided in Annex 1 of the TBT Agreement shall apply.

Article 6.2. Objectives

The objectives of this Chapter are to facilitate trade in goods among the Parties by:

(a) ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade;

(b) enhancing the implementation of the TBT Agreement;

(c) promoting mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures;

(d) strengthening information exchange and cooperation among the Parties in the field of standards, technical regulations, and conformity assessment procedures including in the work of relevant international bodies;

(e) addressing the issues that may arise under this Chapter; and

(f) providing a framework to realise these objectives.

Article 6.3. Scope

1. This Chapter shall apply to the standards, technical regulations, and conformity assessment procedures of central government bodies that may affect trade in goods among the Parties. This Chapter shall not apply to:

(a) any sanitary or phytosanitary measure, which is covered by Chapter 5 (Sanitary and Phytosanitary Measures); and

(b) purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies.

2. Each Party shall take such reasonable measures as may be available to it to ensure compliance, in the implementation of this Chapter, by local government bodies and non-governmental bodies within its territory which are responsible for the preparation, adoption, and application of standards, technical regulations, and conformity assessment procedures.

3. Nothing in this Chapter shall prevent a Party from preparing, adopting, applying, or maintaining standards, technical regulations, and conformity assessment procedures in a manner consistent with the TBT Agreement and this Chapter.

Article 6.4. Affirmation and Incorporation of the Tbt Agreement

1. Each Party affirms its rights and obligations under the TBT Agreement and the following provisions of the TBT Agreement are incorporated into and made part of this Agreement, mutatis mutandis:

(a) Article 2, except paragraphs 4, 7, 8, and 12;

(b) paragraph 2 of Article 4;

(c) Article 5, except paragraph 4;

(d) paragraph 3 of Article 6;

(e) paragraph 1 of Article 9; and

(f) Annex 3, except paragraph A.

2. In the event of any inconsistency between any provision of the TBT Agreement incorporated under paragraph 1 and other provisions of this Chapter, the latter shall prevail.

3. No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any dispute that exclusively alleges a violation of the provisions of the TBT Agreement incorporated under paragraph 1.

Article 6.5. International Standards, Guides, and Recommendations

1. The Parties recognise the important role that international standards, guides, and recommendations can play in the harmonisation of technical regulations, conformity assessment procedures, and national standards, and in reducing unnecessary barriers to trade.

2. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party takes into account the principles set out in the Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement (G/TBT/9, 13 November 2000, Annex 4), and subsequent relevant decisions and recommendations in this regard, adopted by the WTO Committee on Technical Barriers to Trade (hereinafter referred to as "WTO TBT Committee" in this Chapter).

3. The Parties shall, where appropriate, strengthen coordination and communication with each other in the context of discussions on international standards and related issues in other international fora, such as the WTO TBT Committee.

Article 6.6. Standards

1. With respect to the preparation, adoption, and application of standards, each Party shall ensure that its standardising body or bodies that prepare, adopt, and apply national standards accept and comply with Annex 3 of the TBT Agreement.

2. Where modifications to the contents or structure of the relevant international standards were necessary in developing a Party's national standards, that Party shall, on request of another Party, encourage its standardising body or bodies to provide what the differences in the contents and structure are, and the reason for those differences. Any fees charged for this service shall, apart from the real cost of delivery, be the same for foreign and domestic persons.

3. Further to paragraph 2, each Party shall ensure that its standardising body or bodies ensure that the modifications of the contents and structure of international standards are not prepared, adopted, or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.

4. Each Party shall encourage cooperation between the relevant standardising body or bodies in its territory and the standardising body or bodies of other Parties, in areas such as:

(a) exchange of information on standards;

(b) exchange of information relating to standard setting procedures; and

(c) international standardising activities in areas of mutual interest.

Article 6.7. Technical Regulations

1. Each Party shall use relevant international standards or the relevant parts of them, to the extent provided in paragraph 4 of Article 2 of the TBT Agreement, as a basis for its technical regulations. Where a Party does not use such international

standards, or their relevant parts, as a basis for its technical regulations, it shall, on request of another Party, explain the reasons therefor.

2. In implementing paragraph 2 of Article 2 of the TBT Agreement, each Party shall consider available alternatives in order to ensure that the proposed technical regulations to be adopted are not more trade-restrictive than necessary to fulfil a legitimate objective.

3. Each Party shall give positive consideration to accepting as equivalent, technical regulations of another Party, even if those regulations differ from its own, provided it is satisfied that those regulations adequately fulfil the objectives of its own regulations.

4. Where a Party does not accept a technical regulation of another Party as equivalent to its own, it shall, on request of the other Party, explain the reasons for its decision.

5. In implementing paragraph 8 of Article 2 of the TBT Agreement, when a Party does not specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics, the Party shall, on request of another Party, provide its reason therefor.

6. Except where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise, Parties shall allow a reasonable interval between the publication of technical regulations and their entry into force in order to provide sufficient time for producers in exporting Parties to adapt their products or methods of production to the requirements of importing Parties. For the purposes of this paragraph, "reasonable interval" shall be understood to mean normally a period of not less than six months, except when this would be ineffective in fulfilling the legitimate objectives pursued by the technical regulation.

7. On request of a Party that has an interest in developing a technical regulation similar to a technical regulation of another Party, the requested Party shall provide, to the extent practicable, relevant information, including studies or documents, except for confidential information, on which it has relied in its development.

8. Each Party shall uniformly and consistently apply its technical regulations that are prepared and adopted by its central government bodies to its whole territory. For greater certainty, nothing in this paragraph shall be construed to prevent local government bodies from preparing, adopting, and applying additional technical regulations in a manner consistent with the provisions of the TBT Agreement.

Article 6.8. Conformity Assessment Procedures

1. Further to paragraph 4 of Article 5 of the TBT Agreement, each Party shall ensure that central government bodies use relevant international standards or their relevant parts as a basis for their conformity assessment procedures, except where, as duly explained upon request, such international standards or relevant parts are inappropriate for the Party concerned, for, inter alia, such reasons as: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.

2. Each Party recognises the importance of accepting the results of conformity assessment procedures conducted in another Party with a view to increasing efficiency, avoiding duplication, and ensuring cost effectiveness of conformity assessments.

3. Each Party shall ensure, whenever possible, that results of conformity assessment procedures in another Party are accepted, even when those procedures differ from its own, unless those procedures do not offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

4. A Party shall, on request of another Party, explain its reasons for not accepting the results of a conformity assessment procedure conducted in the other Party.

5. Each Party recognises that, depending on the situation of the Party and the specific sectors involved, a broad range of mechanisms exists to facilitate the acceptance of the results of conformity assessment procedures conducted in another Party. Such mechanisms may include:

(a) mutual recognition agreements for the results of conformity assessment procedures conducted by bodies in the Parties concerned;

(b) cooperative (voluntary) arrangements between accreditation bodies or those between conformity assessment bodies in the Parties concerned;

(c) the use of accreditation to qualify conformity assessment bodies, including through relevant multilateral agreements or arrangements, to recognise the accreditation granted by other Parties;

(d) the designation of conformity assessment bodies in another Party;

(e) unilateral recognition by a Party of results of conformity assessment procedures conducted in another Party; and

(f) manufacturer's or supplier's declaration of conformity.

6. Upon reasonable request, the Parties concerned shall exchange information or share experiences on the mechanisms referred to in paragraph 5, including their development and application, with a view to facilitating the acceptance of the results of conformity assessment procedures.

7. The Parties recognise the important role that relevant international, including regional, organisations can play in cooperation in the area of conformity assessment. In this regard, each Party shall take into consideration the participation status or membership in such organisations of relevant bodies in the Parties in facilitating this cooperation.

8. The Parties agree to encourage cooperation between their relevant conformity assessment bodies in working closer with a view to facilitating the acceptance of conformity assessment results between Parties.

9. Each Party shall, whenever possible, permit the participation of conformity assessment bodies in another Party in its conformity assessment procedures under conditions no less favourable than those accorded to conformity assessment bodies in the Party.

10. Where a Party permits participation of its conformity assessment bodies and does not permit participation of conformity assessment bodies in another Party in its conformity assessment procedures, it shall, on request of that other Party, explain the reason for its refusal decision.

Article 6.9. Cooperation

1. The Parties shall strengthen their cooperation in the field of standards, technical regulations, and conformity assessment procedures, consistent with the objectives of this Chapter.

2. Each Party shall, on request of another Party, give positive consideration to proposals for cooperation on matters of mutual interest on standards, technical regulations, and conformity assessment procedures.

3. Such cooperation, which shall be on mutually determined terms and conditions, may include:

(a) advice, technical assistance or capacity building relating to the development and application of standards, technical regulations, and conformity assessment procedures;

(b) cooperation between conformity assessment bodies, both governmental and non-governmental, in the Parties, on matters of mutual interest;

(c) cooperation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures, such as enhancing participation in the frameworks for mutual recognition developed by relevant regional and international bodies;

(d) enhancing cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures; and

(e) strengthening communication and coordination in the WTO TBT Committee and other relevant international or regional fora.

4. Each Party shall, on request of another Party, give consideration to sector specific proposals for mutual benefit for cooperation under this Chapter.

Article 6.10. Technical Discussions

1. When a Party considers the need to resolve an issue related to trade and provisions under this Chapter, it may make a written request for technical discussions. The requested Party shall respond as early as possible to such a request.

2. The requested Party shall enter into technical discussions with the requesting Party within 60 days, unless otherwise mutually determined by the Parties concerned, with a view to reaching a mutually satisfactory solution. Technical

discussions may be conducted via any means agreed by the Parties concerned.

Article 6.11. Transparency

1. The Parties recognise the importance of the provisions relating to transparency in the TBT Agreement. In this respect, the Parties shall take into account relevant decisions and recommendations in the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995 (G/TBT/1/Rev.13), as may be revised, issued by the WTO TBT Committee.

2. Upon written request, a Party shall provide to the requesting Party, if already available, the full text or summary of its notified technical regulations and conformity assessment procedures in the English language. If unavailable, the Party shall provide to the requesting Party a summary stating the requirements of the notified technical regulations and conformity assessment procedures in the English language, within a reasonable period of time agreed by the Parties concerned and, if possible, within 30 days after receiving the written request. In implementing the preceding sentence, the contents of the summary shall be determined by the requested Party.

3. Each Party shall, on request of another Party, provide information regarding the objectives of, and rationale for, a technical regulation or conformity assessment procedure that the requested Party has adopted or is proposing to adopt.

4. Each Party shall normally allow 60 days from the date of notification to the WTO in accordance with paragraph 9 of Article 2 and paragraph 6 of Article 5 of the TBT Agreement for the other Parties to provide comments in writing, except where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise. Each Party shall take the comments of another Party into account and shall endeavour to provide responses to those comments upon request.

5. Each Party shall allow persons of another Party to participate in consultation procedures that are available to the general public for the development of technical regulations, national standards and conformity assessment procedures by the Party, subject to its laws and regulations, on terms no less favourable than those accorded to its own persons.

6. When a Party detains an imported consignment, at the point of entry due to non-compliance with a technical regulation or a conformity assessment procedure, it shall notify the importer or its representative, as soon as possible, the reasons for the detention.

7. Unless otherwise provided in this Chapter, any information or explanation requested by a Party pursuant to this Chapter shall be provided by the requested Party, in print or electronically, within a reasonable period of time agreed by the Parties concerned and, if possible, within 60 days. Upon request, the requested Party shall provide such information or explanation in the language or languages agreed by the Parties concerned or, whenever possible, in the English language.

Article 6.12. Contact Points

1. Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate one or more contact points responsible for coordinating the implementation of this Chapter, and notify the other Parties of the contact details of the relevant official or officials in that contact point, including the telephone number, facsimile number, email address, and any other relevant details. Each Party shall promptly notify the other Parties of any change to those contact details.

2. Each Party shall ensure that its contact point or contact points facilitate the exchange of information between the Parties on standards, technical regulations, and conformity assessment procedures, in response to all reasonable requests for such information from another Party.

Article 6.13. Implementing Arrangements

The Parties may develop bilateral or plurilateral arrangements to set out areas of cooperation of mutual interest for applying this Chapter. The Parties that have adopted such arrangements under this Chapter are encouraged, where mutually agreed, to report such arrangements to the Committee on Goods.

Article 6.14. Dispute Settlement

Chapter 19 (Dispute Settlement) shall not apply to any matter arising under this Chapter at the entry into force of this Agreement, and this non- application shall be subject to a review by the Parties two years after the date of entry into force of this Agreement. In the course of the review, Parties shall give positive consideration to the application of Chapter 19

(Dispute Settlement) to either the whole or parts of this Chapter. Such review shall be completed within three years from the date of entry into force of this Agreement.

Chapter 7. Trade Remedies

Section A. RCEP Safeguard Measures

Article 7.1. Definitions

For the purposes of this Chapter:

(a) **confidential information** includes information which is provided on a confidential basis and which is by its nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information);

(b) **customs duty** means customs duties as defined in subparagraph (b) of Article 2.1 (Definitions);

(c) **domestic industry** means, with respect to an imported good, the producers as a whole of the like or directly competitive goods operating within the territory of a Party, or those producers whose collective output of the like or directly competitive goods constitutes a major proportion of the total domestic production of that good;

(d) **originating good** means an originating good as defined in subparagraph (l) of Article 3.1 (Definitions);

(e) **provisional RCEP safeguard measure** means a safeguard measure described in paragraph 1 of Article 7.8 (Provisional RCEP Safeguard Measures);

(f) **serious injury** means a significant overall impairment in the position of a domestic industry;

(g) **threat of serious injury** means serious injury that, on the basis of facts and not merely on allegation, conjecture, or remote possibility, is clearly imminent;

(h) **transitional RCEP safeguard measure** means a safeguard measure described in Article 7.2 (Application of Transitional RCEP Safeguard Measures); and

(i) **transitional safeguard period** means, in relation to a particular good, the period from the date of entry into force of this Agreement until eight years after the date on which the elimination or reduction of the customs duty on that good is completed, in accordance with a Party's Schedule of tariff commitments in Annex | (Schedules of Tariff Commitments).

Article 7.2. Application of Transitional RCEP Safeguard Measures

1. If, as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of another Party or Parties collectively is being imported into the territory of a Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to its domestic industry producing a like or directly competitive good, the importing Party may, to the extent necessary to prevent or remedy the serious injury to its domestic industry and to facilitate its domestic industry's adjustment:

(a) suspend the further reduction of any rate of customs duty provided for in this Agreement on the originating good; or

(b) increase the rate of customs duty on the originating good to a level not to exceed the lesser of:

(i) the most-favoured-nation applied rate of customs duty in effect on the day when the transitional RCEP safeguard measure is applied; or

(ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement for that Party.

2. The Parties understand that neither tariff rate quotas nor quantitative restrictions are permissible forms of transitional RCEP safeguard measures.

3. On request of any Party, the Committee on Goods may, no later than three years before the end of the transitional safeguard period, discuss and review the implementation and operation, including the duration, of the transitional RCEP safeguard measures.

Article 7.3. Notification and Consultation

1. A Party shall immediately deliver a written notice to the other Parties upon:

(a) initiating an investigation referred to in Article 7.4 (Investigation Procedures) relating to serious injury or threat of serious injury and the reasons for it;

(b) making a finding of serious injury or threat of serious injury caused by increased imports;

(c) applying or extending the imposition of a transitional RCEP safeguard measure; and

(d) taking a decision to modify, including to progressively liberalise, a transitional RCEP safeguard measure.

2. A written notice referred to in subparagraph 1(a) shall include:

(a) a precise description of the originating good subject to the investigation including its heading and subheading under the Harmonized System and the national nomenclature of the Party;

(b) a summary of the reason for the initiation of the investigation; and

(c) the date of the initiation of the investigation and the period of investigation.

3. A Party shall provide to the other Parties a copy or the Uniform Resource Locator of the public version of the report by its competent authorities that is required under paragraph 1 of Article 7A (Investigation Procedures). The provided report may be in the language originally used in the report by its competent authorities.

4. A written notice referred to in subparagraphs 1(b) through (d) shall include:

(a) a precise description of the originating good subject to the transitional RCEP safeguard measure including its heading and subheading under the Harmonized System and the national nomenclature of the Party;

(b) evidence of the serious injury or threat of serious injury caused by increased imports of the originating good of another Party or Parties as a result of the reduction or elimination of a customs duty pursuant to this Agreement;

(c) a precise description of the proposed transitional RCEP safeguard measure;

(d) the proposed date of the introduction of the transitional RCEP safeguard measure, its expected duration, and, if applicable, a timetable for the progressive liberalisation of the transitional RCEP safeguard measure referred to in paragraph 3 of Article 7.5 (Scope and Duration of Transitional RCEP Safeguard Measures); and

(e) in the case of an extension of the transitional RCEP safeguard measure, evidence that the domestic industry concerned is adjusting.

5. A Party proposing to apply or extend a transitional RCEP safeguard measure shall provide adequate opportunity for prior consultations with the Parties that have a substantial interest as exporters of the good concerned, with a view to, inter alia, reviewing the information provided under paragraphs 2 and 4 that has arisen from the investigation referred to in Article 7.4 (Investigation Procedures), exchanging views on the transitional RCEP safeguard measure, and reaching an understanding on ways to achieve the objective set out in Article 7.7 (Compensation).

Article 7.4. Investigation Procedures

1. A Party shall apply a transitional RCEP safeguard measure only following an investigation by its competent authorities in accordance with the same procedures as those provided for in Article 3 and paragraph 2 of Article 4 of the Safeguards Agreement. To this end, Article 3 and paragraph 2 of Article 4 of the Safeguards Agreement are incorporated into and made part of this Agreement, mutatis mutandis.

2. Each Party shall ensure that its competent authorities complete the investigation referred to in paragraph 1 within one year following its date of initiation.

Article 7.5. Scope and Duration of Transitional Rcep Safeguard Measures

1. No Party shall apply a transitional RCEP safeguard measure:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate

adjustment;

(b) for a period exceeding three years, except that in exceptional circumstances, the period may be extended by up to one year if the competent authorities of the Party that applies the transitional RCEP safeguard measure determines, in conformity with the procedures specified in this Article, that the transitional RCEP safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the domestic industry concerned is adjusting, provided that the total period of application of a provisional and transitional RCEP safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years. Notwithstanding this provision, a Least Developed Country Party may extend its transitional RCEP safeguard measure for an additional period of one year; or

(c) beyond the expiration of the transitional safeguard period.

2. No transitional RCEP safeguard measure shall be applied to the import of an originating good for a period of one year from the date on which the first tariff reduction or tariff elimination takes effect for that originating good as committed under this Agreement.

3. In order to facilitate adjustment in a situation where the expected duration of a transitional RCEP safeguard measure exceeds one year, the Party applying the transitional RCEP safeguard measure shall progressively liberalise the transitional RCEP safeguard measure at regular intervals during its period of application.

4. When a Party terminates a transitional RCEP safeguard measure, the rate of customs duty for the originating good subject to that transitional RCEP safeguard measure shall be the rate that, according to that Party's Schedule in Annex | (Schedules of Tariff Commitments), would have been in effect but for that transitional RCEP safeguard measure.

5. No transitional RCEP safeguard measure shall be applied again to the import of a particular originating good that has been subject to a transitional RCEP safeguard measure, for a period of time equal to the duration of the previous transitional RCEP safeguard measure or one year since the expiry of such measure, whichever is longer.

Article 7.6. De Minimis Imports and Special Treatment

1. A provisional or transitional RCEP safeguard measure shall not be applied to an originating good of a Party, as long as that Party's share of imports of the good concerned in the importing Party does not exceed three per cent of the total imports of that good from all the Parties, provided that those Parties with less than three per cent import share collectively account for not more than nine per cent.

2. A provisional or transitional RCEP safeguard measure shall not be applied to an originating good of any Least Developed Country Party.

Article 7.7. Compensation

1. A Party proposing to apply or extend a transitional RCEP safeguard measure shall, in consultation with the exporting Parties that would be affected by such a measure, provide to those exporting Parties mutually agreed, adequate means of trade compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional customs duties expected to result from the measure. The Party applying a transitional RCEP safeguard measure shall provide those exporting Parties that would be affected by such a measure with the opportunity to consult within 30 days of the date on which the transitional RCEP safeguard measure was applied.

2. If the consultations referred to in paragraph 1 do not result in an agreement on trade compensation within 30 days of the commencement of such consultations, any Party against whose good the transitional RCEP safeguard measure is applied may suspend the application of substantially equivalent concessions to the trade in goods of the Party applying the transitional RCEP safeguard measure.

3. A Party against whose good a transitional RCEP safeguard measure is applied shall deliver a written notice to the Party applying the transitional RCEP safeguard measure at least 30 days before it suspends the application of concessions in accordance with paragraph 2.

4. The obligation to provide compensation under paragraph 1 and the right to suspend the application of concessions in accordance with paragraph 2 shall cease on the termination of the transitional RCEP safeguard measure.

5. The right to suspend the application of concessions in accordance with paragraph 2 shall not be exercised for the first three years during which the transitional RCEP safeguard measure is in effect, provided that the transitional RCEP safeguard

measure has been applied as a result of an absolute increase in imports and that it conforms to this Agreement.

6. A Least Developed Country Party that applies or extends a transitional RCEP safeguard measure shall not be requested for any compensation by the affected Parties.

Article 7.8. Provisional Rcep Safeguard Measures

1. In critical circumstances where delay would cause damage that would be difficult to repair, an importing Party may apply a provisional RCEP safeguard measure, which shall take the form of the measures set out in subparagraph 1(a) or (b) of Article 7.2 (Application of Transitional RCEP Safeguard Measures), pursuant to a preliminary determination by its competent authorities that there is clear evidence that imports of an originating good from another Party or Parties have increased as the result of the reduction or elimination of a customs duty under this Agreement, and such increased imports have caused or are threatening to cause serious injury to a domestic industry of the importing Party.

2. A Party shall deliver a written notice to the other Parties prior to applying a provisional RCEP safeguard measure. Consultations with the Parties that have a substantial interest as exporters of the good concerned on the application of the provisional RCEP safeguard measure shall be initiated immediately after the provisional RCEP safeguard measure is applied.

3. The duration of any provisional RCEP safeguard measure shall not exceed 200 days, during which period the Party applying that provisional RCEP safeguard measure shall comply with the requirements of paragraph 1 of Article 7.4 (Investigation Procedures). If the investigation referred to in paragraph 1 of Article 7.4 (Investigation Procedures) does not result in a finding that the requirements of Article 7.2 (Application of Transitional RCEP Safeguard Measures) are met, the Party applying the provisional RCEP safeguard measure shall promptly refund any additional customs duties collected as a result of the provisional RCEP safeguard measure. For greater certainty, the duration of any provisional RCEP safeguard measure shall be counted as part of the total period prescribed by subparagraph 1(b) of Article 7.5 (Scope and Duration of Transitional RCEP Safeguard Measures).

4. Paragraph 2 of Article 7.2 (Application of Transitional RCEP Safeguard Measures), paragraph 4 of Article 7.5 (Scope and Duration of Transitional RCEP Safeguard Measures), and paragraphs 1 and 2 of Article 7.10 (Other Provisions) shall apply, mutatis mutandis, to a provisional RCEP safeguard measure.

Article 7.9. Global Safeguard Measures

1. Nothing in this Agreement shall affect the rights and obligations of the Parties under Article XIX of GATT 1994 and the Safeguards Agreement. (1)

2. Unless otherwise provided in paragraph 3, nothing in this Agreement shall confer any rights or impose any obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement. (2)

3. On request of another Party, a Party intending to take safeguard measures pursuant to Article XIX of GATT 1994 and the Safeguards Agreement shall immediately provide written notice or Uniform Resource Locator of all pertinent information required under paragraphs 1, 2, and 4 of Article 12 of the Safeguards Agreement on the initiation of a safeguard investigation, the preliminary determination, and the final finding of the investigation. A Party shall be deemed to be in compliance with this paragraph if it has notified the measure to the WTO Committee on Safeguards in accordance with Article 12 of the Safeguards Agreement.

4. No Party shall apply, with respect to the same good, at the same time:

(a) a provisional or transitional RCEP safeguard measure; and

(b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

(1) For greater certainty, each Party retains its rights and obligations under Article 5 of the Agreement on Agriculture in view of Article 20.2 (Relation to Other Agreements).

(2) For greater certainty, each Party retains its rights and obligations under Article 5 of the Agreement on Agriculture in view of Article 20.2 (Relation to Other Agreements).

Article 7.10. Other Provisions

1. Each Party shall ensure the consistent, impartial, and reasonable administration of its laws and regulations relating to transitional RCEP safeguard measures.

2. Each Party shall adopt or maintain equitable, timely, transparent, and effective procedures relating to transitional RCEP safeguard measures.

3. A written notice referred to in paragraph 1 of Article 7.3 (Notification and Consultation), paragraph 3 of Article 7.7 (Compensation), and paragraph 2 of Article 7.8 (Provisional RCEP Safeguard Measures) shall be in the English language.

Section B. Anti-dumping and Countervailing Duties

Article 7.11. General Provisions

1. The Parties retain their rights and obligations under Article VI of GATT 1994, the AD Agreement, and the SCM Agreement. This Section affirms and builds on those rights and obligations.

2. In any proceeding in which the investigating authorities of a Party determine to conduct an on-the-spot investigation to verify information provided by a respondent (3) and pertinent to the calculation of anti-dumping duty margins or the level of a countervailable subsidy, the investigating authorities shall promptly notify that respondent of their intent, and:

(a) shall endeavour to provide to the respondent at least seven days advance notice of the date on which investigating authorities intend to conduct any such on-the-spot investigation to verify the information; and

(b) shall endeavour to, at least seven days prior to any such on-the-spot investigation to verify the information, provide to the respondent a document that sets forth the topics the respondent should be prepared to address during the verification and that describes the types of supporting documentation the respondent is to make available for review, provided that the implementation of subparagraphs (a) and (b) does not unnecessarily delay the conduct of the investigation.

3. A Party's investigating authorities shall maintain a nonconfidential file for each investigation and review containing:

(a) all non-confidential documents which are part of the record of the investigation or review; and

(b) to the extent feasible without revealing confidential information, non-confidential summaries of confidential information contained in the record of each investigation or review.

4. During an investigation or review, a Party's investigating authorities shall make the non-confidential file of the investigation or review available to interested parties either:

(a) physically for inspection and copying during the investigation authorities' normal business hours; or

(b) electronically.

(3) For the purposes of this paragraph, "respondent" means a producer, manufacturer, exporter, importer, and, where appropriate, a government or government entity, that is required by a Party's investigating authorities to respond to an anti-dumping or countervailing duty questionnaire.

Article 7.12. Notification and Consultations

1. On receipt by a Party's competent authorities of a properly documented anti-dumping application with respect to imports from another Party, the Party shall endeavour to provide written notice to the other Party of its receipt of the application at least seven days before initiating such an anti-dumping investigation.

2. On receipt by a Party's competent authorities of a properly documented countervailing duty application with respect to imports from another Party, and before initiating an investigation, the Party shall endeavour to provide written notice to the other Party of its receipt of the application at least 20 days in advance of the date of initiation of a countervailing investigation and invite the other Party for consultations on the application. The Parties concerned will endeavour to hold consultations within that period.

3. In view of the consultations referred to in paragraph 2, the Party intending to initiate the investigation referred to in paragraph 2 shall, before the initiation of the investigation, on request of the other Party, provide the non-confidential version of the complaint to the other Party. The Party intending to initiate the investigation shall endeavour to provide adequate opportunity to the other Party to comment and submit additional information or documents, as appropriate and

in conformity with the procedural rules provided for in the laws and regulations of the former Party

Article 7.13. Prohibition of Zeroing

When margins of dumping are established, assessed, or reviewed under Article 2, paragraphs 3 and 5 of Article 9, and Article 11 of the AD Agreement, all individual margins, whether positive or negative, shall be counted for weighted average-to-weighted average and transaction-to- transaction comparison. Nothing in this Article shall prejudice or affect a Partyâs rights and obligations under the second sentence of subparagraph 4.2 of Article 2 of the AD Agreement in relation to weighted average-to-transaction comparison.

Article 7.14. Disclosure of the Essential Facts

Each Party shall ensure, to the extent possible at least 10 days before the final determination, full and meaningful disclosure of all essential facts under consideration which form the basis for the decision to apply measures, without prejudice to paragraph 5 of Article 6 of the AD Agreement and paragraph 4 of Article 12 of the SCM Agreement. Disclosures shall be made in writing, and allow interested parties sufficient time to provide their comments. The investigating authorities of a Party should, in their final determination, take into account such comments, if the comments have been received in the time frames established by that Party's laws and regulations or by its investigating authorities.

Article 7.15. Treatment of Confidential Information

The investigating authorities of a Party shall require interested parties providing confidential information to furnish non-confidential summaries of such information, as referred to in subparagraph 5.1 of Article 6 of the AD Agreement. The non-confidential summaries referred to in subparagraph 5.1 of Article 6 of the AD Agreement shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence in order to allow other interested parties in the investigation an opportunity to respond and defend their interests, consistent with paragraph 2 of Article 6 of the AD Agreement.

Article 7.16. Non-application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Section or Annex 7A (Practices Relating to Anti-Dumping and Countervailing Duty Proceedings). The applicability of dispute settlement to this Section will be subject to review in accordance with Article 20.8 (General Review).

Chapter 8. Trade In Services

Article 8.1. Definitions

For the purposes of this Chapter:

(a) **aircraft repair and maintenance services** means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so- called line maintenance;

(b) **commercial presence** means any type of business or professional establishment, including through:

(i) the constitution, acquisition, or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office,

within the territory of a Party for the purpose of supplying a service;

(c) **computer reservation system services** means services provided by computerised systems that contain information about air carriers' schedules, availability, fares, and fare rules, through which reservations can be made or tickets may be issued;

(d) **juridical person** means any entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or government-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association;

(e) **juridical person of a Party** means a juridical person which is either:

(i) constituted or otherwise organised under the law of that Party, and is engaged in substantive business operations in the territory of that Party or any other Party; or

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

(A) natural persons of that Party; or

(B) juridical persons of that Party identified under subparagraph (e)(i);

(f) For Thailand and Viet Nam, a juridical person is:

(i) **owned** by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party;

(ii) **controlled** by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

(iii) **affiliated** with another person when it controls, or is controlled by, that other person, or when it and the other person are both controlled by the same person;

(g) **measures by a Party affecting trade in services** includes measures in respect of:

(i) the purchase or use of, or payment for, a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by a Party to be offered to the public generally; and

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of another Party;

(h) **monopoly supplier of a service** means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

(i) **natural person of a Party** means a natural person who resides in the territory of that Party or elsewhere and who under the law of that Party:

(i) is a national of that Party; or

(ii) has the right of permanent residence (1) in that Party, in the case of a Party which accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting trade in services, provided no Party is obligated to accord to such permanent residents treatment more favourable than would be accorded by that Party to such permanent residents;

(j) **sector of a service** means:

(i) with reference to a commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule in Annex II (Schedules of Specific Commitments for Services) or Schedule in Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment); and

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(k) **selling and marketing of air transport services** means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising, and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;

(l) **services** includes any service in any sector except services supplied in the exercise of governmental authority;

(m) **service consumer** means any person that receives or uses a service;

(n) **service of another Party** means a service which is supplied:

(i) from or in the territory of that other Party, or in the case of maritime transport, by a vessel registered under the laws and regulations of that other Party, or by a person of that other Party which supplies the service through the operation of a vessel or its use in whole or in part; or

(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

(o) **service supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

(p) **service supplier** means a person that supplies a service; (2) (3)

(q) **supply of a service** includes the production, distribution, marketing, sale, and delivery of a service;

(r) **trade in services** means the supply of a service:

(i) from the territory of one Party into the territory of any other Party;

(ii) in the territory of one Party to the service consumer of any other Party;

(iii) by a service supplier of one Party, through commercial presence in the territory of any other Party;

(iv) by a service supplier of one Party, through presence of natural persons of a Party in the territory of any other Party; and

(s) **traffic rights** means the rights for scheduled and non- scheduled services to operate or carry passengers, cargo, and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged, and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

(1) Where a Party has made a reservation with respect to permanent residents in its Schedules in Annex II (Schedules of Specific Commitments for Services), Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment), or Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons), that reservation shall not prejudice that Partyâs rights and obligations in GATS.

(2) Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

(3) The Parties confirm their shared understanding that "service supplier" in this Chapter has the same meaning that it has under subparagraph (g) of Article XXVIII of GATS.

Article 8.2. Scope

1. This Chapter shall apply to measures by a Party affecting trade in services.

2. For the purposes of this Chapter, "measures by a Party" means measures taken by:

(a) central, regional, or local governments and authorities of that Party; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities of that Party.

In fulfilling its obligations and commitments under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory.

3. This Chapter shall not apply to:

(a) government procurement;

(b) subsidies or grants, including government-supported loans, guarantees, and insurance, provided by a Party or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers, or service suppliers;

(c) services supplied in the exercise of governmental authority;

(d) cabotage in maritime transport services; and

(e) air transport services, measures affecting traffic rights however granted, or measures affecting services directly related to the exercise of traffic rights, other than measures affecting:(4)

(i) aircraft repair and maintenance services;

(ii) the selling and marketing of air transport services;

(iii) computer reservation system services;

(iv) specialty air services;

(v) ground handling services; and

(vi) airport operation services.

4. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding nationality, citizenship, residence or employment on a permanent basis.

5. For greater certainty, Annex 8A (Financial Services), Annex 8B (Telecommunications Services), and Annex 8C (Professional Services) are an integral part of this Chapter.

(4) Notwithstanding subparagraphs (iv) through (vi), this Chapter shall apply to measures affecting specialty air services, ground handling services, and airport operation services only for a Party that opts to make commitments in relation to such services in accordance with Article 8.3 (Scheduling of Commitments).

Article 8.3. Scheduling of Commitments

1. Each Party shall make commitments under Article 8.4 (National Treatment) and Article 8.5 (Market Access) in accordance with either Article 8.7 (Schedules of Specific Commitments) or Article 8.8 (Schedules of Non-Conforming Measures).

2. A Party making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) shall make commitments under the applicable paragraphs in Article 8.4 (National Treatment) and Article 8.5 (Market Access), and shall also make commitments under either Article 8.6 (Most-Favoured-Nation Treatment) or Article 8.10 (Transparency List). A Party making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) may also make commitments under Article 8.9 (Additional Commitments).

3. A Party making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures) shall make commitments under the applicable paragraphs in Article 8.4 (National Treatment), Article 8.5 (Market Access), Article 8.6 (Most-Favoured-Nation Treatment), and Article 8.11 (Local Presence). A Party making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures) may also make commitments under Article 8.9 (Additional Commitments).

4. Notwithstanding paragraph 2, Least Developed Country Parties which are Member States of ASEAN making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) are not obliged to make commitments under either Article 8.6 (Most-Favoured-Nation Treatment) or Article 8.10 (Transparency List). These Parties may, however, do so on a voluntary basis.

Article 8.4. National Treatment

1. A Party making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) shall, in the sectors inscribed in its Schedule in Annex II (Schedules of Specific Commitments for Services) and subject to any conditions and qualifications set out therein, accord to services and service suppliers of any other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers. (5)

2. A Party making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures) shall accord to services and service suppliers of any other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers, subject to its non-conforming measures as provided in Article 8.8 (Schedules of Non-Conforming Measures).(6)

3. A Party may meet the requirement under paragraph 1 or 2 by according to services and service suppliers of any other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

4. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of any other Party.

(5) Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

(6) Nothing in this Article shall be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

Article 8.5. Market Access

1. With respect to market access through the modes of supply identified in subparagraph (r) of Article 8.1 (Definitions), a Party making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) shall accord services and service suppliers of any other Party treatment no less favourable than that provided for under the terms, limitations, and conditions agreed and specified in its Schedule in Annex II (Schedules of Specific Commitments for Services). (7)

2. The measures which a Party shall not adopt or maintain either on the basis of a regional subdivision or on the basis of its entire territory, either in sectors where market access commitments are undertaken and in accordance with its specific commitments, as provided in Article 8.7 (Schedules of Specific Commitments), or subject to its non-conforming measures, as provided in the Article 8.8 (Schedules of Non-Confirming Measures), are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; (8)

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

(7) If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (r)(i) of Article 8.1 (Definitions) and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (r)(iii) of Article 8.1 (Definitions), itis thereby committed to allow related transfers of capital into its territory.

(8) This subparagraph does not cover measures of a Party which limit inputs for the supply of services.

Article 8.6. Most-favoured-nation Treatment

1. A Party making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) that opts under paragraph 2 of Article 8.3 (Scheduling of Commitments) to make commitments on Most-Favoured-Nation Treatment shall:

(a) in respect of the sectors and subsectors inscribed in its Schedule in Annex II (Schedules of Specific Commitments for Services) that are identified with an "MFN" ;

(b) in respect of the sectors and subsectors set out in its Most- Favoured-Nation Treatment Sectoral Coverage Appendix to

its Schedule in Annex II (Schedules of Specific Commitments for Services); or

(c) in respect of the sectors and subsectors that are not contained in its Most-Favoured-Nation Treatment Sectoral Exemption List Appendix to its Schedule in Annex II (Schedules of Specific Commitments for Services),

and subject to any conditions and qualifications set out therein, accord to services and service suppliers of another Party treatment no less favourable than that it accords to like services and service suppliers of any other Party or of any non-Party.

2. A Party making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures) shall, subject to its non-conforming measures set out in its Schedule in Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment), accord to services and service suppliers of another Party treatment no less favourable than that it accords to like services and service suppliers of any other Party or of any non-Party.

3. Notwithstanding paragraphs 1 and 2, each Party reserves the right to adopt or maintain any measure that accords differential treatment to services and service suppliers of any other Party or of any non-Party under any bilateral or multilateral international agreement in force at, or signed prior to, the date of entry into force of this Agreement.

4. Notwithstanding paragraphs 1 and 2, each Party which is a Member State of ASEAN reserves the right to adopt or maintain any measure that accords differential treatment to services and service suppliers of any other Party which is a Member State of ASEAN taken under an agreement on the liberalisation of trade in goods or services or investment as part of a wider process of economic integration among the Parties which are Member States of ASEAN.

5. The provisions of this Chapter shall not be construed as to prevent any Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

Article 8.7. Schedules of Specific Commitments

1. A Party making commitments in accordance with this Article shall set out in its Schedule in Annex II (Schedules of Specific Commitments for Services), the specific commitments it undertakes under Article 8.4 (National Treatment), Article 8.5 (Market Access), and Article 8.9 (Additional Commitments). With respect to sectors where such commitments are undertaken, each Schedule in Annex II (Schedules of Specific Commitments for Services) shall specify:

(a) terms, limitations, and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments; and

(d) where appropriate, the time frame for implementation of such commitments.

2. Measures inconsistent with both Article 8.4 (National Treatment) and Article 8.5 (Market Access) shall be inscribed in the column relating to Article 8.5 (Market Access). In this case, the inscription shall be considered to provide a condition or qualification to Article 8.4 (National Treatment) as well.

3. Each Party making commitments in accordance with this Article shall identify in its Schedule in Annex II (Schedules of Specific Commitments for Services) sectors or subsectors for future liberalisation with âFLâ. In these sectors and subsectors, any applicable terms, limitations, conditions, and qualifications, referred to in subparagraphs 1(a) and (b) shall be limited to existing measures of that Party.

4. If a Party amends a measure referred to in paragraph 3 in a manner that reduces or eliminates the inconsistency of that measure with Article 8.4 (National Treatment) or Article 8.5 (Market Access), as it existed immediately before the amendment, that Party shall not subsequently amend that measure in a manner that increases the measureâs inconsistency with Article 8.4 (National Treatment) or Article 8.5 (Market Access).

5. Notwithstanding paragraph 3, Least Developed Country Parties which are Member States of ASEAN are not obliged to identify sectors or subsectors for future liberalisation. These Parties may, however, do so on a voluntary basis.

Article 8.8. Schedules of Non-conforming Measures

1. For a Party making commitments in accordance with this Article, Article 8.4 (National Treatment), Article 8.5 (Market Access), Article 8.6 (Most-Favoured-Nation Treatment), and Article 8.11 (Local Presence) shall not apply to:

(a) any existing non-conforming measure that is maintained by that Party at:

(i) the central level of government, as set out by that Party in List A of its Schedule in Annex lll (Schedules of Reservations and Non-Conforming Measures for Services and Investment);

(ii) a regional level of government, as set out by that Party in List A of its Schedule in Annex lll (Schedules of Reservations and Non-Conforming Measures for Services and Investment); or

(iii) a local level of government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); and

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 8.4 (National Treatment), Article 8.5 (Market Access), Article 8.6 (Most-Favoured-Nation Treatment), or Article 8.11 (Local Presence).

2. Article 8.4 (National Treatment), Article 8.5 (Market Access), Article 8.6 (Most-Favoured-Nation Treatment), and Article 8.11 (Local Presence) shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities set out in List B of its Schedule in Annex lll (Schedules of Reservations and Non-Conforming Measures for Services and Investment).

Article 8.9. Additional Commitments

1. The Parties may negotiate commitments with respect to measures affecting trade in services, including those regarding qualifications, standards, or licensing matters, not subject to scheduling, under:

(a) Article 8.4 (National Treatment) or Article 8.5 (Market Access) for those Parties making commitments in accordance with Article 8.7 (Schedules of Specific Commitments); or

(b) Article 8.4 (National Treatment), Article 8.5 (Market Access), Article 8.6 (Most-Favoured-Nation Treatment), or Article 8.11 (Local Presence) for those Parties making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures).

2. A Party making additional commitments under subparagraph 1 (a) shall inscribe such commitments in its Schedule in Annex ll (Schedules of Specific Commitments for Services).

3. A Party making additional commitments under subparagraph 1(b) shall inscribe such commitments in List C of its Schedule in Annex lll (Schedules of Reservations and Non-Conforming Measures for Services and Investment).

Article 8.10. Transparency List

1. A Party making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) that opts under paragraph 2 of Article 8.3 (Scheduling of Commitments) to make commitments under this Article shall prepare, forward to the other Parties, and make publicly available on the internet, a non-binding transparency list of its existing measures maintained at the central government level which are inconsistent with Article 8.4 (National Treatment) or Article 8.5 (Market Access) (hereinafter referred to as "Transparency List" in this Chapter). Such a Transparency List shall cover the sectors in which the Party has undertaken specific commitments in this Chapter.

2. A Party's Transparency List is made solely for the purposes of transparency, and shall be accurate at the time of submission and shall not affect the rights and obligations of that Party under this Chapter. Nothing in this Article shall prevent a Party from amending its measures referred to in paragraph 1. If there are any discrepancies between a Party's Transparency List and its Schedule in Annex ll (Schedules of Specific Commitments for Services), the latter shall prevail.

3. Each Transparency List shall include the following elements:

(a) the sector and subsector or activity;

(b) the type of inconsistency (National Treatment or Market Access);

(c) the legal source or authority of the measure; and (d) | asuccinct description of the measure.

4. A Party shall update, as necessary, its Transparency List to ensure it is complete and accurate by:

(a) adding any new or amended inconsistent measure; or

(b) removing any measure that has ceased to exist, or any sector, subsector, or activity for which it no longer maintains an inconsistent measure.

5. No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any dispute or matter of interpretation arising out of a Transparency List.

Article 8.11. Local Presence

A Party making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures) shall not require a service supplier of another Party to establish or maintain a representative office, a branch, or any form of juridical person, or to be resident, in its territory as a condition for the supply of a service as described in subparagraph (r)(i), (ii), or (iv) of Article 8.1 (Definitions), subject to its non-conforming measures as provided in Article 8.8 (Schedules of Non-Conforming Measures).

Article 8.12. Transition

1. A Party making commitments in accordance with Article 8.7 (Schedules of Specific Commitments) (hereinafter referred to as a "transitioning Party" in this Article) shall submit a proposed Schedule of Non-Conforming Measures (hereinafter referred to as a "Proposed Schedule" in this Article) that accords with Article 8.8 (Schedules of Non-Conforming Measures)(9) to the Committee on Services and Investment for circulation to the other Parties, no later than three years, or for Cambodia, Lao PDR, and Myanmar, no later than 12 years, after the date of entry into force of this Agreement.

2. The commitments contained in each transitioning Party's Proposed Schedule shall provide an equivalent or a greater level of liberalisation and shall not result in a decrease in the level of commitments as compared to the transitioning Party's commitments, made in accordance with paragraph 2 of Article 8.3 (Scheduling of Commitments).

3. The Parties shall consider the Proposed Schedule for the purposes of verification and clarification, and shall have the opportunity to make comments to ensure that the Proposed Schedule meets the requirements specified in paragraph 2. The verification and clarification process shall not entitle the Parties to negotiate specific new commitments. (10) The transitioning Party shall have the opportunity to respond to any comments received and to modify or revise its Proposed Schedule, as may be necessary, with a view to resolving any ambiguities, omissions, or errors in its Proposed Schedule.

4. Upon completion of the verification and clarification process referred to in paragraph 3, the Committee on Services and Investment may adopt, by consensus, the transitioning Party's Proposed Schedule, which shall replace the transitioning Party's Schedule in Annex II (Schedules of Specific Commitments for Services) subject to paragraph 5 (hereinafter referred to as an "Adopted Schedule" in this Article). The transitioning Party shall then submit its Adopted Schedule to the Depositary and notify it in writing of the completion of any applicable domestic processes. (11)

5. Notwithstanding Article 20.4 (Amendments), once a transitioning Party has submitted its Adopted Schedule to the Depositary and notified it in writing of the completion of any applicable domestic processes, the transitioning Party's Adopted Schedule shall enter into force between the transitioning Party and each other Party 60 days after the date of the transitioning Party's notification to the Depositary. However, if a Party notifies the Depositary in writing within 60 days of the date of the transitioning Party's notification to the Depositary that the Adopted Schedule will not enter into force for that Party within 60 days of the transitioning Party's notification to the Depositary, the Adopted Schedule shall enter into force between the transitioning Party and that Party on the date on which that Party notifies the Depositary in writing of the completion of its applicable domestic processes, or on such other date as the transitioning Party and that Party may decide.

6. For greater certainty, a transitioning Party's Schedule in Annex II (Schedules of Specific Commitments for Services) under Article 8.7 (Schedules of Specific Commitments) shall remain in force between the transitioning Party and each other Party until the transitioning Party's Adopted Schedule has entered into force for that other Party.

7. The process referred to in paragraphs 1 through 4 shall be completed no later than six years, or for Cambodia, Lao PDR, and Myanmar, no later than 15 years, after the date of entry into force of this Agreement.

(9) For the purposes of a Proposed Schedule referred to in this paragraph and an Adopted Schedule referred to in paragraph 4, the references to "existing" in subparagraph (a) of Article 8.8 (Schedules of Non-Conforming Measures) shall be deemed to mean "in effect on the date of entry into force of the Party's Adopted Schedule".

(10) For greater certainty, nothing in this Article requires a Party to make commitments under Article 8.6 (Most-Favoured-Nation Treatment) in respect of a specific sector or subsector.

(11) For greater certainty, this paragraph does not exclude the possibility of a transitioning Party, when undertaking its applicable domestic processes, requesting consultations among the Parties regarding potential revisions to its Adopted Schedule, and requesting the Committee on Services and Investment to adopt, by consensus, a revised Adopted Schedule for submission by the transitioning Party to the Depositary in accordance with this paragraph.

Article 8.13. Modification of Schedules

1. A Party that has made commitments in accordance with Article 8.7 (Schedules of Specific Commitments) (hereinafter referred to as a "modifying Party" in this Article) may modify or withdraw any commitment in its Schedule in Annex II (Schedules of Specific Commitments for Services), other than commitments in sectors or subsectors indicated with an "FL", at any time after three years from the date on which that commitment has entered into force, provided that it complies with this Article and that:

(a) it notifies the Committee on Services and Investment of its intention to modify or withdraw a commitment no later than three months before the intended date of implementation of the modification or withdrawal; and

(b) it enters into negotiations with any requesting Party, with a view to reaching agreement on any necessary compensatory adjustment.

2. In achieving a compensatory adjustment through the negotiations referred to in subparagraph 1(b), the Parties concerned shall endeavour to maintain a general level of mutually advantageous commitments no less favourable to trade than that provided for in the modifying Party's Schedule in Annex II (Schedules of Specific Commitments for Services) prior to such negotiations.

3. Any compensatory adjustment made pursuant to this Article shall be accorded on a non-discriminatory basis to all Parties.

4. If the Parties concerned are unable to reach an agreement on the compensatory adjustment within three months following the last date on which a request under subparagraph 1(b) has been made, or another period agreed by the modifying Party and each requesting Party, a requesting Party may refer the matter to arbitration. Any Party that wishes to enforce a right that it may have to compensation must participate in the arbitration. The modifying Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the arbitration.

5. Arbitrations undertaken pursuant to paragraph 4 shall be conducted in accordance with the procedures set out in paragraphs 7 through 19 of Procedures for the Implementation of Article XXI of the General Agreement on Trade in Services adopted on 19 July 1999(S/L/80), as may be amended, (hereinafter referred to as "the GATS Article XXI Procedures" in this Chapter), which shall apply mutatis mutandis, unless otherwise decided by the Committee on Services and Investment under paragraph 10 or unless the parties to the arbitration agree otherwise.

6. If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitration, any Party that participated in the arbitration may modify or withdraw substantially equivalent benefits in conformity with those findings. Such a modification or withdrawal may be implemented solely with respect to the modifying Party.

7. If no Party has requested:

(a) negotiations under subparagraph 1(b) within 45 days of the date of a notification made pursuant to subparagraph 1(a); or

(b) arbitration pursuant to paragraph 4,

the modifying Party shall be free to implement its proposed modification or withdrawal, notwithstanding Article 20.4 (Amendments), in accordance with the procedures set out in paragraphs 20 through 22 of the GATS Article XXI Procedures, which shall apply mutatis mutandis, unless otherwise decided by the Committee on Services and Investment under paragraph 10.

8. For the avoidance of doubt, for the purposes of paragraphs 5 and 7, references in the GATS Article XXI Procedures to:

(a) "the Secretariat" and "the Council for Trade in Services" shall be read as references to the Committee on Services and Investment;

(b) "Article XXI" shall be read as references to Article 8.13 (Modification of Schedules); and

(c) "Members of the WTO" shall be read as references to the Parties.

9. In the event of any inconsistency between this Agreement and the GATS Article XXI Procedures, this Agreement shall prevail to the extent of the inconsistency.

10. The Committee on Services and Investment may establish or amend procedures for the modification or withdrawal of a Party's commitments in its Schedule in Annex II (Schedules of Specific Commitments for Services) or the conduct of arbitration, under this Article. Any Party that seeks to modify or withdraw its commitments under this Article shall do so in accordance with any such procedures.

Article 8.14. Transparency

1. The Parties recognise that transparent measures governing trade in services are important in facilitating the ability of service suppliers to gain access to, and operate in, each other's markets. Each Party shall promote regulatory transparency in trade in services.

2. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force:

(a) all relevant measures of general application affecting trade in services; and

(b) all international agreements pertaining to or affecting trade in services to which a Party is a signatory.

3. To the extent possible, each Party shall make the measures and international agreements referred to in paragraph 2 publicly available on the internet and, to the extent provided under its legal framework, in the English language.

4. Where publication referred to in paragraphs 2 and 3 is not practicable, such information (12) shall be made otherwise publicly available.

5. Each Party shall designate a contact point to facilitate communications among the Parties on any matter covered by this Chapter. On request of another Party, the contact point shall:

(a) identify the office or official responsible for the relevant matter; and

(b) assist as necessary in facilitating communications with the requesting Party with respect to that matter.

6. Each Party shall respond promptly to any request by any other Party for specific information on:

(a) any measures referred to in subparagraph 2(a) or international agreements referred to in subparagraph 2(b); and

(b) any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services.

(12) For greater certainty, such information may be published in each Party's chosen language.

Article 8.15. Domestic Regulation

1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective, and impartial manner.

2. Each Party shall maintain or institute as soon as practicable judicial, arbitral, or administrative tribunals or procedures which provide, on 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, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. Nothing in paragraph 2 shall be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

4. If the results of the negotiations related to paragraph 4 of Article VI of GATS enter into effect, the Parties shall review the results of such negotiations and shall amend this Article as appropriate, after consultation among the Parties to bring the results of such negotiations into effect under this Chapter.

5. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services, while recognising the right to regulate and to introduce new regulations on the supply of services in order to meet its policy objectives, each Party shall endeavour to ensure that any such measures that it adopts or maintains are:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service; and

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

6. In determining whether a Party is in conformity with its obligations under subparagraph 5(a), international standards of relevant international organisations (13) applied by that Party shall be taken into account.

7. Where a Party requires authorisation for the supply of a service, it shall ensure that its competent authorities:

(a) ensure that any authorisation fees charged for the completion of relevant application procedures are reasonable, transparent, and do not in themselves restrict the supply of a service. For the purposes of this subparagraph, authorisation fees do not include fees for the use of natural resources, payment for auction, tendering, or other non-discriminatory means of awarding concessions, or mandated contributions to universal services provision;

(b) within a reasonable period of time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application;

(c) to the extent practicable, establish an indicative time frame for processing of an application;

(d) on request of the applicant, provide, without undue delay, information concerning the status of the application;

(e) in the case of an incomplete application and on request of the applicant, identify, where practicable, all the additional information that is required to complete the application, and provide the opportunity to remedy deficiencies within a reasonable time frame;

(f) if an application is terminated or denied, to the extent possible and without undue delay, inform the applicant in writing of the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application;

(g) tothe extent permissible under its laws and regulations, do not require physical presence in the territory of a Party for the submission of an application for a licence or qualification;

(h) endeavour to accept applications in electronic format under the equivalent conditions of authenticity as paper submissions, in accordance with its laws and regulations; and

(i) where they deem appropriate, accept copies of documents authenticated in accordance with its laws and regulations, in place of original documents.

8. Each Party shall provide adequate procedures to verify the competence of professionals of another Party. If licensing or qualification requirements include the completion of an examination, each Party shall, to the extent practicable, ensure that:

(a) the examination is scheduled at reasonable intervals; and

(b) a reasonable period of time is provided to enable interested persons to submit an application.

9. Each Party shall, subject to its laws and regulations, permit service suppliers of another Party to use, without undue restrictions, the business names under which they trade in the territory of that other Party.

10. Paragraphs 1 through 9 shall not apply to a sector or measure to the extent that such sector or measure is not subject to Article 8.4 (National Treatment) or Article 8.5 (Market Access) by reason of a Party's commitments made in accordance with either Article 8.7 (Schedules of Specific Commitments) or Article 8.8 (Schedules of Non-Conforming Measures).

(13) "Relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of the Parties.

Article 8.16. Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing, or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognise the education or

experience obtained, requirements met, or licences or certifications granted in a particular country. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the country concerned, or may be accorded autonomously.

2. A Party that is party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Parties, upon request, to negotiate their accession to such an agreement or arrangement, or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for any other Party to demonstrate that education, experience, licences, or certifications obtained or requirements met in that other Party's territory should be recognised.

3. Nothing in Article 8.6 (Most-Favoured-Nation Treatment) shall be construed to require any Party to accord such recognition to the education or experience obtained, requirements met, or licences or certifications granted in another Party.

4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between other Parties in the application of its standards or criteria for the authorisation, licensing, or certification of service suppliers, or a disguised restriction on trade in services.

5. Where appropriate, recognition should be based on multilaterally agreed criteria. In appropriate cases, Parties shall work in cooperation with relevant inter-governmental and non-governmental organisations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.

6. As set out in Annex 8C (Professional Services), each Party shall endeavour to facilitate trade in professional services, including through encouraging relevant bodies in its territory to enter into negotiations for agreements or arrangements on recognition.

Article 8.17. Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Article 8.4 (National Treatment) and Article 8.5 (Market Access).

2. Where a Party's monopoly supplier of a service competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's commitments, that Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has a reason to believe that a monopoly supplier of a service of any other Party is acting in a manner inconsistent with paragraph 1 or 2, it may request that other Party establishing, maintaining, or authorising such a supplier to provide specific information concerning the relevant operations.

4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its territory.

Article 8.18. Business Practices

1. The Parties recognise that certain business practices of service suppliers, other than those falling under Article 8.17 (Monopolies and Exclusive Service Suppliers), may restrain competition and thereby restrict trade in services.

2. Each Party shall, on request of any other Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The requested Party shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The requested Party may also provide other information available to the requesting Party, subject to its laws and regulations and to the conclusion of a satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Party.

Article 8.19. Payments and Transfers

1. Except under the circumstances envisaged in Article 17.15 (Measures to Safeguard the Balance of Payments), a Party shall

not apply restrictions on international transfers or payments for current transactions relating to its commitments.

2. Nothing in this Chapter shall affect the rights and obligations of a Party as a member of the IMF under the IMF Articles of Agreement, as may be amended, including the use of exchange actions which are in conformity with the IMF Articles of Agreement, as may be amended, provided that the Party shall not impose restrictions on any capital transaction inconsistently with its commitments under this Chapter regarding such transactions, except under Article 17.15 (Measures to Safeguard the Balance of Payments) or on request of the IMF.

Article 8.20. Denial of Benefits

1. A Party may deny the benefits of this Chapter:

(a) to the supply of any service, if it establishes that the service is supplied from or in the territory of a non-Party;

(b) to a service supplier that is a juridical person, if it establishes that it is not a service supplier of another Party;

(c) in the case of the supply of a maritime transport service, if it establishes that the service is supplied:

(i) by a vessel registered under the laws and regulations of a non-Party; and

(ii) by a person of a non-Party which operates or uses the vessel in whole or in part.

2. A Party may deny the benefit of this Chapter to a service supplier of another Party, if the service supplier is a juridical person owned or controlled by persons of a non-Party, and the denying Party adopts or maintains measures with respect to the non-Party ora person of the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person.

Article 8.21. Safeguard Measures

1. The Parties shall review the incorporation of safeguard measures pending any further developments in the multilateral fora pursuant to Article X of GATS.

2. In the event that a Party encounters difficulties in the implementation of its commitments under this Chapter, that Party may request consultations with the other Parties to address such difficulties.

Article 8.22. Subsidies

1. Notwithstanding paragraph 3(b) of Article 8.2 (Scope), the Parties shall review the issue of disciplines on subsidies related to trade in services in light of any disciplines agreed under Article XV of GATS with a view to their incorporation into this Chapter.

2. A Party which considers that it is adversely affected by a subsidy of another Party related to trade in services may request consultations with that other Party on such matters. The requested Party shall accord sympathetic consideration to such a request.

3. No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any request made or consultations held under this Article, or any other dispute arising under this Article.

Article 8.23. Increasing Participation of Least Developed Country Parties Which Are Member States of Asean

To increase the participation of Least Developed Country Parties which are Member States of ASEAN, this Chapter shall facilitate:

(a) strengthening their domestic services capacity and their efficiency and competitiveness, inter alia, through access to technology on a commercial basis;

(b) improving their access to distribution channels and information networks; and

(c) the liberalisation of market access in sectors and modes of supply of export interest to them, and the provision of market access in sectors beneficial to them.

Article 8.24. Review of Commitments

The Parties shall review the commitments on trade in services as necessary, but no later than the general review of this Agreement under Article 20.8 (General Review), with a view to further improving commitments under this Chapter so as to progressively liberalise trade in services among the Parties.

Article 8.25. Cooperation

The Parties shall strengthen cooperation efforts in sectors, including sectors which are not covered by current cooperation arrangements. The Parties shall discuss and agree on the sectors for cooperation and develop cooperation programmes in these sectors in order to improve their domestic services capacity and their efficiency and competitiveness.

ANNEX 8-A. Financial services

Article 1. Definitions

For the purposes of this Annex:

(a) **financial institution** means any financial intermediary or other juridical person that is authorised to do business and regulated or supervised as a financial institution, under the laws and regulations of the Party in whose territory it is located;

(b) **financial service** means any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

(i) direct insurance (including co-insurance):

(A) life; and

(B) non-life;

(ii) reinsurance and retrocession;

(iii) insurance intermediation, such as brokerage and agency;

(iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services;

Banking and other financial services (excluding insurance)

(v) acceptance of deposits and other repayable funds from the public;

(vi) lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transaction;

(vii) financial leasing;

(viii) all payment and money transmission services, including credit, charge and debit cards, travellers cheques, and bankers drafts;

(ix) guarantees and commitments;

(x) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(A) money market instruments (including cheques, bills, certificates of deposits);

(B) foreign exchange;

(C) derivative products including futures and options;

(D) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;

(E) transferable securities; and

(F) other negotiable instruments and financial assets, including bullion;

(xi) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(xii) money broking;

(xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;

(xiv) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(xv) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(xvi) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(c) financial service supplier means any natural person or juridical person of a Party seeking to supply or supplying financial services but the term "financial service supplier" does not include a public entity;

(d) new financial service means any financial service which is not supplied in the territory of a Party but is supplied and regulated in the territory of any other Party. This may include a service related to current and new products, or the manner in which a product is delivered;

(e) public entity means:

(i) a government, a central bank, or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions; and

(f) self-regulatory organisation means any nongovernmental body, including any securities or futures exchange or market, clearing or payment settlement agency, or other organisation or association, that:

(i) is recognised as a self-regulatory organisation and exercises regulatory or supervisory authority over financial service suppliers or financial institutions by legislation or delegation from central, regional, or local governments or authorities; or

(ii) exercises regulatory or supervisory authority over financial service suppliers or financial institutions by legislation or delegation from central, regional, or local governments or authorities.

Article 2. Scope

1. This Annex shall apply to measures by a Party affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in subparagraph (r) of Article 8.1 (Definitions).

2. For the purposes of subparagraph (l) of Article 8.1 (Definitions) and subparagraph 2(c) of Article 10.2 (Scope), "services supplied in the exercise of governmental authority" means the following:

(a) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; (1)

(b) activities forming part of a statutory system of social security or public retirement plans; or

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.

If a Party allows any of the activities referred to in subparagraph (b) or (c) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "services" shall include such activities.

3. Subparagraph (o) of Article 8.1 (Definitions) and the definition set out in subparagraph 2(c) of Article 10.2 (Scope) shall not apply to services covered by this Annex.

4. Article 8.11 (Local Presence) shall not apply to services covered by this Annex.

5. In the event of any inconsistency between this Annex and any other provision in this Agreement, this Annex shall prevail to the extent of the inconsistency.

(1) Activities referred to in this subparagraph include any regulatory and enforcement activities conducted in pursuit of monetary or exchange rate policies.

Article 3. New Financial Services

1. Each host Party shall endeavour to permit financial institutions of another Party established in the territory of the host Party to supply a new financial service in the territory of the host Party that the host Party would permit its own financial institutions, in like circumstances, to supply without adopting a law or modifying an existing law. (2)

2. Where an application is approved, the supply of the new financial service is subject to relevant licensing, institutional or juridical form, or other requirements of the host Party.

(2) For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

Article 4. Prudential Measures

Notwithstanding any other provision of this Agreement, a Party shall not be prevented from adopting or maintaining measures for prudential reasons, (3) including for the protection of investors, depositors, policy-holders, or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

(3) The Parties understand that "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or financial service suppliers, as well as the safety and financial and operational integrity of payment and clearing systems.

Article 5. Treatment of Certain Information

Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers, or any confidential or proprietary information in the possession of public entities.

Article 6. Recognition

1. A Party may recognise prudential measures of any international standard-setting body, another Party, or a non-Party in determining how its measures relating to financial services shall be applied. (4) Such recognition, which may be achieved through harmonisation or otherwise, may be based on an agreement or arrangement with the international standard-setting body, other Party, or non-Party concerned, or may be accorded autonomously.

2. A Party that is party to an agreement or arrangement referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for other interested Parties, to negotiate their accession to such an agreement or arrangement, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement.

3. Where a Party accords recognition autonomously, it shall afford adequate opportunity for any other Party to demonstrate that the circumstances referred to in paragraph 2 exist.

(4) For greater certainty, nothing in Article 8.6 (Most-Favoured-Nation Treatment) shall be construed to require a Party to accord such recognition to prudential measures of any other Party.

Article 7. Transparency

1. The Parties recognise that transparent measures governing the activities of financial service suppliers are important in facilitating their ability to gain access to, and operate in, each other's markets. Each Party commits to promote regulatory transparency in financial services.

2. Each Party shall ensure that all measures of general application to which this Annex applies are administered in a reasonable, objective, and impartial manner.

3. Each Party shall ensure that measures of general application adopted or maintained by a Party are promptly published, or otherwise made publicly available. (5)

4. To the extent practicable, each Party shall:

(a) publish or make available to interested persons (6) in advance any regulation of general application relating to this Annex that it proposes to adopt, and the purpose of such regulation; and

(b) provide interested persons and other Parties with a reasonable opportunity to comment on such proposed regulation.

5. To the extent practicable, each Party should allow a reasonable period of time between the date of publication of any final regulation of general application and the date when it enters into effect.

6. Each Party shall take such reasonable measures as may be available to it to ensure that the rules of general application adopted or maintained by a self-regulatory organisation of the Party are promptly published or otherwise made available. (7)

7. Each Party shall maintain or establish appropriate mechanisms for responding to enquiries from interested persons of another Party regarding measures of general application covered by this Annex.

8. A Party's regulatory authority shall make available to interested persons of another Party its requirements, including any documentation required, for completing applications relating to the supply of financial services.

9. On request of an applicant in writing, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

10. A Party's regulatory authority shall make an administrative decision on a complete application of a financial service supplier of another Party relating to the supply of a financial service within 180 days, and shall notify the applicant of the decision without undue delay. An application shall not be considered complete until all relevant proceedings are conducted and all necessary information is received. Where it is not practicable for such a decision to be made within 180 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable period of time thereafter.

11. On request of an unsuccessful applicant in writing, a Party's regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for the denial of the application.

(5) For greater certainty, each Party may publish such information in its chosen language.

(6) For the purposes of this Article, the Parties confirm their shared understanding that "interested persons" are persons whose direct financial interest could potentially be affected by the adoption of the regulations of general application.

(7) For greater certainty, each Party may publish such information in its chosen language.

Article 8. Financial Services Exceptions

For greater certainty, nothing in this Annex shall be construed to prevent a Party from adopting or enforcing measures necessary to secure compliance with laws or regulations that are not inconsistent with this Annex, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Parties or between Parties and non- Parties where like conditions prevail, or a disguised restriction on investment in financial institutions or trade in financial services.

Article 9. Transfers of Information and Processing of Information

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information and the processing of information. (8)

2. A Party shall not take measures that prevent:

(a) transfers of information, including transfers of data by electronic or other means, necessary for the conduct of the ordinary business of a financial service supplier in its territory; or

(b) processing of information necessary for the conduct of the ordinary business of a financial service supplier in its territory.

3. Nothing in paragraph 2 prevents a regulatory authority of a Party, for regulatory or prudential reasons, from requiring a financial service supplier in its territory to comply with its laws and regulations in relation to data management and storage and system maintenance, as well as to retain within its territory copies of records, provided that such requirements shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

4. Nothing in paragraph 2 restricts the right of a Party to protect personal data, personal privacy, and the confidentiality of individual records and accounts including in accordance with its laws and regulations, provided that such a right shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

5. Nothing in paragraph 2 shall be construed to require a Party to allow the cross-border supply or consumption abroad of services in relation to which it has not made commitments, including to allow non-resident suppliers of financial services to supply, as a principal, through an intermediary or as an intermediary, the provision and transfer of financial information and financial data processing as referred to in subparagraph (b)(xv) of Article 1 (Definitions).

(8) For greater certainty, a Party may adopt a different regulatory approach, and this paragraph does not affect and is without prejudice to a Partyâs rights and obligations under this Article.

Article 10. Self-regulatory Organisations

If a Party requires a financial institution of another Party to be a member of, participate in, or have access to a self-regulatory organisation to provide a financial service in its territory, that Party shall ensure that the self-regulatory organisation observes that Party's obligations under Article 8.4 (National Treatment).

Article 11. Payment and Clearing Systems

Under the terms and conditions that accord national treatment, each Party shall grant financial institutions of another Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to the Party's lender of last resort facilities. (9)

(9) For greater certainty, a Party need not grant access under this Article to a financial institution of another Party established in its territory if such access or treatment is not granted to its own like financial institutions.

Article 12. Consultations

1. A Party may request consultations with another Party regarding any matter arising under this Agreement that affects financial services. The other Party shall consider such a request.

2. Consultations under this Article shall include the relevant representatives of the contact points specified in Article 13 (Contact Points).

Article 13. Contact Points

1. For the purposes of this Annex, the contact points for financial services are:

(a) for Australia, the Department of the Treasury and the Department of Foreign Affairs and Trade and, as necessary,

Officials from the relevant regulatory authorities, including the Australian Prudential Regulation Authority, the Reserve Bank of Australia, and the Australian Securities and Investment Commission;

(b) for Brunei Darussalam, the Ministry of Finance and Economy and Autoriti Monetari Brunei Darussalam;

(c) for Cambodia, the Ministry of Economy and Finance, the Securities Exchange Commission of Cambodia, the National Bank of Cambodia, and the Ministry of Commerce;

(d) for China, the People's Bank of China, the China Banking and Insurance Regulatory Commission, and the China Securities Regulatory Commission;

(e) for Indonesia, the Ministry of Trade, the Ministry of Finance, the Indonesia Financial Services Authority (OJK), and Bank Indonesia;

(f) for Japan, the Ministry of Foreign Affairs, the Financial Services Agency, or their successors;

(g) for Korea, the Financial Services Commission, and the Ministry of Trade, Industry and Energy;

(h) for Lao PDR, the Bank of the Lao PDR, the Ministry of Finance, and the Lao Securities Commission Office;

(i) for Malaysia, Bank Negara Malaysia and the Securities Commission Malaysia;

(j) for Myanmar, the Ministry of Planning, Finance and Industry, the Central Bank of Myanmar, the Securities and Exchange Commission of Myanmar, and the Ministry of Commerce;

(k) for New Zealand, the Ministry of Foreign Affairs and Trade, in coordination with financial services regulators;

(l) for the Philippines, the Department of Finance, the Bangko Sentral ng Pilipinas, the Securities and Exchange Commission, and the Insurance Commission;

(m) for Singapore, the Monetary Authority of Singapore;

(n) for Thailand, the Ministry of Finance, the Bank of Thailand, the Securities and Exchange Commission, and the Office of Insurance Commission; and

(o) for Viet Nam, the Ministry of Industry and Trade, the State Bank of Viet Nam, and the Ministry of Finance.

2. A Party shall promptly notify the other Parties of any change of its contact point.

Article 14. Dispute Settlement

Panels established pursuant to Chapter 19 (Dispute Settlement) for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

ANNEX 8B. Telecommunications services

Article 1. Definitions

For the purposes of this Annex:

(a) **cost-oriented** means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

(b) **end user** means a subscriber to or a final consumer of public telecommunications networks or services, including a service supplier other than a supplier of public telecommunications networks or services;

(c) **essential facilities** means facilities of a public telecommunications network or service that:

(i) are exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly be economically or technically substituted in order to provide a service;

(d) **interconnection** means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

(e) **international mobile roaming service** means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications networks or services that enables end users to use their home mobile handset or other device for voice, data, or messaging services while outside the territory in which the end users home public telecommunications network is located;

(f) **leased circuits** means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, particular users;

(g) **licence** means any authorisation that a Party may require of a person, in accordance with its laws and regulations, in order for such a person to offer a telecommunications network or service, including concessions, permits, or registrations; (1)

(h) **major supplier** means a supplier of public telecommunications networks or services that has the ability to materially affect the terms of participation, having regard to price and supply, in the relevant market for public telecommunications networks or services as a result of:

(i) control over essential facilities; or

(ii) use of its position in the market;

(i) **non-discriminatory** means treatment no less favourable than that accorded to any other user of like public telecommunications networks or services in like circumstances;

(j) **number portability** means the ability of an end user of public telecommunications services to retain the same telephone numbers when switching between the same category of suppliers of public telecommunications services;

(k) **physical co-location** means access to space in order to install, maintain, or repair equipment at premises owned or controlled and used by a major supplier to supply public telecommunications services;

(l) **public telecommunications network** means public telecommunications infrastructure used to provide public telecommunications services between and among defined network termination points;

(m) **public telecommunications service** means any telecommunications service required, explicitly or in effect, by a Party to be offered to the public generally. Such services may include telegraph, telephone, telex, and data transmission typically involving the real-time transmission of customer-supplied information between two or more defined points without any end-to-end change in the form or content of the customer's information;

(n) telecommunications means the transmission and reception of signals by any electromagnetic means;

(o) telecommunications regulatory body means any body or bodies responsible under the laws and regulations of a Party for the regulation of telecommunications; and

(p) user means an end user or a supplier of public telecommunications networks or services.

(1) For Thailand, concessions are excluded from the definition of "licence" until 2022.

Article 2. Scope

1. This Annex shall apply to measures by a Party affecting trade in public telecommunications services, including:

(a) measures relating to access to and use of public telecommunications networks or services; and

(b) measures relating to obligations regarding suppliers of public telecommunications networks or services.

2. This Annex shall not apply to measures affecting the cable or broadcast distribution of radio or television programming, except to ensure that cable or broadcast service suppliers have access to and use of public telecommunications networks and services.

3. Nothing in this Annex shall be construed to:

(a) require a Party to authorise a service supplier of another Party to establish, construct, acquire, lease, operate, or supply telecommunications networks or services, other than the former Party's commitments under Chapter 8 (Trade in Services); or

(b) require a Party, or require a Party to oblige a service supplier under its jurisdiction, to establish, construct, acquire, lease, operate, or supply telecommunications networks or services not offered to the public generally.

Article 3. Approaches to Regulation

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications services and to enhance consumer welfare, and that regulation may not be needed if there is effective competition. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that each Party may determine how to implement its obligations under this Annex.

2. In this respect, the Parties recognise that a Party may:

(a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market; or

(b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by suppliers of telecommunications services that do not own network facilities.

For greater certainty, a Party that refrains from engaging in regulation in accordance with this Article remains subject to the obligations under this Annex.

Article 4. Access and Use (2)

1. Each Party shall ensure that any service supplier of another Party is accorded access to and use of public telecommunications networks and services, including leased circuits, offered in its territory or across its borders on a timely basis, and on terms and conditions that are reasonable, non-discriminatory, and transparent, inter alia, through paragraphs 2 through 6.

2. Subject to paragraphs 5 and 6, each Party shall ensure that service suppliers of another Party are permitted to:

(a) purchase or lease and attach terminal or other equipment which interfaces with a public telecommunications network and which is necessary to supply their services;

(b) connect leased or owned circuits with public telecommunications networks and services or with circuits leased or owned by another service supplier; (3) and

(c) use operating protocols of their choice.

3. Each Party shall ensure that service suppliers of another Party may use public telecommunications networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications of such service suppliers, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of any Party.

4. Notwithstanding paragraph 3, a Party may take measures that are necessary to ensure the security and confidentiality of messages and to protect the personal information of end users of public telecommunications networks or services, provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and services, other than as necessary to:

(a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services available to the public generally; or

(b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

(a) a requirement to use specified technical interfaces, including interface protocols, for connection with public telecommunications networks and services;

(b) a requirement, where necessary, for the inter-operability of public telecommunications networks and services and to

encourage the achievement of the goals set out in Article 17 (Relation to International Organisations);

(c) type approval of terminal or other equipment which interfaces with public telecommunications networks and technical requirements relating to the attachment of such equipment to public telecommunications networks;

(d) a restriction on connection of leased or owned circuits with public telecommunications networks or services or with circuits leased or owned by other service suppliers; or

(e) a requirement for notification and licensing.

(2) For greater certainty, this Article does not prohibit any Party from requiring a service supplier to obtain a licence to supply a public telecommunications network or service in its territory.

(3) For Viet Nam, networks authorised to establish for the purpose of carrying out, on a non-commercial basis, voice and data telecommunications between members of a closed user group can only directly interconnect with each other where approved in writing by the telecommunications regulatory body. Viet Nam shall ensure that, upon request, an applicant receives the reasons for the denial of an authorisation. Viet Nam shall review this requirement to obtain written approval within two years of the date of entry into force of this Agreement.

Article 5. Number Portability (4)

Each Party shall ensure that a supplier of public telecommunications services in its territory provides number portability for mobile services, to the extent technically and economically feasible, on a timely basis, and on terms and conditions that are reasonable and non-discriminatory.

Article 6. Competitive Safeguards

1. Each Party shall adopt or maintain appropriate measures for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 shall include, in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti- competitive results; and

(c) not making available to other suppliers of public telecommunications networks or services, on a timely basis, technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

(4) This Article shall not apply to Cambodia, Indonesia, Lao PDR, and Myanmar.

Article 7. Treatment by Major Suppliers

Each Party shall ensure that a major supplier in its territory accords to suppliers of public telecommunications networks or services of another Party treatment no less favourable than that such major supplier accords in like circumstances to its subsidiaries and affiliates, or non-affiliated service suppliers, regarding:

(a) the availability, provisioning, rates, or quality of like public telecommunications services; and

(b) the availability of technical interfaces necessary for interconnection.

Article 8. Resale

Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by a major supplier based on the need to promote competition or to benefit the long-term interests of end users. Where a Party has determined that a service must be offered for resale by a major supplier, that Party shall ensure that any major supplier in its territory does not impose unreasonable or discriminatory conditions or limitations on

the resale of that service.

Article 9. Interconnection (5)

Obligations relating to suppliers of public telecommunications networks or services

1. Each Party shall ensure that a supplier of public telecommunications networks or services in its territory provides interconnection with the suppliers of public telecommunications networks or services of another Party.

2. Each Party shall ensure that a supplier of public telecommunications networks or services in its territory does not use or provide commercially sensitive or confidential information of, or relating to, users acquired as a result of interconnection arrangements other than for the purpose of providing these services.

(5) For greater certainty, the term "interconnection", as used in this Annex, does not include access to unbundled network elements.

Obligations relating to major suppliers

3. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications networks and services of another Party at any technically feasible point in the major supplier's network. Such interconnection shall be provided:

(a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates; (6)

(b) of a quality no less favourable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;

(c) on a timely basis, and on terms and conditions (including technical standards and specifications) and at cost- oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier of public telecommunications networks or services of another Party need not pay for network components or facilities that it does not require for the services to be provided; and

(d) upon request, at points in addition to the network termination points offered to the majority of suppliers of public telecommunications networks and services, subject to charges that reflect the cost of construction of necessary additional facilities.

4. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of another Party with the opportunity to interconnect their facilities and equipment with those of the major supplier through at least one of the following options:

(a) a reference interconnection offer approved by the Party's telecommunications regulatory body or any other interconnection offer containing the rates, terms and conditions that the major supplier offers generally to suppliers of public telecommunications services;

(b) the terms and conditions of an interconnection agreement that is in effect; or

(c) a new interconnection agreement through commercial negotiation.

5. Each Party shall ensure that the procedures applicable for interconnection to a major supplier are made publicly available.

6. Each Party shall ensure that a major supplier in its territory makes publicly available either its interconnection agreements or reference interconnection offer or any other interconnection offer.

(6) For greater certainty, interconnection rates may be commercially negotiated between suppliers of public telecommunications networks or services.

Article 10. Provisioning and Pricing of Leased Circuit Services

Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications networks or services of another Party with leased circuit services that are public telecommunications services, on a timely basis, and on terms and conditions and at rates that are reasonable, non-discriminatory, and transparent.

Article 11. Co-location

1. Each Party shall ensure that a major supplier which has control over essential facilities in its territory allows suppliers of public telecommunications networks or services of another Party physical co-location of their equipment necessary for interconnection on a timely basis, and on terms and conditions (including technical feasibility and space availability where applicable) and at rates that are reasonable, non-discriminatory, and transparent.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall endeavour to ensure that a major supplier in its territory provides an alternative solution, on a timely basis, and on terms and conditions and at rates that are reasonable, non-discriminatory, and transparent.

3. A Party may determine, in accordance with its laws and regulations, which premises owned or controlled by major suppliers in its territory are subject to paragraphs 1 and 2, having regard to factors such as the state of competition in the market where co-location is required, and whether such premises can feasibly be economically or technically substituted in order to provide a competing service.

Article 12. Independent Telecommunications Regulatory Body

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services.

2. Each Party shall ensure that the regulatory decisions of, and the procedures used by, its telecommunications regulatory body are impartial with respect to all market participants.

Article 13. Universal Service

Each Party has the right to define the kind of universal service obligations it wishes to maintain. Such obligations shall not be regarded as anti-competitive per se, provided that they are administered in a transparent, non-discriminatory, and competitively neutral manner, and are not more burdensome than necessary for the kind of universal service defined by the Party.

Article 14. Licensing

1. Where a licence is required for the supply of public telecommunications networks or services, the Party shall ensure the public availability of:

(a) all the licensing criteria and procedures that it applies; (7)

(b) the period of time normally required to reach a decision concerning an application for a licence; and

(c) the general terms and conditions of a licence.

2. The Party shall notify an applicant of the outcome of its application without undue delay after a decision has been taken.

3. The Party shall ensure that, upon request, an applicant or a licensee is provided with the reasons for the:

(a) denial of a licence;

(b) imposition of supplier-specific conditions on a licence;

(c) refusal to renew a licence; or

(d) revocation of a licence.

(7) For greater certainty, this subparagraph includes any fee for applying for or obtaining a licence.

Article 15. Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce resources related to telecommunications, including frequencies and numbers, in an objective, timely, transparent, and non-discriminatory manner.

Spectrum

2. Each Party shall make publicly available the current state of allocated frequency bands, but shall not be required to provide detailed identification of frequencies allocated for specific government uses.

3. For greater certainty, a Party's measures allocating and assigning spectrum and managing frequency are not measures that are per se inconsistent with Article 8.5 (Market Access). Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications networks or services, provided that the Party does so in a manner consistent with other provisions of Chapter 8 (Trade in Services). Such right includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. When making a_ spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services, if appropriate. In this regard, each Party may use mechanisms such as auctions, administrative incentive pricing, or unlicensed use, if appropriate, to assign spectrum for commercial use.

Numbers

5. Each Party shall ensure that a supplier of public telecommunications networks or services of another Party established in the territory of the former Party is afforded access to telephone numbers in a non-discriminatory manner.

Article 16. Transparency

1. Each Party shall endeavour to ensure that when its telecommunications regulatory body seeks input on a proposal for a law or regulation, that body provides relevant suppliers of public telecommunications networks or services of another Party operating in its territory an opportunity to comment.

2. Each Party shall ensure that relevant information on conditions affecting access to and use of public telecommunications networks or services is publicly available, including:

(a) tariffs and other terms and conditions of service;

(b) specifications of technical interfaces with such networks and services;

(c) information on bodies responsible for the preparation and adoption of standards affecting such access and use;

(d) conditions for attaching terminal or other equipment; and

(e) requirements for notification or licensing, if any.

Article 17. Relation to International Organisations

The Parties recognise the importance of international standards for global compatibility and inter-operability of telecommunications networks and services and undertake to promote such standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.

Article 18. International Submarine Cable Systems

1. Where a Party has authorised a supplier of public telecommunications networks or services in its territory to operate an international submarine cable system as a public telecommunications network or service, that Party shall ensure that such supplier accords the suppliers of public telecommunications networks or services of another Party reasonable and non-discriminatory treatment for access to the international submarine cable system. (8) (9) (10)

(8) For greater certainty, a Party may determine the point at which access to the international submarine cable system is to be provided.

(9) For greater certainty, this Article does not prohibit a Party from requiring a supplier of public telecommunications networks or services to comply with relevant measures including licensing requirements, provided that such measures are not used as a means of avoiding the Party's obligations under this Article.

(10) For Viet Nam, (i) this Article shall only apply to the international submarine cable landing stations in its territory; (ii) this Article shall only apply to a major supplier that owns, controls, or operates the international submarine cable system including landing stations in its territory; (iii) co-location for international submarine cable landing stations owned, controlled, or operated by the major supplier in its territory shall exclude physical co-location; and (iv) this Article does not prohibit Viet Nam from requiring a supplier of public telecommunications networks or services to comply with relevant measures, including licensing requirements, provided that such measures are not used as a means of preventing access to the international submarine cable system.

Article 19. Unbundling of Network Elements

Each Party shall endeavour to ensure that a major supplier in its territory offers access to network elements on an unbundled basis on terms and conditions that are reasonable, non-discriminatory, and transparent for the supply of public telecommunications services. A Party may determine the network elements required to be made available in its territory, and the suppliers that may obtain those elements, in accordance with its laws and regulations. (11)

(11) For greater certainty, consistent with Article 3 (Approaches to Regulation), a Party may determine the manner in which it implements its obligations under this Article.

Article 20. Access to Poles, Ducts, and Conduits

1. Each Party shall endeavour to ensure that a major supplier in its territory provides access to poles, ducts, conduits, or any other structures as determined by the Party, owned or controlled by the major supplier, to suppliers of public telecommunications services of another Party in the Party's territory, on a timely basis, and on terms and conditions and at rates that are reasonable, non- discriminatory, and transparent, subject to technical feasibility.

2. A Party may determine, in accordance with its laws and regulations, the poles, ducts, conduits, or any other structures to which it requires major suppliers in its territory to provide access in accordance with paragraph 1. When the Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such structures can be substituted in an economically or technically feasible manner in order to provide a competitive service, or other specified public interest factors.

Article 21. Flexibility In the Choice of Technology

1. A Party shall not prevent suppliers of public telecommunications networks or services from having the flexibility to choose the technologies that they use to supply their services.

2. Notwithstanding paragraph 1, a Party may apply a measure that limits the technologies that a supplier of public telecommunications networks or services may use to supply its services, provided that the measure is designed to achieve a legitimate public policy objective and is not prepared, adopted, or applied in a manner that creates unnecessary obstacles to trade.

Article 22. International Mobile Roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade among the Parties and enhance consumer welfare.

2. A Party may take steps to enhance transparency and competition with respect to international mobile roaming services, such as:

(a) ensuring that information regarding retail rates is easily accessible to consumers; and

(b) minimising impediments to roaming, whereby consumers when visiting the territory of a Party from the territory of another Party can access telecommunications services using the device of their choice.

3. The Parties recognise that a Party, where it has the authority to do so, may choose to promote competition with respect to international mobile roaming rates including through commercial arrangements, or to adopt or maintain measures affecting rates for wholesale or retail international roaming services with a view to ensuring that the rates are reasonable. If a Party considers it appropriate, it may cooperate on and implement mechanisms with other Parties to facilitate the

implementation of those measures, including by entering into arrangements with those Parties.

4. If a Party (hereinafter referred to as "the first Party" in this paragraph) chooses to regulate rates or conditions for wholesale or retail international mobile roaming services, it shall ensure that a supplier of public telecommunications services of another Party (hereinafter referred to as "the second Party" in this paragraph) has access to the regulated rates or conditions for wholesale or retail international mobile roaming services for its customers roaming in the territory of the first Party if the second Party has entered into an arrangement with the first Party to reciprocally regulate rates or conditions for wholesale or retail international mobile roaming services for suppliers of the two Parties. (12) The first Party may require suppliers of the second Party to fully utilise commercial negotiations to reach agreement on the terms for accessing such rates or conditions.

5. A Party that ensures access to regulated rates or conditions for wholesale or retail international mobile roaming services in accordance with paragraph 4, shall be deemed to be in compliance with Article 8.6 (Most-Favoured-Nation Treatment), Article 4 (Access and Use), and Article 7 (Treatment by Major Suppliers), with respect to international mobile roaming services.

6. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

(12) For greater certainty: (a) no Party shall, solely on the basis of any obligations owed to it by the first Party under a most-favoured-nation provision, or under a telecommunications-specific non-discrimination provision, in any international trade agreement, seek or obtain for its suppliers the access to regulated rates or conditions for wholesale or retail international mobile roaming services that is provided under this Article. (b) access to the rates or conditions regulated by the first Party shall be available to a supplier of the second Party only if the regulated rates or conditions are reasonably comparable to those reciprocally regulated under the arrangement. The telecommunications regulatory body of the first Party shall, in the case of a disagreement, determine whether the rates or conditions are reasonably comparable. For the purposes of this footnote, "rates or conditions that are reasonably comparable" means rates or conditions agreed to be such by the relevant suppliers or, in the case of a disagreement, determined to be such by the telecommunications regulatory body of the first Party.

Article 23. Resolution of Telecommunications Disputes

1. Each Party shall ensure that a supplier of public telecommunications networks or services of another Party may have timely recourse to its telecommunications regulatory body or dispute resolution body to resolve disputes arising under this Annex in accordance with its laws and regulations.

2. Each Party shall ensure that any supplier of public telecommunications networks or services aggrieved by a final determination or decision of its relevant telecommunications regulatory body may obtain a review of such determination or decision in accordance with its laws and regulations.

3. No Party shall permit the making of an application for review to constitute grounds for non-compliance with the determination or decision of its telecommunications regulatory body, unless its relevant body determines otherwise.

ANNEX 8C. Professional services

1. Each Party shall consult with relevant bodies in its territory to seek to identify professional services where two or more Parties are mutually interested in establishing dialogue on issues that relate to the recognition of professional qualifications, licensing, or registration.

2. Each Party shall encourage its relevant bodies to establish dialogues with the relevant bodies of another Party or Parties, with a view to recognising professional qualifications and facilitating licensing or registration procedures.

3. Each Party shall encourage its relevant bodies to negotiate with the relevant bodies of another Party or Parties on any form of arrangements for the mutual recognition of professional qualifications, licensing, or registration in professional services sectors of mutual interest.

4. Each Party shall encourage its relevant bodies to take into account agreements that relate to professional services in the development of agreements on the recognition of professional qualifications, licensing, and registration.

5. A Party may consider, if feasible, based on a foreign service supplier's home licence or recognised professional body membership, without the need for further written examination:

(a) taking steps to implement a temporary or project specific licensing or registration regime; or

(b) granting such licence or registration, if appropriate.

That temporary or limited licence regime should not operate to prevent a foreign service supplier from gaining a local licence once that service supplier satisfies the applicable local licensing requirements.

6. To facilitate the activities referred to in paragraphs 1 through 3, each Party shall encourage its relevant bodies to work towards the development of mutually acceptable professional standards and criteria in mutually accepted areas, which may include:

(a) education;

(b) examinations;

(c) experience;

(d) conduct and ethics;

(e) professional development and re-certification;

(A scope of practice;

(g) local knowledge; and

(h) consumer protection.

7. On request of another Party, the requested Party shall, where practicable, provide information concerning standards and criteria for the licensing and certification of professional service suppliers, or otherwise provide information relating to the appropriate regulatory or other body to consult regarding these standards and criteria.

8. Each Party shall encourage its relevant bodies to refer to international frameworks, where applicable, in developing common standards and criteria for the relevant professions.

9. The Parties may periodically review the implementation of this Annex through the Committee on Services and Investment.

Chapter 9. Temporary Movement of Natural Persons

Article 9.1. Definitions

For the purposes of this Chapter:

(a) **immigration formality** means a visa, permit, pass, or other document, or electronic authority, granting temporary entry;

(b) **natural person of a Party** means a natural person of a Party as defined in subparagraph (i) of Article 8.1 (Definitions); and

(c) **temporary entry** means entry by a natural person of a Party as covered by this Chapter without the intent to establish permanent residence.

Article 9.2. Scope

1. This Chapter shall apply, as set out in each Party's Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons), to measures by that Party affecting the temporary entry of natural persons of another Party into the territory of the Party, where such persons are engaged in trade in goods, the supply of services, or the conduct of investment. Such persons shall include one or more of the following:

(a) business visitors;

(b) intra-corporate transferees; or

(c) other categories as may be specified in each Party's Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons).

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding nationality, citizenship, residence or employment on a permanent basis.

3. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in a manner as to nullify or impair the benefits accruing to any Party under this Chapter.

4. The sole fact that a Party requires natural persons of another Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to any Party under this Chapter.

Article 9.3. Spouses and Dependants

Each Party may make commitments on spouses or dependants in its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons).

Article 9.4. Grant of Temporary Entry

1. Each Party shall, in accordance with its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons), grant temporary entry or extension of temporary stay in accordance with this Chapter to natural persons of another Party, provided that those natural persons:

(a) follow prescribed application procedures for the immigration formality sought; and

(b) meet all relevant eligibility requirements for temporary entry into, or extension of temporary stay in, the granting Party.

2. In accordance with its laws and regulations, any fees imposed by a Party in respect of the processing of an immigration formality shall be reasonable in that they do not, in themselves, represent an unjustifiable impediment to the movement of natural persons of another Party under this Chapter.

3. A Party may deny temporary entry or extension of temporary stay to any natural person of another Party who does not comply with subparagraph 1(a) or (b).

4. The sole fact that a Party grants temporary entry to a natural person of another Party pursuant to this Chapter shall not be construed to exempt that natural person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.

Article 9.5. Schedules of Specific Commitments on Temporary Movement of Natural Persons

Each Party shall set out in its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons) its commitments for the temporary entry into and temporary stay in its territory of natural persons of another Party covered by Article 9.2 (Scope). These Schedules shall specify the conditions and limitations governing those commitments, including the length of stay, for each category of natural persons included therein. (1)

(1) For the purposes of this Article, conditions and limitations include any economic needs testing requirement, which no Party may impose unless specified in its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons).

Article 9.6. Processing of Applications

1. Where an application for an immigration formality is required by a Party, that Party shall process, as expeditiously as possible, complete applications for immigration formalities or extensions thereof received from natural persons of another Party covered by Article 9.2 (Scope).

2. Each Party shall, upon request and within a reasonable period after receiving a complete application for an immigration formality from a natural person of another Party covered by Article 9.2 (Scope), notify the applicant of:

(a) the receipt of the application; and

(b) the decision concerning the application including, if approved, the period of stay and other conditions.

3. Each Party shall, upon request and within a reasonable period after receiving a complete application for an immigration formality from a natural person of another Party covered by Article 9.2 (Scope), endeavour to notify the applicant of the status of the application.

4. To the extent permissible under its laws and regulations, each Party shall endeavour to accept applications for immigration formalities in electronic format under the equivalent conditions of authenticity as paper submissions.

5. Where appropriate, each Party shall accept copies of documents authenticated in accordance with its laws and regulations in place of original documents, to the extent its laws and regulations permit.

Article 9.7. Transparency

1. Each Party shall:

(a) publish or otherwise make publicly available explanatory material on all relevant immigration formalities which pertain to or affect the operation of this Chapter;

(b) publish or otherwise make publicly available in its territory and to the other Parties, the requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable natural persons of the other Parties to become acquainted with those requirements;

(c) upon modifying or amending any immigration measure that affects temporary entry of natural persons of another Party, ensure that the information published or otherwise made publicly available pursuant to subparagraph (b) is updated as soon as possible; and

(d) maintain mechanisms to respond to enquiries from interested persons regarding its laws and regulations affecting the temporary entry and temporary stay of natural persons.

2. Each Party shall endeavour to publish, to the extent practicable, the information referred to in paragraph 1 in the English language.

Article 9.8. Cooperation

The Parties may discuss mutually agreed areas of cooperation to further facilitate the temporary entry and temporary stay of natural persons of the other Parties, which shall take into consideration areas proposed by the Parties during the course of negotiations or other areas as may be identified by the Parties.

Article 9.9. Dispute Settlement

1. Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.

2. No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) regarding a refusal to grant temporary entry unless:

(a) the matter involves a pattern of practice; and

(b) the natural persons affected have exhausted all available administrative remedies regarding the particular matter.

3. For the purposes of subparagraph 2(b), the administrative remedies shall be deemed to be exhausted if a final determination in the matter has not been issued by the other Party within a reasonable period of time after the date of institution of the proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the natural persons concerned.

Chapter 10. Investment

Article 10.1. Definitions

For the purposes of this Chapter:

(a) **covered investment** means, with respect to a Party, an investment in its territory of an investor of another Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter, and which, where applicable, has been admitted (1) (2) by the host Party, subject to its relevant laws, regulations, and policies; (3)

(b) **freely usable currency** means a freely usable currency as determined by the IMF under the IMF Articles of Agreement as may be amended;

(c) **investment** means every kind of asset that an investor owns or controls, directly or indirectly, and that has the

characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gains or profits, or the assumption of risk. Forms that an investment may take include:

(i) shares, stocks, and other forms of equity participation in a juridical person, including rights derived therefrom;

(ii) bonds, debentures, loans, (4) and other debt instruments of a juridical person and rights derived therefrom; (5)

(iii) rights under contracts, including turnkey, construction, management, production, or revenue- sharing contracts;

(iv) intellectual property rights and goodwill, which are recognised pursuant to the laws and regulations of the host Party;

(v) claims to money or to any contractual performance related to a business and having financial value; (6)

(vi) rights conferred pursuant to the laws and regulations of the host Party or contracts, such as concessions, licences, authorisations, and permits, including those for the exploration and exploitation of natural resources; and

(vii) movable and immovable property, and other property rights, such as leases, mortgages, liens, or pledges. (7)

The term "investment" does not include an order or judgment entered in a judicial or administrative action or an arbitral proceeding.

For the purposes of the definition of investment in this subparagraph, returns that are invested shall be treated as an investment and any alteration of the form in which assets are invested or reinvested shall not affect their character as an investment;

(d) **investor of a non-Party** means, with respect to a Party, an investor that seeks to make, (8) is making, or has made an investment in the territory of that Party, that is not an investor of a Party;

(e) **investor of a Party** means a natural person of a Party or a juridical person of a Party that seeks to make, (9) is making, or has made an investment in the territory of another Party;

(f) **juridical person** means any entity constituted or organised under applicable law, whether or not for profit, and whether private or governmental, including any corporation, trust, partnership, joint venture, sole proprietorship, association or similar organisation, and a branch of a juridical person; (10) (11) (12)

(g) **juridical person of a Party** means a juridical person constituted or organised under the law of that Party, and a branch located in the territory of that Party and carrying out business activities there; (13) (14) (15)

(h) **measure by a Party** means any measure adopted or maintained by:

(i) central, regional, or local governments and authorities of that Party; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities of that Party; and

(i) **natural person of a Party** means, for the purposes of subparagraph (e), a natural person who under the law of that Party:

(i) is a national or citizen of that Party; or

(ii) has the right of permanent residence in that Party, where both that Party and another Party recognise permanent residents and accord substantially the same treatment to their respective permanent residents as they accord to their respective nationals in respect of measures affecting investment.

(1) For Malaysia and Thailand, protection under this Chapter shall be accorded to covered investments which, where applicable, have been specifically approved in writing for protection by their respective competent authorities in accordance with their respective laws, regulations, and policies.

(2) For Cambodia, Indonesia, and Viet Nam, "has been admitted" means "has been specifically registered or approved in writing, as the case may be".

(3) For the purposes of this definition, "policies" means those policies affecting an investment that are endorsed and announced by the goverment of a Party in a written form and made publicly available in a written form.

(4) A loan issued by a Party to another Party is not an investment.

(5) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due and result from the sale of goods or services, are less likely to have such characteristics.

(6) For greater certainty, investment does not mean claims to money that arise solely from: (a) commercial contracts for the sale of goods or services; or (b) the extension of credit in connection with such commercial contracts.

(7) For greater certainty, market share, market access, expected gains, and opportunities for profit-making are not, by themselves, investments.

(8) For greater certainty, the Parties understand that an investor "seeks to make" an investment when that investor has taken concrete action or actions to make an investment. Where a notification or approval process is required for making an investment, an investor that "seeks to make" an investment refers to an investor that has initiated such notification or approval process.

(9) For greater certainty, the Parties understand that an investor "seeks to make" an investment when that investor has taken concrete action or actions to make an investment. Where a notification or approval process is required for making an investment, an investor that "seeks to make" an investment refers to an investor that has initiated such notification or approval process.

(10) For greater certainty, a branch of a juridical person does not have any right to make any claim against any Party under this Agreement.

(11) For greater certainty, the inclusion of a "branch" in the definition of "juridical person" is without prejudice to a Party's ability to treat a branch under its law as an entity that has no independent legal existence and is not separately organised.

(12) A branch of a legal entity of a non-Party shall not be considered as a juridical person of a Party.

(13) For greater certainty, a branch of a juridical person does not have any right to make any claim against any Party under this Agreement.

(14) For greater certainty, the inclusion of a "branch" in the definition of "juridical person of a Party" is without prejudice to a Party's ability to treat a branch under its law as an entity that has no independent legal existence and is not separately organised.

(15) A branch of a legal entity of a non-Party shall not be considered as a juridical person of a Party.

Article 10.2. Scope

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:

(a) investors of another Party; and

(b) covered investments.

2. This Chapter shall not apply to:

(a) government procurement;

(b) subsidies or grants provided by a Party;

(c) services supplied in the exercise of governmental authority by the relevant body or authority of a Party. For the purposes of this Chapter, "service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

(d) measures adopted or maintained by a Party to the extent that they are covered by Chapter 8 (Trade in Services); and

(e) measures adopted or maintained by a Party to the extent that they are covered by Chapter 9 (Temporary Movement of Natural Persons).

For greater certainty, this Chapter does not bind any Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.

3. Notwithstanding subparagraph 2(d), Article 10.5 (Treatment of Investment), Article 10.7 (Senior Management and Board of Directors), (16) Article 10.9 (Transfers), Article 10.11 (Compensation for Losses), Article 10.12 (Subrogation), and Article 10.13 (Expropriation) shall apply, mutatis mutandis, to any measure affecting the supply of a service by a service supplier of a Party through commercial presence in the territory of any other Party within the meaning of Chapter 8 (Trade in Services), but only to the extent that any such measure relates to a covered investment and an obligation under this Chapter.

(16) Article 10.7 (Senior Management and Board of Directors) shall apply to measures affecting the supply of a service only for a Party making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures).

Article 10.3. National Treatment (17)

1. Each Party shall accord to investors of another Party, and to covered investments, treatment no less favourable than that it accords, in like circumstances, to its own investors and their investments with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that government to investors, and to the investments of investors, of the Party of which it forms a part.

(17) For greater certainty, whether the treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

Article 10.4. Most-favoured-nation Treatment (18)(19)

1. Each Party shall accord to investors of another Party treatment no less favourable than that it accords, in like circumstances, to investors of any other Party or non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any other Party or non- Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. For greater certainty, the treatment referred to in paragraphs 1 and 2 does not encompass any international dispute resolution procedures or mechanisms under other existing or future international agreements.

(18) This Article shall not apply to Cambodia, Lao PDR, Myanmar, and Viet Nam. The treatment under this Article shall not be accorded to investors of Cambodia, Lao PDR, Myanmar, and Viet Nam, and to covered investments of such investors.

(19) For greater certainty, whether the treatment is accorded in âlike circumstancesâ under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

Article 10.5. Treatment of Investment (20)

1. Each Party shall accord to covered investments fair and equitable treatment and full protection and security, in accordance with the customary international law minimum standard of treatment of aliens.

2. For greater certainty:

(a) fair and equitable treatment requires each Party not to deny justice in any legal or administrative proceedings;

(b) full protection and security requires each Party to take such measures as may be reasonably necessary to ensure the physical protection and security of the covered investment; and

(c) the concepts of fair and equitable treatment and full protection and security do not require treatment to be accorded to covered investments in addition to or beyond that which is required under the customary international law minimum standard of treatment of aliens, and do not create additional substantive rights.

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

(20) This Article shall be interpreted in accordance with Annex 10A (Customary International Law).

Article 10.6. Prohibition of Performance Requirements

1. No Party shall impose or enforce, as a condition for establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of any other Party, any of the following requirements: (21)

(a) to export a given level or percentage of goods;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from persons in its territory;

(d) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with investments of that investor;

(e) to restrict sales of goods in its territory that such investments produce by relating such sales to the volume or value of its exports or foreign exchange earnings;

(f) to transfer a particular technology, a production process, or other proprietary knowledge to a person in its territory;

(g) to supply exclusively from the territory of the Party the goods that such investments produce to a specific regional market or to the world market; or

(h) to adopt a given rate or amount of royalty under a licence contract, in regard to any licence contract in existence at the time the requirement is imposed or enforced, or any future licence contract freely entered into between the investor and a person in its territory, provided that the requirement is imposed or enforced in a manner that constitutes direct interference with that licence contract by an exercise of non-judicial governmental authority of a Party. (22) For greater certainty, this subparagraph does not apply when the licence contract is concluded between the investor and a Party.

Notwithstanding this Article, subparagraphs (f) and (h) shall not apply to Cambodia, Lao PDR, and Myanmar.

2. No Party shall condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of any other Party on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from persons in its territory;

(c) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with investments of that investor; or

(d) to restrict sales of goods in its territory that such investments produce by relating such sales to the volume or value of its

exports or foreign exchange earnings.

3. (a) Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of any other Party, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

(b) Subparagraphs 1(f) and (h) shall not apply:

(i) if a Party authorises use of an intellectual property right in accordance with Article 31 or Article 31 bis of the TRIPS Agreement, (23) or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

(ii) if the requirement is imposed or enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anti-competitive under the Party's competition laws and regulations.

(c) Subparagraph 1(h) shall not apply if the requirement is imposed or enforced by a tribunal or competent authority as equitable remuneration under the Partyâs copyright laws and regulations.

(d) Subparagraphs 1(a) through (c), 2(a), and 2(b) shall not apply to qualification requirements for goods with respect to export promotion and foreign aid programmes.

(e) Subparagraphs 2(a) and (b) shall not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

4. For greater certainty, paragraphs 1 and 2 shall not apply to any requirement other than those set out in those paragraphs.

21 For greater certainty, each Party may maintain existing measures or adopt new or more restrictive measures that do not conform with obligations under this Article, as set out in List A and List B of its Schedule in Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment).

22 For the purposes of this subparagraph, a "licence contract" means any contract conceming the licensing of technology, a production process, or other proprietary knowledge.

(23) This includes any amendment to the TRIPS Agreement implementing paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) adopted at Doha on 14 November 2001.

Article 10.7. Senior Management and Board of Directors

1. No Party shall require that a juridical person of that Party that is a covered investment appoint to a senior management position a natural person of any particular nationality.

2. A Party may require that a majority of the board of directors, or any committee thereof, of a juridical person of that Party that is a covered investment, be of a particular nationality or resident in the territory of that Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Article 10.8. Reservations and Non-conforming Measures

1. Article 10.3 (National Treatment), Article 10.4 (Most-Favoured- Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors) shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in List A of its Schedule in Annex Il (Schedules of Reservations and Non-Conforming Measures for Services and Investment);

(ii) a regional level of government, as set out by that Party in List A of its Schedule in Annex Il (Schedules of Reservations and Non-Conforming Measures for Services and Investment); or

(iii) a local level of government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); and

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure:

(i) for Cambodia, Indonesia, Lao PDR, Myanmar, and the Philippines, as it existed at the date of entry into force of this Agreement; and

(ii) for Australia, Brunei, China, Japan, Korea, Malaysia, New Zealand, Singapore, Thailand, and Viet Nam, as it existed immediately before the amendment,

with Article 10.3 (National Treatment), Article 10.4 (Most- Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors).

2. Article 10.3 (National Treatment), Article 10.4 (Most-Favoured- Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors) shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out by that Party in List B of its Schedule in Annex lll (Schedules of Reservations and Non-Conforming Measures for Services and Investment).

3. Notwithstanding subparagraph 1(c)(ii), for five years after the date of entry into force of this Agreement, Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors) shall not apply to an amendment to any non-conforming measure referred to in subparagraph 1(a) to the extent that the amendment does not decrease the conformity of the measure as it existed at the date of entry into force of this Agreement with Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors).

4. No Party shall, under any measure adopted after the date of entry into force of this Agreement and covered by List B of its Schedule in Annex lll (Schedules of Reservations and Non-Conforming Measures for Services and Investment), require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment that exists at the time the measure becomes effective, unless otherwise specified in the initial approval by the relevant authorities.

5. Article 10.3 (National Treatment) and Article 10.4 (Most- Favoured-Nation Treatment) shall not apply to any measure that falls within Article 5 of the TRIPS Agreement, and any measure that is covered by an exception to, or derogation from, the obligations imposed by Article 11.7 (National Treatment), or imposed by Article 3 or 4 of the TRIPS Agreement.

Article 10.9. Transfers

1. Each Party shall allow all transfers relating to a covered investment to be made freely and without delay into and out of its territory. Such transfers include:

(a) contributions to capital, including the initial contribution;

(b) profits, capital gains, dividends, interest, royalty payments, technical assistance and technical and management fees, licence fees, and other current income accruing from the covered investment;

(c) proceeds from the sale or liquidation of all or any part of the covered investment;

(d) payments made under a contract, including a loan agreement;

(e) payments made pursuant to Article 10.11 (Compensation for Losses) and Article 10.13 (Expropriation);

(f) payments arising out of the settlement of a dispute by any means including adjudication, arbitration, or the agreement of the parties to the dispute; and

(g) earnings and other remuneration of personnel engaged from abroad in connection with the covered investment.

2. Each Party shall allow such transfers relating to a covered investment to be made in any freely usable currency at the market rate of exchange prevailing at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its laws and regulations relating to:

(a) bankruptcy, insolvency, or the protection of the rights of creditors including employees;

(b) issuing, trading, or dealing in securities, futures, options, or derivatives;

(c) criminal or penal offences and the recovery of the proceeds of crime;

(d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(e) ensuring compliance with awards or orders or judgments in judicial or administrative proceedings;

(f) taxation; (24)

(g) social security, public retirement, superannuation, compulsory savings schemes, or other arrangements to provide pension or similar retirement benefits;

(h) severance entitlement of employees; and

(i) requirements to register and satisfy other formalities imposed by the central bank and other relevant authorities of that Party.

4. Nothing in this Chapter shall affect the rights and obligations of a Party as a member of the IMF under the IMF Articles of Agreement as may be amended, including the use of exchange actions which are in conformity with the IMF Articles of Agreement as may be amended, provided that the Party shall not impose restrictions on any capital transactions inconsistently with the obligations under this Chapter regarding such transactions, except under Article 17.15 (Measures to Safeguard the Balance of Payments) or on request of the IMF.

(24) For greater certainty, this also includes the adoption or enforcement of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes including any taxation measure that differentiates between persons based on their place of residence or incorporation.

Article 10.10. Special Formalities and Disclosure of Information

1. Nothing in Article 10.3 (National Treatment) shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, including a requirement that covered investments be legally constituted under its laws or regulations, provided that such formalities do not materially impair the protections afforded by that Party to investors of another Party and covered investments pursuant to this Chapter.

2. Notwithstanding Article 10.3 (National Treatment) and Article 10.4 (Most-Favoured-Nation Treatment), a Party may require an investor of another Party or its covered investment to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect, to the extent possible, any confidential information which has been provided from any disclosure that would prejudice the legitimate commercial interests or the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its laws and regulations.

Article 10.11. Compensation for Losses

Each Party shall accord to investors of another Party, and their covered investments, with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict, civil strife, or state of emergency, treatment no less favourable than that it accords, in like circumstances, to:

(a) its own investors and their investments; and

(b) investors of any other Party or non-Party, and their investments.

Article 10.12. Subrogation

1. If a Party, or an agency designated by a Party, makes a payment to an investor of that Party under a guarantee, a contract of insurance or other form of indemnity that it has granted in respect of a covered investment, the other Party in whose territory the covered investment was made shall recognise the subrogation or transfer of any right or claim in respect of such covered investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.

2. Where a Party or an agency designated by a Party has made a payment to an investor of that Party and has taken over any right or claim of the investor, that investor shall not pursue that right or claim against the other Party in whose territory the covered investment was made, unless that investor is authorised to act on behalf of the Party making the payment or the agency designated by that Party.

3. In the exercise of subrogated or transferred right or claim, a Party or an agency designated by a Party exercising such right or claim shall disclose the coverage of the claims arrangement with its investors to the relevant Party.

Article 10.13. Expropriation (25)

1. No Party shall expropriate or nationalise a covered investment either directly or through measures equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation" in this Chapter), except:

(a) for a public purpose; (b) in a non-discriminatory manner;

(c) on payment of compensation in accordance with paragraphs 2 and 3; and

(d) in accordance with due process of law.

2. The compensation referred to in subparagraph 1(c) shall:

(a) be paid without delay; (26)

(b) be equivalent to the fair market value of the expropriated investment at the time when the expropriation was publicly announced, (27) or when the expropriation occurred, whichever is earlier (hereinafter referred to as the "date of expropriation" in this Chapter); (28) (29) (30)

(c) not reflect any change in value occurring because the intended expropriation had become known earlier; and

(d) be effectively realisable and freely transferable.

3. In the event of delay, the compensation shall include an appropriate interest in accordance with the expropriating Party's laws, regulations, and policies provided that such laws, regulations, and policies are applied on a non-discriminatory basis.

4. This Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights, or to the revocation, limitation, or creation of intellectual property rights, to the extent that such issuance, revocation, limitation, or creation is consistent with Chapter 11 (Intellectual Property) and the TRIPS Agreement. (31)

5. Notwithstanding paragraphs 1 through 3, any measure of expropriation relating to land shall be as defined in the existing laws and regulations of the expropriating Party, and shall be, for the purposes of and on payment of compensation, in accordance with the aforesaid laws and regulations. Such compensation shall be subject to any subsequent amendments to the aforesaid laws and regulations relating to the amount of compensation where such amendments follow the general trends in the market value of the land.

(25) This Article shall be interpreted in accordance with Annex 10B (Expropriation).

(26) The Parties understand that there may be legal and administrative processes that need to be observed before payment can be made.

(27) For the Philippines, the time when the expropriation was publicly announced for the purpose of calculating the fair market value of the expropriated investment refers to the date of filing of the Petition for Expropriation.

(28) For Australia, Brunei Darussalam, Korea, Malaysia, New Zealand, and Singapore, the date of expropriation for the purpose of calculating the fair market value of the expropriated investment means the date immediately before the expropriation occurs.

(29) For Cambodia, Lao PDR, Myanmar, and Viet Nam, the date of expropriation for the purpose of calculating the fair market value of the expropriated investment means the date when the expropriation decision is issued by the competent authority.

(30) For Thailand, the date of expropriation for the purpose of calculating the fair market value of the expropriated investment means the date when the expropriation occurs.

(31) For greater certainty, the Parties recognise that, for the purposes of this Article, the “revocation” of intellectual property rights includes the cancellation or nullification of such rights, and the “limitation” of intellectual property rights includes exceptions to such rights

Article 10.14. Denial of Benefits (32)

1. A Party may deny the benefits of this Chapter to an investor of another Party that is a juridical person of that other Party and to investments of that investor if the juridical person:

(a) is owned or controlled by a person of a non-Party or of the denying Party; and

(b) has no substantial business activities in the territory of any Party other than the denying Party.

2. A Party may deny the benefits of this Chapter to an investor of another Party that is a juridical person of that other Party and to investments of that investor if persons of a non-Party own or control the juridical person and the denying Party adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person or to its investments.

3. A Party may deny the benefits of this Chapter to an investor of another Party that is a juridical person of that other Party and to investments of that investor if persons of a non-Party own or control the juridical person and the denying Party does not maintain diplomatic relations with the non-Party.

4. Notwithstanding paragraph 1, Thailand may, under its applicable laws and regulations, deny the benefits of this Chapter relating to the admission, establishment, acquisition, and expansion of investments to an investor of another Party that is a juridical person of such Party and to investments of such an investor where Thailand establishes that the juridical person is owned or controlled by natural persons or juridical persons of a non-Party or of Thailand.

5. For the purposes of this Article, for Thailand, a juridical person is:

(a) "owned" by natural persons or juridical persons of a Party or of a non-Party if more than 50 per cent of the equity interest in it is beneficially owned by such persons; and

(b) "controlled" by natural persons or juridical persons of a Party or of a non-Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.

6. The Philippines may deny the benefits of this Chapter to investors of another Party and to investments of that investor where it establishes that such investor has made an investment in breach of the provisions of Commonwealth Act No. 108, entitled An Act to Punish Acts of Evasion of Laws on the Nationalization of Certain Rights, Franchises or Privileges, as amended by Presidential Decree No. 715, otherwise known as The AntiDummy Law, as may be amended.

7. A Party may deny the benefits of this Chapter to an investor of another Party or of a non-Party and to investments of that investor where such an investor has made an investment in breach of the provisions of the denying Party’s laws and regulations that implement the Financial Action Task Force Recommendations.

(32) A Party's right to deny the benefits of this Chapter as provided for in this Article may be exercised at any time.

Article 10.15. Security Exceptions

Notwithstanding Article 17.13 (Security Exceptions), nothing in this Chapter shall be construed to:

(a) require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or

(b) preclude a Party from applying measures that it considers necessary for:

(i) the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security; or

(ii) the protection of its own essential security interests.

Article 10.16. Promotion of Investment

The Parties shall endeavour to promote and increase awareness of the region as an investment area including through:

(a) encouraging investments among the Parties;

(b) organising joint investment promotion activities between or among Parties;

(c) promoting business matching events;

(d) organising and supporting the organisation of various briefings and seminars on investment opportunities and on investment laws, regulations, and policies; and

(e) conducting information exchanges on other issues of mutual concern relating to investment promotion.

Article 10.17. Facilitation of Investment

1. Subject to its laws and regulations, each Party shall endeavour to facilitate investments among the Parties, including through:

(a) creating the necessary environment for all forms of investment;

(b) simplifying its procedures for investment applications and approvals;

(c) promoting the dissemination of investment information, including investment rules, laws, regulations, policies, and procedures; and

(d) establishing or maintaining contact points, one-stop investment centres, focal points, or other entities in the respective Party to provide assistance and advisory services to investors, including the facilitation of operating licences and permits.

2. Subject to its laws and regulations, a Party's activities under subparagraph 1(d) may include, to the extent possible, assisting investors of any other Party and covered investments to amicably resolve complaints or grievances with government bodies which have arisen during their investment activities by:

(a) receiving and, where appropriate, considering referring or giving due consideration to complaints raised by investors relating to government activities impacting their covered investment; and

(b) providing assistance, to the extent possible, in resolving difficulties experienced by the investors in relation to their covered investments.

3. Subject to its laws and regulations, each Party may, to the extent possible, consider establishing mechanisms to make recommendations to its relevant government bodies addressing recurrent issues affecting investors of another Party.

4. The Parties shall endeavour to facilitate meetings between their respective competent authorities aimed at exchanging knowledge and approaches to better facilitate investment.

5. Nothing in this Article shall be subject to, or otherwise affect, any dispute resolution proceedings under this Agreement.

Article 10.18. Work Programme

1. The Parties shall, without prejudice to their respective positions, enter into discussions on:

(a) the settlement of investment disputes between a Party and an investor of another Party; and

(b) the application of Article 10.13 (Expropriation) to taxation measures that constitute expropriation,

no later than two years after the date of entry into force of this Agreement, the outcomes of which are subject to agreement by all Parties.

2. The Parties shall conclude the discussions referred to in paragraph 1 within three years from the date of commencement of the discussions.

ANNEX 10A. Customary international law

The Parties confirm their shared understanding that âcustomary international lawâ generally and as specifically referenced in Article 10.5 (Treatment of Investment), including in relation to the customary international law minimum standard of treatment of aliens, results from a general and consistent practice of States that they follow from a sense of legal obligation.

ANNEX 10B. Expropriation

The Parties confirm their shared understanding that:

1. An action or a series of related actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest (1) in a covered investment.

2. Article 10.13 (Expropriation) addresses two situations:

(a) the first situation is direct expropriation, where a covered investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure; and

(b) the second situation is where an action or a series of related actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

3. The determination of whether an action or series of related actions by a Party, in a specific fact situation, constitutes an expropriation of the type referred to in subparagraph 2(b) requires a case-by-case, a fact-based inquiry that considers, among other factors:

(a) the economic impact of the government action, although the fact that an action or a series of related actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that such an expropriation has occurred;

(b) whether the government action breaches the government's prior binding written commitment to the investor, whether by contract, licence, or other legal document; and

(c) the character of the government action, including its objective and context. (2)

4. Non-discriminatory regulatory actions by a Party that are designed and applied to achieve legitimate public welfare objectives, such as the protection of public health, safety, public morals, the environment, and real estate price stabilisation, do not constitute expropriation of the type referred to in subparagraph 2(b).

(1) For the purposes of this Annex, "property interest" refers to such property interest as may be recognised under the laws and regulations of that Party.

(2) For Korea, a relevant consideration could include whether the investor bears a disproportionate burden, such as a special sacrifice that exceeds what the investor or investment should be expected to endure for the public interest. This footnote does not prejudice the determination of the character of the government action of any other Party.

Chapter 11. Intellectual Property

Section A. General Provisions and Basic Principles

Article 11.1. Objectives

1. The objective of this Chapter is to reduce distortion and impediments to trade and investment by promoting deeper economic integration and cooperation through the effective and adequate creation, utilisation, protection, and enforcement of intellectual property rights, while recognising:

a) (a) the Parties' different levels of economic development and capacity, and differences in national legal systems;

b) (b) the need to promote innovation and creativity;

c) (c) the need to maintain an appropriate balance between the rights of intellectual property right holders and the legitimate interests of users and the public interest;

d) (d) the importance of facilitating the diffusion of information, knowledge, content, culture, and the arts; and

e) (e) that establishing and maintaining a transparent intellectual property system and promoting and maintaining adequate and effective protection and enforcement of intellectual property rights provide confidence to right holders and users.

2. The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

Article 11.2. Scope of Intellectual Property

For the purposes of this Chapter, âintellectual propertyâ means copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout-designs (topographies) of integrated circuits, protection of plant varieties, and protection of undisclosed information, as referred to in Sections 1 through 7 of Part II of the TRIPS Agreement.

Article 11.3. Relation to other Agreements (1)

In relation to intellectual property, in the event of any inconsistency between a provision of this Chapter and a provision of the TRIPS Agreement, the latter shall prevail to the extent of such inconsistency.

(1) For the purposes of the application of this Article, the Parties agree that the fact that this Chapter provides for more extensive protection of intellectual property than is required by the TRIPS Agreement does not mean there is an inconsistency within the meaning of this Article and paragraph 2 of Article 20.2 (Relation to Other Agreements).

Article 11.4. Principles

1. A Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition and to promote the public interest in sectors of vital importance to its socio-economic and technological development, provided that such measures are consistent with this Chapter.

2. Appropriate measures, provided that they are consistent with this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology. (2)

3. Further to paragraph 2, the Parties recognise the need to foster competition.

(2) The Parties recognise that intellectual property rights by themselves do not necessarily confer market dominance.

Article 11.5. Obligations

Each Party shall give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, implement in its law more extensive protection than is required by this Chapter, provided that such protection does not contravene this Chapter. Each Party shall be free to determine the appropriate method of implementing this Chapter within its own legal system and practice.

Article 11.6. Exhaustion of Intellectual Property Rights

Each Party shall be free to establish its own regime for exhaustion of intellectual property rights.

Article 11.7. National Treatment

1. Each Party shall accord to the nationals (3) of other Parties treatment no less favourable than that it accords to its own nationals with regard to the protection (4) of intellectual property, subject to the exceptions provided in the TRIPS Agreement and in the multilateral agreements administered by the World Intellectual Property Organization (hereinafter referred to as "WIPO" in this Chapter), to which that Party is party.

2. A Party may avail itself of the exceptions referred to in paragraph 1 in relation to its judicial and administrative

procedures, including requiring a national of another Party to designate an address for service of process in its territory, or to appoint an agent in its territory, only where such exceptions are:

(a) necessary to secure compliance with its laws and regulations that are not inconsistent with this Chapter; and

(b) not applied in a manner that would constitute a disguised restriction on trade.

3. The obligations under paragraph 1 do not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

(3) For the purposes of this paragraph, a "national" of a Party shall include, in respect of the relevant right, any person as defined in subparagraph (t) of Article 1.2 (General Definitions) of that Party that would meet the criteria for eligibility for protection provided for in the agreements listed in Article 11.9 (Multilateral Agreements) and the TRIPS Agreement.

(4) For the purposes of this paragraph, "protection" includes matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically covered by this Chapter. Further, for the purposes of this paragraph, "protection" also includes the provisions concerning: (a) effective technological measures set out in Artide 11.14 (Circumvention of Effective Technological Measures); and (b) rights management information set out in Article 11.15 (Protection for Electronic Rights Management Information).

Article 11.8. The Trips Agreement and Public Health

1. The Parties reaffirm the Doha Declaration on the TRIPS Agreement and Public Health adopted on 14 November 2001. In particular, the Parties have reached the following understandings regarding this Chapter:

(a) the Parties affirm the right to fully use the flexibilities as duly recognised in the Doha Declaration on the TRIPS Agreement and Public Health;

(b) the Parties agree that this Chapter does not and should not prevent a Party from taking measures to protect public health; and

(c) the Parties affirm that this Chapter can and should be interpreted and implemented in a manner supportive of each Party's right to protect public health and, in particular, to promote access to medicines for all.

2. In recognition of the Parties' commitment to access to medicines and public health, this Chapter does not and should not prevent the effective utilisation of Article 31 bis of the TRIPS Agreement, and the Annex and Appendix to the Annex to the TRIPS Agreement.

3. The Parties recognise the importance of contributing to the international efforts to implement Article 31bis of the TRIPS Agreement, and the Annex and Appendix to the Annex to the TRIPS Agreement.

Article 11.9. Multilateral Agreements

1. Each Party shall ratify or accede to the following multilateral agreements to which it is not yet party:

(a) the Paris Convention for the Protection of Industrial Property done at Paris on 20 March 1883, as revised at Stockholm on 14 July 1967 and amended on 28 September 1979 (hereinafter referred to as the "Paris Convention" in this Chapter);

(b) the Berne Convention for the Protection of Literary and Artistic Works done at Berne on 9 September 1886, as revised at Paris on 24 July 1971 and amended on 28 September 1979 (hereinafter referred to as the "Berne Convention" in this Chapter);

(c) the Patent Cooperation Treaty done at Washington on 19 June 1970, as amended on 28 September 1979 and modified on 3 February 1984 and 3 October 2001 (hereinafter referred to as the "PCT" in this Chapter);

(d) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on 27 June 1989, as amended on 3 October 2006 and 12 November 2007 (hereinafter referred to as the "Madrid Protocol" in this Chapter);

(e) the WIPO Copyright Treaty adopted in Geneva on 20 December 1996 (hereinafter referred to as the "WCT" in this Chapter);

(f) the WIPO Performances and Phonograms Treaty adopted in Geneva on 20 December 1996 (hereinafter referred to as the "WPPT" in this Chapter); and

l(g the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled adopted in Marrakesh on 27 June 2013 (hereinafter referred to as the "Marrakesh Treaty" in this Chapter).

2. Each Party shall endeavour to ratify or accede to the following multilateral agreement to which it is not yet party: the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure done at Budapest on 28 April 1977, as amended on 26 September 1980.

3. If any Party intends to ratify or accede to any of the following multilateral agreements, it may seek to cooperate with other Parties to support its ratification or accession to and its implementation of that multilateral agreement:

(a) the 1991 Act of International Convention for the Protection of New Varieties of Plants as revised at Geneva on 19 March 1991;

(b) the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs done at Geneva on 2 July 1999;

(c) the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations done at Rome on 26 October 1961 (hereinafter referred to as the "Rome Convention" in this Chapter); and

(d) the Singapore Treaty on the Law of Trademarks done at Singapore on 27 March 2006.

Section B. Copyright and Related Rights

Article 11.10. Exclusive Rights of Authors, Performers, and Producers of Phonograms

1. Each Party shall provide to authors of works the exclusive right to authorise any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.

2. Each Party shall provide to performers and producers of phonograms (5) the exclusive right to authorise the making available to the public of their performances fixed in phonograms and phonograms, respectively, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

3. Each Party shall provide to authors, performers, and producers of phonograms the exclusive right to authorise or prohibit the reproduction of their works, performances fixed in phonograms, and phonograms in any manner or form.

(5) For the purposes of this Chapter, a Party may interpret "producers of phonograms" as having the same meaning as "authors of sound recordings".

Article 11.11. Right to Remuneration for Broadcasting (6)

Performers and producers of phonograms shall enjoy the right to a single equitable remuneration, or alternatively the right to receive royalties, for the direct or indirect use of phonograms published for commercial purposes for broadcasting.

(6) Where a Party is, or becomes, party to the WPPT, that Party's obligations under this Article shall be subject to any commitments and reservations that that Party has made, or will make, under the WPPT.

Article 11.12. Protection of Broadcasting Organisations and Encrypted Programme-carrying Satellite Signals

1. Each Party shall provide to broadcasting organisations the exclusive right to prohibit the re-broadcasting of their broadcasts by at least wireless means, the fixation of their broadcasts, and the reproduction of fixations of their broadcasts. (7) (8)

2. Each Party shall endeavour to provide measures, in accordance with its laws and regulations, against at least one of the following acts:

(a) wilful reception; (9)

(b) wilful distribution (10); or

(c) wilful reception and further distribution (11),

of a programme-carrying signal that originated as an encrypted programme-carrying satellite signal, knowing that it has been decoded without the authorisation of the lawful distributor of the signal.

(7) Where a Party does not grant such rights to broadcasting organisations, it shall provide owners of copyright in the subject matter of broadcasts with the possibility of preventing the above acts, subject to the provisions of the Beme Convention.

(8) Any Party may, in relation to the rights conferred under this paragraph, provide for conditions, limitations, exceptions, and reservations, to the extent permitted by the Rome Convention.

(9) For greater certainty and for the purposes of subparagraphs 2(a) and (c), a Party may provide that wilful reception of an encrypted programme-carrying satellite signal means reception and use of the signal, or reception and decoding of the signal.

(10) For greater certainty, a Party may interpret "distribution" as "retransmission to the public".

(11) For greater certainty, a Party may interpret "distribution" as "retransmission to the public".

Article 11.13. Collective Management Organisations

1. Each Party shall endeavour to foster the establishment of appropriate organisations for the collective management of copyright and related rights. Each Party shall encourage such organisations to operate in a manner that is fair, efficient, publicly transparent, and accountable to their members, which may include open and transparent record keeping of the collection and distribution of royalties. (12)

2. The Parties recognise the importance of fostering cooperation between their respective collective management organisations for the purposes of mutually ensuring easier licensing of content among the Parties, as well as encouraging (13) mutual transfer of royalties for use of works or other copyright-protected subject matters of the nationals of another Party.

(12) For greater certainty, "royalties" may include equitable remuneration.

(13) For greater certainty, "encouraging" does not require a Party to intercede in any contractual arrangements between collective management organisations.

Article 11.14. Circumvention of Effective Technological Measures

Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers, or producers of phonograms in connection with the exercise of their rights referred to in this Section and that restrict acts, in respect of their works, performances, or phonograms, which are not authorised by the authors, the performers, or the producers of phonograms concerned or permitted by the laws and regulations of that Party.

Article 11.15. Protection for Electronic Rights Management Information

To protect electronic rights management information (hereinafter referred to as "RMI" in this Chapter) (14), each Party shall provide adequate and effective legal remedies against any person knowingly performing without authority any of the following acts knowing, or with respect to civil remedies with reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any copyright or related rights referred to in this Chapter:

(a) removing or altering any electronic RMI; or

(b) distributing, importing for distribution, broadcasting, communicating, or making available to the public copies of works, performances fixed in phonograms, or phonograms, knowing that electronic RMI has been removed or altered without authority.

(14) For the purposes of this Article, "RMI" means: (a) information that identifies the work, the performance, the phonogram, the author of the work, the performer of the performance, the producer of the phonogram, or the owner of any right in the work, performance, or phonogram; (b) information about the terms and conditions of use of the work, performance, or phonogram; or (c) any numbers or codes that represent the information described in subparagraphs (a) and (b) of this footnote, when any of these items of information is attached to a copy of a work, performances fixed in phonograms, or a phonogram, or appears in connection with the communication or the making available of a work, performances fixed in phonograms, or a phonogram to the public.

Article 11.16. Limitations and Exceptions to Providing Protection and Remedies for Technological Measures and RMI

1. Each Party may provide for appropriate limitations and exceptions to measures implementing Article 11.14 (Circumvention of Effective Technological Measures) and Article 11.15 (Protection for Electronic Rights Management Information) in accordance with its laws and regulations.

2. The obligations set forth in Article 11.14 (Circumvention of Effective Technological Measures) and Article 11.15 (Protection for Electronic Rights Management Information) are without prejudice to the rights, limitations, exceptions, or defences to infringement of any copyright or related right under a Party's laws and regulations.

Article 11.17. Government Use of Software

Each Party confirms its commitment to:

(a) maintain appropriate laws, regulations, or policies that provide for its central government to use only non-infringing computer software in a manner consistent with this Chapter; and

(b) encourage its regional and local governments to adopt or maintain measures similar to those referred to in subparagraph (a).

Article 11.18. Limitations and Exceptions

1. Each Party shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work, performance, or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder. (15)

2. Nothing in paragraph 1 shall reduce or extend the scope of applicability of the limitations and exceptions available to a Party as a party to the TRIPS Agreement, the Berne Convention, the Rome Convention, the WCT, or the WPPT.

3. Each Party shall endeavour to provide an appropriate balance in its copyright and related rights system, among other things by means of limitations and exceptions consistent with paragraph 1, for legitimate purposes, which may include education, research, criticism, comment, news reporting, and facilitating access to published works for persons who are blind, visually impaired, or otherwise print disabled.

4. For greater certainty, a Party may adopt or maintain limitations or exceptions to the rights referred to in paragraph 1 for fair use, as long as any such limitation or exception is confined as stated in paragraph 1.

(15) For greater certainty, this paragraph shall not prevent a Party from providing limitations or exceptions for broadcasts in accordance with multilateral agreements related to intellectual property to which that Party is, or becomes, party.

Section C. Trademarks

Article 11.19. Trademarks Protection

Each Party shall ensure that any signs or any combination of signs capable of distinguishing the goods and services of one

undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements, three-dimensional shapes, and combinations of colours, as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, a Party may make registrability depend on distinctiveness acquired through use. No Party shall require, as a condition of registration of a trademark, that signs be visually perceptible, nor deny registration of a trademark solely on the grounds that the sign of which it is composed is a sound. (16)

(16) A party may require an adequate description, which can be represented graphically, of the trademark.

Article 11.20. Protection of Collective Marks and Certification Marks

1. Each Party shall provide that trademarks include collective marks and certification marks. A Party is not obligated to treat certification marks as a separate category in its laws and regulations, provided that those marks are protected.

2. Each Party shall also provide that signs that may serve as geographical indications are capable of protection under its trademark system in accordance with its laws and regulations.

Article 11.21. Trademarks Classification System

1. Each Party shall adopt or maintain a trademark classification system that is consistent with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks done at Nice on 15 June 1957, as amended from time to time (hereinafter referred to as the "Nice Agreement" in this Chapter).

2. A Party that relies on translations of the classification system established by the Nice Agreement (hereinafter referred to as the âNice Classificationâ in this Chapter) shall follow updated versions of the Nice Classification to the extent that official translations have been issued and published.

Article 11.22. Registration and Applications of Trademarks

1. Each Party shall provide a system for the registration of trademarks, which shall include:

(a) a requirement to provide to the applicant a communication in writing, which may be provided electronically, of the reasons for a refusal to register a trademark;

(b) an opportunity for the applicant to respond to communications from the Party's competent authorities, to contest an initial refusal, and to make a judicial appeal of a final refusal to register a trademark;

(c) an opportunity to do at least one of the following in relation to a trademark before it has been registered:

(i) oppose a trademark application; or

(ii) provide the competent authority with information

that the trademark application does not satisfy the requirements for registration;

(d) an opportunity to do at least one of the following in relation to a trademark after it has been registered:

(i) oppose the registration;

(ii) seek revocation of the registration;

(iii) seek cancellation of the registration; or

(iv) seek invalidation of the registration; and

(e) a requirement that administrative decisions (17) in opposition, revocation, cancellation, or invalidation proceedings shall be reasoned and in writing. Such decisions may be provided electronically.

2. Each Party shall provide:

(a) a system for the electronic application for processing, registering, and maintenance of, trademarks; and

(b) a publicly accessible online electronic database of trademark applications and registrations.

(17) For the purposes of this subparagraph, "administrative decisions" include quasi-judicial decisions.

Article 11.23. Rights Conferred

Each Party shall provide that the owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services that are identical or similar to those goods or services in respect of which the trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described in this Article shall not prejudice any existing prior rights, nor shall they affect the possibility of a Party making rights available on the basis of use.

Article 11.24. Exceptions

A Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

Article 11.25. Protection of Trademarks That Predate Geographical Indications

Each Party shall protect trademarks where they predate, in its jurisdiction, geographical indications, in accordance with the TRIPS Agreement.

Article 11.26. Protection of Well-known Trademarks

1. Each Party shall provide for appropriate measures to refuse or cancel the registration, and to prohibit the use, (18) of a trademark that is identical or similar to a well-known trademark (19) (20) for identical or similar goods or services, if the use of that trademark is likely to cause confusion with the prior well-known trademark.

2. Each Party recognises the importance of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks as adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO, 20 to 29 September 1999.

3. No Party shall require, as a condition for determining that a trademark is a well-known trademark, that the trademark has been registered in that Party or in another jurisdiction, included on a list of well-known trademarks, or given prior recognition as a well-known trademark.

(18) For greater certainty, a Party may comply with the obligation to provide for appropriate measures to prohibit the use of the trademark that is identical or similar to a well-known trademark under this paragraph by providing its judicial authorities with the authority to prohibit the use of such a trademark.

(19) For the purposes of this paragraph, a Party may treat "a reproduction, an imitation, or a translation of a well-known trademark" as "identical or similar to a well-known trademark".

(20) The Parties understand that a well-known trademark is one that was already well- known before, as determined by a Party, the application for, registration of, or use of the first-mentioned trademark.

Article 11.27. Bad Faith Trademarks (21)

Each Party shall provide that its competent authority has the authority to refuse an application or cancel a registration where the application to register the trademark was made in bad faith in accordance with its laws and regulations.

(21) For the purposes of this Article, the competent authority of a Party may take into consideration whether the trademark is identical or similar to a well-known trademark of another person.

Article 11.28. One and the Same Application Relating to Several Goods or Services

Each Party shall provide that one and the same application for registration of a trademark may relate to several goods or services, or any combination thereof, irrespective of whether they belong to one class or to several classes of the Nice Classification.

Section D. Geographical Indications

Article 11.29. Protection of Geographical Indications

Each Party shall ensure in its laws and regulations adequate and effective means to protect geographical indications. Each Party recognises that such protection may be provided through a trademark system, a sui generis system, or other legal means, provided that all requirements under the TRIPS Agreement are fulfilled.

Article 11.30. Domestic Administrative Procedures for the Protection of Geographical Indications

1. If a Party provides domestic administrative procedures (22) for the protection of geographical indications, whether through a trademark or a sui generis system, that Party shall with respect to applications for that protection:

(a) receive those applications for the protection of geographical indications without requiring intercession by a Party on behalf of its nationals; (23)

(b) process those applications in compliance with reasonable procedures and formalities (24);

(c) ensure that its laws and regulations governing the protection of geographical indications are readily available to the public and clearly set out the procedures relating to the protection of geographical indications including procedures relating to the filing of applications;

(d) make available information to allow the public to obtain guidance concerning the procedures for filing applications for the protection of geographical indications, and allow an applicant or their representative to ascertain the status of specific applications; and

(e) ensure that such applications are published for opposition and provide procedures for opposing geographical indications that are the subject of applications. Oppositions shall be received without requiring intercession by a Party on behalf of its nationals.

2. With respect to the protection of a geographical indication referred to in paragraph 1, a Party shall provide procedures for cancellation (25) of the protection afforded to a geographical indication.

(22) For the purposes of this Article, "administrative procedures" include quasi-judicial procedures.

(23) For greater certainty, a Party may require that an application for protection of a geographical indication originating in another Party include evidence indicating to the satisfaction of the former Party that the geographical indication is protected in that other Party.

(24) The Parties understand that for the purposes of this subparagraph, reasonable procedures and formalities may be considered to be not overly burdensome procedures and formalities.

(25) For greater certainty, for the purposes of this Section, cancellation may be implemented through nullification or revocation proceedings.

Article 11.31. Grounds for Opposition and Cancellation

1. With respect to the opposition procedures referred to in subparagraph i(e) of Article 11.30 (Domestic Administrative Procedures for the Protection of Geographical Indications), each Party shall provide procedures that allow at least interested persons to oppose the protection of a geographical indication, and that allow for any such protection to be refused at least on the ground that the geographical indication is a term customary in common language as the common name (26) for the

relevant good in the territory of that Party.

2. If a Party provides protection of a geographical indication through the procedures referred to in Article 11.30 (Domestic Administrative Procedures for the Protection of Geographical Indications) to the translation or transliteration of that geographical indication, that Party shall make available at least the ground which is the same as that referred to in paragraph 1 with respect to oppositions to the protection of that translation or transliteration. (27)

3. With respect to the procedures referred to in paragraph 1, in determining whether a term is a term customary in common language as the common name for the relevant good in the territory of a Party, each Party shall ensure that its competent authorities have the authority to take into account how consumers understand the term within the territory of that Party. Factors relevant to such consumer understanding may include:

(a) whether the term is used to refer to the type of good in question, as indicated by competent sources such as dictionaries, newspapers, and relevant websites; and

(b) how the good referenced by the term is marketed and used in trade in the territory of that Party. (28)

4. With respect to the cancellation procedure referred to in paragraph 2 of Article 11.30 (Domestic Administrative Procedures for the Protection of Geographical Indications), no Party shall preclude the possibility that the protection of a geographical indication may be cancelled, or otherwise cease, on the basis that the protected term has ceased meeting the conditions upon which the protection was originally granted in that Party.

(26) Where a Party applies this Article to geographical indications for wines and spirits or applications for those geographical indications, the Parties understand that nothing in this Section shall require a Party to protect a geographical indication of any other Party with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety that exists in the territory of that Party.

(27) A Party shall not be required to apply this paragraph to applications for geographical indications for wines and spirits.

(28) For the purposes of this subparagraph, a Party's authorities may take into account, as appropriate, whether the term is used in relevant international standards recognised by the Parties to refer to a type or class of good in the territory of that Party.

Article 11.32. Multi-component Terms

With respect to the procedures referred to in Article 11.30 (Domestic Administrative Procedures for the Protection of Geographical Indications) and Article 11.31 (Grounds for Opposition and Cancellation), an individual component of a multi-component term that is protected as a geographical indication shall not be protected in a Party if that individual component is a term customary in the common language as the common name for the associated good in the territory of that Party.

Article 11.33. Date of Protection of a Geographical Indication

The protection of a geographical indication through a Party's domestic administrative procedures (29) referred to in Article 11.30 (Domestic Administrative Procedures for the Protection of Geographical Indications) shall commence no earlier than the filing date (30) of the application for the protection in that Party or the registration date in that Party, as applicable.

(29) For the purposes of this Article, "administrative procedures" include quasi-judicial procedures.

(30) For greater certainty, where a Party protects a geographical indication through its trademark system, the filing date referred to in this Article includes, as applicable, the priority filing date under the Paris Convention.

Article 11.34. Protection or Recognition of Geographical Indications Pursuant to International Agreements

If a Party protects or recognises a geographical indication pursuant to an international agreement involving a Party or a non-Party, and that agreement is concluded after the date of entry into force of this Agreement for that Party, and that

geographical indication is not protected through the procedures referred to in Article 11.30 (Domestic Administrative Procedures for the Protection of Geographical Indications), that Party shall:

(a) make available to the public information concerning the procedures for protection or recognition of geographical indications, and if applicable, allow at least interested persons to ascertain the status of requests for protection or recognition;

(b) ensure that those geographical indications that are being considered for protection or recognition are published for opposition, provide procedures for at least interested persons to oppose those geographical indications on the ground referred to in paragraph 1 of Article 11.31 (Grounds for Opposition and Cancellation), and apply Article 11.32 (Multi-Component Terms) with respect to those procedures; and

(c) make available to the public details regarding the terms that the Party is considering protecting or recognising through an international agreement involving a Party or a non-Party.

Article 11.35. Protection or Recognition of Geographical Indications Under Concluded International Agreements

1. No Party shall be required to apply Article 11.34 (Protection or Recognition of Geographical Indications Pursuant to International Agreements) to geographical indications that have been specifically identified in, and that are protected or recognised pursuant to, an international agreement involving a Party or a non-Party, provided that the agreement was concluded prior to the date of entry into force of this Agreement for that Party.

2. In respect of international agreements referred to in paragraph 1 that permit the protection or recognition of a new geographical indication, a Party shall: (31)

(a) apply subparagraph (c) of Article 11.34 (Protection or Recognition of Geographical Indications Pursuant to International Agreements); and

(b) ensure an opportunity for at least interested persons to comment regarding the protection or recognition of the new geographical indication for a reasonable period of time before such a term is protected or recognised.

(31) A Party may comply with this paragraph by complying with the obligations under Article 11.30 (Domestic Administrative Procedures for the Protection of Geographical Indications) and Article 11.31 (Grounds for Opposition and Cancellation).

Section E. Section Patents

Article 11.36. Patentable Subject Matter

1. Subject to paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step, and are capable of industrial application (32). Subject to paragraph 3 and Section M (Transition Periods and Technical Assistance), patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology, and whether products are imported or locally produced.

2. A Party may exclude from patentability inventions, the prevention within its territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health, or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by its laws and regulations.

3. A Party may also exclude from patentability:

(a) diagnostic, therapeutic, and surgical methods for the treatment of humans or animals; and

(b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, each Party shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof. The Parties shall review this subparagraph upon any amendment to subparagraph 3(b) of Article 27 of the TRIPS Agreement with a view to deciding whether to adopt a similar amendment to this subparagraph.

(32) For the purposes of this Section, "inventive step" and "capable of industrial application" may be deemed by a Party to be synonymous with "non-obvious" and "useful", respectively.

Article 11.37. Rights Conferred

1. Each Party shall provide that a patent shall confer on its owner the following exclusive rights:

(a) where the subject matter of a patent is a product, to prevent third parties not having the owner's consent from the acts of making, using, offering for sale, selling, or importing (33) for these purposes that product; and

(b) where the subject matter of a patent is a process, to prevent third parties not having the owner's consent from the act of using the process, and from the acts of using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.

2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing contracts.

(33) This right, like all other rights conferred under this Chapter in respect of the use, sale, importation, or other distribution of goods, is subject to Article 11.6 (Exhaustion of Intellectual Property Rights).

Article 11.38. Exceptions to Rights Conferred

A Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

Article 11.39. Other Use without Authorisation of the Right Holder

For greater certainty, nothing in this Agreement shall limit a Party's rights and obligations under Article 31 and Article 31bis of the TRIPS Agreement, and the Annex and Appendix to the Annex to the TRIPS Agreement.

Article 11.40. Experimental Use of a Patent

Without limiting Article 11.38 (Exceptions to Rights Conferred), each Party shall provide that any person may do an act that would otherwise infringe a patent if the act is done for experimental purposes (34) relating to the subject matter of a patented invention.

(34) For greater certainty, each Party may determine, consistent with Article 11.38 (Exceptions to Rights Conferred), what acts fall within the meaning of "experimental purposes".

Article 11.41. Procedural Aspects of Examination and Registration

1. The Parties recognise the importance of improving the quality and efficiency of their respective patent systems as well as simplifying and streamlining the procedures and processes of their respective competent authorities for the benefit of all users of their respective patent systems and the public as a whole.

2. Each Party shall provide a patent system, which includes:

(a) a requirement to provide to the applicant a communication in writing of the reasons for a refusal to grant a patent;

(b) an opportunity for the applicant to make amendments and observations in connection with their applications; (35)

(c) an opportunity to do at least one of the following in relation to a patent before it has been granted:

(i) file an opposition against the patent application; or

(ii) provide the competent authority with information that could deny novelty or inventive step of an invention claimed in the patent application;

(d) an opportunity to do at least one of the following in relation to a patent after it has been granted:

(i) oppose the grant;

(ii) seek revocation;

(iii) seek cancellation; or

(iv) seek invalidation; and

(e) a requirement that administrative decisions (36) in opposition, revocation, cancellation, or invalidation proceedings shall be reasoned and in writing. Such decisions may be provided electronically.

(35) For the purposes of this subparagraph, the Parties understand that "amendments" may include corrections and "observations" may include explanations or responses to a finding on its application by the competent authority whether or not such response is given in conjunction with an amendment or correction to the application.

(36) For the purposes of this subparagraph, “administrative decisions” may include quasijudicial decisions.

Article 11.42. Grace Period for Patents

The Parties recognise the benefits of patent grace periods to disregard certain public disclosures of inventions when determining if an invention is novel in order to support innovation.

Article 11.43. Electronic Patent Application System

Each Party is encouraged to adopt an electronic patent application system so as to facilitate ease of application by patent applicants.

Article 11.44. Month Publication

1. Each Party shall publish any patent application promptly after the expiry of 18 months from its filing date or, if priority is claimed, from its earliest priority date, unless the application has been published earlier, or has been withdrawn, abandoned, or refused (37).

2. If a pending application is not published promptly in accordance with paragraph 1, the Party shall publish that application or the corresponding patent as soon as practicable.

3. Nothing in this Article shall be construed to require a Party to publish any information the disclosure of which it considers to be contrary to its national security or to public order or morality.

4. Each Party shall provide that the applicant may request the early publication of an application prior to the expiry of the period referred to in paragraph 1.

(37) The Parties understand that, for the purposes of this Article, an application is withdrawn, abandoned, or refused in accordance with the respective Party's laws and regulations.

Article 11.45. Information as Prior Art Made Available to the Public on the Internet

The Parties recognise that information made available to the public on the internet may form part of the prior art.

Article 11.46. Expedited Examination

Each Party shall endeavour to provide for domestic procedures for a patent applicant to request to expedite the examination of its patent application in accordance with that Party's laws, regulations, and rules.

Article 11.47. Introduction of International Patent Classification System

Each Party shall endeavour to use a patent classification system that is consistent with the Strasbourg Agreement Concerning the International Patent Classification done at Strasbourg on 24 March 1971, as amended from time to time.

Article 11.48. Protection of New Varieties of Plants (38)

Each Party shall provide for the protection of new varieties of plants through an effective sui generis plant variety protection system.

(38) For greater certainty, with respect to the protection of plant varieties, subparagraph 3(b) of Article 11.36 (Patentable Subject Matter) is subject to this Article.

Section F. Industrial Designs

Article 11.49. Protection of Industrial Designs

1. Each Party shall provide for the protection of independently created industrial designs that are new or original. A Party may provide that designs are not new or original if they do not significantly differ from known designs or combinations of known design features. A Party may provide that such protection shall not extend to designs dictated essentially by technical or functional considerations.

2. Each Party shall ensure that requirements for securing protection for textile designs, in particular in regard to any cost, examination, or publication, do not unreasonably impair the opportunity to seek and obtain such protection. Each Party shall be free to meet this obligation through industrial design law or through copyright law.

3. Each Party shall provide that the owner of a protected industrial design has the right to prevent third parties not having the owner's consent from making, selling, or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.

4. Each Party may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected industrial designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

5. Each Party confirms that protection for industrial designs is available for designs:

(a) embodied in a part of an article; or, alternatively,

(b) having a particular regard, where appropriate, to a part of an article in the context of the article as a whole, in accordance with its laws and regulations.

Article 11.50. Information as Prior Art for Designs Made Available to the Public on the Internet (39)

The Parties recognise that information made available to the public on the internet may form part of the prior art for designs.

(39) For greater certainty, nothing in this Article shall require a Party to ensure that its administrative authorities conduct substantive examination of designs.

Article 11.51. Registration or Grant and Applications of Industrial Designs

Each Party shall provide a system for the registration or grant of industrial designs, which shall include:

(a) a requirement to provide to the applicant a communication in writing, which may be provided electronically, of the reasons for a refusal to register or grant an industrial design;

(b) an opportunity for the applicant to respond to communications from the Party's competent authorities for industrial designs, and to contest, challenge, or appeal a refusal to register or grant an industrial design;

(c) an opportunity to seek cancellation or invalidation or revocation of a registration or grant; and

(d) a requirement that administrative decisions (40) in cancellation or invalidation or revocation proceedings shall be reasoned and in writing. Such decisions may be provided electronically.

(40) For the purposes of this subparagraph, âadministrative decisionsâ may include quasi- judicial decisions.

Article 11.52. Introduction of International Classification System for Industrial Designs

Each Party shall endeavour to use a classification system for industrial designs that is consistent with the Locarno Agreement Establishing an international Classification for Industrial Designs signed at Locarno on 8 October 1968, as amended from time to time.

Section G. Genetic Resources, Traditional Knowledge, and Folklore (41)

(41) For greater certainty, this Section is without prejudice to the position of any Party on genetic resources, traditional knowledge, and folklore, including in any bilateral or multilateral negotiations through any fora, such as the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

Article 11.53. Genetic Resources, Traditional Knowledge, and Folklore

1. Subject to its international obligations, each Party may establish appropriate measures (42) to protect genetic resources, traditional knowledge, and folklore.

2. Where a Party has disclosure requirements relating to the source or origin of genetic resources (43) as part of its patent system, that Party shall endeavour to make available its laws, regulations, and procedures with respect to such requirements, including on the internet where feasible, in such a manner as to enable interested persons and other Parties to become acquainted with them.

3. Each Party shall endeavour to pursue quality patent examination, which may include:

(a) that when determining prior art, relevant publicly available documented information related to traditional knowledge associated with genetic resources may be taken into account;

(b) an opportunity for third parties to cite, in writing, to the competent examining authority, prior art disclosures that may have a bearing on patentability, including prior art disclosures related to traditional knowledge associated with genetic resources; and

(c) if applicable and appropriate, the use of databases or digital libraries which contain relevant information on traditional knowledge associated with genetic resources.

(42) For greater certainty, the Parties understand that such "appropriate measures" are a matter for each Party to determine and may not necessarily involve its intellectual property system.

(43) The Parties recognise the fact that some Parties also require, if applicable, in their patent systems, evidence of prior informed consent and access and benefit sharing for genetic resources and associated traditional knowledge.

Section H. Unfair Competition

Article 11.54. Effective Protection Against Unfair Competition

Each Party shall provide for effective protection against acts of unfair competition in accordance with the Paris Convention (44).

(44) For greater certainty, the Parties understand that Article 10bis of the Paris Convention covers acts of unfair competition in relation to the supply of goods and services, where relevant.

Article 11.55. Domain Names

In connection with its system for the management of its country code top-level domain (ccTLD) domain names and in accordance with its laws and regulations and, if applicable, relevant administrator policies regarding protection of privacy and personal data, each Party shall make the following available:

(a) an appropriate procedure for the settlement of disputes, based on, or modelled along the same lines as, the principles established in the Uniform Domain-Name Dispute-Resolution Policy, as approved by the Internet Corporation for Assigned Names and Numbers, or that:

(i) is designed to resolve disputes expeditiously and at a reasonable cost;

(ii) is fair and equitable; (iii) is not overly burdensome; and

(iv) does not preclude resort to judicial proceedings; and

(b) appropriate remedies (45), at least in cases in which a person registers or holds, with a bad faith intent to profit, a domain name that is identical or confusingly similar to a trademark.

(45) The Parties understand that such remedies may, but need not, include, among other things, revocation, cancellation, transfer, damages, or injunctive relief.

Article 11.56. Protection of Undisclosed Information

1. Each Party shall provide protection of undisclosed information in accordance with paragraph 2 of Article 39 of the TRIPS Agreement.

2. Further to paragraph 1, the Parties recognise the importance of protecting undisclosed information in relation to the objectives specified in paragraph 2 of Article 11.1 (Objectives).

Section I. Country Names

Article 11.57. Country Names

Each Party shall provide the legal means for interested persons to prevent commercial use of the country name of a Party in relation to a good in a manner that misleads consumers as to the origin of that good.

Section J. Enforcement of Intellectual Property Rights

Subsection 1. General Obligations

Article 11.58. General Obligations

1. Each Party shall ensure that enforcement procedures as specified in this Section are available under its laws and regulations so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

3. In implementing this Section, each Party shall take into account the need for proportionality between the seriousness of the infringement of the intellectual property right and the applicable remedies and penalties, as well as, if applicable, the interests of third parties.

4. The Parties understand that this Section does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of each Party to enforce its law in general. Nothing in this Section shall create any obligation with respect to the

distribution of resources as between enforcement of intellectual property rights and the enforcement of law in general.

5. In civil proceedings involving copyright of authors, each Party shall provide for a presumption (46) that, in the absence of proof to the contrary, the person whose name is indicated in the usual manner as the author of the work is the author of the work. The obligation contained in the preceding sentence shall apply to criminal and administrative proceedings if applicable in a Party's laws and regulations.

(46) For greater certainty, a Party may implement this paragraph on the basis of swom statements or documents having evidentiary value, such as statutory declarations. A Party may also provide that these presumptions are rebuttable presumptions that may be rebutted by evidence to the contrary.

Subsection 2. Civil Remedies (47)

(47) A Party may comply with the obligations under this Subsection to provide civil judicial procedures concerning the enforcement of geographical indications in accordance with footnote 4 of Article 23 of the TRIPS Agreement.

Article 11.59. Fair and Equitable Procedures

1. Each Party shall make available to right holders (48) civil judicial procedures concerning the enforcement of any intellectual property right covered by this Chapter. Defendants shall have the right to written notice which is timely and contains sufficient detail, including the basis of the claims. All parties to the procedures shall be allowed to be represented by independent legal counsel, and procedures shall not impose overly burdensome requirements concerning mandatory personal appearances. All parties to such procedures shall be duly entitled to substantiate their claims and to present all relevant evidence. The procedures shall provide a means to identify and protect confidential information, unless this would be contrary to the Party's constitutional requirements.

2. Each Party may permit the use of alternative dispute resolution procedures to resolve civil disputes concerning intellectual property rights.

48 For the purposes of this Article, "right holder" includes federations and associations that have legal standing to assert such rights.

Article 11.60. Damages

1. Each Party shall provide (49) that in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities have the authority to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement of that right holder's intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity.

2. In determining the amount of damages referred to in paragraph 1, a Party's judicial authorities shall have the authority to consider, among other things, any legitimate measure of value the right holder submits. (50)

3. In cases of infringement of copyright or related rights and trademark counterfeiting, the judicial authorities shall have the authority to order the infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity to pay the right holder the infringers profits that are attributable to the infringement. (51)

(49) A Party may also provide that the right holder may not be entitled to any of the remedies set out in paragraphs 1 and 3 if there is a finding of non-use of a trademark. For greater certainty, there is no obligation for a Party to provide for the possibility of any of the remedies in paragraphs 1 and 3 to be ordered in parallel.

(50) For greater certainty, a Party's judicial authorities may have the authority to consider the value of the infringed goods or services measured by their market price, in determining the amount of damages, where appropriate.

(51) A Party may comply with this paragraph through presuming those profits to be the damages referred to in paragraph 1.

Article 11.61. Court Costs and Fees

Each Party shall provide that its judicial authorities, where appropriate, have the authority to order (52), at the conclusion of civil judicial proceedings concerning the infringement of at least copyright or related rights and trademarks, that the prevailing party is awarded payment by the losing party of court costs or fees and appropriate attorney's fees, or any other expenses as provided for under that Party's law.

(52) The judicial authorities of a Party may have the authority to make such orders through separate proceedings after the conclusion of the civil judicial proceedings.

Article 11.62. Destroying Infringing Goods and Materials and Implements

1. Each Party shall provide that in civil judicial procedures its judicial authorities have the authority at least at the right holder's request, to order that pirated copyright goods and counterfeit trademark goods be destroyed, except in exceptional circumstances, without compensation of any sort. (53)

2. Each Party shall further provide that in civil judicial procedures its judicial authorities have the authority to order that materials and implements, the predominant use of which has been in the creation of such infringing goods, be, without compensation of any sort, disposed (54) of outside the channels of commerce in such a manner as to minimise the risks of further infringements.

3. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit the release of goods into the channels of commerce.

(53) For greater certainty, the Parties understand that while judicial authorities have the authority to order the destruction of the goods, they may also have the authority to order, without compensation of any sort, the disposal of such goods outside the channels of commerce in such a manner as to avoid any harm caused to right holders, instead of destruction.

(54) For greater certainty, the Parties understand that while judicial authorities have the authority to order the disposal of the materials and implements, they may also have the authority to order, without compensation of any sort, the destruction of such materials and implements instead of disposal.

Article 11.63. Confidential Information In Civil Judicial Proceedings

Each Party shall provide that in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities have the authority to impose penalties on parties to the proceeding, their counsel, experts, or other persons subject to the court's jurisdiction, for violation of judicial orders (55) regarding the protection of confidential information produced or exchanged in that proceeding.

(55) For greater certainty, for the purposes of this Article, the Parties understand that a Party's law may use an alternative term to "judicial orders" such as "court orders".

Article 11.64. Provisional Measures

1. In civil judicial proceedings concerning trademark counterfeiting, each Party shall provide that its judicial authorities have the authority to adopt provisional measures to order the seizure, or other taking into custody, of suspected infringing goods and both of the following:

(a) materials and implements predominantly used in the act of alleged infringement; and

(b) documentary evidence relevant to the alleged infringement.

2. In civil judicial proceedings concerning the infringement of copyright or related rights, each Party shall provide that its judicial authorities have the authority to adopt provisional measures to order the seizure, or other taking into custody, of suspected infringing goods and at least one of the following:

(a) materials and implements predominantly used in the act of alleged infringement; or

(b) documentary evidence relevant to the alleged infringement.

3. Each Party shall provide that its judicial authorities have the authority to adopt provisional measures *inaudita altera parte* where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed.

4. Each Party shall provide that its judicial authorities have the authority to require an applicant, with respect to provisional measures, to provide any reasonably available evidence in order to satisfy the judicial authority with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse, and so as not to unreasonably deter recourse to procedures for such provisional measures.

5. For greater certainty, the Parties understand that provisional measures shall be implemented in accordance with paragraphs 4 through 8 of Article 50 of the TRIPS Agreement.

Subsection 3. Border Measures

Article 11.65. Suspension of the Release of Suspected Pirated Copyright Goods or Counterfeit Trademark Goods by Right Holder's Application

1. Each Party shall adopt or maintain procedures (56) with respect to import shipments under which a right holder, who has valid grounds for suspecting that the importation of pirated copyright goods or counterfeit trademark goods may take place, may lodge an application with the Party's competent authorities to suspend the release of the suspected pirated copyright goods or counterfeit trademark goods (57) in accordance with Article 51 of the TRIPS Agreement.

2. For the purposes of this Subsection, "competent authorities" may include the appropriate judicial, administrative, or law enforcement authorities under a Party's laws and regulations.

(56) The Parties understand that there shall be no obligation to apply such procedures to imports of goods put on the market in another Party or non-Party by or with the consent of the right holder, or to goods in transit.

(57) For the purposes of Subsection 1 (General Obligations), Subsection 2 (Civil Remedies), Subsection 3 (Border Measures), and Subsection 4 (Criminal Remedies): (a) "counterfeit trademark goods" means any goods, including packaging, bearing without authorisation a trademark that is identical to a trademark validly registered in respect of such goods, or that cannot be distinguished in its essential aspects from such a trademark, and that thereby infringes the rights of the owner of the trademark in question under the laws and regulations of the Party providing procedures under those Subsections; and (b) "pirated copyright goods" means any goods that are copies made without the consent of the right holder or person duly authorised by the right holder in the country of production and that are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the Party providing procedures under those Subsections.

Article 11.66. Applications for Suspension or Detention

Each Party shall endeavour to provide that an accepted application (58) for suspension or detention remains in force for an appropriate period with a view to minimising the administrative burden on right holders.

(58) For the purposes of this Subsection, a Party may treat "application" as meaning "recordation".

Article 11.67. Security or Equivalent Assurance

Each Party shall provide that its competent authorities shall have the authority to require a right holder initiating procedures referred to in Article 11.65 (Suspension of the Release of Suspected Pirated Copyright Goods or Counterfeit Trademark Goods by Right Holderâs Application) to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Each Party shall provide that the security or equivalent assurance shall not unreasonably deter recourse to these procedures.

Article 11.68. Information Provided by Competent Authorities to Right Holders

Without prejudice to a Party's laws and regulations pertaining to the confidentiality of information, where its competent authorities have detained or suspended the release of goods that are suspected of being pirated copyright goods or counterfeit trademark goods, that Party may provide that its competent authorities have the authority to inform the right holder of the name and address of the consignor, importer, or consignee; a description of the goods; the quantity of the goods; and, if known, the country of origin of the goods.

Article 11.69. Suspension of the Release of Suspected Pirated Copyright Goods or Counterfeit Trademark Goods by Ex Officio Action

1. Each Party shall adopt or maintain procedures with respect to import shipments under which its competent authorities may act upon their own initiative to suspend the release of suspected (59) pirated copyright goods or counterfeit trademark goods. Each Party shall provide that where its competent authorities act upon their own initiative, the importer and the right holder shall be promptly notified of the suspension.

2. A Party may adopt or maintain procedures with respect to export shipments under which its competent authorities may act upon their own initiative to suspend the release of suspected pirated copyright goods or counterfeit trademark goods. That Party shall provide that where its competent authorities act upon their own initiative, the exporter and the right holder shall be promptly notified of the suspension.

3. Each Party shall only exempt both public authorities and officials from liability to appropriate remedial measures where actions are taken or intended in good faith.

(59) A Party may comply with this obligation on the basis that its competent authorities have reasonable cause to believe that the goods are pirated copyright goods or counterfeit trademark goods.

Article 11.70. Information Provided by Right Holders to Competent Authorities In Case of Ex Officio Action

Each Party shall provide that its competent authorities shall have the authority, where they act on their own initiative, to request a right holder to supply relevant information to assist the competent authorities in taking the border measures referred to in this Subsection. A Party may also allow a right holder to supply relevant information to its competent authorities.

Article 11.71. Infringement Determination Within Reasonable Period by Competent Authorities (60)

Each Party shall adopt or maintain procedures under which its competent authorities may determine, within a reasonable period after the initiation of the procedures described in Article 11.65 (Suspension of the Release of Suspected Pirated Copyright Goods or Counterfeit Trademark Goods by Right Holder's Application) and Article 11.69 (Suspension of the Release of Suspected Pirated Copyright Goods or Counterfeit Trademark Goods by Ex Officio Action), whether suspected pirated copyright goods or counterfeit trademark goods are infringing intellectual property rights.

(60) A Party may comply with the obligation under this Article with respect to a determination that suspected goods under Article 11.69 (Suspension of the Release of Suspected Pirated Copyright Goods or Counterfeit Trademark Goods by Ex Officio Action) infringe an intellectual property right through a determination that the suspected goods bear a false trade description.

Article 11.72. Destruction Order by Competent Authorities

Each Party shall provide that, without prejudice to other rights of action open to the right holder and subject to the right of the defendant to seek review by a judicial authority, its competent authorities shall have the authority to order the destruction and the authority to order the disposal of goods that are determined to be pirated copyright goods or counterfeit trademark goods. In cases where such goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, such goods are disposed of outside the channels of commerce in such a manner as to avoid any harm to the right holder. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed

shall not be sufficient, other than in exceptional cases, to permit the release of the goods into the channels of commerce.

Article 11.73. Fees

Where an application fee, merchandise storage fee, or destruction fee is established or assessed in connection with border measures to enforce an intellectual property right, each Party shall provide that the fee shall not be set at an amount that unreasonably deters recourse to these measures.

Subsection 4. Criminal Remedies

Article 11.74. Criminal Procedures and Penalties

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful copyright or related rights piracy or trademark counterfeiting on a commercial scale. (61)

2. Each Party shall treat wilful importation of pirated copyright goods or counterfeit trademark goods on a commercial scale as unlawful activities subject to the criminal procedures and penalties referred to in paragraph 1. A Party may comply with its obligation relating to importation under this Article by providing that distribution or sale of such goods on a commercial scale is an unlawful activity subject to criminal penalties.

3. With respect to the offences described in paragraphs 1 and 2, each Party shall provide for the following:

(a) penalties that include sentences of imprisonment as well as monetary fines sufficient to provide a deterrent consistent with the level of penalties applied for crimes of a corresponding gravity; (62)

(b) its judicial authorities have the authority to order the seizure (63) of suspected pirated copyright goods or counterfeit trademark goods, related materials and implements predominantly used in the commission of the offence, and documentary evidence relevant to the alleged offence; and

(c) its judicial authorities have the authority to order, without compensation of any kind for the defendant, the forfeiture or destruction of:

(i) pirated copyright goods or counterfeit trademark goods;

(ii) materials and implements that have been predominantly used in the creation of pirated copyright goods or counterfeit trademark goods; and

(iii) any other labels or packaging to which a counterfeit trademark has been applied and that have been used in the commission of the offence.

4. Recognising the need to address the unauthorised copying (64) of a cinematographic work on a commercial scale from a performance in a movie theatre, which causes significant harm to a right holder in the market for that work, and recognising the need to deter such harm, each Party shall adopt or maintain measures, which shall at a minimum include appropriate criminal procedures and penalties. (65)

(61) For the purposes of the application of this Article, paragraph 1 shall not prevent a Party from determining the scope of application of criminal procedures and penalties in case of wilful related rights piracy on a commercial scale, in accordance with its laws and regulations.

(62) Nothing in this Article shall be construed to oblige a Party to provide for the possibility of imprisonment and monetary fines to be imposed in parallel.

(63) A Party may comply with its obligations under this subparagraph, with respect to pre- trial seizure, by providing its criminal enforcement authorities with the authority to order such seizures.

(64) For the purposes of this paragraph, a Party may treat "copying" as synonymous with "reproduction".

(65) For the purposes of this paragraph, a Party may determine specific criminal thresholds for unauthorised copying of a cinematographic

work in accordance with its laws and regulations.

Subsection 5. Enforcement In the Digital Environment

Article 11.75. Effective Action Against Infringement In the Digital Environment

Each Party confirms that the enforcement procedures set out in Subsection 2 (Civil Remedies) and Subsection 4 (Criminal Remedies) shall be available to the same extent with respect to acts of infringement of copyright or related rights and trademarks, in the digital environment.

Section K. Cooperation and Consultation

Article 11.76. Cooperation and Dialogue

1. The Parties recognise the importance of the utilisation and protection of intellectual property and enforcement of intellectual property rights in further promoting trade and investment among the Parties.

2. The Parties acknowledge the significant differences in capacity between some Parties in the area of intellectual property.

3. To facilitate the effective implementation of this Chapter, each Party shall cooperate with other Parties in the area of intellectual property, and engage in dialogue and information exchange on intellectual property issues.

4. The Parties shall endeavour to cooperate in order to promote education and awareness regarding the effective utilisation and protection of intellectual property and enforcement of intellectual property rights.

5. The Parties shall cooperate on border measures with a view to eliminating international trade in goods that infringe intellectual property rights.

6. The Parties shall endeavour to, where appropriate, cooperate among their respective patent offices to facilitate the sharing of search and examination work, and exchanges of information on quality assurance systems which may facilitate better understanding in the Parties' patent systems. (66)

7. The Parties shall endeavour to cooperate by sharing information on steps each Party is taking to help prevent online copyright infringement.

8. The Parties may cooperate on the administration of systems for the protection of new varieties of plants, including exceptions to the breeder's rights, in relation to paragraph 3 of Article 11.9 (Multilateral Agreements) or Article 11.48 (Protection of New Varieties of Plants).

9. The Parties shall endeavour to cooperate on issues relating to patent grace periods in order to support innovation.

10. The Parties may cooperate on issues relating to the procedures and processes of their respective patent offices, with a view to reducing the cost of obtaining the grant of a patent.

11. The Parties may exchange information on the protection of their respective geographical indications, including information on systems, procedures, and goods covered.

12. The Parties may cooperate on the training of patent examiners in the examination of patent applications related to traditional knowledge associated with genetic resources.

13. All cooperation activities under this Chapter shall be on request of a Party, on mutually agreed terms, and subject to the relevant laws and regulations and availability of resources of the Parties involved.

(66) This paragraph may apply to multilateral information sharing systems to support work-sharing initiatives.

Section L. Transparency

Article 11.77. Transparency

1. Each Party shall provide that final judicial decisions and administrative rulings of general application that pertain to the availability, scope, acquisition, enforcement, and prevention of the abuse of intellectual property rights shall be published,

or where such publication is not practicable, made publicly available, in at least a national language of that Party in such a manner as to enable the other Parties and right holders to become acquainted with them. Each Party shall endeavour to provide that such final judicial decisions be published online, where feasible. (67)

2. Each Party shall take appropriate measures, to the extent possible under its laws and regulations, to publish or make available to the public, information on applications and registrations of intellectual property rights, and where applicable, legal status information thereof, such as registration and expiration dates.

(67) For greater certainty, nothing in this paragraph shall require a Party to specify online publication in its laws and regulations.

Section M. Transition Periods and Technical Assistance

Article 11.78. Transitional Periods for Least Developed Country Parties Under the Trips Agreement

Nothing in this Chapter shall derogate from the rights of any Party to avail itself of any applicable transitional period under the TRIPS Agreement that has been or may be agreed in the WTO, either before, on, or after the date of entry into force of this Agreement.

Article 11.79. Party-specific Transition Periods

1. Noting each Party's different stage of development, and without prejudice to Article 11.78 (Transitional Periods for Least Developed Country Parties under the TRIPS Agreement), a Party may delay the implementation of certain provisions of this Chapter in accordance with Annex 11A (Party-Specific Transition Periods).

2. During the relevant periods set out in Annex 11A (Party-Specific Transition Periods), a Party shall not amend a measure to make it less consistent with its obligations under the provisions referred to in Annex 11A (Party-Specific Transition Periods) for that Party, or adopt a new measure that is less consistent with those obligations than relevant measures of that Party that are in effect on the date of signature of this Agreement. This Article does not affect the rights and obligations of a Party under an international agreement to which it and another Party are party.

Article 11.80. Notifications In Relation to Party-specific Transition Periods

1. Any Party which has a Party-specific transition period for any obligation under this Chapter as set out in Annex 11A (Party-Specific Transition Periods) shall provide a notification to the Committee on the Business Environment on its plans for and progress towards implementing each such obligation, after the date of entry into force of this Agreement for that Party, as follows:

(a) for any transition period of five years or less, that Party shall provide a notification six months before the expiration of the transition period; and

(b) for any transition period of more than five years, that Party shall provide an annual notification on the anniversary of the date of entry into force of this Agreement for that Party, beginning on the fifth anniversary for that Party, and a notification six months before the expiration of the transition period. (68)

2. Any Party may request additional information regarding another Party's progress towards implementing the obligation. The requested Party shall promptly reply to such a request.

3. No later than the date on which a transition period expires, a Party with a Party-specific transition period shall provide a notification to the other Parties of what measures it has taken to implement the obligation for which it has a transition period.

4. If a Party fails to provide the notification referred to in paragraph 3, the matter shall be automatically placed on the agenda for the next regular meeting of the Committee on the Business Environment.

(68) For greater certainty, this subparagraph shall also apply to any extension of a transition period set out in Annex 11A (Party-Specific Transition Periods).

Article 11.81. Technical Assistance

1. In accordance with the objectives of Chapter 15 (Economic and Technical Cooperation), the Parties agree to undertake the necessary technical assistance, pursuant to the identified needs for the implementation of this Chapter, as set out in Annex 11B (List of Technical Assistance Requests).

2. The technical assistance referred to in paragraph 1 shall be on mutually agreed terms, subject to the relevant rules and regulations and availability of resources of the Parties involved.

Section N. Procedural Matters

Article 11.82. Improvement of Procedures for the Administration of Intellectual Property Rights

The Parties recognise the importance of providing efficient administration of their intellectual property systems, and in this regard each Party shall continue to review and endeavour, where appropriate, to make improvements to its procedures for the administration of intellectual property rights.

Article 11.83. Streamlining of Procedural Requirements on Paper

Further to article 11.82 (Improvement of Procedures for the Administration of Intellectual Property Rights), each party shall endeavour to streamline any procedural requirements it maintainsregarding:

(a) the certification of translations in relation to patent applications; and

(b) the authentication of signatures in relation to applications for patents, industrial designs, and trademarks.

Chapter 12. Electronic Commerce

Section A. General Provisions

Article 12.1. Definitions

For the purposes of this Chapter:

(a) **computing facilities** means computer servers and storage devices for processing or storing information for commercial use;

(b) **covered person** means:

(i) a "covered investment" as defined in subparagraph (a) of Article 10.1 (Definitions);

(ii) an "investor of a Party" as defined in subparagraph (e) of Article 10.1 (Definitions), but does not include an investor in a financial institution or an investor in a financial service supplier; (1) or

(iii) a service supplier of a Party as defined in Article 8.1 (Definitions),

but does not include a "financial institution", a "public entity", or a "financial service supplier", as defined in Article 1 (Definitions) of Annex 8A (Financial Services);

(c) **electronic authentication** means the process of verifying or testing an electronic statement or claim, in order to establish a level of confidence in the statement's or claim's reliability; and

(d) **unsolicited commercial electronic message** means an electronic message which is sent for commercial or marketing purposes to an electronic address, without the consent of the recipient or despite the explicit rejection of the recipient. (2)

(1) For greater certainty, an investor in a financial institution or an investor in a financial service supplier may still be a "covered person" in relation to other investments that are not in a financial institution or in a financial service supplier.

(2) A Party may apply the definition to unsolicited commercial electronic messages delivered through one or more modes of delivery, including Short Message Service (SMS) or e-mail. Notwithstanding this footnote, Parties should endeavour to adopt or maintain measures consistent with Article 12.9 (Unsolicited Commercial Electronic Messages) that apply to other modes of delivery of unsolicited commercial electronic messages.

Article 12.2. Principles and Objectives

1. The Parties recognise the economic growth and opportunities provided by electronic commerce, the importance of frameworks that promote consumer confidence in electronic commerce, and the importance of facilitating the development and use of electronic commerce.

2. The objectives of this Chapter are to:

(a) promote electronic commerce among the Parties and the wider use of electronic commerce globally;

(b) contribute to creating an environment of trust and confidence in the use of electronic commerce; and

(c) enhance cooperation among the Parties regarding development of electronic commerce.

Article 12.3. Scope (3)

1. This Chapter shall apply to measures adopted or maintained by a Party that affect electronic commerce.

2. This Chapter shall not apply to government procurement.

3. This Chapter shall not apply to information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection.

4. Article 12.14 (Location of computing facilities) and article 12.15 (cross-border transfer of information by electronic means) shall not apply to aspects of a Party's measures that do not conform with an obligation in Chapter 8 (Trade in Services) or Chapter 10 (Investment) to the extent that such measures are adopted or maintained in accordance with:

(a) Article 8.8 (Schedules of Non-Conforming Measures) or Article 10.8 (Reservations and Non-Conforming Measures);

(b) any terms, limitations, qualifications, and conditions specified in a Party's commitments, or are with respect to a sector that is not subject to a Party's commitments, made in accordance with Article 8.6 (Most-Favoured-Nation Treatment) or Article 8.7 (Schedules of Specific Commitments); or

(c) any exception that is applicable to the obligations in Chapter 8 (Trade in Services) or Chapter 10 (Investment).

5. For greater certainty, measures affecting the supply of a service delivered electronically are subject to the obligations contained in the relevant provisions of:

(a) Chapter 8 (Trade in Services); and

(b) Chapter 10 (Investment),

including Annex II (Schedules of Specific Commitments for Services), Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment), as well as any exceptions that are applicable to those obligations.

(3) For greater certainty, the Parties affirm that the obligations under this Chapter are without prejudice to any Party's position in the WTO.

Article 12.4. Cooperation

1. Each Party shall, where appropriate, cooperate to:

(a) work together to assist small and medium enterprises to overcome obstacles in the use of electronic commerce;

(b) identify areas for targeted cooperation between the Parties which will help Parties implement or enhance their electronic commerce legal framework, such as research and training activities, capacity building, and the provision of technical assistance;

(c) share information, experiences, and best practices in addressing challenges related to the development and use of electronic commerce;

(d) encourage business sectors to develop methods or practices that enhance accountability and consumer confidence to foster the use of electronic commerce; and

(e) actively participate in regional and multilateral fora to promote the development of electronic commerce.

2. The Parties shall endeavour to undertake forms of cooperation that build on and do not duplicate existing cooperation initiatives pursued in international fora.

Section B. Trade Facilitation

Article 12.5. Paperless Trading

1. Each Party shall:

(a) work towards implementing initiatives which provide for the use of paperless trading, taking into account the methods agreed by international organisations including the World Customs Organization; (4)

(b) endeavour to accept trade administration documents submitted electronically as the legal equivalent of the paper version of such trade administration documents; and

(c) endeavour to make trade administration documents available to the public in electronic form.

2. The Parties shall cooperate in international fora to enhance acceptance of electronic versions of trade administration documents.

(4) Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this subparagraph for a period of five years after the date of entry into force of this Agreement.

Article 12.6. Electronic Authentication and Electronic Signature

1. Except in circumstances otherwise provided for under its laws and regulations, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form. (5)

2. Taking into account international norms for electronic authentication, each Party shall:

(a) permit participants in electronic transactions to determine appropriate electronic authentication technologies and implementation models for their electronic transactions;

(b) not limit the recognition of electronic authentication technologies and implementation models for electronic transactions; and

(c) permit participants in electronic transactions to have the opportunity to prove that their electronic transactions comply with its laws and regulations with respect to electronic authentication.

3. Notwithstanding paragraph 2, each Party may require that, for a particular category of electronic transactions, the method of electronic authentication meets certain performance standards or is certified by an authority accredited in accordance with its laws and regulations.

4. The Parties shall encourage the use of interoperable electronic authentication.

(5) Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement.

Section C. Creating a Conducive Environment for Electronic Commerce

Article 12.7. Online Consumer Protection

1. The Parties recognise the importance of adopting and maintaining transparent and effective consumer protection measures for electronic commerce as well as other measures conducive to the development of consumer confidence.

2. Each Party shall adopt or maintain laws or regulations to provide protection for consumers using electronic commerce against fraudulent and misleading practices that cause harm or potential harm to such consumers. (6)

3. The Parties recognise the importance of cooperation between their respective competent authorities in charge of consumer protection on activities related to electronic commerce in order to enhance consumer protection.

4. Each Party shall publish information on the consumer protection it provides to users of electronic commerce, including how:

(a) consumers can pursue remedies; and

(b) business can comply with any legal requirements.

(6) Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement.

Article 12.8. Online Personal Information Protection

1. Each Party shall adopt or maintain a legal framework which ensures the protection of personal information of the users of electronic commerce. (7) (8)

2. In the development of its legal framework for the protection of personal information, each Party shall take into account international standards, principles, guidelines, and criteria of relevant international organisations or bodies.

3. Each Party shall publish information on the personal information protection it provides to users of electronic commerce, including how:

(a) individuals can pursue remedies; and

(b) business can comply with any legal requirements.

4. The Parties shall encourage juridical persons to publish, including on the internet, their policies and procedures related to the protection of personal information.

5. The Parties shall cooperate, to the extent possible, for the protection of personal information transferred from a Party.

(7) Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement.

(8) For greater certainty, a Party may comply with the obligation under this paragraph by adopting or maintaining measures such as comprehensive privacy or personal information protection laws and regulations, sector-specific laws and regulations covering the protection of personal information, or laws and regulations that provide for the enforcement of contractual obligations assumed by juridical persons relating to the protection of personal information.

Article 12.9. Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

(a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to stop receiving such messages;

(b) require the consent, as specified according to its laws and regulations, of recipients to receive commercial electronic messages; or

(c) otherwise provide for the minimisation of unsolicited commercial electronic messages.

2. Each Party shall provide recourse against suppliers of unsolicited commercial electronic messages who do not comply with its measures implemented pursuant to paragraph 1. (9)

3. The Parties shall endeavour to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

(9) Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of

this Agreement. Brunei Darussalam shall not be obliged to apply this paragraph for a period of three years after the date of entry into force of this Agreement.

Article 12.10. Domestic Regulatory Framework

1. Each Party shall adopt or maintain a legal framework governing electronic transactions, taking into account the UNCITRAL Model Law on Electronic Commerce 1996, the United Nations Convention on the Use of Electronic Communications in International Contracts done at New York on 23 November 2005, or other applicable international conventions and model laws relating to electronic commerce. (10)

2. Each Party shall endeavour to avoid any unnecessary regulatory burden on electronic transactions.

(10) Cambodia shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement.

Article 12.11. Customs Duties

1. Each Party shall maintain its current practice of not imposing customs duties on electronic transmissions between the Parties.

2. The practice referred to in paragraph 1 is in accordance with the WTO Ministerial Decision of 13 December 2017 in relation to the Work Programme on Electronic Commerce (WT/MIN(17)/65).

3. Each Party may adjust its practice referred to in paragraph 1 with respect to any further outcomes in the WTO Ministerial Decisions on customs duties on electronic transmissions within the framework of the Work Programme on Electronic Commerce.

4. The Parties shall review this Article in light of any further WTO Ministerial Decisions in relation to the Work Programme on Electronic Commerce.

5. For greater certainty, paragraph 1 shall not preclude a Party from imposing taxes, fees, or other charges on electronic transmissions, provided that such taxes, fees, or charges are imposed in a manner consistent with this Agreement.

Article 12.12. Transparency

1. Each Party shall publish as promptly as possible or, where that is not practicable, otherwise make publicly available, including on the internet where feasible, all relevant measures of general application pertaining to or affecting the operation of this Chapter.

2. Each Party shall respond as promptly as possible to a relevant request from another Party for specific information on any of its measures of general application pertaining to or affecting the operation of this Chapter.

Article 12.13. Cyber Security

The Parties recognise the importance of:

(a) building the capabilities of their respective competent authorities responsible for computer security incident responses including through the exchange of best practices; and

(b) using existing collaboration mechanisms to cooperate on matters related to cyber security.

Section D. Promoting Cross-border Electronic Commerce

Article 12.14. Location of Computing Facilities

1. The Parties recognise that each Party may have its own measures regarding the use or location of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.

2. No Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that Party's territory. (11)

3. Nothing in this Article shall prevent a Party from adopting or maintaining:

(a) any measure inconsistent with paragraph 2 that it considers necessary to achieve a legitimate public policy objective, (12) provided that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; or

(b) any measure that it considers necessary for the protection of its essential security interests. Such measures shall not be disputed by other Parties.

(11) Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement, with an additional three years if necessary. Viet Nam shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement.

(12) For the purposes of this subparagraph, the Parties affirm that the necessity behind the implementation of such legitimate public policy shall be decided by the implementing Party.

Article 12.15. Cross-border Transfer of Information by Electronic Means

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.

2. A Party shall not prevent cross-border transfer of information by electronic means where such activity is for the conduct of the business of a covered person. (13)

3. Nothing in this Article shall prevent a Party from adopting or maintaining:

(a) any measure inconsistent with paragraph 2 that it considers necessary to achieve a legitimate public policy objective, (14) provided that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; or

(b) any measure that it considers necessary for the protection of its essential security interests. Such measures shall not be disputed by other Parties.

(13) Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement, with an additional three years if necessary. Viet Nam shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement.

(14) For the purposes of this subparagraph, the Parties affirm that the necessity behind the implementation of such legitimate public policy shall be decided by the implementing Party.

Section E. Other Provisions

Article 12.16. Dialogue on Electronic Commerce

1. The Parties recognise the value of dialogue, including with stakeholders where appropriate, in promoting the development and use of electronic commerce. In conducting such a dialogue, the Parties shall consider the following matters:

(a) cooperation in accordance with Article 12.4 (Cooperation);

(b) current and emerging issues, such as the treatment of digital products, source code, and cross-border data flow and the location of computing facilities in financial services; and

(c) other matters relevant to the development and use of electronic commerce, such as anti-competitive practices, online dispute resolution, and the promotion of skills relevant for electronic commerce including for cross-border temporary movement of professionals.

2. The dialogue shall be conducted in accordance with subparagraph 1(j) of Article 18.3 (Functions of the RCEP Joint

Committee).

3. The Parties shall take the matters listed in paragraph 1, and any recommendation arising from any dialogue conducted pursuant to this Article, into account in the context of the general review of this Agreement undertaken in accordance with Article 20.8 (General Review).

Article 12.17. Settlement of Disputes

1. In the event of any differences between Parties regarding the interpretation and application of this Chapter, the Parties concerned shall first engage in consultations in good faith and make every effort to reach a mutually satisfactory solution.

2. In the event that the consultations referred to in paragraph 1 fail to resolve the differences, any Party engaged in the consultations may refer the matter to the RCEP Joint Committee in accordance with Article 18.3 (Functions of the RCEP Joint Committee).

3. No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Chapter. As part of any general review of this Agreement undertaken in accordance with Article 20.8 (General Review), the Parties shall review the application of Chapter 19 (Dispute Settlement) to this Chapter. Following the completion of the review, Chapter 19 (Dispute Settlement) shall apply to this Chapter between those Parties that have agreed to its application.

Chapter 13. Competition

Article 13.1. Objectives

The objectives of this Chapter are to promote competition in markets, and enhance economic efficiency and consumer welfare, through the adoption and maintenance of laws and regulations to proscribe anti- competitive activities, and through regional cooperation on the development and implementation of competition laws and regulations among the Parties. The pursuit of these objectives will help the Parties to secure the benefits of this Agreement, including facilitating trade and investment among the Parties.

Article 13.2. Basic Principles

1. Each Party shall implement this Chapter in a manner consistent with the objectives of this Chapter.

2. Acknowledging each Party's rights and obligations under this Chapter, the Parties recognise:

(a) the sovereign rights of each Party to develop, set, administer, and enforce its competition laws, regulations, and policies; and

(b) the significant differences that exist among the Parties in capacity and level of development in the area of competition law and policy.

Article 13.3. Appropriate Measures Against Anti-competitive Activities (1)

1. Each Party shall adopt or maintain competition laws and regulations to proscribe anti-competitive activities, (2) and shall enforce those laws and regulations accordingly.

2. Each Party shall establish or maintain an authority or authorities to effectively implement its competition laws and regulations.

3. Each Party shall ensure independence in decision making by its authority or authorities in relation to the enforcement of its competition laws and regulations.

4. Each Party shall apply and enforce its competition laws and regulations in a manner that does not discriminate on the basis of nationality.

5. Each Party shall apply its competition laws and regulations to all entities engaged in commercial activities, regardless of their ownership. Any exclusion or exemption from the application of each Party's competition laws and regulations, shall be transparent and based on grounds of public policy or public interest.

6. Each Party shall make publicly available its competition laws and regulations, and any guidelines issued in relation to

the administration of such laws and regulations, except for internal operating procedures.

7. Each Party shall make public the grounds for any final decision or order to impose a sanction or remedy under its competition laws and regulations, and any appeal therefrom, subject to:

(a) (i) its laws and regulations;

(ii) its need to safeguard confidential information; or

(iii) its need to safeguard information on grounds of public policy or public interest; and

(b) redactions from the final decision or order on any of the grounds referred to in subparagraphs (a)(i) through (iii).

8. Each Party shall ensure that before a sanction or remedy is imposed on any person or entity for breaching its competition laws or regulations, such person or entity is given the reasons, which should be in writing where possible, for the allegations that the Party's competition laws or regulations have been breached, and a fair opportunity to be heard and to present evidence.

9. Each Party shall, subject to any redactions necessary to safeguard confidential information, make the grounds for any final decision or order to impose a sanction or remedy under its competition laws and regulations, and any appeal therefrom, available to the person or entity subject to that sanction or remedy. (3)

10. Each Party shall ensure that any person or entity subject to the imposition of a sanction or remedy under its competition laws and regulations has access to an independent review of or appeal against that sanction or remedy.

11. Each Party recognises the importance of timeliness in the handling of competition cases.

(1) This Article is subject to: (a) Annex 13A (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Brunei Darussalam); (b) Annex 13B (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Cambodia); (c) Annex 13C (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Lao PDR); and (d) Annex 13D (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Myanmar).

(2) Examples may include anti-competitive agreements, abuses of a dominant position, and anti-competitive mergers and acquisitions.

(3) This paragraph shall not apply to a jury verdict in a criminal trial.

Article 13.4. Cooperation (4)

The Parties recognise the importance of cooperation between or among their respective competition authorities to promote effective competition law enforcement. To this end, the Parties may cooperate on issues relating to competition law enforcement, through their respective competition authorities, in a manner compatible with their respective laws, regulations, and important interests, and within their respective available resources. The form of such cooperation may include:

(a) notification by a Party to another Party of its competition law enforcement activities that it considers may substantially affect the important interests of the other Party, as promptly as reasonably possible; (5)

(b) upon request, discussion between or among Parties to address any matter relating to competition law enforcement that substantially affects the important interest of the requesting Party;

(c) upon request, exchange of information between or among Parties to foster understanding or to facilitate effective competition law enforcement; and

(d) upon request, coordination in enforcement actions between or among Parties in relation to the same or related anti-competitive activities.

(4) This Article is subject to: (a) Annex 13A (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Brunei Darussalam); (b) Annex 13B (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Cambodia); (c) Annex 13C (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities)

and Article 13.4 (Cooperation) to Lao PDR); and (d) Annex 13D (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Myanmar).

(5) In the case of notification to the competition authority of Japan pursuant to this subparagraph, the notification should be confirmed in writing through the diplomatic channel. Such confirmation should be made as promptly as possible after the communication concerned among the competition authorities of the Parties concemed.

Article 13.5. Confidentiality of Information

1. This Chapter shall not require the sharing of information by a Party, which is contrary to that Party's laws, regulations, and important interests.

2. Where a Party requests confidential information under this Chapter, the requesting Party shall notify the requested Party of:

(a) the purpose of the request;

(b) the intended use of the requested information; and

(c) any laws or regulations of the requesting Party that may affect the confidentiality of information or require the use of the information for purposes not agreed upon by the requested Party.

3. The sharing of confidential information between any of the Parties and the use of such information shall be based on terms and conditions agreed by the Parties concerned.

4. If information shared under this Chapter is shared on a confidential basis, then, except to comply with its laws and regulations, the Party receiving the information shall:

(a) maintain the confidentiality of the information received;

(b) use the information received only for the purpose disclosed at the time of the request, unless otherwise authorised by the Party providing the information;

(c) not use the information received as evidence in criminal proceedings carried out by a court or a judge unless, on request of the Party receiving the information, such information was provided for such use in criminal proceedings through diplomatic channels or other channels established in accordance with the laws and regulations of the Parties concerned;

(d) not disclose the information received to any other authority, entity, or person not authorised by the Party providing the information; and

(e) comply with any other conditions required by the Party providing the information.

Article 13.6. Technical Cooperation and Capacity Building

The Parties agree that it is in their common interest to work together, multilaterally or bilaterally, on technical cooperation activities to build necessary capacities to strengthen competition policy development and competition law enforcement, taking into account the availability of resources of the Parties. Technical cooperation activities may include:

a) (a) sharing of relevant experiences and non-confidential information on the development and implementation of competition law and policy;

b) (b) the exchange of consultants and experts on competition law and policy;

c) (c) the exchange of officials of competition authorities for training purposes;

d) (d) participation of officials of competition authorities in advocacy programmes; and

e) (e) other activities as agreed by the Parties.

Article 13.7. Consumer Protection

1. The Parties recognise the importance of consumer protection law and the enforcement of such law as well as cooperation

among the Parties on matters related to consumer protection in order to achieve the objectives of this Chapter.

2. Each Party shall adopt or maintain laws or regulations to proscribe the use in trade of misleading practices, or false or misleading descriptions.

3. Each Party also recognises the importance of improving awareness of, and access to, consumer redress mechanisms.

4. The Parties may cooperate on matters of mutual interest related to consumer protection. Such cooperation shall be carried out in a manner compatible with the Partiesâ respective laws and regulations and within their available resources.

Article 13.8. Consultations

In order to foster understanding between the Parties, or to address specific matters that arise under this Chapter, on request of a Party, the requested Party shall enter into consultations with the requesting Party. In its request, the requesting Party shall indicate, if relevant, how the matter affects its important interests, including trade or investment between the Parties concerned. The requested Party shall accord full and sympathetic consideration to the concerns of the requesting Party.

Article 13.9. Non-application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 14. Small and Medium Enterprises

Article 14.1. Objectives

1. The Parties recognise that small and medium enterprises, including micro enterprises, contribute significantly to economic growth, employment, and innovation, and therefore seek to promote information sharing and cooperation in increasing the ability of small and medium enterprises to utilise and benefit from the opportunities created by this Agreement.

2. The Parties acknowledge the provisions of various Chapters in this Agreement that contribute to encouraging and facilitating the participation of small and medium enterprises in this Agreement.

Article 14.2. Information Sharing

1. Each Party shall promote the sharing of information related to this Agreement that is relevant to small and medium enterprises, including through the establishment and maintenance of a publicly accessible information platform, and information exchange to share knowledge, experiences, and best practices among the Parties.

2. The information to be made publicly accessible in accordance with paragraph 1 will include:

(a) the full text of this Agreement;

(b) information on trade and investment-related laws and regulations that the Party considers relevant to small and medium enterprises; and

(c) additional business-related information that the Party considers useful for small and medium enterprises interested in benefitting from the opportunities provided by this Agreement.

3. Each Party shall take reasonable steps to ensure that information referred to in paragraph 2 is accurate and up-to-date.

Article 14.3. Cooperation

The Parties shall strengthen their cooperation under this Chapter, which may include:

(a) encouraging efficient and effective implementation of facilitative and transparent trade rules and regulations;

(b) improving small and medium enterprises' access to markets and participation in global value chains, including by promoting and facilitating partnerships among businesses;

(c) promoting the use of electronic commerce by small and medium enterprises;

(d) exploring opportunities for exchanges of experiences among Partiesâ entrepreneurial programmes;

(e) encouraging innovation and use of technology;

(f) promoting awareness, understanding, and effective use of the intellectual property system among small and medium enterprises;

(g) promoting good regulatory practices and building capacity in formulating regulations, policies, and programmes that contribute to small and medium enterprise development; and

(h) sharing best practices on enhancing the capability and competitiveness of small and medium enterprises.

Article 14.4. Contact Points

Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate one or more contact points to facilitate cooperation and information sharing under this Chapter and notify the other Parties of the contact details of that contact point or those contact points. Each Party shall notify the other Parties of any change to those contact details.

Article 14.5. Non-application of Dispute Settlement

Dispute settlement mechanisms in this Agreement shall not apply to any matter arising under this Chapter.

Chapter 15. Economic and Technical Cooperation

Article 15.1. Definition

For the purposes of this Chapter, work programme means the list of economic and technical cooperation activities mutually determined by the Parties in accordance with Article 15.5 (Work Programme).

Article 15.2. Objectives

1. The Parties reaffirm the importance of ongoing economic and technical cooperation initiatives between Parties and agree to complement their existing economic partnership in areas where the Parties have mutual benefits and interests.

2. The Parties shall seek to prioritise economic and technical cooperation initiatives and, where possible, minimise duplication of ongoing efforts and utilisation of resources, particularly under the free trade agreements between the Member States of ASEAN and their free trade partners.

3. The Parties agree that the economic and technical cooperation in the RCEP context aims at narrowing development gaps among the Parties and maximising mutual benefits from the implementation and utilisation of this Agreement. The economic and technical cooperation shall take into account the different levels of development and national capacity of each Party.

4. The Parties acknowledge the provisions to encourage and facilitate economic and technical cooperation included in various Chapters of this Agreement.

Article 15.3. Scope

1. Economic and technical cooperation under this Chapter shall support the inclusive, effective and efficient implementation and utilisation of this Agreement through economic and technical cooperation activities which are trade or investment related as specified in the work programme.

2. The Parties shall explore and undertake economic and technical cooperation activities, including capacity building and technical assistance that focus on the following:

(a) trade in goods;

(b) trade in services;

(c) investment;

(d) intellectual property;

(e) electronic commerce;

(f competition;

(g) small and medium enterprises; and

(h) other matters, as agreed upon among the Parties.

Article 15.4. Resources

1. Resources for economic and technical cooperation under this Chapter shall be provided voluntarily and in a manner that is agreed upon among the relevant Parties, taking into account the objectives set out in Article 15.2 (Objectives).

2. The Parties, on the basis of mutual benefit, may consider cooperation with, and contribution from:

(a) non-Parties; or

(b) sub-regional, regional, or international organisations or institutions,

that are interested in developing mutually beneficial cooperation and partnerships, to support the implementation of the work programme.

Article 15.5. Work Programme

1. In accordance with paragraph 4 of Article 15.2 (Objectives), the Parties shall develop the work programme taking into consideration the economic and technical cooperation provisions in this Agreement and the needs identified by committees established pursuant to Chapter 18 (Institutional Provisions).

2. To encourage effective implementation and utilisation of this Agreement, in the work programme the Parties will give priority to activities that:

(a) provide capacity building and technical assistance to developing country Parties and Least Developed Country Parties;

(b) increase public awareness;

(c) enhance access to information for businesses; and

(d) other activities as may be agreed upon among the Parties.

3. The Parties may, when necessary and as may be agreed, modify the work programme.

Article 15.6. Least Developed Country Parties Which Are Member States of ASEAN

The Parties shall take into consideration specific constraints faced by Least Developed Country Parties which are Member States of ASEAN. Appropriate capacity building and technical assistance, as agreed upon by the Party or Parties contributing such assistance and the Party or Parties seeking such assistance, shall be provided to help these Parties implement their obligations and take advantage of the benefits of this Agreement.

Article 15.7. Non-application of Dispute Settlement

Dispute settlement mechanisms in this Agreement shall not apply to any matter arising under this Chapter.

Chapter 16. Government Procurement

Article 16.1. Objectives

The Parties recognise the importance of promoting the transparency of laws, regulations, and procedures, and developing cooperation among the Parties, regarding government procurement.

Article 16.2. Scope

1. This Chapter shall apply to the laws, regulations, and procedures of a Party regarding government procurement implemented by its central government entities, as defined or notified by that Party for the purposes of this Chapter.

2. Nothing in this Chapter shall require a Least Developed Country Party to undertake any obligation regarding transparency and cooperation. A Least Developed Country Party may benefit from cooperation among the Parties.

Article 16.3. Principles

The parties recognise the role of government procurement in furthering the economic integration of the region so as to promote growth and employment. where government procurement is expressly open to international competition, each party, to the extent possible and as appropriate, shall conduct its government procurement in accordance with generally accepted government procurement principles as applied by that party.

Article 16.4. Transparency

1. Each party shall:

(a) make publicly available its laws and regulations; and

(b) endeavour to make publicly available its procedures,

regarding government procurement, which may include information on where tender opportunities are published.

2. To the extent possible and as appropriate, each Party endeavours to make available and update the information referred to in paragraph 1 through electronic means.

3. Each Party may specify in Annex 16A (Paper or Electronic Means Utilised by Parties for the Publication of Transparency Information) the paper or electronic means utilised by that Party to publish the information referred to in paragraph 1.

4. Each Party endeavours to make the information referred to in paragraph 1 available in the English language.

Article 16.5. Cooperation

The Parties endeavour to cooperate on matters relating to government procurement with a view to achieving a better understanding of each Party's respective government procurement systems. Such cooperation may include:

(a) exchanging information, to the extent possible, on Parties' laws, regulations, and procedures, and any modifications thereof;

(b) providing training, technical assistance, or capacity building to Parties, and sharing information on these initiatives;

(c) sharing information, where possible, on best practices, including those in relation to small and medium enterprises, including micro enterprises; and

(d) sharing information, where possible, on electronic procurement systems.

Article 16.6. Review

The Parties may review this Chapter within the period stipulated in Article 20.8 (General Review) with a view to improving this Chapter in the future to facilitate government procurement, as agreed by the Parties.

Article 16.7. Contact Points

Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate one or more contact points to facilitate cooperation and information sharing under this Chapter and notify the other Parties of the relevant details of that contact point or those contact points. Each Party shall promptly notify the other Parties of any change regarding the relevant details of its contact point or contact points.

Article 16.8. Non-application of Dispute Settlement

Dispute settlement mechanisms in this Agreement shall not apply to any matter arising under this Chapter.

Annex 16A. PAPER OR ELECTRONIC MEANS UTILISED BY PARTIES FOR THE PUBLICATION OF TRANSPARENCY INFORMATION

Australia:

Publication of general laws and regulations

www legislation.gov.au

Publication of government procurement procedures

www. finance.gov.au

Publication of tender notices

www.tenders.gov.au

Brunei Darussalam:

Publication of procurement rules and regulations

https:/Awww.mofe. gov.bn/divisions/state-tenders-board-general- information.aspx

https:/Awww.mofe. gov.bn/divisions/financial-regulation-1983.aspx

https:/Awww.mofe. gov.bn/divisions/ministry-of-finance-circulars- 22009.aspx

https:/Awww.mofe. gov.bn/divisions/ministry-of-finance-circulars- 32004.aspx

https:/Awww.mofe. gov.bn/divisions/ministry-of-finance-circulars- 12014.aspx

https:/Awww.mofe. gov.bn/divisions/ministry-of-finance-circulars- 12015.aspx

https:/Awww.mofe. gov.bn/divisions/debarment-policy.aspx

https:/Awww.mofe. gov.bn/divisions/Custom-Duty.aspx

Publication of tender advertisement

http://www.pelitabrunei.gov.bn/lists/iklaniklan/iklan%20tawaran.aspx

China:

Publication of government procurement laws, regulations, procedures, and tender notices.

www.ccgp.gov.cn

Indonesia:

Publication of general laws, regulations, procedures, and tender notices

www.inaproc.id

Japan:

Publication of general laws and regulations regarding government procurement by central government entities (1)

- Kanpo or Horeizensho

Publication of the notice of intended procurement for certain procurement?

- Kanpo (available on paper media and at http://kanpou.npb.go.jp)

Republic of Korea:

Publication of general laws, regulations, and procedures regarding government procurement (2)

www.pps.go.kr

Publication of tender notices

www.g2b.go.kr

(1) For the purposes of Chapter 16 (Govemment Procurement), "central government entities" means, for Japan, procurement entities listed in Japan's Annex 1 to Appendix I to the GPA. The GPA shall be understood to include amendments thereto or its successor agreement entering into force for Japan.

(2) For the purposes of this Annex, "certain procurement" means, for Japan, procurement by central government entities that is covered by the GPA, including Japan's Annexes to Appendix I to the GPA.

Malaysia:

Publication of general laws, regulations, and procedures regarding government procurement

http://www.treasury.gov.my

New Zealand:

Publication of general laws and regulations

www.legislation.govt.nz

Publication of government procurement procedures

www.procurement. govt.nz

Publication of tender notices

www.gets.govt.nz

Philippines:

Publication of general laws, regulations and procedures regarding government procurement

www.officialgazette.gov.ph/

www.gppb.gov.ph/

Publication of tender notices

www.philgeps.gov.ph/

Singapore:

Publication of general laws and regulations

http://sso.agc.gov.sg/

Publication of procedures and tender notices

www.gebiz.gov.sg

Thailand:

Publication of general laws, regulations, procedures, and tender notices

www.gprocurement.go.th

Viet Nam:

Publication of general laws, regulations, procedures, and tender notices

www.muasamcong.mpi.gov.vn

Chapter 17. General Provisions and Exceptions

Article 17.1. Definition

For the purposes of this Chapter, administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within the ambit of that administrative ruling or interpretation and that establishes a norm of conduct, but does not include:

(a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good, or service of another Party in a specific case; or

(b) a ruling that adjudicates with respect to a particular act or practice.

Article 17.2. Geographical Scope of Application (1) (2)

This Agreement shall apply to the geographical scope for which a Party assumes its obligations in relation to another Party under the WTO Agreement.

(1) Nothing in this Agreement shall prejudice the position of any Party with regard to any issues concerning territorial sovereignty or any issues concerning the law of the sea.

(2) For the purposes of this Agreement, "territory" has the same geographical scope as determined in accordance with this Article.

Article 17.3. Publication

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly published, including on the internet where feasible, or otherwise made available in such a manner as to enable interested persons and other Parties to become acquainted with them.

2. To the extent possible and practicable, each Party shall:

(a) publish in advance any such laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement that it proposes to adopt; and

(b) provide, where appropriate, interested persons and other Parties with a reasonable opportunity to comment on any such laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement.

Article 17.4. Provision of Information

On request of any Party, the requested Party shall promptly provide information and respond to questions pertaining to any actual or proposed laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement that the requesting Party considers may affect the operation of this Agreement.

Article 17.5. Administrative Proceedings

With a view to administering its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement in a consistent, impartial, objective, and reasonable manner, each Party shall ensure in its administrative proceedings applying such measures to a particular person, good, or service of another Party in specific cases that:

(a) wherever possible, a person of another Party that is directly affected by such a proceeding is provided with reasonable notice, in accordance with its domestic procedures, of when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issue in question;

(b) a person of another Party that is directly affected by such a proceeding is afforded a reasonable opportunity to present

facts and arguments in support of that person's position prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

(c) it follows its procedures in accordance with its laws and regulations.

Article 17.6. Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purposes of prompt review and, where warranted, correction of final administrative actions with respect to any matter covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, each party to a proceeding is provided with the right to:

(a) a reasonable opportunity to support or defend that party's positions; and

(b) a decision based on the evidence and submissions of record or, where required by its laws and regulations, the record compiled by the relevant office or authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its laws and regulations, that the decision referred to in subparagraph 2(b) shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

Article 17.7. Disclosure of Information

Nothing in this Agreement shall require any Party to provide confidential information, the disclosure of which would be contrary to its laws and regulations or impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Article 17.8. Confidentiality

Unless otherwise provided in this Agreement, where a Party provides information to another Party in accordance with this Agreement and designates the information as confidential, the other Party shall, subject to its laws and regulations, maintain the confidentiality of the information.

Article 17.9. Measures Against Corruption

1. Each Party shall, in accordance with its laws and regulations, take appropriate measures to prevent and combat corruption with respect to any matter covered by this Agreement.

2. No Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Article.

Article 17.10. Convention on Biological Diversity

Each Party affirms its rights and responsibilities under the Convention on Biological Diversity done at Rio de Janeiro on 5 June 1992.

Article 17.11. Screening Regime and Dispute Settlement

A decision by a competent authority, including a foreign investment authority, of a Party (3) (4) on whether or not to approve or admit a foreign investment proposal, and the enforcement of any conditions or requirements that an approval or admission is subject to, shall not be subject to the dispute settlement provisions under Chapter 19 (Dispute Settlement).

(3) For the purposes of this Article, "a competent authority, including a foreign investment authority" means, as of the date of entry into force of this Agreement: (a) for Australia, the Treasurer of the Commonwealth of Australia under Australia's Foreign Investment Framework including the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth), and any amendments thereto; (b) for Cambodia, the Council for the Development of Cambodia designated under the following laws and regulations, and any amendments thereto: (i) Royal Kram No. 03/NS/94 dated 5 August 1994 promulgating Law on Investment of the Kingdom of Cambodia; (ii) Royal Kram No. NS/RKM/0303/009 dated 24 March 2003 promulgating Law on the Amendment of the Law on Investment of the Kingdom of Cambodia; (iii) Sub-Decree No. 88/ANK/BK dated 29

December 1997 on the implementation of the Law on Investment of the Kingdom of Cambodia; (iv) Sub-Decree No. 111 ANK/BK dated 27 September 2005 on the implementation of the Law on the Amendment of the Law on Investment of the Kingdom of Cambodia; and (v) Sub-Decree No. 148.ANK.BK dated 29 December 2005 on the Establishment and Management of Special Economic Zones; (c) for China, the authorities responsible for granting approval of foreign investment for sectors requiring governmental approval under the relevant laws and regulations including Foreign Investment Law of the People's Republic of China (Adopted on 15 March 2019), and any amendments thereto; (d) for Indonesia, a competent authority including a foreign investment authority designated under the Law Number 25 Year 2007 on Investment and other relevant laws, regulations, and policies, as may be amended; (e) for Korea, the competent authorities as listed in the Foreign investment Promotion Act (Law No. 16479, 20 August 2019), the Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 29172, 18 September 2018), the Regulations on Foreign Invesiment (Notice of the Ministry of Trade, Industry, and Energy, No. 2018-137, 6 July 2018), the Consolidated Public Notice for Foreign Investment (No. 2018-191, 27 February 2018, Ministry of Trade, Industry, and Energy), and the Act on Prevention of Divulgence and Protection of Industrial Technology (Law No. 16476, 20 August 2019), and any amendments thereto; (f) for Lao PDR, the Ministry of Planning and Investment under the Law on Investment Promotion (Law No. 14, dated 17 November 2016), and any amendments thereto, and the Ministry of Industry and Commerce under the Law on Enterprise (Law No. 46, dated 26 December 2013), and any amendments thereto; (g) for Malaysia, the Ministers performing functions and exercising powers under, but not limited to, the Promotion of Investments Act 1986 [Act 327], the Income Tax Act 1967 [Act 53], the Petroleum Development Act 1974 [Act 144], and the Industrial Co-ordination Act 1975 [Act 156], and any amendments thereto; (h) for Myanmar, the Myanmar Investment Commission and Region/State Investment Committees under the Myanmar investment Law, the Pyidaungsu Hiuttaw Law No. 40/2016 dated 18 October 2016 and the Myanmar Investment Rules, Notification No. 35/2017 of the Ministry of Planning and Finance of the Government of the Republic of the Union of Myanmar dated 30 March 2017, and committees under the Myanmar Special Economic Zone Law, the Pyidaungsu Hlutiaw Law No. 1/2014 dated 23 January 2014 and the Industrial Zone Law, the Pyidaungsu Hiuttaw Law No.7/2020 dated 26 May 2020, and any amendments thereto; (i) for New Zealand, the decision-making Ministers authorised under New Zealand's overseas investment framework including the Overseas Investment Act 2005 and the Fisheries Act 1996, and any amendments thereto; (j) for Thailand, the competent authorities responsible under its laws and regulations, as may be amended, for the sectors or activities where foreign investment is proposed or approved; and (k) for Viet Nam, the competent authority as defined in the Law on Invesiment and other relevant laws and regulations such as Law on Securities, Law on Credit Institutions, Law on Insurance Business, and Law on Oil and Gas, as may be amended. If a Party establishes a competent authority, including a foreign investment authority after the date of entry into force of this Agreement, this Article shall also apply to such competent authority.

(4) For the purposes of this Article, "a decision by a competent authority, including a foreign investment authority" means: (a) for Japan, a decision under the Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), as may be amended, regarding an investment that requires prior notification under that law, including an order to alter the content of investment or discontinue the investment process; and (b) for the Philippines, the decision by the Securities and Exchange Commission under Republic Act No. 11232, otherwise known as the Revised Corporation Code of the Philippines; the National Security Council under Executive Order No. 292, otherwise known as the Administrative Code of 1987, as amended; the Board of Investments under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, as amended; and the relevant agencies of the Philippine Govemment vested with jurisdiction and mandate to regulate specific sectors or activities under Republic Act No. 7042, otherwise known as the Foreign Investments Act of 1991, as amended; and any amendments thereto.

Article 17.12. General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Sanitary and Phytosanitary Measures), Chapter 6 (Standards, Technical Regulations, and Conformity Assessment Procedures), Chapter 10 (Investment), and Chapter 12 (Electronic Commerce), Article XX of GATT 1994 is incorporated into and made part of this Agreement, mutatis mutandis. (5)

2. For the purposes of Chapter 8 (Trade in Services), Chapter 9 (Temporary Movement of Natural Persons), Chapter 10 (Investment), and Chapter 12 (Electronic Commerce), Article XIV of GATS including its footnotes is incorporated into and made part of this Agreement, mutatis mutandis. (6)

(5) The Parties understand that the measures referred to in subparagraph (b) of Article XX of GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that subparagraph (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

(6) The Parties understand that the measures referred to in subparagraph (b) of Article XIV of GATS include environmental measures necessary to protect human, animal or plant life or health.

Article 17.13. Security Exceptions

Nothing in this Agreement shall be construed:

(a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests;

(b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable and fusionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials, or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;

(iii) taken so as to protect critical public infrastructures (7) including communications, power, and water infrastructures;

(iv) taken in time of national emergency or war or other emergency in international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

(7) For greater certainty, this includes critical public infrastructures whether publicly or privately owned.

Article 17.14. Taxation Measures

1. For the purposes of this Article:

(a) **tax convention** means an agreement for the avoidance of double taxation or other international taxation agreement or arrangement; and

(b) **taxes and taxation measures** do not include any import or customs duties.

2. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. This Agreement shall only grant rights or impose obligations with respect to taxation measures:

(a) to the extent that the WTO Agreement grants rights or imposes obligations with respect to such taxation measures;

(b) to the extent that Article 10.9 (Transfers) grants rights or imposes obligations with respect to such taxation measures.

4. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention. In the event of any inconsistency relating to taxation measures between this Agreement and any such tax convention, the latter shall prevail.

5. Nothing in this Agreement shall oblige a Party to extend to any other Party the benefit of any treatment, preference, or privilege arising from any existing or future tax convention by which the Party is bound.

Article 17.15. Measures to Safeguard the Balance of Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:

(a) in the case of trade in goods, adopt or maintain restrictive import measures in accordance with GATT 1994 and the Understanding on the Balance-of-Payments Provisions;

(b) in the case of trade in services, adopt or maintain restrictions on trade in services on which it has undertaken commitments, including on payments or transfers for transactions related to such commitments.

2. In the case of investments, where a Party is in serious balance of payments and external financial difficulties or under threat thereof, or where, in exceptional circumstances, payments or transfers relating to capital movements cause or threaten to cause serious difficulties for macroeconomic management, it may adopt or maintain restrictions on payments or transfers related to covered investments as defined in Article 10.1 (Definitions).

3. Restrictions adopted or maintained under subparagraph 1(b) or paragraph 2 shall:

(a) be consistent with the IMF Articles of Agreement as may be amended;

(b) avoid unnecessary damage to the commercial, economic, and financial interests of any other Party;

(c) not exceed those necessary to deal with the circumstances described in subparagraph 1(b) or paragraph 2;

(d) be temporary and be phased out progressively as the situation specified in subparagraph 1(b) or paragraph 2 improves; and

(e) be applied on a non-discriminatory basis such that no Party is treated less favourably than any other Party or a non-Party.

4. With respect to trade in services and investment:

(a) it is recognised that particular pressures on the balance of payments of a Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition;

(b) in determining the incidence of such restrictions, a Party may give priority to economic sectors which are more essential to its economic or development programmes. However, such restrictions shall not be adopted or maintained for the purposes of protecting a particular sector.

5. Any restriction adopted or maintained by a Party under paragraph 1 or 2, or any change thereto, shall be notified promptly to the other Parties.

6. A Party adopting or maintaining any restriction under paragraph 1 or 2 shall:

(a) in the case of investments, respond to any other Party that requests consultations in relation to the restrictions adopted by it, if such consultations are not otherwise taking place outside this Agreement;

(b) in the case of trade in services, promptly commence consultations with any other Party that requests consultations in relation to the restrictions adopted by it, if such consultations are not taking place at the WTO.

Article 17.16. Treaty of Waitangi

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Parties or as a disguised restriction on trade in goods, trade in services and investment, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Maori in respect of matters covered by this Agreement, including in fulfilment of its obligations under the Treaty of Waitangi.

2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 19 (Dispute Settlement) shall otherwise apply to this Article. A panel established under Article 19.11 (Establishment and Reconvening of a Panel) may be requested to determine only whether any measure referred to in paragraph 1 is inconsistent with a Party's rights under this Agreement.

Chapter 18. INSTITUTIONAL PROVISIONS

Article 18.1. Meetings of the RCEP Ministers

1. The Ministers of the RCEP (hereinafter referred to as the âRCEP Ministersâ in this Chapter) shall meet within one year of the date of entry into force of this Agreement, and every year thereafter unless the Parties agree otherwise, to consider any matter relating to this Agreement.

2. The RCEP Ministers shall take decisions on any matter by consensus.

Article 18.2. Establishment of the RCEP Joint Committee

The Parties hereby establish an RCEP Joint Committee consisting of senior officials designated by each Party.

Article 18.3. Functions of the RCEP Joint Committee

1. The functions of the RCEP Joint Committee shall be as follows:

(a) to consider any matter relating to the implementation and operation of this Agreement;

(b) to consider any proposal to amend this Agreement;

(c) to discuss differences that may arise regarding the interpretation or application of this Agreement and to issue interpretations of the provisions of this Agreement as it may deem appropriate and necessary;

(d) to seek expert advice on any matter within its functions;

(e) to refer matters, assign tasks, or delegate functions to any subsidiary body established pursuant to Article 18.6 (Subsidiary Bodies of the RCEP Joint Committee) (hereinafter referred to as "subsidiary body" in this Chapter);

(f) to supervise and coordinate the work of all subsidiary bodies;

(g) to consider and take any decisions on issues referred to it by any subsidiary body;

(h) to restructure, reorganise, or dissolve any subsidiary body, if necessary;

(i) to establish and thereafter supervise an RCEP Secretariat, on terms agreed by the Parties, to provide secretariat and technical support to the RCEP Joint Committee and its subsidiary bodies;

(j) to hold dialogue forums on topics to be agreed by Parties, which may include participation from the business sector, experts, academia, and other stakeholders, as appropriate; and

(k) to carry out any other function as the Parties may agree.

2. The RCEP Joint Committee shall report to the RCEP Ministers and may, as appropriate, refer matters to the RCEP Ministers for consideration and decision.

Article 18.4. Rules of Procedure of the RCEP Joint Committee

1. The RCEP Joint Committee shall take decisions on any matter by consensus. (1)

2. The RCEP Joint Committee shall establish its rules of procedure at its first meeting.

(1) The RCEP Joint Committee shall be deemed to have taken a decision by consensus if no Party present at the meeting when the decision is taken objects to the proposed decision. In case a Party is absent from the meeting, the decision shall be circulated to that Party for it to consider the decision, seek clarification where required, and that Party may convey its acknowledgement within 14 days of the circulation of the decision.

Article 18.5. Meetings of the RCEP Joint Committee

1. The RCEP Joint Committee shall meet within one year of the date of entry into force of this Agreement and prior to the first meeting of the RCEP Ministers, and every year thereafter unless the Parties agree otherwise.

2. The RCEP Joint Committee shall convene alternately, and on a rotational basis, in a Party which is a Member State of ASEAN and a Party which is not a Member State of ASEAN, unless the Parties agree otherwise.

3. The RCEP Joint Committee shall be co-chaired by a representative appointed by the Parties which are Member States of ASEAN and a representative appointed by the Parties which are not Member States of ASEAN on a rotational basis, unless the Parties agree otherwise. The role of the co-chairs of the RCEP Joint Committee shall be to ensure the effective and impartial management of the meetings, with a view to facilitating consensus among the Parties.

4. Each Party shall be responsible for the composition of its delegation.

5. The RCEP Joint Committee may carry out its work through whatever means that are appropriate, which may include electronic mail, videoconferencing, or other means.

Article 18.6. Subsidiary Bodies of the RCEP Joint Committee

1. The RCEP joint committee shall establish at its first meeting:

(a) a Committee on Goods, to cover work on trade in goods; rules of origin; customs procedures and trade facilitation;

sanitary and phytosanitary measures; standards, technical regulations, and conformity assessment procedures; and trade remedies;

(b) a Committee on Services and Investment, to cover work on trade in services including financial services, telecommunication services, and professional services; temporary movement of natural persons; and investment;

(c) a Committee on Sustainable Growth, to cover work on small and medium enterprises; economic and technical cooperation; and emerging issues; and

(d) a Committee on the Business Environment, to cover work on intellectual property; electronic commerce; competition; and government procurement.

2. Each Committee established pursuant to paragraph 1 shall have the functions set out for it in Annex 18A (Functions of the Subsidiary Bodies of the RCEP Joint Committee), and any other functions as set out for it in this Agreement or agreed by the Parties.

3. The RCEP Joint Committee may establish additional subsidiary bodies including other committees, as it deems necessary.

4. Each Committee established pursuant to paragraph 1 shall meet within one year of the date of entry into force of this Agreement and every year thereafter unless the Parties agree otherwise.

Article 18.7. Meetings of Subsidiary Bodies

Except as otherwise provided in this agreement, any subsidiary body:

(a) shall be composed of representatives from each party;

(b) shall be co-chaired by a representative appointed by the Parties which are Member States of ASEAN and a representative appointed by the Parties which are not Member States of ASEAN on a rotational basis, unless the Parties agree otherwise;

(c) shall take decisions on any matter within its functions by consensus; (2)

(d) may carry out its work through whatever means that are appropriate, which may _ include electronic mail, videoconferencing, or other means; and

(e) shall meet as directed by the RCEP Joint Committee or as otherwise agreed by the Parties.

(2) A subsidiary body shall be deemed to have taken a decision by consensus if no Party present at the meeting when the decision is taken objects to the proposed decision. In case a Party is absent from the meeting, the decision shall be circulated to that Party for it to consider the decision, seek clarification where required, and that Party may convey its acknowledgement within 14 days of the circulation of the decision.

Article 18.8. Contact Point

Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate an overall contact point to facilitate communications among the Parties on any matter relating to this Agreement and notify the other Parties of the contact details of that contact point. Each Party shall promptly notify the other Parties of any change to those contact details. All official communications in this regard shall be in the English language.

Annex 18A. FUNCTIONS OF THE SUBSIDIARY BODIES OF THE RCEP JOINT COMMITTEE

Committee on Goods

1. The functions of the Committee on Goods, established pursuant to subparagraph 1(a) of Article 18.6 (Subsidiary Bodies of the RCEP Joint Committee), shall include supervising and coordinating the work of any other relevant subsidiary body, and considering any matter arising under or relating to the implementation or operation of:

(a) Chapter 2 (Trade in Goods);

(b) Chapter 3 (Rules of Origin);

(c) Chapter 4 (Customs Procedures and Trade Facilitation);

(d) Chapter 5 (Sanitary and Phytosanitary Measures);

(e) Chapter 6 (Standards, Technical Regulations, and Conformity Assessment Procedures); and

(f) Chapter 7 (Trade Remedies).

2. With respect to Chapter 2 (Trade in Goods), the functions of the Committee on Goods shall include:

(a) monitoring and reviewing the implementation and operation of Chapter 2 (Trade in Goods);

(b) identifying and recommending measures to promote and facilitate improved market access, including through consultations on the acceleration or improvement of tariff commitments under this Agreement;

(c) addressing barriers to trade in goods between the Parties, including those relevant issues on tariff and non-tariff measures, other than technical issues solely within the competence of another subsidiary body related to one of the Chapters referred to in paragraph 1;

(d) considering matters related to the classification of goods under the Harmonized System for the application of Annex | (Schedules of Tariff Commitments) and the transposition of each Party's Schedule in Annex | (Schedules of Tariff Commitments) following periodic amendments to the Harmonized System, consistent with Article 2.14 (Transposition of Schedules of Tariff Commitments), including by adopting guidelines for the transposition of the Schedules in Annex | (Schedules of Tariff Commitments) and exchanging transposed Schedules of _ tariff commitments and correlation tables in a timely manner; and

(e) discussing any other matter related to Chapter 2 (Trade in Goods), including good regulatory practice on measures affecting trade in goods and exploring avenues for enhancing cooperation on the use of good regulatory practice, as appropriate.

3. With respect to Chapter 3 (Rules of Origin), the functions of the Committee on Goods shall include:

(a) monitoring the implementation of Chapter 3 (Rules of Origin);

(b) reviewing and making appropriate recommendations to the RCEP Joint Committee, as necessary, on:

(i) the effective and consistent administration of Chapter 3 (Rules of Origin), including its interpretation and application, and the enhancement of cooperation in relation to Chapter 3 (Rules of Origin); and

(ii) any potential amendments to Annex 3A (Product- Specific Rules) and Annex 3B (Minimum Information Requirements), consistent with Article 3.34 (Transposition of Product-Specific Rules) and Article 3.35 (Amendments to Annexes); and

(c) facilitating cooperation and identifying measures with a view to simplifying the operational certification procedures covered by Section B (Operational Certification Procedures) of Chapter 3 (Rules of Origin) and making them more transparent, predictable, and standardised, taking into account the best practices of other regional and international trade agreements.

4. With respect to Chapter 4 (Customs Procedures and Trade Facilitation), the functions of the Committee on Goods shall include:

(a) monitoring the implementation of Chapter 4 (Customs Procedures and Trade Facilitation);

(b) reviewing and making appropriate recommendations to the RCEP Joint Committee on the effective and consistent administration of Chapter 4 (Customs Procedures and Trade Facilitation), including its interpretation and application, and the enhancement of cooperation in relation to Chapter 4 (Customs Procedures and Trade Facilitation); and

(c) monitoring the implementation arrangement provided for in Article 4.21 (Implementation Arrangement).

5. With respect to Chapter 5 (Sanitary and Phytosanitary Measures), the functions of the Committee on Goods shall include:

(a) monitoring the implementation of Chapter 5 (Sanitary and Phytosanitary Measures);

(b) considering any sanitary and phytosanitary matter of mutual interest, in consultation with relevant experts when scientific or technical issues are involved; and

(c) facilitating cooperation, including as appropriate coordinating with bilateral, regional, or multilateral work programmes, pursuant to Article 5.13 (Cooperation and Capacity Building).

6. With respect to Chapter 6 (Standards, Technical Regulations, and Conformity Assessment Procedures), the functions of the Committee on Goods shall include:

(a) monitoring the implementation of Chapter 6 (Standards, Technical Regulations, and Conformity Assessment Procedures);

(b) facilitating cooperation pursuant to Article 69 (Cooperation);

(c) identifying mutually agreed priority sectors for enhanced cooperation;

(d) establishing work programmes, as appropriate, in mutually agreed priority areas to facilitate the acceptance of conformity assessment results and equivalence of technical regulations, in consultation with relevant experts when scientific or technical issues are involved;

(e) monitoring the progress of work programmes; and

(f) overseeing bilateral or plurilateral arrangements developed pursuant to Article 6.13 (Implementing Arrangements).

7. With respect to Chapter 7 (Trade Remedies), the functions of the Committee on Goods shall include:

(a) monitoring the implementation of Chapter 7 (Trade Remedies);

(b) enhancing a Party's knowledge and understanding of the other Parties' trade remedy laws, regulations, policies, and practices;

(c) improving cooperation between the Parties' authorities responsible for matters on trade remedies; and

(d) cooperating on any other matter that the Parties agree as necessary.

Committee on Services and investment

8. The functions of the Committee on Services and Investment, established pursuant to subparagraph 1(b) of Article 18.6 (Subsidiary Bodies of the RCEP Joint Committee), shall include supervising and coordinating the work of any other relevant subsidiary body, and considering any matter arising under or relating to the implementation or operation of:

(a) Chapter 8 (Trade in Services);

(b) Chapter 9 (Temporary Movement of Natural Persons); and

(c) Chapter 10 (Investment).

10. With respect to Chapter 8 (Trade in Services), the functions of the Committee on Services and Investment shall include:

(a) monitoring and reviewing the implementation and operation of Chapter 8 (Trade in Services);

(b) carrying out the functions provided for in Article 8.12 (Transition) and Article 8.13 (Modification of Schedules); and

(c) facilitating cooperation and identifying measures for further promoting trade in services.

11. With respect to Chapter 10 (Investment), the functions of the Committee on Services and Investment shall include:

(a) monitoring the implementation of Chapter 10 (Investment);

(b) implementing the work programme established pursuant to Article 10.18 (Work Programme); and

(c) facilitating cooperation and identifying measures for further promoting investment.

Each Party shall provide an update on new measures or policies on trade in services and investment to the Committee on Services and Investment.

Committee on Sustainable Growth

12. The functions of the Committee on Sustainable Growth, established pursuant to subparagraph 1(c) of Article 18.6 (Subsidiary Bodies of the RCEP Joint Committee), shall include considering any matter arising under or relating to the implementation or operation of:

(a) Chapter 14 (Small and Medium Enterprises); and (b) | Chapter 15 (Economic and Technical Cooperation).

13. With respect to Chapter 14 (Small and Medium Enterprises), the functions of the Committee on Sustainable Growth shall include:

(a) monitoring the implementation of Chapter 14 (Small and Medium Enterprises); and

(b) discussing ways to facilitate cooperation on small and medium enterprises among the Parties.

14. With respect to Chapter 15 (Economic and Technical Cooperation), the functions of the Committee on Sustainable Growth shall include:

(a) developing and coordinating a work programme pursuant to Article 15.5 (Work Programme) and its implementing mechanism;

(b) coordinating with the implementing Party or Parties to provide reports, including a final completion report for each activity;

(c) monitoring and evaluating the implementation of the work programme to assess its overall effectiveness and contribution to the implementation of this Agreement; and

(d) working with other subsidiary bodies including other committees to establish and maintain effective communication and coordination on economic and technical cooperation activities and relevant issues.

Committee on the Business Environment

15. The functions of the Committee on the Business Environment, established pursuant to subparagraph 1(d) of Article 18.6 (Subsidiary Bodies of the RCEP Joint Committee), shall include considering any matter arising under or relating to the implementation or operation of:

(a) Chapter 11 (Intellectual Property);

(b) Chapter 12 (Electronic Commerce);

(c) Chapter 13 (Competition); and

(d) Chapter 16 (Government Procurement).

16. With respect to Chapter 11 (Intellectual Property), the functions of the Committee on the Business Environment shall include:

(a) monitoring the implementation and operation of Chapter 11 (Intellectual Property);

(b) discussing ways to facilitate cooperation among the Parties; and

(c) exchanging information on laws, regulations, systems, and other issues of mutual interest concerning intellectual property rights.

17. With respect to Chapter 12 (Electronic Commerce), the functions of the Committee on the Business Environment shall include:

(a) monitoring the implementation of Chapter 12 (Electronic Commerce);

(b) conducting activities pursuant to Article 12.16 (Dialogue on Electronic Commerce); and

(c) discussing ways to facilitate cooperation on the digital economy among the Parties.

18. With respect to Chapter 13 (Competition), the functions of the Committee on the Business Environment shall include:

(a) monitoring the implementation of Chapter 13 (Competition);

(b) reporting as required to the RCEP Joint Committee on the implementation of Chapter 13 (Competition) and competition-related developments and activities of the Parties pursuant to Chapter 13 (Competition), including measures to fulfil obligations pursuant to the transitional arrangements set out in:

(i) Annex 13A (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Brunei Darussalam);

(ii) Annex 13B (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Cambodia);

(iii) Annex 13C (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Lao PDR); and

(iv) Annex 13D (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Myanmar);

(c) fostering cooperation among the Parties on competition issues;

(d) fostering cooperation among the Parties on technical assistance and capacity building activities pursuant to Article 13.6 (Technical Cooperation and Capacity Building);

(e) fostering information exchange among the Parties on competition issues including issues arising under Chapter 13 (Competition); and

(f) reviewing Chapter 13 (Competition) based on consensus of all Parties.

19. With respect to Chapter 16 (Government Procurement), the functions of the Committee on the Business Environment shall include:

(a) facilitating, as appropriate and agreed, cooperation activities such as those referred to in Article 16.5 (Cooperation); and

(b) facilitating any review of Chapter 16 (Government Procurement) undertaken pursuant to Article 16.6 (Review).

Chapter 19. DISPUTE SETTLEMENT

Article 19.1. Definitions

For the purposes of this chapter:

(a) **Complaining Party** means any party or parties that requests consultations pursuant to paragraph 1 of article 19.6 (consultations);

(b) **Parties to the dispute** means the Complaining Party and the Responding Party;

(c) **Party to the dispute** means the Complaining Party or the Responding Party;

(d) Responding Party means any Party to which the request for consultations is made pursuant to paragraph 1 of Article 19.6 (Consultations);

(e) **Rules of Procedures** means the Rules of Procedures for Panel Proceedings adopted by the RCEP Joint Committee; and

(f) **Third Party** means any Party that makes a notification pursuant to paragraph 2 of Article 19.10 (Third Parties).

Article 19.2. Objective

The objective of this Chapter is to provide effective, efficient, and transparent rules and procedures for settlement of disputes arising under this Agreement.

Article 19.3. Scope (1)

1. Unless otherwise provided in this Agreement, this Chapter shall apply:

(a) to the settlement of disputes between Parties regarding the interpretation and application of this Agreement; and

(b) when a Party considers that a measure of another Party is not in conformity with the obligations under this Agreement or that another Party has otherwise failed to carry out its obligations under this Agreement.

2. Subject to Article 19.5 (Choice of Forum), this Chapter shall be without prejudice to the rights of a Party to have recourse to dispute settlement procedures available under other agreements to which it is party.

(1) Non-violation complaints shall not be permitted under this Agreement.

Article 19.4. General Provisions

1. This Agreement shall be interpreted in accordance with the customary rules of interpretation of public international law.

2. With respect to any provision of the WTO Agreement that has been incorporated into this Agreement, the panel shall also consider relevant interpretations in reports of WTO panels and the WTO Appellate Body, adopted by the WTO Dispute Settlement Body. The findings and determinations of the panel cannot add to or diminish the rights and obligations under this Agreement. (2)

3. All notifications, requests, and replies made pursuant to this Chapter shall be in writing.

4. The Parties to the dispute are encouraged at every stage of a dispute to make every effort through cooperation and consultations to reach a mutually agreed solution to the dispute. Where a mutually agreed solution is reached, the terms and conditions of the agreement shall be jointly notified by the Parties to the dispute to the other Parties.

5. Any period of time provided in this Chapter may be modified by agreement of the Parties to the dispute provided that any modification shall be without prejudice to the rights of the Third Parties provided in Article 19.10 (Third Parties).

6. The prompt settlement of disputes in which a Party considers that any benefits accruing to it directly or indirectly under this Agreement is being impaired by measures taken by another Party is essential to the effective functioning of this Agreement and the maintenance of a proper balance between the rights and obligations of the Parties.

(2) The Parties confirm that the first sentence of this paragraph does not prevent a panel from considering relevant interpretations in reports of WTO panels and the WTO Appellate Body adopted by the WTO Dispute Settlement Body, with respect to a provision of the WTO Agreement which is not incorporated into this Agreement.

Article 19.5. Choice of Forum

1. Where a dispute concerns substantially equivalent rights and obligations under this Agreement and another international trade or investment agreement to which the Parties to the dispute are party, the Complaining Party may select the forum in which to settle the dispute and that forum shall be used to the exclusion of other fora.

2. For the purposes of this Article, the Complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of a panel pursuant to paragraph 1 of Article 19.8 (Request for Establishment of a Panel) or requested the establishment of, or referred a matter to, a dispute settlement panel or tribunal under another international trade or investment agreement.

3. This Article shall not apply where the Parties to the dispute agree in writing that this Article shall not apply to a particular dispute.

Article 19.6. Consultations

1. Any Party may request consultations with any other Party with respect to any matter described in paragraph 1 of Article 19.3 (Scope). A Responding Party shall accord due consideration to a request for consultations made by a Complaining Party and shall accord adequate opportunity for such consultations.

2. Any request for consultations made pursuant to paragraph 1 shall give the reasons for the request, including identification of the measures at issue and an indication of the factual and legal basis for the complaint.

3. The Complaining Party shall simultaneously provide a copy of the request for consultations made pursuant to paragraph 1 to the other Parties.

4. The Responding Party shall immediately acknowledge its receipt of the request for consultations made pursuant to paragraph 1, by way of notification to the Complaining Party, indicating the date on which the request was received, otherwise the date when the request was made shall be deemed to be the date of the Responding Party's receipt of the request. The Responding Party shall simultaneously provide a copy of the notification to the other Parties.

5. The Responding Party shall:

(a) reply to the request for consultations made pursuant to paragraph 1 no later than seven days after the date of its receipt of the request; and

(b) simultaneously provide a copy of the reply to the other Parties.

6. The Responding Party shall enter into consultations no later than:

(a) 15 days after the date of its receipt of the request for consultations made pursuant to paragraph 1 in cases of urgency including those which concern perishable goods; or

(b) 30 days after the date of its receipt of the request for consultations made pursuant to paragraph 1 regarding any other matter.

7. The Parties to the dispute shall engage in consultations in good faith and make every effort to reach a mutually agreed solution through consultations. To this end, the Parties to the dispute shall:

(a) provide sufficient information in the course of consultations to enable a full examination of the matter, including how the measures at issue might affect the implementation or application of this Agreement;

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information; and

(c) endeavour to make available for the consultations personnel of their government agencies or other regulatory bodies who have responsibility for or expertise in the matter.

8. The consultations shall be confidential and without prejudice to the rights of any Party to the dispute in any further or other proceedings.

9. Whenever a Party other than the Parties to the dispute considers that it has a substantial trade interest in the consultations, such Party may notify the Parties to the dispute no later than seven days after the date of receipt of the copy of the request for consultations referred to in paragraph 3, of its desire to be joined in the consultations. The notifying Party shall simultaneously provide a copy of the notification to the other Parties. The notifying Party shall be joined in the consultations if the Parties to the dispute agree.

Article 19.7. Good Offices, Conciliation, or Mediation

1. The Parties to the dispute may at any time agree to voluntarily undertake an alternative method of dispute resolution, including good offices, conciliation, or mediation. Procedures for such alternative methods of dispute resolution may begin at any time, and may be terminated by any Party to the dispute at any time.

2. If the Parties to the dispute agree, such procedures referred to in paragraph 1 may continue while the matter is being examined by a panel under this Chapter.

3. Proceedings involving such procedures referred to in paragraph 1 and positions taken by a Party to the dispute during these proceedings shall be confidential and without prejudice to the rights of any Party to the dispute in any further or other proceedings.

Article 19.8. Request for Establishment of a Panel

1. The Complaining Party may request the establishment of a panel to examine the matter, by way of notification to the Responding Party, if:

(a) the Responding Party does not:

(i) reply to the request for consultations in accordance with subparagraph 5(a) of Article 19.6 (Consultations); or

(ii) enter into consultations in accordance with paragraph 6 of Article 19.6 (Consultations); or

(b) the consultations fail to resolve a dispute within:

(i) 20 days after the date of the Responding Party's receipt of the request for consultations made pursuant to paragraph 1 of Article 19.6 (Consultations) in cases of urgency including those which concern perishable goods; or

(ii) 60 days after the date of the Responding Party's receipt of the request for consultations made pursuant to paragraph 1 of Article 19.6 (Consultations) regarding any other matter.

2. A request for the establishment of a panel made pursuant to paragraph 1 shall identify the specific measures at issue and provide details of the factual and legal basis for the complaint, including the relevant provisions of this Agreement, to be addressed by the panel, sufficient to present the problem clearly.

3. The Complaining Party shall simultaneously provide a copy of the request for the establishment of a panel made pursuant

to paragraph 1 to the other Parties.

4. The Responding Party shall immediately acknowledge its receipt of the request for the establishment of a panel made pursuant to paragraph 1, by way of notification to the Complaining Party, indicating the date on which the request was received, otherwise the date when the request was made shall be deemed to be the date of the Responding Party's receipt of the request. The Responding Party shall simultaneously provide a copy of the notification to the other Parties.

5. Where a request for the establishment of a panel is made pursuant to paragraph 1, a panel shall be established in accordance with Article 19.11 (Establishment and Reconvening of a Panel).

Article 19.9. Procedures for Multiple Complainants

1. Where more than one Party requests the establishment or reconvening of a panel relating to the same matter, a single panel should be established or reconvened to examine the complaints relating to that matter whenever feasible.

2. The single panel shall organise its examination and present its findings and determinations to the Parties to the disputes in such a manner that the rights which the Parties to the disputes would have enjoyed had separate panels examined the complaints are in no way impaired.

3. If more than one panel is established or reconvened to examine the complaints relating to the same matter, the Parties to the disputes shall endeavour to ensure that the same individuals serve as panellists on each of the separate panels. The panels shall consult with each other and the Parties to the disputes to ensure, to the greatest extent possible, that the timetables for the panelsâ processes are harmonised.

Article 19.10. Third Parties

1. The interests of the Parties to the dispute and those of other Parties shall be fully taken into account during the panel process.

2. Any Party having a substantial interest in a matter before a panel may notify the Parties to the dispute of its interest no later than 10 days after the date of the request made pursuant to:

(a) paragraph 1 of Article 19.8 (Request for Establishment of a Panel); or

(b) paragraph 1 of Article 19.16 (Compliance Review); or

(c) paragraph 13 of Article 19.17 (Compensation and Suspension of Concessions or Other Obligations).

The notifying Party shall simultaneously provide a copy of the notification to the other Parties.

3. Any Party notifying its substantial interest pursuant to paragraph 2 shall have the rights and obligations of a Third Party.

4. Subject to the protection of confidential information, each Party to the dispute shall make available to each Third Party its written submissions, written versions of its oral statements, and its written responses to questions, made prior to the issuance of the interim report, at the time such submissions, statements, and responses are submitted to the panel.

5. A Third Party shall have the right to:

(a) subject to the protection of confidential information, be present at the first and second hearings of the panel with the Parties to the dispute prior to the issuance of the interim report;

(b) make at least one written submission prior to the first hearing;

(c) make an oral statement to the panel and respond to questions from the panel during a session of the first hearing set aside for that purpose; and

(d) respond in writing to any questions from the panel directed to the Third Parties.

6. If a Third Party provides any submissions or other documents to the panel, it shall simultaneously provide them to the Parties to the dispute and the other Third Parties.

7. A panel may, with the agreement of the Parties to the dispute, grant additional or supplemental rights to any Third Party regarding its participation in panel proceedings.

Article 19.11. Establishment and Reconvening of a Panel

1. Where a request for the establishment of a panel is made pursuant to paragraph 1 of Article 19.8 (Request for Establishment of a Panel), a panel shall be established in accordance with this Article.

2. Unless the Parties to the dispute agree otherwise, the panel shall consist of three panellists. All appointments and nominations of panellists under this Article shall conform with the requirements referred to in paragraphs 10 and 13.

3. Within 10 days of the date of the receipt of the request for the establishment of a panel made pursuant to paragraph 1 of Article 19.8 (Request for Establishment of a Panel), the Parties to the dispute shall enter into consultations with a view to reaching agreement on the procedures for composing the panel, taking into account the factual, technical, and legal aspects of the dispute. Any such procedures agreed upon shall also be used for the purposes of paragraphs 15 and 16.

4. If the Parties to the dispute are unable to reach agreement on the procedures for composing the panel within 20 days of the date of the receipt of the request for the establishment of a panel made pursuant to paragraph 1 of Article 19.8 (Request for Establishment of a Panel), any Party to the dispute may at any time thereafter notify the other Party to the dispute that it wishes to use the procedures set out in paragraphs 5 through 7. Where such a notification is made, the panel shall be composed in accordance with paragraphs 5 through 7.

5. The Complaining Party shall appoint one panellist within 10 days of the date of the receipt of the notification made pursuant to paragraph 4. The Responding Party shall appoint one panellist within 20 days of the date of the receipt of the notification made pursuant to paragraph 4. A Party to the dispute shall notify the appointment of its panellist to the other Party to the dispute.

6. Following the appointment of the panellists in accordance with paragraph 5, the Parties to the dispute shall agree on the appointment of the third panellist who shall serve as the chair of the panel. To assist in reaching such agreement, each Party to the dispute may provide to the other Party to the dispute a list of up to three nominees for the chair of the panel.

7. If any panellist has not been appointed within 35 days of the date of the receipt of the notification made pursuant to paragraph 4, any Party to the dispute, within a further period of 25 days, may request the Director-General of the WTO to appoint the remaining panellists within 30 days of the date of such request. Any list of nominees which was provided under paragraph 6 shall also be provided to the Director-General of the WTO, and may be used in making the required appointments.

8. If the Director-General of the WTO notifies the Parties to the dispute that he or she is unavailable, or does not appoint the remaining panellists within 30 days of the date of the request made pursuant to paragraph 7, any Party to the dispute may request the Secretary-General of the Permanent Court of Arbitration to appoint the remaining panellists promptly. Any list of nominees which was provided under paragraph 6 shall also be provided to the Secretary-General of the Permanent Court of Arbitration, and may be used in making the required appointments under paragraph 12. (3)

9. The date of establishment of the panel shall be the date on which the last panellist is appointed.

10. Each panellist shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgement;

(c) be independent of, and not be affiliated with or take instructions from, any Party;

(d) not have dealt with the matter in any capacity;

(e) disclose, to the Parties to the dispute, information which may give rise to justifiable doubts as to his or her independence or impartiality; and

(f) comply with the Code of Conduct as annexed to the Rules of Procedures.

11. In addition to the requirements of paragraph 10, each panellist appointed under paragraph 7 or 8 shall:

(a) have expertise in law including public international law, international trade, and the resolution of disputes arising under international trade agreements;

(b) be a well-qualified governmental or non-governmental individual including an individual who has served on a WTO panel or the WTO Appellate Body or in the WTO Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a WTO Member; and

(c) in the case of the chair of the panel, wherever possible:

(i) have served on a WTO panel or the WTO Appellate Body; and

(ii) have expertise or experience relevant to the subject matter of the dispute.

12. In appointing a panellist under paragraph 8, and in accordance with the requirements referred to in paragraphs 10 and 11, the following procedure shall be used, unless the Parties to the dispute agree otherwise:

(a) the Secretary-General of the Permanent Court of Arbitration shall notify the Parties to the dispute of an identical list containing at least three nominees for panellists;

(b) within 15 days of the date of the receipt of the list referred to in subparagraph (a), each Party to the dispute may return the list to the Secretary-General of the Permanent Court of Arbitration after having deleted any of the nominees which it objects to and having numbered the remaining nominees on the list in the order of its preference;

(c) after the expiry of the period of time referred to in subparagraph (b), the Secretary-General of the Permanent Court of Arbitration shall appoint the remaining panellists from the remaining nominees on any list returned to him or her and in accordance with the order of preference indicated by the Parties to the dispute; and

(d) if for any reason the remaining panellists cannot be appointed in accordance with the procedure set out in this paragraph, the Secretary-General of the Permanent Court of Arbitration may appoint, in his or her discretion, the remaining panellists in accordance with this Chapter.

13. Unless the Parties to the dispute agree otherwise, the chair shall not be a national of any Party to the dispute or a Third Party and shall not have his or her usual place of residence in any Party to the dispute.

14. Each panellist shall serve in his or her individual capacity and not as a government representative, nor as a representative of any organisation. Any Party shall not give any panellist instructions nor seek to influence any panellist as an individual with regard to matters before a panel.

15. If a panellist appointed under this Article resigns or becomes unable to act, a successor panellist shall be appointed in the same manner as prescribed for the appointment of the original panellist and shall have all the powers and duties of the original panellist. The work of the panel shall be suspended until the successor panellist is appointed. In such a case, any relevant period of time for the panel proceedings shall be suspended until the successor panellist is appointed.

16. Where a panel is reconvened pursuant to Article 19.16 (Compliance Review) or Article 19.17 (Compensation and Suspension of Concessions or Other Obligations), the reconvened panel shall, where feasible, have the same panellists as the original panel. Where this is not feasible, a replacement panellist shall be appointed in the same manner as prescribed for the appointment of the original panellist, and shall have all the powers and duties of the original panellist.

(3) For greater certainty, the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules shall not be used to appoint any remaining panellist under this paragraph.

Article 19.12. Functions of Panels

1. The panel shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the facts of the case;

(b) the applicability of the provisions of this Agreement cited by the Parties to the dispute; and

(c) whether:

(i) the measure at issue is not in conformity with the obligations under this Agreement; or

(ii) the Responding Party has otherwise failed to carry out its obligations under this Agreement.

2. The panel shall have the following terms of reference unless the Parties to the dispute agree otherwise within 20 days of the date of the establishment of the panel:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of a panel made pursuant to paragraph 1 of Article 19.8 (Request for Establishment of a Panel), and to make findings and determinations as provided for in this Agreement."

3. The panel shall set out in its report:

(a) a descriptive section summarising the arguments of the Parties to the dispute and Third Parties;

(b) its findings on the facts of the case and on the applicability of the provisions of this Agreement;

(c) its determinations as to whether:

(i) the measure at issue is not in conformity with the obligations under this Agreement; or

(ii) the Responding Party has otherwise failed to carry out its obligations under this Agreement; and

(d) the reasons for its findings and determinations referred to in subparagraphs (b) and (c).

4. In addition to paragraph 3, a panel shall include in its report any other findings and determinations pertaining to the dispute which have been jointly requested by the Parties to the dispute or provided for in its terms of reference. The panel may suggest ways in which the Responding Party could implement the findings and determinations.

5. Unless the Parties to the dispute agree otherwise, a panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the Parties to the dispute, and any information or technical advice it has received in accordance with paragraphs 12 and 13 of Article 19.13 (Panel Procedures).

6. A panel shall only make the findings, determinations, and suggestions provided for in this Agreement.

7. Each Third Party's submission shall be reflected in the report of the panel.

8. The findings and determinations of the panel cannot add to or diminish the rights and obligations under this Agreement.

9. The panel shall consult regularly with the Parties to the dispute and provide adequate opportunities for the Parties to the dispute to develop a mutually agreed solution.

10. Paragraphs 1 through 4 shall not apply to a panel reconvened pursuant to Article 19.16 (Compliance Review) and Article 19.17 (Compensation and Suspension of Concessions or Other Obligations).

Article 19.13. Panel Procedures

1. A panel shall adhere to this Chapter and, unless the Parties to the dispute agree otherwise, shall follow the Rules of Procedures.

2. On request of a Party to the dispute or on its own initiative, a panel established pursuant to Article 19.11 (Establishment and Reconvening of a Panel) may, after consulting the Parties to the dispute, adopt additional rules of procedure which do not conflict with this Chapter and with the Rules of Procedures. A panel reconvened pursuant to Article 19.16 (Compliance Review) or Article 19.17 (Compensation and Suspension of Concessions or Other Obligations) may, after consulting the Parties to the dispute, establish its own rules of procedures which do not conflict with this Chapter and the Rules of Procedures, drawing as it deems appropriate from this Chapter or the Rules of Procedures.

3. Panel procedures should provide sufficient flexibility so as to ensure high-quality reports, while not unduly delaying the panel process.

Timetable

4. After consulting the Parties to the dispute, a panel established pursuant to Article 19.11 (Establishment and Reconvening of a Panel) shall, as soon as practicable and whenever possible within 15 days of the date of its establishment, fix the timetable for the panel process. The period of time from the date of establishment of a panel until the date of issuance of the panel's final report to the Parties to the dispute shall, as a general rule, not exceed seven months.

5. A panel reconvened pursuant to Article 19.16 (Compliance Review) or paragraph 13 of Article 19.17 (Compensation and Suspension of Concessions or Other Obligations) shall, as soon as practicable and whenever possible within 15 days of the date of its reconvening, fix the timetable for the compliance review process taking into account the periods of time specified in Article 19.16 (Compliance Review).

Panel Proceedings

6. The panel shall make its findings and determinations by consensus, provided that where the panel is unable to reach consensus, it may make its findings and determinations by majority vote. A panellist may furnish dissenting or separate

opinions on matters not unanimously agreed. Opinions expressed by an individual panellist in the report shall be anonymous.

7. Panel deliberations shall be confidential. The Parties to the dispute and Third Parties shall be present only when invited by the panel to appear before it.

8. There shall be no ex parte communications with the panel concerning matters under consideration by it.

Submissions

9. Each Party to the dispute shall have the opportunity to set out in writing the facts of its case, its arguments and counter arguments. Further to paragraphs 4 and 5, the timetable fixed by the panel shall include precise deadlines for submissions by the Parties to the dispute and Third Parties.

Hearings

10. Further to paragraphs 4 and 5, the timetable fixed by the panel shall provide for at least one hearing for the Parties to the dispute to present their case to the panel. As a general rule, the timetable shall not provide more than two hearings unless special circumstances exist.

Confidentiality

11. Written submissions to the panel shall be treated as confidential, but shall be made available to the Parties to the dispute and, where provided for in Article 19.10 (Third Parties), the Third Parties. The Parties to the dispute, the Third Parties, and the panel shall treat as confidential, information submitted by a Party to the dispute or a Third Party to the panel which that Party has designated as confidential. For greater certainty, nothing in this paragraph shall preclude a Party to the dispute or a Third Party from disclosing statements of its own positions to the public, provided that there is no disclosure of statements or information submitted by a Party to the dispute or a Third Party to the panel which that Party has designated as confidential. A Party to the dispute or a Third Party shall, on request of a Party, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

Additional Information and Technical Advice

12. Each Party to the dispute and each Third Party shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate.

13. On request of a Party to the dispute or on its own initiative, a panel may seek additional information and technical advice from any individual or body which it deems appropriate. However, before doing so the panel shall seek the views of the Parties to the dispute. Where the Parties to the dispute agree that the panel should not seek the additional information or technical advice, the panel shall not do so. The panel shall provide the Parties to the dispute with any additional information or technical advice it receives and an opportunity to provide comments. Where the panel takes into account the additional information or technical advice in preparation of its report, it shall also take into account any comments by a Party to the dispute on the additional information or technical advice.

Reports of the Panel

14. The panel established pursuant to Article 19.11 (Establishment and Reconvening of a Panel) shall issue its interim report to the Parties to the dispute within 150 days of the date of its establishment. In cases of urgency including those which concern perishable goods, the panel shall endeavour to issue its interim report within 90 days of the date of its establishment.

15. In exceptional cases, if the panel established pursuant to Article 19.11 (Establishment and Reconvening of a Panel) considers it cannot issue its interim report within the period of time referred to in paragraph 14, it shall notify the Parties to the dispute of the reasons for the delay together with an estimate of the period within which it will issue its interim report to the Parties to the dispute. Any delay shall not exceed a further period of 30 days.

16. A Party to the dispute may submit written comments to the panel on its interim report within 15 days of the date of the receipt of the interim report. After considering any written comments by the Parties to the dispute on the interim report, the panel may make any further examination it considers appropriate and modify its interim report.

17. The panel shall issue its final report to the Parties to the dispute within 30 days of the date of issuance of the interim report.

18. The interim and final reports of the panel shall be drafted without the presence of the Parties to the dispute.

19. The panel shall circulate its final report to the other Parties within seven days of the date of issuance of the final report to the Parties to the dispute, and at any time thereafter a Party to the dispute may make the final report publicly available subject to the protection of any confidential information contained in the final report.

Article 19.14. Suspension and Termination of Proceedings

1. The Parties to the dispute may agree at any time that the panel suspend its work for a period not exceeding 12 months from the date of such agreement. Within this period, the suspended panel proceedings shall resume on request of any Party to the dispute. In the event of such suspension, any relevant period of time for the panel proceedings shall be extended by the period of time that the work was suspended. If the work of the panel has been continuously suspended for more than 12 months, the authority for establishment of the panel shall lapse unless the Parties to the dispute agree otherwise.

2. The Parties to the dispute may agree to terminate the panel proceedings in the event that a mutually agreed solution has been found. In such event, the Parties to the dispute shall jointly notify the chair of the panel.

3. Before the panel issues its final report, it may at any stage of the proceedings propose to the Parties to the dispute that the dispute be settled amicably.

4. The Parties to the dispute shall jointly notify the other Parties that the panel proceedings have been suspended or terminated or the authority for the establishment of the panel has lapsed, pursuant to paragraph 1 or 2.

Article 19.15. Implementation of the Final Report

1. The findings and determinations of the panel shall be final and binding on the Parties to the dispute. The Responding Party shall:

(a) if the panel makes a determination that the measure at issue is not in conformity with the obligations under this Agreement, bring the measure into conformity; or

(b) if the panel makes a determination that the Responding Party has otherwise failed to carry out its obligations under this Agreement, carry out those obligations.

2. Within 30 days of the date of the issuance of the panel's final report to the Parties to the dispute pursuant to paragraph 17 of Article 19.13 (Panel Procedures), the Responding Party shall notify the Complaining Party of its intentions with respect to implementation and:

(a) if the Responding Party considers it has complied with the obligation under paragraph 1, it shall notify the Complaining Party without delay. The Responding Party shall include in the notification a description of any measure it considers achieves compliance, the date the measure comes into effect, and the text of the measure, if any; or

(b) if it is impracticable to comply immediately with the obligation under paragraph 1, the Responding Party shall notify the Complaining Party of the reasonable period of time the Responding Party considers it would need to comply with the obligation under paragraph 1 along with an indication of possible actions it may take for such compliance.

3. If the Responding Party makes a notification pursuant to subparagraph 2(b) that it is impracticable for it to comply immediately with the obligation under paragraph 1, it shall have a reasonable period of time to comply with the obligation under paragraph 1.

4. The reasonable period of time referred to in paragraph 3 shall, whenever possible, be agreed by the Parties to the dispute. Where the Parties to the dispute are unable to agree on the reasonable period of time within 45 days of the date of the issuance of the panel's final report to the Parties to the dispute, any Party to the dispute may request that the chair of the panel determine the reasonable period of time, by way of notification to the chair and the other Party to the dispute. Such a request shall be made within 120 days of the date of the issuance of the panel's final report to the Parties to the dispute.

5. Where a request is made pursuant to paragraph 4, the chair of the panel shall present the Parties to the dispute with a determination of the reasonable period of time and the reasons for such determination within 45 days of the date of the receipt by the chair of the panel of the request.

6. As a guideline, the reasonable period of time determined by the chair of the panel should not exceed 15 months from the date of the issuance of the panel's final report to the Parties to the dispute. However, such reasonable period of time may be shorter or longer, depending upon the particular circumstances.

7. Where the Responding Party considers it has complied with the obligation under paragraph 1, it shall notify the Complaining Party without delay. The Responding Party shall include in the notification a description of any measure it considers achieves compliance, the date the measure comes into effect, and the text of the measure, if any.

Article 19.16. Compliance Review (4)

1. Where the Parties to the dispute disagree on the existence or consistency with this Agreement of any measure taken to comply with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report), such dispute shall be settled through recourse to a panel reconvened for this purpose (hereinafter referred to as "Compliance Review Panel" in this Chapter). The Complaining Party may request the reconvening of a Compliance Review Panel by way of notification to the Responding Party. The Complaining Party shall simultaneously provide a copy of the request to the other Parties.

2. The request referred to in paragraph 1 may only be made after the earlier of either:

(a) the expiry of the reasonable period of time established in accordance with Article 19.15 (Implementation of the Final Report); or

(b) a notification to the Complaining Party made by the Responding Party pursuant to subparagraph 2(a) or paragraph 7 of Article 19.15 (Implementation of the Final Report) that it has complied with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report).

3. A Compliance Review Panel shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the factual aspects of any action taken by the Responding Party to comply with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report); and

(b) the existence or consistency with this Agreement of any measure taken by the Responding Party to comply with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report).

4. The Compliance Review Panel shall set out in its report:

(a) a descriptive section summarising the arguments of the Parties to the dispute and Third Parties;

(b) its findings on the facts of the case arising under this Article and on the applicability of the provisions of this Agreement;

(c) its determinations on the existence or consistency with this Agreement of any measure taken to comply with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report); and

(d) its reasons for its findings and determinations referred to in subparagraphs (b) and (c).

5. Where a request is made pursuant to paragraph 1, a Compliance Review Panel shall reconvene within 15 days of the date of the request. The Compliance Review Panel shall, where possible, issue its interim report to the Parties to the dispute within 90 days of the date of its reconvening, and its final report 30 days thereafter. If the Compliance Review Panel considers that it cannotissue either report within the relevant period of time, it shall notify the Parties to the dispute of the reasons for the delay together with an estimate of the period of time within which it will issue the report.

6. The period of time from the date of the request made pursuant to paragraph 1 until the date of issuance of the final report of the Compliance Review Panel shall not exceed 150 days.

(4) For greater certainty, consultations under Article 19.6 (Consultations) are not required for the procedures under this Article.

Article 19.17. Compensation and Suspension of Concessions or other Obligations

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the Responding Party does not comply with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report) within the reasonable period of time. However, neither compensation nor the suspension of concessions or other obligations is preferred to compliance with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report). Compensation is voluntary and, if granted, shall be consistent with this Agreement.

2. Where any of the following circumstances exists:

(a) the Responding Party has notified the Complaining Party that it does not intend to comply with the obligation under

paragraph 1 of Article 19.15 (Implementation of the Final Report); or

(b) the Responding Party fails to notify the Complaining Party in accordance with paragraph 2 of Article 19.15 (Implementation of the Final Report); or

(c) the Responding Party fails to notify the Complaining Party in accordance with paragraph 7 of Article 19.15 (Implementation of the Final Report) by the expiry of the reasonable period of time; or

(d) the Compliance Review Panel determines that the Responding Party has failed to comply with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report) in accordance with Article 19.16 (Compliance Review),

the Responding Party shall, on request of the Complaining Party, enter into negotiations with a view to developing mutually acceptable compensation.

3. If the Parties to the dispute have:

(a) been unable to agree on compensation within 30 days after the date of the receipt of the request made pursuant to paragraph 2; or

(b) agreed on compensation but the Responding Party has failed to observe the terms and conditions of that agreement,

the Complaining Party may at any time thereafter notify the Responding Party and the other Parties that it intends to suspend the application to the Responding Party of concessions or other obligations equivalent to the level of nullification or impairment, and shall have the right to begin suspending concessions or other obligations 30 days after the date of the receipt of the notification.

4. Notwithstanding paragraph 3, the Complaining Party shall not exercise the right to begin suspending concessions or other obligations under that paragraph where:

(a) a review is being undertaken pursuant to paragraph 9; or

(b) a mutually agreed solution has been reached.

5. A notification made pursuant to paragraph 3 shall specify the level of the intended suspension of concessions or other obligations and indicate the relevant sector or sectors in which the Complaining Party proposes to suspend such concessions or other obligations.

6. In considering what concessions or other obligations to suspend, the Complaining Party shall apply the following principles:

(a) the Complaining Party should first seek to suspend concessions or other obligations in the same sector or sectors in which the panel has determined that there is non-conformity with, or failure to carry out an obligation under this Agreement; and

(b) if the Complaining Party considers that it is not practicable or effective to suspend concessions or other obligations in the same sector or sectors, it may suspend concessions or other obligations in other sectors.

7. The level of the suspension of concessions or other obligations shall be equivalent to the level of nullification or impairment.

8. If the Responding Party:

(a) objects to the level of suspension proposed; or

(b) considers that it has observed the terms and conditions of the compensation agreement; or

(c) considers that the principles set out in paragraph 6 have not been followed,

it may, within 30 days of the date of the receipt of the notification made pursuant to paragraph 3, request the reconvening of a panel to examine the matter by way of notification to the Complaining Party. The Responding Party shall simultaneously provide a copy of the request to the other Parties.

9. When a request is made pursuant to paragraph 8, the panel shall reconvene within 15 days of the date of the request. The reconvened panel shall provide its determination to the Parties to the dispute within 45 days of the date of its reconvening.

10. In the event the panel reconvened pursuant to paragraph 9 determines that the level of suspension is not equivalent to the level of nullification or impairment, it shall determine the appropriate level of suspension it considers to be of equivalent effect. In the event the panel determines that the Responding Party has observed the terms and conditions of the compensation agreement, the Complaining Party shall not suspend concessions or other obligations referred to in paragraph 3. In the event the panel determines that the Complaining Party has not followed the principles set out in paragraph 6, the Complaining Party shall apply them consistently with that paragraph.

11. The Complaining Party may suspend concessions or other obligations only in a manner consistent with the panel's determination referred to in paragraph 10.

12. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report) has been complied with or a mutually agreed solution has been reached.

13. Where:

(a) the right to suspend concessions or other obligations has been exercised by the Complaining Party under this Article;

(b) the Responding Party has made a notification pursuant to paragraph 7 of Article 19.15 (Implementation of the Final Report) that it has complied with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report); and

(c) the Parties to the dispute disagree on the existence or consistency with this Agreement of any measure taken to comply with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report),

any Party to the dispute may request the reconvening of a panel to examine the matter by way of notification to the other Party to the dispute. The requesting Party shall simultaneously provide a copy of the request to the other Parties. (5)

14. Where the panel reconvenes pursuant to paragraph 13, paragraphs 3 through 6 of Article 19.16 (Compliance Review) shall apply mutatis mutandis.

15. If the panel reconvened pursuant to paragraph 13 determines that the Responding Party has complied with the obligation under paragraph 1 of Article 19.15 (Implementation of the Final Report), the Complaining Party shall promptly terminate the suspension of concessions or other obligations.

(5) Where a panel is reconvened pursuant to this paragraph, it may also, upon request, determine whether the level of any suspension of concessions or other obligations is still appropriate in light of its findings on the measure taken by the Responding Party and, if not, determine an appropriate level.

Article 19.18. Special and Differential Treatment Involving Least Developed Country Parties

1. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a Least Developed Country Party, particular consideration shall be given to the special situation of Least Developed Country Parties. In this regard, Parties shall exercise due restraint in raising matters under these procedures involving a Least Developed Country Party. If nullification or impairment is found to result from a measure taken by a Least Developed Country Party, a Complaining Party shall exercise due restraint regarding matters covered under Article 19.17 (Compensation and Suspension of Concessions or Other Obligations) or other obligations pursuant to these procedures.

2. Where any Party to the dispute is a Least Developed Country Party, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on special and differential treatment for a Least Developed Country Party that form part of this Agreement which have been raised by that Party in the course of the dispute settlement procedures.

Article 19.19. Expenses

1. Unless the Parties to the dispute agree otherwise, each Party to the dispute shall bear the costs of its appointed panellist and its own expenses and legal costs.

2. Unless the Parties to the dispute agree otherwise, the costs of the chair of the panel and other expenses associated with the conduct of the panel proceedings shall be borne in equal parts by the Parties to the dispute.

Article 19.20. Contact Point

1. Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate a contact point for this Chapter and shall notify the other Parties of the contact details of that contact point. Each Party shall promptly notify the other Parties of any change to those contact details.

2. Any notification, request, reply, written submission, or other document relating to any proceedings under this Chapter shall be delivered to the relevant Party through its designated contact point. The relevant Party shall provide confirmation of the receipt of such documents in writing through its designated contact point.

Article 19.21. Language

1. All proceedings under this Chapter shall be conducted in the English language.

2. Any document submitted for use in any proceedings under this Chapter shall be in the English language. If any original document is not in the English language, a Party submitting it for use in the proceedings shall submit that document together with an English translation.

Chapter 20. Final Provisions

Article 20.1. Annexes, Appendices, and Footnotes

The Annexes, Appendices, and footnotes to this Agreement shall constitute an integral part of this Agreement.

Article 20.2. Relation to other Agreements

1. Recognising the Parties' intention for this Agreement to coexist with their existing international agreements, each Party affirms:

(a) in relation to existing international agreements to which all Parties are party, including the WTO Agreement, its existing rights and obligations with respect to the other Parties; and

(b) in relation to existing international agreements to which that Party and at least one other Party are party, its existing rights and obligations with respect to such other Party or Parties, as the case may be.

2. If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which that Party and at least one other Party are party, upon request, the relevant Parties which are party to the other agreement shall consult with a view to reaching a mutually satisfactory solution. This paragraph shall be without prejudice to a Party's rights and obligations under Chapter 19 (Dispute Settlement). (1)

(1) For the purposes of application of this Agreement, the Parties agree that the fact that an agreement provides more favourable treatment of goods, services, investments, or persons than that provided for under this Agreement does not mean there is an inconsistency within the meaning of paragraph 2.

Article 20.3. Amended or Successor International Agreements

If any international agreement, or any provision therein, referred to in this Agreement or incorporated into this Agreement is amended, or such an international agreement is succeeded by another international agreement, the Parties shall, on request of any Party, consult on whether it is necessary to amend this Agreement, unless otherwise provided in this Agreement.

Article 20.4. Amendments

The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force 60 days after the date on which all Parties have notified the Depositary in writing of the completion of their respective applicable legal procedures, or on such other date as the Parties may agree.

Article 20.5. Depositary

1. This Agreement, and any amendment thereto, shall be deposited with the Secretary-General of ASEAN who is designated as the Depositary for this Agreement. The Depositary shall promptly provide a certified copy of the original text of this Agreement, and any amendment thereto, to each signatory State and acceding State or separate customs territory.

2. The Depositary shall promptly notify each signatory State and acceding State or separate customs territory, and provide them with the date and a copy, of:

(a) notifications under Article 20.4 (Amendments) and subparagraph 4(b) of Article 20.9 (Accession);

(b) the deposit of an instrument of ratification, acceptance, or approval under Article 20.6 (Entry into Force);

(c) a notice of withdrawal under paragraph 1 of Article 20.7 (Withdrawal);

(d) a request to accede to this Agreement under paragraph 2 of Article 20.9 (Accession); and

(e) the deposit of an instrument of accession under Article 20.9 (Accession).

Article 20.6. Entry Into Force

1. This Agreement shall be subject to ratification, acceptance, or approval by each signatory State in accordance with its applicable legal procedures. The instrument of ratification, acceptance, or approval of a signatory State shall be deposited with the Depositary.

2. This Agreement shall enter into force for those signatory States that have deposited their instrument of ratification, acceptance, or approval, 60 days after the date on which at least six signatory States which are Member States of ASEAN and three signatory States other than Member States of ASEAN have deposited their instrument of ratification, acceptance, or approval with the Depositary.

3. After the date of entry into force of this Agreement, this Agreement shall enter into force for any other signatory State 60 days after the date on which it has deposited its instrument of ratification, acceptance, or approval with the Depositary.

Article 20.7. Withdrawal

1. Any Party may withdraw from this Agreement by providing written notice of its withdrawal to the Depositary.

2. A Party's withdrawal from this Agreement shall take effect six months after the date on which that Party provides written notice to the Depositary under paragraph 1, unless the Parties agree on a different period. If a Party withdraws, this Agreement shall remain in force for the remaining Parties.

Article 20.8. General Review

1. The Parties shall undertake a general review of this Agreement with a view to updating and enhancing this Agreement to ensure that this Agreement remains relevant to the trade and investment issues and challenges confronting the Parties, five years after the date of entry into force of this Agreement, and every five years thereafter, unless the Parties agree otherwise.

2. In conducting a review pursuant to this Article, the Parties shall:

(a) consider ways to further enhance trade and investment among the Parties; and

(b) take into account:

(i) the work of all committees and subsidiary bodies established pursuant to Chapter 18 (Institutional Provisions); and

(ii) relevant developments in international fora.

Article 20.9. Accession

1. This Agreement shall be open for accession by any State or separate customs territory 18 months after the date of entry into force of this Agreement. (2) Such accession shall be subject to the consent of the Parties and any terms or conditions that may be agreed between the Parties and the State or separate customs territory.

2. A State or separate customs territory may seek to accede to this Agreement by submitting a request in writing to the Depositary.

3. The instrument of accession shall be deposited with the Depositary.

4. A State or separate customs territory shall become a Party to this Agreement subject to the terms and conditions agreed pursuant to paragraph 1, either:

(a) 60 days after the date on which it deposits an instrument of accession with the Depositary indicating it accepts such terms and conditions; or

(b) on the date on which all Parties have notified the Depositary that they have completed their respective applicable legal procedures,

whichever is later. In addition to this Article, the accession process shall be carried out in accordance with the procedures for accession to be adopted by the RCEP Joint Committee.

(2) Notwithstanding this sentence, this Agreement shall be open for accession by India, as an original negotiating State, from the date of entry into force of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE in a single original in the English language and SIGNED on the Fifteenth Day of November in the Year of Two Thousand and Twenty at Bandar Seri Begawan, Brunei Darussalam; Phnom Penh, Cambodia; Jakarta, Indonesia; Vientiane, Lao PDR; Kuala Lumpur, Malaysia; Nay Pyi Taw, Myanmar; Manila, Philippines; Singapore; Bangkok, Thailand; Ha Noi, Viet Nam; Canberra, Australia; Beijing, China; Tokyo, Japan; Seoul, Republic of Korea; and Auckland, New Zealand.

Annex III. Schedules of Reservations and Non-Conforming Measures for Services and Investment

Brunei Darussalam

List A. Explanatory Notes

1. This List sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), Brunei Darussalam's existing measures that are not subject to some or all of the obligations imposed by: (a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment); (b) Article 8.5 (Market Access); (c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment); (d) Article 8.11 (Local Presence); (e) Article 10.6 (Prohibition of Performance Requirements); or (f) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements: (a) Sector refers to the sector for which the entry is made; (b) Subsector refers to the specific subsector for which the entry is made; (c) Type of Obligation specifies the obligation referred to in paragraph 1 that, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the listed measure; (d) Description of Measure sets out the non-conforming measure for which the entry is made; and (e) Source of Measure identifies the laws, regulations, or other measures for which the entry is made. A measure cited in this element: (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In accordance with Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the Articles specified in the Type of Obligation element of an entry do not apply with regards to the non-conforming measures identified in the Description of Measure element of that entry.

4. A measure that is reserved against Article 8.11 (Local Presence) need not be reserved against Article 8.4 (National Treatment).

5. Commitments under Chapter 8 (Trade in Services) with respect to financial services are undertaken subject to the limitations and conditions set forth in these explanatory notes and the List herein.

6. For Brunei Darussalam's commitments under Article 8.5 (Market Access), juridical persons supplying financial services

constituted under the laws, regulations, and guidelines of Brunei Darussalam are subject to non-discriminatory limitations on juridical forms. (1)

7. All financial institutions offering Islamic financial products and services shall be subject to the Syariah requirements as determined by the laws, regulations, and guidelines of Brunei Darussalam and any supervisory bodies, with respect to their administration and business dealings concerning Islamic products and any matters connected thereto.

8. Brunei Darussalam reserves the right to require a foreign bank branch that is systemically important to be locally incorporated in Brunei Darussalam subject to the following prerequisites:

(a) such measure is imposed in a reasonable, objective, and impartial manner;

(b) Brunei Darussalam shall take in due consideration to the quality of home regulation and supervision over the bank, the degree of protection accorded to depositors in the home country with respect to depositors in Brunei Darussalam, and the amount of assets held in Brunei Darussalam;

(c) prior to the imposition of the requirement, the bank and the Party where the bank originates from shall be notified at least six months in advance of Brunei Darussalam's intention to locally incorporate the bank;

(d) Brunei Darussalam shall consult the Party concerned regarding the requirement and provide considerations to the views expressed by the Party concerned in this regard; and

(e) provide considerable duration for the bank to comply with the requirement.

(1) For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Brunei Darussalam. This explanatory note is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

1.

Sector : All Sectors Subsector : - Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment 1. Sole Proprietorship and Cooperative Society A foreign national may not establish a sole proprietorship or cooperative society. 2. Partnership A foreign national may not establish a partnership, unless with the written approval of the Registrar of Business Names. 3. Company Directorship A foreign national may not sit on the board of directors of an enterprise established in Brunei Darussalam unless one of the two directors or, where there are more than two directors, at least two of them shall be ordinarily resident in Brunei Darussalam. 4. For the purposes of this entry, a foreign national will forward his or her application to become ordinarily resident in Brunei Darussalam to the Ministry of Finance and Economy. Source of Measure : Companies Act (Chapter 39) Business Names Act (Chapter 92) Co-operative Societies Act (Chapter 84) Employment Agencies Order, 2004 Administrative Measures and Guidelines

2.

Sector : All Sectors Subsector : - Type of Obligation : National Treatment (Article 10.3) Description of Measure : Investment 1. A business licence may only be granted to a Bruneian national for the operation of commercial properties identified in the listed measures. 2. A business licence is required for the enforcement of health and safety regulations, and do not restrict the participation of a foreign national in any other commercial activity where such a business licence is required otherwise provided for in this List. Source of Measure : Beauty and Health Establishment Order, 2016 Municipal Boards Act (Chapter 57) Road Traffic Act (Chapter 68) Public Entertainment Act (Chapter 181) Administrative Measures and Guidelines

3.

Sector : Manufacturing and Services Incidental to Manufacturing Subsector : - Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment 1. Local equity shareholding is required for all foreign investment in this sector that utilises sites under the control of relevant government authorities for manufacturing activities. 2. A foreign investor may not utilise these sites unless he or she complies with the requirement to purchase, use, or accord a preference to goods produced in Brunei Darussalam or to purchase goods from local suppliers. Source of Measure : Brunei Darussalam National Development Plan Administrative Measures and Guidelines

4.

Sector : Agriculture and Services Incidental to Agriculture Subsector : - Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment 1. Local equity shareholding is required for all foreign investment in this sector that utilises sites under the control of relevant government authorities for agriculture and services incidental to agriculture activities. 2. A foreign investor may not utilise these sites unless he or she complies with these requirements: (a) to purchase, use, or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers; or (b) to achieve a given level or percentage of domestic content. Source of Measure : Brunei Darussalam National Development Plan Halal Meat Act (Chapter 183) Administrative Measures and Guidelines

5.

Sector : Fisheries and Services Incidental to Fisheries Subsector : - Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment 1. Local equity shareholding is required for all foreign investment in this sector that utilises sites under the control of relevant government authorities for fishery and services incidental to fishery activities. 2. A foreign investor may not utilise these sites unless he or she complies with requirements to purchase, use, or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers. Source of Measure : Brunei Darussalam National Development Plan Fisheries Order, 2009 Fisheries (Fish Culture Farms) Regulations, 2002 Fisheries (Fish Landing Complexes) Regulations, 2002 Fisheries (Fish Processing Establishments) Regulations, 2002 Brunei Darussalam Fishery Limits Act (Chapter 130) Administrative Measures and Guidelines

6.

Sector : Forestry and Services Incidental to Forestry (Except logging and sawmilling) Subsector : - Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment 1. A foreign national or enterprise may not establish an enterprise to undertake activities related to forestry or services incidental to forestry: (a) unless through a joint venture with a Bruneian national or enterprise, in which the foreign national or enterprise does not own more than 70 per cent equity; and (b) unless they comply with any performance requirements which may be imposed. 2. For greater certainty, this entry does not apply to logging and sawmilling activities. Source of Measure : National Forestry Policy (1989) Brunei Darussalam National Development Plan Forest Act (Chapter 46) Administrative Measures and Guidelines (Strategic Plan 2004-2023)

7.

Sector : Construction Services Subsector : - Type of Obligation : Local Presence (Article 8.11) National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Trade in Services and Investment 1. A foreign national or enterprise is not allowed to provide construction services such as general construction work for building services; general construction work for civil engineering; installation and assembly work services; building completion and finishing work services, except mining; and mechanical engineering services, unless: (a) through an enterprise established in Brunei Darussalam; (b) they first register for either 'Sijil Pendaftaran Kontraktor' (Certificate A) as a contractor or 'Sijil Lesen Pembina' (Certificate B) as a supplier; or (c) they comply with any requirement to transfer technology or other proprietary knowledge to persons in Brunei Darussalam as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam. 2. In the case of Certificate A, a foreign national or enterprise may not own equity shareholding other than what is prescribed in the table below, in any enterprise that applies to be registered as a contractor or supplier: Table Class Project Threshold Level of Foreign Equity Allowed I Up to BND 50 000 None II Exceeding BND 50 000 but not more than BND 250 000 None III Exceeding BND 250 000 but not more than BND 500 000 20 per cent IV Exceeding BND 500 000 but not more than BND 1.5 million 50 per cent V Exceeding BND 1.5 million but not more than BND 5 million 70 per cent VI Exceeding BND 5 million 90 per cent Building Specialist and Supplier No threshold 90 per cent Mechanical and Electrical Specialist and Supplier No threshold 90 per cent 3. For greater certainty, Certificate A refers to certificates which are required for participating in government and private projects, whilst Certificate B refers to certificates which are required for participating in private projects only. Source of Measure : Architects, Professional Engineers and Quantity Surveyors Order, 2011 Building Control Order, 2014 Building Control Regulations, 2014 Procedures of Contractors and Suppliers Registration, Ministry of Development (Edition 2012) Administrative Measures and Guidelines

8.

Sector : Environmental Services Subsector : - Type of Obligation : Local Presence (Article 8.11) National Treatment (Article

10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Trade in Services and Investment 1. A foreign national or enterprise is not allowed to provide consultancy services on environmental protection and management; waste management services; landscape design management and maintenance services; and janitorial services, roadside and cleaning works services, unless: (a) they are established as an enterprise in Brunei Darussalam; (c) they first register for either 'Sijil Pendaftaran Kontraktor' (Certificate A) or 'Sijil Lesen Pembina' (Certificate B), as a contractor or supplier; or (c) they comply with any requirement to transfer technology or other proprietary knowledge to persons in Brunei Darussalam as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam. 2. In the case of Certificate A, a foreign national or enterprise may not own equity shareholding other than what is prescribed in the table below, in any enterprise that applies to be registered as a contractor or supplier: Table Class Project Threshold Level of Foreign Equity Allowed I Up to BND 50 000 None II Exceeding BND 50 000 but not more than BND 250 000 None III Exceeding BND 250 000 but not more than BND 500 000 20 per cent IV Exceeding BND 500 000 but not more than BND 1.5 million 50 per cent V Exceeding BND 1.5 million but not more than BND 5 million 70 per cent VI Exceeding BND 5 million 90 per cent Building Specialist and Supplier No threshold 90 per cent Mechanical and Electrical Specialist and Supplier No threshold 90 per cent 3. For greater certainty, Certificate A refers to certificates which are required for participating in government and private projects, whilst Certificate B refers to certificates which are required for participating in private projects only. Source of Measure : Pollution Control Guidelines for Industrial Development of Brunei Darussalam (2002) Planning Guidelines for Earthworks Development (Focus on Environmental Sensitive Area) (2009) Planning Guidelines and Standards for Industrial Development (2010) Environmental Protection and Management Order, 2016 Hazardous Waste (Control of Export, Import and Transit) Order, 2013 Administrative Measures and Guidelines

9.

Sector : Business Services Subsector : Public Auditing Services Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment 1. A foreign national or enterprise may not establish financial auditing enterprises in Brunei Darussalam, unless through a partnership or joint venture with at least one authorised Bruneian auditor. 2. If they are not established in Brunei Darussalam, a foreign national or enterprise may not provide financial auditing services in Brunei Darussalam, unless: (a) authorised by the Ministry of Finance and Economy; or (b) through a locally established auditor or enterprise, provided that they are authorised by the Ministry of Finance and Economy. 3. For greater certainty, the term "authorised" refers to a qualified person who has been authorised by the Ministry of Finance and Economy to provide financial auditing services. Source of Measure : Companies Act (Chapter 39) Accountants Order, 2010 Administrative Measures and Guidelines

10.

Sector : Business Services Subsector : Veterinary Services Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide veterinary services in Brunei Darussalam, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding in any such enterprise providing veterinary service. Source of Measure : Companies Act (Chapter 39) Veterinary Surgeons Order, 2005 Administrative Measures and Guidelines

11.

Sector : Business Services Subsector : Industrial Design Services Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide industrial design services in Brunei Darussalam, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding in any such enterprise providing industrial design services. Source of Measure : Companies Act (Chapter 39) Industrial Design Rules, 2000 Industrial Designs Order, 1999 [E.O.] Administrative Measures and Guidelines

12.

Sector : Business Services Subsector : Computer and Related Services Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide computer and related services through a commercial presence, unless they are ordinarily

resident in Brunei Darussalam and through an enterprise established in Brunei Darussalam. Source of Measure : Companies Act (Chapter 39) Authority for Info-Communications Technology Industry of Brunei Darussalam Order, 2001 Administrative Measures and Guidelines

13.

Sector : Telecommunication Services Subsector : - Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Trade in Services and Investment 1. A foreign national or enterprise may not provide telecommunication services for which Brunei Darussalam requires a licence2 in the territory of Brunei Darussalam, unless: (a) they maintain a physical business presence in Brunei Darussalam; (b) they provide such services through a commercial arrangement with a licensed operator in Brunei Darussalam; (c) through a joint venture with a Bruneian national or enterprise, in which the foreign national or enterprise does not own more than 51 per cent equity; and (d) where so required, they locate their transmission equipment used for the provision of public telecommunications networks or supply of public telecommunications services within Brunei Darussalam. 2. A foreign national or enterprise may not undertake activities related to telecommunication services unless they comply with any performance requirements that may be imposed. Source of Measure : Telecommunications Order, 2001 AiTi Operational Framework (2006) 2 Software application-based services provided over the Internet (Over-the-Top services) do not currently require a licence in Brunei Darussalam.

14.

Sector : Business Services Subsector : Architectural Services Engineering Services Integrated Engineering Services Quantity Surveying Services Related Scientific and Technical Consulting Services Surveying Services Urban Planning and Landscape Services Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment 1. A foreign national or enterprise may not provide architectural services, engineering services, integrated engineering services, and quantity surveying services, unless: (a) they are resident in Brunei Darussalam for at least 90 days per calendar year and are registered as an “architect, professional engineer or quantity surveyor” in that sector with the Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors; (b) if they are not resident in Brunei Darussalam, it is through a local enterprise where the services suppliers are registered as an “architect, professional engineer or quantity surveyor and hold a practising certificate” in that sector with the Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors; or (c) through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign equity participation shall not exceed 51 per cent, with at least one Bruneian national who is registered as an “architect, professional engineer or quantity surveyor” and holds a practising certificate in that sector with Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors. 2. A foreign national or enterprise may not provide urban planning and landscape services, related scientific and technical consulting services, and surveying services, unless: (a) they are resident in Brunei Darussalam for at least 90 days per calendar year and are registered as a “planner or surveyor” in that sector with the Ministry of Development; (b) if they are not resident in Brunei Darussalam, it is through a local enterprise where the services suppliers are registered as “planner or surveyor” in this sector with the Ministry of Development; or (c) through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign equity participation shall not exceed 51 per cent, with at least one Bruneian national who is registered as a “planner or surveyor” in that sector with the Ministry of Development. Source of Measure : Architects, Professional Engineers and Quantity Surveyors Order, 2011 Licensed Land Surveyors Act (Chapter 100) Licensed Land Surveyors Regulations, 1981 Town Planners Registration Order, 2014 Town and Country Planning Order, 2015 Administrative Measures and Guidelines

15.

Sector : Private Health and Social Services Subsector : General Medical practitioners Specialised Medical practitioners Dental practitioners Type of Obligation : National Treatment (Article 8.4) Local Presence (Article 8.11) Description of Measure : Trade in Services A foreign national may not provide a private practice for the provision of general medical, specialised medical, or dental services unless the foreign national has worked in Brunei Darussalam for at least six cumulative years as a General Medical, Specialised Medical, or Dental Practitioner, which shall include three years of clinical service in a public hospital, health centre, or clinic under the Ministry of Health. Source of Measure : Medical Practitioners and Dentists Act (Chapter 112)

16.

Sector : Social Services Subsector : Child day-care services including day-care services for the handicapped Type of

Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not establish child day-care services, including day-care services for the handicapped, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding. Source of Measure : Administrative Measures and Guidelines

17.

Sector : Other Human Health Services Subsector : Services provided by nurses Pharmaceutical services Type of Obligation : Market Access (Article 8.5) National Treatment (Article 10.3) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide pharmaceutical services or services provided by nurses through a commercial presence, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 49 per cent equity shareholding in any such enterprise providing pharmaceutical services or services provided by nurses. Source of Measure : Medical Practitioners and Dentists Act (Chapter 112) Administrative Measures and Guidelines

18.

Sector : Other Health Related and Social Services Subsector : Ambulance Services Type of Obligation : Market Access (Article 8.5) National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide ambulance services through a commercial presence, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding. Source of Measure : Administrative Measures and Guidelines

19.

Sector : Tourism and Travel Related Services Subsector : Travel Agents Tour Operator Services Tour Guide Services (for birdwatching only) Other Tourism and Travel Related Services Type of Obligation : Market Access (Article 8.5) National Treatment (Article 10.3) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not establish a travel agency, tour operator services, birdwatching tour guide services, or other tourism and travel related services through a commercial presence, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding in any such enterprise providing such services. Source of Measure : Tourism Order, 2016 Administrative Measures and Guidelines

20.

Sector : Tourism Subsector : Hotels, Boarding House, or Lodging Hotels and Restaurants (including catering) Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not establish hotels, boarding house, or lodging; or hotels and restaurants which include catering services, through a commercial presence unless: (a) it is through a joint venture with a Bruneian national or enterprise, where the foreign equity participation shall not exceed 51 per cent; (b) where the majority of senior managers are Bruneian nationals; and (c) where there is a preference to purchase, use, or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers. Source of Measure : Administrative Measures and Guidelines

21.

Sector : Recreational, Cultural and Sporting Services Subsector : News Agency Services Library Services 🗐 Information Technology (i.e. 6D Theatre) 🗐 Consultancy in Library Marketing (including services and premises; Establishment of New Libraries; and Research on User Needs) 🗐 Supplying Library Materials (children's books, e-books or e-journals of local authors etc.) 🗐 Establishment of Private Library Archive Services Sports Event Promotion Services Sports Event Organisation Services Sports Facility Operation Services Computer Reservations System Services Type of Obligation : National Treatment (Article 10.3) Description of Measure : Investment 1. A foreign national or enterprise may not provide news agency services; library services (information technology, consultancy in library marketing, supplying library materials, establishment of private library); archive services; and sports event promotion, organisation, or operation services, through a commercial

presence unless it is through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding. 2. A foreign national or enterprise may not provide computer reservation system services through a commercial presence, unless it is through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 40 per cent equity shareholding. Source of Measure : Administrative Measures and Guidelines

22.

Sector : Transport Services Subsector : Rail Transport Services Type of Obligation : Market Access (Article 8.5) National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide rail transport services through a commercial presence, unless: (a) it is through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 40 per cent equity shareholding in any such enterprise providing rail transport services; and (b) a majority of the senior managers in any such enterprise established are Bruneian nationals. Source of Measure : Administrative Measures and Guidelines

23.

Sector : Transport Services Subsector : Maritime Passenger Transport Services Maritime Freight Transport Services (except for energy goods) Type of Obligation : Market Access (Article 8.5) National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide services auxiliary to maritime transport services through a commercial presence at Muara Port, unless: (a) it is through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 40 per cent equity shareholding in any such enterprise providing services auxiliary to maritime transport services; and (b) a majority of the senior managers in any such enterprise established are Bruneian nationals. Source of Measure : Administrative Measures and Guidelines

24.

Sector : Transport Services Subsector : Space Transport Type of Obligation : Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide space transport services through a commercial presence, unless: (a) it is through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 40 per cent equity shareholding in any such enterprise providing space transport services; and (b) a majority of the senior managers in any such enterprise established are Bruneian nationals. Source of Measure : Administrative Measures and Guidelines

25.

Sector : Transport Services Subsector : Rental of Aircraft with Crew Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide rental or leasing services relating to aircraft without operators, or rental of aircraft with crew in Brunei Darussalam, unless: (a) (i) only through a representative office with a permanent address in Brunei Darussalam; or (ii) only by appointment of a General Sales Agent, that is Bruneian controlled company; (b) a majority of the senior managers in any such enterprise established are Bruneian nationals; (c) the aircraft is certified; and (d) the services are approved by Brunei Darussalam subject to any infrastructure capacity conditions or limitations. Source of Measure : Companies Act (Chapter 39) Administrative Measures and Guidelines

26.

Sector : Business Services Subsector : Rental or Leasing Services relating to Aircraft without Operator Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide rental or leasing services relating to aircraft without operators, or rental of aircraft with crew in Brunei Darussalam, unless: (a) (i) only through a representative office with a permanent address in Brunei Darussalam; or (ii) only by appointment of a General Sales Agent, that is a Bruneian

controlled company; (b) a majority of the senior managers in any such enterprise established are Bruneian nationals; (c) the aircraft is certified; and (d) the services are approved by Brunei Darussalam subject to any infrastructure capacity conditions or limitations. Source of Measure : Companies Act (Chapter 39) Administrative Measures and Guidelines

27.

Sector : Communication Services Subsector : Audio-visual Services, including Sound Recording services and Audio-visual post production support services Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide audio-visual services through a commercial presence, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding in any such enterprise providing audio-visual services. Source of Measure : Administrative Measures and Guidelines

28.

Sector : Communication Services Subsector : Courier Services Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide courier services through a commercial presence, unless through an enterprise established in Brunei Darussalam that is a partnership or joint venture, where the foreign national or enterprise does not own more than 49 per cent equity shareholding in any such enterprise providing courier services. Source of Measure : Administrative Measures and Guidelines

29.

Sector : Education Services Subsector : Adult Education, for courses with maximum duration of three months (Private Education) Other Education Services (Foreign Language Training Centre) Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description of Measure : Trade in Services and Investment 1. A foreign national or enterprise may not provide adult education services through a commercial presence, unless: (a) it is through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 49 per cent equity shareholding in any such enterprise providing adult education services; and (b) foreign employees do not exceed 10 per cent of workforce. 2. A foreign national or enterprise may not provide foreign language training centres through a commercial presence, unless: (a) it is through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 49 per cent equity shareholding in any such enterprise providing foreign language training services; and (b) a majority of the senior managers in any such enterprise established are Bruneian nationals. Source of Measure : Education Act (Chapter 210) Administrative Measures and Guidelines

30.

Sector : Financial Services Subsector : Finance Companies Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not carry on financing business or Islamic financing services unless they are incorporated in Brunei Darussalam. Source of Measure : Finance Companies Act (Chapter 89)

31.

Sector : Financial Services Subsector : Money-Changing and Remittance Businesses Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise may not provide services relating to money-changing and money remittance businesses. The number of licences awarded for these businesses are limited. Source of Measure : Money-Changing and Remittance Businesses Act (Chapter 174)

32.

Sector : Financial Services Subsector : Insurance Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services A foreign national or enterprise may not provide compulsory insurance of motor third party liability and workmen’s compensation unless they are purchased, directly or through an intermediary, from licensed insurance

companies or takaful operators in Brunei Darussalam. Source of Measure : Motor Vehicles Insurance (Third Party Risks) Act, (Chapter 90) Workmen's Compensation Act (Chapter 74)

33.

Sector : Financial Services Subsector : Insurance Intermediaries Type of Obligation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description of Measure : Trade in Services and Investment 1. Insurance Agents A foreign national is not allowed to be registered as an insurance agent in Brunei Darussalam. 2. Insurance Brokers A foreign national or enterprise is not allowed to provide insurance brokers services unless they are incorporated in Brunei Darussalam. Source of Measure : Insurance Order, 2006 Takaful Order, 2008 Companies Act (Chapter 39) Business Names Act (Chapter 92)

34.

Sector : Financial Services Subsector : Banking Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services A foreign national or enterprise is not allowed to provide any outsourcing activities unless it is approved by the Autoriti Monetari Brunei Darussalam with the following conditions: (a) the outsourced activities are not related to credit assessment, processing, administration, or any related core banking activities; and (b) the outsourcing activities will not affect financial institutions' human capital and it does not involve any retrenchment of local employees. Source of Measure : Banking Order, 2006 Islamic Banking Order, 2008 Outsourcing Guidelines

35.

Sector : Financial Services Subsector : Insurance and Takaful Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise is not allowed to provide all direct life insurance or takaful products and services including annuity, disability, income, accident, and health insurance unless it is through insurance companies established and licensed in Brunei Darussalam. Source of Measure : Insurance Order, 2006 Takaful Order, 2008 Autoriti Monetari Brunei Darussalam Order, 2010

36.

Sector : Financial Services Subsector : Insurance and Takaful Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise is not allowed to provide all direct non-life insurance or takaful products and services including annuity, disability income, accident, and health insurance and contracts of fidelity bonds, performance body, or similar contracts of guarantee unless it is through insurance or takaful companies established and licensed in Brunei Darussalam. Source of Measure : Insurance Order, 2006 Takaful Order, 2008 Autoriti Monetari Brunei Darussalam Order, 2010

37.

Sector : Financial Services Subsector : Banking and Other Financial Services Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise is not allowed to provide any activities related to the acceptance of deposits and other repayable funds unless it is through banking, Islamic banking, or Finance Companies established and licensed in Brunei Darussalam. Source of Measure : Banking Order, 2006 Islamic Banking Order, 2008 Autoriti Monetari Brunei Darussalam Order, 2010

38.

Sector : Financial Services Subsector : All Sectors Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise is not allowed to conduct any cross border activities related to the provision and transfer of financial information, financial data processing, and related software unless it is through entities established and licensed in Brunei Darussalam. Source of Measure : Banking Order, 2006 Islamic Banking Order, 2008 Finance Companies Act (Chapter 89) Insurance Order, 2006 Takaful Order, 2008 Securities Markets Order, 2013 Securities Markets Regulations, 2015 Money-Changing and Remittance Business Act (Chapter 174) Outsourcing Guidelines Autoriti Monetari Brunei Darussalam Order, 2010

39.

Sector : Financial Services Subsector : Capital Market Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise is not allowed to carry out and provide any type of advisory or other auxiliary services, including credit reference and analysis; investment and portfolio research and advice; advice on acquisitions and on corporate restructuring and strategy, unless it is carried out by or through entities with capital market services licence or capital market services representative licence. Source of Measure : Securities Markets Order, 2013 Securities Markets Regulations, 2015

40.

Sector : Financial Services Subsector : Reinsurance and Retrocession (life and non-life) Type of Obligation : Market Access (Article 8.5) Description of Measure : Trade in Services and Investment A foreign national or enterprise is not allowed to conduct any type of reinsurance and retrocession (life and non-life) activities unless it is through reinsurance companies or retakaful operators established and licensed in Brunei Darussalam. Source of Measure : Insurance Order, 2006 Takaful Order, 2008

List B. Explanatory Notes

1. This List sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors or activities for which Brunei Darussalam may maintain existing or adopt new or more restrictive measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Subsector refers to the specific subsector for which the entry is made;

(c) Obligations Concerned specifies the obligation referred to in paragraph 1 that, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;

(d) Description sets out the scope of the sectors, subsectors, or activities covered by the entry; and

(e) Existing Measures, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the Articles specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

4. Commitments under Chapter 8 (Trade in Services) with respect to financial services are undertaken subject to the limitations and conditions set forth in these explanatory notes and the List herein.

5. For greater certainty, Brunei Darussalam's commitment with respect to Article 8.5 (Market Access), juridical persons supplying financial services and constituted under the laws, regulations, and guidelines of Brunei Darussalam are subject to non-discriminatory limitations on juridical forms. (3)

6. All financial institutions offering Islamic financial products and services shall be subject to the Syariah requirements as determined by the laws of Brunei Darussalam and any supervisory bodies for the control of the administration and business dealings of financial institutions concerning Islamic products and any matters connected thereto.

7. Brunei Darussalam reserves the right to require a foreign bank branch that is systemically important to be a locally

incorporated bank in Brunei Darussalam subject to the following prerequisites:

(a) such measure is imposed in a reasonable, objective, and impartial manner;

(b) Brunei Darussalam shall take in due consideration the quality of home regulation and supervision over the bank, degree of protection accorded to depositors in the home country with respect to depositors in Brunei Darussalam, and the amount of assets held in Brunei Darussalam;

(c) prior to the imposition of the requirement, the bank and the Party where the bank originates from shall be notified at least six months in advance of Brunei Darussalam's intention to locally incorporate the bank;

(d) Brunei Darussalam shall engage the Party concerned in consultations regarding the requirement and provide due considerations to the views expressed by the Party concerned in this regard; and

(e) provide considerable duration for the bank to comply with the requirement.

(3) For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Brunei Darussalam. This explanatory note is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

1.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the privatisation, corporatisation, commercialisation, or divestment of government assets, entities, or agencies including the following: (a) limitations on ownership of assets; (b) transfer or disposal of equity interests or their assets; (c) the right of foreign investors or their investments to control their assets; and (d) nationality of the senior management or members of the board of directors. Existing Measures : -

2.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description : Investment 1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to all land transactions and use, which shall be subject to approval and consent by His Majesty-in-Council, including: (a) ownership and lease of land; and (b) conditions on which such land shall be held, including the use of natural resources associated with such land. 2. Brunei Darussalam reserves the right to adopt or maintain any measure affecting the subdivision and consolidation of land, land use, land planning, and earthwork and building applications on state and private land. Existing Measures : Land Code (Chapter 40) Land Code (Strata) Act (Chapter 189) Town and Country Planning (Control of Subdivision and Consolidation of Land) Regulations, 1973 Town and Country Planning (Control of Development and Use of Land and Buildings) Regulations, 1974 Town and Country Planning Order, 2015 Building Control Order, 2014 Land Code (Amendment) Order, 2016 Valuers and Estate Agents (Amendment) Order, 2016

3.

Sector : All Sectors Subsector : - Obligations Concerned : Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure that accords differential or preferential treatment to: (a) any countries under any bilateral, regional or multilateral international agreement signed or in force prior to the date of entry into force of this Agreement;4 (b) any Member State of ASEAN under any agreement or arrangement between or among Member States of ASEAN in force or signed after the date of entry into force of this Agreement; and (c) any countries under any international agreement in force or signed after the date of entry into force of this Agreement involving: (i) air services; (ii) maritime and port matters; (iii) fisheries; (iv) e-commerce; (v) broadcasting; and (vi) land transport. Existing Measures : - 4 For greater certainty, this extends to any preferential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement.

4.

Sector : All Sectors Subsector : - Obligations Concerned : Market Access (Article 8.5) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, including on the total number of foreign natural persons that may be employed in any sector, subject to Chapter 9 (Temporary Movement of Natural Persons), and in a manner that is not inconsistent with Brunei Darussalam's obligations under Article XVI of GATS. Existing Measures : -

5.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests. Existing Measures : -

6.

Sector : All Sectors Subsector : - Obligations Concerned : Prohibition of Performance Requirements (Article 10.6) Description : Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the imposition and enforcement of a requirement, commitment, or undertaking relating to the transfer of technology, production process, or other proprietary knowledge to a person in Brunei Darussalam as: (a) a condition for establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in Brunei Darussalam; or (b) a condition for receipt or continued receipt of an advantage in connection with the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in Brunei Darussalam. Existing Measures : -

7.

Sector : Fishery and Services Incidental to Fisheries Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to any fisheries activity in its territory and its exclusive economic zone. Existing Measures : Brunei Darussalam National Development Plan Fisheries Order, 2009 Fisheries (Fish Culture Farms) Regulations, 2002 Fisheries (Fish Landing Complexes) Regulations, 2002 Fisheries (Fish Processing Establishments) Regulations, 2002 Brunei Darussalam Fishery Limits Act (Chapter 130) Exclusive Economic Zone Proclamation (Sup. IIA) Administrative Measures and Guidelines

8.

Sector : Logging and sawmilling Subsector : - Obligations Concerned : National Treatment (Article 10.3) Description : Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to logging and sawmilling activities. Existing Measures : Brunei Darussalam National Development Plan Brunei Darussalam Long-Term Development Plan Forest Act (Chapter 46) National Forestry Policy (1989) Administrative Measures and Guidelines

9.

Sector : Mining and Quarrying, and Services Incidental to Mining and Quarrying Subsector : Sand and Gravel Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure related to this subsector. This includes any measure with respect to the commercialisation of activities relating to silica sand deposits, including mining, quarrying, manufacture, and export of such deposits. Existing Measures : Mining Act (Chapter 42) Administrative Measures and Guidelines

10.

Sector : Oil and Gas Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the Oil and Gas Industry. Existing Measures : Petroleum Mining Act (Chapter 44)

(as amended from time to time) Brunei National Petroleum Company Sendirian Berhad Order, 2002 (as amended from time to time) Petroleum (Pipe-Lines) Act (Chapter 45) (as amended from time to time) Administrative Measures and Guidelines

11.

Sector : Coal Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to this sector including the exploration, extraction, and use of coal reserves in Brunei Darussalam. Existing Measures : -

12.

Sector : Business Services Subsector : Services Incidental to Agriculture, Hunting and Forestry Services Incidental to Mining Services Incidental to Manufacturing Services Incidental to Energy Distribution Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Local Presence (Article 8.11) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to services incidental to the sectors listed above. Existing Measures : -

13.

Sector : Business Services Subsector : Placement and supply services of personnel Employment Agencies Investigation and Security, including Unarmed Guard Services Convention Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to placement and supply services of personnel; employment agencies; investigation and security, including unarmed guard services; and Convention Services. Existing Measures : Employment Agencies Order, 2004 Administrative Measures and Guidelines

14.

Sector : Business Services Subsector : Research and Development Services 🗐 Research and Development Services on Natural Sciences and Engineering 🗐 Research and Development Services on Social Sciences and Humanities 🗐 Interdisciplinary Research and Development Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of research and development services. Existing Measures : -

15.

Sector : Business Services Subsector : Other Business Services 🗐 Sale or leasing services of advertising space or time 🗐 Planning, creating, and placement services of advertising 🗐 Other advertising services (Advertising consultancy services) 🗐 Marketing research and public opinion polling services 🗐 Management consulting services 🗐 Services related to management consulting (including management services n.e.c.) 🗐 Technical testing and analysis services including other technical testing and analysis services 🗐 Related scientific and technical consulting services 🗐 Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) 🗐 Building-cleaning services 🗐 Photographic services 🗐 Packaging services 🗐 Duplicating services 🗐 Translation and interpretation services 🗐 Mailing list compilation and mailing services 🗐 Specialty design services Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of services in Brunei Darussalam for the sectors listed above. Existing Measures : -

16.

Sector : Business Services Subsector : Rental or Leasing Services without Operator 🗐 Relating to Ships 🗐 Relating to Other Transport Equipment Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and

Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to rental or leasing services without operator for ships or other transport equipment in Brunei Darussalam. Existing Measures : -

17.

Sector : Business Services Subsector : Professional Services 🗐 Legal Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of legal services in Brunei Darussalam. Existing Measures : -

18.

Sector : Business Services Subsector : Valuers (Appraisers) and Estate Agents Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of valuers (appraisers) and estate agent services. Existing Measures : -

19.

Sector : Business Services Subsector : Taxation Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the representation of taxpayers (either by individuals or enterprises) in their tax matters including preparing and furnishing of income tax returns, filing responses to notices issued by tax authority and filing notices of objections, and handling payment in relation to tax. Existing Measures : -

20.

Sector : Business Services Subsector : Rental or Leasing Services without Operator 🗐 Relating to Other Machinery and Equipment 🗐 Rental or Leasing Services concerning personal and household goods Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to rental or leasing services without operators relating to other machinery and equipment and concerning personal and household goods. Existing Measures : Companies Act (Chapter 39) Administrative Measures and Guidelines

21.

Sector : Communication Services Subsector : Postal Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to postal services. Existing Measures : -

22.

Sector : Distribution Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to distribution services. Existing Measures : -

23.

Sector : Private Health Services Subsector : Pharmacists, nurses, midwives and allied health services Private laboratory services Private radiology services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access

(Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the private practice of pharmacists, nurses, midwives, and allied health services. 2. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment of private laboratory services and private radiology services. Existing Measures : -

24.

Sector : Health Related and Social Services Subsector : Hospital Services, excluding Laboratory Services and X-Ray Services Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to hospital services, excluding laboratory services and x-ray services. Existing Measures : -

25.

Sector : Health Related and Social Services Subsector : Hospital Services 🗐 Laboratory Services 🗐 X-Ray Services Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to the establishment of private laboratory services and private radiology services. Existing Measures : -

26.

Sector : Private Health Services Subsector : Private Health Centres or Clinics Obligations Concerned : Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment of private health centres or clinics, including: (a) requiring that such private health centres or clinics be established in the form of a joint venture with a Bruneian national; (b) limiting the number of private health centres or clinics that can be established in Brunei Darussalam; (c) requiring such private health centre or clinic to carry out research and development within the territory of Brunei Darussalam, or transfer of technology; or (d) requiring a majority of the senior managers in the private health centres or clinics to be of Bruneian nationality. Existing Measures : -

27.

Sector : Other Human Health Services Subsector : Services provided by nurses Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to services provided by nurses, except as stated in List A. Existing Measures : -

28.

Sector : Other Health Related and Social Services Subsector : Ambulance Services Obligations Concerned : National Treatment (Article 8.4) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to ambulance services, except as stated in List A. Existing Measures : -

29.

Sector : Recreational, Cultural and Sporting Services Subsector : News Agency Services Library Services 🗐 Information Technology (i.e. 6D Theatre) 🗐 Consultancy in Library Marketing (including services and premises; Establishment of New Libraries; and Research on User Needs) 🗐 Supplying Library Materials (children's books, e-books or e-journals of local authors etc.) 🗐 Establishment of Private Library Archive Services Sports Event Promotion Services Sports Event Organisation Services Sports Facility Operation Services Computer Reservations System Services Obligations Concerned : National Treatment (Article 8.4) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to news agency services; library services (information technology, consultancy in library marketing, supplying library materials, establishment of private library); archive services; and sports event promotion, organisation, or operation services, except as stated in List A. Existing Measures : -

30.

Sector : Tourism and Travel Related Services Subsector : Hotels, Boarding House, or Lodging Hotels and Restaurants (including catering) Travel Agents Tour Operator Services Tour Guide Services (for birdwatching only) Other Tourism and Travel Related Services (not classified) Obligations Concerned : National Treatment (Article 8.4) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to hotels, boarding house, or lodging; hotels and restaurants including catering; travel agents; tour operator services; tour guide services for birdwatching only; and other tourism and travel related services (not classified), except as stated in List A. Existing Measures : -

31.

Sector : Other Tourism Services Subsector : Youth Hostel Golf Courses Marina Facilities Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to youth hostels, golf courses, and marina facilities. Existing Measures : -

32.

Sector : Recreational, Cultural and Sporting Services Subsector : Theme Parks Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to the supply of services for theme parks in Brunei Darussalam. Existing Measures : -

33.

Sector : Broadcasting Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to broadcasting services. Existing Measures : -

34.

Sector : Printing, Publishing, and Reproduction of Newspapers including matters relating to the collection and publication of news and the distribution of newspapers Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the printing, publishing, and reproduction of newspapers including matters relating to the collection and publication of news and the distribution of newspapers. Existing Measures : -

35.

Sector : Transport Services Subsector : Air Transport Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure related to air transport services including: (a) the ownership, operation, and management of airports and heliports in Brunei Darussalam; (b) the supply of ground handling operations; (c) specialty air services; (d) passenger transportation; (e) freight transportation; (f) maintenance and repair of aircraft; and (g) supporting services for air transport. Existing Measures : -

36.

Sector : Transport Services Subsector : Land Transport Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)

Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of land transport services including: (a) passenger transportation; (b) freight transportation; (c) commercial vehicle with operator; (d) pushing and towing services; (e) maintenance and repair of road transport equipment; and (f) supporting services for road transport services. Existing Measures : -

37.

Sector : Transport Services Subsector : Pipeline Transport Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to pipeline transport including the transportation of fuels and other goods. Existing Measures : -

38.

Sector : Transport Services Subsector : Pushing and Towing Services for Maritime Transport Services Pushing and Towing Supporting Services for Internal Waterways Transport Supporting Services for Rail Transport Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to pushing and towing services for maritime transport services, pushing and towing supporting services for internal waterways, and supporting services for rail transport services. Existing Measures : -

39.

Sector : Maritime Transport Services Subsector : Rental of vessels with crew Maintenance and repair of vessels Maritime Agency Services Services auxiliary to maritime transport Supporting services for maritime transport Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence for maritime transport services relating to rental of vessels with crew, maintenance and repair of vessels, maritime agency services, services auxiliary to maritime transport, and supporting services for maritime transport. Existing Measures : -

40.

Sector : Maritime Transport Services Subsector : Freight Transport (for energy goods) Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to freight transport for energy goods. Existing Measures : -

41.

Sector : Transport Services Subsector : Internal Waterways 🗐 Passenger Transport Services 🗐 Freight Transport Services 🗐 Rental of vessels with crew 🗐 Maintenance and repair of vessels 🗐 Supporting services for Internal Waterways Transport Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to internal waterways transport services. Existing Measures : -

42.

Sector : Transport Services Subsector : Rail Transport Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to this sector, except as stated in List A. Existing Measures : -

43.

Sector : Transport Services Subsector : Space Transport Obligations Concerned : National Treatment (Article 8.4 and Article

10.3) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to this sector, except as stated in List A. Existing Measures : -

44.

Sector : Other Transport Services Subsector : Freight transport agency services and other freight transport services (freight consolidation and break-bulk services only) Obligations Concerned : National Treatment (Article 8.4) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to freight transport services and other freight transport services (freight consolidation and break-bulk services only), except as stated in List A. Existing Measures : -

45.

Sector : Other Transport Services Subsector : Freight transport agency services and other freight transport services (except for freight consolidation and break-bulk services) Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to freight transport services and other freight transport services, except for freight consolidation and break-bulk services only. Existing Measures : -

46.

Sector : Services Auxiliary to all modes of transport Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to services auxiliary to all modes of transport. Existing Measures : -

47.

Sector : Business Services Subsector : Rental or Leasing Services relating to Aircraft without Operator Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to the rental or leasing services relating to aircraft without operator, except as stated in List A. Existing Measures : -

48.

Sector : Private Education Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of private education services, for Brunei Darussalam citizens, including the following: (a) equity shareholding by foreign nationals or companies in the ownership of schools and higher learning institutions; (b) the total number of schools and higher learning institutions that may be established in Brunei Darussalam; (c) the total number of employees, including teachers; or (d) the nationality of senior management or board of directors. Existing Measures : -

49.

Sector : Education Services Subsector : Adult Education, for courses with maximum duration of three months (Private Education) Type of Obligation : National Treatment (Article 8.4) Description of Measure : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure on commercial presence relating to adult education, for courses with maximum duration of three months for private education, except as stated in List A. Source of Measure : Education Act (Chapter 210)

50.

Sector : Higher Education Services Subsector : - Obligations Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and

Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of higher education services for Brunei Darussalam citizens. Existing Measures : Education Act (Chapter 210)

51.

Sector : Education Services Subsector : International Schools, for Primary and Secondary Education Services Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to international schools, for primary and secondary education services. Existing Measures : -

52.

Sector : Electricity Services Subsector : - Obligations Concerned : Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the generation, supply, transmission, and distribution of electrical energy. Existing Measures : -

53.

Sector : Trade Services Subsector : Supply of potable water for human consumption Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of potable water, including: (a) the supply of water as a public utility; (b) the extraction of ground water; or (c) the export of water. Existing Measures : -

54.

Sector : Trade Services Subsector : Wholesale trade services and retail trade services of tobacco Obligations Concerned : Market Access (Article 8.5) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of wholesale and retail trade services of tobacco products. Existing Measures : -

55.

Sector : Trade Fair and Exhibition Organising Services Subsector : - Obligations Concerned : National Treatment (Article 8.4) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to trade fair and exhibition organising services. Existing Measures : Public Entertainment Act (Chapter 181)

56.

Sector : Financial Services Subsector : Capital Market Clearing and Settlement Services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment or operation of the following: (a) clearing and settlement services; (b) central securities depository; (c) trade repository; (d) trading facilities; (e) credit rating agencies; (f) exchanges; or (g) securities and futures market. 2. For greater certainty, this entry applies to financial institutions participating in, or seeking to participate in, any such exchange or securities market. Existing Measures : Autoriti Monetari Brunei Darussalam Order, 2010 Securities Markets Order, 2013 Securities Markets Regulations, 2015 Payment and Settlement Systems (Oversight) Order, 2015

57.

Sector : Credit Reporting Services Subsector : - Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Local Presence (Article 8.11) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment and operation of credit reporting services. Existing Measures : Autoriti Monetari Brunei Darussalam Order, 2010 Banking Order, 2006 Islamic Banking Order, 2008

58.

Sector : Financial Services Subsector : Banking Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services Brunei Darussalam reserves the right to adopt or maintain any measure relating to the treatment of locally incorporated banks that are not available to licensed foreign banks branches including the following: (a) number of branch locations; or (b) types of banking business5 offered. Existing Measures : Autoriti Monetari Brunei Darussalam Order, 2010 Banking Order, 2006 Islamic Banking Order, 2008 5 “Banking Business” is as defined under Section 2 of the Banking Order, 2006 and Section 2 of the Islamic Banking Order, 2008.

59.

Sector : Financial Services Subsector : All Sectors Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment 1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to subsidies or grant of advantages including the following: (a) government-owned or government-controlled entities for legitimate national economic development objectives; and (b) Islamic financial institutions carrying out Islamic banking, takaful or retakaful, and Islamic capital markets for the purpose of Islamic finance development. 2. Brunei Darussalam reserves the right to adopt or maintain any measure relating to small and medium enterprises financing programme. Existing Measures : -

60.

Sector : Financial Services Subsector : Banking Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the granting of licences to banks. Existing Measures : -

61.

Sector : Financial Services Subsector : All Sectors Obligations Concerned : Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Brunei Darussalam reserves the right to adopt or maintain any measure relating to the appointment of key responsible persons of the financial institutions including its senior executives, chairman, and the board of directors. Existing Measures : -

Cambodia

List A. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), measures that do not conform to the obligations under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); and (d) Article 10.7 (Senior Management and Board of Directors).

2. Cambodia may add, withdraw or modify its entries as set out in this List for a period of 24 months from the date of entry into force of this Agreement, provided that the relevant non-conforming measure is in existence as of the date of entry into force of this Agreement. Cambodia shall notify the other Parties of any such addition, withdrawal, or modification in this List, including the relevant laws and regulations, through the Depositary. Such addition, withdrawal, or modification will take effect on the date of such notification.

3. Each reservation in this List shall set out the following elements, where applicable: (a) Sector refers to the sector in which a reservation is taken;

(b) Subsector refers to specific industries, products, and activities in which a reservation is taken;

(c) Industry Classification refers to the activities covered by the reservation according to International Standard Industrial Classification (ISIC) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying;

(d) Level of Government indicates the level of government maintaining the measures for which a reservation is taken. For

the purposes of the Level of Government element, National Administration refers to Central Government and Sub-National Administration refers to Capital/Provinces, Khans/Municipalities/Districts and Sangkats/Communes;

(e) Type of Obligation refers to the obligations of Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors), as the case may be, which do not apply to the measures for which a reservation is taken;

(f) Description of Measure refers to a measure that does not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors) for which a reservation is taken; and ANNEX III – CAMBODIA – 3

(g) Source of Measure refers to existing measures that apply to the sector, subsector, or activity covered by the reservations and are identified for the transparency purpose only.

4. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements.

5. These Explanatory Notes shall form part of Cambodia's reservations in this List.

1.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : National Treatment and Most-Favoured-Nation Treatment shall not apply to any measure relating to land ownership within the constitutional law, land law, and related laws and regulations. A foreigner has ownership rights over the private part of the co-owned building only from the first floor up. The ground floor and under-ground floors shall not be owned by the foreigners. A foreigner is not permitted to have ownership rights over the private parts of the co-owned buildings situated within 30 kilometres distance from land border, and other areas defined by the Royal Government of Cambodia, except the co-owned buildings located in the Special Economic Zones, for important public meeting, and other areas defined by the Royal Government of Cambodia. Land along the border cannot be leased to a national or legal person of a bordering country. Source of Measure : - Constitution of the Kingdom of Cambodia, Article 44 - Land Law (2001) - The Law on Providing Foreigners with Ownership Rights Over Private Part of the Co-Owned Buildings (2010) - Code of Civil Procedure (2006) - Civil Code (2007) - Sub-Decree No. 114 ANKR.BK dated 29 August 2007 on the Mortgage and Transfer of the Rights over a Long-term lease or an Economic Land Concession - Government circular No. 08 SR dated 17 November 2015

2.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : National Treatment, Prohibition of Performance Requirements and Senior Management and Board of Directors shall not apply to any measure regarding the hiring of employment policies and obligation of an investor. Employers must give preference to Cambodians when hiring a worker (Article 263 of Labor Law (1997)). Investors shall be obliged to promote Cambodian staff to a senior management level, and this shall be made over time. The maximum percentage of foreigners who may be allowed to be employed in each of the enterprises shall not exceed 10 per cent of the total number of Cambodian employees. This rate of 10 per cent is divided into three categories of employees: 1. Office employees: three per cent 2. Employees or skilled workers: six per cent 3. Employees or Non-skilled workers: one per cent For the establishment and operation of factory, the factory owner shall give priority to Cambodian engineers and technicians. Source of Measure : 🗐 Law on Investment of the Kingdom of Cambodia (1994) 🗐 Law on the Amendment of the Law on Investment of the Kingdom of Cambodia (2003) 🗐 Law on Administration of Factory and Handicraft (2006 and amendment 2014), Article 10 🗐 Sub-Decree No. 111 ANK/BK dated 27 September 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia 🗐 Prakas No. 162 MOSALVY dated 16 July 2001 on the use of the foreign manpower issued by the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation 🗐 Prakas No.196 K.B/ BR K dated 20 August 2014 on Employment of Foreign Labour 🗐 Code of Civil Procedure (2006)

3.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article

10.7) Description of Measure : National Treatment and Senior Management and Board of Directors shall not apply to any measure relating to portfolio investments. 🗐 For domestic purchases by non-residents for equity securities, in the primary market, 20 per cent of each subscription for equity is reserved for Cambodian investors, and the remaining 80 per cent is for both Cambodian and non-Cambodian investors. However, the Director General of the Securities and Exchange Commission of Cambodia (SECC) may define the reallocation if the above allocation is not fulfiled. 🗐 A foreign investor cannot buy 100 per cent of subscription of securities publicly issued (maximum 80 per cent). 🗐 A corporate secretary must be a Cambodian national and an independent director shall have work experience condition different from a Cambodian national. Source of Measure : 🗐 Law on the Issuance and Trading of Non- Government Securities (2007) 🗐 Law on Government Securities (2020) 🗐 Sub-decree on the implementation of the Law on the Issuance and Trading of Non-Government Securities (2009) 🗐 Article 65 of sub-decree on the implementation of the Law on the Issuance and Trading of Non-Government Securities (2009) 🗐 Article 36 of sub-decree No. 005/15 (2015) 🗐 Sub-decree on the Conduct and Organization of the Securities and Exchange Commission of Cambodia 🗐 Article 12 and 23 of Prakas No. 031/10 on corporate governance for the listed public enterprise dated on 15 December 2010 🗐 Prakas on Public offering of Equities Securities 🗐 Prakas on Public offering of Debt Securities 🗐 Prakas on Licensing and Supervision of Derivative Trading 🗐 The guideline on the mechanics of trading 🗐 The guideline on Client Money Account and Mechanism of Deposit, Withdrawal and Settlement of Client money for trading derivative 🗐 National Economic Development Policy 🗐 Stock Market Development Policy and its strategies

4.

Sector : Manufacturing Subsector : Production or processing of psychotropic substances and narcotic substances: Schedules I, II, and III of the Single Convention on Narcotic Drugs done at New York, 30 March 1961 (hereinafter referred to as “1961 Convention” in this Entry) and the Convention on Psychotropic Substances done at Vienna, 21 February 1971 (hereinafter referred to as “1971 Convention” in this Entry) Industry Classification : ISIC 2429 Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : National Treatment and Senior Management and Board of Directors shall not apply to any measure relating to the manufacturing of narcotic and psychotropic substances. Manufacturing of narcotic and psychotropic substances of Schedule I is prohibited in Cambodia, but the manufacturing of finished products of Schedule II and III (1) are only permitted according to the needs and planning of the Ministry of Health of Cambodia. Source of Measure : 🗐 Law on the Controlling of Drugs (1997), Articles 1 through 4 🗐 Schedule I, II, and III of the 1961 Convention and the 1971 Convention 🗐 Sub-Decree No. 111 ANK/BK dated 27 September 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia

(1) Schedule II (Tables I and II of the 1961 Convention): Acétyldihydrocodéine, Acétylméthadol, Alfentanil, Allylprodine, Alphaméprodine, Alphaméthadol, Alpha-méthylthiophentanyl, Alphaprodine, Aniléridine, Benzéthidine, Benzylmorphine, Bétacétylméthadol, Bétaméprodine, Bétaméthadone, Bétaprodine, Bézitramide, Butyrate de dioxaphétyl, Cétobémidone, Clonitazene, Lévomoramide, Lévophénacylmorphane, Lévorphanol, Métazocine, Méthadone, Méthadone, intermediary of the cyano-4 diméthylamino-2 diphényl-4, 4 butane, Méthyldésorphine,- Méthyldihydromorphine, Métopon, Moramide, Morphéridine, Morphine, Morphine méthobromide and other by producs from morphines of pentavalent azote, Myrophine, Nicocodine, Nicodicodine, Nicomorphine, Noracyméthadol, Norcodéine, Norlévorphanaol, Norméthadone, Normorphine, Norpipanone, N-oxymorphine, Opium, Oxycodone, Oxymorphone, Péthidine, Mécloquelone, Métamfétamine, Métaqualone, Méthylphénidate, Phencyclidine, Phenmétrazine, Racémate de Métamfétamine, and Sécobarbital. Schedule III (Table III of the 1971 Convention): Amobarbital, Buprénorphine, Butalbital, Cathine, cyclobarbital, Glutéthimide, Pentazocine, and Pentobarbital. (Table IV of the 1971 Convention): Allobarbital, Alprazolam, Amfépranone, Barbital, Banzfétamine, Bromazépam, Butobarbital, Camazépam, Chloiazéproxide, Clobazam, Clonazépam, Nordazépam, Oxazépam, Oxazolam, Pémoline, Phendimétrazine, Phénobarbital, Phentermine, Pinazépam, Papradol, Prazépam, Pyrovalérone, Secbutabarbital, Témazépam, Trizolam, and Vinylbital.

5.

Sector : Manufacturing Subsector : Production of poisonous chemicals, agriculture pesticide, or insecticide and other goods by using chemical substances Industry Classification : ISIC 2421 Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Senior Management and Board of Directors (Article 10.7) Description of Measure : National Treatment, Most-Favoured-Nation Treatment and Senior Management and Board of Directors shall not apply to any measure relating to the production of poisonous chemicals, and agriculture pesticide or insecticide. The production of other goods by using chemical substances, prohibited by international regulations or the World Health Organization, is prohibited for all investors. The production, processing, and registration of pesticide in the list of banned pesticides (2) in Cambodia are prohibited. The production, processing, and registration of other pesticides shall also be rejected if: 1. information and data attached to the application are false; 2. pesticide is highly toxic to public health or causes risk rather than the advantage of that pesticide usage; 3. pesticide is a phytotoxic product, that cannot compensate the losses of crop yield; 4. the efficacy of the pesticide

has lower standard than what is clarified; 5. the pesticide contains persistent toxic residue in crops and in the environment. Source of Measure : Prakas No. 598 BRK.KSK dated 15 December 2003 issued by Ministry of Agriculture, Forestry and Fishery Prakas No. 484 BRK.KSK dated 26 November 2012 issued by Ministry of Agriculture, Forestry and Fishery Sub-Decree No. 111 ANK/BK dated 27 September 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia Law on the management of pesticides and fertilizers (2012), Article 8 and Article 16

(2) The list of banned pesticides can be found in annex 1 of Prakas No. 484 BRK. KSK dated 26 November 2012 issued by Ministry of Agriculture, Forestry and Fishery.

6.

Sector : Agriculture Subsector : Seed management and Plant breeder's rights Industry Classification : ISIC 0140 Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : A foreign person cannot enjoy a plant breeder's right or related rights except for a foreign person who: 1. has resident status in Cambodia; or 2. has a permanent residence in a signatory state of the Convention of the International Union for the Protection of New Varieties of Plants adopted in Paris in 1961, as amended, or in any State which has a memorandum of understanding with Cambodia regarding plant variety protection. Source of Measure : Law on seed management and plant breeder's rights (2008), Article 13 and related regulations

7.

Sector : Fishery Subsector : Inland and marine fishery Industry Classification : ISIC 0500 Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : The following activities shall be prohibited for all investors: 1. fishing during closed season (for middle-scale and industrial fishing); 2. any fishing activities in the fishery conservation areas, except where special permission is granted by the Minister of Agriculture Forestry and Fisheries to the Fisheries Administration to conduct scientific, technical research, and experiments related to fishery; 3. bypass navigations or any activities in the fisheries conservation areas except competent officers in case of law enforcement; 4. new settlement of less than two kilometres distance from the boundaries of fishery conservation areas except for Fisheries Administration resident which is used for law enforcement purposes; 5. any fishing activities in the fishery domain using the prohibited gears (3); 6. producing, buying, selling, transporting, and storing any electrocuting devices, all types of mosquito net fishing gear, mechanised motor pushed nets, inland trawlers that are used for fishing purpose; and 7. other activities prohibited in the Law of Fisheries (2006). A foreign person cannot enjoy small-scale or family-scale fishing. Fishing exploitation or aquaculture by foreigners must be conducted under the agreement with the Ministry of Agriculture Forestry and Fisheries after obtaining the approval from the Royal Government of Cambodia. Transshipments of fishery products and anchoring of the foreign fishing vessels shall be in accordance with terms and conditions determined by the Fisheries Administration. Foreign fishing vessels that are permitted to fish in the marine fishery domain shall inform the Fisheries Administration prior to port calls in marine fishery domains of Cambodia. Only Cambodian (Khmer) nationals can establish fishing community in their locals in order to manage, conserve, develop and use fishery resources. Source of Measure : Law on Fisheries (2006) Sub-decree No. 25 ANK.BK dated 20 March 2007 on management of fishing community

(3) The prohibited fishing gears can be found in Article 20 of Law on Fisheries (2006).

8.

Sector : Forestry Subsector : Forestry and Logging: Forestry exploitation business Industry Classification : ISIC 0200 Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : National Treatment and Senior Management and Board of Directors shall not apply to any measure relating to restriction or regulation on forestry and forestry-related industries. All activities prescribed in Articles 28 through 39 of Chapter 8 of the Law on Forestry (2002) shall be prohibited. Natural protected areas shall be governed by the Law on Environmental Protection and Natural Resource Management (1996), with the purpose to: - protect and promote environmental quality and public health through the prevention, reduction, and control of pollution; - assess environmental impacts of all proposed projects prior to the issuance of the decision by the Royal Government of Cambodia; - ensure rational and sustainable conservation, development, management, and use of the natural resources of Cambodia; - encourage and enable the public to participate in

environmental protection and natural resource management; - suppress any acts that cause harm to the environment. Cambodia's measures relating to the investments in the Permanent Forest Reserves, except for rubber and eucalyptus plantations, are for the purpose of ensuring the sustainable management of forests for its social, economic and environmental benefits, including conservation of biological diversity and cultural heritage. Investors or the investment must comply with environmental impact assessment screening criteria and assessment process applicable to their proposed investments prior to their establishment, as required by the Law on Environmental Protection and Natural Resource Management (1996) and its Sub-Decree on Environmental Impact Assessment Process (EIAP) for such investment. Source of Measure : 🗐 Law on Forestry (2002) 🗐 Law on Environmental Protection and Natural Resource Management (1996) 🗐 Government Declaration dated 25 January 1999 on Management and Elimination of Forest Anarchy 🗐 Sub-Decree No. 111 ANK/BK dated 27 September 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia

9.

Sector : Mining Subsector : Mining including sand exploitation, and oil and gas extraction and refinery Industry Classification : ISIC 1410, 1110 Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : To protect the natural environment in all areas within the fresh water and sea water in Cambodia, all kinds of sand exploitation for export abroad shall be prohibited. National Treatment, Prohibition of Performance Requirements and Senior Management and Board of Directors shall not apply to any measure relating to mining including the sand exploitation, and oil and gas activities carried out within Cambodia. An investment licence in mining, including sand exploitation and oil and gas activities, is required and shall be subject to terms and conditions determined by the Council of Ministers, the Ministry of Mines and Energy, and the relevant regulatory authorities. Investment projects involving exploration and exploitation of minerals and natural resources shall be submitted for the approval of the Council of Ministers. The export of all types of natural resources is prohibited. Mineral resources shall be preserved to meet the demand of the domestic factories in converting those mineral resources to finished products. Only finished products are allowed for export. Petroleum contractors shall have obligations to (1) provide education, training, and prioritising employment for Cambodian people and (2) maximise the utilisation of domestic labour force, goods, and services. The Royal Government of Cambodia can require petroleum contractors to supply not more than 25 per cent of their petroleum share for fulfilling domestic demand. In case of emergency in domestic supply, the exportation of petroleum's resources shall be prohibited. Petroleum contractors shall submit all petroleum data from their operations to the Ministry of Mines and Energy when the petroleum agreement is completed or expired. Petroleum contractors shall submit all information and reports to the Ministry of Mines and Energy. The Ministry of Mines and Energy can publicly disseminate relevant information related to petroleum operations, and environmental and social. The State has its right to participate in the shares of petroleum operation. The shares participation of the State is approved by the Prime Minister. Source of Measure : 🗐 Law on Environmental Protection and National Resource Management (1996) 🗐 Law on Mineral Resource Management and Exploitation (2001) 🗐 Law on Management of Petroleum and Petroleum Products (2019) 🗐 Sub-Decree No. 27 ANRK.BK dated 6 April 1999 on the Water Pollution Control 🗐 Article 11 of sub-decree No. 60 ANK. BK dated 5 April 2016 on the organization and functioning of the Council for the Development of Cambodia 🗐 Sub-Decree No. 08 ANK.BK dated 31 January 2005 🗐 Government Decision No. 29 SSR dated 8 May 2009 on the Limitation of Sand Exploitation

10.

Sector : All Sectors Subsector : - Industry Classification : - Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Investment projects which: 🗐 have investment capital of USD 50 million or more; 🗐 involve politically sensitive issues; 🗐 may have negative impact on the environment 🗐 have long-term strategy; or 🗐 involve infrastructure concession, shall be submitted for the approval of the Council of Ministers. Other or further requirements relating to National Treatment, Prohibition of Performance Requirements and Senior Management and Board of Directors for the aforementioned investment projects may be adopted by the Council of Ministers. Prohibition of Performance Requirements and Senior Management and Board of Directors shall not apply to any measure relating to tax incentive for small and medium enterprises with any condition as follows: 🗐 to use at least 60 per cent local content; or 🗐 to increase the number of employees by at least 20 per cent; or 🗐 to locate in small and medium enterprises cluster. Source of Measure : 🗐 Law on Investment of the Kingdom of Cambodia (1994) 🗐 Law on the Amendment of the Law on Investment of the Kingdom of Cambodia (2003) 🗐 Sub-Decree No. 111 ANK/BK dated 27 September 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia 🗐 Sub-decree No. 124 ANK.BK dated 2 October 2018 on tax incentive for Small and Medium Enterprises 🗐 Article 11 of sub-decree No. 60 ANK. BK dated 5 April 2016 on the organization and functioning of the Council for the Development of Cambodia

List B. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors or activities for which Cambodia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by: (a) Article 10.3 (National Treatment); (b) Article 10.4 (Most-Favoured-Nation Treatment); (c) Article 10.6 (Prohibition of Performance Requirements); and (d) Article 10.7 (Senior Management and Board of Directors).

2. Cambodia reserves the right to maintain and to add, for policy flexibility, to this List any non-conforming measure at all levels of government that existed prior to but was not listed in this List at the date of entry into force of this Agreement, for a period of 24 months from the date of entry into force of this Agreement, against the above-mentioned obligations. Cambodia shall notify the other Parties of any such maintenance or addition in this List, through the Depositary. Such maintenance or addition will take effect on the date of such notification.

3. Each reservation in this List shall set out the following elements, where applicable:

(a) Sector refers to the sector in which a reservation is taken;

(b) Level of Government indicates the level of government maintaining the measures for which a reservation is taken. For the purposes of the Level of Government element, National Administration refers to Central Government and Sub-National Administration refers to Capital/Provinces, Khans/Municipalities/Districts and Sangkats/Communes;

(c) Type of Obligation refers to the obligations of Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors), as the case may be, which do not apply to the measures for which a reservation is taken;

(d) Description of Measure refers to a measure that does not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors) for which a reservation is taken; and

(e) Source of Measure refers to existing measures that apply to the sector, subsector, or activity covered by the reservations and are identified for the transparency purpose only.

4. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements. 5. These Explanatory Notes shall form part of Cambodia’s reservations in this List.

1.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure relating to special preferences or treatments granted to Micro, Small and Medium-sized Enterprises (MSME). Source of Measure : 🗐 Industrial Development Policy 2015-2025 dated 6 March 2015 🗐 SME Promotion Policy Framework (2015) 🗐 Draft Policy on Promotion of Small and Medium Enterprises 🗐 Draft Law on Investment as of 14 June 2019 🗐 Draft Law on Special Economic Zones as of 14 June 2019

2.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure regarding subsidies. Source of Measure : -

3.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : Cambodia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement or arrangement in force or signed prior to the date of entry into force of this Agreement. Cambodia reserves the right to adopt or maintain any measure that accords differential treatment to Member States of ASEAN under any ASEAN agreement open to participation by any Member States of ASEAN in force or signed after the date of entry into force of this Agreement.

Cambodia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement or arrangement in force or signed after the date of entry into force of this Agreement. Source of Measure : 🗐 Cambodia Industrial Development Policy 2015-2025 dated 6 March 2015 🗐 Rectangular Strategy, Phase IV, of the Royal Government of Cambodia 🗐 National Strategic Development Plan (2019-2023)

4.

Sector : Agro-industries, Supporting industries, Handicraft Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure relating to agro-industries, supporting industries for the agriculture, tourism, and textile sector, cultural, historical, or traditional handicraft and incidental services to all the said sectors or industries. Source of Measure : 🗐 Cambodia Industrial Development Policy 2015-2025 dated 6 March 2015 🗐 Rectangular Strategy, Phase IV, of the Royal Government of Cambodia 🗐 National Strategic Development Plan (2019-2023)

5.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure relating to national defence, public order and security. Source of Measure : -

6.

Sector : All sectors Level of Government : Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : Cambodia reserves the right to adopt or maintain any measure already or will be adopted, or maintained by Sub-National Administration or Authorities affecting investor or investment. Source of Measure : -

7.

Sector : Real estate Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services. Source of Measure : -

8.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure that accords rights or preferences to socially or economically disadvantaged groups, such as disabled persons and ethnic minorities. Source of Measure : -

9.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure affecting the administration and operation of any State-owned enterprises including the Electricity Authority of Cambodia (EAC), Small and Medium Enterprises Bank of Cambodia (SME Bank), Agricultural and Rural Development Bank, Electricité du Cambodge (EDC), Phnom Penh Water Supply Authority (PPWSA), and Green Trade. Source of Measure : -

10.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : Cambodia reserves the right to adopt or maintain any measure relating to investment in services, on condition that such measures do not constitute a violation of its obligations under Chapter 8 (Trade in Services) including National Treatment and Most-Favoured-Nation Treatment. Source of Measure : -

11.

Sector : All sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Cambodia reserves the right to adopt or maintain any measure already or will be adopted or maintained by Central Government. Source of Measure : 🗐 Law on the Issuance and Trading of Non- Government Securities (2007) 🗐 Law on Government Securities (2020) 🗐 Sub-degree on the implementation of the Law on the Issuance and Trading of Non-Government Securities (2009) 🗐 Sub-Degree on the Conduct and Organization of the Securities and Exchange Commission of Cambodia 🗐 Prakas on Public offering of Equities Securities 🗐 Prakas on Public offering of Debt Securities 🗐 Prakas on Licensing and Supervision of Derivative Trading 🗐 The guildeline on the mechanics of trading 🗐 The guideline on Client Money Account and Mechanism of Deposit, Withdrawal and Settlement of Client money for trading derivative 🗐 National Economic Development Policy 🗐 Stock Market Development Policy and its strategies

12.

12 Sector : All Sectors Level of Government : National Administration and Sub-National Administration Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : Cambodia reserves the right to adopt or maintain any measure relating to land including the acquisition, ownership, lease, policy on the usage of land, land planning, and term of land use, rights and obligations of land users. Source of Measure : 🗐 Constitution of the Kingdom of Cambodia, Article 44 🗐 Land Law (2001) 🗐 Law on Providing Foreigners with Ownership Rights Over Private Part of the Co-Owned Buildings (2010) 🗐 Code of Civil Procedure (2006) 🗐 Civil Code (2007) 🗐 Sub-Decree No. 114 ANKR.BK dated 29 August 2007 on the Mortgage and Transfer of the Rights over a Long-term lease or an Economic Land Concession 🗐 Government circular No. 08 SR dated 17 November 2015

Indonesia

List B. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), measures that do not conform to the obligations under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); and

(d) Article 10.7 (Senior Management and Board of Directors).

2. This List and List B pursuant to Article 10.8 (Reservations and Non-Conforming Measures) follow the negative list with two list approach as follows:

(a) this List sets out commitments in relation to existing non-conforming measures which are subject to standstill obligations but not subject to ratchet mechanism; and

(b) List B sets out policy flexibility in relation to measures in sectors, subsectors and activities.

3. Each reservation shall set out the following elements, where applicable:

(a) Sector refers to the sector in which a reservation is taken;

(b) Subsector refers to specific industries, products, and activities in which a reservation is taken;

(c) Industry Classification refers to the activities covered by the reservation according to:

(i) International Standard Industrial Classification Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying (hereinafter referred to as “ISIC”); or where applicable, ASEAN Harmonised Tariff Nomenclature codes; or

(ii) If the reservation does not exactly conform to the ISIC, Indonesia has specified the coverage of the reservation as necessary and appropriate.

(d) Level of Government specifies the level of government (e.g., Central or Regional) maintaining the measure for which a reservation is taken;

(e) Type of Obligation refers to the obligations of Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors), as the case may be, which do not apply to the listed measures;

(f) Description of Measure refers to measures that does not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), or Article 10.7 (Senior Management and Board of Directors) for which a reservation is taken; and

(g) Source of Measure refers to existing measures that apply to the sector, subsector or activities covered by the reservations and is identified for transparency purposes only.

4. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements.

5. This note shall form part of Indonesia's reservations.

1.

Sector : All sectors Subsector : Acquisition or Lease of Land Level of Government : Central and Regional Type of Obligation : National Treatment (Article 10.3) Description of Measure : The right of ownership of land (hak milik) is restricted to Indonesian nationals only. Note: Notwithstanding the above, foreign nationals and foreign companies incorporated and domiciled in Indonesia may acquire land and property on the basis of the following rights: (a) Leasehold (hak guna usaha), granted to a foreign company for a maximum period of 35 years and may be extended for a further period of 25 years. (b) Building rights (hak guna bangunan), granted to a foreign company for a maximum period of 30 years and may be extended for a further period of 20 years. (c) Right of use (hak pakai), granted to: (i) a foreign national for a maximum period of 30 years and may be extended for a further period of 20 years; (ii) a foreign company for a maximum period of 25 years and may be extended for a further period of 20 years. (d) Right of lease (hak sewa), granted to a foreign national or a foreign company for a definite period as may be agreed by the parties. Such acquisitions of land and property must be approved by the relevant authority, subject to such conditions and restrictions as may be imposed by that authority. Source of Measure : Article 33 of the 1945 Constitution of The Republic of Indonesia Law No.5 of 1960 concerning Basic Regulations on Agrarian Principles Government Regulation No.40 of 1996 concerning the Right of Cultivation of Land, the Right of Use of Structures, and the Right of Use of Land Government Regulation No. 103 of 2015 concerning Residence or Housing Ownership for Foreigners Domiciled in Indonesia

2.

Sector : All sectors Subsector : Registration Requirements for the Establishment of Foreign Investment Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investment (1) shall have a total investment value of more than IDR 10 billion (excluding land and buildings), unless required otherwise by the specific sector in accordance with Indonesia's laws and regulations. In the case of large businesses in the industrial sector as defined in the relevant regulation, foreign investment shall have total investment value of more than IDR 15 billion (including land and buildings). Source of Measure : Law No. 25 of 2007 concerning Investment Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises Ministry of Industry Regulation No. 64 of 2016 concerning Amount of Worker and Investment for Industrial Business Classification Investment Coordinating Board Regulation No. 6 of 2018 concerning Guidelines and Procedures for Ìnvestment Licensing and Facilities

(1) For the purposes of this reservation, the term "foreign investment" has the meaning set out in Law No. 25 of 2007 concerning Investment.

3.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investment (2) shall be in the form of a Limited Liability Company based on the law of the Republic of Indonesia. A foreign investor (3) organised under the laws of another country seeking to make direct investment in Indonesia must be established as an Indonesian Limited Liability Company (Perseroan Terbatas) in accordance with Law

No. 25 of 2007 concerning Investment. Source of Measure : Law No. 25 of 2007 concerning Investment Law No. 40 of 2007 concerning Limited Liability Company

(2) For the purposes of this reservation, the term “foreign investment” has the meaning set out in Law No. 25 of 2007 concerning Investment.

(3) For the purposes of this reservation, the term “foreign investor” has the meaning set out in Law No. 25 of 2007 concerning Investment.

4.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investment shall appoint local distribution agents to sell its products to the end--users in Indonesia. For greater certainty, “foreign investment” means a foreign investor or a legal entity established as an Indonesian Limited Liability Company (Perseroan Terbatas) in accordance with the Source of Measures listed under reservation 3 of this List. Source of Measure : Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises Ministry of Trade Regulation No. 22 of 2016 on General Provisions on the Distribution of Goods Ministry of Trade Regulation No. 11 of 2006 on Provisions and Procedures of Issuance of Agents or Distributor of Goods and/or Services Registration Investment Coordinating Board Regulation No. 6 of 2018 concerning Guidelines and Procedures for Investment Licensing and Facilities

5.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Senior Management and Board of Directors (Article 10.7) Description of Measure : A foreign investment established under Law No. 40 of 2007 concerning Limited Liability Company is required to have any positions related to personnel affairs to be occupied by Indonesian nationals. Source of Measure : Law No. 13 of 2003 concerning Manpower Presidential Decree No. 74 of 2014 concerning the Employment of Expatriates and the Implementation of Education and Training for Labour Companion Ministry of Manpower and Transmigration Decree No. 40 of 2012 concerning Certain Positions that are Restricted for Foreign Workers Presidential Regulation No. 20 of 2018 concerning the Employment of Expatriates.

6.

Sector : Fishery Subsector : Capture Fisheries Industry Classification : ISIC 0500 Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Capture fisheries in Indonesia are prohibited for foreign investors. Source of Measure : Law No. 31 of 2004 as amended by Law No. 45 of 2009 concerning Fishery Law No. 5 of 1983 concerning Indonesia’s Exclusive Economic Zone Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open for Investment Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2008 as amended by No. PER.12/MEN/2009 regarding Capture Fishery Business Government Policy.

7.

Sector : Mining and Quarrying Subsector : - Industry Classification : ISIC 1429 Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : The establishment and operation of foreign investment in Sea Sand Extraction are prohibited for foreign investors. Source of Measure : Law No. 4 of 2009 as amended by Law No. 3 of 2020 concerning Mineral and Coal Mining Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open for Investment.

8.

Sector : All Sectors Subsector : Public Enterprise Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Senior Management and Board of Directors (Article 10.7) Description of Measure : National Treatment (Article 10.3) and Senior Management and Board of Directors (Article 10.7) may not apply in the event where activities restricted to designated enterprises (4) are liberalised to those other than the designated entities, or in the event where such a designated enterprise no longer operate on a non--commercial basis. Source of Measure : Government Regulation No. 13 of 1998 concerning Public Enterprise

(4) For illustrative purposes, designated enterprise may include State Forestry Public Enterprise denoted as Perum PERHUTANI and National Money Printing Public Enterprise denoted as Perum PERURI.

9.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Senior Management and Board of Directors (Article 10.7) Description of Measure : For companies or projects that are in existence prior to the date of entry into force of this Agreement, conditions imposed in their approvals for permits shall continue to apply. Any changes to these conditions shall be subject to approval. Source of Measure : Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment

10.

Sector : Manufacturing Subsector : - - Industry Classification : ISIC (see below) Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investors are prohibited from establishing the following businesses in Indonesia: (a) reserved for micro, small, and medium enterprises5: manufacturer of the following agricultural products with an equal or exceeding a certain capacity limit as stipulated in the Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013: - dried clove buds; crude vegetable and animal oils; copra, fibre, coconut shell charcoal, dust, nata de coco; coconut oil; palm oil; cotton fibre; cotton seeds; peeling, cleaning, drying, and sorting of plantation products (cocoa beans and coffee beans); cashews for dried cashew nut and cashew nut shell liquid (CNSL); peppercorns for dried white peppercorns and dried black peppercorns; cane sugar, sugar cane top and sugar cane bagasse; black tea or green tea; dried tobacco leaves; rubber for sheets, concentrated latex; rude jatropha oil (ISIC 0111, 0140, 1513, 1514, 1531, 1542, 1549, 1600, 2429, 2519) fish processing: boiling of fish (ISIC 1512); manufacture of processed food from soybean in form of tempeh and tofu (ISIC 1513, 1514), manufacture of foods from soybeans and beans other than soy sauce, tempeh, and tofu (ISIC 1513, 1549) manufacture of perishable prepared cakes (ISIC 1513, 1514, 1549) manufacture of crackers (krupuk), flakes (keripik), fried and flavoures biscuits (peyek) and the likes (ISIC 1513, 1514, 1549) manufacture of palm sugar, Javanese sugar or red sugar (ISIC 1542) milling (peeling and cleaning) or roots and tubers (ISIC 0140, 1531) thread coloring from natural and artificial fibre to be patterned, dipped or tied thread, performed by hand--work tools (ISIC 1711) fabrics printing industry (ISIC 1712, 1729) hand painted batik industry (ISIC 1712, 1729) knitted cloth industry especially lace (ISIC 1730) moslem woman's praying cloth, scarf, head scarf, and other traditional industries (ISIC 1810) embroidery industry (ISIC 1729) handicrafts industry: rattan and bamboo plait industry; plait industry with plant other than rattan and bamboo; carving handicraft from wood, except furniture industry; kitchen household industry from wood, rattan and bamboo; wood, rattan, cork products industry that is not classified elsewhere (ISIC 2029, 3699) traditional musical instruments (ISIC 3692) rubber curing industry (ISIC 2519) clay made household necessities industry especially pottery (ISIC 2691) hand--tools industry needed for farming to prepare land, process production, post-harvest and processing except hoe and shovel (ISIC 2893) manual or semi mechanical processed hand tool industry for handwork and cutting (ISIC 2893) maintenance and repair of motorcycles other than those integrating with sale of motorcycles (agents or distributor) (ISIC 5040) repair of personal and household goods (ISIC 3610, 5260) primary industry of forests products processing: pine sap (Oleo Pine Resin) and bamboo (ISIC 0200); saw mill or lumbering industry with production capacity of below or equal to 2.000 cubic metres per year; primary industry of processing rattan (ISIC 2010). (b) 100 per cent domestic equity participation: industry of main equipment for defense and security (ISIC 2520, 2893, 2927, 2929, 3530, 3610) traditional medicines and natural extracts processing and industry (ISIC 2423) Source of Measure : Law No. 25 of 2007 concerning Investment Law No. 39 of 2014 concerning Plantations Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment Presidential Decree No. 21 of 2001 concerning Lubricant Supply and Services Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013 ANNEX III – INDONESIA – 17 Government Policy

(5) For the purposes of this reservation, the term “micro, small, and medium enterprises” has the meaning as set out in Presidential Regulation of The Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields that are Closed to Investment and Business Fields that are Conditionally Open for Investment.

11.

Sector : Agriculture Subsector : - Industry Classification : ISIC (see below) Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investors are prohibited from establishing the following businesses in Indonesia: reserved for micro, small, and medium enterprises (6): for each individual crop cultivation in an area less than 25 hectares: - staple food crops (rice, corn, soybeans, groundnuts, green beans, cassava and sweet potatoes) and other food crops not classified elsewhere (ISIC 0111, 0112, 0113, 0200). for each individual plantation seeding business in an area less than 25 hectares: jatropha curcas, other sweetener crops, sugar canes, tobacco, textile raw materials and cotton, other crops not elsewhere classified, cashews, coconut palms, oil palms, beverage crops (tea, coffee, and cocoa), peppercorns, cloves, essential oil crops, medicinal pharmaceutical crops (other than horticulture), other spice crops, rubber and other trees for extraction of sap (ISIC 0111, 0112, 0113, 0200) for each individual plantation business in an area less than 25 hectares: - other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, essential oil crops, medicinal or pharmaceutical crops other than horticulture, other spice crops, rubber and other trees for extraction of sap, other plantation farming (ISIC 0111, 0112, 0113, 0200) swine breeding and farming with quantity of less than or equal to 125 heads (ISIC 0122) breeding and farming of native chicken (ayam buras) and its cross breeding and farming (ISIC 0122) Source of Measure : Law No. 39 of 2014 concerning Plantations Law No. 18 of 2009 concerning Livestock and Animal Health and Law No. 41 of 2014 concerning the Amendment to Law No. 18 of 2009 Law No. 41 of 1999 concerning Forestry Law No. 5 of 1990 concerning Conservation of Natural Resources and Its Ecosystems Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 concerning Forest Administration and Compilation of Forest Management Planning and Utilization of Forest Government Regulation No. 8 of 1999 concerning Utilization of Plant and Wild Animal Species Government Regulation number 18 of 2010 concerning Plant Cultivating Business Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment Government Regulation No. 44 of 1995 concerning Seeding of Plantations Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013 Agriculture Minister Decree No. 404 of 2002 concerning Guidelines for License and Registration on Livestock Sector Agriculture Minister Regulation No. 70 of 2014 concerning Licensing Guidelines for Horticulture Cultivation Agriculture Minister Regulation No 2 of 2009 concerning Guidelines of Veterinary Medical Services Agriculture Minister Regulation No. 39 of 2010 concerning the Guidelines on Business Licensing for Staple Crops Cultivation Government Policy

(6) For the purposes of this reservation, the term “micro, small, and medium enterprises” has the meaning as set out in Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields that are Closed to Investment and Business Fields that are Conditionally Open for Investment.

12.

Sector : Forestry Subsector : - Industry Classification : ISIC (see below) Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investors are prohibited from establishing the following businesses in Indonesia: (a) reserved for micro, small, and medium enterprises (7): (i) exploitation of other forest plants (sugar palms, candlenuts, tamarind seeds, charcoal raw materials, cinnamon) (ISIC 0200) (ii) exploitation of swallow nests in nature (ISIC 0122) (b) 100 per cent domestic equity participation: (iii) exploitation of wood forest products from the natural forests (ISIC 0200) (iv) growing and trading of breeds and seeds of forests trees or plants (export and import of breeds and seeds of forests trees or plants) (ISIC 5121) (v) exploitation of water resources in forest area (ISIC 0200) (vi) capturing and trading of wild plants and wild animal from the natural wildlife habitat (ISIC 0150) Source of Measure : Law No. 41 of 1999 concerning Forestry Law No. 5 of 1990 concerning Conservation of Natural Resources and Its Ecosystems Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 concerning Forest Administration and Compilation of Forest Management Planning and Utilization of Forest Government Regulation No. 36 of 2010 concerning Natural Tourism Concession in the National Park Utilization Zone, Grand Forest Park, Nature Tourism Park Government Regulation No. 8 of 1999 concerning Utilization of Plant and Wild Animal Species Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment Government Policy.

(7) For the purposes of this reservation, the term “micro, small, and medium enterprises” has the meaning as set out in Presidential Regulation of The Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields that are Closed to Investment and Business Fields that are Conditionally Open for Investment.

13.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : (a) As may be required by the relevant regulatory authorities, a company in which foreign investors (8) own 100 per cent equity participation, subject to prior notification before the grant of the licence, after certain period since commencement of commercial production, the said foreign investors should sell a part of the company's share to domestic investors (9). (b) In the case of Mineral and Coal Mining subsector (10), a mining business licence (Izin Usaha Pertambangan) for foreign investment (11) shall be granted by the Minister of Energy and Mineral Resources of the Republic of Indonesia. Subject to prior notification before the grant of mining business licence (Izin Usaha Pertambangan), five years after the commencement of production, foreign shareholders (12) of foreign investment should sell their shares gradually to Indonesian shareholders (13) according to the following priorities: (i) central government, (ii) provincial government, (iii) regencies or municipalities, (iv) state owned enterprises (Badan Usaha Milik Negara and Badan Usaha Milik Daerah), and (v) national private business entity14. The shares of the said Indonesian shareholders shall reach majority after 10 years after the commencement of production. Source of Measure : Law No. 25 of 2007 concerning Investment Law No. 4 of 2009 as amended by Law No. 3 of 2020 concerning Mineral and Coal Mining Law No. 1 of 2014 concerning Management of Coastal Areas and Small Islands Government Regulation No. 20 of 1994 concerning Share Ownership in Companies Set Up Under Foreign Capital Investments Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 77 of 2014 concerning Third Amendment Jo. Government Regulation No. 1 of 2017 concerning Fourth Amendment Energy and Mineral Resources Ministerial Regulation No. 9 of 2017 concerning Procedures of Divestment of Shares and Mechanism on Divestment Stock Pricing Energy and Mineral Resources Ministerial Regulation No. 25 of 2018 concerning Mineral and Coal Mining Business. Activities Jo. Government Regulation No. 24 of 2012 concerning Amendment of Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities. 14 For the purposes of this reservation, the term "national private business entity" has the meaning as set out in Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities.

(8) For the purposes of this reservation, the term "foreign investor" has the meaning as set out in Law No. 25 of 2007 concerning Investment.

(9) For the purposes of this reservation, the term "domestic investor" has the meaning as set out in Law No. 25 of 2007 concerning Investment. For greater certainty, the requirement set out in paragraph (a) of this reservation is based on Government Regulation No 20 of 1994 and it will not be applied to investment made after the stipulation of Law No. 25 of 2007 concerning Investment.

(10) For the purposes of this reservation, the scope of Mineral and Coal Mining subsector is defined in Law No. 4 of 2009 as amended by Law No. 3 of 2020 concerning Mineral and Coal Mining and Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 1 of 2017 concerning the fourth Amendment of Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities.

(11) For the purposes of this reservation, the term "foreign investment" has the meaning as set out in Law No. 25 of 2007 concerning Investment.

(12) For the purposes of this reservation, the term "foreign shareholders" has the meaning as set out in Government Regulation No. 24 of 2012 concerning Amendment of Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities.

(13) For the purposes of this reservation, the term "Indonesian shareholders" has the meaning as set out in Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining

14.

Sector : Mining and Quarrying Subsector : - - Industry Classification : ISIC 1010, 1020, 1030, 1310, 1320 Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Mining Business License (hereinafter referred to as "WIUP"), refers to an area given to the holder of a Mining Business License. Foreign investors or juridical person of another Party seeking to make an investment in Indonesia are prohibited from participating in the auction of metallic mineral and coal WIUP with the size of under 500 Hectares. Source of Measure : Law No. 4 of 2009 as amended by Law No. 3 of 2020 concerning Mineral and Coal Mining Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 1 of 2017 concerning Fourth Amendment of Government Regulation No. 23 of 2010 Regulation of the Minister of Energy and Mineral Resources No. 11

of 2018 concerning the Procedure for Granting Area License, and Reporting on Mineral and Coal Mining Activities.

15.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Non--resident taxpayers will be subject to withholding tax of 20 per cent, if they derive the following income from an Indonesian source: (a) Interest; (b) Royalty; (c) Dividend; or (d) Fee from service performed in Indonesia. Source of Measure : Income Tax Law No. 36 of 2008 concerning The Fourth Amendment to Law No.7 of 1983 concerning Income Tax

16.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description of Measure : Obligation under Article 10.6 (Prohibition of Performance Requirements) shall not apply to all existing non--conforming measures, which include measures related to these requirements: (a) to achieve a given level or percentage of domestic content; (b) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with investments of that investor; (c) to restrict sales of goods in its territory that such investment produces by relating such sales to the volume or value of its exports or foreign exchange earnings; (d) to export a given level or percentage of goods; (e) to transfer a particular technology, a production process, or other proprietary knowledge to a person in its territory. For specific purpose, a foreign investor or a legal entity established as Indonesian Limited Liability Company (Perseroan Terbatas) in accordance with Law No. 40 of 2007 concerning Limited Liability Company, which are employing foreign experts are required to provide trainings and transfer of technology to workers of Indonesian nationals pursuant to the laws and regulations. Source of Measure : Law No.25 of 2007 concerning Investment Law No. 40 of 2007 concerning Limited Liability Company Government Policy

17.

Sector : Agriculture, Manufacturing Subsector : Horticulture Industry Classification : ISIC 0111, 0112, 0113, 0140, 1513, 1514, 1531, 1549, 2423 Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Article 10.3 (National Treatment) and Article 10.7(Senior Management and Board of Directors) may not apply to the establishment and operation of horticulture business activities in Indonesia, which includes the following activities: (a) germination; (b) cultivation; (c) harvest and post--harvest; (d) processing; (e) distribution, trading, and marketing; (f) research; and (g) agro tourism A transition period of four years is provided for existing investors15 in the horticulture subsectors16 to make adjustment to comply with measures stated in Law No. 13 of 2010 concerning Horticulture and its implementing regulations. Source of Measure : Law No. 13 of 2010 concerning Horticulture Government Policy 15 For the purposes of this reservation, existing investors refer to the existing investors that exist before the enactment of Law No. 13 of 2010 concerning Horticulture. 16 For the purposes of this reservation, the definition of horticulture subsectors has the meaning as set out in Law No. 13 of 2010 concerning Horticulture.

List B. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), measures that do not conform to the obligations under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); and

(d) Article 10.7 (Senior Management and Board of Directors).

2. List A and this List pursuant to Article 10.8 (Reservations and Non-Conforming Measures) follow the negative list with two list approach as follows:

(a) List A sets out commitments in relation to existing non-conforming measures which are subject to standstill obligations but not subject to ratchet mechanism; and

(b) this List sets out policy flexibility in relation to measures in sectors, subsectors and activities.

3. Each reservation shall set out the following elements, where applicable:

(a) Sector refers to the sectors in which a reservation is taken;

(b) Subsector refers to specific industries, products, and activities in which a reservation is taken;

(c) Industry Classification refers to the activities covered by the reservation according to:

(i) International Standard Industrial Classification Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying (hereinafter referred to as "ISIC"); or where applicable, ASEAN Harmonised Tariff Nomenclature codes; or

(ii) If the reservation does not exactly conform to the ISIC, Indonesia has specified the coverage of the reservation, as necessary and appropriate.

(d) Level of Government specifies the level of government (e.g., Central or Regional) maintaining the measure for which a reservation is taken;

(e) Type of Obligation refers to the obligations of Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors), as the case may be, which do not apply to the listed measure;

(f) Description of Measure refers to measures that do not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), or Article 10.7 (Senior Management and Board of Directors) for which a reservation is taken; and

(g) Source of Measure refers to existing measures that apply to the sector, subsector or activities covered by the reservations and is identified for transparency purposes only.

4. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements.

5. This note shall form part of Indonesia's reservations.

1.

Sector : All sectors Subsector : Customary Rights on Land and Properties Level of Government : Central and Regional Type of Obligation : National Treatment (Article 10.3) Description of Measure : Indonesia reserves the right to adopt or maintain any measure related to customary rights of land and properties of minorities tribal groups. Source of Measure : Article 33 of the 1945 Constitution of The Republic of Indonesia Government Policy.

2.

Sector : Manufacturing Subsector : - - Industry Classification : ISIC (see below) Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following subsectors: (a) Limitation on Foreign Equity Participation: cars maintenance and repair (ISIC 5020) patent medicine industry (ISIC 2423) (b) Partnership requirement: manufacturer of copra (ISIC 1514) sweetening and saline fruits and vegetable industry (ISIC 1513) manufacturer of soy sauce (10771) milk powder and condensed milk processing and industry (ISIC 1520) stamped batik industry (ISIC 1712) rattan processing industry (ISIC 2010) preserving industry of rattan, bamboo, and the likes (ISIC 2010) manufacturer of wooden goods (moulding and construction material components industry) (ISIC 2029) essential oil industry (ISIC 2429) tobacco drying and preliminary processing industry (ISIC 1600) bricks and clay or ceramic industry (ISIC 2691, 2692, 2693) goods made from clay or ceramic industry (ISIC 2691, ISIC 2693) lime industry (ISIC 2694) goods made from cement industry (ISIC 2695) good made from lime industry (ISIC 2695) other goods made from cement and lime industry (ISIC 2695) nails, nuts and bolts industry, component and spare parts to start up motor industry, pumps and compressor industry, component and two and three wheels vehicles accessories industry, bike and pedicab (becak) accessories industry (ISIC 2899, 2911, 2912, 3591, 3592) agricultural machinery industry using medium technology such as rice peeler, corn peeler and handy--tractor (ISIC 2921) manufacturer of wooden ships for marine tourism and fishing (ISIC 3511, 3512) manufacturer of devices and fittings of wooden ships for marine tourism and fishing (ISIC 3511) manufacturer of jewelry products from precious metal for personal use (ISIC 3330, 3691) manufacturer of jewelry products from precious metal for non--personal use (ISIC 3330, 3691) manufacturer of jewelry products from non--precious metal for non--personal use (ISIC 3330, 3699) manufacture of precious stones (ISIC 3691) manufacture of handicraft not elsewhere classified (ISIC 3699) non--metal waste recycle (ISIC 3720) sugar industry from sugar cane (white crystal sugar, refined crystal sugar and raw ANNEX III

– INDONESIA – 34 crystal sugar) (ISIC 1542) fishery processing industry: salting and drying of fish and biota from other waters (ISIC 1512); smoking of fish and biota from other waters (ISIC 1512); fish yeasting or fermentation, and other cooked products for extraction and fish jelly (ISIC 1512, 1549); processing of minced fish and surimi (ISIC 1512) (c) Recommendation or specific requirements by relevant authorities: cigarette Industries: - clove cigarette industry (ISIC 1600) - regular non-- clove cigarette industry (ISIC 1600) - Other cigarette industries (ISIC 1600) manufacturer of securities (inter alia, bank notes paper, cheque paper, watermark paper) (ISIC 2101) money printing and special printing industry or security documents such as stamp, stamp duty, valuable paper such as bank note paper, cheque paper, watermark paper, passport, demography document and hologram, money printing industry. Special permit is required from the Minister of Industry and from the National Intelligence Agency (ISIC 2221) myclamate and saccharin industry (ISIC 2411) special ink industry (ISIC 2429) lead smelting industry (ISIC 2720) saw mill or lumbering industry with production or output capacity above 2,000 cubic metres per year (ISIC 2010) veneer industry, plywood industry, Laminated Veneer Lumber (LVL) industry (ISIC 2021) wood chip industry and wood pellet industry (ISIC 2029) narcotics for pharmaceutical industry (Pharmaceutical Industry) (ISIC 2423) medical equipment industry: - class B (surgical masks, syringe, patient monitor, condom, surgical gloves, hemodialysis fluids, PACS, surgical knives) (ISIC 2423) - class C (IV catheter, x ray, ECG, patient monitor, orthopedic implants, contact lens, oximeters, densitometers) (ISIC 2423) - class D (CT scan, MRI, cardiac catheter, cardiac stent, HIV test, pacemaker, dermal fillers, ablation catheters) (ISIC 2423) (d) Requirement on source of raw material: pulp industry (from wood) (ISIC 2101) (e) Combination of the above requirements: crumb rubber industry (ISIC 2519) industry of raw materials for explosives (ISIC 2411) industry of explosive materials and its components for industry (ISIC 2429) medical equipment industry: - Class A (cotton, bandage, stick, IV pole, sanitary napkins, adult diapers, patient's bed, wheelchair) (ISIC 2423) crops plantation seeding business industry for the following crops in an area of 25 hectares or more, until a certain area as stipulated in the Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013: - jatropha curcas, other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, essential oil crops, medicinal pharmaceutical crops, other spice crops, rubber and other trees for extraction of sap, and other crops not elsewhere classified (ISIC 0111, 0112, 0113, 0200) plantation business for the following crops which are integrated with processing industry in an area of 25 hectares or over with a capacity equivalent to or exceeding a certain limit as stipulated in the Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013: - cashews plantation and manufacture of dried cashew nuts and cashew nut shell liquid (CNSL) (ISIC 0113, 1513, 1549); - peppercorns plantation and manufacture of dried white peppercorns and dried black peppercorns (ISIC 0112, 1513, 1549); - jatropha plantation and manufacture of jatropha oil (ISIC 0111, 0112, 2429); - sugar cane and manufacture of cane sugar, sugar cane top and sugar cane bagasse (ISIC 0111, 1542); - tobacco and manufacture of dried tobacco leaves (ISIC 0111, 1600); - cotton plantation and manufacture of cotton fibre (ISIC 0111); - coconut palms plantation and manufacture of coconut oil (ISIC 0113, 1514); - coconut palms plantation and manufacture of copra, fibre, coconut shell charcoal, dust, and nata de coco (ISIC 0113, 1514, 1549); - oil palms plantation and manufacture of palm oil (CPO) (ISIC 0113, 1514, 1549); - coffee plantation and manufacture of coffee bean peeling, cleaning and sorting (ISIC 0113, 1513); - cocoa plantation and manufacture of cocoa bean peeling, cleaning and drying (ISIC 0113, 1513, 1549); - tea and manufacture of black tea or green tea (ISIC 0113, 1513, 1549); - cloves plantation and manufacture of dried clove buds (ISIC 0113, 0140, 1549); - essential oil crops plantation and manufacture of essential oil (ISIC 0111, 01112, 0113, 2429); - rubber plantation and manufacture of sheets, concentrated latex (ISIC 0111, 2519); - plantation of grains other than coffee and cocoa beans and manufacture of grain peeling and cleaning other than coffee beans and cocoa beans (ISIC 1513, 1549) manufacturer of the following agricultural products with an equal or exceeding a certain limit as stipulated in Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013: - crude vegetable and animal oils (edible oils); copra, fibre, coconut shell charcoal, dust, nata de coco; coconut oil; palm oil; peeling, cleaning, drying and sorting of cocoa beans and coffee beans products; cane sugar, sugar cane top and sugar cane bagasse; black tea or green tea; dried tobacco leaves; rude jatropha oil; cotton fibre and cotton seeds; rubber for sheets, concentrated latex; cashews for dried cashew nut and cashew nut shell liquid (CNSL); peppercorns for dried white peppercorns and dried black peppercorns; dried clove buds (ISIC 0111, 0140, 1513, 1514, 1531, 1542, 1549, 1600, 2429, 2519) Source of Measure : Law No. 25 of 2007 concerning Investment Law No. 39 of 2014 concerning Plantations Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment Presidential Decree No. 21 of 2001 concerning Lubricant Supply and Services Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013 Regulation of the Minister of Health No. 62 of 2017 concerning Medical Devices and Household Health Products Distribution Authorisation Government Policy

3.

Sector : Agriculture Subsector : - - Industry Classification : ISIC (see below) Level of Government : Central Type of Obligation :

National Treatment (Article 10.3) Description of Measure : Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following subsectors: (a) Limitation on Foreign Equity Participation For each individual crop seeding or seedling business in an area of more than 25 hectares: - staple food crops (rice, corn, soybeans, groundnuts, green beans, including cassava and sweet potatoes) and other food crops not classified elsewhere (ISIC 0111, 0112, 0113, 0200) - seasonal fruits crops, grapes, tropical fruits crops, citrus fruits, apples, pome and stone fruits, berries, annual vegetables, perennial vegetables, drug crops, mushrooms, floriculture crops (ISIC 0111, 0112, 0113, 0200) For each individual crops cultivation business in an area of more than 25 hectares: - staple food crops (rice, corn, soybeans, groundnuts, green beans and other food crops including cassava and sweet potatoes) (ISIC 0111, 0112, 0113, 0200) - seasonal fruits crops, grapes, tropical fruits crops, citrus fruits, apples, pome and stone fruits, berries, leafy vegetables (cabbages, mustard, scallion, celery), root vegetables (shallot, garlic, potatoes, carrots), fruit-bearing vegetables (tomatoes, cucumber), chili peppers, paprika, mushrooms, ornamental plants, non-flower ornamental plants (ISIC 0111, 0112, 0113, 0200, 1513) Each of the following agriculture related activities: - horticultural research and quality test laboratories, horticultural agro tourism activities, horticultural post-harvest services, retail sale of flower, horticultural development consultants, horticultural landscaping, and horticultural courses services (ISIC 0140, 2022, 7310, 9219, 9241, 9249, 5239, 7414, 7421, 8090, 9241) - research and development on agricultural genetic resources and engineering, and research and development on genetically modified organisms (GMO) product sciences and engineering (genetic engineering) (ISIC 7310) (b) Locational requirement: Swine breeding and farming with quantity of more than 125 heads (ISIC 0122) (c) Combination of the above requirements: Plantation business for the following crops without any processing unit in an area of 25 hectares or more, until a certain area as stipulated in the Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013: - jatropha curcas, other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, essential oil crops, medicinal pharmaceutical crops, other spice crops, rubber and other trees for extraction of sap, and other crops not elsewhere classified (ISIC 0111, 0112, 0113, 0200) Source of Measure : Law No. 39 of 2014 concerning Plantations Law No. 18 of 2009 concerning Livestock and Animal Health and Law No. 41 of 2014 concerning the Amendment to Law No. 18 of 2009 Law No. 41 of 1999 concerning Forestry Law No. 5 of 1990 concerning Conservation of Natural Resources and Its Ecosystems Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest Government Regulation No. 8 of 1999 concerning Utilization of Plant and Wild Animal Species Government Regulation No. 18 of 2010 concerning Plant Cultivating Business Government Regulation No. 44 of 1995 concerning Seeding of Plantations Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment Agriculture Minister Regulation No. 98 of 2013 concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013 Agriculture Minister Decree No. 404 of 2002 concerning Guidelines for License and Registration on Livestock Sector Agriculture Minister Decree No. 348 of 2003 concerning Guidelines for License concerning Horticulture Sector Agriculture Minister Regulation No 2 of 2009 concerning Guidelines of Veterinary Medical Services Agriculture Minister Regulation No. 39 of 2010 concerning the Guidelines concerning Business Licensing for Staple Crops Cultivation Government Policy

4.

Sector : Forestry Subsector : - - Industry Classification : ISIC (see below) Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following subsectors: (a) Limitation on Foreign Equity Participation: (i) hunting business in Hunting Parks and Hunting Blocks (ISIC 0150, 9219, 9241, 9249) (ii) captive breeding of animals and plants, and conservation institutions (ISIC 0150) (b) Partnership requirement: (i) exploitation of forests plants: rattan (ISIC 2010), pine sap (oleo pine resin) (ISIC 0200), bamboo (ISIC 0200), wood rosin or shorea javanica (damar) (ISIC 0200), eaglewood or aquilaria malaccensis (gaharu) (ISIC 0200) (ii) exploitation of shellac, alternative food crops (sagoo), gums, and honeybee farming (ISIC 0200) (iii) production of silkworm cocoon (natural silk farming) (ISIC 0122) (c) Recommendation or specific requirements by relevant authorities: (i) Development of Technology used on plant and wildlife genetics (ISIC 0200) Source of Measure : Law No. 41 of 1999 concerning Forestry Law No. 5 of 1990 concerning Conservation of Natural Resources and Its Ecosystems Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest Government Regulation No. 36 of 2010 concerning Natural Tourism Concession in the National Park Utilisation Zone, Grand Forest Park, Nature Tourism Park Government Regulation No. 8 of 1999 concerning Utilization of Plant and Wild Animal Species Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment Government Policy

5.

Sector : All sectors Subsector : - Level of Government : Central and Regional Type of Obligation : - National Treatment (Article 10.3) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to adopt or maintain any measure relating to the privatisation, corporatisation, commercialisation or divestment of government assets, entities or agencies including: (a) limitations on ownership of assets; (b) transfer or disposal of equity interests or their assets; (c) the right of foreign investors or their investments to control their assets; and (d) nationality of the senior management or members of the board of directors. For greater certainty: (i) where Indonesia transfers an interest in an existing state enterprise to another state enterprise, such transfer shall not be considered to be an initial transfer or disposal of the interest for purposes of this reservation; and (ii) where Indonesia transfers or disposes of an interest in an existing state enterprise in multiple phases, subparagraph (i) shall apply separately to each such phase. Source of Measure : - Law No. 19 of 2003 concerning State Owned Enterprises - Law No. 40 of 2007 concerning Limited Liability Company - Government Policy.

6.

Sector : All Sectors Subsector : - - Level of Government : Central and Regional Type of Obligation : - National Treatment (Article 10.3) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to adopt or maintain any measure with respect to special preferences given to micro, small and medium sized enterprises and cooperatives (Usaha Mikro, Kecil, Menengah dan Koperasi or UMKMK) in Indonesia (17). Source of Measure : Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises Law No. 25 of 1992 concerning Cooperatives Government Policy

(17) For the purposes of this reservation, the term “micro, small, and medium sized enterprises (UMKM)” has the meaning as set out in Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises and the term “cooperatives” has the meaning as set out in Law No. 25 of 1992 concerning Cooperatives. For illustrative purpose, the criteria for micro, small, and medium enterprises, as stipulated in Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises, are as follows: (a) Criteria for micro enterprise are as follows: (i) has a net asset, excluding land and building, up to IDR 50 million; or (ii) has an annual sale up to IDR 300 million. (b) Criteria for small enterprise are as follows: (i) has a net asset, excluding land and building, more than IDR 50 million up to IDR 500 million; or (ii) has an annual sale of more than IDR 300 million up to IDR 2.5 billion. (c) Criteria for medium enterprise are as follows: (i) has a net asset, excluding land and building, more than IDR 500 million up to IDR 10 billion; or (ii) has an annual sale of more than IDR 2.5 billion up to IDR 50 billion. (d) The nominal amount as determined in subparagraphs (a), (b), and (c) above may be revised due to the economic condition by the presidential regulation.

7.

Sector : Fishery Subsector : - - Industry Classification : ISIC (see below) Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Indonesia reserves the right to adopt or maintain any measure for the establishment and operation of foreign investment in the following subsectors: (a) Partnership requirement: fish hatcheries and fish rearings: sea fish, brackish water fish, freshwater fish (ISIC 0502) (b) Recommendation or specific requirements by relevant authorities: cultivation of coral or ornamental coral reef (ISIC 0150) Source of Measure : Law No. 31 of 2004 as amended by Law No. 45 of 2009 concerning Fishery Law No. 5 of 1983 concerning Indonesia’s Exclusive Economic Zone Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2008 as amended by No. PER.12/MEN/2009 concerning Capture Fishery Business Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.12/MEN/2007 concerning Aquaculture Business Licensing Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2009 concerning Aquaculture Business Scale Decree of the Minister of Forestry of the Republic of Indonesia No. 447/Kpts--II/2003 concerning Procedures on Exploitation or Capturing and Distribution of Wild Plants and Animals Government Policy.

8.

Sector : Energy Subsector : Small Scale Power Plant (Less than 10 megawatt) Industry Classification : ISIC 4010 Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Indonesia reserves the right to adopt or maintain any measure with respect to investment in small scale power plant (less than 10 megawatt). Source of Measure : Government Policy.

9.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Most--

Favoured--Nation Treatment (Article 10.4) - Prohibition of Performance Requirements (Article 10.6) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to adopt or maintain any measure relating to sectors other than those recognised or that should have been recognised owing to the circumstances at the date of entry into force of this Agreement by Indonesia. Any sector classified explicitly in ISIC Revision 3 at the date of entry into force of this Agreement should have been recognised by Indonesia at that time. Source of Measure : Government Policy.

10.

Sector : All Sectors Subsector : - - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to maintain any existing measure with respect to foreign investors or investments that have been overlooked, provided that the measures involved are already in force at the date of entry into force of this Agreement. When an overlooked measure is identified, it will be promptly inserted into List A of this Schedule. If an overlooked measure referred to in the paragraph above is identified, Indonesia will provide other Parties with details of the measure and the opportunity for consultations at least 90 days before including it in this Schedule. Indonesia will not withdraw a right or benefit from an investor that has made an investment in accordance with its laws and regulations, through the addition of an overlooked measure to this Schedule. Source of Measure : Government Policy

11.

Sector : All Sectors Subsector : - - Level of Government : Regional Type of Obligation : National Treatment (Article 10.3) Description of Measure : National Treatment (Article 10.3) may not apply to measures relating to the procedural aspect of investment implementation licences or permits (18) at the provincial level (19). Source of Measure : Law No. 23 of 2014 concerning Local Government Provincial Regulations Government Policy

(18) For illustrative purposes, this may include location permit and building permit.

(19) For the purposes of this reservation, provincial level means the regional level of government.

12.

Sector : Manufacturing, Agriculture, Fishery, and Forestry Subsector : - - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Prohibition of Performance Requirements (Article 10.6) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to adopt or maintain any measure to address a food security emergency as declared under relevant legislation and only for the duration of the declared food security emergency. Source of Measure : Article 33 of the 1945 Constitution of the Republic of Indonesia Law No. 18 of 2012 concerning Foods Government Regulation No. 17 of 2015 concerning Food Security and Nutrition Government Policy

13.

Sector : All sectors Subsector : - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Most--Favoured--Nation Treatment (Article 10.4) - Prohibition of Performance Requirements (Article 10.6) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to adopt or maintain any measure with respect to investment in services sectors and subsectors Source of Measure : Government Policy

14.

Sector : All Sectors Subsector : - - Level of Government : Central Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description of Measure : Indonesia reserves the right to adopt any future non-conforming measure relating to rate or amount of royalty under a licence contract. Source of Measure : Government Policy

15.

Sector : All sectors Subsector : - Level of Government : Central and Regional Type of Obligation : Most--Favoured--Nation Treatment (Article 10.4) Description of Measure : Indonesia reserves the right to adopt or maintain any measure related to more favourable treatment accorded to investors to a non-Party and their investment resulting from: (a) any existing or

future preferential agreement or arrangement between or among Member States of ASEAN; (b) any existing agreement in force or signed prior to the date of entry into force of this Agreement; and (c) any international agreement in force or signed after the date of entry into force of this Agreement, involving: (i) aviation; (ii) fisheries; or (iii) maritime matters, including salvage. Source of Measure : Government Policy

16.

Sector : Manufacturing, Agriculture, Fishery, and Forestry Subsector : - - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Most--Favoured--Nation Treatment (Article 10.4) - Prohibition of Performance Requirements (Article 10.6) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to adopt or maintain any measure on the following line of business: cultivation of marijuana (ISIC 0111) catching of fish species listed in Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (ISIC 0500) lifting of valuable artifacts from shipwrecks (ISIC 6303) utilization (collection) of coral from nature for construction materials, lime, or calcium, aquarium, and souvenirs or jewelry as well as living coral or dead coral (recently dead) coral from nature (ISIC 0500) chloral alkali making industry under mercury process (ISIC 2411) industry of pesticide active substances: Dichloro Diphenyl Trichloroethane (DDT), Aldrin, Endrin, Dieldrin, Chlordane, Heptachlor, Mirex, and Toxaphene (ISIC 2421) industrial chemical industry and Ozone Depleting Substances (BPO): Polychlorinated Biphenyl (PCB), Hexachlorobenzene and Carbon Tetrachloride (CTC), Mthyl Chloroform, Methyl Bromide, Trichloro Fluoro Methane (CFC--11), Dichloro Trifluoro Ethane (CFC--12), Trichloro Trifluoro Ethane (CFC--113), Dichloro Tetra Fluoro Ethane (CFC--114), Chloro Pentafluoro Ethane (CFC--115), ANNEX III – INDONESIA – 58 Chloro Trifluoro Methane (CFC--13), Tetrachloro Difluoro Ethane (CFC--112), Pentachloro Fluoro Ethane (CFC--111), Chloro Heptafluoro Propane (CFC--217), Dichloro Hexafluoro Propane (CFC--216), Trichloro Pentafluoro Propane (CFC--215), Tetrachloro Tetrafluoro Propane (CFC--214), Pentachloro Trifluoro Propane (CFC--213), Hexchloro Difluoro Propane (CFC--211), Bromo Chloro Difluoro Methane (Halon--1211), Bromo Trifluoro Methane (Halon 1301), Dibromo Tetrafluoro Ethane (Halon--2402), R--500, R--502 (ISIC 2411) industry of chemicals listed in Schedule I of the Chemical Weapons Convention as incorporated in Appendix I to Law No. 9 of 2008 concerning Use of Chemicals as Chemical Weapons (ISIC 2411) alcoholic hard liquor industry (ISIC 1551) alcoholic beverages industry: wine (ISIC 1552) malt beverages industry (ISIC 1553) Source of Measure : Presidential Regulation of the Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open for Investment Government Policy

17.

Sector : All Sectors Subsector : - - Level of Government : Central Type of Obligation : - National Treatment (Article 10.3) - Most--Favoured--Nation Treatment (Article 10.4) - Prohibition of Performance Requirements (Article 10.6) - Senior Management and Board of Directors (Article 10.7) Description of Measure : Indonesia reserves the right to adopt or maintain any measure that require private electronic system operators to provide access to electronic system and data for the purpose of law enforcement to ensure compliance with domestic laws and regulations, where that measure is in accordance with due process of law. Notwithstanding paragraph 4 of Article 12.3 (Scope), this reservation does not have the effect of exempting Indonesia from its obligations under Article 12.14 (Location of Computing Facilities) and Article 12.15 (Cross-border Transfer of Information by Electronic Means). Source of Measure : Government Regulation No. 71 of 2019 concerning the Organization of Electronic Systems and Transactions Government Policy

Lao PDR

List A. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), Lao PDR’s existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.6 (Prohibition of Performance Requirements); or

(c) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements:

(a) Sector refers to the sector or sectors for which the entry is made;

(b) Subsector refers to the specific subsector for which the entry is made;

(c) Industry Classification refers to the activities covered by the entry according to:

(i) International Standard Industrial Classification (ISIC) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying;

(ii) If the entry does not exactly conform to the ISIC, Lao PDR specified the coverage of the entry, as necessary and appropriate;

(d) Level of Government indicates the level of government maintaining the listed measures;

(e) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the listed measures;

(f) Description sets out the non-conforming measure for which the entry is made; and

(g) Source of Measure means the laws, regulations, or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. This List and List B pursuant to Article 10.8 (Reservations and Non-Conforming Measures) follow the negative list with two list approach as follows:

(a) this List sets out commitments in relation to existing non-conforming measures which are subject to standstill obligations but not subject to ratchet mechanism; and

(b) List B sets out policy flexibility in relation to measures in sectors, subsectors and activities.

4. Lao PDR may maintain any non-conforming measures other than those set out in this List provided that the non-conforming measures are in effect on the date of entry into force of this Agreement, and that Lao PDR notifies other Parties of the non-conforming measures within a period of 24 months of the date of entry into force of this Agreement.

5. In the interpretation of an entry, all elements of an entry shall be considered. The Description element shall prevail over all the other elements.

6. These Explanatory Notes shall form part of the Lao PDR's Schedule of Reservations and Non-Conforming Measures for Investment.

1.

Sector : Business Sectors Relating to Hazardous Chemicals Type I Subsector : Hazardous Chemicals Type I Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : The Government of Lao PDR prohibits business activities using Hazardous Chemicals Type I, except for the activities relating to research, technology development, protection and prevention of danger which may arise against health, life, property, or environment and the use of national defence and public security activities, provided that such activities are approved by the Government of Lao PDR. Source of Measure : Law on the Chemicals Management (No. 07/NA, dated 10 November 2016), Article 10

2.

Sector : Central Bank Currency Issuance Subsector : Paper money, money printing inks, money printing machinery, and coin smelting equipment Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : According to the Law on Bank of Lao PDR, Article 24 states that the Bank of Lao PDR has the sole right to issue notes and coins (including paper money, money printing inks, money printing machinery, and coin smelting equipment, etc.) with the approval of the Government of Lao PDR. Source of Measure : Law on Bank of Lao PDR (No. 05/NA, dated 14 October 1999), Article 24

3.

Sector : Manufacturing Sectors Subsector : Weaving of textile Needlework Industry Classification : ISIC 1312, 1321 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Investments in weaving of

textile with unique ethnic designs by hand, not including industrial textiles and clothes manufacturing, are reserved for citizens of Lao PDR. Investments in needlework with unique ethnic design by hand, not including industrial textiles and clothes manufacturing, are reserved for citizens of Lao PDR. Source of Measure : Notification on the List of Types of Businesses Reserved for Citizens of Lao PDR (No. 1328/MOIC.DERM, dated 13 July 2015)

4.

Sector : Manufacturing Sectors Subsector : Manufacturing of other products of wood Manufacture of articles of cork, straws, and plaiting materials Industry Classification : ISIC 1629 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Investments in small wood processing factories and businesses of manufacturing carved wood and wicker with unique ethnic sculpture are reserved for citizens of Lao PDR. Source of Measure : Notification on the List of Types of Businesses Reserved for Citizens of Lao PDR (No. 1328/MOIC.DERM, dated 13 July 2015)

5.

Sector : Manufacturing Sectors Subsector : Manufacturing of porcelain and ceramic products Industry Classification : ISIC 2393 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Investments in businesses relating to local handicraft porcelain and ceramic products with unique ethnic design are reserved for citizens of Lao PDR. Source of Measure : Notification on the List of Types of Businesses Reserved for Citizens of Lao PDR (No. 1328/MOIC.DERM, dated 13 July 2015)

6.

Sector : Manufacturing Sectors Subsector : Manufacturing of jewellery and related articles Manufacture of imitation jewellery and related articles Industry Classification : ISIC 3211, 3212 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Investments in businesses of production of local handicraft jewellery products and related articles with unique ethnic designs are reserved for citizens of Lao PDR. Source of Measure : Notification on the List of Types of Businesses Reserved for Citizens of Lao PDR (No. 1328/MOIC.DERM, dated 13 July 2015)

7.

Sector : Forestry Sectors Subsector : Exploitation of timber and non-timber forest products of national forest (NTFPs) Forestry, logging and related activities Industry Classification : ISIC 0200, 0220 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Prohibition on Performance Requirements (Article 10.6) Description : Investments in exploitation of timber and non-timber forest products of national forests are reserved for domestic investors. Forestry, logging and related activities are subject to specific approval by the Government of Lao PDR. Source of Measure : Forestry Law (No. 06/NA, dated 24 December 2007), Article 49; Prime Minister's Order Regarding the Increase of Strictness in Forest Management and Logging Business in 2007-2008 (No. 30/PM, dated 17 August 2007)

8.

Sector : Mining Sectors Subsector : Mining of Uranium and Thorium Ores (Radioactive Mineral) Industry Classification : ISIC 0721 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : The Government of Lao PDR defines reserved areas and protects some mineral resource areas in accordance with the national social-economic development plan for exploration, planning development and mining operations, in support of the national interest and the sustainability of natural resources. Source of Measure : Law on Minerals (No.02/NA, dated 20 December 2011), Article 10

9.

Sector : Fishery Sectors Subsector : Commercial ornamental fisheries Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Any foreign individual or organisation with the aim of engaging in commercial ornamental fisheries such as aquaculture, breeding, propagation, and import shall seek approval of the relevant authorities in accordance with the Law on Investment Promotion. Source of Measure : Law on Fishery (No. 03/NA, dated 9 July 2009), Article 31 Law on Investment Promotion (No. 14/NA, dated 17 November 2016)

10.

Sector : Agriculture Sectors Subsector : Guano (Bat Dung) Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description : Investments in Guano (Bat Dung) businesses are reserved for domestic investors. Source of Measure : Order of the Minister of Agriculture and Forestry (No. 2050/MAF99, dated 20 December 1999), regarding prohibition of Guano excavation for export Order of the Minister of Agriculture and Forestry (No. 613/MAF99, dated 8 July 2005), regarding utilisation and management of Guano in Lao

List B. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors or activities for which Lao PDR may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.6 (Prohibition of Performance Requirements); or

(c) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements:

(a) Sector refers to the sector or sectors for which the entry is made;

(b) Subsector refers to the specific sector for which the entry is made;

(c) Industry Classification refers to the activities covered by the entry according to:

(i) International Standard Industrial Classification (ISIC) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying;

(ii) If the entry does not exactly conform to the ISIC, Lao PDR specified the coverage of the entry, as necessary and appropriate;

(d) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(e) Description sets out the sector, subsector or activities covered by the entry; and

(f) Existing Measures identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

3. List A and this List pursuant to Article 10.8 (Reservations and Non-Conforming Measures) follow the negative list with two list approach as follows:

(a) List A sets out commitments in relation to existing non-conforming measures which are subject to standstill obligations but not subject to ratchet mechanism; and

(b) this List sets out policy flexibility in relation to measures in sectors, subsectors and activities.

4. In accordance with Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors and activities identified in the Description element of that entry.

5. In the interpretation of an entry, all elements of an entry shall be considered. The Description element shall prevail over all other elements. 6. These Explanatory Notes shall form part of the Lao PDR's Schedule of Reservations and Non-Conforming Measures for Investment.

1.

Sector : All Sectors Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : Na National Treatment (Article 10.3)tional Treatment (Article 10.3) Description : In the case of joint ventures between domestic and foreign investors, the foreign investor is required to contribute at least 10 per cent of the total capital. (1) Existing Measures : Law on Investment Promotion (No. 14/NA, dated 17 November 2016), Articles 26 through 31

(1) For the purposes of this entry: (a) a wholly domestic or foreign-owned investment is an investment entirely owned by either domestic or foreign investors, and can be either a single investor or group of investors in the enterprise or project in Lao PDR; (b) business cooperation by contract is a joint business arrangement between domestic and foreign juridical persons including public and private parties through a business cooperation contract according to the laws and regulations of Lao PDR for a certain period of time without need to establish a new legal entity or branch in Lao PDR; (c) a joint venture between a state-owned enterprise and a private enterprise is a partnership between a state-owned enterprise and a private enterprise in order to operate business, have co-ownership, and establish a new entity under the laws and regulations of Lao PDR; (d) a public private partnership business is a joint-venture investment between a public authority and a private party under a joint-venture contract to implement a project of new construction, improvement of infrastructure, or provide a service to the public.

2.

Sector : Concession Investment Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : The registered capital of concession businesses shall not be less than 30 per cent of the total capital. For general businesses, the registered capital shall comply with the Law on Enterprise. Existing Measures : Law on Investment Promotion (No. 14/NA, dated 17 November 2016), Articles 51 and 52 Law on Enterprise (No. 46/NA, dated 26 December 2013)

3.

Sector : All Sectors Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Foreign employees shall not exceed 15 per cent for technical experts undertaking physical work and 25 per cent for technical experts undertaking mental work of the total number of Lao workers in the enterprise. Working permission shall be obtained from the Ministry of Labour and Social Welfare. Existing Measures : Labour Law (No. 43/NA, dated 24 December 2013), Article 68

4.

Sector : All Sectors Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Foreign investors and their families have the right to reside within the territory of Lao PDR according to their terms of investment. Foreign technicians and experts have the right to reside in the territory of Lao PDR according to their employment contracts. Existing Measures : Law on Investment Promotion (No. 14/NA, dated 17 November 2016), Article 70

5.

Sector : All Sectors Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Term of investment licences General business: The investment in general business has unlimited term of investment except for a business where the term has been determined in accordance with the laws and regulations of relevant authorities. Concession investment: The term of investment in concession business depends on the type, size, investment value, and conditions of the concession activities based on relevant laws and regulations; it shall not exceed 55 years, but may be extended with the approval of the Government of Lao PDR or provincial authorities. Existing Measures : Law on Investment Promotion (No. 14/NA, dated 17 November 2016), Articles 40 and 42

6.

Sector : Manufacturing Subsector : Manufacture of other food products n.e.c. Industry Classification : ISIC 1079 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) National Treatment (Article 10.3) Senior Management and Bo Senior Management and Board of Directors (Article 10.7)ard of Directors (Article 10.7) Description : A foreign investor is allowed to establish a joint venture on the following conditions: (a) that a domestic investor must be the owner and hold the joint venture's licence; (b) the registered capital of the joint venture must be at least one billion Kip; and (c) the foreign investor shall hold not more than 20 per cent of total shares of the joint venture. Existing Measures : Notification on the List of Types of Businesses Subject to Conditions for Foreign Investors (No. 1327/MOIC.DERM, dated 13 July 2015)

7.

Sector : Manufacturing Subsector : Manufacture of pharmaceutical, medicinal chemical and botanical products Industry Classification : ISIC 2100 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) National Treatment (Article 10.3) Senior Senior Management and BoManagement and Board of Directors (Article 10.7)ard of Directors (Article 10.7) Description : A foreign investor is allowed to establish a joint venture on the following conditions: (a) that a domestic investor must be the owner and hold the joint venture's licence; (b) the registered capital of the joint venture must be at least one billion Kip; and (c) the foreign investor shall hold not more than 49 per cent of total shares of the joint venture. Existing Measures : Notification on the List of Types of Businesses Subject to Conditions for Foreign Investors (No. 1327/MOIC.DERM, dated 13 July 2015)

8.

Sector : Agriculture Subsector : - Industry Classification : - Level of Government : Central and Provincial Obligations Concerned : National Treatment (Article 10.3) Description : An investor wishing to invest in agriculture activities with a government land concession, shall obtain an approval for primary data collection of land and project from the relevant competent authorities, following procedures as stipulated in relevant laws and regulations. Following the completion of primary data collection, the investor shall obtain an investment approval from relevant competent authorities, and sign a Memorandum of Understanding with the Government of Lao PDR. Provincial competent authorities shall consider a request for: (a) a project with degraded forestland up to 150 hectares and with a lease or concession period not more than 30 years, which may be extended on a case by case basis; and (b) a project with barren forestland up to 500 hectares and with a lease or concession period not more than 30 years, which may be extended on a case by case basis. Central competent authorities shall consider a request for: (a) a project with degraded forestland between 151 and 15,000 hectares and with a lease or concession period more than 30 years, but not exceeding 40 years, which may be extended on a case by case basis; and (b) a project with barren forestland between 501 and 30,000 hectares and with a lease or concession period more than 40 years, but not exceeding 60 years, which may be extended on a case by case basis. Existing Measures : Decree on the Lease or Concession of Government Lands (No. 135/PM, dated 25 May 2009), Articles 28 and 29

9.

Sector : Agriculture Subsector : Pesticide Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : Investments in pesticide businesses are reserved for citizens of Lao PDR. Existing Measures : Regulation on Management and Usage of Pesticide (No. 0886/MAF, dated 10 March 2000)

10.

Sector : Fishery Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : The Government of Lao PDR reserves the right to adopt or maintain any measure with respect to an investor or investment in any activity related to fishery including operation of capture fisheries in Mekong River and its tributary and reservoirs, except for the commercial aquaculture of fish and other aquatic fauna for trade and distribution which shall be licensed and registered in accordance with the Law on Investment Promotion. Existing Measures : Law on Fishery (No. 03/NA, dated 09 July 2009), Article 30 Law on Investment Promotion (No. 14/NA, dated 17 November 2016)

11.

Sector : Mining Subsector : Mining Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : The following licences issued by the Government of Lao PDR shall be obtained: (a) licence for prospecting and exploration; and (b) licence for exploitation and processing. Existing Measures : Law on Minerals (No.02/NA, dated 20 December 2011), Article 32

12.

Sector : Mining Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : Prohibition of Performance Requirements (Article 10.6) Description : The Government of Lao PDR reserves the right to adopt or maintain any measure with respect to an investor or investment related to requirements to supply exclusively from Lao PDR of products that such investment produces to a specific regional market or to the world market. Existing Measures : Law on Minerals (No.02/NA, dated 20 December 2011)

13.

Sector : Mining Subsector : Oil and Natural Gas Industry Classification : ISIC 0620 Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Description : A licence issued by the Government of Lao PDR on oil and natural gas shall be obtained and production sharing contract with an investor must be used. Existing Measures : Law on Minerals (No.02/NA, dated 20 December 2011), Article 32

14.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : Prohibition on Performance Requirements (Article 10.6) Description : The Government of Lao PDR reserves the right to adopt or maintain any measure with respect to an investor or investment in activities related to royalty and technology transfers. Existing Measures : -

15.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : The Government of Lao PDR reserves the right to adopt or maintain any measure with respect to an investor or investment related to Investment Incentive by Business Sector under the Investment Promotion Law. Existing Measures : Investment Promotion Law (No. 14/NA, dated 17 November 2016), Article 9

16.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Obligations Concerned : National Treatment (Article 10.3) National Treatment (Article 10.3) Prohibition of Performance Requirements Prohibition of Performance Requirements (Article 10.6)(Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : The Government of Lao PDR reserves the right to adopt or maintain any measure with respect to any sectors not identified in this Schedule and new sectors or industries. Any sector classified in the ISIC Code version 3 as at the date of entry into force of this Agreement shall not be considered a new sector or industry for the purposes of this entry. Existing Measures : -

Malaysia

List A. Explanatory Notes

1. This List sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), Malaysia's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Subsector, where referenced, refers to the specific subsector for which the entry is made;

(c) Level of Government indicates the level of government maintaining the listed measures;

(d) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the listed measures;

(e) Description sets out the non-conforming measure for which the entry is made; and

(f) Measures identifies the laws, regulations, or other measures, for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed, as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In accordance with Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measure identified in the Description element of that entry.

4. The Schedules of other Parties shall not be used to interpret Malaysia's commitments or obligations under Chapter 8 (Trade in Services), Chapter 10 (Investment), or other Chapters of this Agreement.

1.

Sector : All sectors Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Only Malaysian nationals or permanent residents can register a sole proprietorship or partnership in Malaysia. Foreigners can register a Limited Liability Partnership (LLP), but the compliance officer shall be a citizen or permanent resident of Malaysia that resides in Malaysia. Foreigners are not allowed to establish or join cooperative societies in Malaysia. Measures : Registration of Businesses Act 1956 [Act 197] Limited Liability Partnerships Act 2012 [Act 743] Co-operative Societies Act 1993 [Act 502] Business Names Ordinance 1932 [Sarawak Cap. 64] (1958 Edition) Business, Professions and Trade Licensing Ordinance 1955 [Sarawak Cap. 33] (1958 Edition)

2.

Sector : All sectors Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description : Investment At least one director of a private company incorporated in Malaysia shall ordinarily reside in Malaysia by having a principal place of residence in Malaysia. At least two directors of a public company incorporated in Malaysia shall ordinarily reside in Malaysia by having a principal place of residence in Malaysia. Measures : Companies Act 2016 [Act 777]

3.

Sector : Fisheries Subsector : Marine capture fisheries Level of Government : Central and Regional Obligations concerned : National Treatment (Article 8.4 and Article 10.3) Most–Favoured–Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Description : Trade in Services and Investment No foreign fishing vessel shall load or unload any fish, fuel, or supplies, or tranship any fish, or fish or attempt to fish or conduct any techno-economic research or waters survey of any fishery, in Malaysian fisheries waters (1) unless authorised to do so. An application for a permit to be issued in respect of a foreign fishing vessel to fish in Malaysian fisheries waters shall be made through a Malaysian agent who shall undertake legal and financial responsibility for the activities to be carried out by such vessel. For the purposes of this entry, "fishing vessel" means any boat, craft, ship, or other vessel which is used or equipped to be used for, or of a type used for: (a) fishing; or (b) aiding or assisting other boat, craft, ship or other vessel in the performance of any activity related to fishing, including any of the activities of preparation, processing, refrigeration, storage, supply, or transportation of fish. Measures : Fisheries Act 1985 [Act 317] Lembaga Kemajuan Ikan Malaysia Act 1971 [Act 49] Exclusive Economic Zone Act 1984 [Act 311] Continental Shelf Act 1966 [Act 83]

(1) For greater certainty, under the Fisheries Act 1985 [Act 317], "Malaysian fisheries waters" means maritime waters under the jurisdiction of Malaysia over which exclusive fishing rights or fisheries management rights are claimed by law and includes the internal waters of Malaysia, the territorial sea of Malaysia, and the maritime waters comprised in the exclusive economic zone of Malaysia.

4.

Sector : Patent agent services Trademark agent services Copyright representatives Industrial design agent services Geographical indication agent services Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Only a person who is residing in Malaysia or is a permanent resident of Malaysia, and who is registered with the Intellectual Property Corporation of Malaysia (MyIPO), is allowed to

carry out a business, practice, or act as a patent agent in Malaysia. Only a person who is residing in Malaysia or is a permanent resident of Malaysia or has principal place of business in Malaysia, and who is registered with MyIPO, is allowed to carry out a business, practice, or act as a trademark, industrial design, or geographical indication agent in Malaysia. Any person who is residing in Malaysia or is a permanent resident of Malaysia, or a company registered under Malaysian law, and carries on business in Malaysia, is allowed to act as a copyright representative. Measures : Patents Act 1983 [Act 291] Trade Marks Act 1976 [Act 175] Industrial Designs Act 1996 [Act 552] Geographical Indications Act 2000 [Act 602] Copyright Act 1987 [Act 332]

5.

Sector : Professional services covering: Engineering services Quantity surveying services Land surveying services Architectural services Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Any qualified persons, who are resident in Malaysia and registered with the relevant professional boards are allowed to provide consultancy practices and supply engineering, quantity surveying, land surveying, and architectural services. Engineering services and architectural services must be authenticated by a registered professional in Malaysia. Engineering, quantity surveying, and architectural consultancy practices must be registered with the relevant professional boards. For each of these establishments, a two thirds majority of its directors shall be registered and authorised professionals. This shall also apply to multi-disciplinary practices (MDP) comprising registered and authorised professional architects, professional engineers, or quantity surveyors. Measures : Registration of Engineers Act 1967 (Revised 1974) [Act 138] Registration of Engineers Regulations 1990 [P.U.(A) 128/90] Licensed Land Surveyors Act 1958 (Revised 1992) [Act 458] Architects Act 1967 [Act 117] Architects Rules 1996 [P.U.(A) 379/96] Quantity Surveyors Act 1967 (Revised 1992) [Act 487] Quantity Surveyors Rules 1973 [P.U.(A) 366/73] Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994 [Act 520] Administrative Guidelines Land Surveyors Ordinance 2001 [Sarawak Cap. 40]

6.

Sector : Real estate services on a fee or contract basis Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Local Presence (Article 8.11) Description : Trade in Services and Investment Only registered persons and authorised foreigners registered with the Board of Valuers, appraisers, estate agents, and property managers can provide real estate services for a fee or on contract basis. Measures : Valuers, Appraisers and Estate Agents Act 1981 [Act 242] Valuers, Appraisers and Estate Agents Rules 1986 [P.U. (A) 64/1986] Valuation and Property Services Rules 1999 [P.U.(A) 382/99]

7.

Sector : Communications services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Licences for the supply of telecommunications services in Malaysia are divided into individual licences and class licences, depending on the character of the service. The following persons or classes of persons shall be ineligible to apply for an individual licence: (a) a foreign company defined under the Companies Act 2016 [Act 777]; (b) an individual or a sole proprietorship; (c) a partnership; and (d) such other persons or classes of persons as may be decided by the Minister from time to time. The following persons or classes of persons shall be ineligible to be registered as a class licensee: (a) a foreign individual who is not a permanent resident; and (b) a foreign company as defined under the Companies Act 2016 [Act 777]. Foreigners are not permitted to apply for Content Applications Service Providers (CASP) services, a special subset of applications service providers that refers to satellite broadcasting, subscription broadcasting, terrestrial free to air television, or terrestrial radio broadcasting. The Minister charged with the responsibility for Communications and Multimedia may, for good cause or as the public interest may require, permit either of the above to apply to be registered as any one of the licensees mentioned above. Measures : Communications and Multimedia Act 1998 [Act 588] Communications and Multimedia (Licensing) Regulations 2000 [P.U.(A) 129/2000]

8.

Sector : Education services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Education services, skill training centres, and vocational institutions can only be provided by education services suppliers

that are registered and established in Malaysia, and with authorisation. Measures : Education Act 1996 [Act 550] Private Higher Education Institutions Act 1996 [Act 555] National Skills Development Act 2006 [Act 652] Administrative Guidelines

9.

Sector : Private healthcare services Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Private healthcare facilities and healthcare services can only be provided by services suppliers that are registered and established, or obtained through acquisition, mergers or take-overs, in Malaysia, and with authorisation. Medical Specialty Services Foreigners are not allowed to provide medical specialty services unless they are granted a Temporary Practicing Certificate by the Malaysian Medical Council and are registered as specialists with the National Specialist Register. Specialised Dental Services Foreigners are not allowed to provide specialised dental services unless they are granted a Temporary Practicing Certificate and recognised as specialists by the Malaysian Dental Council. Allied Health Services Foreigners are not allowed to provide allied health services unless such services are registered and established in Malaysia with authorisation. Pharmacists Foreign pharmacists are not allowed to prepare, dispense, assemble, or sell medicinal products unless they are registered and established in Malaysia with authorisation by the Pharmacy Board Malaysia and the relevant regulatory bodies. Traditional and Complementary Medicine Traditional and complementary medicine services can only be provided by services suppliers that are registered in Malaysia, and with authorisation. Measures : Medical Act 1971 [Act 50] Medical Regulations 2017 [P.U. (A) 188/2017] Dental Act 2018 [Act 804] Private Healthcare Facilities and Services Act 1998 [Act 586] Private Healthcare Facilities and Services (Private Medical Clinics or Private Dental Clinics) Regulations 2006 [P.U. (A) 137/2006] Private Healthcare Facilities and Services (Private Hospitals and Other Private Healthcare Facilities) Regulations 2006 [P.U.(A) 138/2006] Registration of Pharmacists Act 1951 [Act 371] Poisons Act 1952 (Revised 1989) [Act 366] Allied Health Professions Act 2016 [Act 774] Traditional and Complementary Medicine Act 2016 [Act 775] Administrative Guidelines

10.

Sector : Customs agents and brokers Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Foreigners are not allowed to act as customs agents and brokers. Foreigners are not allowed to own more than 49 per cent of equity shareholding in any entity providing and supplying customs agents and brokers services. Measures : Customs Act 1967 (Revised 1980) [Act 235] Customs Regulations 1977 [P.U. (A) 162/77] Customs Standing Orders No.45/2003

11.

Sector : Tour operators and tourist guide services Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Foreigners are not allowed to provide tour operators and tourist guide services unless authorisation is obtained. Measures : Tourism Industry Act 1992 [Act 482] Administrative Guidelines

12.

Sector : Transport services Subsector : International maritime transport services Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Foreign shipping vessels are not permitted to provide and supply domestic shipping services. Malaysia International Ship Registry Foreign persons may provide international maritime services in domestic waters only through a representative office, regional office, or locally incorporated joint venture or corporation with Malaysian individuals or Malaysian-controlled corporations or both. Aggregate foreign shareholding in the joint venture or corporation shall be the majority shares including the voting shares. All joint ventures or corporations seeking to register ships under this registry shall appoint a ship manager prior to registration of a ship, who shall be: (a) a Malaysian citizen having his or her permanent residence in Malaysia; or (b) a company incorporated in Malaysia and having its principal place of business in Malaysia. Malaysia Ship Registry Only ships registered on the Malaysia Ship Registry may provide domestic maritime services. Foreign persons may only register a ship on the Malaysia Ship Registry through a representative office, regional office, or locally incorporated joint venture or corporation with Malaysian individuals or Malaysian-controlled corporations or both. Aggregate foreign shareholding in the joint venture or corporation shall not be the majority shares including the voting shares. All joint ventures or corporations

seeking to register ships under this registry shall satisfy the following conditions: (a) majority of senior managers and board of directors shall be Malaysians; and (b) incorporated in Malaysia and having main business operations in Malaysia. Measures : Merchant Shipping Ordinance 1952 [Ordinance 70/1952] Merchant Shipping Ordinance 1960 (Sabah) [Ordinance 11/1960] Merchant Shipping Ordinance 1960 (Sarawak) [Ordinance 2/1960] Merchant Shipping (Amendment and Extension) Act 2007 [Act A1316] Administrative Guidelines

13.

Sector : Construction and related engineering services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Only an entity incorporated in Malaysia registered with the Malaysian Construction Development Board (CIDB) and locally incorporated either through a representative office, regional office, or joint venture corporation, with Malaysian individuals or Malaysian-controlled corporations, may be permitted to provide construction and related services. Any entity incorporated in Malaysia, whose foreign equity exceeds more than 30 per cent by way of a joint venture corporation or consortium with Malaysian individuals or Malaysian-controlled corporations, is subject to the registration requirements by CIDB. The senior management and board of directors of each foreign entity shall be of Malaysian majority that shall have control over its management and investment. Measures : Registration of Engineers Act 1967 (Revised 1974) [Act 138] Registration of Engineers Regulations 1990 [P.U. (A) 128/90] Licensed Land Surveyors Act 1958 (Revised 1991) [Act 458] Architects Act 1967 [Act 117] Architects Rules 1996 [P.U.(A) 379/96] Quantity Surveyors Act 1967 (Revised 1992) [Act 487] Quantity Surveyors Rules 1973 [P.U. (A) 366/73] Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994 [Act 520] Administrative Guidelines

14.

Sector : Freight road transportation services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment Only entities that are registered and established in Malaysia are allowed to provide freight road transportation services in Malaysia. Foreigners are not allowed to own more than 49 per cent of equity shareholding in any entity providing and supplying freight transportation services covering transportation of containerised freight based on a fee or contractual basis. Measures : Land Public Transport Act 2010 [Act 715] Land Public Transport Agency (APAD) Licensing Policy Guidelines

15.

Sector : Manufacturing Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 10.3) Description : Investment Foreign equity is restricted to no more than 30 per cent for the manufacture of batik fabric and apparel of batik. Measures : Industrial Co-ordination Act 1975 [Act 156] Administrative Guidelines

16.

Sector : Manufacturing Subsector : - Level of Government : Central and Regional Obligations Concerned : Prohibition of Performance Requirements (Article 10.6) Description : Investment (a) Companies located within the Licensed Manufacturing Warehouse (LMW) and Free Industrial Zone (FIZ) are subject to export requirements. (b) Companies engaging in petroleum refining activities are required to export 100 per cent of their products. (c) Expansion projects will be considered only for existing independent palm oil refineries which source 100 per cent from their own plantations. For Sabah and Sarawak, a manufacturing licence will only be considered for new integrated projects which source 50 per cent of crude palm oil from their own plantations. Integrated projects refer to projects with own plantations. (d) For pineapple canning, approval will only be granted for projects which source 100 per cent supply from their own plantations. Measures : Industrial Co-ordination Act 1975 [Act 156] Customs Act 1967 (Revised 1980) [Act 235] Free Zone Act 1990 [Act 438] Petroleum Development Act 1974 [Act 144] Pineapple Industry (Cannery Control) Regulations 1959 [LN.24/1959] Pineapple Industrial Act 1957 (Revised 1990) [Act 427] Administrative Guidelines

17.

Sector : Legal services (other than arbitration) Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Description : Trade in Services and Investment Peninsular Malaysia

and the Federal Territory of Labuan Foreign law firms and foreign lawyers are not permitted to practice save as provided under the Legal Profession Act 1976 [Act 166] and the Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014 [P.U. (A) 148/2014]. Foreign law firms from recognised jurisdictions must apply to the Selection Committee to be established as a Qualified Foreign Law Firm (QFLF) or an International Partnership (IP) with a Malaysian law firm. A maximum of five QFLF licences may be issued initially and only to foreign law firms with proven expertise in International Islamic Finance. Only foreign lawyers from recognised jurisdictions can apply to work in a QFLF, an IP or a Malaysian law firm. Such foreign lawyers must be resident in Malaysia for not less than 182 days in any calendar year. A QFLF and an IP, and a registered foreign lawyer working in a Malaysian law firm are subject to the provisions of the Legal Profession Act 1976 [Act 166]. Foreign lawyers providing legal services in Malaysia on a "fly in and fly out" basis shall be subject to the provisions under section 37(2B)(b) of the Legal Profession Act 1976 [Act 166]. Sabah and Sarawak Foreign law firms and foreign lawyers are not permitted to practice in Sabah or Sarawak. Measures : Legal Profession Act 1976 [Act 166] Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014 [P.U. (A) 148/2014] Labuan Companies Act 1990 [Act 441] Labuan Financial Services and Securities Act 2010 [Act 704] Advocates Ordinance of Sabah 1953 [Sabah Ordinance Cap. 2] Advocates Ordinance of Sarawak 1953 [Sarawak Ordinance Cap. 110]

18.

Sector : Wholesale and retail trade services Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Foreigners are not allowed to operate supermarkets, mini markets, provision shop or general vendor, permanent wet markets, permanent pavement markets, fuel stations with or without kiosks, news agents, medical halls, Malaysian cuisine restaurants, bistros, and textile stores. Measures : Guidelines on Foreign Participation in the Distribution Trade Services in Malaysia 2020 Franchise Act 1998 [Act 590] Companies Act 2016 [Act 777]

19.

Sector : All sectors Subsector : - Level of Government : Regional Obligations Concerned : Prohibition of Performance Requirements (Article 10.6) Description : Investment Adoption of a given rate or amount of royalty under a licence contract may be subject to approval by the relevant State authority. Measures : Policies and Ministerial Statements Industrial Co-ordination Act 1975 [Act 156] Administrative Guidelines

20.

Sector : Veterinary services covering only equine animals in equestrians or turf clubs Subsector : - Level of Government : Central and Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Veterinary services related to equine animals in equestrians or turf clubs shall be registered and established subject to authorisation by the Malaysian Veterinary Council. Measures : Veterinary Surgeons Act 1974 [Act 147] Administrative Guidelines

List B. Explanatory Notes

1. This List sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors, or activities, for which Malaysia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Subsector, where referenced, refers to the specific subsector for which the entry is made;

(c) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors, or activities, listed in the entry;

(d) Description sets out the scope of the sectors, subsectors, or activities, covered by the entry; and

(e) Existing Measures where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities, identified in the Description element of that entry.

4. With respect to the entries in this List on Most-Favoured-Nation Treatment relating to bilateral or multilateral international agreements, the absence of language regarding the scope of the reservation for differential treatment resulting from an amendment of those bilateral or multilateral international agreements in force or signed prior to the date of entry into force of this Agreement is without prejudice to Malaysia's interpretation of the scope of that reservation.

5. For the purposes of this List, "CPC", where referenced, refers to the activity covered by the non-conforming measure, according to the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991). The use of "**" against individual CPC codes indicates that the specific commitment for that code does not extend to the total range of services covered under that code.

6. The Schedules of other Parties shall not be used to interpret Malaysia's commitments or obligations under Chapter 8 (Trade in Services), Chapter 10 (Investment), or other Chapters of this Agreement.

1.

Sector : Land and real estate Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Acquisitions or dealings of land or activities on land by non-citizens and juridical persons owned by foreign nationals must be approved by the relevant state authority, subject to such conditions and restrictions as may be imposed by that authority. Existing Measures : Federal Constitution Land Acquisition Act 1960 [Act 486] Land Conservation Act 1960 [Act 385] National Land Code [Act 56 of 1965] Federal Lands Commissioner Act 1957 (Revised 1988) [Act 349] National Land Code (Penang and Malacca Titles) Act 1963 [Act 518] Strata Titles Act 1985 [Act 318] Strata Management Act 2013 [Act 757] Federal Lands Commissioner Act 1957 (Revised 1988) [Act 349] Land (Group Settlement Areas) Act 1960 [Act 530] Malay Reservations Enactment 1933 [F.M.S. Cap 142] Malay Reservations Enactment 1930 [Enactment 29] Kelantan Malay Reservations Enactment 1930 [No.18 of 1930] Kelantan Land Settlement Act 1955 (Revised 1991) [Act 460] The Reservations Enactment 1353 [No. 7 of 1353] Perlis Land Settlement Enactment 1966 [No. 16 of 1966] Johore Malay Reservation Enactment 1936 [No. 1 of 1936] Terengganu Malay Reservation Enactment 1360 [No. 17 of 1360] Terengganu Settlement Enactment 1356 [No. 65 of 1356] Malay Reservations (Selangor) (Amendment) Enactment No.15/1961 Malay Reservations (Selangor) (Amendment) Enactment No.7/1985 Customary Land Enactment 1926 [Cap 215] Customary Tenure (Lengkongan Land) Enactment 1960 [No. 4 of 1960] Undang of Rembau (Lands) Enactment 1949 [No. 2 of 1949] Land Ordinance [Sabah Cap 68] Sabah Land Acquisition Ordinance [Sabah Cap 69] Sarawak Land Code 1958 [Chapter 81] Local Government Act 1976 [Act 171] Town and Country Planning Act 1976 [Act 172] Federal Territory (Planning) Act 1982 [Act 267] Federal Capital Act 1960 [Act 190] Street, Drainage and Building Act 1974 [Act 133]

2.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure affecting the: (a) full or partial devolvement to the private sector of services provided in the exercise of governmental authority; (b) divestment of its equity interests in, or the assets of, a juridical person that is wholly or partially owned by the Government of Malaysia; and (c)

privatisation of government-owned entities or assets. Existing Measures : Minister of Finance (Incorporation) Act 1957 [Act 375] Privatisation Master Plan Guidelines on Privatisation Companies Act 2016 [Act 777] Bursa Listing Requirements

3.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to Bumiputera, Bumiputera status companies, trust companies, and institutions, to meet development and social economic policy objectives. Existing Measures : Federal Constitution Policies and Ministerial Statements Treasury Instructions Treasury Circulars New Economic Policy (NEP) National Development Policy (NDP)

4.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to national and state unit trusts. This includes unit trust schemes that are created or operated to pursue public policy objectives relating to Bumiputera or affirmative action for the socially disadvantaged. Existing Measures : -

5.

Sector : Mining and quarrying Subsector : Oil and Gas Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Petroliam Nasional Berhad (PETRONAS) and its successor are vested with the entire ownership in, and the exclusive rights, powers, liberties, and privileges, which shall be irrevocable, in exploring, exploiting, winning, and obtaining petroleum, whether onshore or offshore of Malaysia. PETRONAS and its successor reserve the right to adopt or maintain any measure relating to the oil and gas upstream industry including related activities. Existing Measures : Petroleum Development Act 1974 [Act 144] Other Implementing Measures

6.

Sector : All sectors Subsector : - Obligations Concerned : Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. (2) Malaysia reserves the right to adopt or maintain any measure that accords differential treatment to Member States of ASEAN under any ASEAN agreement open to participation by any Member State of ASEAN, in force or signed after the date of entry into force of this Agreement. With regard to the sectors listed below, Malaysia reserves the right to adopt or maintain any measure that accords rights, preferences, and differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement: (a) Aviation matters; (b) Maritime and Port; (c) Broadcasting; (d) Space Transportation; and (e) Fisheries. Existing Measures : -

(2) For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

7.

Sector : All sectors Subsector : - Obligations Concerned : Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services Liberalisation of measures in existing or future policies limiting foreign equity or interests in companies and businesses in Malaysia shall be carried out in a preferential and differentiated manner to those investments that match Malaysia’s specific development requirements with the abilities and facilities provided by foreign juridical persons and their home countries. The objective is to maximise economic benefits of foreign participation in the Malaysian economy. This non-conforming measure applies to all countries for an indefinite duration. Existing Measures : -

8.

Sector : Manufacturing Subsector : Manufacture, assembly, marketing and distribution of explosives, weapons, ammunitions, as well as military-related equipment or devices, and similar products Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure affecting the arms and explosives sector. Existing Measures : Industrial Co-ordination Act 1975 [Act 156] Explosives Act 1957 [Act 207] Arms Act 1960 [Act 206]

9.

Sector : Gaming, betting and gambling services including manufacturing, supply and suppliers of equipment, wholesale and retail of gambling services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to the provision of gaming, betting and gambling services including manufacturing, supply and suppliers of equipment, wholesale and retail of gambling services. Existing Measures : Lotteries Act 1952 [Act 288] Common Gaming Houses Act 1953 [Act 289] Pool Betting Act 1967 (Revised 2018) [Act 809] Betting Act 1953 [Act 495] Racing (Totalisator Board) Act 1961 [Act 494] Racing Club (Public Sweepstakes) Act 1965 [Act 404] Customs (Prohibition of Imports) Order 2017 [P.U. (A) 103/2017]

10.

Sector : Application of atomic energy for nuclear power generation including nuclear fuel cycle and electric power generation and fuel cycle; and electric power plants based on fossil fuel or materials Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to application of atomic energy for nuclear power generation including nuclear fuel cycle and electric power generation and fuel cycle; and electric power plants based on fossil fuel or materials. Existing Measures : Atomic Energy Licensing Act 1984 [Act 304] Electricity Supply Act 1990 [Act 447]

11.

Sector : Cultural services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to review the following products following their importation and distribution in the Malaysian market to ensure their consistency with Malaysia's decency standards: (a) books, magazines, periodicals or newspapers, or works of art and films, imported into Malaysia; and (b) programming licensed for broadcast on television, cable, and satellite stations. In addition, prior approval is required for any arts, filming, and performances by a foreign artist, and such activities shall comply with the Central Agency for Application for Filming and Performance by Foreign Artistes (PUSPAL) Guidelines. Malaysia reserves the right to adopt or maintain any measure relating to differential treatment to countries under any existing or future bilateral or multilateral international agreement (3) with respect to cultural industries, such as audiovisual cooperation agreements. For greater certainty, government supported subsidy programmes for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement. For the purposes this entry, "cultural industries" mean persons engaged in any of the following activities: (a) publication, distribution, or sale of books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing; (b) production, distribution, sale, or display of recordings of movies or videos; (c) production, distribution, sale, or display of music recordings in audio or video format; (d) production, distribution, or sale of printed music scores or scores readable by machines; or (e) radio broadcasts aimed at the public in general, as well as all radio, television, and cable television related activities, satellite programming services, and broadcasting networks. Existing Measures : Printing Presses and Publishing Act 1984 [Act 301] Akta Perbadanan Kemajuan Filem Nasional Malaysia 1981 [Act 244] Akta Perbadanan Kemajuan Kraftangan Malaysia 1979 [Act 222] Dasar Industri Kreatif Negara (DIKN) 2010 Central Agency Committee for Application for Filming and Performance by Foreign Artistes (PUSPAL) Guidelines

(3) For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

12.

Sector : Manufacturing, wholesale, and distribution services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to the manufacture of, and the wholesale and distribution services for: (a) rice; (b) sugar; (c) flour; (d) liquor and alcoholic beverages; (e) tobacco, manufactured tobacco substitutes, and cigarettes products; (f) fabrics and apparels of batik; (g) glass and glassware products; (h) biodiesel; (i) machinery and mechanical appliances or part thereof, including power generating machinery and machinery for a specific industry; (j) motor vehicles including motorcycles and scooters, passenger cars, and commercial vehicles; (k) base metals and articles of base metal industry or products; (l) cement and cement products; and (m) electrical machines and apparatus having individual functions (HS 8543). Existing Measures : Excise Act 1976 [Act 176] Free Zones Act 1990 [Act 438]

13.

Sector : Sewage and refuse disposal, sanitation, and other environmental protection services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to the collection, treatment, and disposal of hazardous waste and other environmental protection services including production, marketing, supplying, and distribution of any products derived from by-products of sewage and sludge treatment, holistic wastewater management (including sullage, water run-off), trade effluent or industrial waste (organic and non-organic), water recycling, and resource recovery. Existing Measures : Environmental Quality Act 1974 [Act 127] Water Services Industry Act 2006 [Act 655] Green Technology Master Plan Malaysia 2017-2030

14.

Sector : Air transport services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt and maintain any measure affecting: (a) aircraft repair and maintenance services; (b) selling and marketing of air transport services; (c) computer reservation system (CRS) services; (d) aircraft leasing without crew; (e) aircraft leasing with crew; (f) airfreight forwarding services; (g) cargo handling; (h) aircraft catering services; (i) refuelling services; (j) aircraft line maintenance; (k) ramp handling; (l) baggage handling; (m) passenger handling; and (n) air transport services covering passenger and freight transportation frequencies and routing by air. Existing Measures : Administrative Guidelines

15.

Sector : Passenger road transportation services covering taxi services and scheduled passenger road transportation Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to passenger and scheduled passenger road transportation services covering urban and suburban regular transportation, railway, taxi services; and bus, taxi, and rail station services, and any electronic application related transportation services. Existing Measures : -

16.

Sector : Legal services covering mediation and Shari'a law Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to mediation and Shari'a law. Existing Measures : -

17.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure related to the non-internationalisation of the Ringgit which includes: (a) the requirement for international settlement to be made in foreign currency; (b) limitation on the access to Ringgit financing by non-residents for use outside Malaysia; and (c) limitation on the use of the Ringgit in Malaysia by non-residents. Existing Measures : Central Bank of Malaysia Act 2009 [Act 701] Financial Services Act 2013 [Act 758] Islamic Financial Services Act 2013 [Act 759] Foreign Exchange Notices

18.

Sector : All sectors Subsector : - Obligations Concerned : Market Access (Article 8.5) Description : Trade in Services The purchase of a financial service by a resident from a financial service supplier abroad shall be subject to the requirements, restrictions, and conditions imposed under the Foreign Exchange Notices. Existing Measures : Central Bank of Malaysia Act 2009 [Act 701] Financial Services Act 2013 [Act 758] Islamic Financial Services Act 2013 [Act 759] Foreign Exchange Notices

19.

Sector : Social services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: (a) income security or insurance; (b) social security or insurance; (c) social welfare; (d) public education; (e) public training; (f) health; and (g) child care. Existing Measures : -

20.

Sector : Veterinary services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure with respect to veterinary services excluding services delivered to equine animals in equestrians or turf clubs. Existing Measures : Veterinary Surgeons Act 1974 [Act 147] Administrative Guidelines

21.

Sector : Private healthcare services (4) Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure with respect to: (a) allied health services; (b) pathology laboratories; (c) dental clinics; (d) general dental practitioners; (e) general medical practitioners; (f) general nurses including midwifery; (g) medical clinics; (h) private hospitals; (i) private psychiatric hospitals; (j) private ambulatory care centres; (k) private nursing homes; (l) private psychiatric nursing homes; (m) private maternity homes; (n) private blood banks; (o) private haemodialysis centres; (p) private hospices; (q) private community mental health centres; and (r) any other private healthcare facilities, services, or health related services as the Minister of Health may specify. Existing Measures : Medical Act 1971 [Act 50] Medical Regulations 2017 [P.U. (A) 188/2017] Dental Act 2018 [Act 804] Private Healthcare Facilities and Services Act 1998 [Act 586] Private Healthcare Facilities and Services (Private Hospitals and Other Private Healthcare Facilities) Regulations 2006 [P.U.(A) 138/2006] Private Healthcare Facilities and Services (Private Medical Clinics or Private Dental Clinics) Regulations 2006 [P.U. (A) 137/2006] Allied Health Professions Act 2016 [Act 774] Nurses Act 1950 [Act 14] Nurses Registration Regulations 1985 [P.U. (A) 494/85] Midwives Act 1966 [Act 436] Midwives Regulations 1990 [P.U. (A) 181/90]

(4) Any such measure shall be implemented in a manner consistent with entry 9 in List A of this Schedule.

22.

Sector : Traditional and complementary medicine services Subsector : - Obligations Concerned : National Treatment (Article

8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure with respect to traditional and complementary medicine services. Existing Measures : Traditional and Complementary Medicine Act 2016 [Act 775] Administrative Guidelines

23.

Sector : Distribution services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to distribution services covering hypermarkets, superstores, departmental stores, specialty stores, franchise businesses, and convenience stores. Existing Measures : Franchise Act 1998 [Act 590] Guidelines on Foreign Participation in the Distribution Trade Services in Malaysia 2020 Guidelines on Convenience Stores with Foreign Interest

24.

Sector : Utilities in relation to gas supply, power generation, power distribution, power transmission, renewable energy, energy services, energy efficiency services, water services, and sewerage services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to utilities in relation to gas supply, power generation, power distribution, power transmission, renewable energy, energy services, energy efficiency services, solar panels, water services, and sewerage services. Existing Measures : Water Services Industry Act 2006 [Act 655] Waters Act 1920 [Act 418] State Waters Laws Electricity Supply Act 1990 [Act 447] Gas Supply Act 1993 [Act 501] Renewable Energy Act 2011 [Act 725] Electricity Ordinance Sarawak [Cap. 50] Environmental Quality Act 1974 [Act 127] Green Technology Master Plan Malaysia 2017-2030

25.

Sector : Armed escort services and armed guard services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to armed escort services and armed guard services. Existing Measures : -

26.

Sector : Building surveying services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to building surveying services. Existing Measures : -

27.

Sector : Education services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to: (a) preschools; (b) primary and secondary school education services covering the Malaysian National Curriculums; (c) religious schools; (d) distance learning; (e) tuition centres; (f) military training education; and (g) higher education services covering public higher education institutions, nursing education, polytechnics, community colleges, military studies, and religious studies. Existing Measures : -

28.

Sector : Research services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to research services. Any such measure shall not decrease the level of foreign ownership permitted in the research industry related to research and experimental services in agricultural science covering agriculture, biodiversity, food, agro-based industries, fisheries, social science, and humanities, excluding research and experimental services in law, linguistics, and languages. Existing Measures : -

29.

Sector : Postal services including courier and express delivery services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to postal services, including courier and express delivery services. Existing Measures : Postal Services Act 2012 [Act 741] Customs Act 1967 [Act 235]

30.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment Where the constitution of a company imposes a prescribed foreign shareholding limit, the company may restrict certain entitlements with respect to shares that have exceeded the prescribed limit (5) (excess shares). Existing Measures : Companies Act 2016 [Act 777] Securities Industry (Central Depositories) Act 1991 [Act 453] Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996 [P.U.(A) 513/96]

(5) For example, a company may still grant certain entitlements i.e. dividend payment to the foreigner holding the excess shares but such foreigner may not be entitled to vote. For the purposes of this entry, the term “foreigner” can be found in the Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996 [P.U.(A) 513/96].

31.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure with respect to securities to be listed or listed on a stock exchange, and any matter relating to the acquisition of interests or take-overs and mergers. Existing Measures : Capital Market and Services Act 2007 [Act 671] Companies Act 2016 [Act 777] The Malaysian Code on Take-overs and Mergers 2016 Financial Services Act 2013 [Act 758] Islamic Financial Services Act 2013 [Act 759]

32.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to employment of expatriates. Existing Measures : Immigration Act 1959/63 [Act 155] Employment (Restriction) Act 1968 (Revised 2017) [Act 796] Expatriate Services Division (ESD) Online Guidebook Policies and Ministerial Statements

33.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to activities restricted to designated juridical persons (6) where such activities are liberalised to those other than the designated juridical persons, or in the event where such designated juridical persons no longer operate on a non-commercial basis. Corporations in which the government has an interest shall, in acquiring services, give first consideration to services suppliers in which the government has an interest. This requirement does not prevent the acquisition of services from other services suppliers where their services are competitive in terms of price, quality, and delivery. Existing Measures : Industrial Co-ordination Act 1975 [Act 156] Policies and Ministerial

Statements Administrative Guidelines

(6) For illustrative purposes, examples of designated juridical persons include Padiberas Nasional Berhad (BERNAS) and Kualiti Alam Sdn. Bhd.

34.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment Malaysia reserves the right to adopt or maintain any measure affecting the issuance of a licence or permit. This may include conditions imposed, numerical limitations, and non-issuance of licences. Existing Measures : Policies and Ministerial Statements Industrial Co-ordination Act 1975 [Act 156] Petroleum Development Act 1974 [Act 144] Administrative Guidelines

35.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to the rights of statutory bodies (7). Existing Measures : Policies and Ministerial Statements Administrative Guidelines

(7) For illustrative purposes, examples of statutory bodies include the Employees Provident Fund and Lembaga Tabung Haji.

36.

Sector : Mining and quarrying Subsector : - Obligations Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment Non-citizens and juridical persons owned by foreign nationals will need to seek the approval of the relevant state authority, and subject to such conditions and restrictions as may be imposed by the relevant state authority. Joint ventures with state or state-linked juridical persons may be required. Existing Measures : Mineral Development Act 1994 [Act 525] State Mineral Laws National Mineral Policy 2

37.

Sector : Agriculture Subsector : - Obligations Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment Non-citizens and juridical persons owned by foreign nationals will need to seek the approval of the relevant state authority, and are subject to such conditions and restrictions as may be imposed by the relevant state authority. Existing Measures : National Land Code [Act 56 of 1965] Sarawak Land Code 1958 [Cap 81] Sabah Land Ordinance 1950 [Cap 68] Town and Country Planning Act 1976 [Act 172] Plant Quarantine Act 1976 [Act 167] National Agricultural Policy Administrative Guidelines Customs Prohibition of Imports and Exports Orders

38.

Sector : Forestry Obligations Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment Non-citizens and juridical persons owned by foreign nationals will need to seek the approval of the relevant state authority, and are subject to such conditions and restrictions as may be imposed by the relevant state authority. Extraction and harvesting of timber are closed to foreign investors in Peninsular Malaysia and Sabah. However, for Sarawak, local involvement and majority local control are required. Forest areas opened for such activities are subject to an Annual Allowable Cut to enable the resources to be managed sustainably. Services incidental to extraction and harvesting of timber are closed to foreign investors in Peninsular Malaysia and Sabah. However, for Sarawak, the maximum foreign equity ownership allowed is 30 per cent. Existing Measures : National Forestry Act 1984 [Act 313] Sabah Forest Enactment 1968 [No. 2 of 1968] Sarawak Forest Ordinance 2015 [Cap. 71] State Forestry Laws Administrative Guidelines International Trade in Endangered Species Act 2008 [Act 686] Wildlife Conservation Act 2010 [Act 716]

39.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests. Existing Measures : Strategic Trade Act 2010 [Act 708]

40.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services Malaysia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to Chapter 9 (Temporary Movement of Natural Persons). Existing Measures : -

41.

Sector : All sectors Subsector : - Obligations Concerned : Market Access (Article 8.5) Description : Trade in Services Malaysia reserves the right to adopt or maintain any measure relating to Article 8.5 (Market Access) in the following sectors, subsectors, or activities, subject to the limitations and conditions listed in the table below. Malaysia remains unbound in respect of the supply of a service by a service supplier of a Party through the presence of natural persons of a Party in the territory of Malaysia, except as indicated in Malaysia's Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons). Existing Measures : - For the purposes of the table below: (a) "(1)", "(2)", and "(3)" in the "Limitations on Market Access" column refer to the modes for the supply of a service as defined in subparagraphs (r)(i) through (iii) of Article 8.1 (Definitions); (b) "Unbound" means no market access commitment in the specified sector, subsector, or activity for the given mode of supply; and (c) "None" means no limitations on market access in the specified sector, subsector, or activity for the given mode of supply. Sector or Subsector Limitations on Market Access BUSINESS SERVICES Professional Services Accounting and auditing services (CPC 8621) (1) None (2) None (3) Only through a locally registered partnership with Malaysian accountants or Malaysian accounting firms and the aggregate foreign interests shall not exceed 51 per cent. Bookkeeping services, except tax returns (CPC 8622) (1) None (2) None (3) Only through a locally registered partnership with Malaysian accountants or Malaysian accounting firms and the aggregate foreign interests shall not exceed 51 per cent. Taxation services (CPC 8630) (1) None (2) None (3) Only through a locally registered partnership or private limited company with Malaysian authorised tax agents or firms and the aggregate foreign interests shall not exceed 51 per cent. Architectural services (CPC 8671) (1) None (2) None (3) (a) Architectural services may be supplied only by natural persons. (b) For multi-disciplinary practices (Architecture, Engineering, or Quantity Surveying), foreign equity up to a maximum of 30 per cent for joint ventures by professionals who are registered in the country of origin. Foreign directorship is not allowed. Engineering services (CPC 8672) (1) None (2) None (3) (a) Engineering services may be supplied only by natural persons. (b) For multi-disciplinary practices (Architecture, Engineering, or Quantity Surveying), foreign equity up to a maximum of 30 per cent for joint ventures by professionals who are registered in the country of origin. Foreign directorship is not allowed. Integrated engineering services (CPC 8673) (1) None (2) None (3) Only through a representative office, regional office, or locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both for the purposes of services contracts awarded in Malaysia. The aggregate foreign shareholding in the joint venture corporation shall not exceed 30 per cent. Establishment of such joint venture corporation is only for a duration necessary to complete the services contract. Urban planning services (CPC 86741) Covering development services programmes regarding land use, site selection, control and utilisation, road systems and servicing of land with view to creating and maintaining systematic, coordinated urban planning (1) None (2) None (3) Unbound Landscaping services Covering the provision of advisory, planning and designing services for the aesthetic landscaping of golf courses and theme parks (CPC 86742**) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian registered landscape architects or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 30 per cent. Veterinary services (CPC 932) Services delivered to equine animals in equestrians or turf clubs (1) Unbound (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate share of foreign interest shall not exceed 51 per cent. Research and development services Research and experimental development services on cultural sciences, sociology and psychology (CPC 85201) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Research and experimental development services on economics (CPC 85202) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Research and experimental development services on other social sciences and humanities (CPC 85209) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian

individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Interdisciplinary research and development services (CPC 8530**) Covering industrial activities covering all science and engineering disciplines, including biotechnology and information communication technology; and defined as any systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of materials, devices, products, produce or processes but does not include: (a) quality control of products or routine testing of materials, devices, products or produce; (b) research in the social sciences or humanities; (c) routine data collection; (d) efficiency surveys or management studies; and (e) market research or sales promotion. (1) None (2) None (3) Only for contract research and development company and research and development company locally incorporated as a joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign equity shall not exceed 51 per cent. Leasing or rental services without operator Leasing or rental services concerning goods transport without operator (CPC 83102) (1) None (2) None (3) Only through a representative office, regional office, or Malaysian-controlled corporation acting as an agent. Leasing or rental relating to ships, excluding cabotage and offshore trades (CPC 83103) (1) None (2) None (3) Only through a representative office, regional office, or Malaysian-controlled corporation acting as an agent. Leasing or rental services concerning aircraft without operators (CPC 83104) (1) None (2) None (3) Only through a representative office, regional office, or Malaysian-controlled corporation acting as an agent. Leasing or rental services, without operator relating to construction and mining equipment and industrial plant and equipment (CPC 83107**) (1) None (2) None (3) Only through a representative office, regional office, or Malaysian-controlled corporation acting as an agent. Leasing or rental services concerning furniture and other household appliances (CPC 83203) (1) None (2) None (3) Only through a representative office, regional office, or Malaysian-controlled corporation acting as an agent. Other business services Advertising services (a) Sale or leasing services of advertising space or time (CPC 8711) (1) Commercial presence is required. (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 49 per cent. Advertisement through electronic media An advertisement must have at least 80 per cent local content and be made in Malaysia. (b) Planning, creating, and placement services of advertising (CPC 8712) (1) Commercial presence is required. (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 49 per cent. Advertisement through electronic media An advertisement must have at least 80 per cent local content and be made in Malaysia. (c) Other advertising services (CPC 8719) (1) Commercial presence is required. (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 49 per cent. Advertisement through electronic media An advertisement must have at least 80 per cent local content and be made in Malaysia. Market research services (CPC 86401) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture is at least 51 per cent. Public opinion polling services (CPC 86402) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Management consulting services (a) Covering advisory, guidance and operational assistance services concerning management of the trans-mission of non-conventional energy (CPC 8650**) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. (b) Covering advisory, guidance and operational assistance on environmental management services including risk assessment services (CPC 8650**) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. (c) Covering advisory and guidance in the field of pharmacy as follows: (i) basic material manufacturing consultancy in the manufacture of drugs in raw material form; (ii) new systems of drug delivery; (iii) biotechnology – new techniques for influencing the process and products of living cells; (iv) new techniques in drug development and methods of producing drugs and vaccine; and (v) vaccine production. (CPC 8650**) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. (d) Covering advisory and guidance on International Value-Added Network Services, rural telecom development, and human resource development, in telecommunications (CPC 8650**) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. Project management services other than for construction (CPC 86601) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. Technical testing and analysis services (a) Composition and purity testing and analysis services (CPC 86761) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. (b) Testing and analysis services of physical properties (CPC 86762) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian

individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. (c) Testing and analysis services of integrated mechanical and electrical systems (CPC 86763) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. (d) Other technical testing and analysis services (CPC 86769) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. Services incidental to agriculture covering only specialised consultancy, advisory and operational assistance on crop management, including value added services such as preservation techniques, etc. (CPC 881**) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 30 per cent. Services incidental to fishing covering only specialised consultancy, advisory and operational assistance on fisheries management, (1) None (2) None including value added services such as preservation techniques, etc. (CPC 882**) (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 30 per cent. Services incidental to manufacturing (CPC 884** and CPC 885** except 88442) (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. Executive search services (CPC 87201) Services consisting of the search for, selection and referral of executive personnel (senior administrators and managers) for employment by others. The services may be procured by the potential employer or by the prospective employee. (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. Subsurface surveying services Covering offshore 3-D seismic site surveys – 3-D seismic site surveys offshore in support of resource exploration and development (CPC 86752) (1) Unbound (2) None (3) Unbound Surface surveying services Covering building surveying services only in the provision of the survey of buildings in the investigation and assessment of the construction, condition and dilapidation of buildings, including diagnosis of building defects, costs of repair and guidance on remedial works for the commercial and industrial subsector of the property (real estate) sector (CPC 86753) (1) Unbound (2) None (3) Unbound Surface surveying services Covering quantity surveying (cost engineering) specialist services in the provision of arbitration or litigation, tax depreciation, pre and post contract audits, technical due diligence, resource analysis, and construct ability analysis (CPC 86753) (1) Unbound (2) None (3) Unbound. Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 8866) Covering medical, precision and optical instruments, watches, and clocks (1) None (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. Packaging Services (CPC 8760) Excludes services that consist solely of printing information on packaging materials (1) Unbound (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Translation and interpretation services (CPC 87905) (1) None (2) None (3) Translation and interpretation services may be supplied only by a natural person. COMMUNICATIONS SERVICES Courier services Courier services (CPC 7512) Courier services in respect of documents and parcels, excluding letters and postcards (1) None (2) None (3) Only through joint venture with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Audiovisual services Motion picture, video tape, and audio recording distribution services (CPC 96113) (1) Commercial presence is required. (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 30 per cent. DISTRIBUTION SERVICES Wholesale and retail trade businesses Commission agents' services (CPC 621**) Only for textiles, clothing, and footwear (1) Unbound except for commission agents that must be established and registered in Malaysia. (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation is at least 51 per cent. Sales of motor vehicles (CPC 6111) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 30 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Sales of parts and accessories of motor vehicles (CPC 6113) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 30 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Sales of motorcycles and snowmobiles and related parts and accessories (CPC 6121) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 30 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Retail sales of motor fuel (CPC 6130) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 30 per cent, while local shareholding in the joint venture

corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Wholesale trade services of agricultural raw materials and live animals (CPC 6221) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 51 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Wholesale trade services of household appliances, articles, and equipment (CPC 6224) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 51 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Wholesale trade services of pharmaceutical and medical goods and cosmetics (CPC 6225) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 30 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Wholesale trade services of intermediate products, other than agricultural; wholesale trade services of waste and scrap and materials for recycling (CPC 6227) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 30 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. Wholesale trade services of machinery, equipment, and supplies (CPC 6228) (1) None (2) None (3) Entry is limited to: (a) Equity Structure The aggregate foreign equity shall not exceed 51 per cent, while local shareholding in the joint venture corporation must comprise 30 per cent Bumiputera equity. (b) Minimum Capital Requirement Minimum foreign capital investment requirement in respective business type of formats are as per Guidelines. ENVIRONMENTAL SERVICES Wastewater management Covering only removal, treatment, and disposal of industrial effluents Only for services contracted by the private sector. Does not include public works functions owned and operated by federal, provincial, district, or municipalities, or contracted out by them. (CPC 9401) (1) Unbound (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Refuse disposal services Covering private industrial waste management services covering treatment and disposal services (CPC 9402**) (1) Unbound (2) None (3) Only through approval of the National Solid Waste Management Technical Evaluation Committee and approved license from the National Solid Waste Management Department. The aggregate foreign equity shall not exceed 51 per cent. Refuse disposal services Covering solid waste disposal services, only for: (a) integrated biomass treatment facility services; and (b) the services provider must be equipped with high technology specifically built for biomass solid waste disposal services and fulfil all environmental safety requirements. The product will be used as a new material for energy purposes. (CPC 9402**) (1) Unbound (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Protection of ambient air climate Covering only services provided at industrial premises to remove air pollutants including monitoring of mobile emissions and implementation of control systems or reduction programmes Only for services contracted by the private sector. Does not include public works functions owned and operated by federal, state, district, or municipalities, or contracted out by them. (CPC 9404 – corresponds to cleaning services of exhaust gases) (1) Unbound (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Noise abatement services Covering only monitoring programmes, and installation of noise reduction and screen in residential, commercial, and industrial premises Only for services contracted by the private sector. Does not include public works functions owned and operated by federal, state, district, or municipalities, or contracted out by them. (CPC 9405) (1) Unbound (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. Nature and landscape protection services covering only contaminated soil clean-up and remediation Only for services contracted by the private sector. Does not include public works functions owned and operated by federal, state, district, or municipalities, or contracted out by them. (CPC 94060**) (1) Unbound (2) None (3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. HEALTH RELATED AND SOCIAL SERVICES Ambulance services (CPC 93192**) Covering only services provided through a vehicle equipped for transporting patients to the hospital (1) Unbound (2) None (3) Unbound. TOURISM AND TRAVEL RELATED SERVICES Travel agencies and tour operators services for inbound travel only (CPC 7471) (1) None (2) None (3) Joint venture with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent. RECREATIONAL, CULTURAL, AND SPORTING SERVICES Other sports and recreational sports services (CPC 96590) Covering only internet and mobile gaming services For greater certainty, gaming services do not include gambling and betting. (1) None (2) None (3) Unbound TRANSPORT SERVICES Maritime transport services Supporting services for maritime transport Vessel salvage and refloating services except on inland waters (CPC 74540) (1) None (2) None (3) Only through a

representative office, regional office, or locally-incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint venture corporation of at least 51 per cent. Maintenance and repair vessels (CPC 8868**) This is limited to businesses related to maintenance and repair of ocean-going vessels at anchor or alongside and maintenance and repair of local vessels. (1) Unbound (2) None (3) Only through a representative office, regional office, or locally-incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent.

42.

Sector : Communication services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to spectrum allocations, universal service and numbering, and electronic addressing. Existing Measures : Communications and Multimedia Act 1998 [Act 588] Communications and Multimedia (Licensing) Regulations 2000 [P.U. (A) 129/2000] Communications and Multimedia (Spectrum) Regulations 2000 [P.U. (A) 128/2000] Spectrum Plan Numbering and Electronic Addressing Plan (NEAP)

43.

Sector : Financial services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to financial services that are not stipulated in the Appendix to this List (Specific Commitments for Financial Services – Malaysia). In relation to the financial services in the Appendix to this List (Specific Commitments for Financial Services – Malaysia), Malaysia reserves the right to adopt or maintain any measure subject to the terms, conditions, limitations, or qualifications specified therein. In respect of offshore banks, offshore investment banks, commercial banks, investment banks, offshore direct insurance companies, offshore reinsurance companies, offshore insurance brokers, offshore insurance underwriting managers, offshore insurance managers, direct insurance companies, reinsurance companies, and representative offices of commercial banks and investment banks, the limitations on market access and national treatment in the Financial Services Horizontal Commitments as specified in the Appendix to this List (Specific Commitments for Financial Services – Malaysia) shall apply in addition to specific limitations to the Financial Services Activities as specified in the Appendix to this List (Specific Commitments for Financial Services – Malaysia). For greater certainty, Malaysia's commitments as specified in the Appendix to this List (Specific Commitments for Financial Services – Malaysia) cannot be interpreted as applying to the supply of Shariah-compliant financial services, unless specific entries are made in the banking, insurance, or capital markets subsectors accordingly. This approach is consistent with Malaysia's commitments under the WTO and other existing free trade agreements. For greater certainty, Malaysia reserves the right to adopt or maintain any measure relating to financial services other than those recognised or should have been recognised by the Government of Malaysia owing to the circumstances existing at the date of ANNEX III – MALAYSIA – 89 entry into force of this Agreement for Malaysia. Malaysia also reserves the right to adopt or maintain any measure relating to the supply of financial services in any mode of supply in which those services were not technically feasible at the date of entry into force of this Agreement for Malaysia. For greater certainty, Malaysia reserves the right to impose measures relating to financial services involving Prohibition of Performance Requirements and Senior Management and Board of Directors. Existing Measures : -

44.

Sector : Financial services Subsector : - Obligations Concerned : Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure that accords rights, preferences, and differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement. Existing Measures : -

45.

Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to investments and services other than those recognised or should have been recognised by the Government of Malaysia owing to the circumstances

existing at the date of entry into force of this Agreement for Malaysia. Malaysia reserves the right to adopt or maintain any measure relating to investments and services which was not technically feasible at the date of entry into force of this Agreement for Malaysia. Existing Measures : -

46.

Sector : All sectors Subsector : - Obligations Concerned : Prohibition of Performance Requirements (Article 10.6) Description : Investment Malaysia reserves the right to adopt, maintain, impose requirements, or enforce a commitment or undertaking, in connection with transfer of technology, production process, or other proprietary knowledge. Existing Measures : -

47.

Sector : Credit Reporting Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to credit reporting services. Existing Measures : Central Bank of Malaysia Act 2009 [Act 701] Credit Reporting Agencies Act 2010 [Act 710] Credit Reporting Agencies (Registration) Regulation 2014 [P.U. (A) 142/2014] Credit Reporting Agencies (Compounding of Offences) Regulations 2014 [P.U. (A) 275/2014] Administrative Guidelines

48.

Sector : Maritime cabotage and government cargo Subsector : - Obligations Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment Malaysia reserves the right to adopt or maintain any measure relating to maritime cabotage and government cargo. Existing Measures : Administrative Guidelines

49.

Sector : Advertising for liquor and alcoholic beverages, tobacco, tobacco manufactured substitutes, and cigarettes products and electrical machines and apparatus having individual functions (HS 8543) Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to advertising of liquor and alcoholic beverages, tobacco, tobacco manufactured substitutes, and cigarettes products and electrical machines and apparatus having individual functions (HS 8543). Existing Measures : - ANNEX III – MALAYSIA – 96 50. Sector : All sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Malaysia reserves the right to adopt or maintain any measure relating to the Shared Prosperity Vision 2030 and the New Industrial Masterplan.8 Existing Measures : Shared Prosperity Vision 2030 New Industrial Masterplan Policies and Ministerial Statements 8 Any such measure shall be implemented in a manner consistent with Malaysia’s commitments under List A of this Schedule.

Appendix. Specific Commitments for Financial Services - Malaysia

1. This Appendix shall be read together with entry 43 in List B of Malaysia’s Schedule in Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment).

2. For the purposes of this Appendix: (a) “(1)”, “(2)”, “(3)”, and “(4)” in the “Limitations on Market Access” and “Limitations on National Treatment” columns respectively refer to the modes for the supply of a service as defined in subparagraphs (r)(i) through (iv) of Article 8.1 (Definitions); (b) “Unbound” means no market access or national treatment commitment in the specified sector, subsector, or activity for the given mode of supply; (c) “Unbound*” means Unbound due to lack of technical feasibility; and (d) “None” means no limitations on market access or national treatment in the specified sector, subsector, or activity for the given mode of supply.

3. Measures inconsistent with both Article 8.5 (Market Access) and Article 8.4 (National Treatment) or Article 10.3 (National Treatment) shall be inscribed in the “Limitations on Market Access” column in the table below. In this case, the inscription will be considered to provide a condition or qualification to Article 8.4 (National Treatment) or Article 10.3 (National Treatment).

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of Natural Persons

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
I. FINANCIAL SERVICES HORIZONTAL COMMITMENTS			
A. Offshore banks, offshore investment banks, offshore direct insurance companies, offshore reinsurance companies, offshore insurance brokers, offshore insurance underwriting managers, and offshore insurance managers	(1) Unbound* except as otherwise specified in this Appendix. (2) Unbound* except as otherwise specified in this Appendix. (3) Entry is confined to Labuan. Entry is limited to establishment of a branch registered or a subsidiary incorporated in Malaysia. (4) Unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	(1) Unbound* except as otherwise specified in this Appendix. (2) Unbound* except as otherwise specified in this Appendix. (3) None (4) Unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	
	(1) Unbound* except as otherwise specified in this Appendix. (2) Unbound* except as otherwise specified in this Appendix. (3) The 13 wholly foreign-owned commercial banks are permitted to remain wholly owned by their existing shareholders. (9) Unbound for new licences. Entry is limited to equity participation by foreign banks in Malaysian-owned or controlled commercial banks and investment banks and aggregate foreign shareholding in a commercial bank or an investment bank shall not exceed 30 per cent. Foreign commercial banks and investment banks are required to be locally incorporated in accordance with the Financial Services Act 2013 [Act 758]. A commercial bank is not allowed to acquire any share in another commercial bank but may acquire shares in one investment bank. An investment bank is not allowed to acquire any share in a commercial bank or another investment bank. Other persons are not permitted to acquire five per cent or more of shareholding in a commercial bank or investment bank if	(1) Unbound* except as otherwise specified in this Appendix. (2) Unbound* except as otherwise specified in this Appendix. (3) None except as indicated in the respective activities listed below. Acquisition by a foreign bank of an aggregate of five per cent or more of shareholding in a Malaysian-owned or controlled commercial bank or investment bank must meet	

B. Commercial banks and investment banks	the person already holds five per cent or more of shareholding in another licensed financial institution. Entry is also permitted through the setting up of representative offices. Representative offices can only undertake research, exchange of information, and liaison services. (4) Unbound except the following: (a) Unless otherwise specified, presence of natural persons is offered only in respect of supply of a service through the mode of commercial presence; (b) Five senior managers and 10 specialists or experts for each commercial bank or investment bank. A senior manager is an individual possessing proprietary knowledge and authority essential to the establishment, control, and operation of the services of the financial service supplier. Specialists or experts for each commercial bank or investment bank for areas relating to: (i) trade financing; (ii) corporate finance; (iii) treasury management; (iv) information technology; (v) risk management; (vi) capital market products; (vii) derivatives instruments; (viii) credit risk management; and (ix) internal control; (c) For each representative office of a commercial bank or investment bank, two foreign nationals. Only one foreign national for the two top posts; and (d) Entry shall be limited to a maximum period of five years.	the following criteria: (a) The foreign bank has the ability to facilitate trade and contribute to financial and economic development of Malaysia; (b) The country of the foreign bank has significant trade and investment interests in Malaysia; and (c) The country of the foreign bank does not have significant representation in the Malaysian banking industry. (4) Unbound except for the categories of natural persons referred to under market access.	

(9) Refers to the 13 wholly foreign-owned commercial banks specified in Malaysia's Schedule of Specific Commitments under GATS.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	(1) Unbound* except as otherwise specified in this Appendix. (2) Unbound* except as otherwise specified in this Appendix.(3) Foreign insurance companies are required to be locally incorporated in accordance with the Financial Services Act 2013 [Act 758]. Branches of foreign insurance companies that were required to be locally incorporated in accordance with the Insurance Act 1996 (Repealed by the Financial Services Act 2013 [Act 758]) are permitted to hold foreign shareholding not exceeding 51 percent. (10) Foreign shareholding not exceeding 51 per cent is also permitted for the existing foreign shareholders (11) of locally incorporated insurance companies which were the original owners of these companies. Provided aggregate foreign shareholding in such	(1) Unbound* except as otherwise specified in this Appendix. (2) Unbound* except as otherwise specified in this Appendix.(3) None except as indicated in the respective activities listed below. Acquisition by a foreign insurance company of an aggregate of more than five per cent shareholding in a locally incorporated insurance company	

C. Direct insurance and reinsurance companies	companies does not exceed 51 per cent. New entry by foreign insurance companies is limited to equity participation in locally incorporated insurance companies and aggregate foreign shareholding in such company shall not exceed 30 per cent. Unbound for new licenses. An insurance company is not allowed to acquire more than five per cent share: (a) in another insurance company in Malaysia that carries on the same class of insurance business as that carried on by it; or (b) in an insurance broking company. Other persons holding more than five per cent shareholding in an insurance company are not permitted to acquire more than five per cent shareholding in: (a) another insurance company carrying on the same class of insurance business as that carried on by the insurance company in which the persons a shareholder; or (b) an insurance broking company. Unbound for reinsurance companies. (4) Unbound except the following: (a) Unless otherwise specified, presence of natural persons is offered only in respect of supply of a service through the mode of commercial presence; (b) Five senior managers and 10 specialists or experts for each locally incorporated insurance company. A senior manager is an individual possessing proprietary knowledge and authority essential to the establishment, control, and operation of the services of the financial service supplier. Specialists or experts for each insurance institution for areas relating to: (i) underwriting of specialised classes of general business; (ii) information technology; (iii) actuarial functions; (iv) risk management; (v) investment management; (vi) product development; (vii) customer service; and (viii) servicing of foreign and regional business; and (c) Entry shall be limited to a maximum period of five years.	must meet at least one of the following criteria: (a) The foreign insurance company has the ability to facilitate trade and contribute to the financial and economic development of Malaysia; (b) The country of the foreign insurance company has significant trade and investment interests in Malaysia; (c) The country of the foreign insurance company does not have a significant representation in the Malaysian insurance industry; or (d) The foreign insurance company has the ability to provide technical expertise and know-how to contribute to the financial and economic development of Malaysia. Unbound for reinsurance companies. (4) Unbound except for the categories of natural persons referred to under market access.	

(10) Refers to the branches of foreign insurance companies specified in Malaysia's Schedule of Specific Commitments under GATS.

(11) Refers to the existing foreign shareholders specified in Malaysia's Schedule of Specific Commitments under GATS.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
II. FINANCIAL SERVICES ACTIVITIES			

A. BANKING AND OTHER FINANCIAL SERVICES, EXCLUDING INSURANCE			
Acceptance of deposits, and other repayable funds from the public, wholesale and retail	(1) Soliciting, advertising, and acceptance of deposits in Malaysia are not allowed. (2) None (3) Only permitted through a commercial bank, an investment bank, or an offshore bank. Offshore banks in Labuan are permitted to accept foreign currency deposits only. Offshore investment banks in Labuan are not permitted to accept deposits. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	(1) None (2) None (3) For commercial banks, unbound for branching (including off-premises Automated Teller Machines) and networking with Automated Teller Machines in Malaysia. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	
Lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions	(1) Financial services associated with lending to residents in any currency in excess of an equivalent of RM25 million must be undertaken jointly with commercial banks or investment banks in Malaysia. (2) Financial services associated with lending to residents in any currency in excess of an equivalent of RM25 million must be undertaken jointly with commercial banks or investment banks in Malaysia. (3) Entry as a non-bank (12) is limited to: (a) foreign financial institutions through the establishment of a locally incorporated joint venture company and aggregate foreign shareholding in such company shall not exceed 30 per cent; or (b) a representative office. Representative offices can only undertake research and liaison services. Provision of factoring services by a commercial bank requires the setting up of a separate entity and shareholding by a foreign-controlled commercial bank shall not exceed 30 per cent. Investment banks are not permitted to provide consumer credit and home mortgages. Only commercial banks are permitted to provide overdraft facilities. Offshore banks and offshore investment banks are permitted to lend in foreign currencies only. (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except one foreign national for a management post which is not the Chief Executive Officer post, for each establishment.	(1) None (2) None (3) Foreign-controlled banking institutions in Malaysia are allowed to extend credit facilities (including factoring and leasing) up to a maximum of 50 per cent of the total credit facilities obtained by non-resident controlled companies from banking institutions. For commercial banks, unbound for branching (including off-premises Automated Teller Machines) and networking with Automated Teller Machines in Malaysia. (4) For banks, unbound except as indicated in the Financial Services Horizontal	

	For each representative office of a non-bank, two foreign nationals subject to only one foreign national for the two top posts. Entry shall be limited to a maximum period of five years.	Commitments. For non-banks, unbound except for the categories of natural persons referred to under market access.	

(12) Means any non-bank for scheduled businesses as referred to in Malaysia's Schedule of Specific Commitments under GATS.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Financial leasing	(1) Leasing services to residents in any currency must be undertaken jointly with leasing companies or investment banks in Malaysia. (2) Leasing services to residents in any currency must be undertaken jointly with leasing companies or investment banks in Malaysia. (3) Provision of leasing services by a commercial bank requires the setting up of a separate entity and shareholding by a foreign-controlled commercial bank shall not exceed 49 per cent. Entry as a non-bank is limited to: (a) foreign financial institutions through the establishment of a locally incorporated joint venture company and aggregate foreign shareholding in such company shall not exceed 49 per cent; or (b) a representative office. Representative offices can only undertake research and liaison services. Entry is permitted through the establishment of a branch or subsidiary in Labuan by reputable foreign leasing companies. Such offshore entity can only transact in foreign currencies. Offshore banks and offshore investment banks are permitted to carry on financial leasing business in foreign currencies only. (4) Unbound except two foreign nationals, one for a management post which is not the Chief Executive Officer post and one technical post, for each establishment. For each representative office, two foreign nationals subject to one foreign national for the two top posts. Entry shall be limited to a maximum period of five years. For offshore leasing companies, unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	(1) None (2) None (3) None (4) Unbound except for the categories of natural persons referred to under market access. For offshore leasing companies, unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	
		(1) None (2) None (3) For commercial banks, unbound for branching	

All payment and money transmission services, namely credit and debit cards, travellers cheques, and bankers drafts	(1) Electronic fund transfer system requires approval. (2) None (3) Offshore banks are permitted to extend payment and money transmission services to non-residents only. Only commercial banks are permitted to issue credit cards or debit cards, or to provide checking account services. Sale or purchase of foreign currency and purchase of travellers cheques other than by commercial banks require money changer's licence. Entry is limited to establishment of a locally incorporated joint venture company and aggregate foreign shareholding in such company shall not exceed 30 per cent. (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except one foreign national for a management post which is not the Chief Executive Officer post for each establishment. Entry shall be limited to a maximum period of five years.	(including off-premises Automated Teller Machines) and networking with Automated Teller Machines in Malaysia. Branching (including dispensers) is permitted for travellers cheques companies with foreign shareholding not exceeding 30 per cent. (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except for the category of natural persons referred to under market access.	
Charge cards	(1) None (2) None (3) Entry is limited to establishment of a company incorporated in Malaysia. Approval of the Central Bank is required. (4) Unbound except two senior managers for each establishment. Entry shall be limited to a maximum period of five years.	(1) None (2) None (3) None (4) Unbound except for the category of natural persons referred to under market access.	
Guarantees and commitments	(1) None except banks established in Malaysia may be given the right of first refusal. (2) None except banks established in Malaysia may be given the right of first refusal. (3) None (4) Unbound except as indicated in the Financial Services Horizontal Commitments herein, and in the Horizontal Commitments in the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on Temporary Movement of	(1) None (2) None (3) None (4) Unbound except as indicated in the Financial Services Horizontal Commitments herein, and in the Horizontal Commitments in the Schedule of Malaysia in	

	Natural Persons).	Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons).	
Money and foreign exchange broking services	(1) Broking services, involving the Ringgit and financial instruments issued in Malaysia must be effected through authorised dealers and money and foreign exchange brokers incorporated in Malaysia. (2) Broking services, involving the Ringgit and financial instruments issued in Malaysia (3) Entry is limited to: (a) equity participation in existing institutions (13) and aggregate foreign shareholding in such institutions shall not exceed 30 per cent; or (b) the establishment of a branch or subsidiary, by a money and foreign exchange broker, registered or incorporated in Labuan. Money and foreign exchange broking services by offshore entities are confined to foreign currencies only. (4) Unbound except for offshore money and foreign exchange brokers. For offshore money and foreign exchange brokers, unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	(1) None (2) None (3) None (4) Unbound except for offshore money and foreign exchange brokers. For offshore money and foreign exchange brokers, unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	

(13) Refers to the existing institutions specified in Malaysia's Schedule of Specific Commitments under GATS. must be effected through authorised dealers and money and foreign exchange brokers incorporated in Malaysia.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	(1) Dealing in securities for account of customers is limited to securities traded on recognised stock exchanges. Dealing in derivatives for account of customers is limited to derivatives contracts traded on the derivatives market of a Specified Exchange and are not contracts prohibited by the Malaysian regulatory authorities. (2) None (3) Transactions by offshore banks and offshore investment banks in Labuan must be conducted in foreign currencies, except for the sale or purchase of currencies with authorised banks in Malaysia. Transactions by offshore banks and offshore investment banks in Labuan for own account are limited to instruments created and issued by offshore companies in Labuan and foreign companies abroad. Trading for accounts of customers by offshore banks, offshore investment banks, and offshore companies in		

Trading for own account or account of customers in the following: (a) money market instruments; (b) foreign exchange; (c) transferable securities; (d) exchange rate and interest rate instruments; (e) derivative products, including futures and options; and (f) other negotiable instruments, including bullion.	Labuan is confined to non-resident customers and in instruments created and issued by offshore companies in Labuan and foreign companies abroad. Trading in shares of Malaysian companies by offshore banks, offshore investment banks, and offshore companies in Labuan is confined to non-resident customers who are not offshore companies registered or incorporated in Labuan. Only commercial banks, offshore banks, and offshore investment banks are permitted to trade in foreign currency. None for trading for own account in: (a) securities that are listed on the Malaysian stock exchange; and (b) standardised derivatives listed on the Malaysian derivatives exchange. Trading for accounts of customers by a non-bank in securities that are listed on the Malaysian stock exchange is only permitted through equity participation in an existing locally incorporated company licensed by the Securities Commission Malaysia to deal in securities. Aggregate foreign shareholding in such a company is limited to 49 per cent. Authorisation will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of license, registration, or approval, as the case may be. Trading for accounts of customers by a non-bank in standardised derivatives that are listed on the Malaysian derivatives exchange is only permitted through equity participation in an existing locally incorporated company or establishment of a locally incorporated company licensed by the Securities Commission Malaysia to deal in derivatives. Aggregate foreign shareholding in such a company is limited to 30 per cent. Authorisation will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of license, registration, or approval, as the case may be. (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	(1) None (2) None (3) None (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	
	(1) Participation in issues and services related to such issues requires authorisation. (2) Participation in issues and services related to such issues requires authorisation. (3) Participation by offshore banks and offshore investment banks in Labuan is limited to non-resident customers and for issues of securities outside Malaysia. Only persons who are authorised by the Securities Commission	(1) None (2) None (3) None (4) For banks, unbound except as indicated in the Financial	

Services related to the issues of all kinds of securities and placement as agents (whether publicly or privately) (excluding issuing and rating houses)	Malaysia and/or the Malaysian stock exchange are permitted to make submissions related to the issues of securities and offer services related to the issues of securities and placement as agents. Participation by a non-bank is permitted only through equity participation in an existing locally incorporated company licensed by the Securities Commission Malaysia to deal in securities. Aggregate foreign shareholding in such a company is limited to 49 per cent. Authorisation will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of licence, registration, or approval, as the case may be. Unbound for appointment as principal dealers. (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	
Underwriting	(1) Commercial presence is required. (2) Authorisation is required. (3) Participation as a non-bank is only permitted through equity participation in an existing locally incorporated company licensed by the Securities Commission Malaysia to deal in securities. Aggregate foreign shareholding in such a company is limited to 49 per cent. Authorisation will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of licence, registration, or approval, as the case may be. Commercial banks are permitted to underwrite corporate bonds only. Offshore banks and offshore investment banks are permitted to underwrite foreign currency denominated securities created and issued by offshore companies in Labuan and foreign companies abroad. (4) For commercial banks, investment banks, offshore banks, and offshore investment banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	(1) Unbound (2) None (3) None (4) For commercial banks, investment banks, offshore banks, and offshore investment banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the	

		Temporary Movement of Natural Persons).	
Asset management as follows: (a) cash or portfolio management; (b) all forms of collective investment management; and (c) custodial and depository services.	(1) Commercial presence is required. (2) None (3) Asset management by offshore banks, offshore investment banks, and offshore companies is confined to non-resident customers and foreign currency assets. Asset management by offshore banks, offshore investment banks, and offshore companies in Malaysian equities or equity linked investments is confined to non-residents which are not offshore companies registered in Labuan. Asset management by a commercial bank requires establishment as a separate entity. Shareholding by a foreign-controlled commercial bank shall not exceed 30 per cent. Entry as a non-bank to undertake fund management activities is only permitted through equity participation in an existing locally incorporated company or establishment of a locally incorporated company licensed by the Securities Commission Malaysia to carry on fund management activities. Aggregate foreign shareholding in such a company is limited to 30 per cent. Authorisation will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of licence, registration or approval, as the case may be. (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	(1) None (2) None (3) None (4) For banks, unbound except as indicated in the Financial Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	
	(1) Commercial presence is required. (2) Services other than investment and portfolio advice to residents must be undertaken jointly with commercial banks in Malaysia. (3) Entry as a non-bank is only permitted through: (a) equity participation in an existing locally incorporated company or establishment of a locally incorporated company licensed by the Securities Commission Malaysia to carry on corporate finance advisory activities. Aggregate foreign shareholding in such a company is limited to 30 per cent; (b) equity participation in an existing locally incorporated company or establishment of a locally incorporated company licensed by the Securities Commission Malaysia to carry on financial planning activities. Aggregate foreign shareholding in such a company is limited to 49 per cent; (c) equity participation in an existing	(1) None (2) None (3) None (4) For banks, unbound except as indicated in the Financial	

Advisory, intermediation, and other auxiliary financial services, including credit reference and analysis, investment advice on acquisitions, and corporate restructuring and strategy	locally incorporated company or establishment of a locally incorporated company licensed by the Securities Commission Malaysia to carry on investment advisory activities. Aggregate foreign shareholding in such a company is limited to 30 per cent; or (d) a representative office. Representative offices (including those of commercial banks, investment banks, and securities companies) are permitted to undertake information research and liaison services only. Representative offices are not permitted to publish and circulate research work in Malaysia. Authorisation to carry on the activities as mentioned in (a), (b), and (c) above will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of licence, registration, or approval, as the case may be. Offshore banks, offshore investment banks, and offshore companies in Labuan can only provide services to non-resident customers. (4) For banks, one specialist or expert per organisation. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons). For each representative office, three foreign nationals subject to only one foreign national for the two top posts and the other two for managerial level posts. Entry shall be limited to a maximum period of five years.	Services Horizontal Commitments. For non-banks, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons).	
Operational headquarters (OHQ) for financial sector (provides services to commercial and investment banking institutions in activities relating to work carried out in Malaysia for its offices and related companies outside Malaysia, pertaining to general management and administration, business	(1) Unbound* (2) Unbound* (3) Only through a locally incorporated wholly foreign-owned company. A foreign-owned company, a regional office of a foreign-owned company which transfers its OHQ services to Malaysia, a regional office of a foreign-owned company established in Malaysia, and a foreign-owned company which is already incorporated in Malaysia, may seek to qualify as an OHQ. An OHQ must operate in Malaysia and fulfil the following criteria: (a) carry out at least three of the OHQ service activities; (b) have a sizable network of companies outside Malaysia which includes the parent company or its head office and related companies; (c) have a well-established foreign-owned company which is sizeable in terms of assets and employees; (d) have a network of companies with a substantial number of qualified executives, professionals, technical, and other supporting personnel; (e) be able to make decisions independently without consultation with its head office or parent company located outside Malaysia; and (f) be	(1) Unbound* (2) None (3) None (4) None	

planning, technical support, marketing control and sales promotion planning, training and personnel management, provision of treasury and fund management services, and research and development)	able to contribute to the Malaysian economy by: (i) using services such as legal, accounting etc. provided by Malaysians; (ii) creating job opportunities for Malaysians; and (iii) enabling greater inflow of foreign funds. (4) Unbound except one specialist or expert per organisation subject to the following conditions: (a) such persons must possess knowledge at an advanced level of continued expertise and must possess proprietary knowledge of the establishment's new service products and technology, research equipment and techniques, or management; and (b) entry shall be limited to a period of five years which may be renewed.		
Securities broking services	(1) Trades on Malaysian stock exchanges must be transacted through locally incorporated companies in Malaysia which are participating organisations of the stock exchange. (2) Trades on Malaysian stock exchanges must be transacted through locally incorporated companies in Malaysia which are participating organisations of the stock exchange. (3) Entry as a non-bank is only permitted through equity participation in an existing locally incorporated company licensed by the Securities Commission Malaysia to deal in securities. Aggregate foreign shareholding in such a company is limited to 49 per cent. Authorisation will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of license, registration, or approval, as the case may be. Representative offices (including those of commercial banks, investment banks, and securities companies) are permitted to undertake information research and liaison services only. Representative offices are not permitted to publish and circulate research work in Malaysia. (4) For stockbroking companies, unbound except as indicated in the Horizontal Commitments of the Schedule of Malaysia in Annex IV (Schedules of Specific Commitments on the Temporary Movement of Natural Persons). For each representative office, two foreign nationals subject to only one foreign national for the two top posts. Entry shall be limited to a maximum period of five years.	(1) None (2) None (3) None (4) Unbound except for the categories of natural persons referred to under market access.	
	(1) Trades on any Malaysian derivatives exchange must be conducted through locally incorporated companies which are trading participants of the derivatives exchange. (2) Trades on any Malaysian derivatives exchange must be		

Commodity futures broking services	conducted through locally incorporated companies which are trading participants of the derivatives exchange. (3) Entry as a non-bank is only permitted through: (a) equity participation in an existing locally incorporated company or establishment of a locally incorporated company licensed by the Securities Commission Malaysia to deal in derivatives. Aggregate foreign shareholding in such a company is limited to 30 per cent. Authorisation will not be granted unless the application is determined, by the Securities Commission Malaysia, to be in the best interest of Malaysia. Authorisation includes grant of licence, registration, or approval, as the case may be; or (b) a representative office. Representative offices (including those of commercial banks, investment banks, and securities companies) are permitted to undertake information research and liaison services only. Representative offices are not permitted to publish and circulate research work in Malaysia. (4) Unbound except one foreign national for a management post per establishment, subject to market test.	(1) None (2) None (3) None (4) Unbound except for the category of natural persons referred to under market access.	
B. INSURANCE SERVICES			
Direct insurance (non-life)	(1) Soliciting and advertising in Malaysia are not allowed. Approval of the Central Bank is required for direct placement abroad of insurance of: (a) movable or immovable property located in Malaysia, including any ship or aircraft registered in Malaysia; and (b) liability of residents to third party. Approval will be granted if such insurance is not available from direct insurance companies in Malaysia. (2) Approval of the Central Bank is required for direct placement abroad of insurance of: (a) movable or immovable property located in Malaysia, including any ship or aircraft registered in Malaysia; and (b) liability of residents to third party. Approval will be granted if such insurance is not available from direct insurance companies in Malaysia. (3) Only permitted through direct insurance companies. Offshore direct insurance companies in Labuan are not permitted to accept direct insurance of Malaysian risks. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	(1) None (2) None (3) Branching is permitted for direct insurance companies with aggregate foreign shareholding of less than 50 per cent. Direct insurance companies are permitted to maintain their existing network of branches (14). Unbound for special assistance to Malaysian-owned direct insurance companies to promote their development. (4) Unbound except as	

		indicated in the Financial Services Horizontal Commitments.	

(14) Refers to the network of branches specified in Malaysia's Schedule of Specific Commitments under GATS.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Direct insurance (life)	(1) Unbound (2) Unbound (3) Only permitted through direct insurance companies. Investment-linked insurance business and new life insurance products provided by direct insurance companies require approval. Offshore direct insurance companies in Labuan are not permitted to underwrite life insurance of residents. This limitation does not apply to ordinary life insurance of high net worth residents by offshore direct insurance companies in Labuan. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	(1) Unbound (2) Unbound (3) Branching is only permitted for direct insurance companies with aggregate foreign shareholding of less than 50 per cent. Direct insurance companies are permitted to maintain their existing network of branches (15). Unbound for special assistance to Malaysian-owned direct insurance companies to promote their development. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	

(15) Refers to the network of branches specified in Malaysia's Schedule of Specific Commitments under GATS.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Reinsurance and retrocession (non-life)	(1) Outward reinsurance is permitted only if local capacity is not available. (2) Outward reinsurance is permitted only if local capacity is not available. (3) Obligation on all insurers other than offshore direct insurance and offshore reinsurance companies to optimise national retention capacity before any outward reinsurance. Unbound for new licences. Aggregate foreign shareholding in the Malaysian Reinsurance Berhad shall not exceed 30 per cent. Entry as an offshore reinsurance company is confined to Labuan. (4) Unbound except as indicated in the Financial Services	(1) Voluntary cession up to 30 per cent of each class of non-life reinsurance business to the Malaysian Reinsurance Berhad. Unbound for fiscal incentives to promote reinsurance in Malaysia. (2) Voluntary cession up to 30 per cent of each class of non-life reinsurance business to the Malaysian Reinsurance Berhad. Unbound for fiscal incentives to promote reinsurance in Malaysia. (3) Unbound for measures granting special position to the Malaysian Reinsurance Berhad. (4) Unbound except as indicated in the Financial Services Horizontal Commitments. For offshore	

	Horizontal Commitments.	reinsurance companies, unbound except as indicated in the Financial Services Horizontal Commitments.	
Reinsurance and retrocession (life)	(1) Outward reinsurance is permitted only if local capacity is not available. (2) Outward reinsurance is permitted only if local capacity is not available. (3) National retention capacity is required to be optimised before any outward reinsurance by: (a) direct life insurance and life reinsurance companies in Malaysia; and (b) offshore direct life insurance and offshore life reinsurance companies which are permitted to insure or reinsure life insurance of high net worth residents. Unbound for new licences. Aggregate foreign shareholding in the Malaysian Life Reinsurance Group Berhad shall not exceed 30 per cent. Entry as an offshore reinsurance company is confined to Labuan. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	(1) Unbound for fiscal incentives to promote reinsurance in Malaysia. (2) Unbound for fiscal incentives to promote reinsurance in Malaysia. (3) None (4) Unbound except as indicated in the Financial Services Horizontal Commitments. For offshore reinsurance companies, unbound except as indicated in the Financial Services Horizontal Commitments.	
Insurance intermediation – insurance broking (excluding agency)	(1) Direct insurance broking services can only be provided to offshore companies in Labuan. Reinsurance broking is permitted. (3) Unbound for onshore insurance broking. Broking of direct insurance of Malaysian risks by offshore insurance brokers is not permitted. This limitation does not apply to broking of reinsurance of Malaysian risks. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	(1) None (2) None (3) None (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	
Insurance intermediation – insurance	(1) Insurance underwriting and insurance management are not permitted. (2) Insurance underwriting and insurance management are not permitted. (3) Unbound for onshore insurance underwriting and insurance management. An offshore insurance underwriting manager is not permitted to	(1) None (2) None (3) None (4) Unbound except as indicated	

underwriting and insurance management	provide services to any person other than offshore insurance companies in Labuan. An offshore insurance manager is permitted to provide insurance management services to persons other than residents. (4) Unbound except as indicated in the Financial Services Horizontal Commitments.	in the Financial Services Horizontal Commitments.	
Services auxiliary to insurance as follows: (a) consultancy (excludes insurance agency services to insurance industry); (b) actuarial risk assessment; (c) risk management; and (d) maritime loss adjusting.	(1) Actuarial services can only be provided to offshore insurance companies and offshore reinsurance companies in Labuan. (2) None (3) Limited to the establishment of: (a) locally incorporated companies; (b) branches; or (c) partnerships. Offshore companies are not permitted to provide services to Malaysian residents. (4) Unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	(1) None (2) None (3) None (4) Unbound except for presence of natural persons in respect of supply of a service through the mode of commercial presence.	

Myanmar

List A. Explanatory Notes

1. This List sets out pursuant to Article 10.8 (Reservations and Non-Conforming Measures), Myanmar's existing measures that do not conform to the obligation under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); and

(d) Article 10.7 (Senior Management and Board of Directors).

2. This List sets out the following elements:

(a) Sector refers to the sectors for which the non-conforming measure is taken;

(b) Subsector refers to specific sectors for which the entry is made;

(c) Industry Classification refers to the activities covered by the entry according to:

(i) the Central Product Classification (CPC) of the United Nations Statistics Division Version 2.1; or

(ii) International Standard Industrial Classification (ISIC) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying;

(d) Level of Government means the level of government either Central or Regional which maintains the measure for which an entry is taken;

(e) Type of Obligation refers to the obligations which do not apply to the listed measures;

(f) Description of Measure refers to measure that do not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors), as the case may be, which do not apply to the listed measures;

(g) Source of Measure means the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In the interpretation of an entry, all elements of an entry shall be considered. The Description of Measure element shall prevail over all other elements.

4. Notwithstanding the entries contained in this List, if there is overlap between the contents of this List and List B, Myanmar may adopt or maintain relevant measures in accordance with List B.

5. For the purposes of this List:

(a) “Direct Investment” means an investment in which the investor has the right to control, influence or manage, of such assets which are invested by the investor within the Union in accordance with its laws and regulations;

(b) “Foreign Investment” means any direct investment made by a foreign investor within the Union; and

(c) “Myanmar” or “Union” means the Republic of the Union of Myanmar.

6. For greater certainty, Myanmar reserves the right to adopt or maintain any measure with regard to investments in services sectors that are consistent with Chapter 8 (Trade in Services).

1.

Sector : All Sectors Subsector : - Manufacturing of products for security and defense being specified by the notification of the Government of Myanmar from time to time. (ISIC 2927, 7522) - Manufacturing and related services of arms and ammunition for the national defense. (ISIC 2927) - Issuing the national postage stamps; establishment and hiring of post office and post boxes which are only to be performed by the post office operator on behalf of the Union. (ISIC 6411, 2221) - Management of natural forest and forest area except the business relating to reduction of carbon emission (ISIC 0200) - Feasibility study and production of radioactive metals such as uranium and thorium (ISIC 1200, 2330) - Control of electric power system (CPC 8631) - Inspection of electrical business (CPC 8621) Industry Classification : ISIC, CPC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : The above mentioned subsectors are to be carried out only by the Union. Source of Measure : - Myanmar Investment Law (2016), Section 42 (a) - Myanmar Investment Commission Notification No. 15/2017, paragraph (A): List of Economic Activities that can be conducted by the State.

2.

Sector : All Sectors Subsector : - Publishing and distribution of periodicals in ethnic languages including Myanmar (ISIC 2212, CPC 3241, 8911, 8912) - Freshwater fishing and related services (ISIC 0500, CPC 0421, 8615) - Establishment of quarantine station for exportation and importation of animals (Livestock Breeding and Veterinary Department shall undertake to inspect animals and to issue permits) (ISIC 0500, CPC 8352, 8359, 8612) - Extraction of forest products from forest area and government administered natural forest (ISIC 0200) - Prospecting, exploration feasibility study and production of mineral for small and medium scale businesses in accordance with the Mines Law (ISIC 1110, 1421, 1429) - Refinement of minerals by medium scale and small scale (ISIC 2320) - Performing shallow oil wells up (ISIC 1030, 1110) - Printing and issuing sticker for visa and stay permit for foreigners (ISIC 2221, 6411, CPC 89122, 91210) - Prospecting, exploration and production of jade or gem stones (ISIC 1429, 3691) Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Foreign investors are not allowed to carry out the investment activities in the above mentioned subsectors. Source of Measure : - Myanmar Investment Law (2016), Section 42 (a) Myanmar Investment Commission Notification No. 15/2017, paragraph (B): Investment activities that are not allowed to be carried out by foreign investors.

3.

Sector : All Sectors Subsector : - Construction for fish landing site or fishing harbour and fish auction market (ISIC 0500, 4520, 4530) - Research activities related with fishery (CPC 8114) - Veterinary clinic (CPC 8351, 8352, 8559) - Cultivation of crops in agriculture land, distribution of agriculture products for local market and export (ISIC 0111, 0112) - Manufacturing and domestic marketing of plastic product (ISIC 2520, 1920) - Manufacturing and domestic distribution of chemicals based on available natural resources (ISIC 1110, 1120, 2411) - Manufacturing and domestic distribution of flammable solid, liquid, gaseous fuel and aerosol (Acetylene, Gasoline, Propane, Hair Sprays, Perfume, Deodorant, Insect spray) (ISIC 2411, 4020, 5141, 5050, 2320, 2424) - Manufacturing and domestic marketing of oxidant (Oxygen, Hydrogen Peroxide) and compressed gas (Acetone, Argon, Hydrogen, Nitrogen, Acetylene) (ISIC 2411, 2812) - Manufacturing and domestic marketing of corrosive chemical (Sulphur Acid, Nitric Acid) (ISIC 2411, 2421, 2429) - Manufacturing and distribution of industrial chemical gas including compressed, liquefied and solid forms (ISIC 2411, 2412, 2429, 2330, 5149) - Value added manufacturing and domestic distribution of cereal product such as biscuit, wafer, all kinds of noodles and vermicelli (ISIC 1531, 1544, 1549) - Manufacturing and domestic distribution of all kind of confectionery including those of sweet, cocoa and chocolate (ISIC 1543, 2925) - Preserving, canning, processing and domestic distribution of food product except milk and dairy product (ISIC 1512, 1513, 1532, 1542) - Manufacturing and domestic marketing of malt and malt liquors and non-aerated products (ISIC 1553) - Manufacturing, distilling, blending, rectifying, bottling and domestic distribution of all kinds of spirits, alcohol, alcoholic beverages and non-alcoholic beverages (ISIC 1551, 1552, 1554, 3131) - Manufacturing and domestic distribution of all kinds of purified ice (ISIC 1554, 4100) - Manufacturing and domestic distribution of purified drinking water (ISIC 1554, 4100) - Manufacturing and domestic distribution of all kinds of soap (ISIC 2424, 5139, 5211) - Manufacturing and domestic wholesale of all kinds of cosmetic product (ISIC 5139, 5211) - Development, sale and lease of residential apartment and condominium (ISIC 4520, 4530, 7010) - Movie production (ISIC 9211, 9213, 9214) Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Foreign investors are allowed to carry out the investment activities in the above mentioned subsectors only in the form of a joint venture with Myanmar citizen owned entity or Myanmar citizen. The foreign equity ratio shall not be more than 80 per cent in the joint venture company under the Myanmar Investment Rules. Source of Measure : - Myanmar Investment Law (2016), Section 42 (c) - Myanmar Investment Rules, rule 22 - Myanmar Investment Commission Notification No. 15/2017, paragraph (C)

4.

Sector : Manufacturing Subsector : - Manufacturing and distribution of medicines which are produced by using narcotic drugs and psychotropic substances (ISIC 3522) - Cross ownership between Print Media and Broadcasting Media Service (ISIC 2211-2230) - Publishing of periodical newspapers in foreign languages (ISIC 2212) - Manufacturing and distribution of veterinary biological products (ISIC 7310) - Manufacturing and distribution of veterinary medicines (ISIC 3311) - Production, storage, distribution and exporting of agricultural insecticide, fertilizer, hormone, weed killer, etc. (ISIC 2411- 2412) - Production and domestic marketing of mobile handset and telephone (ISIC 3220) - Large scale manufacturing of pulp for paper (ISIC 3411, 2021, 2101) - Manufacturing of vaccine (ISIC 2423) - Research on vaccine and diagnostic test kit production (ISIC 7310-7320) - Manufacturing and maintenance of locomotives, carriages, wagons and spare parts and maintenance of railway (ISIC 2710, 2811, 2911, 2915, 3190, 3520, 3710) - Generation of electric power to be used for train operation (ISIC 3110) - Production and distribution of satellite communication items (ISIC 3530, 6220, 6420) - Production and distribution of radar communication items and related equipment (ISIC 3312, 6420, 3832) - Production and distribution of radio communication items (ISIC 3210, 3220, 3230, 9213) - Production and domestic marketing of bridge connection items (PC Strand, PC bar, Anchor, etc.), steel frame, bally frame, plate girder, steel truss, bridge and related steel structure concrete, steel concrete, compressive strength of concrete and etc. (ISIC 4520, 4530, 4540, 2695, 2710, 6303, 2811) Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of Myanmar Investment Commission Notification No. 15/2017. Source of Measure : - Myanmar Investment Law (2016), Section 42 (d) - Myanmar Investment Commission Notification No. 15/2017, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

5.

Sector : Agriculture Subsector : - Commercial livestock farming (ISIC 1110) - Breeder farm and hatchery (poultry) (ISIC 0140, 1511) - Genetical research, genetic conservation and distribution of animal breeds (ISIC 5121, 7310) - Importation, production and marketing of animal breeds (breeding animals, frozen semen straw and embryos) (ISIC 0121, 0140, 0122) - Laboratory services for the safety of animal feeds and animal products (ISIC 1533, 2429) - Laboratory services for the animal diseases diagnosis (ISIC 1533, 2429, 8511) - Services on research and surveillance for animal health (ISIC 8520) - Importing, production, domestic marketing and re-exporting of seed (ISIC 2921, 5239) - Importing, production and distribution of new species of plant (ISIC 0111, 0112, 2421) - Production and exporting of hybrid seeds (ISIC 0111, 0112, 0113, 1514, 2921) -

Laboratory services for agriculture (ISIC 2919) - Research on agriculture and agricultural products (ISIC 7310) - Production of seasonal crops (ISIC 0113, 0111, 3699) - Traditional herbal cultivation and production (ISIC 0111, 0112, 2421) - Traditional medicine research and laboratory (ISIC 3311, 2423) - Pearl culturing and production (ISIC 0501, 3691) Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of Myanmar Investment Commission Notification No. 15/2017. Source of Measure : - Myanmar Investment Law (2016), Section 42 (d) - Myanmar Investment Commission Notification No. 15/2017, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

6.

Sector : Fishery Subsector : - Investment in relation to fisheries resources and fish species (ISIC 0501, 0502) - Marine fishing (ISIC 0501) Industry Classification (ISIC / CPC) : ISIC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of Myanmar Investment Commission Notification No. 15/2017. Source of Measure : - Myanmar Investment Law (2016), Section 42 (d) - Myanmar Investment Commission Notification No. 15/2017, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

7.

Sector : Fishery Subsector : - Fishing of marine fish, prawn and other aquatic organism (ISIC 0501) - Service related to processing on board for fish crustaceans and mollusk and other related services and exploitation of sea-products (ISIC 1511, 1512, 1549) - Service related to exploitation of freshwater fishery (ISIC 0501) - Quarantine quality control of aquaculture and processing product, service on supply of feed, medicine and chemical for aquaculture (ISIC 0502, 1512) Industry Classification (ISIC / CPC) : ISIC / CPC 88200 Level of Government : Central (Marine Fisheries), State and Region (Fresh water) Type of Obligation : National Treatment (Article 10.3) Description of Measure : If the investors desire to engage in a fishery in the exclusive economic zone, they shall apply to the Department of Fisheries in the prescribed form. Such an investor shall form a joint venture with State Organisation, current joint venture company or private Myanmar company, subject to the approval of the Government of Myanmar. In exceptional circumstances, the investor may apply for permission to operate a fishery in other fisheries water. [Chapter 3, para 6 of the Law relating to the Fishing Rights of Foreign Vessels (Law No. 11/89)] An investor who has been granted a fishery right on application under Section 6 of the Law relating to the Fishing Rights of Foreign Vessels (Law No. 11/89) shall obtain a licence and register at the Department of Fisheries. Source of Measure : - Law relating to the Fishing Rights of Foreign Vessels (Law No. 11/89) - Myanmar Marine Fisheries Law (Law No. 9/90) - According to Section 188, Table 2 of the Myanmar Constitution (2008) was transferred to ANNEX III – MY ANMAR – 15 State and Region Governments in 2011-2012 fiscal years.

8.

Sector : Forestry Subsector : - Logging in forest land and land administered by the Government of Myanmar (ISIC 0200) - Establishment of forest plantation (teak, hardwood, bamboo, cane etc) (ISIC 2010) - Wood-based industry and related businesses with implementation of forest plantation (ISIC 2010, 2021, 2023) - Eco-tourism based on forest area and natural land (ISIC 7513) - Reproduction and distribution of importing genetically modified organism and living modified organism for commercial purposes - Advanced technical research and commercial activities in production of improved valuable and rare tree species, conservation and tissue culture production (ISIC 0200, 7310, 7320) - Development of advanced technology, research and human resource in forest sector (ISIC 7320) - Importing of wildlife animals and plants for breeding and production, distribution at local or overseas through importation and exportation for commercial purposes (ISIC 0121, 0122, 0130) - Prospecting, survey, feasibility study and exploration with foreign investment for large scale production of mineral (ISIC 2699, 7422, 1421, 1429) Industry Classification (ISIC / CPC) : ISIC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Description of Measure : Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of Myanmar Investment Commission Notification No. 15/2017. Source of Measure : - Myanmar Investment Law (2016), Section 42 (d) - Myanmar Investment Commission Notification No. 15/2017, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries.

9.

Sector : Forestry Subsector : - Extraction of teak and sale of teak (ISIC 0200) - Wood-based industry (ISIC 2010) - Cultivation

and conservation of forest plantation with the exception of village-owned fire-wood plantation cultivated by the villager for personal use (ISIC 0200) Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : According to Section 4 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar may, by notification, permit in the interest of Myanmar any economic enterprise which is prescribed under Section 3 to be operated solely by the Government of Myanmar to be carried out by joint-venture between the Government and any other person or any other economic organisation or by any person or any economic organisation subject to conditions. According to Section 5 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar may, by notification, prohibit or prescribe conditions regarding the purchase, procurement, improvement, storage, possession, transport, sale and transfer of products derived from or produced by or used by economic enterprises which are prescribed under Section 3 of the State-owned Economic Enterprises Law 1989 to be carried out solely by the Government of Myanmar. According to the Notification No. 86/2017 of Myanmar Investment Commission, a foreign investor shall not be allowed to operate in wood-based industries which use raw timber extracted from natural forests of Myanmar. Source of Measure : Notification No.86/2017 of Myanmar Investment Commission

10.

Sector : Mining and Quarrying Subsector : - Exploration and Extraction of Natural Gas and Petroleum (ISIC 1110) - Services relating to Exploration and Extraction of Natural Gas and Petroleum. Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : According to Section 3 of the State-owned Economic Enterprises Law 1989, exploration and extraction of natural gas and petroleum are restricted activities to be carried out solely by the Government of Myanmar. However, an investor who wants to engage in these activities shall complete the international bidding round when it is announced. The Management Committee shall consist of a total of seven members in total, four from the Myanmar side, one of whom shall act as Chairman and three from the investor side according to the agreement between the Ministry of Electric and Energy and the investor. Source of Measure : - State-owned Economic Enterprises Law (1989) - State-owned Economic Enterprises Law Related Directives

11.

Sector : Mining and Quarrying and Services incidental to Mining and Quarrying Subsector : - Prospecting, survey, feasibility study and exploration with foreign investment for large scale production of mineral (ISIC 1010, 1020, 1310, 1410) - Prospecting, survey, feasibility study and exploration with citizen investment for small, medium and large scale production of mineral (ISIC 1010, 1020, 1310, 1410) - Manufacturing and marketing of gems, jewellery and finished product with foreign investment (ISIC 1429, 3691) - Exploration, finishing and marketing of gem, jewellery and its product with citizen investment (ISIC 1429, 3691) Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Under Section 3 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar has the sole right to carry out the following economic activities as state-owned economic enterprises: 1. Exploration, extraction and export of pearl, jade and precious stone; and 2. Exploration, extraction and export of mineral; According to Section 4 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar may, by notification, permit in the interest of Myanmar any economic enterprise which is prescribed under Section 3 to be operated solely by the Government of Myanmar to be carried out by joint venture between the Government of Myanmar and any other person or any other economic organisation or by any person or any economic organisation subject to conditions. According to Section 5 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar may, by notification, prohibit or prescribe conditions regarding the purchase, procurement, improvement, storage, possession, transport, sale and transfer of products derived from or produced by or used by economic enterprises which are prescribed under Section 3 of the State-owned Economic Enterprises Law 1989, to be carried out solely by the Government of Myanmar. Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of Myanmar Investment Commission Notification No. 15/2017. Source of Measure : - The State–owned Economic Enterprises Law (No.9/89) - The Myanmar Mines Law 1994 and its Amendment Law (2015) - Myanmar Investment Law (2016), Section 42 (d) - Myanmar Investment Commission Notification No. 15/2017, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

12.

Sector : Mining and Quarrying and Services incidental to Mining and Quarrying Subsector : - Importing, producing, constructing and installing of equipment, accessory and part of installation as for construction of the various kind of offshore drilling (ISIC 3511, 4510, 1110, 1120) - Importing, producing, constructing and installing of equipment, accessory

and part of installation as for exploring and interpreting of oil and gas by geological, geophysical and geochemical methods (ISIC 3511, 4510, 1110, 1120) - Importing, producing, constructing and installing of equipment, accessory and part of installation as for exploiting, producing and researching of oil and gas (ISIC 3511, 4510, 1110, 1120) - Importing, producing, constructing and installing of equipment, accessory and part of installation as for transporting and constructing pipe line network for oil and gas (ISIC 4020, 4510, 4520, 4530) Industry Classification (ISIC / CPC) : ISIC, CPC Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Under Section 3 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar has the sole right to carry out the exploration, extraction and sale of petroleum and natural gas and production of products of the same as state-owned economic enterprises. According to Section 4 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar may, by notification, permit in the interest of Myanmar any economic enterprise which is prescribed under Section 3 to be operated solely by the Government of Myanmar to be carried out by joint venture between the Government of Myanmar and any other person or any other economic organisation or under conditions by any person or any economic organisation subject to conditions. According to Section 5 of the State-owned Economic Enterprises Law 1989, the Government of Myanmar may, by notification, prohibit or prescribe conditions regarding the purchase, procurement, improvement, storage, possession, transport, sale and transfer of products derived from or produced by or used by economic enterprises which are prescribed under Section 3 of the State-owned Economic Enterprises Law 1989 to be carried out solely by the Government of Myanmar. Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of Myanmar Investment Commission Notification No. 15/2017. Source of Measure : - The State–owned Economic Enterprises Law (No.9/89) - The Oilfields Act 1918 and its amendment law (2010) - The Petroleum and Petroleum Product Law (2017) - Myanmar Investment Law (2016), Section 42 (d) - Myanmar Investment Commission Notification No. 15/2017, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

13.

Sector : All Sectors (Land Ownership) Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central or Regional Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : State is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the State and shall permit citizens right of private property, right of inheritance, right of private initiative and patent in accordance with the Law under the Myanmar Constitution 2008. Section 50(a) of the Myanmar Investment Law (2016) provides that an investor who obtains a permit or an endorsement under this Law has the right to obtain a long-term lease of land or building from the private owned or from the relevant government departments, governmental organisations managed by the Government of Myanmar, or owned by the Union in accordance with the stipulations in order to do investment. Citizen investors may invest in their own land or building in accordance with relevant laws. Section 50(e) of the Myanmar Investment Law 2016 provides that the Government of Myanmar may grant more favorable terms and conditions for the lease of land and the use of land by Myanmar citizen investors. However, government-owned lands, lands owned by the government department, organisation and private lands owned by the citizens can be leased up to initially 50 years depending upon the category of business, industry and the volume of amount and can be extendable for two consecutive terms of 10 years subject to the approval of the Myanmar Investment Commission. Source of Measure : - The Myanmar Constitution (2008) - Myanmar Investment Law (2016) Transfer of Immovable Property Restriction Act (1987) - Farmland Law (2012), Chapter III, Section 9(a-f) - Vacant, Fallow and Virgin Lands Management Law (2012), Chapter IV, Section 11(a-e), Chapter V, Section 12,14.

14.

Sector : All Sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : According to Section 76 of the Myanmar Investment Law (2016), Myanmar reserves the right to adopt or maintain existing non-conforming measure with respect to: - funding, capacity building and training for Myanmar Citizen investors and citizen-owned small and medium enterprises; and - exemptions and reliefs for the locations where Myanmar Citizen-owned business operate or undertake other economic activities. Source of Measure : Myanmar Investment Law (2016), Section 76

15.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Myanmar reserves the right to maintain existing measures relating to the following investments activities which are stipulated as the prohibited investments under Section 41 of Myanmar Investment Law: (a)

investment activities which may bring or cause hazardous or poisonous wastes into the Union; (b) investment activities which may bring technologies, medicines, flora and fauna and instruments which are still being tested abroad, or which have not obtained approvals to use, plant or cultivate, except the investments which are made for the purpose of research and development; (c) investment activities which may affect the traditional culture and customs of the ethnic groups within the Union; (d) investment activities which may affect the public; (e) investment activities which may cause an enormous harmful impact to the natural environment and ecosystem; (f) investment activities which manufacture goods or provide services that are prohibited under the applicable laws. Source of Measure : - Myanmar Investment Law (2016), Section 41 - Myanmar Investment Rules (2017), rule 12

16.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All levels Type of Obligation : Senior Management and Board of Directors (Article 10.7) Description of Measure : Myanmar reserves the rights to maintain existing measures relating to composition of board of directors which refers that a director shall be a resident in the Union. Source of Measure : Myanmar Companies Law (2017)

List B. Explanatory Notes

1. This List sets out pursuant to Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors or activities for which Myanmar may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); and

(d) Article 10.7 (Senior Management and Board of Directors).

2. This List sets out the following elements:

(a) Sector refers to the general sectors in which an entry is made;

(b) Subsector refers to specific sectors in which an entry is made;

(c) Industry Classification refers to the activities covered by the entry according to:

(i) the Central Product Classification (CPC) of the United Nations Statistics Division Version 2.1; or

(ii) International Standard Industrial Classification (ISIC) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying;

(d) Level of Government means the level of government either Central or Regional which maintain the measure for which an entry is made;

(e) Obligation Concerned specifies the obligations referred to in paragraph 1 that, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(f) Description sets out the scope or nature of the sector, subsector, or activities covered by the entry; and

(g) Existing Measures are identified for transparency purpose only, for existing measure that apply to the sector, subsector or activities covered by the entry.

3. In the interpretation of an entry, all elements of an entry shall be considered. The Description element shall prevail over all other elements.

4. Notwithstanding the obligations contained in List A, where there is overlap between the contents of List A and this List, Myanmar may adopt or maintain relevant measures in accordance with this List.

5. In this List:

(a) “Direct Investment” means an investment in which the investor has the right to control, influence or manage, of such assets which are invested by the investor within the Union in accordance with the law;

(b) “Foreign Investment” means any direct investment made by a foreign investor within the Union; and

(c) “Union” means the Republic of the Union of Myanmar.

6. For greater certainty, Myanmar reserves the rights to adopt or maintain any measures with regard to services sectors, subject to Chapter 8 (Trade in Services).

1.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : Most-Favoured-Nation Treatment (Article 10.4) Description : Myanmar reserves the right to adopt or maintain any measure that accords more favourable treatment to the investors of non-Parties under any international agreement or arrangement in force or signed before the date of entry into force of this Agreement. Existing Measures : -

2.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : Most-Favoured-Nation Treatment (Article 10.4) Description : Myanmar reserves the right to adopt or maintain any measure and mechanism relating to: 1. Preferential treatment accorded to investors or their investments under any existing or future bilateral, regional or international agreements or arrangements, or any form of economic or regional cooperation of which Myanmar is or may become a party; and 2. Any existing or future preferential treatment accorded to investors or their investments in any agreement or arrangement between or among Member States of ASEAN. Existing Measures : -

3.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Senior Management and Board of Director (Article 10.7) Description : 1. Myanmar reserves the right to adopt or maintain any measure relating to investment or the supply of services in sectors or industries other than those recognised or other than those that should have been recognised by the Government of Myanmar owing to the circumstances at the date of entry into force of this Agreement for it. Any sectors or industries classified positively and explicitly in ISIC or CPC, at the date of entry into force of this Agreement for Myanmar should have been recognised by the Government of Myanmar at that time. 2. Myanmar reserves the right to adopt or maintain any measure with respect to new sectors or industries. Any sector classified in the ISIC Code version 3 or CPC version 2.1 as of the date of entry into force of this Agreement shall not be considered a new sector or industry for the purposes of this entry. Existing Measures : -

4.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description : Myanmar reserves the right to adopt or maintain any measure relating to national defense, public order and security. Existing Measures : -

5.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure relating to the following sectors: 1. investment which is administered and operated by law of the concerned ministries and organisations; 2. banking, insurance and financial services. Existing Measures : The State–owned Economic Enterprises Law (No.9/89)

6.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Myanmar reserves the right to adopt or maintain any measure and condition imposed in approvals for licences or permits to the companies or projects which were in existence before the date of entry into force of this Agreement. Existing Measures : -

7.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description : Myanmar reserves the right to adopt or maintain any measure, with respect to the establishment or acquisition of an investment pursuant to Section 47(a) of the Myanmar Investment Law (2016). Existing Measures : -

8.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the rights to adopt or maintain any measure relating to investment activities which may socially or economically disadvantage the indigenous people. Existing Measures : - The Myanmar Constitution (2008), Sections 96, 188 and 196 - Myanmar Investment Rules

9.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description : Myanmar reserves the rights to adopt or maintain any measure relating to the acquisition or usage of land in the territory of Myanmar, including development and usage of land or other type of activities which may be conducted on land in accordance with its land zoning, land usage, urban planning, development control, conservation and preservation policies as well as policies relating to environmental protection, nature reserve and national park. Existing Measures : -

10.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure relating to health assessment, cultural heritage impact assessment, environmental impact assessment and social impact assessment. Existing Measures : -

11.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale and rental services. Existing Measures : -

12.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure affecting the land, cultural heritage, natural and mineral resources associated with land. Existing Measures : -

13.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure affecting the administration, management and operation of any state-owned economic enterprises. Existing Measures : -

14.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned :

National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure with respect to investor or investment relating to portfolio investments. Existing Measures : -

15.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : All Levels Obligation Concerned : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure relating to special preferences or treatments granted to small and medium enterprises. Existing Measures : - Myanmar Investment Law (2016) - Myanmar Companies Law (2017) - Small and Medium Enterprises Development Law (2015)

16.

Sector : All sectors Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : According to rule 12 of the Myanmar Investment Rules, the Myanmar Investment Commission may issue notifications of prohibited investment activities with the approval of the Government of Myanmar accordingly. Existing Measures : - Myanmar Investment Law (2016) - Myanmar Investment Rules (2017)

17.

Sector : Manufacturing Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central or Regional Obligation Concerned : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Myanmar reserves the right to adopt or maintain any measure with respect to the following investment activities: 1. tobacco and tobacco related products; 2. manufacturing and marketing of malt and malt liquors and non-aerated products; and 3. distilling, blending, rectifying, bottling and marketing of all kinds of spirits, alcohol, alcoholic beverages and non-alcoholic beverages. Existing Measures : -

18.

Sector : Agriculture Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central or Regional Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure with respect to any agriculture activity relating to the following: 1. production and cultivating of seasonal crops; 2. contract farming; 3. production and exportation of oil seed; 4. production and cultivating of perennial crop; 5. production of orchards; and 6. exploration, extraction and export of pearls. Existing Measures : -

19.

Sector : Fishery Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central or Regional Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description : Myanmar reserves the right to adopt or maintain any measure with respect to marine fishing, breeding and production of fish and prawns in fresh water and seawater. Existing Measures : The State-owned Economic Enterprises Law (1989)

20.

Sector : Forestry Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central or Regional Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure with respect to the extraction of wood and teak, logging in forest land and land administered by the Government of Myanmar, sale of teak, wood and wood product within the country and abroad, and any activity relating to wood industry which uses raw timber extracted from natural forests. Existing Measures : - Notification No. 86/2017 of Myanmar Investment Commission - The State-owned Economic Enterprises Law (1989)

21.

Sector : Mining and Quarrying and Services incidental to Mining and Quarrying Subsector : - Industry Classification (ISIC /

CPC) : - Level of Government : Central or Regional Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure with respect to: - exploration, production and sale of natural gas and petroleum; - services relating to exploration and production of natural gas and petroleum; - exploration, extraction and export of metals; - exploration, extraction and export of jade and precious stones; and - exploration, extraction and export of construction and decoration rock. Existing Measures : The State-owned Economic Enterprises Law (1989)

22.

Sector : Mining and Quarrying and Services incidental to Mining and Quarrying Subsector : - Industry Classification (ISIC / CPC) : - Level of Government : Central or Regional Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure with respect to prospecting, exploration, production, purchasing, storing, processing, transportation, selling and transferring of any mineral, gemstone, metallic mineral, industrial mineral or stone pursuant to the Myanmar Mines Law and its amendment Law. Existing Measures : - The Myanmar Mines Law, 1994 and its amendment Law (2015) - The State-owned Economic Enterprises Law (1989)

23.

Sector : Electricity Generating Subsector : Electricity Generating and Electricity Generating Services Industry Classification (ISIC / CPC) : - Level of Government : Central or Regional Obligation Concerned : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Myanmar reserves the right to adopt or maintain any measure with respect to prospecting, exploration, production, purchasing, storing, processing, transportation, selling and transferring of any electricity generation pursuant to the State-owned Economic Enterprises Law (1989). Existing Measures : The State-owned Economic Enterprises Law (1989)

The Philippines

List A. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), measures that do not conform to the obligations under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); and

(d) Article 10.7 (Senior Management and Board of Directors).

2. This List and List B follow the negative list with two list approach as follows:

(a) This List sets out commitments in relation to existing non-conforming measures which will be subject to standstill obligations but not subject to ratchet mechanism; and

(b) List B sets out policy flexibility in relation to measures in sectors, subsectors and activities.

3. The Philippines may add, withdraw or modify any of its reservations as set out in this List for a period of 24 months from the date of entry into force of this Schedule, provided that the non-conforming measure is in existence as of the date of entry into force of this Agreement. Any addition, withdrawal or modification in this List will be submitted to the Depositary who will notify the other Parties, including the relevant laws and regulations. Such reservation shall be deemed to form part of this Schedule upon such notification.

4. Each reservation shall set out the following elements, where applicable:

(a) Sector refers to the sectors in which a reservation is taken;

(b) Subsector refers to specific industries, products, or activities in which a reservation is taken;

(c) Industry Classification refers to the activities covered by the reservation according to International Standard Industrial Classification (hereinafter referred to as “ISIC”) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying. If the reservation does not exactly conform to the ISIC, the Philippines specified the coverage of the reservation,

as necessary and appropriate;

(d) Level of Government specifies the level of government maintaining the measure for which a reservation is taken;

(e) Type of Obligation refers to the obligation of National Treatment, Most-Favoured-Nation Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors, as the case may be, which do not apply to the listed measure;

(f) Description of Measure refers to measures that do not conform to National Treatment, Most-Favoured-Nation Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors for which a reservation is taken; and

(g) Source of Measure refers to existing measures that apply to the sector, subsector or activities covered by the reservations and is identified for transparency purposes only.

5. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements.

6. These Explanatory Notes shall form part of this List.

1.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Establishment of Domestic Corporation (a) Number of incorporators shall be natural persons, not less than five but not more than 15, all of legal age; (b) Majority of the incorporators and directors shall be residents of the Philippines; and (c) Corporate Secretary shall be a citizen and resident of the Philippines. Participation of foreign investors in entities engaged in partially nationalized activities and public utilities For public utility enterprises or corporations engaging in partially nationalized activities, the President and all the executive and managing officers of such corporation or association must be citizens of the Philippines. The participation of foreign investors in the governing body of said enterprise shall be limited to their proportionate share in its capital. Establishment of Cooperative No foreign equity is allowed. Domestic and Export Enterprise Small and medium-sized domestic market enterprises are reserved to Philippine nationals, however, the Philippines may allow up to a maximum of 40 percent foreign equity in small and medium-sized domestic market enterprises, subject to compliance with requirements, terms and conditions. A non-Philippine national not otherwise disqualified by law may do business or invest in a domestic enterprise up to 100 percent of its capital, provided: (a) it is investing in a domestic market enterprise in areas outside the Foreign Investment Negative List under the Foreign Investments Act of 1991; or (b) it is investing in an export enterprise whose products and services do not fall within Lists A and B of the Foreign Investment Negative List under the Foreign Investments Act of 1991. Provided, further, that, as required by existing laws, the country or state of the applicant must also allow Filipino citizens and corporations to do business therein. Note: “Philippine national” shall mean a citizen of the Philippines or a domestic partnership or association wholly owned by citizens of the Philippines; or a corporation organized under the laws of the Philippines of which at least sixty percent (60%) of the capital stock outstanding and entitled to vote is owned and held by citizens of the Philippines; or a corporation organized abroad and registered as doing business in the Philippines under the Corporation Code of which one hundred percent (100%) of the capital stock outstanding and entitled to vote is wholly owned by Filipinos or a trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent (60%) of the fund will accrue to the benefit of the Philippine nationals: Provided, that where a corporation and its non-Filipino stockholders own stocks in a Securities and Exchange Commission (SEC) registered enterprise, at least sixty percent (60%) of the capital stocks outstanding and entitled to vote of both corporations must be owned and held by citizens of the Philippines and at least sixty percent (60%) of the members of the Board of Directors of both corporations must be citizens of the Philippines, in order that the corporations shall be considered a Philippine national. Individuals or entities that do not meet the aforementioned qualifications are considered as “non-Philippine nationals”. “Export enterprise” shall mean an enterprise wherein a manufacturer, processor or service (including tourism) enterprise exports sixty percent (60%) or more of its output, or wherein a trader purchases products domestically and exports sixty percent (60%) or more of such purchases. Designation of Resident Agent A foreign corporation shall be required to file a written power of attorney designating some person who must be a resident of the Philippines, on whom any summons and other legal processes may be served. Branches and Regional Operating Headquarters Foreign Enterprises may establish Regional Operating Headquarters provided it shall register the same with the appropriate government agency and shall be subject to relevant rules and regulations. Source of Measure : - The 1987 Philippine Constitution - Batas Pambansa Blg. 68, The Corporation Code of the Philippines - Commonwealth Act No. 108, An Act to Punish Acts of Evasion of Laws on the Nationalization of Certain Rights, Franchises or Privileges, as amended by Presidential Decree No. 715, Otherwise known as “The Anti-Dummy Law”, as may be amended - Republic Act (R.A.) No. 7042,

the Foreign Investments Act of 1991, as amended and its Implementing Rules and Regulations - R.A. No. 9520, the Philippine Cooperative Code of 2008 - R.A. No. 6977, the Magna Carta for Micro, Small and Medium Enterprises (MSMEs), as amended by R.A. No. 8289 and R.A. No. 9501 - R.A. No. 9178, the Barangay Micro Business Enterprises Act of 2002 - R.A. No. 8756, An Act Providing for the Terms, Conditions and Licensing Requirements of Regional or Area Headquarters, Regional Operating Headquarters, and Regional Warehouses of Multinational Companies, Amending for the Purposes Certain Provisions of Executive Order No. 226, the Omnibus Investments Code of 1987 - Securities and Exchange Commission Issuances and Opinions

2.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : The Philippines protects the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserves its use and enjoyment exclusively to Filipino citizens. Small-scale utilization of natural resources is allowed only to Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fish workers in rivers, lakes, bays, and lagoons. Source of Measure : - The 1987 Philippine Constitution - R.A. No. 7160, the Local Government Code of 1991 - R.A. No. 7942, the Philippine Mining Act of 1995 - R.A. No. 7076, the People's Small-Scale Mining Act of 1991 - R.A. No. 8550, the Philippine Fisheries Code of 1998, as amended by R.A. No. 10654, An Act to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Amending Republic Act No. 8550, Otherwise Known as "The Philippine Fisheries Code of 1998," and for Other Purposes - Presidential Decree No. 705, s. 1975, the Revised Forestry Code of the Philippines

3.

Sector : Fisheries and Aquaculture Subsector : - Industry Classification : ISIC 050 Fishing, aquaculture and service activities incidental to fishing Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : The use and exploitation of the fishery and aquatic resources in Philippine waters shall be reserved exclusively to Filipinos. Municipal Fishing All fishery activities in municipal waters shall be utilized by municipal fisherfolk and their cooperatives or organizations who are listed as such in the registry of municipal fisherfolk. Commercial Fishing No commercial fishing vessel license shall be issued except to citizens of the Philippines, partnerships or to associations, cooperatives or corporations duly registered in the Philippines at least 60 percent of the capital stock1 of which is owned by Filipino citizens, subject to requirements and compliance with certain conditions. Foreign owned vessels are not allowed to conduct fishing operations in all Philippine waters. Note: There is a moratorium on the issuance of commercial fishing vessel and gear licenses and other clearances. Fishpond No fishpond lease agreements may be issued for public lands that may be declared available for development primarily except to citizens of the Philippines, or fisherfolk cooperatives or associations. In the absence of such citizens or fisherfolk cooperatives of associations, corporations duly incorporated in the Philippines at least 60 percent of the capital stock of which is owned by Filipino citizens may be granted fishpond lease agreement subject to requirements and compliance with certain conditions. Aquaculture Aquaculture is reserved for citizens of the Philippines and corporations or associations duly incorporated under the laws of the Philippines where at least 60 percent of the capital stock2 or interest belongs to citizens of the Philippines, subject to requirements and compliance with certain conditions. Source of Measure : - R.A. No. 8550, the Philippine Fisheries Code of 1998, as amended by R.A. No. 10654 - Presidential Decree No. 704 (May 16, 1975), the Fisheries Decree of 1975 - R.A. No. 7160, the Local Government Code of 1991 - Administrative Issuances

(1) The foreign equity participation under this Reservation is not covered by Reservation No. 1 of List B.

(2) The foreign equity participation under this Reservation is not covered by Reservation No. 1 of List B.

4.

Sector : Mining and Quarrying Subsector : Salt Production Industry Classification : ISIC 1422 Extraction of salt Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Senior Management and Board of Directors (Article 10.7) Description of Measure : Only Filipino citizens of legal age, corporation, association or cooperative duly constituted under the laws of the Philippines, 60 percent of the capital (3) of which is owned by Filipino citizens may enter into a Salt Production Sharing Agreement with the Philippine Government, subject to compliance requirements and terms and conditions. Source of Measure : - The 1987 Philippine Constitution - Department of Environment and Natural Resources (DENR) Administrative Order No. 1998-67, as amended

(3) The foreign equity participation under this Reservation is not covered by Reservation No. 10 of List B.

5.

Sector : Mining and Quarrying Subsector : Small Scale Mining Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Small-scale mining is reserved to Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily form a cooperative duly licensed by the Philippine Government. The processing of mineral ores and minerals they produced is reserved to Filipino citizens. Source of Measure : - The 1987 Philippine Constitution - R.A. No. 7942, the Philippine Mining Act of 1995 - R.A. No. 7076, the People's Small-Scale Mining Act of 1991 - R.A. No. 7586, the National Integrated Protected Areas System of 1992 - R.A. No. 7160, the Local Government Code of 1991 - Administrative Issuances

6.

Sector : Manufacturing Subsector : Defense-related manufacturing and repair activities, manufacture of firecrackers and other pyrotechnic devices, and dangerous drugs Industry Classification : ISIC Division 24, Manufacture of chemicals and chemical products ISIC 242 Manufacture of other chemical products n.e.c. ISIC Group 2927, Manufacture of arms and ammunitions ISIC Division 35, Manufacture of other transport equipment Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Defense-related activities, such as the manufacture, repair, storage or distribution of firearms, ammunition, lethal weapons, military ordinance, explosives, pyrotechnics and similar materials, shall be limited only to Filipino citizens, corporation, association or cooperative duly constituted under the laws of the Philippines, 60 percent of the capital of which is owned by Filipino citizens, subject to prior clearance and authorization from the Philippine Government. A license or permit to manufacture or to deal in wholesale or retail of firecrackers and pyrotechnic devices shall be issued only to: (a) Filipino citizens of good moral character; or (b) entities with 100 percent capitalization owned by Filipino citizens. Manufacture of dangerous drugs is limited only to Filipino citizens, corporation, association or cooperative duly constituted under the laws of the Philippines, 60 percent of the capital of which is owned by Filipino citizens, subject to prior clearance and authorization from the Philippine Government. Source of Measure : - The 1987 Philippine Constitution - R.A. No. 7042, the Foreign Investments Act of 1991, as amended by R.A. No. 8179 and its Implementing Rules and Regulations - R.A. No. 9165, the Comprehensive Dangerous Drugs Act of 2002 R.A. No. 7183, An Act Regulating the Sale, Manufacture, Distribution and Use of Firecrackers and other Pyrotechnic Devices

7.

Sector : Manufacturing Subsector : Atomic Energy Facility Industry Classification : ISIC Division 29 Manufacture of machinery and equipment n.e.c. Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : No license to acquire, own, or operate any atomic energy facility shall be issued to an alien, or any corporation or other entity which is owned or controlled by an alien, a foreign corporation, or a foreign government, subject to compliance requirements and terms and conditions. A corporation or entity is not owned or controlled by an alien, a foreign corporation or a foreign government if at least 60 percent of its capital stock is owned by Filipino citizens. Note: "Atomic energy facility" means any equipment or device which the Philippine Government may determine from time to time, by regulation, to be capable of producing or utilizing atomic energy material in such quantity or in such manner as to be of significance to the national interest or to the health and safety of the public. Source of Measure : - R.A. No. 5207, the Atomic Energy Regulatory and Liability Act of 1968 - Presidential Decree No. 1484, Amending Certain Sections of Republic Act Numbered Fifty Two Hundred and Seven Entitled "An Act Providing for the Licensing and Regulation of Atomic Energy Facilities and Materials, Establishing the Rules on Liability for Nuclear Damage, and for Other Purposes"

8.

Sector : Manufacturing Subsector : Mass Media, Printing and Publishing Industry Classification : ISIC Division 22 Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : The ownership and management of mass media shall be limited to citizens of the Philippines, or to corporations or associations wholly owned and managed by such citizens. Note: "Mass Media" refers to the print medium of communication, which includes all newspapers, periodicals, magazines, journals, and publications and all advertising therein, and billboards, neon signs and the like, and the broadcast medium of communication, which includes radio and television broadcasting in all their aspects and all other cinematographic or radio promotions and advertising. Source of Measure : - The 1987 Philippine Constitution - Presidential Decree No. 1018, Limiting the Ownership and Management of Mass Media to Citizens of the Philippines and for

Other Purposes - Presidential and Administrative Issuances

9.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Any employer who desires to engage an alien for employment in the Philippines shall obtain approval of the government and be subject to compliance with certain conditions relating to the following: (1) duration; (2) employment position; (3) non-availability of a local person; (4) understudy training for Filipinos; and (5) percentage of employment of foreign nationals vis-à-vis the total workforce. Source of Measure : - The 1987 Philippine Constitution - Batas Pambansa Blg. 68, The Corporation Code of the Philippines - Commonwealth Act No. 108, An Act to Punish Acts of Evasion of Laws on the Nationalization of Certain Rights, Franchises or Privileges, as amended by Presidential Decree No. 715, Otherwise known as "The Anti-Dummy Law", as may be amended - R.A. No. 7042, the Foreign Investments Act of 1991, as amended and its Implementing Rules and Regulations - Presidential No. 442, the Labor Code of the Philippines - R.A. No. 7916, The Special Economic Zone of 1995, as amended - R.A. No. 8756, An Act Providing for the Terms, Conditions and Licensing Requirements of Regional or Area Headquarters, Regional Operating Headquarters, and Regional Warehouses of Multinational Companies, Amending for the Purposes Certain Provisions of Executive Order No. 226, the Omnibus Investments Code of 1987 - Securities and Exchange Commission Issuances and Opinions

10.

Sector : Manufacturing Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The processing of the following products is limited only to Filipino citizens, or corporations or associations at least 60 percent (4) of whose capital is owned by Filipino citizens, subject to compliance requirements, terms and conditions: 1. copper wires; 2. copper bars, sheets and strips; 3. brass, bronze and other alloys of copper; 4. nickel pig iron; and 5. ferronickel. Source of Measure : - The 1987 Philippine Constitution - R.A. No. 7942, the Philippine Mining Act of 1995 - Executive Order No. 79, Series of 2012, Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources - Executive Order No. 226, the Omnibus Investments Code of 1987, as amended - Presidential and Administrative Issuances

(4) The foreign equity participation under this Reservation is not covered by Reservation No. 10 of List B.

11.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description of Measure : The adoption of a given rate or amount of royalty under a license contract is subject to approval, terms and conditions, and compliance requirements imposed, by the relevant government agency under Philippine laws and regulations. Source of Measure : Administrative Issuances

List B. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), measures that the Philippines may maintain existing, or adopt new or more restrictive measures that do not conform to the obligations under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); and

(d) Article 10.7 (Senior Management and Board of Directors).

2. This List and List A follow the negative list with two list approach as follows:

(a) List A sets out commitments in relation to existing non-conforming measures which will be subject to standstill obligations but not subject to ratchet mechanism; and

(b) This List sets out policy flexibility in relation to measures in sectors, subsectors and activities.

3. Each reservation shall set out the following elements, where applicable:

(a) Sector refers to the sectors in which a reservation is taken;

(b) Subsector refers to specific industries, products, or activities in which a reservation is taken;

(c) Industry Classification refers to the activities covered by the reservation according to International Standard Industrial Classification (hereinafter referred to as "ISIC") Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying. If the reservation does not exactly conform to the ISIC, the Philippines specified the coverage of the reservation, as necessary and appropriate;

(d) Level of Government specifies the level of government maintaining the measure for which a reservation is taken;

(e) Type of Obligation refers to the obligation of National Treatment, Most-Favoured-Nation Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors, as the case may be, which do not apply to the listed measure;

(f) Description of Measure refers to measures that do not conform to National Treatment, Most-Favoured-Nation Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors for which a reservation is taken; and

(g) Source of Measure refers to existing measures that apply to the sector, subsector or activities covered by the reservations and is identified for transparency purposes only.

4. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements.

5. These Explanatory Notes shall form part of this List.

1.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure relating to the ownership, conservation, exploration, development, protection, and utilization of land, water and natural resources, which shall be under the full control and supervision of the Philippines. The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils based on real contributions to the economic growth and general welfare of the country. In such agreements, the Philippines shall promote the development and use of local scientific and technical resources. Source of Measure : The 1987 Philippine Constitution

2.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt any measure on certain areas of investment, when the national interest dictates, upon recommendation of the economic and planning agency, where such measures are necessary and would not constitute arbitrary or unjustifiable discrimination or a disguised restriction on foreign investment. In the grant of rights, privileges, and concessions covering the national economy and patrimony, the Philippines shall give preference to qualified Filipinos. Further, the Philippines reserves the right to adopt or maintain any measure relative to the grant of franchise, certificate, or any other form of authorization for the operation of a public utility, where such measures are necessary and would not constitute arbitrary or unjustifiable discrimination or a disguised restriction on foreign investment. The Philippines shall regulate and exercise authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities, where such measures are necessary and would not constitute arbitrary or unjustifiable discrimination, or a disguised restriction on foreign investment. Source of Measure : The 1987 Philippine Constitution

3.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to

adopt or maintain any measure or mechanism relating to the local government units (5), the autonomous regions, in the Cordilleras, and the autonomous region in Muslim Mindanao and the enforcement and protection of the rights of Cultural Communities or Indigenous Peoples on their ancestral domains and on indigenous knowledge systems and practices (6). Source of Measure : - The 1987 Philippine Constitution - R.A. No. 8731, The Indigenous Peoples' Rights Act of 1997 - R.A. No. 7160, the Local Government Code of 1991 - Executive Order No. 220, series of 1987, Creating a Cordillera Administrative Region, Appropriating Funds Therefor and for Other Purposes - R.A. No. 11054, the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao - National Commission on Indigenous Peoples (NCIP) Administrative Order No. 3, Series of 2012, The Revised Guidelines on the Exercise of Free and Prior Informed Consent (FPIC) and Related Processes Executive Orders and Administrative Issuances

(5) Measures and mechanisms of local government units include general welfare, provision of basic services and facilities, generation of resources and creation of revenues within their respective territorial jurisdictions.

(6) These are systems, institutions, mechanisms, and technologies comprising a unique body of knowledge evolved through time that embody patterns of relationships between and among peoples and between peoples, their lands and resource environment, including such spheres of relationships which may include social, political, cultural, economic, religious spheres, and which are the direct outcome of the indigenous peoples, responses to certain needs consisting of adaptive mechanisms which have allowed indigenous peoples to survive and thrive within their given socio-cultural and biophysical conditions.

4.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : The Philippines reserves the right to adopt or maintain any measure relating to registration of foreign investment (equity and debt) and foreign loans with the Bangko Sentral ng Pilipinas (7). Source of Measure : - The 1987 Philippine Constitution - R.A. No. 7653, The New Central Bank Act - R.A. No. 7160, the Local Government Code of 1991 - R.A. No. 4860, Foreign Borrowings Act of 1966, as amended by R.A. No. 8182, the Official Development Assistance Act of 1996 and R.A. No. 8555 - R.A. No. 7042, the Foreign Investments Act of 1991, as amended by R.A. No. 8179 - R.A. No. 245, An Act Authorizing the Secretary of Finance to Borrow to Meet the Public Expenditure, as amended - R.A. No. 8799, The Securities Regulation Code - Administrative Issuances, including Bangko Sentral ng Pilipinas Issuances (e.g., Manual of Regulations on Foreign Exchange Transactions, as amended, Manual of Regulations for Banks and Non-Bank Financial Institutions)

(7) Registration of a foreign investment (equity and debt) with the Bangko Sentral ng Pilipinas (BSP) is required if the foreign exchange needed to service the repatriation of capital and the remittance of dividends, profits and earnings which accrue thereon shall be sourced from authorized financial institutions. The approval and registration with BSP of a foreign loan is required if the foreign exchange needed to service the loan shall be sourced from authorized financial institutions, except in the following cases, which require BSP prior approval and registration regardless of source of foreign exchange for servicing: (a) public debt; and (b) private debt which are: (i) guaranteed by government corporations or government financial institutions, or by authorized financial institutions; or (ii) granted by local banks and directly funded or collateralized by offshore loans or deposits.

5.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure or mechanism relating to privatization programs of government assets and divestment of assets requirement in iron and steel, pioneer (8) activities (9), and public-private partnership programs. Source of Measure : - The 1987 Philippine Constitution - R.A. No. 7042, the Foreign Investments Act of 1991, as amended and its Implementing Rules and Regulations - Executive Order No. 226, the Omnibus Investments Code of 1987, as amended - R.A. No. 9184, the Government Procurement Reform Act - R.A. No. 7718, An Act Amending Certain Sections Of Republic Act No. 6957, Entitled "An Act Authorizing The Financing, Construction, Operation And Maintenance Of Infrastructure Projects By The Private Sector, And For Other Purposes" R.A. No. 9136, the Electric Power Industry Reform Act of 2001 - Presidential Decree No. 194, s. 1973, Authorizing Aliens, as well as Associations, Corporations or Partnerships Owned in Whole or in Part by Foreigners to Engage in the Rice and Corn Industry, and for other Purposes and its Implementing Rules and Regulations - Executive Orders and Administrative Issuances

(8) “Pioneer Enterprise” shall mean a registered enterprise (1) engaged in the manufacture, processing or production, and not merely in the assembly or packaging of goods, products, commodities or raw materials that have not been or are not being produced in the Philippines on a commercial scale or (2) which uses a design, formula, scheme, method, process or system of production or transformation of any element, substance or raw materials into another raw material or finished goods which is new and untried in the Philippines or (3) engaged in the pursuit of agricultural, forestry and mining activities and/or services including the industrial aspects of food processing whenever appropriate, pre-determined by the Board, in consultation with the appropriate Department, to be feasible and highly essential to the attainment of the national goal, in relation to a declared specific national food and agricultural program for self-sufficiency and other social benefits of the project or (4) which produces non-conventional fuels or manufactures equipment which utilize non-conventional sources of energy or uses or converts to coal or other non-conventional fuels or sources of energy in its production, manufacturing or processing operations. Provided, That the final product in any of the foregoing instances, involves or will involve substantial use and processing of domestic raw materials, whenever available; taking into account the risks and magnitude of investment: Provided, further, That the foregoing definitions shall not in any way limit the rights and incentives granted to less-developed-area enterprises.

(9) The registered enterprise under Executive Order No. 226 (the Omnibus Investments Code of 1987) shall obligate itself to attain the status of a Philippine national within 30 years from the date of registration or with such longer period as the Board may require taking into account the export potential of the project.

6.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Most-Favoured-Nation Treatment Description of Measure : The Philippines reserves the right to adopt or maintain any measure or mechanism relating to: (a) preferential treatment accorded to investors or their investments under any existing bilateral, regional or international arrangements or any forms of economic or regional cooperation of which the Philippines is a party (10); and (b) any existing or future preferential treatment accorded to investors or their investments in any agreement or arrangement between or among Member States of ASEAN. The Philippines reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) mining; (b) fisheries; or (c) forestry. Source of Measure : - Administrative Policies - International agreements or arrangements

(10) For greater certainty, this right extends to any preferential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

7.

Sector : Forestry and Manufacturing Subsector : Forestry, logging, and wood processing Industry Classification : ISIC Section 0200 Forestry, logging and related service activities ISIC Section 201 - Sawmilling and planing of wood ISIC Section 202 - Manufacture of products of wood, cork, straw and plaiting materials Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure relating to any activity within any forest and grazing land, or establish, install, add and operate any wood or forest products processing plant, unless the person is duly authorized under a license agreement, license, lease or permit, subject to compliance with terms and conditions. Source of Measure : - The 1987 Philippine Constitution - Presidential Decree No. 705, the Revised Forestry Code of the Philippine, as amended - R.A. No. 7160, the Local Government Code of 1991 - R.A. No. 11054, the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao - Executive Order No. 220, series of 1987, Creating the Cordillera Administrative Region - Executive Orders and Administrative Issuances

8.

Sector : Fisheries and Aquaculture Subsector : - Industry Classification : ISIC 050 Fishing, aquaculture and service activities incidental to fishing Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : The Philippines reserves the right to adopt or maintain any measure relating to the exportation or importation of fisheries and aquaculture species. For a foreign entity or individual, Filipino citizens affiliated with a foreign institution, or a Filipino citizen with foreign funding that will conduct a scientific research on aquatic wildlife, there is a need to identify a local institution as a research collaborator or counterpart and a letter of consent of the Head of the local institution. Source of Measure : - R.A.

No. 8550, The Philippine Fisheries Code of 1998, as amended - Presidential Decree 704, the Fisheries Decree of 1975 - Muslim Mindanao Act No. 86, the ARMM Fisheries and Aquatic Code of 1999 - R.A. No. 7160, the Local Government Code of 1991 - R.A. No. 11054, the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao - Executive Order No. 220, series of 1987, Creating the Cordillera Administrative Region - Fisheries Administrative Orders and Issuances

9.

Sector : Manufacturing Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt and implement any measure on rationalization programs (11) for certain manufacturing industries whose operation may result in dislocation, overcrowding or inefficient use of resources, thus impeding economic growth. Source of Measure : Executive Order No. 226, the Omnibus Investments Code of 1987, as amended.

(11) Illustrative Example: The Comprehensive Automotive Resurgence Strategy (CARS) Program under E.O. 182, to augment and enhance policy and directions of existing motor vehicle development programs towards ensuring a resurgent automotive industry that supports innovation, technology transfer, environmental protection, and small and medium enterprises development.

10.

Sector : Mining and Quarrying Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure or mechanism relating to exploration, development, and utilization of mineral resources. Source of Measure : - The 1987 Philippine Constitution - R.A. No. 7942, the Philippine Mining Act of 1995 - Executive Order No. 79, Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources - R.A. No. 7586, the National Integrated Protected Areas System Act of 1992 - Proclamation No. 1250, (9 June 1998), Exclusion of Mineral Resource-Rich Areas of Cagraray Island, Albay from the Bicol Region Tourism Master Plan - Executive Order 211, series of 1987, Prescribing the Interim Procedures in the Processing and Approval of Applications for the Exploration, Development and Utilization of Minerals - Presidential Decree No. 2027, Granting Tax Relief to Distressed Copper Mining Companies - Proclamation No. 297, series of 2002, Excluding a Certain Area from the Operation of Proclamation No. 369 dated February 27, 1931 and Declaring the same as Mineral Reservation and as Environmentally Critical Area - Proclamation No. 183, Series of 1999, Revoking Proclamation No. 66, Series Of 1999, Declaring The Lahar-Affected Rivers And Embankment Areas In The Provinces Of Pampanga, Tarlac And Zambales As Environmentally Critical Areas And As Mineral Reservation Under The Direct Supervision And Control Of The Department Of Environment And Natural Resources - Letter of Instruction No. 1387 s. 1984 - R.A. No. 5092, Geothermal Energy, Natural Gas and Methane Gas Law - Presidential Decree No. 87, The Oil Exploration and Development Act of 1972 - Presidential Decree No. 972, The Coal Development Act of 1976 - Department of Environment and Natural Resources (DENR) Administrative Order No. 2010-21, (28 June 2010) Revised Implementing Rules and Regulations of R.A. 7942, otherwise known as the Philippine Mining Act of 1995 - R.A. No. 7160, Local Government Code of 1991 - R.A. No. 11054, the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao - Executive Order No. 220, series of 1987, Creating the Cordillera Administrative Region - Department of Energy Issuances - DENR Administrative Orders, Memorandum Orders and Memorandum Circulars - Mines and Geosciences Bureau Memorandum Circulars

11.

Sector : Agriculture Subsector : Rice and Corn Industry Industry Classification : ISIC 0111, Growing of cereals and other crops n.e.c. ISIC 153, Manufacture of grain mill products, starches and starch products, and prepared animal feeds Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description of Measure : An alien, association, partnership or corporation, owned in whole or in part by foreigners, may engage in the rice and corn industry, subject to the following conditions: (a) There is an urgent need for foreign investment in the undertaking and that the same will not pose a clear and present danger of promoting monopolies or combination in restraint of trade. (b) The alien, association, corporation or partnership shall have the necessary financial capability and technical competence. (c) The alien, association, corporation or partnership shall submit a development plan acceptable to the Philippine Government. In connection with the foreign equity participation, at least 60 percent thereof shall be transferred to Filipino citizens over a 30-year divestment period, which shall start from the actual operation of the business in the Philippines. Foreign investors shall fully develop the land leased

to them for rice and corn production and culture over a period as established in their development plan, provided such period shall not exceed four years; provided, further, that the Philippine Government may grant a grace period on a case-to-case basis. Source of Measure : - Presidential Decree No. 194, series of 1973, Authorizing Aliens, as well as Associations, Corporations or Partnerships Owned in Whole or in Part by Foreigners to Engage in the Rice and Corn Industry, and for other Purposes" and its Implementing Rules and Regulations - R.A. No. 8435, the Agriculture and Fisheries Modernization Act of 1997 - Executive Orders and Administrative Issuances

12.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure or mechanism relating to: (a) investments other than those recognized or other than those that should have been recognized by the Philippine Government owing to the circumstances on the date of entry into force of this Agreement; and (b) investments which were not technically feasible on the date of entry into force of this Agreement. Source of Measure : -

13.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure or mechanism that it considers necessary for the protection of its essential security interests. Source of Measure : -

14.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description of Measure : The Philippines reserves the right to adopt or maintain any measure or mechanism relating to technology transfer, production processes, or other proprietary knowledge. Source of Measure : -

15.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure relating to investments in all services sectors and subsectors. Source of Measure : -

16.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : The Philippines reserves the right to adopt or maintain any measure affecting or relating to electronic commerce, where such measure is necessary and would not constitute arbitrary or unjustifiable discrimination or a disguised restriction on foreign investment. Source of Measure : -

Singapore

List A. Explanatory Notes

1. List A of the Schedule of Singapore in this Annex sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the reservations taken by Singapore with respect to measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors).

2. The sectors, subsectors, or activities to which a reservation applies shall be stated in the Description element. In the interpretation of a reservation, all elements of the reservation shall be considered in their totality.

3. With respect to trade in services, Local Presence and National Treatment are separate disciplines and a measure that is only inconsistent with Local Presence need not be reserved against National Treatment.

4. The reservations and commitments relating to trade in services shall be read together with the relevant guidelines stated in Scheduling of Initial Commitments in Trade in Services: Explanatory Note dated 3 September 1993 (MTN.GNS/W/164) and Scheduling of Initial Commitments in Trade in Services: Explanatory Note: Addendum dated 30 November 1993 (MTN.GNS/W/164 Add. 1).

5. Each entry in List A sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific subsector for which the entry is made;

(c) Industry Classification refers where applicable, to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(d) Obligations Concerned specifies the obligations (Market Access, National Treatment, Most-Favoured-Nation Treatment, Local Presence, Prohibition of Performance Requirements, and Senior Management and Board of Directors) against which a reservation is taken;

(e) Description sets out the non-conforming measures to which the reservation applies; and

(f) Source of Measure identifies, for transparency purposes, the laws, regulations, or other measures to which the entry applies. The measures stipulated therein are not exhaustive.

6. Whenever, in this List, the supply of services is conditioned upon obtaining licensing or authorisation from relevant regulatory authorities, it shall be understood that the licensing or authorisation process is non-automatic, requiring a case-by-case evaluation, and the regulatory authorities may exercise discretion over their decisions.

7. References in this List to any enterprise or entity apply as well to any successor enterprise or entity, which shall be entitled to benefit from any listing of a non-conforming measure with respect to that enterprise or entity.

8. The Schedules of other Parties shall not be used to interpret Singapore’s commitments or obligations under Chapter 8 (Trade in Services) or Chapter 10 (Investment).

1.

Sector : All Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: A non-resident financial institution may in certain circumstances be unable to borrow in Singapore dollars (S$) more than S$5 million from a resident financial institution owing to the following restrictions placed on financial institutions’ lending of the Singapore dollar to non-resident financial institutions. A financial institution shall not extend to any non-resident financial institution S$ credit facilities exceeding S$5 million per non-resident financial institution: (a) where the S$ proceeds are to be used outside of Singapore, unless: (i) such proceeds are swapped or converted into foreign currency upon draw-down or before remittance abroad; or (ii) such proceeds are for the purpose of preventing settlement failures where the financial institution extends a temporary S$ overdraft to any vostro account of any non-resident financial institution, and the financial institution takes reasonable efforts to ensure that the overdraft is covered within two business days; and (b) where there is reason to believe that the S$ proceeds may be used for S$ currency speculation, regardless of whether the S$ proceeds are to be used in Singapore or outside of Singapore. A financial institution shall not arrange S$ equity or bond issues for any non-resident financial institution where the S$ proceeds are to be used outside Singapore, unless the proceeds are swapped or converted into foreign currency upon draw-down or before remittance abroad. "Non-residents financial institution" means any financial institution which is not a resident as defined in the relevant notice. Source of Measure : Insurance Act, Cap. 142, 2002

Revised Edition, MAS Notice 109 Banking Act, Cap. 19, 2008 Revised Edition, MAS Notice 757 Finance Companies Act, Cap. 108, 2011 Revised Edition, MAS Notice 816 Monetary Authority of Singapore Act, Cap. 186, 1999 Revised Edition, MAS Notice 1105 Securities and Futures Act, Cap. 289, 2006 Revised Edition, MAS Notice SFA 04-N04

2.

Sector : All Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: The aggregate of foreign shareholdings in PSA Corporation or its successor body is subject to a 49 per cent limit. The “aggregate of foreign shareholdings” is defined as the total number of shares owned by: (a) any individual who is not a Singapore citizen; (b) any corporation which is not more than 50 per cent owned by Singapore citizens or by the Singapore Government; or (c) any other enterprise which is not owned or controlled by the Singapore Government. Source of Measure : This is an administrative policy of the Singapore Government and is inscribed in the Memorandum and Articles of Association of PSA Corporation.

3.

Sector : All Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: All individual investors, apart from the Singapore Government, will be subject to the following equity ownership limits in the enterprises, or its successor bodies, as listed below: (a) Singapore Technologies Engineering – 15 per cent; (b) PSA Corporation – 5 per cent; (c) Singapore Airlines – 5 per cent; and (d) PowerGas, SP PowerGrid, SP PowerAssets, Singapore LNG Corporation – 10 per cent. For the purposes of this reservation, ownership of equity by an investor in these enterprises or its successor bodies includes both direct and indirect ownership of equity. Source of Measure : This is an administrative policy of the Singapore Government and is inscribed in the Memorandum and Articles of Association of the relevant enterprises.

4.

Sector : All Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Where a person required to be registered under the Business Names Registration Act 2014, or, in the case of any corporation, the directors, or secretaries of the corporation, do not reside in Singapore, an authorised representative who must be ordinarily resident* in Singapore must be appointed. *Persons who qualify to be appointed in such a capacity are primarily Singapore citizens, Singapore permanent residents and EntrePass holders (all with local address). Source of Measure : Business Names Registration Act 2014, Act 29 of 2014 Business Names Registration Regulations 2015

5.

Sector : Business Services Subsector : Architectural Services Architectural services includes preparing and selling or supplying for gain or reward any architectural plan, drawing, tracing, design, specification, or the like for use in the construction, enlargement, or alteration of any building or part thereof. It includes the certification and inspection of buildings for compliance with a building authority or public authority. Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only persons who are registered with the Board of Architects (BOA) or its successor body and resident in Singapore are allowed to provide architectural services. All corporations, limited liability partnerships and partnerships (including those which are providing architectural services as part of a multi-disciplinary corporation or practice) providing architectural services shall obtain a licence from the BOA or its successor body. To qualify for the licence, the corporation or partnership shall: (a) be under the control and management of a director or partner who is a Singapore-registered architect; where a multi-disciplinary corporation or partnership is concerned, the business of the corporation or partnership relating to architectural services shall be under the control and management of a director or partner who is a Singapore-registered architect; and (b) where limited corporations are concerned, the majority of the directors of a corporation shall be Singapore-registered architects or allied professionals; where unlimited corporations are concerned, the majority of directors shall be registered professional architects or allied professionals who have in force practicing certificates; where partnerships are concerned, the beneficial interest in the capital assets and profits of the partnership shall be held by Singapore-registered architects or allied professionals who have in force practicing certificates. “Allied professionals” are Singapore-registered land surveyors and engineers. Source of Measure : Architects Act, Cap. 12, 2000 Revised Edition

6.

Sector : Business Services Subsector : Public Accountancy Services (including statutory audit) Industry Classification : CPC 86211 Financial auditing services CPC 86309 Other Tax-related services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Only public accountants, accounting firms, accounting corporations or accounting limited liability partnerships (LLPs) may provide public accountancy services. Public accountants must be registered with the Accounting and Corporate Regulatory Authority (ACRA) and fulfil the registration requirements under the Accountants Act, including requirements pertaining to qualifications, experience as well as membership with the Institute of Singapore Chartered Accountants (ISCA). Accounting firms, accounting corporations and accounting LLPs must be approved by the Public Accountants Oversight Committee, which is a Board Committee of ACRA under the Accountants Act. The business of an accounting firm, accounting corporation or an accounting LLP, so far as it relates to the provision or supply of public accountancy services in Singapore, shall be under the control and management of one or more directors (in the case of accounting corporation) or a partner (in the case of accounting firm) who is a public accountant ordinarily resident in Singapore1. Source of Measure : Accountants Act, Cap. 2, 2005 Revised Edition, Sections 2, 10(1), 17(3)(d),18(3)(c), and 18A(3)(e) Accountants (Public Accountants) Rules, Second Schedule, Paragraph 7 Companies Act, Cap. 50, 2006 Revised Edition, Section 9 1 Reference: See Sections 17, 18, and 18A of the Accountants Act.

7.

Sector : Business Services – Professional Services Subsector : Land Surveying Services Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: All persons seeking to provide land surveying services in Singapore are required to register with the Land Surveyors Board (LSB) or its successor body, and be physically present in Singapore for the duration of the land surveying project which requires his supervision or certification. All corporations, limited liability partnerships and partnerships (including those which are providing land surveying services as part of a multi-disciplinary corporation or practice) seeking to provide land surveying services must obtain a licence from the LSB. To qualify for the licence, the corporation or partnership must: (a) be under the control and management of a director or partner who is a Singapore-registered surveyor; where a multi-disciplinary corporation or partnership is concerned, the business of the corporation or partnership relating to land surveying services must be under the control and management of a director or partner who is a Singapore-registered surveyor; and (b) where limited corporations are concerned, a simple majority of its directors must be Singapore-registered surveyors or allied professionals; where unlimited corporations are concerned, the directors or members shall be Singapore-registered surveyors or allied professionals; where partnerships are concerned, only Singapore-registered surveyors and allied professionals can have a beneficial interest in the capital assets and profits of the partnership. “Allied professionals” are Singapore-registered engineers and architects. Source of Measure : Land Surveyors Act, Cap. 156, 2012 Revised Edition, Sections 12 through 23 Land Surveyors Rules, Rules 2 through 20

8.

Sector : Business Services Subsector : Patent Agent Services Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Only service suppliers registered with the Intellectual Property Office of Singapore (IPOS) or its successor body and resident in Singapore shall be allowed to carry on a business, practise or act as a patent agent in Singapore. Only service suppliers which have at least one Singapore-registered patent agent resident in Singapore either as a director or partner, shall be allowed to carry on a business, practise or act as a patent agent in Singapore. Source of Measure : Patents Act, Cap. 221, 2005 Revised Edition

9.

Sector : Business Services Subsector : Placement and supply services of personnel Industry Classification : - Obligations Concerned : Local Presence (Article 8.11) Description : Trade in Services: Only service suppliers with local presence shall be allowed to set up employment agencies and place foreign workers in Singapore. Source of Measure : Employment Agencies Act, Cap. 92, 2012 Revised Edition

10.

Sector : Business Services Subsector : Professional Engineering Services Professional engineering services includes any professional service, consultation, investigation, evaluation, planning, design or responsible supervision of construction or operation in connection with any public or privately owned public utilities, buildings, machines, equipment, processes, works

or projects wherein the public interest and welfare, or the safeguarding of life, public health or property is concerned or involved, and that requires the application of engineering principles and data. Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only persons who are registered with or firms which are licensed by the Professional Engineers Board (PEB) are allowed to provide professional engineering services in Singapore in prescribed branches of engineering, namely: civil, electrical and mechanical engineering. The implementation in Singapore of professional engineering works which require approval by the authorities shall be carried out by a professional engineer physically present in Singapore for the duration when the project is being implemented. All corporations, multi-discipline partnerships and limited liability partnerships providing professional engineering services shall obtain a licence from the PEB or its successor body. To qualify for the licence, the corporation, multi-disciplinary partnership or limited liability partnership shall meet the following requirements: (a) the business of the corporation, multi-disciplinary partnership or limited liability partnership relating to professional engineering services shall be under the control and management of a director or a partner who is a Singapore-registered professional engineer and who has a valid practising certificate and who, in the case of corporations or limited liability partnerships, is authorised under a resolution of the board of directors of the corporation or partners of the limited liability partnership to make all final engineering decisions on behalf of the corporation or limited liability partnership; and (b) where limited or unlimited corporations are concerned, not less than 51 per cent of the directors shall be Singapore-registered professional engineers or allied professionals; where multi-disciplinary partnerships are concerned, the beneficial interest in the capital assets and profits of the partnerships shall be held by Singapore-registered professional engineers or allied professionals; where limited liability partnerships are concerned, partners shall be Singapore–registered professional engineers or allied professionals, licensed corporations or licensed limited liability partnerships. “Allied professionals” are Singapore-registered land surveyors and architects. Source of Measure : Professional Engineers Act, Cap. 253, 1992 Revised Edition, Sections 10, 11, and 20 through 26

11.

Sector : Business Services Subsector : Real Estate Services Industry Classification : CPC 82202 Non-residential property management services on a fee or contract basis Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: Only the Sentosa Development Corporation or its successor body shall be allowed to develop and manage the resort island of Sentosa and its waterways. Only the Singapore Land Authority, the National Parks Board, or their successor bodies shall be allowed to develop and manage the Southern Islands of Singapore. For the purpose of this reservation, the “Southern Islands of Singapore” are St. John’s Island, Lazarus Island, Kusu Island, Pulau Renggit, Sister’s Island, Pulau Hantu, Pulau Biola, Pulau Jong and Pulau Tekukor. Source of Measure : Sentosa Development Corporation Act, Cap. 291, 1998 Revised Edition, Section 9 Singapore Land Authority Act, Cap. 301, 2002 Revised Edition, Section 6(1)(e)(ii)

12.

Sector : Business Services Subsector : Private Investigation Services Unarmed Guard Services Industry Classification : CPC 87301 Investigation Services CPC 87302 Security Consultation Services CPC 87305 Guard Services (only applies to unarmed security guard services) Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of Unarmed Guard Services, Private Investigation Services, and Security Services, which are regulated under the Private Security Industry Act for the protection of vital security interests. Source of Measure : Private Security Industry Act, Cap. 250A, 2008 Revised Edition

13.

Sector : Education Services Subsector : Higher Education Services in relation to the training of Doctors Industry Classification : CPC 92390 Other Higher Education Services (Only applies to Higher Education Services in relation to the training of doctors) Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: Only local tertiary institutions which are established pursuant to an Act of Parliament, or as designated by the Ministry of Education shall be allowed to operate undergraduate or graduate programmes for the training of doctors in Singapore. Currently, only the National University of Singapore and the Nanyang Technological University are allowed to operate undergraduate or graduate programmes for the training of doctors in Singapore. Source of Measure : Medical Registration Act, Cap. 174, 2014 Revised Edition, Sections 2, 3, 34 and 35 Private Education Act, Cap. 247A, 2011 Revised Edition

14.

Sector : Health and Social Services Subsector : Medical Services Pharmacy Services Deliveries and related services, nursing services, para-medical services and allied health services2 Optometrists and Opticians Industry Classification : - Obligations Concerned : Local Presence (Article 8.11) Description : Trade in Services: Only persons who are resident in Singapore are allowed to provide the following services: medical services, pharmacy services, deliveries and related services, nursing services, para-medical services and allied health services and optometry and opticianry services. Source of Measure : Medical Registration Act, Cap. 174, 2014 Revised Edition Pharmacists Registration Act, Cap. 230, 2008 Revised Edition Medicines Act, Cap. 176, 1985 Revised Edition Health Products (Licensing of Retail Pharmacies) Regulations 2016 Nurses and Midwives Act, Cap. 209, 2012 Revised Edition Allied Health Professions Act, Cap. 6B, 2013 Revised Edition Optometrists and Opticians Act, Cap. 213A, 2008 Revised Edition 2 Includes physiotherapy services.

15.

Sector : Import, export and trading services Subsector : - Industry Classification : - Obligations Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services: Only services suppliers with local presence shall be allowed to apply for import or export permits, certificates of origin or other trade documents from the relevant authorities. Source of Measure : Regulation of Imports and Exports Act, Cap. 272A, 1996 Revised Edition Regulation of Imports and Exports Regulations

16.

Sector : Telecommunication Services Subsector : Telecommunication Services Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Facilities-based operators and service-based operators must be locally incorporated under the Companies Act, Cap. 50, 2006 Revised Edition. “Facilities-based operators” are operators who deploy any form of telecommunication networks, systems and facilities, outside of their own property boundaries, to offer telecommunication services to third parties, which may include other licensed telecommunication operators, business customers, or the general public. “Service-based operators” are operators who lease telecommunication network elements (such as transmission capacity and switching services) from any Facilities-Based Operator (FBO) licensed by Infocomm Media Development Authority of Singapore (IMDA) so as to provide their own telecommunication services, or to resell the telecommunication services of FBOs to third parties. The number of licences granted will be limited only by resource constraints, such as the availability of radio frequency spectrum. In view of spectrum constraints, parties interested in deploying networks based on wireless technology may be licensed to use radio frequency spectrum via a tender or auction process. Source of Measure : Info-communications Media Development Authority Act 2016, Act 22 of 2016 Telecommunications Act, Cap. 323, 2000 Revised Edition

17.

Sector : Power Supply Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: Power producers shall not be allowed to sell power directly to consumers and shall only sell power through the Singapore electricity wholesale market operators licensed by the Energy Market Authority. The amount of power supplied cumulatively by power producers located outside of Singapore to Singapore’s wholesale power market shall not exceed 600 megawatt. Singapore reserves the right and flexibility to revise or reduce the power supply threshold of 600 megawatt. Source of Measure : Electricity Act, Cap. 89A, 2002 Revised Edition, Sections 6(1) and 9(1)

18.

Sector : Power Supply Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only a Market Support Service Licensee shall be allowed to supply electricity to: (a) all household consumers of electricity; and (b) non-household consumers of electricity whose Average monthly consumption is below 2,000 kilowatt-hour. Only retail electricity licensees with local presence may supply electricity in Singapore.* * With the full liberalisation of Singapore’s retail electricity market (i.e. Open Electricity Market Initiative), the retailing of electricity to all consumers shall be subject to competition as consumers could buy electricity from retail electricity licensees as well. Source of Measure : Electricity Act, Cap. 89A, 2002 Revised Edition, Sections 6(1) and 9(1)

19.

Sector : Power Transmission and Distribution Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: Only a Transmission Licensee shall be the owner and operator of the electricity transmission and distribution network in Singapore. Source of Measure : Electricity Act, Cap. 89A, 2002 Revised Edition, Sections 6(1) and 9(1)

20.

Sector : Tourism and Travel Related Services Subsector : Beverage serving services for consumption on the premises Meal serving services in eating facilities run by the Singapore Government Retail sales of food Industry Classification : CPC 643 Beverage serving services for consumption on the premises CPC 642 Food serving services CPC 6310 Retail sales of food Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only a Singapore citizen or permanent resident can apply for a licence to operate a stall in government-run markets or hawker centres in his or her personal capacity. To provide food or beverage catering services in Singapore, a foreign service supplier must incorporate as a limited company in Singapore, and apply for the food establishment licence in the name of the limited company.to operate a food or beverage establishment in non-government run eating facilities. Only Singapore citizens or permanent residents can apply to run stalls at hawker centres managed by the National Environment Agency or the National Environment Agency’s appointed managing agents. Source of Measure : Environmental Public Health Act, Cap. 95, 2002 Revised Edition

21.

Sector : Refuse Disposal, Sanitation and other Environmental Protection Services Subsector : Waste Management, including collection, disposal, and treatment of hazardous waste Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Foreign service suppliers must be locally incorporated in Singapore. The public waste collectors (PWCs) rendering services to domestic and trade premises are appointed by public competitive tender. The number of PWCs is limited by the number of geographical sectors in Singapore. For industrial and commercial waste, the market is opened to any licensed general waste collectors (GWCs). Source of Measure : Environmental Public Health Act, Cap. 95, 2002 Revised Edition

22.

Sector : Trade Services Subsector : Distribution and Sale of Hazardous Substances Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only companies with local presence and a valid hazardous substances licence shall be allowed to distribute and sell hazardous substances as defined in the Environmental Protection and Management Act and the Environmental Protection and Management (Hazardous Substances) Regulations. Singapore reserves the right and flexibility to modify or increase the list of hazardous substances as defined or listed in the Environmental Protection and Management Act and the Environmental Protection and Management (Hazardous Substances) Regulations. Source of Measure : Environmental Protection and Management Act, Cap. 94A, 2002 Revised Edition, Section 22 Environmental Protection and Management (Hazardous Substances) Regulations

23.

Sector : Manufacturing and Services Incidental to Manufacturing Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measures affecting the imposition of duty, restrictions on the manufacture of goods, or penalties for offences under the Control of Manufacture Act. Singapore reserves the right and flexibility to modify or increase the list of goods as scheduled in the Control of Manufacture Act. The current list of scheduled goods is: (a) beer and stout; (b) cigars; (c) drawn steel products; (d) chewing gum, bubble gum, dental chewing gum or any like substance, not being a health product categorised as an oral dental gum or a therapeutic product in the First Schedule to the Health Products Act, Cap. 122D, 2008 Revised Edition; (e) cigarettes; and (f) matches. Source of Measure : Control of Manufacture Act, Cap. 57, 2001 Revised Edition

24.

Sector : Trade Services Subsector : Distribution Services Retailing Services Wholesale Trade Services Industry Classification : -

Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only service suppliers with local presence shall be allowed to supply wholesale, retail and distribution services for medical and health-related products and materials as defined under the Medicines Act and Health Products Act. Singapore reserves the right and flexibility to modify or increase the list of medical and health-related products and materials as defined or listed in the Medicines Act and Health Products Act. Source of Measure : Medicines Act, Cap. 176, 1985 Revised Edition Health Products Act, Cap. 122D, 2008 Revised Edition

25.

Sector : Transportation and Distribution of Manufactured Gas and Natural Gas Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: Only the holder of a gas transporter licence shall be allowed to transport and distribute manufactured and natural gas. Only one gas transporter licence has been issued given the size of the Singapore market. Source of Measure : Gas Act, Cap. 116A, 2002 Revised Edition

26.

Sector : Business Services Subsector : Leasing or rental services concerning private cars, goods transport vehicles and other land transport equipment without operator Industry Classification : CPC 83101, 83102, 83105 Leasing or rental services concerning private cars, goods transport vehicles and other land transport equipment without operator Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: The cross-border rental of private cars, goods transport vehicles and other land transport equipment without operator by Singapore residents with the intent to use the vehicles in Singapore is prohibited. Source of Measure : Road Traffic Act, Cap. 276, 2004 Revised Edition

27.

Sector : Transport Services Subsector : Maritime Transport Services Cargo Handling Services Pilotage Services Supply of Desalinated Water to Ships berthed at Singapore ports or in Singapore territorial waters Industry Classification : CPC 741 Cargo Handling Services CPC 74520 Pilotage and Berthing Services (only applies to Pilotage Services) CPC 74590 Other Supporting Services for Water Transport Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment: Only PSA Corporation Ltd and Jurong Port Pte Ltd or their respective successor bodies are allowed to provide cargo handling services. Only PSA Marine (Pte) Ltd or its successor bodies are allowed to provide pilotage services and supply desalinated water to ships berthed at Singapore ports or in Singapore territorial waters. Source of Measure : Maritime and Port Authority of Singapore Act, Cap. 170A, 1997 Revised Edition, Section 81

28.

Sector : Transport Services Subsector : Maritime Transport Services Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only local service suppliers shall be allowed to operate and manage cruise and ferry terminals. Local service suppliers are either Singapore citizens or juridical persons which are more than 50 per cent owned by Singapore citizens. Source of Measure : Maritime and Port Authority of Singapore Act, Cap. 170A, 1997 Revised Edition, Section 81

29.

Sector : Transport Services Subsector : Maritime Transport Services – Registration of ships under Singapore flag Industry Classification : CPC 74590 Other Supporting Services for Water Transport Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only a Singapore citizen, permanent resident or Singapore legal person may register a ship under the Singapore flag. All Singapore legal persons seeking to register ships under the Singapore flag shall appoint a ship manager who is resident in Singapore. Vessels or ships owned by Singapore legal persons that are not majority owned by Singapore citizens or Singapore permanent residents shall be of at least 1,600 Gross Tonnage and be self-propelled before they can be registered under the Singapore flag. For the purposes of this reservation, a “Singapore legal person” is a locally incorporated company. Source of Measure : Merchant Shipping Act, Cap. 179, 1996 Revised Edition Merchant Shipping (Registration of Ships) Regulations

30.

Sector : Transport Services Subsector : Maritime Transport Services – Seaman Services Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: Only Singapore citizens and permanent residents can register as Singapore seamen as defined in the Maritime and Port Authority of Singapore Act. Source of Measure : Maritime and Port Authority of Singapore Act, Cap. 170A, 1997 Revised Edition, Section 40 Maritime and Port Authority of Singapore (Registration and Employment of Seamen) Regulations

31.

Sector : Telecommunications Services Subsector : Telecommunications services Domain name allocation policies in Internet country code top level domains (ccTLDs) corresponding to Singapore territories (.sg) Industry Classification : - Obligations Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services: A registrar must be a company incorporated or a foreign company registered under the Companies Act, Cap. 50, 2006 Revised Edition. Source of Measure : Info-communications Media Development Authority Act, Act 22 of 2016 Telecommunications Act, Cap. 323, 2000 Revised Edition The Internet Corporation for Assigned Names and Numbers (ICANN), which recognises the ultimate authority of sovereign Governments over ccTLDs corresponding to their territories.

32.

Sector : Nature Reserve Services (includes national parks, nature reserves and parklands) Subsector : - Industry Classification : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: National Parks Board or its successor body is the only agency authorised to control, administer and manage national parks, nature reserves and parklands as defined under the National Parks Board Act. Source of Measure : National Parks Board Act, Cap. 198A, 2012 Revised Edition Parks and Trees Act, Cap. 216, 2006 Revised Edition

List B. Explanatory Notes

1. List B of the Schedule of Singapore in this Annex sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the reservations taken by Singapore for sectors, subsectors or activities for which it may maintain existing or adopt new or more restrictive measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors).

2. The sectors, subsectors, or activities to which a reservation applies shall be stated in the Description element. In the interpretation of a reservation, all elements of the reservation shall be considered in their totality. 3. With respect to trade in services, Local Presence and National Treatment are separate disciplines and a measure that is only inconsistent with Local Presence need not be reserved against National Treatment.

4. The reservations and commitments relating to trade in services shall be read together with the relevant guidelines, stated in Scheduling of Initial Commitments in Trade in Services: Explanatory Note dated 3 September 1993 (MTN.GNS/W/164) and Scheduling of Initial Commitments in Trade in Services: Explanatory Note: Addendum dated 30 November 1993 (MTN.GNS/W/164 Add. 1).

5. Each entry in List B sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific subsector for which the entry is made;

(c) Industry Classification refers, where applicable, to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(d) Type of Reservation specifies the obligations (Market Access, National Treatment, Most-Favoured-Nation Treatment, Local Presence, Prohibition of Performance Requirements, and Senior Management and Board of Directors) against which a reservation is taken;

(e) Description sets out the non-conforming measures to which the reservation applies; and

(f) Existing Measures identifies, for transparency purposes, existing measures that apply to the sector, subsector, or activities covered by the entry. The measures stipulated therein are not exhaustive.

6. Whenever, in this List, the supply of services is conditioned upon obtaining licensing or authorisation from relevant regulatory authorities, it shall be understood that the licensing or authorisation process is non-automatic, requiring a case-by-case evaluation, and the regulatory authorities may exercise discretion over their decisions.

7. References in this List to any enterprise or entity apply as well to any successor enterprise or entity, which shall be entitled to benefit from any listing of a non-conforming measure with respect to that enterprise or entity.

8. The Schedules of other Parties shall not be used to interpret Singapore's commitments or obligations under Chapter 8 (Trade in Services) or Chapter 10 (Investment).

1.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Local Presence (Article 8.11) Description : Trade in Services: Singapore reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, or other movement of natural persons, including immigration, entry or temporary stay subject to Chapter 9 (Temporary Movement of Natural Persons). Existing Measure : -

2.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and 10.4) Local Presence (Article 8.11) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure in relation to the development or usage of land or the type of activities which may be conducted on land in accordance with its land zoning, land use, urban planning policies, development control, conservation and preservation policies as well as policies relating to environmental protection, nature reserves and national parks. Existing Measure : Planning Act, Cap. 232, 1998 Revised Edition

3.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of health services by government-owned or controlled healthcare institutions, such as hospitals and polyclinics, including investments in these institutions, hospitals and polyclinics. Existing Measure : -

4.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of social services, social security, public training, public law enforcement, ambulance services, correctional services and fire-fighting services. Existing Measure : -

5.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting, including the alienation and divestment of, real estate owned by the State. Existing Measure : State Lands Act, Cap. 314, 1996 Revised Edition

6.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting: (a) the full or partial devolvement to the private sector of services provided in the exercise of governmental authority; (b) the divestment of its equity interests in, or the assets of, an enterprise that is wholly owned by the Singapore Government; and (c) the divestment of its equity interests in, or the assets of, an enterprise that is partially owned by the Singapore Government. Existing Measure : -

7.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting real estate. This includes measures affecting the ownership, sale, purchase, development and management of real estate. This reservation does not apply to real estate consultancy services, real estate agency services, real estate auction services, real estate valuation services, and renting or leasing services involving owned or leased non-residential property. Existing Measure : Residential Property Act, Cap. 274, 2009 Revised Edition State Lands Act, Cap. 314, 1996 Revised Edition Housing and Development Act, Cap. 129, 2004 Revised Edition Jurong Town Corporation Act, Cap. 150, 1998 Revised Edition Executive Condominium Housing Scheme Act, Cap. 99A, 1997 Revised Edition Planning Act, Cap 232, 1998 Revised Edition

8.

Sector : Administration and Operation of National Electronic Systems Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure relating to or affecting the collection and administration of proprietary information by national electronic systems. Existing Measure : -

9.

Sector : Arms and Explosives Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the arms and explosives sector. Existing Measure : Arms and Explosives Act, Cap. 13, 2003 Revised Edition

10.

Sector : Broadcasting Services Broadcasting is defined as the transmission of signs or signals via any technology for the reception or display of aural or visual programme signals by all or part of the public. Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting broadcasting services receivable by Singapore’s domestic audience or originating from Singapore and to the allocation of spectrum in relation to broadcasting services. This entry does not apply to the sole activity of transmitting licensed broadcasting services to a final consumer. Commitments in the production,

distribution and public display of motion pictures, video recordings and sound recordings shall not include all the broadcasting and audio-visual services and materials that are broadcasting-related. Examples of services that are reserved include: free-to-air broadcasting, cable and pay television, direct broadcasting by satellite and teletext. Existing Measure : -

11.

Sector : Entertainment and Cultural Services Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure relating to the creative arts, cultural heritage and other cultural industries, including entertainment services and other cultural services. “Creative arts” includes: the performing arts – including theatre, dance and music – visual arts and craft, literature, film, television, video, radio, creative online, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid arts work which uses new technologies to transcend discrete artform divisions. “Cultural heritage” includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions, as well as intangible cultural heritage. Existing Measure : -

12.

Sector : Business Services Subsector : Patent Agent Services Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the recognition of educational and professional qualifications for purposes such as admission, registration and qualification for patent agents. Existing Measure : Patents Act, Cap. 221, 2005 Revised Edition

13.

Sector : Business Services Subsector : Armed Escort Services and Armoured Car Services Armed Guard Services Industry Classification : CPC 87305 Guard Services Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the provision of armed escort, armoured car and armed guard services. Existing Measure : Police Force Act, Cap. 235, 2006 Revised Edition, Part IX

14.

Sector : Business Services Subsector : Betting and Gambling Services Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of betting and gambling services. Existing Measure : Betting Act, Cap. 21, 2011 Revised Edition Common Gaming Houses Act, Cap. 49, 1985 Revised Edition Private Lotteries Act, Cap. 250, 2012 Revised Edition Remote Gambling Act, Act 34 of 2014 Casino Control Act, Cap. 33A, 2007 Revised Edition

15.

Sector : Business Services - Professional Services (Legal Services) Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of legal services in Singapore. Existing Measure : -

16.

Sector : Community, Personal and Social Services Subsector : Services furnished by co-operative societies Services furnished by trade unions Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Senior

Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting services provided by co-operative societies and trade unions. Existing Measure : Co-operative Societies Act, Cap. 62, 2009 Revised Edition Trade Unions Act, Cap. 333, 2004 Revised Edition

17.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure in relation to the retention of a controlling interest by the Singapore Government in Singapore Technologies Engineering (the Company) or its successor body, including controls over the appointment and termination of members of the Board of Directors, divestment of equity and dissolution of the Company for the purpose of safeguarding the security interest of Singapore. Existing Measure : -

18.

Sector : Distribution, Publishing and Printing of Newspapers Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the publishing or printing of newspapers, including shareholding limits and management control. The distribution of any newspaper, whether published outside of Singapore or in Singapore, shall be subject to the laws of Singapore. “Newspapers” means any publication containing news, intelligence, reports of occurrences, or any remarks, observations or comments, in relation to such news, intelligence, reports of occurrences, or to any matter of public interest, printed in any language and published for sale or free distribution at regular intervals or otherwise, but does not include any publication published by or for the Singapore Government. Existing Measure : Newspaper and Printing Presses Act, Cap. 206, 2002 Revised Edition

19.

Sector : Trade Services Subsector : Distribution Services Commission Agents’ Services Wholesale Trade Services Retailing Services Franchising Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of any products subject to import prohibition or non-automatic import licensing. Singapore reserves the right to modify or increase the list of products stipulated in the laws, regulations and other measures governing Singapore’s import prohibition or non-automatic import licensing regime. Existing Measure : -

20.

Sector : Educational Services Subsector : Primary Education Services Secondary Education Services Industry Classification : CPC 921 Primary Education Services CPC 92210 General Secondary Education Services CPC 92220 Higher Secondary Education Services (only applies to junior colleges and pre-university centres under the Singapore educational system) Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of primary, general secondary and higher secondary (only applies to junior colleges and pre-university centres under the Singapore educational system) education services for Singapore citizens, including Sports Education Services. Existing Measure : Education Act, Cap. 87, 1985 Revised Edition Administrative Guidelines Private Education Act, Cap. 247A, 2011 Revised Edition

21.

Sector : Health and Social Services Subsector : Medical Services Pharmacy Services Deliveries and related services, nursing services, para-medical services and allied health services3 Optometrists and Opticians Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any limit on the number of service suppliers providing, including the following services: medical services, pharmacy services, deliveries and related services, nursing services, para-

medical services and allied health services and optometry and opticianry services. Singapore reserves the right to adopt or maintain any measure with respect to the regulation of service suppliers providing, including the following services: medical services, pharmacy services, deliveries and related services, nursing services, para-medical services and allied health services and optometry and opticianry services. Existing Measure : Allied Health Professions Act, Cap. 6B, 2013 Revised Edition Medical Registration Act, Cap. 174, 2014 Revised Edition Pharmacists Registration Act, Cap. 230, 2008 Revised Edition Medicine Acts, Cap. 176, 1985 Revised Edition Health Products (Licensing of Retail Pharmacies) Regulations 2016 Nurses and Midwives Act, Cap. 209, 2012 Revised Edition Optometrists and Opticians Act, Cap. 213A, 2008 Revised Edition 3 Includes physiotherapy services.

22.

Sector : Recreational, Cultural and Sporting Services Subsector : Archive services for government records Industry Classification : CPC 96312 Archive services Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and 10.4) Local Presence (Article 8.11) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of archive services for government records specified under the National Heritage Board or its successor body. Existing Measure : -

23.

Sector : Recreational, Cultural and Sporting Services Subsector : Museum services Preservation of historical sites, monuments and buildings Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of museum services and the preservation services of historical sites, monuments and buildings. Existing Measure : -

24.

Sector : Foreign Employee Dormitory Services Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of dormitory services for foreign employees. Existing Measure : -

25.

Sector : Sewage Services Subsector : Waste Water Management, including collection, disposal and treatment of solid waste and waste water. Industry Classification : CPC 9401 Sewage Services Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting waste water management, including the collection, treatment and disposal of waste water. Existing Measure : Code of Practice on Sewerage and Sanitary Works Sewerage and Drainage Act, Cap. 294, 2001 Revised Edition

26.

Sector : Sewage and Refuse Disposal, Sanitation and other Environmental Protection Services Subsector : Other Environmental Protection Services Industry Classification : CPC 9409 – Other environmental protection services not elsewhere classified Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of any other environmental protection services not elsewhere classified. Existing Measure : -

27.

Sector : Postal Services Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)

Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of postal services. Existing Measure : -

28.

Sector : Telecommunications Services4 Subsector : Telecommunications Services Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of Telecommunications Services, except for the following sectors and subsectors which are subject to the limitations, conditions and qualifications listed herein: (a) Basic Telecommunication Services5, including resale (facilities-based and services-based): (i) Public Switched Services6 (local and international); (ii) Leased Circuit Services (local and international); (b) Mobile Services7 including resale (facilities-based and services-based): (i) Public Mobile Data Service (PMDS); (ii) Public Trunked Radio Service (PTRS); (iii) Public Radio Paging Service (PRPS); (iv) Public Cellular Mobile Telephone Service (PCMTS); and (c) The following value-added Network (VAN) services: (i) electronic-mail; (ii) voice-mail; (iii) on-line information and data-base retrieval; (iv) electronic data interchange; and (v) on-line information and/or data processing. Existing Measure : -

(4) Telecommunication services exclude broadcasting services, which is defined as the transmission of signs or signals via any technology for the reception or display of aural or visual programme signals by all or part of the public. For supply of service from the territory of another Party into the territory of Singapore, market access is subject to commercial arrangements with licensed operators.

(5) Basic Telecommunication Services may be provided using satellite technology.

(6) This includes voice, data and facsimile services.

(7) Mobile Services may be provided using satellite technology. For supply of service from the territory of another Party into the territory of Singapore, market access is subject to commercial arrangements with licensed operators.

29.

Sector : Trade Services Subsector : Supply of potable water for human consumption Industry Classification : CPC 18000 Natural Water The sectors listed above apply only insofar as they relate to the supply of potable water. Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of potable water. For greater certainty, this reservation does not affect the supply of bottled water. Existing Measure : Public Utilities Act, Cap. 261, 2002 Revised Edition

30.

Sector : Transport Services Subsector : Transportation services via pipeline Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment: Only service suppliers with local presence shall be allowed to provide transportation services via pipeline of goods such as chemical and petroleum products and petroleum, and other related products. Singapore reserves the right and flexibility to modify or increase the list of the chemical and petroleum products, and other related products that are subject to this reservation. Existing Measure : -

31.

Sector : Transport Services Subsector : Air transport services Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting cross-border supply of: (a) aircraft

repair and maintenance services; (b) the selling and marketing of air transport services; (c) computer reservation system services; (d) specialty air services; (e) ground handling services; and (f) airport operation services. Singapore reserves the right to adopt or maintain any measure affecting investments in air transport and air transport-related services. Existing Measure : Civil Aviation Authority of Singapore Act, Cap. 41, 2014 Revised Edition

32.

Sector : Transport Services Subsector : Air transport services Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of the following: (a) surveying; (b) mapping; and (c) photography. Existing Measure : -

33.

Sector : Transport Services Subsector : Air Transport Services - Passengers Transportation by Air Freight Transportation by Air Industry Classification : CPC 731 Passenger Transportation by Air CPC 732 Freight Transportation by Air Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure relating to requirements of Singapore's bilateral and multilateral air services agreements. Service suppliers providing air transport services (for both passenger and freight) as a Singapore designated airline may have to be effectively controlled or substantially owned by the Singapore Government or citizens of Singapore or both. Existing Measure : Air Navigation (Licensing of Air Services) Regulations

34.

Sector : All Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure in relation to the divestment of the administrator and operator of airports. Existing Measure : -

35.

Sector : Transport Services Subsector : Land Transport Services – Public transport services, including passenger transportation services by railway, urban and suburban regular transportation services, taxi services, bus and rail station services and ticketing services related to public transport services. Public transport services are services which are used by and accessible to members of the public for the purposes of transporting themselves within Singapore. Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of public transport services. Public transport services are services which are used by and accessible to members of the public for the purposes of transporting themselves within Singapore. Existing Measure : Rapid Transit Systems Act, Cap. 263A, 2004 Revised Edition Land Transport Authority of Singapore Act, Cap. 158A, 1996 Revised Edition Public Transport Council Act, Cap. 259B, 2012 Revised Edition Road Traffic Act, Cap. 276, 2004 Revised Edition Third-Party Taxi Booking Service Providers Act 2015, Act 17 of 2015

36.

Sector : Transport Services Subsector : Land Transport Services – Rail and road freight transportation. Supporting services for rail and road transport services. Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of land transport services as set out above. Existing Measure : -

37.

Sector : Transport Services Subsector : Services Auxiliary to All Modes of Transport Industry Classification : CPC 742 Storage and warehousing services CPC 742** Container station and depot services CPC 748 Freight transport agency services CPC 7123** Inland trucking services Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure that accords equivalent treatment to storage and warehousing, freight forwarding, inland trucking, container station and depot services of another Party. Existing Measure : -

38.

Sector : Transport Services Subsector : Maritime Transport Services – Towing and tug assistance; provisioning, fuelling and watering; garbage collection and ballast waste disposal; port captain's services; navigation aids; emergency repair facilities; anchorage; and other shore-based operational services essential to ship operations, including communications, water and electrical supplies. Industry Classification : CPC 74510 Port and Waterway Operation Services CPC 74520 Pilotage and Berthing Services CPC 74530 Navigation Aid Services CPC 74590 Other Supporting Services for Water Transport Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of towing and tug assistance; provisioning, fuelling and watering; garbage collection and ballast waste disposal; port captain's services; navigation aids; emergency repair facilities; anchorage; and other shore-based operational services essential to ship operations, including communications, water and electrical supplies. For greater certainty, no measures shall be applied which deny international maritime transport operators reasonable and non-discriminatory access to the above port services. Existing Measure : Maritime and Port Authority of Singapore Act, Cap. 170A, 1997 Revised Edition, Section 41

39.

Sector : Transport Services Subsector : Internal Waterways Transport Services Industry Classification : CPC 722 Transport Services by Non-seagoing Vessels Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of internal waterways transportation services. Existing Measure : -

40.

Sector : Trade Services Subsector : Wholesale trade services and retail trade services of alcoholic beverages and tobacco Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of wholesale and retail trade services of tobacco products and alcoholic beverages. Existing Measure : -

41.

Sector : Energy Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting or relating to nuclear energy, including energy products (e.g. electricity, heat and steam) produced by nuclear energy. Existing Measure : -

42.

Sector : All Subsector : - Industry Classification : - Type of Reservation : Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.* Singapore reserves the right to adopt or maintain any measure that

accords differential treatment to Member States of ASEAN under any international agreement in force or signed after the date of entry into force of this Agreement. Singapore reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation matters, including air services; (b) maritime and services auxiliary to maritime matters; and port matters; (c) land transport matters; (d) postal and courier services matters; (e) telecommunications and information technology matters; (f) electronic commerce matters; and (g) environmental matters. * For greater certainty, the wording in this paragraph extends to any differential treatment accorded to a country pursuant to a subsequent review or amendment of the relevant bilateral or multilateral agreement mentioned in this paragraph. Existing Measure : -

43.

Sector : Financial Services Subsector : - Industry Classification : - Type of Reservation : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure affecting the supply of financial services with respect to Most-Favoured-Nation Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors. Singapore reserves the right to adopt or maintain any measure with respect to National Treatment and Market Access, except as specified in the Appendix to this List (Commitments for Financial Services – Singapore) and subject to the limitations, conditions and qualifications specified therein. Existing Measure : -

44.

Sector : All Subsector : - Industry Classification : - Type of Reservation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services: Singapore reserves the right to adopt or maintain any limit on the number of suppliers of credit bureau services where information provided by the supplier of credit bureau services is obtained from financial institutions in Singapore. The supplier must be established in Singapore. Existing Measure : Monetary Authority of Singapore Act, Cap. 186, 1999 Revised Edition

Appendix to List B. Commitments for Financial Services - Singapore

Explanatory Notes

This Appendix shall be read together with entry 43 in List B of the Schedule of Singapore in Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment). This Appendix does not include Singapore's commitments on the supply of a service by the presence of natural persons, or other movement of natural persons, including immigration, entry or temporary stay.

Modes of Supply: 1) Cross-border Supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Financial Services. All the commitments in this Appendix are also subject to entry requirements, domestic laws, guidelines, rules and regulations, terms, and conditions of the Monetary Authority of Singapore (MAS) or any other relevant authority or body in Singapore, as the case may be, which are consistent with Article VI of GATS and paragraph 2 of the Annex on Financial			

Services of GATS.			
A. Insurance and Insurance-related Services			
a) Life insurance services including annuity, disability income, accident and health insurance services	(1) Unbound (2) None (3) These measures are also limitations on national treatment. None except foreign persons can only acquire equity stakes of up to 49 per cent in aggregate in locally-owned insurance companies provided the acquisition does not result in any foreign person being the largest shareholder; insurance companies must establish as branches or subsidiaries; and for activities relating to the use, including via investment, of monies from any social security, public retirement or statutory savings scheme.	(1) Unbound (2) None (3) None	
b) Non-life insurance services including disability income, accident and health insurance and contracts of fidelity bonds, performance bonds or similar contracts of guarantee.	(1) Unbound (2) None except that compulsory insurance of Motor Third Party Liability and Workmen's Compensation may only be purchased from licensed insurance companies in Singapore. (3) Foreign persons can only acquire equity stakes of up to 49 per cent in aggregate in locally-owned insurance companies provided the acquisition does not result in any foreign person being the largest shareholder. Unbound for licensing of new insurance companies and establishment of new representative offices.	(1) Unbound (2) None (3) None	
c) Reinsurance and retrocession	(1) None (2) None (3) None except that reinsurance companies must be established as branches or subsidiaries.	(1) None (2) None (3) None	
d) Insurance intermediation comprising broking and agency services	(1) Unbound (2) These measures are also limitations on national treatment. Agents are not allowed to act for unlicensed insurers. The placement of domestic risks outside Singapore by brokers is subject to the approval of MAS, with the exception of reinsurance risks and insurance risks relating to maritime liabilities of shipowners insured by protection and indemnity clubs.(3) These measures are also limitations on national treatment. Unbound except for admission of direct insurance brokers (8) and reinsurance brokers as locally	(1) Unbound (2) None (3) Unbound	

	incorporated subsidiaries		

(8) Direct insurance broker means an insurance broker which is licensed under the Insurance Act in respect of insurance policies relating to general insurance and long term accident and health policies, other than insurance policies relating to reinsurance business.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
d) Services auxiliary to insurance comprising actuarial, loss adjustors, average adjustors and consultancy services.	(1) None (2) None (3) None	(1) None (2) None (3) None	
B. Banking and Other Financial Services			
a) Acceptance of deposits,	(1) Unbound (2) None (3) These measures are also limitations on national treatment. Only institutions licensed or approved as banks, merchant banks and finance companies can accept deposits. Where a foreign financial institution is subject to legislation in its home country which requires that institution to confer lower priority to depositors of its foreign offices vis-à-vis the home country depositors in receivership or winding-up proceedings, the MAS may exercise appropriate differentiated measures against that foreign financial institution in Singapore to safeguard the interest of the Singapore office's depositors. MAS may require foreign banks to incorporate under Singapore law. Establishment and operation of foreign banks, merchant banks and finance companies are also subject to the limitations listed under activities B.a) through B.l) and the following limitations: Commercial banks No new full and wholesale banks. New foreign banks may only	(1) Unbound (2) None (3) Commercial banks: Foreign banks can operate from only one office (excluding back-office operations). They cannot establish off-premise Automated Teller Machines (ATM) and ATM networking and new sub-branches. Unbound for provision of all electronic banking services. Location of banks and relocation of banks and sub-branches require prior approval from MAS. Wholesale banks can only accept foreign currency fixed deposits from and operate current accounts for residents and non-residents. For Singapore dollar deposits, they can only accept fixed deposits of S$250,000 or more per deposit. Offshore banks can accept foreign currency fixed deposits from residents and non-residents. For Singapore dollar deposits, they can only accept fixed deposits of S$250,000 or more per deposit from non-residents. A majority of the	

and other repayable funds from the public	establish as offshore bank branches or representative offices. Representative offices cannot conduct business or act as agents. Banks, with MAS' approval, can operate foreign currency savings accounts only for non-residents. A single or related group of foreign shareholders can only hold up to 5 per cent of a local bank's shares. Merchant banks Foreign banks and merchant banks may establish as merchant bank subsidiaries or merchant bank branches. Finance companies No new finance companies. Unbound for foreign acquisition of shares in finance companies and transfer of stake of foreign shareholdings in existing finance companies to foreign persons. All finance companies, local and foreign-owned, can only conduct Singapore dollar business. With MAS' prior approval, eligible finance companies can also deal in foreign currencies, gold or other precious metals, and acquire foreign currency stocks, shares, or debt or convertible securities.	directors of a bank incorporated in Singapore must be either Singapore citizens or Singapore permanent residents. (9) Merchant banks Merchant banks can operate from only one office (excluding back-office operations). Location and relocation of merchant banks require MAS' prior approval. Merchant banks can, with MAS' authorisation, raise foreign currency funds from residents and non-residents, operate foreign currency savings accounts for non-residents and raise Singapore dollar funds from their shareholders and companies controlled by their shareholders, banks, other merchant banks and finance companies. Finance companies Location of finance companies and relocation of sub-branches require MAS' prior approval. Foreign-owned finance companies cannot establish off-premise ATMs, ATM networking and new sub-branches.	

(9) MAS may permit a bank incorporated in Singapore which is a wholly owned subsidiary of a bank of another Party incorporated outside Singapore, to have less than a majority of directors who are either Singapore citizens or Singapore permanent residents.

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of	(1) Unbound. Measures taken are also limitations on national treatment. (2) None (3) These measures are also limitations on national treatment. (i) Other than in-house credit cards, credit and charge cards may be issued by card issuers approved by MAS subject to MAS' guidelines. (ii) Financial institutions extending Singapore dollar (S$) credit facilities exceeding S$5 million per entity to non-resident financial entities or arranging S$ equity or bond issues for non-residents, shall ensure that where the S$ proceeds are to be used outside Singapore, they are swapped or converted into foreign	(1) None (2) None (3) Each offshore bank's lending in Singapore dollars to residents shall not exceed S$500 million in aggregate. Offshore banks should not use their related merchant banks to	

commercial transactions.	currency upon draw-down or before remittance abroad. Financial entities shall not extend S$ credit facilities to non-resident financial entities if there is reason to believe that the S$ proceeds may be used for S$ currency speculation. (iii) Establishment of credit companies which do not conduct activities requiring MAS' approval is allowed.	circumvent the S$500 million lending limit. Unbound for establishment of off-premise cash dispensing machines for credit and charge cards issuers.	
c) Financial leasing	(1) None (2) None (3) None except as indicated for activity B.b) above	(1) None (2) None (3) None except as indicated for activity B.b) above	
d) Payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers' drafts	(1) Unbound (2) None (3) These measures are also limitations on national treatment. Remittance shops, except where the remittance business is conducted by banks and merchant banks, are required to be majority owned by Singapore citizens. Bankers' drafts can only be issued by banks. Multi-purpose stored value cards can only be issued by a bank in Singapore licensed by MAS. The limitations indicated in B.b) (3) above also apply to the activities listed in B.d).	(1) Unbound (2) None (3) None	
e) Guarantees and commitments.	(1) None except for the limitations as indicated in activity A.b) for insurance companies providing contracts of fidelity bonds, performance bonds or similar contracts of guarantee. (2) None (3) None except for the limitations indicated in activity A.b) for insurance companies providing contracts of fidelity bonds, performance bonds or similar contracts of guarantee, and B.b) (3)(ii) above.	(1) None (2) None (3) None	
f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following: - money market instruments (including cheques, bills,	(1) Unbound except for trading in products listed in B.f) for own account. Trading in money market instruments, foreign exchange, as well as exchange rate and interest rate instruments can be conducted with financial institutions only. Measures taken are also limitations on national treatment. (2) None (3) These measures are also limitations on national treatment. Banks and merchant banks are required to set up separate subsidiaries to trade financial futures for customers. Financial futures brokers can establish as branches or subsidiaries. The offer of derivative products by both local and foreign-owned financial		

certificates of deposit) - foreign exchange - derivative products, including financial futures and options - exchange rate and interest rate instruments, including swaps and forward rate agreements - transferable securities - other negotiable instruments and financial assets, including bullion	institutions is allowed provided: - the product has been offered by the financial institution in other internationally-reputable financial centres and the supervisory authorities of those centres agree to the offer of such products in their markets; the financial institution's parent supervisor and its head office must be aware and have no objection to the offer of such products in the Singapore branch or subsidiary; and - MAS is satisfied that the financial institution has and continues to have the financial strength and adequate internal controls and risk management systems to trade in these products. The offer of derivative products involving the Singapore dollar is subject to the requirement indicated in B.b)(3)(ii). Moneychangers, except where the money changing business is conducted by banks and merchant banks, are required to be majority owned by Singapore citizens.	(1) None (2) None (3) None except as indicated for activity B.b) above.	
g) Participation in issues of all kinds of securities, including underwriting and placement as agent and provision of service related to such issues	(1) Unbound except for participation in issues of securities for own account, and underwriting and placement of securities through stockbroking companies, banks or merchant banks in Singapore. Measures taken are also limitations on national treatment. (2) None (3) Measures taken are also limitations on national treatment. Singapore Exchange Securities Trading Ltd (SGX-ST) will admit new trading members. New members will be able to trade directly in Singapore dollar (S$) denominated securities of Singapore incorporated companies with resident investors for a minimum value of S$200,000. Representative offices cannot conduct business or act as agents. Unbound for foreign acquisition of new and existing equity interests in SGX-ST member companies. Banks' and merchant banks' membership on SGX-ST and Singapore Exchange Derivatives Trading Ltd (SGX-DT) must be held through subsidiaries. Unbound for new Primary and Registered dealers of Singapore Government Securities.	(1) None (2) None (3) None except as indicated for activity B.b) above	
h) Money broking	(1) Unbound (2) None (3) Unbound for new money brokers. Measures taken are also limitations on national treatment.	(1) Unbound (2) None (3) None	
i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund	(1) Unbound (2) None (3) These measures are also limitations on national treatment. None, except asset management companies, custodial depositories, and trust services companies can establish as branches, subsidiaries or joint ventures; only the Central Depositary Pte Ltd is authorised to provide securities custodial depository services under the scripless trading system. Unbound for	(1) Unbound (2) None (3) None	

management, custodial, depository and trust services	activities relating to the use, including via investment, of monies from any social security, public retirement, or statutory saving scheme.		
j) Settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments	(1) Unbound, except for the provision of settlement and clearing services for financial assets which are listed on overseas exchanges only. (2) None (3) These measures are also limitations on national treatment. Settlement and clearing services for exchange traded securities and financial futures can only be provided by Central Depository (Pte) Limited and SGX-DT respectively. Only one clearing house established under the Banking Act may provide clearing services for Singapore dollar cheques and interbank fund transfer.	(1) Unbound (2) None (3) Unbound	
k) Advisory and other auxiliary financial services, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	(1) Commercial presence is required for provision of investment and portfolio research and advice to the public. (2) None (3) Financial advisers can establish as branches, subsidiaries or representative offices. Representative offices cannot conduct business or act as agents.	(1) None (2) None (3) None	
l) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	(1) Unbound except for the provision of financial information by providers such as Reuters and Bloomberg. Measures taken are also limitations on national treatment. The Singapore branches of foreign banks can transmit data to their head offices and sister branches for processing provided proper controls exist, the integrity and confidentiality of the data and information are safeguarded, and MAS is allowed on-site access to the data and information at the place where the data and information is processed. (2) Only the provision of financial information by providers such as Reuters and Bloomberg is allowed. Measures taken are also limitations on national treatment. (3) The provision of financial information by providers, such as Reuters and Bloomberg, is allowed. The provision of financial data processing services to banks and merchant banks is subject to domestic laws on protection of confidentiality of information of customers of banks and merchant banks.	(1) None for the provision of financial information by providers such as Reuters and Bloomberg. (2) None (3) None	

Thailand

List A. Explanatory Notes

1. This Schedule is made pursuant to Chapter 10 (Investment) only. Any commitment of Thailand made pursuant to Chapter 8 (Trade in Services) and Chapter 9 (Temporary Movement of Natural Persons) is found in Thailand's Schedules in Annex II (Schedules of Specific Commitments for Services) and Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons) respectively.

2. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), Thailand's measures that do not conform to the obligations under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); or

(d) Article 10.7 (Senior Management and Board of Directors)

3. This List and List B pursuant to Article 10.8 (Reservations and Non-Conforming Measures) follow the negative list with two-list approach as follows:

(a) this List sets out commitments in relation to existing non-conforming measures. Paragraph 1 of Article 10.8 (Reservations and Non-Conforming Measures) applies to this List only; and

(b) List B sets out policy flexibility in relation to measures in sectors, subsectors, and activities.

4. Thailand may add, withdraw or modify any of its reservations as set out in this List for a period of 24 months from the date of entry into force of this Schedule, provided that relevant non-conforming measure is in existence as of the date of entry into force of this Agreement. Any such addition, withdrawal or modification will be submitted to the Depositary who will notify the other Parties, including the relevant laws and regulations. Such reservation shall be deemed to form part of this Schedule upon such notification.

5. Each entry shall set out the following elements, where applicable:

(a) Sector refers to sector or sectors for which an entry is made;

(b) Subsector refers to specific industries, products, and activities for which an entry is made;

(c) Industry Classification refers to the activities covered by the entry according to the International Standard Industrial Classification (ISIC) Revision

3. As necessary and appropriate, Thailand may specify the exact coverage of the entry if the entry does not exactly conform to the classification system;

(d) Level of Government specifies the level of government (e.g., Central or Regional) maintaining the measure for which an entry is made;

(e) Type of Obligation refers to the obligation of Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements) or Article 10.7 (Senior Management and Board of Directors), as the case may be, which does not apply to the listed measure;

(f) Description of Measure describes measures that do not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors) for which an entry is made; and

(g) Source of Measure is identified for transparency purposes only, for existing measures that apply to the sector, subsector, or activity covered by the entry.

6. In the interpretation of any entry, all elements of the entry shall be considered. The Description of Measure element shall prevail over all other elements.

7. These Explanatory Notes form an integral part of this List.

1.

Sector : Manufacturing Subsector : Playing cards Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : No natural person or juridical person is allowed to produce or import playing cards, except receiving approval from the Director General of Excise Department. Source of Measure : - Playing Cards Act B.E. 2486 (1943), as amended, and its subsidiary legislations - Excise Act B.E. 2560 (2017), as amended, and its subsidiary legislations

2.

Sector : Manufacturing Subsector : Manufacturing of notes and minting Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Only the Bank of Thailand has the right and authority to print, manage, and issue the notes of the Government of Thailand under the law governing the Bank of Thailand. Only the Ministry of Finance has the right and authority to mint and put coins into circulation. No person shall make, issue, use, or put into circulation any material or token for money except by authorisation from the Minister of Finance. Source of Measure : Currency Act B.E. 2501 (1958), as amended

3.

Sector : Manufacturing Subsector : Manufacturing of lottery Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Only the Government Lottery Office is authorised to produce, manage, and distribute the lottery in Thailand. Source of Measure : The Government Lottery Office Act B.E. 2517 (1974), as amended

4.

Sector : Agriculture Subsector : Onion seed propagation Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign equity participation must not exceed 49 per cent of registered capital of a business in onion seed propagation. Source of Measure : Foreign Business Act B.E. 2542 (1999), as amended, and its subsidiary legislations

5.

Sector : Fishery Subsector : Culture of tuna in deep sea cage and indigenous breeding of spiny lobsters Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign equity participation must not exceed 51 per cent of registered capital of a business in the culturing of tuna in deep sea cage and indigenous breeding of spiny lobsters: Panulirus versicolor, P. homarus, P. ornatus, P. longipes, P. penicilatus, and P. polyphagus. Source of Measure : Foreign Business Act B.E. 2542 (1999), as amended, and its subsidiary legislations

6.

Sector : Mining and Quarrying Subsector : Marble mining Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign equity participation must not exceed 49 per cent of registered capital of a business in marble mining and is subject to government concession. Source of Measure : Foreign Business Act B.E. 2542 (1999), as amended, and its subsidiary legislations

7.

Sector : Oil and gas related extraction Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign equity participation must not exceed 49 per cent of registered capital of a business in oil and gas related extraction and is subject to government concession. Source of Measure : Foreign Business Act B.E. 2542 (1999), as amended, and its subsidiary legislations

8.

Sector : Manufacturing Subsector : Manufacturing of tobacco products Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Only the Tobacco Authority of Thailand is allowed to produce tobacco products. Source of Measure : Tobacco Authority of Thailand Act B.E. 2561 (2018), as amended

9.

Sector : Fishery Subsector : - Industry Classification : ISIC 0500 Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : A foreigner (1) or fishing vessel with foreign flag is not allowed to apply for a fishing licence or to fish within Thailand’s territorial waters, contiguous zone, and Exclusive Economic Zone. Source of Measure : - Emergency Decree on Fisheries B.E.2558 (2015) - Act Governing the Right to Fish within Thai Waters B.E. 2482 (1939) - Thai Vessels Act B.E. 2481 (1938)

(1) For the purposes of this entry, the definition of “foreigner” shall be in accordance with the Foreign Business Act B.E. 2542 (1999).

10.

Sector : Agriculture Subsector : Cattle farming Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign equity participation must not exceed 49 per cent of registered capital of a business in cattle farming. Source of Measure : Foreign Business Act B.E. 2542 (1999), as amended, and its subsidiary legislations

List B. Explanatory Notes

1. This Schedule is made pursuant to Chapter 10 (Investment) only. Any commitment of Thailand made pursuant to Chapter 8 (Trade in Services) and Chapter 9 (Temporary Movement of Natural Persons) is found in Thailand's Schedules in Annex II (Schedules of Specific Commitments for Services) and Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons) respectively.

2. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), the sectors, subsectors, or activities for which Thailand may adopt or maintain any measure that does not conform to the obligations under:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); or

(d) Article 10.7 (Senior Management and Board of Directors).

3. List A and this List pursuant to Article 10.8 (Reservations and Non-Conforming Measures) follow the negative list with two-list approach as follows:

(a) List A sets out commitments in relation to existing non-conforming measures. Paragraph 1 of Article 10.8 (Reservations and Non-Conforming Measures) applies to this List only; and

(b) this List sets out policy flexibility in relation to measures in sectors, subsectors, and activities.

4. Each entry shall set out the following elements, where applicable:

(a) Sector refers to sector or sectors for which an entry is made;

(b) Subsector refers to specific industries, products, and activities for which an entry is made;

(c) Industry Classification refers to the activities covered by the entry according to the International Standard Industrial Classification (ISIC) Revision 3. As necessary and appropriate, Thailand may specify the exact coverage of the entry if the entry does not exactly conform to the classification system;

(d) Level of Government specifies the level of government (e.g., Central or Regional) maintaining the measure for which an entry is made;

(e) Type of Obligation refers to the obligation of Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), or Article 10.7 (Senior Management and Board of Directors), as the case may be, which does not apply to the listed measure;

(f) Description of Measure describes measures that do not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management

and Board of Directors) for which an entry is made; and

(g) Source of Measure is identified for transparency purposes only, for existing measures that apply to the sector, subsector, or activity covered by the entry.

5. In the interpretation of any entry, all elements of an entry shall be considered. The Description of Measure element shall prevail over all other elements.

6. These Explanatory Notes form an integral part of this List.

1.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : In the case where the Head of the National Council for Peace and Order is of opinion that it is necessary for the benefit of reform in any field and to strengthen public unity and harmony, or for the prevention, disruption, or suppression of any act which undermines public peace and order or national security, the Monarchy, national economy or administration of State affairs, whether that act emerges inside or outside Thailand, the Head of the National Council for Peace and Order shall have the powers to make any order to disrupt or suppress regardless of the legislative, executive, or judicial force of that order. In this case, that order, act or any performance in accordance with that order is deemed to be legal, constitutional and conclusive, and it shall be reported to the National Legislative Assembly and the Prime Minister without delay. In the event of the occurrence of an emergency situation and the Prime Minister considers that it is appropriate to use the force of administrative officials or police officers, civil officials or military officers to jointly provide assistance, prevent, remedy, suppress, withhold the emergency situation, rehabilitate or provide assistance to the people, the Prime Minister, upon the approval of the Council of Ministers, is empowered to declare an emergency situation applicable to the whole country or in some area or locality as necessary for the situation. Source of Measure : - Constitution of the Kingdom of Thailand B.E.2560 (2017) - Martial Law B.E.2457 (1914), as amended - Emergency Decree on Public Administration in Emergency Situation B.E.2548 (2005), as amended - Internal Security Act B.E.2551(2008), as amended

2.

Sector : Agricultural Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment in any activity related to agriculture except: - onion seed propagation - Foreign equity participation must not exceed 49 per cent of registered capital as specified in Entry 4 of List A; and - cattle farming - Foreign equity participation must not exceed 49 per cent of registered capital as specified in Entry 10 of List A Source of Measure : -

3.

Sector : Fishery Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment in any activity related to fishery except: - culture of tuna in deep sea cage: Foreign equity participation must not exceed 51 per cent of registered capital as specified in Entry 5 of List A; and - indigenous breeding of spiny lobsters; Panulirus versicolor, P. homarus, P. ornatus, P. longipes, P. penicilatus, and P. polyphagus: Foreign equity participation must not exceed 51 per cent of registered capital as specified in Entry 5 of List A. Source of Measure : -

4.

Sector : Forestry Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment in any activity related to forest plantation and the forest industry. Source of Measure : - Foreign Business Act B.E. 2542 (1999), as amended, and its subsidiary legislations - Natural Reserved Forest Act B.E. 2507 (1964), as amended - Commercial Forest Plantation Act B.E. 2535 (1992), as amended

5.

Sector : Mining and Quarrying, and Energy Subsector : - Industry Classification : ISIC 10-14 Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment in any activity related to mining and quarrying, and energy except: - marble mining: Foreign equity participation must not exceed 49 per cent of registered capital as specified in Entry 6 of List A; and - oil and gas related extraction: Foreign equity participation must not exceed 49 per cent of registered capital as specified in Entry 7 of List A. Source of Measure : -

6.

Sector : Manufacturing Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment in all manufacturing sectors except for subsectors below, a foreigner (2) is allowed to obtain up to 100 per cent of registered capital: - Manufacture of motor vehicle (ISIC 3410); - Manufacture of parts and accessories for motor vehicles and their engines (ISIC 3430); - Manufacture of furniture (ISIC 3610), except product of wood carving furniture; - Manufacture of finishing textiles (ISIC 1712), except any activity relating to production, weaving or printing of Thai silk; - Manufacture of preparation and spinning of textile fibers; weaving of textiles (ISIC 1711), except any activity relating to production, weaving or printing of Thai silk; - Manufacture of plastics products (ISIC 2520); - Manufacture of electric LED lamps and lightings; - Manufacture of printed circuit boards (ISIC Rev. 4 - 2610 Manufacture of electronic components and boards); - Manufacture of domestic appliances (ISIC 2930); - Manufacture of office, accounting and computing machinery (ISIC 3000); - Manufacture of electric motors, generators and transformers (ISIC 3110); - Manufacture of electric lamps and lighting equipment (ISIC 3150); - Manufacture of television and radio receivers, sound or video recording or reproducing apparatus, and associated goods (ISIC 3230); - Manufacture of sports goods (ISIC3693); Manufacture of industrial robots for multiple uses (Part of ISIC 2929 manufacture of other special-purpose machinery); - Manufacture of insulated wire and cable (ISIC 3130); - Manufacture of peripheral units (Parts of ISIC 3000 Manufacture of office, accounting and computing machinery); - Manufacture of luggage, handbags and the like, saddlery and harness (ISIC 1912); - Manufacture of watches and clocks (ISIC 3330); - Manufacture of dairy products (ISIC 1520); - Manufacture of starches and starch products (ISIC 1532); - Manufacture of macaroni (part of ISIC 1544); - Manufacture of food processing Source of Measure : -

(2) For the purposes of this entry, the definition of “foreigner” shall be in accordance with the Foreign Business Act B.E. 2542 (1999).

7.

Sector : All new sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure relating to a sector or subsector which is specified as “not elsewhere classified (n.e.c.)” in ISIC Revision 3 at the date of entry into force of this Agreement for Thailand. Source of Measure : -

8.

Sector : All Sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : Thailand reserves the right to adopt or maintain any measure that accords more favourable treatment to an investor or investment under any international agreement or arrangement in force or signed prior to the date of entry into force of this Agreement. For greater certainty, this extends to: (a) any preferential treatment accorded pursuant to a subsequent review or amendment of the relevant international agreements or any forms of economic or regional cooperation with any Party or non-Party; and (b) any existing or future preferential treatment accorded pursuant to any agreement or arrangement between or among Member States of ASEAN. Thailand reserves the right to adopt or maintain any measure that accords more favourable treatment to an investor or investment under any international agreement or arrangement in force or signed after the date of entry into force of this Agreement in the following sectors: - agriculture except farming of livestock; - fishery and maritime matters; and - forestry. Thailand reserves the right to adopt or maintain any measure and treatment relating to procedures for the resolution of investment disputes between investors and states provided for in other international investment treaties and other trade agreements. Source of Measure : -

9.

Sector : All Sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : A foreign national or a domestic company which is deemed foreigner (3) is not allowed to purchase or own land in Thailand. However, it may lease or hire land and own building. Thailand reserves the right to adopt or maintain any measure in relation to acquisition or usage of land in Thailand, including the development or usage of land or the type of activities which may be conducted on land in accordance with its land zoning, land usage, urban planning, development control, conservation, and preservation policies as well as policies relating to environmental protection, nature reserves, and national parks. Source of Measure : - The Land Code - Civil and Commercial Code - Hire of Immovable Property for Commerce and Industry Act B.E. 2542 (1999), as amended - Agricultural Land Reform Act B.E. 2518 (1975), as amended - Land Lease for Agriculture Act (No. 2) B.E. 2559 (2016), as amended - Act Promulgating the Land Code B.E. 2497 (1954), as amended - Regulations of the Agricultural Land Reform Executive Committee on Rules, Procedures and Conditions for the Selection of Farmers Eligible to Acquire Land from Agricultural Land Reform B.E. 2535 (1992) - Regulations of the Agricultural Land Reform Executive Committee on Rules, Procedures and Conditions for Granting Permission and Being Complied with by the Recipients of the Granting in Respect of Utilization on Land or Immovable Property for Activities, which Support or are Related to Agricultural Land Reform B.E. 2541 (1998)

(3) For the purposes of this entry, the definition of “foreigner” shall be in accordance with the Foreign Business Act B.E. 2542 (1999).

10.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to: 1. devolution to the private sector of any investment in the exercise of government authority at the date of entry into force of this Agreement; 2. the privatisation of an entity or asset owned wholly or partially by the government; and 3. divestment of an asset through transfer or disposal of equity interests or assets owned wholly or partially by the government. Source of Measure : -

11.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment relating to portfolio investments. Source of Measure : -

11.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment relating to foreign exchange transactions by non-resident and any measure relating to transactions in, and holdings of, local currency by non-resident, for the prevention of Thai Baht speculation. Note: Examples of measures to prevent Thai Baht speculation include the following: - measures to limit Thai Baht liquidity - measures to curb capital inflows - measures on Non-Resident Baht Account (NRBA) and Non-Resident Baht Account for Securities (NRBS) accounts - measures on non-deliverable forwards. Source of Measure : -

13.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to small and medium enterprises. The characteristics of small and medium enterprises under the Small and Medium Enterprises Promotion Act B.E. 2543 (2000), is defined in the Ministerial Regulation on Industry. The rules are as follows: o Small enterprise or company or business - Number of employment of a manufacturing company and service provider is not more than 50 natural persons and fixed asset of the company is not more than 50 million Thai Baht. o Medium enterprise or company or business - Number of employment of a manufacturing company and service provider is from 51 to 200 natural persons and fixed asset of the company is from 50 to 200 million Thai Baht. Source of Measure : - Investment Promotion Act B.E. 2520 (1977), as amended, and its announcement and regulations issued thereunder - Small and Medium Enterprises Promotion Act B.E. 2543 (2000) and as amended B.E. 2561 (2018), as amended, and its Ministerial regulations, subsidiary legislations, and announcements

14.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure that accords preferences or provides favourable treatment to any minority person or disadvantaged person. Source of Measure : -

15.

Sector : Industrial estate Subsector : - Establishment or expansion of an industrial estate - Land entitlement in industrial estate area Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to industrial estate. An applicant for Joint Development of an Industrial Estate Establishment Project with the Industrial Estate Authority of Thailand (IEAT) shall possess the following qualifications: - being a Thai juridical person; - having evidence of ownership or possession right in the land intended for an Industrial Estate Project, or evidence showing acquisition of ownership or possession right in the land, with consent from the land owner, to be developed as an industrial estate. If the business operator, which is a foreigner (4), dissolves or transfers its business to another person, the business operator shall dispose such land for which permission has been granted to hold the ownership under this Notification to the IEAT or the business transferee, as the case may be, within three years from the date of such dissolution or business transfer. If the business operator fails to do so, the Director-General of the Land Department shall dispose such land together with its component part to IEAT or other persons in accordance with the Land Code. Regarding the rules for consideration of the number of foreigners who are skilled workers or experts to stay in Thailand and work in industrial estate, the IEAT shall consider granting permission for the business operator to bring a foreigner to stay in Thailand according to the number and for the period of work in an industrial estate, by taking into account business category, registered capital, number of Thai workers, and business areas of the business operator. Source of Measure : - The Industrial Estate Authority of Thailand Act B.E. 2552 (1979), as amended, including its regulations, notifications, and administrative guidelines - Promotion and Conservation of National Environmental Quality Act B.E. 2535 (1992), as amended, including its regulations, notifications, and administrative guidelines - Factory Act B.E. 2535 (1992), as amended, including its regulations, notifications, and administrative guidelines - Eastern Economic Corridor Act B.E. 2561 (2018), and as amended

(4) For the purposes of this entry, the definition of “foreigner” shall be found in accordance with the Foreign Business Act B.E. 2542 (1999).

16.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : Local Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment relating to environment, health, or culture. Source of Measure : -

17.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment relating to the government requirements on technology transfer. Source of Measure : -

18.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description of Measure : Thailand reserves the right to adopt or maintain any measure with respect to an investor or investment relating to the government requirements on royalty with regard to taxation. Source of Measure : -

19.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National

Treatment (Article 10.3) Description of Measure : In order to operate business in Thailand, a foreigner (5) shall obtain a licence or certificate from the Department of Business Development, and comply with conditions set forth in the Foreign Business Act B.E. 2542 (1999) (6) and subsidiary legislations. A foreigner must meet a minimum capital requirement which is stipulated in Ministerial Regulation prescribing the Minimum Capital and Period for Bringing or Remitting the Minimum Capital into Thailand B.E. 2562 (2019). Minimum capital required to be registered at commencement of the business under the Lists attached to the Foreign Business Act B.E. 2542 (1999) shall not be less than that prescribed by the Ministerial Regulations, which in no case shall be less than three million Thai Baht. In all other cases, minimum capital required to be registered at the commencement of the business operation shall not be less than that prescribed by the Ministerial Regulations and shall in no case be less than two million Thai Baht. Source of Measure : - Foreign Business Act B.E. 2542 (1999), as amended, and its subsidiary legislations - Ministerial Regulations prescribing the Minimum Capital and Period for Bringing or Remitting the Minimum Capital into Thailand B.E. 2562 (2019)

(5) For the purposes of this entry, the definition of “foreigner” shall be found in accordance with the Foreign Business Act B.E. 2542 (1999).

(6) For illustrative purposes, “conditions set forth in the Foreign Business Act B.E. 2542 (1999)” may include the ratio of the capital and loans and the number of foreign directors who must have a domicile in Thailand.

20.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : A foreigner (7) must meet criteria and requirements in Section V of the Foreign Business Act B.E. 2542 (1999), where it is stipulated that in granting permission to a foreigner for the operation of business under this Act, regard shall be had to advantageous and disadvantageous effects on national safety and security, economic and social development of the country, public order or good morals, national values in arts, culture, traditions and customs, natural resources conservation, energy, environmental preservation, consumer protection, sizes of undertakings, employment, technology transfer, and research and development. Source of Measure : Foreign Business Act B.E. 2542 (1999), as amended, and its Ministerial Regulations

(7) For the purposes of this entry, the definition of “foreigner” shall be in accordance with the Foreign Business Act B.E. 2542 (1999).

21.

Sector : All Services sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Thailand reserves the right to adopt or maintain any measure relating to investment in service sectors. Source of Measure : -

22.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Consistent with Thailand’s investment promotion regime as set out in relevant provisions of Investment Promotion Act B.E. 2520 (1977), as amended, and National Competitiveness Enhancement for the Targeted Industries Act B.E. 2560 (2017), as amended, investment project to be granted with advantage requires approval from the Thailand Board of Investment and the Board of the National Competitiveness Enhancement Policy for the Targeted Industries, respectively. An investor must comply with the criteria set out in the investment promotion regime and any condition specified by the regulator and relevant agencies. Source of Measure : - Investment Promotion Act B.E. 2520 (1977), as amended - National Competitiveness Enhancement for the Targeted Industries Act B.E. 2560 (2017), as amended

Viet Nam

List A. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), measures that are not subject to

some or all of the obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.6 (Prohibition of Performance Requirements); and

(c) Article 10.7 (Senior Management and Board of Directors).

2. This List is made pursuant to Chapter 10 (Investment). Any commitment of Viet Nam made pursuant to Chapter 8 (Trade in Services) is found in Viet Nam's Schedule in Annex II (Schedules of Specific Commitments for Services).

3. Each reservation in this List shall set out the following elements, where applicable:

(a) Sector refers to the sector or sectors for which the reservation is taken;

(b) Subsector refers to specific industries/products/activities for which the reservation is taken;

(c) Industry Classification refers to the activities covered by the reservation according to: International Standard Industrial Classifications (hereinafter referred to as "ISIC") Revision 3 for manufacturing, agriculture, fishery, forestry and hunting, mining and quarrying. As necessary and appropriate, Viet Nam has specified the exact coverage of the reservations if the reservations do not exactly conform to the classification system;

(d) Level of Government refers to the level of government adopting or maintaining the measure for which a reservation is taken;

(e) Type of Obligation refers to the obligations of National Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors, as the case may be, which do not apply to the listed measures;

(f) Description of Measure element sets out the non-conforming measure for which the reservation is made. The obligations under Type of Obligation element do not apply to the non-conforming measure identified in the Description of Measure element of that reservation;

(g) Source of Measure element provides non-binding reference to the non-conforming measures for which the reservation is made for the purposes of transparency and illustration only and shall not be interpreted as an additional binding explanation of such measure.

4. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements.

5. Viet Nam may add, withdraw or modify any of its reservations as set out in this List for a period of 24 months from the date of entry into force of this Schedule, provided that relevant non-conforming measures are in existence as of the date of entry into force of this Agreement. Any such addition, withdrawal or modification will be submitted to the Depositary who will notify the other Parties, including the relevant laws and regulations. Such non-conforming measure shall be deemed to form part of this Schedule and shall take effect upon such notification.

6. These Explanatory Notes shall form part of this List.

1.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : National Treatment, Prohibition on Performance Requirements, and Senior Management and Board of Directors may not apply to conditions imposed in investment licences, permits or certificates that were issued before the date of entry into force of this Agreement. (1) Source of Measure : - Decree No. 194/2013/ND-CP dated 21 November 2013 - Decree No. 118/2015/ND-CP dated 12 November 2015

(1) For illustrative purposes, the condition may be the investors' commitment to transferring the invested assets to the Government of Viet Nam on a non-compensable basis at the time of termination of their projects.

2.

Sector : Manufacturing Subsector : Aircraft Manufacture Industry Industry Classification : ISIC 353 Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investment in the manufacture

of aircraft may not be permitted except through a joint venture or the purchase of shares in an enterprise. Foreign equity shall not exceed 49 per cent total equity of such joint venture or enterprise. Source of Measure : Decision No. 58/2016/QD-TTg dated 28 December 2016

3.

Sector : Manufacturing Subsector : Manufacture of railway rolling stock, spare parts, wagon and coach Industry Classification : ISIC 352 Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investment in the manufacture of railway rolling stock, spare parts, wagon and coach may not be permitted except through a joint venture or the purchase of shares in an enterprise. Foreign equity shall not exceed 49 per cent total equity of such joint venture or enterprise. Source of Measure : - Decision No. 214/QD-TTg dated 10 February 2015 - Decision No. 58/2016/QD-TTg dated 28 December 2016

List B. Explanatory Notes

1. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), measures that Viet Nam may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.6 (Prohibition of Performance Requirements); and

(c) Article 10.7 (Senior Management and Board of Directors).

2. This List is made pursuant to Chapter 10 (Investment). Any commitment of Viet Nam made pursuant to Chapter 8 (Trade in Services) is found in Viet Nam's Schedule in Annex II (Schedules of Specific Commitments for Services).

3. Each reservation in this List shall set out the following elements, where applicable:

(a) Sector refers to the sector or sectors for which the reservation is taken;

(b) Subsector refers to specific industries/products/activities for which the reservation is taken;

(c) Industry Classification refers to the activities covered by the reservation according to: International Standard Industrial Classifications (hereinafter referred to as "ISIC") Revision 3 for manufacturing, agriculture, fishery, forestry and hunting, mining and quarrying. As necessary and appropriate, Viet Nam has specified the exact coverage of the reservations if the reservations do not exactly conform to the classification system;

(d) Level of Government refers to the level of government adopting or maintaining the measure for which a reservation is taken;

(e) Type of Obligation refers to the obligations of National Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors, as the case may be, which do not apply to the listed measures;

(f) Description of Measure element sets out the non-conforming measure for which the reservation is made. The obligations under Type of Obligation element do not apply to the non-conforming measure identified in the Description of Measure element of that reservation;

(g) Source of Measure element provides non-binding reference to the non-conforming measures for which the reservation is made for the purposes of transparency and illustration only and shall not be interpreted as an additional binding explanation of such measure.

4. In the interpretation of a reservation, all elements of a reservation shall be considered. The Description of Measure element shall prevail over all other elements.

5. These Explanatory Notes shall form part of this List.

1.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to portfolio investment. Source of Measure : - Law on Investment - Law on Securities

2.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to investment procedures, such as procedures relating to investment registration certificate of investment projects, and foreign exchange management procedures. Source of Measure : - Law on Investment - Law on Enterprises

3.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to state-owned enterprises and monitoring and management of investment by state funds, including but not limited to privatisation, equitisation or divestment of assets through transfer or disposal of equity interests or assets of state-owned enterprises. Source of Measure : -

4.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : National Treatment, Prohibition of Performance Requirements, and Senior Management and Board of Directors may not apply in the event where activities restricted to designated enterprises are liberalised to those other than the designated enterprises, or in the event such designated enterprises no longer operate on a non-commercial basis. Source of Measure : -

5.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to land, properties, and natural resources (2) associated with land, including but not limited to land acquisition, land ownership (3), land allocation, land lease, policy on the usage of land, land plans and planning, term of land use, rights and obligations of land users. Source of Measure : - Law on Land - Law on Minerals - Law on Cultural Heritage - Law on Real Estate Business - Law on Investment

(2) Natural resources found in land belong to the Government of Viet Nam.

(3) For illustrative purposes, foreign organisations and individuals cannot own land. The Government of Viet Nam can allocate land or lease land for them in line with the duration of their investment project subject to approval of a competent State body in accordance with Viet Nam's laws and regulations.

6.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to treatments granted to small and medium-sized enterprises. Source of Measure : Law on Supporting small and medium-sized enterprises

7.

Sector : Manufacturing Subsector : - Production of firecrackers, including fireworks; - Production of sky-lanterns; - Production and supply of explosive materials; - Publishing: All kinds of publishing product. Publishing of books, brochures, musical books and other publications; Publishing of newspapers, journals and periodicals; Publishing of recorded media; Other publishing. - Printing: Books (including books for the blind), pictures, maps, posters, leaflets, calendars; Minting coin, molding and pressing money, value papers, forms with denomination, financial invoices, checks, etc; Journals, Newspapers,

Magazines, Periodicals, Counterfeit stamps, Certificates, Passport, National Identity Cards, etc. - Remanufacturing or refurbishing of Information and Communication Technology (ICT) products; - Production of cigarettes and cigars; - Production of liquor and alcoholic beverages; - Production of tobacco; - Manufacturing and assembling of buses and transport vehicles of more than 29 seats; - Production of gold. Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to the above-mentioned subsectors. Source of Measure : - Law on Investment - Law on Environment Protection - Law on the State Bank of Viet Nam

8.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to maintaining food security. Source of Measure : -

9.

Sector : Mining and Quarrying Subsector : Oil and gas Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to oil and gas. Source of Measure : - Law on Investment - Law on Minerals - Law on Oil and Gas

10.

Sector : Mining and Quarrying, except oil and gas, non-metallic minerals, and minerals as common construction material. Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to mining and quarrying, including but not limited to the following subsectors: - Survey, exploration and exploitation of minerals; - Exploitation and processing of rare and precious minerals, rare metals, raw materials; exploitation of clay for production of construction materials; exploitation of high-quality sand for production of construction and technical glasses; - Mineral activities related to the special, toxic, rare and precious minerals including basic geological investigation, prospecting, exploration, exploitation and processing; - Exploring, mining and processing of important minerals, including but not limited to marine minerals. Source of Measure : - Law on Minerals - Law on Investment

11.

Sector : Fishery and aquaculture Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to fishery and aquaculture within Viet Nam’s sovereignty and jurisdictional waters as defined in accordance with the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 (UNCLOS). Source of Measure : -

12.

Sector : Forestry and Hunting Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to forestry and hunting. Source of Measure : - Law on Forestry - Law on Protection and Development of Forest - Law on Biodiversity

13.

Sector : Agriculture Subsector : Cultivating, producing or processing rare or precious plants, breeding or husbandry of precious or rare wild animal and processing of those plants or animals (including both living animals and processed matter taken from animals). Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article

10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to the above mentioned subsectors. Source of Measure : - Law on Crop Production - Law on Husbandry

14.

Sector : Power Development Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to power development. Source of Measure : -

15.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to sectors that do not exist in the territory of Viet Nam at the date of entry into force of this Agreement. Viet Nam reserves the right to adopt or maintain any measure relating to sectors other than those recognised by the Government of Viet Nam at the date of entry into force of this Agreement. Any sector classified explicitly in Viet Nam Standard Industry Classification (hereinafter referred to as "VSIC") at the date of entry into force of this Agreement should have been recognised by the Government of Viet Nam at that time. For greater certainty, a sector, subsector or activity that is not specifically described in VSIC at the date of entry into force of this Agreement, such as sector, subsector or activity not elsewhere classified in VSIC, shall not be recognised by the Government of Viet Nam. Source of Measure : -

16.

Sector : Manufacturing Subsector : Production of industrial explosive devices; Cement production; Production of ready mixed concrete, stone crushing; Automobile assembly and manufacture; Motorcycle assembly and manufacture. Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment in these subsectors shall be subject to planning of the Government of Viet Nam which may give preferences to local investors. (4) Source of Measure : - Law on Mineral - Decree No. 71/2018/ND-CP dated 15 May 2018 - Decision No. 02/2007/QD-BCT dated 29 August 2007

(4) For illustrative purpose, local manufacturer of motorcycles may be given privileges in terms of production quantity to meet the demand of domestic market and location preferences.

17.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to establishment and operation of cooperatives, union of cooperatives, households and sole-proprietorship. Source of Measure : -

18.

Sector : - Subsector : Traditional Markets Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to traditional markets. Source of Measure : -

19.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure with respect to securities to be listed or listed on a stock exchange and any matter relating to the acquisition of interests in, take-overs of, and mergers of a public-listed company. Source of Measure : -

20.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure conferring rights or privileges to the socially, economically and geographically disadvantaged groups and ethnic minorities. Source of Measure : -

21.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to the establishment of commercial presence of foreign enterprises and investors in Viet Nam in the form of branch. Source of Measure : -

22.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to national defence and security. Source of Measure : -

23.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to weapon, explosives and supporting tools. Source of Measure : Law on Management and use of weapons, explosives and supporting tools

24.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to the atomic energy. Source of Measure : Law on Atomic Energy

25.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to river ports, sea ports and airports. Source of Measure : -

26.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to cultural heritage, belief and religion. Source of Measure : - Law on Cultural Heritage - Law on Belief and Religion

27.

Sector : Mining and Quarrying Subsector : Non-metallic minerals and minerals as common construction materials. Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt any measure relating to the above subsector, except processing of non-metallic minerals (5), and minerals as common construction material. Source of Measure : Law on Minerals

(5) For greater certainty, non-metallic minerals and minerals as common construction material shall be as defined in Viet Nam's laws and regulations. Non-metallic minerals do not include water, hot water mineral and mineral water.

28.

Sector : - Subsector : Publishing, Printing, Press, News-gathering Agencies, Mass Media, Radio and television broadcasting, in any form. Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to the above subsectors. Source of Measure : -

29.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to requirements on transfer of technology. Source of Measure : -

30.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : Prohibition on Performance Requirements (Article 10.6) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure with respect to requirements on royalty relating to health, taxation, national defence and security, and public interest. Viet Nam reserves the right to adopt or maintain any measure with respect to requirements on royalty when Viet Nam holds shares, interest or benefits in a person who is a party to the licence contract, under which the royalty is related. Viet Nam reserves the right to adopt or maintain any measure with respect to requirements on royalty under a licence contract, between or among related parties (6). Source of Measure : -

(6) Related parties shall be as defined under Viet Nam's laws and regulations.

31.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure in relation to the employment of expatriates. Restrictions (7) may be imposed on the number or ratio, minimum wages, duration and type of expatriates employed. Source of Measure : - Labour Code - Law on Enterprises

(7) For illustrative purposes, the restrictions may include but are not limited to: - In the case of managers, executives and specialists, at least 20 per cent of the total number of them shall be Vietnamese nationals. However, a minimum of three non-Vietnamese managers, executives and specialists shall be permitted per enterprise; - The legal representative of an enterprise shall reside permanently in Viet Nam.

32.

Sector : All sectors Subsector : - Industry Classification : - Level of Government : All levels Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Viet Nam reserves the right to adopt or maintain any measure relating to investment in all service sectors and subsectors. Source of Measure : -

Australia

List A. Explanatory Notes

1. This List A sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and 10.8 (Reservations and Non-Conforming Measures), Australia's existing measures that are not subject to some or all of the obligations imposed by: (a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Subsector, where referenced, refers to the specific subsector for which the entry is made;

(c) Level of Government indicates the level of government maintaining the listed measures;

(d) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the listed measures;

(e) Description sets out the non-conforming measure for which the entry is made; and

(f) Source of Measure means the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In accordance with Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measure identified in the Description element of that entry.

4. A measure that is reserved against Article 8.11 (Local Presence) need not be reserved against Article 8.4 (National Treatment).

5. For greater certainty, the Description element of each of the entries in this List A is to be interpreted in accordance with the relevant cited sources of the non-conforming measures.

6. The Schedules of other Parties shall not be used to interpret Australia's commitments or obligations under Chapter 8 (Trade in Services) or Chapter 10 (Investment).

7. Commitments on measures with respect to or relating to trade in financial services are undertaken subject to the limitations and conditions set forth in Chapter 8 (Trade in Services), Annex 8A (Financial Services), Chapter 10 (Investment), these Explanatory Notes and this List A.

8. Without prejudice to other means of prudential regulation, Australia reserves the right to require licensing or registration of financial service suppliers and of financial instruments.

1.

Sector : All Sectors Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment (1)

1. The following investments (2) are subject to approval by the Australian Government and may also require notification (3) to the Australian Government: a proposed investment by a foreign person (*) in an entity or Australian business valued at more than AUD275 million#; a proposed direct investment by a foreign government investor (4) of any interest regardless of value; a proposed investment by a foreign person (*) of five per cent or more in the media sector, regardless of the value of the investment; a proposed acquisition by a foreign person (*) of an interest in developed commercial land (5) where the value of the interest is more than AUD275 million (#), unless the land meets the conditions for the lower developed commercial land threshold of AUD60million(#)(6). Investments may be refused, subject to orders, or approved, subject to conditions. Foreign persons (*) that do not comply with the framework may be subject to civil and criminal penalties. For

greater certainty, where an investment could qualify for the application of one or more of the above screening thresholds, approval and/or notification requirements apply from the lowest applicable threshold. Separate or additional requirements may apply to measures subject to other entries in this List and to sectors, subsectors or activities subject to List B. 2. The acquisition of a stake in an existing (7) financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control (8) of an existing financial sector company, may be refused or be subject to certain conditions (9). Source of Measure : Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy; Foreign Acquisitions and Takeovers Act 1975 (Commonwealth); Foreign Acquisitions and Takeovers Regulations 2015 (Commonwealth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Commonwealth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Commonwealth); Financial Sector (Shareholdings) Act 1998 (Commonwealth); and Ministerial Statements.

(*) The term "foreign person" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulations 2015 (Commonwealth).

(#) This is the figure as at 1 January 2020. To be indexed annually on 1 January.

(1) For greater certainty, the terms of this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

(2) "Investment" means activities covered by Part II of Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) or, where applicable, Ministerial Statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

(3) The Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Commonwealth) and the Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Commonwealth) set the fees for foreign investment applications and notices. Fees are indexed annually on 1 July.

(4) The term "foreign government investor" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth).(

(5) The term "developed commercial land" means commercial land that is not vacant within the meaning of the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth).

(6) The conditions for the lower threshold are those set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth).

(7) For the purposes of this entry, "existing" means in existence at the time the investment is proposed or made.

(8) "Unacceptable shareholding situation" and "practical control" have the meaning set out in the Financial Sector (Shareholdings) Act 1998 (Commonwealth).

(9) Ministerial statements on foreign investment policy including the Treasurer's Press Release No. 28 of 9 April 1997.

2.

Sector : All Sectors Subsector : - Level of Government : Regional Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment All existing non-conforming measures at the regional level of government. Source of Measure : All

existing non-conforming measures at the regional level of government.

3.

Sector : All Sectors Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment At least one director of a private company must be ordinarily resident in Australia. At least two directors of a public company must be ordinarily resident in Australia. At least one secretary of a private company (if such a private company appoints one or more secretaries) must be ordinarily resident in Australia. At least one secretary of a public company must be ordinarily resident in Australia. Source of Measure : Corporations Act 2001 (Commonwealth) Corporations Regulations 2001 (Commonwealth)

4.

Sector : Professional Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4) Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services In order to register to practise in Australia, patent attorneys must have been employed for at least two continuous years, or a total of two years within five continuous years, in Australia or New Zealand, or in both countries, in a position or positions that provided the applicant with required experience in Australia's and New Zealand's patent attorney regime. Source of Measure : Patents Act 1990 (Commonwealth) Patent Regulations 1991 (Commonwealth)

5.

Sector : Professional Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4) Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services To practise as a migration agent in Australia a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa. Source of Measure : Migration Act 1958 (Commonwealth)

6.

Sector : Professional Services Subsector : - Level of Government : Central Obligations Concerned : Local Presence (Article 8.11) Description : Trade in Services A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator. At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia. Source of Measure : Corporations Act 2001 (Commonwealth)

7.

Sector : Professional Services Subsector : - Level of Government : Central Obligations Concerned : Local Presence (Article 8.11) Description : Trade in Services To act as a customs broker in Australia, service suppliers must supply the service in and from Australia. Source of Measure : Customs Act 1901 (Commonwealth)

8.

Sector : Fishing and services incidental to fishing Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment Foreign fishing vessels (10) seeking to undertake fishing activity, including any activity in support of or in preparation for any fishing activity or the processing, carrying or transhipment of fish, in the Australian Fishing Zone must be authorised. Where foreign fishing vessels are authorised they may be subject to a levy (11). Source of Measure : Fisheries Management Act 1991 (Commonwealth) Foreign Fishing Licences Levy Act 1991 (Commonwealth)

(10) For the purposes of this entry, a "foreign fishing vessel" is one that does not meet the definition of an Australian boat under the Fisheries Management Act 1991 (Commonwealth).

(11) The levy charged will be in accordance with the Foreign Fishing Licences Levy Act 1991 (Commonwealth) or any amendments thereto.

9.

Sector : Communication Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than five per cent of shares. The Chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia. Source of Measure : Telstra Corporation Act 1991 (Commonwealth)

10.

Sector : Health Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment The votes attached to significant foreign shareholdings (12) may not be counted in respect of the appointment, replacement or removal of more than one-third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the Chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia. Source of Measure : Commonwealth Serum Laboratories Act 1961 (Commonwealth)

(12) For the purposes of this entry, “significant foreign shareholding” means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least five per cent of the voting shares in CSL.

11.

Sector : Transport Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Local Presence (Article 8.11) Description : Trade in Services and Investment Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia. Only a person (13) affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission (ACCC) to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of “reasonable” include Australia’s national interest and the interests of Australian shippers. Source of Measure : Competition and Consumer Act 2010 (Commonwealth)

(13) Section 10.48 and 10.58 of Part X of the Competition and Consumer Act 2010 (Commonwealth) list the categories of persons to whom this entry will apply.

12.

Sector : Transport Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent. Furthermore, it is required that: at least two-thirds of the board members must be Australian citizens; the Chairperson of the board must be an Australian citizen; the airline’s head office must be in Australia; and the airline’s operational base must be in Australia. Source of Measure : Air Navigation Act 1920 (Commonwealth) Ministerial Statements

13.

Sector : Transport Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent. In addition: the head office of Qantas must always be located in Australia; the majority of Qantas’ operational facilities must be located in Australia; at all times, at least two-thirds of the directors of Qantas must be Australian citizens; at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and Qantas is prohibited from taking any action to become incorporated outside Australia. Source of Measure : Qantas Sale Act 1992 (Commonwealth)

14.

Sector : Transport Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment The following functions and services are reserved to provision by the statutory authority, Airservices Australia: airspace management, air traffic flow information, air traffic control, traffic and flight information, navigation services, aeronautical information, and aerodrome rescue and fire fighting services. Source of Measure : Air Services Act 1995 (Commonwealth) Air Services Regulations 1995 (Commonwealth) Public Governance, Performance and Accountability Act 2013 (Commonwealth)

15.

Sector : Communication Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Australia Post, a wholly-owned government entity, has the exclusive right to issue postage stamps and carry letters within Australia, whether the letters originated within or outside Australia. This includes: the collection within Australia of letters for delivery within Australia; and the delivery of letters within Australia. This entry does not include: the carriage of a letter weighing more than 250 grams; the carriage of a letter within Australia for a charge or fee that is at least four times the rate of postage that is current at the time for the carriage within Australia of a standard postal article by ordinary post; and other exceptions to the reserved services set out in section 30 of the Australian Postal Corporation Act 1989 (Commonwealth). Australia Post also has certain rights, powers and immunities ascribed only to it, such as the use and access to public land for the provision of postal and courier services. Source of Measure : Australian Postal Corporation Act 1989 (Commonwealth)

16.

Sector : All Sectors Subsector : - Level of Government : Central Regional Obligations Concerned : Prohibition of Performance Requirements (Article 10.6) (14) Description : Investment A design that has been registered or disclosed in a filed design application may be used by an Australian government (or a person authorised by an Australian government) and, if it is used, any agreement or licence fixing the terms on which a person other than that government may use the design may be inoperative with respect to the government use unless the agreement or licence has been approved by that government. Source of Measure : Designs Act 2003 (Commonwealth)

(14) Applies only in relation to subparagraph 1(h) of Article 10.6 (Prohibition of Performance Requirements).

17.

Sector : Financial Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment To undertake banking business in Australia an entity must be a body corporate and authorised as an authorised deposit-taking institution (ADI). Foreign deposit-taking institutions (including foreign banks) may only operate a banking business in Australia through locally incorporated deposit-taking subsidiaries or authorised branches (foreign ADIs), or through both structures. A branch of a foreign bank that is authorised as a deposit-taking institution in Australia (foreign ADI) is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than AUD250,000. A representative office of a foreign bank is not permitted to undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point. Source of Measure : Banking Act 1959 (Commonwealth) Payment Systems (Regulation) Act 1998 (Commonwealth)

18.

Sector : Financial Services Subsector : - Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements. Source of Measure : Commonwealth Banks Act 1959 (Commonwealth)

19.

Sector : Financial Services Subsector : Life insurance services Level of Government : Central Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Approval of non-resident life insurers is restricted to subsidiaries incorporated under Australian law. Source of Measure : Life Insurance Act 1995 (Commonwealth)

List B. Explanatory Notes

1. This List B sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors or activities for which Australia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Boards of Directors).

2. Each entry in this List sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Subsector, where referenced, refers to the specific subsector for which the entry is made;

(c) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(d) Description sets out the scope of the sector, subsector or activities covered by the entry; and

(e) Existing Measures where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

3. In accordance with Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors and activities identified in the Description element of that entry.

4. For greater certainty, where Australia has more than one entry in this List B that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.

5. The Schedules of other Parties shall not be used to interpret Australia's commitments or obligations under Chapter 8 (Trade in Services) or Chapter 10 (Investment).

6. Commitments on measures with respect to or relating to trade in financial services are undertaken subject to the limitations and conditions set forth in Chapter 8 (Trade in Services), Annex 8A (Financial Services), Chapter 10 (Investment), these Explanatory Notes and this List B.

7. Without prejudice to other means of prudential regulation, Australia reserves the right to require licensing or registration of financial service suppliers and of financial instruments.

8. For the avoidance of doubt, in relation to education services, nothing in Chapter 8 (Trade in Services) or Chapter 10 (Investment) shall interfere with:

(a) the ability of individual education and training institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates and in the development of curricula or course content;

(b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programmes, including the standards that must be met;

(c) government funding, subsidies or grants, such as land grants, preferential tax treatment and other public benefits,

provided to education and training institutions; or

(d) the need for education and training institutions to comply with non-discriminatory requirements related to the establishment and operation of a facility in a particular jurisdiction.

1.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment (15) Australia reserves the right to adopt or maintain any measure with respect to a proposed acquisition by a foreign person (16) of an interest in Australian land (17), other than developed commercial land or land that is used wholly and exclusively for a primary production business. Existing Measures : Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy; Foreign Acquisitions and Takeovers Act 1975 (Commonwealth); Foreign Acquisitions and Takeovers Regulations 2015 (Commonwealth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Commonwealth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Commonwealth); Financial Sector (Shareholdings) Act 1998 (Commonwealth); and Ministerial Statements.

(15) The terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework, as at the date of entry into force of this Agreement.

(16) The term "foreign person" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth).

(17) The terms "Australian land" and "interest in Australian land" have the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth)

2.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment (18) Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person (19) of an interest in agricultural land, where the cumulative value of agricultural land (20) owned by the foreign person alone or together with associates, including the proposed acquisition, is above AUD15 million. Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person of an interest in an agribusiness where the cumulative value of the interest held by the foreign person in that agribusiness, (21) alone or together with associates, including the proposed acquisition, is above AUD60 million. Existing Measures : Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy; Foreign Acquisitions and Takeovers Act 1975 (Commonwealth); Foreign Acquisitions and Takeovers Regulations 2015 (Commonwealth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Commonwealth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Commonwealth); Financial Sector (Shareholdings) Act 1998 (Commonwealth); and Ministerial Statements.

(18) The terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework, as at the date of entry into force of this Agreement.

(19) The term "foreign person" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth).

(20) The term "agricultural land" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth).

(21) The term "agribusiness" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Commonwealth) and Foreign Acquisitions and Takeovers Regulation 2015 (Commonwealth).

3.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests. Existing Measures : -

4.

Sector : All Sectors Subsector : - Obligations Concerned : Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services Australia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Chapter 9 (Temporary Movement of Natural Persons). Existing Measures : -

5.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure according preferences to any Indigenous person (22) or organisation or providing for the favourable treatment of any Indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector. Australia reserves the right to adopt or maintain any measure with respect to investment that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation. Existing Measures : Legislation and ministerial statements at all levels of government including Australia's Foreign Investment Framework, and the Native Title Act 1993 (Commonwealth).

(22) For the purpose of this entry, an "Indigenous person" means a person of the Aboriginal and Torres Strait Islander peoples.

6.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to: (a) the devolution to the private sector of services provided in the exercise of governmental authority at the time of entry into force of this Agreement; and (b) the privatisation of government owned entities or assets. Existing Measures : -

7.

Sector : All Sectors Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure (23) with respect to the provision of law enforcement and correctional services, and the following services (24) to the extent that they are social services established or maintained for a public purpose: income security or insurance; social security or insurance; social welfare; public education; public training; health (25); child care; public utilities; public transport; and public housing. Existing Measures : -

(23) For greater certainty, measures adopted or maintained with respect to the provision of services covered by this entry include measures for the protection of personal information relating to health and children.

(24) For the avoidance of doubt, this includes any measure with respect to: the collection of blood and its components, the distribution of blood and blood-related products, including plasma derived products, plasma fractionation services, and the procurement of blood and blood related

products and services.

(25) For greater certainty, the subsidies programmes under Australia's Pharmaceutical Benefits Scheme and Medicare Benefits Scheme, or successor programmes, are not subject to Chapter 8 (Trade in Services) consistent with Article 8.2 (Scope) or Chapter 10 (Investment) consistent with Article 10.2 (Scope).

8.

Sector : Communications Services; Recreational, Cultural and Sporting Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to: (a) the creative arts (26), cultural heritage (27) and other cultural industries, including audio-visual services, entertainment services and libraries, archives, museums and other cultural services; and (b) broadcasting and audio-visual services, including measures with respect to planning, licensing and spectrum management, and including: (i) services offered in Australia; and (ii) international services originating from Australia. Existing Measures : Broadcasting Services Act 1992 (Commonwealth) Radiocommunications Act 1992 (Commonwealth) Broadcasting Services (Australian Content) Standard 2016 Children's Television Standards 2009 Television Program Standard 23 – Australian Content in Advertising Commercial Radio Codes of Practice and Guidelines Community Broadcasting Codes of Practice International Co-production program Australia Council Act 2013 (Commonwealth) Screen Australia Act 2008 (Commonwealth) Income Tax Assessment Act 1936 (Commonwealth) Income Tax Assessment Act 1997 (Commonwealth)

(26) "Creative arts" include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film, television, video, radio, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid arts work which uses new technologies to transcend discrete art form divisions.

(27) "Cultural heritage" includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.

9.

Sector : Distribution Services Subsector : - Obligations Concerned : Market Access (Article 8.5) Description : Trade in Services Australia reserves the right to adopt or maintain any measure with respect to wholesale and retail trade services of tobacco products, alcoholic beverages, or firearms. Existing Measures : -

10.

Sector : Education Sector Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to primary education. Existing Measures : -

11.

Sector : Gambling and Betting Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to gambling and betting. Existing Measures : Legislation and Ministerial Statements, including the Interactive Gambling Act 2001 (Commonwealth).

12.

Sector : Maritime Transport Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market

Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services. (28) Australia reserves the right to adopt or maintain any measure with respect to the registration of vessels in Australia. Existing Measures : Customs Act 1901 (Commonwealth) Fair Work Act 2009 (Commonwealth) Seafarers' Rehabilitation and Compensation Act 1992 (Commonwealth) Occupational Health and Safety (Maritime Industry) Act 1993 (Commonwealth) Shipping Registration Act 1981 (Commonwealth) Shipping Registration Regulations 1981 (Commonwealth) Income Tax Assessment Act 1936 (Commonwealth) Coastal Trading (Revitalising Australian Shipping) Act 2012 (Commonwealth) Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012 (Commonwealth) Shipping Reform (Tax Incentives) Act 2012 (Commonwealth).

(28) For the purposes of this entry, "cabotage" is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. "Offshore transport" refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.

13.

Sector : Transport Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports. Existing Measures : Airports Act 1996 (Commonwealth) Airports (Ownership-Interests in Shares) Regulations 1996 (Commonwealth) Airports Regulations 1997 (Commonwealth)

14.

Sector : All Sectors Subsector : - Obligations Concerned : Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. (29) Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor taken as part of a process of economic integration or trade liberalisation between the parties to the Australia New Zealand Closer Economic Relations Trade Agreement done at Canberra on 28 March 1983 (ANZCERTA). (30) Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor of a Pacific Islands Forum member state under any international agreement in force or signed after the date of entry into force of this Agreement. Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage. Existing Measures : -

(29) For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

(30) For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to that agreement.

15.

Sector : Agriculture Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to marketing boards or similar arrangements. Existing Measures : -

16.

Sector : All Sectors Subsector : - Obligations Concerned : Market Access (Article 8.5) Description : Trade in Services 1. Australia reserves the right to adopt or maintain any measure at the regional level of government, except: (a) for the sectors and subsectors, and subject to the limitations and conditions, listed in Appendix A to this List; and (b) as provided in paragraph 2 of this entry. 2. With respect to financial services, Australia reserves the right to adopt or maintain any measure at the regional level of government that is not inconsistent with Australia's revised Services Offer of 31 May 2005 in the World Trade Organization Doha Development Agenda negotiations (WTO Document TN/S/O/AUS/Rev.1). Existing Measures : -

17.

Sector : Services Related to Air Transportation Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to the services listed in subparagraph 3(e)(iv) through (vi) of Article 8.2 (Scope), except for: (a) specialty air services, meaning any specialised commercial operation using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services; (b) ground handling services, (31) meaning the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering, except the preparation of the food; air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning; or (c) airport operation services, meaning the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services. Existing Measures : -

(31) Ground handling services do not include: self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra-airport transport systems.

18.

Sector : Financial Services Subsector : - Obligations Concerned : Market Access (Article 8.5) Description : Trade in Services Australia reserves the right to adopt or maintain any measure imposing non-discriminatory limitations on juridical form for juridical persons supplying financial services and constituted under the laws of Australia. For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. (32) Existing Measures : -

(32) This entry is not itself intended to affect, or otherwise limit, a choice by a financial service supplier of another Party between branches or subsidiaries.

19.

Sector : Financial Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to the guarantee by government of government-owned entities whose operations include the provision of financial services, including guarantees related to the privatisation of such entities. Existing Measures : -

20.

Sector : Financial Services Subsector : - Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Description : Trade in Services and Investment Australia reserves the right to adopt or maintain any measure regarding solicitation in its territory. Existing Measures : -

21.

Sector : Financial Services Subsector : Banking and other financial services (excluding insurance and insurance-related services) Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Except as provided in this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraphs (r)(i), (r)(ii) and (r)(iv) of Article 8.1 (Definitions) for banking and other financial services. Australia shall permit a financial service supplier of another Party to supply, via cross-border supply as defined in subparagraph (r)(i) of Article 8.1 (Definitions) and under terms and conditions that accord national treatment, the following services: provision and transfer of financial information and financial data processing as referred to in subparagraph (b)(xv) of Article 1 (Definitions) of Annex 8A (Financial Services) and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (b)(xvi) of Article 1 (Definitions) of Annex 8A (Financial Services). In relation to the following services Australia shall ensure a financial service supplier of another Party organised in the territory of that Party, upon obtaining an Australian financial services licence and any other necessary authorisations, or exemptions therefrom, in accordance with prescribed Australian laws and regulations, may undertake: (a) securities related transactions on a wholesale basis between and among financial institutions and other entities; (b) the following services to a collective investment scheme (33) located in Australia: (34) i. investment advice and ii. portfolio management services, excluding: A. trustee services; and B. custodial services and execution services that are not related to managing a collective investment scheme. Australia shall permit its residents to purchase in the territory of any other Party the financial services indicated in subparagraphs (b)(v) through (xvi) of Article 1 (Definitions) of Annex 8A (Financial Services). Existing Measures : -

(33) For the purposes of this entry, “collective investment scheme” means a “managed investment scheme” as defined under section 9 of the Corporations Act 2001 (Commonwealth), other than a managed investment scheme operated in contravention of subsection 601ED (5) of the Corporations Act 2001 (Commonwealth), or an entity that: (a) carries on a business of investment in securities, interests in land, or other investments; and (b) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or invitation to the public (within the meaning of section 82 of the Corporations Act 2001 (Commonwealth)) made on terms that the funds subscribed would be invested.

(34) For greater certainty, Australia may require a collective investment scheme or a person of Australia involved in the operation of the scheme located in Australia to retain ultimate responsibility for the management of the collective investment scheme.

22.

Sector : Financial Services Subsector : Insurance and insurance-related services Obligations Concerned : National Treatment (Article 8.4 and Article 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6 and Article 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Except as provided in this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraph (r)(i), (r)(ii) and (r)(iv) of Article 8.1 (Definitions) for insurance and insurance-related services. Australia shall permit a financial service supplier of another Party to supply, via cross-border supply as defined in subparagraph (v)(i) of Article 8.1 (Definitions) and under terms and conditions that accord national treatment, whether as a principal, through an intermediary or as an intermediary, the following services: (a) insurance of risks relating to: (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom; and (ii) goods in international transit; (b) reinsurance and retrocession and the services auxiliary to insurance as referred to in subparagraph (b)(iv) of Article 1 (Definitions) of Annex 8A (Financial Services); and (c) insurance intermediation, such as brokerage and agency as referred to in subparagraph (b)(iii) of Article 1 (Definitions) of Annex 8A (Financial Services). Australia shall permit its residents to purchase in the territory of another Party the financial services indicated in subparagraphs (a) through (c) of this entry. Existing Measures : -

23.

Sector : Financial Services Subsector : - Obligations Concerned : Prohibition of Performance Requirements (Article 10.6) Description : Investment Australia reserves the right to adopt or maintain any measure with respect to financial services. Existing Measures : -

Appendix A. Australia's Market Access Commitments - Regional (State and Territory) Level

For the purposes of this Appendix:

the 1), 2) and 3) inscribed in the 'Limitations on Market Access' column refers to the modes for the supply of a service as defined in subparagraph (r)(i) through (iii) of Article 8.1 (Definitions);

* means unbound due to lack of technical feasibility;

** indicates that the service specified constitutes only a part of the total range of activities covered by the Customs Procedure Code (CPC) concordance. Unless otherwise stated all CPC references correspond to the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

Modes of Supply: 1) Cross-border Supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	**Limitations on Market Access**
1. BUSINESS SERVICES	
A. Professional Services	
a) Legal services (35)	
- Legal advisory and representational services in domestic law (host-country law)	(1) None (2) None (3) None
- Legal advisory services in foreign law and international law and (in relation to foreign and international law only) legal arbitration and conciliation/mediation services.	(1) None (2) None (3) Natural persons practising foreign law may only join a local law firm as a consultant and may not enter into partnership with or employ local lawyers in South Australia
b) Accounting, auditing and bookkeeping services (CPC 862) c) Taxation services (CPC 863) d) Architectural services (CPC 8671) e) Engineering services (CPC 8672) f) Integrated engineering services (CPC 8673) g) Urban planning and landscape architectural services (CPC 8674) h) Dental services (CPC 93123) i) Veterinary services (CPC 932)	(1) None (2) None (3) None

(35) For the purposes of this commitment: "legal advisory services" includes provision of advice to and consultation with clients in matters, including transactions, relationships and disputes, involving the application or interpretation of law; participation with or on behalf of clients in negotiations and other dealings with third parties in such matters; and preparation of documents governed in whole or in part by law, and the verification of documents of any kind for purposes of and in accordance with the requirements of law. Does not include advice, consultation and documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trademarks attorneys. "legal representational services" includes preparation of documents intended to be submitted to courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of law; and appearance before courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of the specified body of law. (Note: The inclusion of representational services before administrative agencies and other duly constituted official tribunals within the context of legal services does not necessarily mean that a licensed lawyer must supply such services in all cases. The precise scope of services subject to licensing requirements is subject to the discretion of the relevant regulatory authority.) Does not include documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trademarks attorneys. "legal arbitration, conciliation and mediation services" means preparation of documents to be submitted to, preparation for and appearance before, an arbitrator, conciliator or mediator in any dispute involving the application and interpretation of law. Does not include arbitration, conciliation and mediation services in disputes for which the law has no bearing which fall under services incidental to management consulting. As a sub-category, international legal arbitration, conciliation or mediation services refer to the same services when the dispute involves parties from two or more countries. "domestic law (host country law)" means the law of

Australia. “foreign law” means the law of the territories of WTO Members and other countries other than the law of Australia. “international law” includes law established by international treaties and conventions, as well as customary law. For the purposes of these definitions: “arbitration” is taken to mean a process in which the parties to a dispute present arguments and evidence to a dispute resolution practitioner (the arbitrator) who makes a determination. “mediation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted. “conciliation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the conciliator), identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.

B. Computer and Relates Services (CPC 84) (36)	(1) None (2) None (3) None
C. Research and Development (R&D) Services a) R&D Services on Natural Sciences (CPC 851) b) R&D Services on Social Sciences and Humanities (CPC 852) c) Interdisciplinary R&D Services (CPC 853)	(1) None (2) None (3) None
D. Real Estate Services a) Involving own or leased property (CPC 821) b) On a fee or contract basis (CPC 822)	(1) None, except commercial presence required (2) None, except commercial presence required (3) None

(36) For greater certainty, Entry 8 of this List applies to measures relating to content for computer and related services (CPC 84).

E. Rental or Leasing Services without Operators a) Relating to ships (CPC 83103**) (37) b) Relating to aircraft (CPC 83104) c) Relating to other transport equipment (CPC 83101-2, 83105) d) Relating to other machinery and equipment (CPC 83106-9)	(1) None (2) None (3) None
F. Other Business Services	
a) Advertising services (CPC 87110, 87120**, 87190) (38) b) Market research and public opinion polling services (CPC 864) c) Management consulting services (CPC 865) d) Services related to management consulting (CPC 86601, 86609) (39) e) Technical testing and analysis services (CPC 8676) f) Services incidental to agriculture, hunting and forestry (CPC 8811**, 8812**, 8814**) (40) g) Services incidental to fishing (CPC 882**) (41) h) Services incidental to mining and site preparation work for mining (CPC 883, 5115) i) Services incidental to manufacturing (CPC 884, 885, except 88442) j) Services incidental to energy distribution (CPC 887**) (42)	(1) None (2) None (3) None
k) Placement and supply services of personnel (CPC 872)	(1) Unbound (2) None (3) None

(37) For greater certainty, this excludes maritime cabotage services and offshore transport services in accordance with Entry 12 of this List.

(38) Covers services by advertising agencies in creating and placing advertising in periodicals, newspapers, radio and television for clients; outdoor advertising; media representation i.e. sale of time and space for various media; distribution and delivery of advertising material or samples. For greater certainty, this does not include production, broadcast or screening of advertisements for radio, television or cinema in

accordance with Entry 8 of this List.

(39) Excludes arbitration and conciliation services.

(40) Provision of advice and guidance relating to crop and livestock management on consultancy basis. Includes specialised consultancy services only, related to forestry activities, timber evaluation, forest management or planning. Does not include logging.

(41) Consists of specialised consultancy services only, related to marine or freshwater fisheries, fish hatchery services. Does not include fishing.

(42) Covers consultancy services related to the transmission and distribution on a fee or contract basis of electricity, gaseous fuels and steam and hot water to household, industrial, commercial and other users.

l) Investigation and security (CPC 873) m) Related scientific and technical consulting services (CPC 8675) n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633, 8861-8866)	(1) None (2) None (3) None
o) Building-cleaning services (CPC 874)	(1) Unbound* (2) None (3) None
p) Photographic services (CPC 875) s) Convention services (CPC 87909**) (43) t) Other: - Telephone answering services (CPC 87903) - Duplicating services (CPC 87904) - Translation and interpretation services (CPC 87905) - Mailing list compilation and mailing services (CPC 87906) - Interior design (CPC 87907) (44)	(1) None (2) None (3) None

(43) Activities of establishments engaged in provision of planning, organising, managing and marketing services for conventions and similar events (including catering and beverage services).

(44) Specialised consultancy services related to the post-construction design and fitting out of interior living and working spaces. Includes purchase of necessary goods.

2. COMMUNICATION SERVICES	
C. Telecommunications Services Covers the following subsectors from the Services Sectoral Classification List used by the WTO Secretariat in MTN.GNS/W/120 dated 10 July 1991 and related CPC codes (7521, 7522, 7523, 7529**):	
a) Voice telephone services b) Packet-switched data transmission services c) Circuit-switched data transmission services d) Telex services e) Telegraph services f) Facsimile services g) Private leased circuit services o) Other: - Digital Cellular services - Paging services - Personal Communications Services - Trunked Radio System Services - Mobile Data Services	(1) None (2) None (3) None
h) Electronic mail (CPC 7523**) i) Voice mail (CPC 7523**) j) On-line information and database retrieval (CPC 7523**) k) Electronic data interchange (EDI) (CPC 7523**) l) Enhanced/value-added facsimile services, including store and retrieve (CPC 7523**) m) Code and protocol conversion (CPC 7523**)	(1) None (2) None (3) None

D. Audiovisual services	
e) Sound recording services (45) f) Other – audiovisual post-production services (46)	(1) None, except unbound in relation to measures relating to Australian content (2) Unbound (3) Unbound

(45) Covers sound recording services, live recording services and sound recording originals. Does not include reproduction of audio recordings, or providing a sound recording studio or sound recording equipment.

(46) Covers audiovisual editing services, transfers and duplication of masters services, colour correction and digital restoration services, visual effects services, animation services, captioning, titling and subtitling services, sound editing and design services, and other audiovisual post-production services such as format conversion and compression services.

3. CONSTRUCTION AND RELATED ENGINEERING SERVICES	
A. General construction work for buildings (CPC 512) B. General construction work for civil engineering (CPC 513) C. Installation and assembly work (CPC 514, 516) D. Building completion and finishing work (CPC 517) E. Other: - Pre-erection work at construction sites (CPC 511 excluding site preparation for mining – CPC 5115) - Special trade construction work (CPC 515) - Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator (CPC 518)	(1) Unbound* (2) None (3) None
4. DISTRIBUTION SERVICES	
A. Commission agents' services (CPC 62113-62118) (47) B. Wholesale trade services (CPC 6223-6228) (48)	(1) None (2) None (3) None
C. Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121) (49)	(1) Unbound, except for mail order (2) None (3) None
D. Franchising (CPC 8929) (1) None (2) None (3) None	

(47) For greater certainty, this excludes tobacco and alcoholic beverages, and excludes firearms in accordance with Entry 9 of this List.

(48) For greater certainty, this excludes wholesale trade services of unmanufactured tobacco, tobacco products and alcoholic beverages, and excludes firearms in accordance with Entry 9 of this List.

(49) Australia's commitments in relation to these services extend to cover the following services not listed in relevant CPC classifications: inventory management of goods, assembling, sorting and grading of goods, breaking bulk, re-distribution and delivery services for retailing. Does not cover dispensing of pharmaceuticals. For greater certainty, this excludes retailing services of alcoholic beverages, tobacco products and firearms in accordance with Entry 9 of this List.

5. EDUCATIONAL SERVICES	
B. Secondary education services (CPC 922**) (50) C. Higher education services (CPC 923**) (51) E. Other education services (CPC 929**) (52)	(1) None (2) None (3) None

(50) Covers general as well as technical and vocational education at the secondary level in private institutions.

(51) Covers provision of private tertiary education services including at university level.

(52) Covers tuition and testing in English and other languages. Tuition in cuisine and traditional therapies (including massage, acupuncture), music, dance and martial arts.

6. ENVIRONMENTAL SERVICES (53)	
A. Wastewater management (CPC 9401) (54) B. Waste management (CPC 9402, 9403) (55) D. Other: - Protection of ambient air and climate (CPC 9404) (56) - Remediation and clean-up of soil and water (CPC 9406**) (57) - Noise and vibration abatement (CPC 9405) (58) - Protection of biodiversity and landscape (CPC 9406**) (59) - Other environmental and ancillary services (CPC 9409) (60)	(1) None (2) None (3) None

(53) Australia's commitments on environmental services exclude the provision of water for human use, including water collection, purification and distribution through mains.

(54) This covers removal, treatment and disposal of household, commercial and industrial sewage and other waste waters including tank emptying and cleaning, monitoring, removal and treatment of solid wastes.

(55) This covers hazardous and non-hazardous waste collection, treatment and disposal (including incineration, composting and landfill); linen sanitation and treatment and clinical waste disposal services supplied to hospitals; sweeping and snow removal, and other sanitation services.

(56) This covers services at power stations or industrial complexes to remove air pollutants; monitoring of mobile emissions and implementation of control systems or reduction programmes.

(57) Australia's commitments under CPC 9406** combine to cover the entirety of CPC 9406 services. This covers cleaning-up systems in situ or mobile, emergency response, clean-up and longer-term abatement of spills and natural disasters; and rehabilitation programmes (e.g. recovery of mining sites) including monitoring.

(58) This covers monitoring programmes, and installation of noise reduction systems and screens.

(59) Australia's commitments under items CPC 9406** combine to cover the entirety of CPC 9406 services. This covers ecology and habitat protection and promotion of forests and promoting sustainable forestry.

(60) This covers other environment protection services, including services related to environmental impact assessment.

8. HEALTH RELATED AND SOCIAL SERVICES	
A. Hospital services - Private hospital services (CPC 93110**) (61)	(1) Unbound* (2) None (3) None, except that measures in the form of economic needs tests, limitations on the number of services operations and types of legal entity may apply
B. Other human health services - Other human health services (CPC 93199**) (62)	(1) Unbound (2) None (3) None
- Ayurveda, naturopathy, Unani, Siddha and homeopathy services	(1) None (2) None (3) None

(61) Covers delivery of services under the direction of registered medical doctors to patients in hospital institutions that are not funded, owned or operated by or on behalf of the federal government or a State or Territory government in Australia.

(62) Covers podiatry and chiropody services. Includes podiatry services carried out in health clinics, and in residential health facilities other than hospitals, as well as in own consulting rooms, patients' homes or elsewhere.

9. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotels and restaurants (CPC 641, 642, 643)	(1) Unbound* (2) None (3) None
B. Travel agencies and tour operator services (CPC 7471)	(1) None, except commercial presence required (2) None (3) None
C. Tourist guide services (CPC 7472)	(1) None (2) None (3) None
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES	
B. News agency services (CPC 962) D. Sporting and other recreational services - Sporting services (CPC 9641) - Other recreational services (CPC 96491 and 96499) (63)	(1) None (2) None (3) None

(63) Covers recreation park and beach services, and yoga services.

11. TRANSPORT SERVICES	
A. Maritime transport services International transport (freight and passengers) (CPC 7211 and 7212) (64)	(1) Liner Shipping, Bulk, tramp and other international shipping, including international passenger transportation: None (2) None (3) a) Establishment of registered company for the purpose of operating a fleet under the national flag of Australia: None b) Other forms of commercial presence for the supply of international maritime transport services (as defined in Note on Maritime Transport Services): None

Maritime auxiliary services - International rental of vessels with crew (65) (as defined in Note on Maritime Transport Services)	(1) None (2) None (3) None
- Maritime cargo handling services (as described in Note on Maritime Transport Services)	(1) Unbound* (2) None (3) None, except licences or concessions are granted by port authorities. Public utility concession or licensing procedures may apply in the case of the occupation of the public domain for the conduct of these activities.
- Storage and warehousing services (CPC 742)	(1) Unbound* (2) None (3) None
- Maritime freight forwarding services (as defined in Note on Maritime Transport Services)	(1) None (2) None (3) None
- Customs clearance services (as described in Note on Maritime Transport Services)	(1) Unbound* (2) None (3) None
- Pre-shipment inspection (as defined in Note on Maritime Transport Services) - Maritime agency services (as described in Note on Maritime Transport Services)	(1) None (2) None (3) None

(64) For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this List.

(65) For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this List.

C. Air Transport Services	
d) Aircraft repair and maintenance services (CPC 8868**) (66)	(1) Unbound* (2) None (3) None
- Ground handling services (67)	(1) Unbound* (2) None (3) None
- Airport operation	(1) Unbound* (2) None (3) None

services (68)	
- Selling and marketing of air transport services (69)	(1) None, except: a) Commercial presence required for services covered by Travel agencies and tour operator services (CPC 7471) b) Retailing services (CPC 631, 63212, 6322-6325, 6329, 61112, 6113, 6121) are unbound except for mail order (2) None (3) None
- Computer reservation systems (CPC 7523**) (70)	(1) None (2) None (3) None

(66) This covers establishments mainly engaged in periodic maintenance and repair (routine and emergency) of airframes (including wings, doors, control surfaces) avionics, engines and engine components, hydraulics, pressurisation and electrical systems and landing gear. Includes painting, other fuselage surface treatments and repair of flight-deck (and other) transparencies. Further includes rotary and glider aircraft.

(67) Covers the supply at an airport, on a fee or contract basis, of the following: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering (except the preparation of the food); air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. Ground handling services do not include self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure such as de-icing facilities, fuel distribution systems, baggage handling systems, and fixed intra-airport transport systems.

(68) Covers the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services.

(69) This commitment confirms, without extending, the application to air transport services of the specific commitments made elsewhere in this Appendix in the following sections, subject to all limitations, exceptions and qualifications set out in those sections: Travel agencies and tour operator services (CPC7471); Market research and public opinion polling services (CPC 864); Advertising services (CPC 87110, 87120**); Distribution: Commission agents' services (CPC 62113-62118); Wholesale trade services (CPC 6223-6228); Retailing services (CPC 631, 63212, 6322-6325, 6329, 61112, 6113, 6121); and Franchising (CPC 8929). For the purposes of this commitment, "selling and marketing of air transport services" is defined as in subparagraph (k) of Article 8.1 (Definitions), except that the aspects of 'marketing' covered by this commitment are limited to market research, advertising and distribution.

(70) Activities of establishments engaged in providing and maintaining computer reservation to other enterprises engaged in the provision of travel agency services, including transport and accommodation booking, tour and travel wholesaling/retailing – to establishments engaged in providing reservation services (such as travel agencies). Computer reservation systems services related to air carriers include the provision of information on air carrier schedules, space availability and tariffs.

E. Rail Transport Services	
b) Freight transportation (CPC 7112); c) Pushing and towing services (CPC 7113); and e) Supporting services for rail transport services (CPC743).	(1) None (2) None (3) Below track: most rail-track networks in Australia are government-owned although much is leased to private operators. There are no restrictions on the right to establish new networks but access to public land may not be guaranteed. Above track (rail transport services (such as trains) that operate over the rail-track infrastructure): none except that access to rail infrastructure is allocated under pro-competitive principles for safety, efficiency and the long term interests of users.

F. Road Transport Services	
a) Passenger transportation (CPC 71213, 71214, 7122) (71)	(1) Unbound (2) None (3) None
b) Freight transportation (CPC 7123) c) Rental of commercial vehicles with operator (CPC 7124)	(1) None (2) None (3) None
G. Pipeline Transport Services	
a) Transportation of fuels (CPC 7131) b) Transportation of other goods (CPC 7139)	(1) None (2) None (3) None
H. Services auxiliary to all modes of transport	
a) Cargo-handling services in relation to rail, road and air transport only (CPC 741**) (72) b) Storage and warehouse services (CPC 742 excluding maritime) (73)	(1) Unbound* (2) None (3) None
c) Freight transport agency services (CPC 748 excluding maritime) (74) d) Other supporting and auxiliary transport services (CPC 749 excluding maritime) (75)	(1) None (2) None (3) None

(71) Does not include regular urban bus services.

(72) Note also that maritime cargo handling services are dealt with under 'Maritime Services'.

(73) Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 742:

distribution centre services and materials handling and equipment services such as container station and depot services (excluding maritime).

(74) Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 748: customs agency services and load scheduling services (excluding maritime).

(75) Australia's commitment in relation to these services extends to cover the following services in addition to those listed under CPC 749: container leasing and rental services (excluding maritime).

Note on Maritime Transport Services

Definitions

1. Multimodal Transport Operator: the person on whose behalf the bill of lading/multimodal document evidencing a contract of multimodal carriage of goods is issued and who is responsible for the carriage of goods pursuant to the contract of carriage.

2. Other Forms of Commercial Presence for the Supply of International Maritime Transport Services: for the purposes of this Appendix, means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. This commitment shall not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery.

These activities include:

- marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;

- the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated service;

- the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;

- the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the Annex on Telecommunications of GATS);

- the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to Australia's commitments listed in Annex IV (Schedule of Specific Commitments on Temporary Movement of Natural Persons)) with any locally established shipping agency; and

- acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. International Rental of Vessels with Crew: rental or leasing services of all types of sea-going vessels with crew (such as tankers, bulk dry cargo vessels, cargo and freight vessels) for the purpose of international trade.

4. Maritime Cargo Handling Services: activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring of terminal operator companies. The activities covered include the organisation and supervision of: the loading or discharging of cargo to or from a ship; the lashing or unlashing of cargo; and, the reception or delivery and safekeeping of cargoes in the wharf area before shipment or after discharge.

The organisation and supervision includes the arrangements for (1) engaging skilled labour (dockers), (2) using all the necessary equipment for on-board or shore use and the appropriate storage space, whether by ownership, rental or otherwise, (3) the checking of parcels and markings, the weighing and measuring of cargo (upon request of the owner), and (4) the administrative duties as well as the responsibility related to the services.

Container terminal operators can furthermore be appointed for stuffing/stripping containers and e.g. the survey and supply

of electricity to containers.

5. Maritime Freight Forwarding Services: the organisation and monitoring of shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

6. Customs Clearance Services: activities consisting in carrying out on behalf of another Party customs formalities concerning import, export or through-transport of cargoes, whether this is the main activity of the service provider or a usual complement of its main activity.

7. Pre-shipment Inspection: all services performed on a fee or contract basis involved in the verification of the quality, quantity, price (including currency exchange rate and financial terms), or the customs classification of goods to be exported. Does not include customs or quarantine inspection.

8. Maritime Agency Services: activities consisting in representing, within a given geographic area, as an agent, the business interests of one or more shipping line or shipping companies, for the following purposes: 👇 marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies; acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and 👇 acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

List C. Additional Commitments - Chapter 8 (Trade in Services) Australia

This List sets out, pursuant to Article 8.9 (Additional Commitments), Australia's additional commitments with respect to measures affecting trade in services, not subject to scheduling under Article 8.4 (National Treatment), Article 8.5 (Market Access), Article 8.6 (Most-Favoured Nation Treatment) or Article 8.11 (Local Presence).

Description of additional commitment

Sector: Maritime Transport Services Services at Australian ports are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions. The following is an indicative, but not exhaustive, list of services at Australian ports: pilotage, towing and tug assistance; provisioning, fuelling and watering; garbage collection and ballast waste disposal; Port Captain's services; navigation aids; shore-based operational services essential to ship operations, including communications, water and electrical supplies; emergency repair facilities; anchorage, berth and berthing services. Where road, rail and related auxiliary services are not fully covered in Appendix A (Australia's Market Access Commitments – Regional (State and Territory) Level) of List B a multimodal transport operator shall have the ability, on reasonable and non-discriminatory terms and conditions, to rent, hire or charter trucks, railway carriages, ships and related equipment for the purpose of onward forwarding of international cargoes carried by sea, or have access to and use of these forms of transport services for the purpose of providing multimodal transport services.

China

List A. Explanatory Notes

1. List A sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), China's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); or

(d) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in List A sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Level of Government indicates the level of government maintaining the scheduled measure(s);

(c) Type of Obligation specifies the Article(s) referred to in paragraph 1 that, pursuant to subparagraph 1(a) of Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the non-conforming aspects of the Source of Measure or the Description of Measure, as set out in paragraph 3;

(d) Description of Measure sets out the non-conforming aspects of the measure for which the entry is made; and

(d) Source of Measure (1) identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the Source of Measure element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In accordance with subparagraph 1(a) of Article 10.8 (Reservations and Non-Conforming Measures), and subject to subparagraph 1(c) and paragraph 3 of Article 10.8 (Reservations and Non-Conforming Measures), the Articles specified in the Type of Obligation element of an entry in List A do not apply to the non-conforming aspects of the Description of Measure element or of the law, regulation, or other measure, as applicable, identified in the Source of Measure of that entry.

4. In the interpretation of an entry in List A, all elements of the entry, as well as the Articles against which the entry is made, shall be considered. Unless otherwise explicitly indicated in the entry, the Description of Measure element shall prevail over all other elements, including where a difference exists between the Description of Measure element and the Source of Measure element in the aspect of investment liberalisation.

5. Where there is overlap between the contents of List A and List B, notwithstanding the obligations China assumes under Article 10.8 (Reservations and Non-Conforming Measures) and List A, China remains entitled to adopt or maintain relevant measures in accordance with Article 10.8 (Reservations and Non-Conforming Measures) and List B.

6. For the purposes of List A:

(a) foreign investor means any investor of another Party or a non-Party.

(b) foreign investor may not invest means a foreign investor may not directly or indirectly invest, including by holding any shares, stock or other forms of rights or interest, in the territory of China; and

(c) Chinese control means the circumstances where the total investment proportion held by foreign investors, whether directly and indirectly, is not greater than 49 per cent.

7. List A only applies to non-services investments by foreign investors, and does not apply to any investments by foreign investors in services (including cultural industries, constructions and operations of infrastructural and other facilities). Any aspects of such an entry which relate to investment in service are subject to the Chapter 8 (Trade in Services) only. For greater certainty, List A shall apply to the following sectors: manufacturing, agriculture, fishery, forestry and hunting, mining and quarrying; and all or a combination of these sectors in which an entry is made.

(1) For greater certainty, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in Article 10.8 (Reservations and Non-Conforming Measures).

1.

Sector : Seed Industry Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : 1. Foreign investors may not invest in the research and development, breeding and planting of the precious and fine varieties which are rare and special in China, or the production of the relevant reproductive materials thereof (including high quality genes in the industries of crop production, livestock industry and aquaculture). 2. Foreign investors may not invest in the selection and breeding of transgenic varieties of agricultural crops, livestock and breeding poultry and aquatic fry, or the production of their transgenic seeds (sprouts). 3. Investments by foreign investors in the selection and breeding of new varieties of wheat or corn and seed production of wheat or corn require Chinese control. Source of Measure : - Seed Law (Amended in 2015), Articles 8, 11, and 62; - Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2019 Edition), Articles 1 through 3

2.

Sector : Fishing Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investors may not invest in the fishing of aquatic products within the sea and inland waters under the jurisdiction of China. Source of Measure : - Fisheries Law (2013); - Law on the Exclusive Economic Zone and the Continental Shelf (1998), Article 5; - Law on the Territorial Sea and the Contiguous Zone (1992), Article 11; - Special Administrative Measures for

Market Access of Foreign Investment (Negative List) (2019 Edition), Article 4

3.

Sector : Exploration and Exploitation of Exclusive Economic Zone and Continental Shelf Level of Government : Central Type of Obligation : National Treatment (Article10.3) Description of Measure : Any international organisation, foreign entity or individual must obtain approval from the Chinese government for carrying out activities of exploring and exploiting natural resources in the exclusive economic zone of China or on the Chinese continental shelf, or drilling on the Chinese continental shelf for any purpose. Source of Measure : Law on the Exclusive Economic Zone and the Continental Shelf (1998), Article 7

4.

Sector : Exploitation and Ore Dressing of Rare Earth and Rare Minerals Level of Government : Central Type of Obligation : National Treatment (Article10.3) Description of Measure : 1. Foreign investors may not invest in the exploration, exploitation or ore dressing of rare earth and tungsten. 2. Foreign investors may not enter the mining area of rare earth mines or obtain mine geological data, ore samples or production processes and technology without approval. Source of Measure : - Notice of the State Council on Classifying Tungsten, Tin, Antimony and Ion-Type Rare Earth Minerals as Specific Minerals Under Protective Mining by the State (1991), Article 2; - Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2019 Edition), Article 5

5.

Sector : Automobile Manufacture Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Investments by foreign investors in the manufacture of complete automobiles, except for special purposes automobiles and new energy automobiles, require that the shareholding percentage of the Chinese party shall not be less than 50 per cent, and one foreign investor may establish up to two equity joint ventures that manufacture complete automobiles of the same category (passenger cars, commercial cars) within the territory of China. Source of Measure : - Automobile Industry Development Policy (2009)Article 48; - Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2019 Edition), Article 9

6.

Sector : Manufacture of Communication Equipment Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Investments by foreign investors in the manufacture of ground reception facilities for satellite television and broadcast and key components thereof are prohibited. Source of Measure : - Rules for the Administration of Ground Receiving Facilities of Satellite Television Broadcasting (Amended in 2018), Articles 3, 4; - Provisional Measures for the Installation of Ground Receiving Facilities of Satellite Television Broadcasting (2009), Article 15; - Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2019 Edition), Article 10; - Any other existing laws, regulations and rules

7.

Sector : Pharmaceutical Manufacture Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : 1. Foreign investors may not invest in the processing of traditional Chinese medicinal material as listed in the Regulations on the Administration and Protection of Wild Medicinal Resources and the List of Precious and Endangered Flora in China. 2. Foreign investors may not invest in the application of processing techniques of Chinese medicinal decocting pieces including steaming, plain stir-baking, stir-baking with adjuvant, calcining or the manufacture of confidential prescription products of Chinese patent medicine. Source of Measure : - Circular of the State Food and Drug Administration on the Relevant Issues concerning the Business Scope of the Foreign-funded Enterprises that Engage in the Production of Herbal Medicines for Decoction (2006); - Regulation on Protection of Wild Medicinal Resources (1987); - List of Chinese Rare and Endangered Protected Plants (1987); - Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2019 Edition), Article 8

8.

Sector : Government-granted Monopoly Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investors may not invest in the manufacture, wholesale, retail, import or export of leaf tobacco, cigarettes, re-dried leaf tobacco, cigars, cut tobacco and other tobacco products (2) Source of Measure : - Law on

Tobacco Monopoly (2015), Articles 1 through 3; - Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2019 Edition), Article 13

(2) For the purposes of this entry, “other tobacco products” refers to products entirely or partly made of the leaf tobacco as raw material, which are manufactured to be used for smoking, sucking, chewing or snuffing.

9.

Sector : All Sectors Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : The relevant authorities in the course of performing their duties according to law, shall not grant the licence, enterprise registration, or any other relevant matters if a foreign investor proposes to invest in sectors covered by the Negative List but not in compliance with the requirements listed in the Negative List; nor the project approval for an investment in fixed assets should be issued. (3) Source of Measure : Regulation for the Implementation of Foreign Investment Law (2019), Article 34

(3) For the purposes of this entry, “Negative List” refers to the Special Administrative Measures for the Access of Foreign Investment (Negative List) published by the Chinese government which is effective on the date of entry into force of this Agreement.

10.

Sector : All Sectors Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Foreign investors may not apply for opening A share securities accounts, except for: 1) Qualified foreign institutional investors (including Qualified Foreign Institutional Investor (QFII) and Renminbi Qualified Foreign Institutional Investor (RQFII)) (4); 2) Foreign individuals with Chinese permanent Residency permit; 3) Foreign employees working in China who are incentive grantees of A share listed companies 4) Foreigners working in China that securities supervision institutions of their mother countries have already established supervision cooperation with China Securities Regulatory Commission; 5) Foreign investors who made strategic investment in A share listed companies; and 6) Foreign investors from the foreign share-holding companies which are later listed in A share market. Foreign investors may not apply for opening futures accounts, except for: 1) Qualified foreign institutional investors (including QFII and RQFII); 2) Foreign individuals with Chinese permanent Residency permit; and 3) Foreign investors who are allowed to trade designated futures products. Source of Measure : - Securities Law (2014), Article 166; - Regulation on the Administration of Futures Trading (2017), Article 23; - Measures for the Administration of Securities Investment in China by Qualified Foreign Institutional Investors (2006); - Measures for the Pilot Program of Securities Investment in China by RMB Qualified Foreign Institutional Investors (2013); - Measures for the Administration of Equity Incentives of Listed Companies (2018), Article 45; - Measures for the Administration of Strategic Investment in Listed Companies by Foreign Investors (2015), Article 15; - Measures for the Administration of Securities Registration and Clearing (2018), Article 19; - Notice on Matters Regarding the Opening of A-share Securities Accounts by Eligible Foreigners (2019); - Interim Measures for the Administration of Trading in Designated Domestic Futures Products by Foreign Traders and Foreign Brokerage Agencies (2015), Article 10

(4) For greater certainty, qualified foreign institutional investors (including QFII and RQFII) who engage in trading securities and futures shall comply with regulations of China Securities Regulatory Commission and State Administration of Foreign Exchange, and meet requirements on qualification, shareholding percentage, spectrum for investment, fund transfer and so on.

11.

Sector : All Sectors Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : A foreign investor making an investment within the territory of China shall complete a foreign exchange registration in accordance with the relevant provisions, and shall comply with foreign exchange provisions, including provisions on account opening, funds transfer and settlement, receipt and payment and cross-border securities investment quota, etc. Source of Measure : - Regulation on the Administration of Foreign Exchange (2008), Articles 16 and 23; - Notice of the State Administration of Foreign Exchange on Reforming and Regulating Policies on the Administration over Foreign Exchange Settlement of Capital Accounts (2016)

12.

Sector : All Sectors Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : 1. Foreign investors may not carry out business operations in China in the forms of Individual Business Entities or Individual Sole Proprietorship Enterprises, or as members of Specialised Cooperatives of Farmers. 2. Foreign-funded partnership enterprises may not be established for industries, areas or businesses which are subject to the requirement of "foreign investor may not invest", "Chinese control", "relative Chinese control" or industries, areas or businesses subject to certain foreign investment proportion requirements, as included in the Negative List (5). Source of Measure : - Law on Individual Sole Proprietorship Enterprises (2000), Article 47; - Law on Specialized Cooperatives of Farmers (2017), Articles 2 through 4 and 19; - Provisions for the Administration over Registration of Foreign-invested Partnership Enterprises (2014), Article 3; - Regulation on Individual Business Entity (Amended in 2016), Article 2; - Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2019 Edition), Paragraph 3 of the Notes

(5) For the purposes of this entry, "Negative List" refers to the Special Administrative Measures for the Access of Foreign Investment (Negative List) published by the Chinese government which is effective on the date of entry into force of this Agreement.

List B. Explanatory Notes

1. List B sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors, or activities for which China may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); or

(d) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in List B sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Type of Obligation specifies the Article(s) referred to in paragraph 1 that, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors, or activities covered by the entry;

(c) Description sets out the scope of the sectors, subsectors, or activities covered by the entry; and

(d) Existing Measures identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 10.8 (Reservations and Non-Conforming Measures), the Article(s) specified in the Type of Obligation element of an entry in List B do not apply to the sectors, subsectors, or activities identified in the Description element of that entry.

4. For the purposes of List B, foreign investor means any investor of another Party or a non-Party.

5. List B only applies to non-services investments by foreign investors, does not apply to any investments by foreign investors in services (including cultural industries, constructions and operations of infrastructural and other facilities). Any aspects of such an entry which relate to investment in service are subject to the Chapter 8 (Trade in Services) only. For greater certainty, List B shall apply to the following sectors: manufacturing, agriculture, fishery, forestry and hunting, mining and quarrying; and all or a combination of these sectors in which an entry is made.

1.

Sector : Atomic Energy Type of Obligation : National Treatment (Article10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure with respect to the following: utilisation of atomic energy (including construction or operation of nuclear power stations); nuclear fuels; nuclear materials; nuclear raw materials; exploration, exploitation and processing of radioactive minerals; treatment and disposal of radioactive wastes; nuclear energy related services; design, manufacture, production, transfer, use, import and export related to nuclear technology application; planning, monitoring, maintenance and repair services related to nuclear energy. Existing Measures : -

2.

Sector : Protection of Biological Resources Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description : China reserves the right to require approval of the research and development activities conducted by the foreign investment enterprises utilising the biological resources (6) (including human, animals, plants, and microorganism resources) which are originated from and protected by China. China may also require the aforesaid enterprises to conduct such activities in the form of cooperation with Chinese organisations and to share the benefits generated from the research and development, as well as the following application and commercialisation. Existing Measures : - Wild Animals Protection Law (Amended in 2018), Articles 27,40 and 48; - Animal Husbandry Law (Amended in 2015), Articles 16 and 17; - Grassland Law (Amended in 2013), Articles 44 and 49; - Seed Law (Amended in 2015), Articles 8,10 and 11; - Fisheries Law (2013), Articles 8 and 46; - Regulation on Wild Plants Protection (Amended in 2017), Articles 16, 20 and 21; - Regulation on the Administration of Human Genetic Resources (2019), Articles 7, 21, 22 and 24

(6) For the purposes of this entry, the “biological resources” refers to the genetic resources, organisms or parts thereof, biological communities, or any other biotic component of ecosystems with practical or potential use or value for humanity.

3.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure that grants rights or preferences to ethnic minorities (7) and ethnic minority areas (8) with a view to balancing economic development and maintaining social justice. Existing Measures : -

(7) For the purposes of this entry, “ethnic minorities” refers to 55 non-Han minorities that have less population than Han nationality in the 56 ethnic nationalities identified and recognised by the Chinese central government.

(8) For the purposes of this entry, “ethnic minority areas” refers to: (a) autonomous ethnic minority regions as set forth in the Constitution Law of the People’s Republic of China and the Law on Autonomy of Ethnic Minority Areas of the People’s Republic of China; (b) ethnic minority town set up in accordance with the Notice Regarding Establishment of Ethnic Minority Towns and the Administrative Regulations on Ethnic Minority Towns issued by the State Council; and (c) the three provinces of Yunnan, Guizhou, and Qinghai.

4.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure that grants rights or preferences to special groups (including the groups of preferential treatment, the disabled, aged people, children and households enjoying the minimum living guarantee, and people living in extreme difficulty). Existing Measures : -

5.

Sector : National Traditional Craftsmanship Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure with respect to national traditional craftsmanship including production of rice paper, ink stick, tiger-bone and ivory. Existing Measures : -

6.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure with respect to non-government organisations (including but not limited to private non-enterprise units, associations, foundations, foreign non-government organisations and other civil social organisations and groups and their representative institutions). Existing Measures : - Law of the People's Republic of China on the Administration of Activities of Overseas Non-Governmental Organisations within the Territory of China (2016) - Regulations on the Administration of Foundations (2004), Articles 6, 13, 23 and 24

7.

Sector : Land Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure with respect to land. Existing Measures : -

8.

Sector : All Sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure with respect to the acquisition, alteration, distribution, transfer and disposition of the assets or equity interests held by state-owned enterprises and governmental agencies. Existing Measures : -

9.

Sector : All Sectors Type of Obligation : Most-Favoured-Nation Treatment (Article 10.4) Description : China reserves the right to adopt or maintain any measure that accords differential treatment to the parties under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. (9) With respect to the area of fisheries, China reserves the right to adopt or maintain any measure that accords differential treatment to the parties under any bilateral or multinational agreement in force or signed after the date of entry into force of this Agreement. Existing Measures : -

(9) For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

10.

Sector : All Sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure with respect to any special arrangement or favourable treatment for any investor from Hong Kong, Macao and Taiwan as well as any investment thereof. Existing Measures : -

11.

Sector : All Sectors Type of Obligation : National Treatment (Article10.3) Most-Favoured-Nation Treatment (Article10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : China reserves the right to adopt or maintain any measure with respect to new sectors and industries. Existing Measures : -

Japan

List A. Explanatory Note

1. This List A sets out, in accordance with paragraph 1 of Article 8.8 (Schedules of Non-Conforming Measures) and paragraph 1 of Article 10.8 (Reservations and Non-Conforming Measures), the entries made by Japan with respect to existing measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors). (1), (2)

2. Each entry sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific sector for which the entry is made;

(c) Industry Classification refers, where applicable, and only for transparency purposes, to the activity covered by the entry according to domestic or international industry classification codes;

(d) Level of Government indicates the level of government maintaining the measure for which the entry is made;

(e) Type of Obligation specifies the obligations referred to in paragraph 1 for which the entry is made;

(f) Description sets out, with respect to the obligations referred to in paragraph 1, the non-conforming aspects of the existing measures for which the entry is made; and

(g) Measures identifies the existing laws, regulations, or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in the light of the relevant provisions of the Chapters against which the entry is made. The Measures element shall prevail over all the other elements.

4. With respect to financial services:

(a) for prudential reasons within the context of Article 4 (Prudential Measures) of Annex 8A (Financial Services), Japan shall not be prevented from taking measures such as non-discriminatory limitations on juridical forms of a commercial presence. For the same reasons, Japan shall not be prevented from applying non-discriminatory limitations concerning admission to the market of new financial services which shall be consistent with a regulatory framework aimed at achieving such prudential objectives. In this context, securities firms are allowed to deal in securities defined in the relevant laws and regulations of Japan, and banks are not allowed to deal in those securities unless allowed in accordance with those laws and regulations; and

(b) services supplied in the territory of another Party to the service consumer in Japan without any active marketing from the service supplier are considered as services supplied under subparagraph (r)(ii) of Article 8.1 (Definitions).

5. With respect to air transport services, measures affecting traffic rights or measures affecting services directly related to the exercise of traffic rights are not listed in this List A, as these are excluded from the scope of Chapter 8 (Trade in Services) pursuant to Article 8.2 (Scope).

6. Laws and regulations of Japan with regard to spectrum availability affecting obligations under Article 8.5 (Market Access) are not included in this List A, taking into account the Attachment 6 of Guidelines for the Scheduling of Specific Commitments (WTO Document S/L/92, dated 28 March 2001).

7. For the purposes of Chapter 8 (Trade in Services), Japan reserves the right to adopt or maintain any measure with respect to permanent residents of another Party except those of a Party that has submitted a notification under subparagraph (k)(ii) 2 of Article XXVIII of GATS.

8. For the purposes of this List A, “JSIC” means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on 30 October 2013.

(1) For the purposes of this List A, “Senior Management and Board of Directors” (Article 10.7) specified in the “Type of Obligation” includes the obligation in relation to any measure affecting the supply of a service, which is imposed in accordance with paragraph 3 of Article 10.2 (Scope).

(2) For transparency purposes, entries in this List A may include measures taken by Japan in accordance with Article 10.15 (Security Exceptions), Article 17.12 (General Exceptions), or Article 17.13 (Security Exceptions).

1.

Sector : Agriculture, Forestry, and Fisheries, and Related Services (except those covered by entries No. 12 and No. 18 in List B of this Schedule) Subsector : - Industry Classification : JSIC 01 Agriculture JSIC 02 Forestry JSIC 03 Fisheries, except aquaculture JSIC 04 Aquaculture JSIC 6324 Agricultural cooperatives JSIC 6325 Fishery and fishery processing cooperatives JSIC 871 Agriculture, forestry and fisheries cooperative associations, n.e.c. Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in agriculture, forestry, and fisheries, and related services (except those covered by entries No. 12 and No. 18 in List B of this Schedule) in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which significant adverse effect is brought to the smooth operation of the Japanese economy. (3) 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

(3) For greater certainty, absence of reference in this description to “national security”, which is referred to in entries No. 10, 12, 13, 15, 37, 46, 47, 55 and 57 of this List A, does not mean that Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) to justify the screening.

2.

Sector : Automobile Maintenance Business Subsector : Specified Motor Vehicle Maintenance and Repair Business Industry Classification : JSIC 89 Automobile maintenance services Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person who intends to conduct specified motor vehicle maintenance and repair businesses is required to establish a workplace in Japan and to obtain an approval of the Director-General of the District Transport Bureau having jurisdiction over the district where the workplace is located. Measures : Road Vehicle Law (Law No. 185 of 1951), Chapter 6

3.

Sector : Business Services Subsector : - Industry Classification : JSIC 9111 Employment services JSIC 9121 Worker dispatching services Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A person who intends to supply the following services for enterprises in Japan is required to have an establishment in Japan and to obtain permission from, or to submit notification to, the competent authority, as applicable: (a) private job placement services including fee- charging job placement services for construction workers and job placement services for seafarers; or (b) worker dispatching services including stevedore dispatching services, mariner dispatching services and work opportunities securing services for construction workers. 2. Labour supply services may be supplied only by a labour union which has obtained permission from the competent authority pursuant to the Employment Security Law or Mariner’s Employment Security Law. Measures : Employment Security Law (Law No. 141 of 1947), Chapters 3 and 3-3 Law Concerning Securing the Proper Operation of Worker Dispatching Undertakings and Protecting Dispatched Workers (Law No. 88 of 1985), Chapter 2 Port Labour Law (Law No. 40 of 1988), Chapter 4 Mariner’s Employment Security Law (Law No. 130 of 1948), Chapter 3 Law Concerning the Improvement of Employment of Construction Workers (Law No. 33 of 1976), Chapters 5 and 6

4.

Sector : Collection Agency Services Subsector : - Industry Classification : JSIC 6619 Miscellaneous financial auxiliaries JSIC 7299 Professional services, n.e.c. Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A person who intends to supply collection agency services which constitute the practice of law in respect of legal cases is required to be qualified as an attorney-at-law under the laws and regulations of Japan (“Bengoshi”), a legal professional corporation under the laws and regulations of Japan (“Bengoshi-hojin”), or a legal person established under the Special Measures Law Concerning Credit Management and Collection Business and to establish an office in Japan. 2. No person may take over and recover other person’s credits as business except a legal person established under the Special Measures Law Concerning Credit Management and Collection Business that handles credits pursuant to provisions of that law. Measures : Special Measures Law Concerning Credit Management and Collection Business (Law No. 126 of 1998), Articles 3 and 4 Attorney Law (Law No. 205 of 1949), Articles 72 and 73

5.

Sector : Construction Subsector : - Industry Classification : JSIC 06 Construction work, general including public and private construction work JSIC 07 Construction work by specialist contractor, except equipment installation work JSIC 08 Equipment installation work Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A person who intends to conduct construction business is required to establish a place of business in Japan and to obtain permission from the Minister of Land, Infrastructure, Transport and Tourism or from the prefectural governor having jurisdiction over the district where the place of business is located. 2. A person who intends to conduct demolition work business is required to establish a place of business in Japan and to be registered with the prefectural governor having jurisdiction over the district where the place of business is located. Measures : Construction Business Law (Law No. 100 of 1949), Chapter 2 Law Concerning Recycling of Construction Materials (Law No. 104 of 2000), Chapter 5

6.

Sector : Distribution Services Subsector : Wholesale Trade Services, Retailing Services, and Commission Agents' Services, Related to Alcoholic Beverages Industry Classification : JSIC 5222 Liquors JSIC 5851 Liquor stores Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Description : Trade in Services The number of licences conferred to service suppliers in those subsectors may be limited, where it is necessary to maintain a supply-demand balance of liquors in order to secure liquor tax revenue (paragraph 11 of Article 10 of the Liquor Tax Law). Measures : Liquor Tax Law (Law No. 6 of 1953), Articles 9 through 11

7.

Sector : Education and Learning Support Subsector : Higher Educational Services Industry Classification : JSIC 816 Institutions of higher education Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. Higher educational services supplied as formal education in Japan are required to be supplied by formal education institutions. Formal education institutions are required to be established by school juridical persons. 2. "Formal education institutions" means elementary schools, lower secondary schools, secondary schools, compulsory education schools, upper secondary schools, universities, junior colleges, colleges of technology, schools for special needs education, kindergartens, and integrated centres for early childhood education and care. 3. "School juridical person" means a non-profit legal person established for the purposes of supplying educational services under the laws and regulations of Japan. Measures : Fundamental Law of Education (Law No. 120 of 2006), Article 6 School Education Law (Law No. 26 of 1947), Article 2 Private School Law (Law No. 270 of 1949), Article 3

8.

Sector : Financial Services Subsector : Banking and Other Financial Services (excluding Insurance and Insurance-Related Services) Industry Classification : JSIC 622 Banks, except central bank JSIC 631 Financial institutions for small businesses Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment The deposit insurance system only covers financial institutions which have their head offices within the jurisdiction of Japan. The deposit insurance system does not cover deposits taken by branches of foreign banks. Measures : Deposit Insurance Law (Law No. 34 of 1971), Article 2

9.

Sector : Financial Services Subsector : Insurance and Insurance-related Services Industry Classification : JSIC 672 Non-life insurance institutions JSIC 6742 Non-life insurance agents and brokers Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Description : Trade in Services Commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom: (a) goods being transported within Japan; and (b) ships of Japanese registration which are not used for international maritime transport. Measures : Insurance Business Law (Law No. 105 of 1995), Articles 185, 186, 275 through 277, 286, and 287 Cabinet Order for Enforcement of Insurance Business Law (Cabinet Order No. 425 of 1995), Articles 19 and 39-2 Ministerial Ordinance for Enforcement of Insurance Business Law (Ministerial Ordinance of the Ministry of Finance No. 5 of 1996), Articles 116 and 212-6

10.

Sector : Heat Supply Subsector : - Industry Classification : JSIC 3511 Heat supply Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign

investors who intend to make investments in the heat supply industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

11.

Sector : Information and Communications Subsector : Telecommunications Industry Classification : JSIC 3700 Head offices primarily engaged in managerial operations JSIC 3711 Regional telecommunications, except wired broadcast telephones JSIC 3731 Services incidental to telecommunications Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Nippon Telegraph and Telephone Corporation may not enter the name and address in its register of shareholders if the aggregate of the ratio of the voting rights directly or indirectly held by the persons set forth in subparagraphs (a) through (c) reaches or exceeds one-third: (a) a natural person who does not have Japanese nationality; (b) a foreign government or its representative; and (c) a foreign legal person or a foreign entity. 2. Any natural person who does not have Japanese nationality may not assume the office of member of the board of directors or auditor of Nippon Telegraph and Telephone Corporation, Nippon Telegraph and Telephone East Corporation, and Nippon Telegraph and Telephone West Corporation. Measures : Law Concerning Nippon Telegraph and Telephone Corporation, etc. (Law No. 85 of 1984), Articles 6 and 10

12.

Sector : Information and Communications Subsector : Telecommunications and Internet Based Services Industry Classification (4) : JSIC 3711 Regional telecommunications, except wired broadcast telephones JSIC 3712 Long-distance telecommunications JSIC 3713 Wired broadcast telephones JSIC 3719 Miscellaneous fixed telecommunications JSIC 3721 Mobile telecommunications JSIC 4011* Web portal providers JSIC 4012* Application services providers JSIC 4013 Internet support services Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in telecommunications business and internet based services in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 28 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 4

(4) An asterisk (*) on the JSIC numbers indicates that the activities covered by this entry under such numbers are limited to the activities which are subject to the registration obligation under Article 9 of the Telecommunications Business Law (Law No. 86 of 1984).

13.

Sector : Manufacturing and Information and Communications Subsector : Manufacture of Electronic Parts, Devices, and Electronic Circuits and Information Services Industry Classification : JSIC 2814 Integrated circuits JSIC 2831 Semiconductor memory media JSIC 2832 Optical discs and magnetic tapes and discs JSIC 2842 Electronic circuit implementation board JSIC 3011 Communication equipment wired JSIC 3012 Mobile phone and PHS JSIC 3013 Radio communication equipment JSIC 3031 Computer, except personal computer JSIC 3032 Personal computer JSIC 3033 External storages JSIC 3911 Custom software services JSIC 3912 Embedded software services JSIC 3913 Package software services JSIC 3921 Data processing services Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in manufacturing industry of electronic parts, devices, and electronic circuits and information service industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 28 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 4

14.

Sector : Manufacturing Subsector : Shipbuilding and Repairing, and Marine Engines Industry Classification : JSIC 3131 Shipbuilding and repairing Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Description : Trade in Services A person who intends to establish or extend docks, which can be used to manufacture or repair vessels of 500 gross tonnage or more or 50 metres in length or more, is required to obtain permission from the Minister of Land, Infrastructure, Transport and Tourism. The issuance of a licence is subject to the requirements of an economic needs test. Measures : Shipbuilding Law (Law No. 129 of 1950), Articles 2 through 3-2

15.

Sector : Manufacturing Subsector : Drugs and Medicines, and Medical Devices Manufacturing Industry Classification (5) : JSIC 165* Medicines JSIC 1653 Biological preparations Pharmaceutical intermediates in JSIC Division E (Manufacturing), which relate to JSIC 165 and 1653. JSIC 274* Medical instruments and apparatus, and medical supplies JSIC 296* Electronic equipment JSIC 2973* Medical measuring instruments Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description (6) : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in biological preparations manufacturing industry, manufacturing industry of agents against pathogenic organisms and parasites, and their pharmaceutical intermediates, and manufacturing industry of specially-controlled medical devices and their accessories, and components of specially-controlled medical devices or their accessories in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

(5) An asterisk (*) on the JSIC numbers indicates that the activities covered by this entry under such numbers are limited to the activities related to manufacturing industry of agents against pathogenic organisms and parasites, their pharmaceutical intermediates and specially-controlled medical devices.

(6) For the purposes of this entry: (a) “biological preparations manufacturing industry” deals with economic activities in an establishment which produces vaccine, serum, toxoid, antitoxin, and some preparations similar to the aforementioned products, or blood products; (b) “agents against pathogenic organisms and parasites” means the pharmaceutical products which are categorised as agents against pathogenic organisms and parasites, and which have received marketing approval, under the laws and regulations of Japan; and (c) “specially-controlled medical devices” means medical devices which have received marketing approval or certification as specially-controlled medical devices under the laws and regulations of Japan.

16.

Sector : Manufacturing Subsector : Leather and Leather Products Manufacturing Industry Classification (7) : JSIC 1189*1 Textile apparel and accessories, n.e.c. JSIC 1694*2 Gelatine and adhesives JSIC 192 Rubber and plastic footwear and its findings JSIC 2011 Leather tanning and finishing JSIC 2021 Mechanical and industrial leather products, except gloves and mittens JSIC 2031 Cut stock and findings for leather footwear JSIC 2041 Leather footwear JSIC 2051 Leather gloves and mittens JSIC 2061 Baggage JSIC 207 Handbags and small cases JSIC 2081 Fur skins JSIC 2099 Miscellaneous tanning leather products JSIC 3253*1 Sporting and athletic goods Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in leather and leather products manufacturing industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which significant adverse effect is brought to the smooth operation of the Japanese economy.(8) 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

(7) An asterisk (*1) on the JSIC numbers indicates that the activities covered by this entry under such numbers are limited to the activities related to leather and leather products manufacturing. An asterisk (*2) on the JSIC number indicates that the activities covered by this entry under such number are limited to the activities related to animal glue (nikawa) and gelatine manufacturing.

(8) For greater certainty, absence of reference in this description to “national security”, which is referred to in entries No. 10, 12, 13, 15, 37, 46, 47, 55 and 57 of this List A, does not mean that Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) to justify the screening.

17.

Sector : Matters Related to the Nationality of a Ship Subsector : - Industry Classification : - Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Nationality requirement applies to the supply of international maritime transport services (including services of passenger transportation and freight transportation) through establishment of a registered company operating a fleet flying the Japanese flag. 2. “Nationality requirement” means that the ship is required to be owned by a Japanese national, or a company established under the laws and regulations of Japan, of which all the representatives and not less than two-thirds of the executives administering the affairs are Japanese nationals. Measures : Ship Law (Law No. 46 of 1899), Article 1

18.

Sector : Measuring Services Subsector : - Industry Classification : JSIC 7441 Commodity inspection services JSIC 745 Surveyor certification Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description9 : Trade in Services 1. A person who intends to supply services of conducting the periodic inspection of specified measuring instruments is required to establish a legal person in Japan and to be designated by the prefectural governor having jurisdiction over the district where the person intends to conduct such inspection, or by the mayor of a designated city or the chief of a designated ward or village in case the place where the person intends to conduct such inspection is located within the district of such designated city, ward or village. 2. A person who intends to supply services of conducting the verification of specified measuring instruments is required to establish a legal person in Japan and to be designated by the Minister of Economy, Trade and Industry. A person who intends to conduct measurement certification business, including specified measurement certification business, is required to have an establishment in Japan and to be registered with the prefectural governor having jurisdiction over the district where an establishment is located. 4. A person who intends to supply services of conducting the inspection of specified measuring instruments used for the measurement certification is required to establish a legal person in Japan and to be designated by the prefectural governor having jurisdiction over the district where the person intends to conduct such inspection. 5. A person who intends to supply services of conducting the accreditation for a person engaged in specified measurement certification business is required to establish a legal person in Japan, and to be designated by the Minister of Economy, Trade and Industry. 6. A person who intends to supply services of conducting the calibration of measuring instruments is required to establish a legal person in Japan and to be designated by the Minister of Economy, Trade and Industry. Measures : Measurement Law (Law No. 51 of 1992), Chapters 3, 5, 6, and 8 Regulations on Measurement Law (Ministerial Ordinance of the Ministry of International Trade and Industry No. 69 of 1993) Ministerial Ordinance for Designated Inspection Body, Designated Verification Body, Designated Measurement Certification Inspection Body and Specified Measurement Certification Accreditation Body (Ministerial Ordinance of the Ministry of International Trade and Industry No. 72 of 1993)

(9) For the purposes of this entry: (a) “measuring instruments” means appliances, machines, or equipment used for measurement; (b) “specified measuring instruments” means measuring instruments used in transactions or certifications, or measuring instruments principally for use in the life of general consumers, and those specified by a Cabinet Order as necessary to establish standards relating to their structure and instrumental error in order to ensure proper execution of measurements; (c) “measurement certification businesses” under the requirement described in paragraph 3 are listed in the following and the registration shall be in accordance with the business classification specified by the Ordinance of the Ministry of Economy, Trade and Industry: (i) the business of measurement certifications of length, weight, area, volume, or heat concerning goods to be loaded or unloaded or entered or dispatched for transportation, deposit, or sale or purchase (excluding the measurement certifications of mass or volume of goods to be loaded on or unloaded from ship); and (ii) the business of measurement certifications of concentration, sound pressure level or the quantity of other physical phenomena specified by a Cabinet Order (excluding what is listed in subparagraph (c)(i)); however, this requirement shall not apply to the case where a person engaged in the measurement certification business is a national government, a local government, or an incorporated administrative agency prescribed by paragraph 1 of Article 2 of the Law on General Rules for Incorporated Administrative Agency (Law No. 103 of 1999) who is designated by a Cabinet Order as competent to appropriately perform the measurement certification business, or where the measurement certification business is performed by a person who has been registered or designated or received any other disposition to conduct that business pursuant to the provision of the law specified by that Cabinet Order; and (d) “specified measurement certification business” means the business specified by a Cabinet Order as

these requiring high levels of technology to certify measurement of considerably tiny quantities of physical phenomena prescribed in subparagraph (c)(ii).

19.

Sector : Medical, Health Care, and Welfare Subsector : - Industry Classification : JSIC 8599 Miscellaneous social insurance, social welfare and care services Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Only an association of business proprietors or a federation of such associations approved by the Minister of Health, Labour and Welfare under the laws and regulations of Japan may conduct labour insurance businesses entrusted by business proprietors. An association which intends to conduct such labour insurance businesses under the laws and regulations of Japan is required to establish an office in Japan, and to obtain the approval of the Minister of Health, Labour and Welfare. Measures : Law Concerning Collection of Labour Insurance Premium (Law No. 84 of 1969), Chapter 4 Enforcement Regulations for the Law Concerning Collection of Labour Insurance Premium (Ministerial Ordinance of the Ministry of Labour No. 8 of 1972)

20.

Sector : Mining and Services incidental to Mining Subsector : - Industry Classification : JSIC 05 Mining and quarrying of stone and gravel Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment Only a Japanese national or a Japanese legal person may have mining rights or mining lease rights.(10) Measures : Mining Law (Law No. 289 of 1950), Chapters 2 and 3

(10) Services requiring mining rights or mining lease rights are required to be supplied by a Japanese national or a legal person established under the laws and regulations of Japan, in accordance with the Chapters 2 and 3 of the Mining Law.

21.

Sector : Oil Industry Subsector : - Industry Classification (11) : JSIC 053 Crude petroleum and natural gas production JSIC 1711 Petroleum refining JSIC 1721 Lubricating oils and greases (not made in petroleum refineries) JSIC 1741*1 Paving materials JSIC 1799*1 Miscellaneous petroleum and coal products JSIC 4711*1 Ordinary warehousing, except refrigerated warehousing JSIC 4721*1 Refrigerated warehousing JSIC 5331 Petroleum JSIC 6051 Gasoline stations JSIC 6052*1 Fuel stores, except gasoline stations JSIC 9299*2 Miscellaneous business services, n.e.c. Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in the oil industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which significant adverse effect is brought to the smooth operation of the Japanese economy. (12) 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. 4. All organic chemicals such as ethylene, ethylene glycol, and polycarbonates are outside the scope of the oil industry. Therefore, the prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law do not apply to the investments in the manufacture of these products. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

(11) An asterisk (*1) on the JSIC numbers indicates that the activities covered by this entry under such numbers are limited to those related to the oil industry. An asterisk (*2) on the JSIC number indicates that the activities covered by this entry under such number are limited to those related to the liquefied petroleum gas industry.

(12) For greater certainty, absence of reference in this description to “national security”, which is referred to in entries No. 10, 12, 13, 15, 37, 46, 47, 55 and 57 of this List A, does not mean that Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) to justify the screening.

22.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7211 Lawyers' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply legal services is required to be qualified as an attorney-at-law under the laws and regulations of Japan ("Bengoshi") and to establish an office within the district of the local bar association to which the natural person belongs. 2. An enterprise which intends to supply legal services is required to establish a legal professional corporation under the laws and regulations of Japan ("Bengoshi- Hojin"). Measures : Attorney Law (Law No. 205 of 1949), Chapters 3 through 5 and 9

23.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7211 Lawyers' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply legal advisory services concerning foreign laws is required to be qualified as a registered foreign lawyer under the laws and regulations of Japan ("Gaikokuho-Jimu-Bengoshi") and to establish an office within the district of the local bar association to which the natural person belongs. 2. Gaikokuho-Jimu-Bengoshi under the laws and regulations of Japan is required to stay in Japan for not less than 180 days per year. 3. An enterprise which intends to supply legal advisory services concerning foreign laws is required to establish a registered foreign lawyer corporation under the laws and regulations of Japan ("Gaikokuho-Jimu-Bengoshi-Hojin"). Measures : Law on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers (Law No. 66 of 1986), Chapters 2, 4, and 5

24.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7212 Patent attorneys' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply patent attorney services is required to be qualified as a patent attorney under the laws and regulations of Japan ("Benrishi"). 2. An enterprise which intends to supply patent attorney services is required to establish a patent business corporation under the laws and regulations of Japan ("Tokkyo-Gyomu-Hojin"). Measures : Patent Attorney Law (Law No. 49 of 2000), Chapters 3, 6, and 8

25.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7221 Notaries public's and judicial scriveners' offices Level of Government : Central Government Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. Only a Japanese national may be appointed as a notary in Japan. 2. The notary is required to establish an office in the place designated by the Minister of Justice. Measures : Notary Law (Law No. 53 of 1908), Chapters 2 and 3

26.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7221 Notaries public's and judicial scriveners' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply judicial scrivener services is required to be qualified as a judicial scrivener under the laws and regulations of Japan ("Shiho-Shoshi") and to establish an office within the district of the judicial scrivener association to which the natural person belongs. 2. An enterprise which intends to supply judicial scrivener services is required to establish a judicial scrivener corporation under the laws and regulations of Japan ("Shiho-Shoshi-Hojin"). Measures : Judicial Scrivener Law (Law No. 197 of 1950), Chapters 3 through 5, 7, and 10

27.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7241 Certified public accountants' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply certified public accountants services is required to be qualified as a certified public accountant under the laws and regulations of Japan ("Koninkaikeishi"). 2. An enterprise which intends to supply certified public accountants services is required to establish an audit corporation under the laws and regulations of Japan ("Kansa-Hojin"). Measures : Certified Public Accountant Law (Law No. 103 of 1948), Chapters 3, 5-2, and 7

28.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7242 Certified tax accountants' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply certified public tax accountant services is required to be qualified as a certified public tax accountant under the laws and regulations of Japan ("Zeirishi") and to establish an office within the district of the certified public tax accountant association to which the natural person belongs. 2. An enterprise which intends to supply certified public tax accountant services is required to establish a certified public tax accountant corporation under the laws and regulations of Japan ("Zeirishi-Hojin"). Measures : Certified Public Tax Accountant Law (Law No. 237 of 1951), Chapters 3, 4, and 5-2 through 7 Enforcement Regulation on Certified Public Tax Accountant Law (Ministerial Ordinance of the Ministry of Finance No. 55 of 1951)

29.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7231 Administrative scriveners' offices JSIC 7294 Certified real estate appraisers JSIC 7299 Professional services, n.e.c. JSIC 7421 Architectural design services Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services An architect or building engineer, qualified as such under the laws and regulations of Japan ("Kenchikushi"), or a person employing such an architect or building engineer, who intends to conduct business of design, superintendence of construction work, administrative work related to construction work contracts, supervision of building construction work, survey and evaluation of buildings, and representation in procedures under the laws and regulations of Japan concerning construction, upon request from others for remuneration, is required to establish an office in Japan. Measures : Architect and Building Engineer Law (Law No. 202 of 1950), Chapters 1, 2, and 6

30.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7251 Certified social insurance and labour consultants' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply social insurance and labour consultant services is required to be qualified as a certified social insurance and labour consultant under the laws and regulations of Japan ("Shakai-Hoken-Romushi") and to establish an office in Japan. 2. An enterprise which intends to supply social insurance and labour consultant services is required to establish a certified social insurance and labour consultant corporation under the laws and regulations of Japan ("Shakai-Hoken-Romushi-Hojin"). Measures : Certified Social Insurance and Labour Consultant Law (Law No. 89 of 1968), Chapters 2-2, and 4-2 through 5

31.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7231 Administrative scriveners' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply administrative scrivener services is required to be qualified as an administrative scrivener under the laws and regulations of Japan ("Gyosei-Shoshi") and to establish an office within the district of the administrative scrivener association to which the natural person belongs. 2. An enterprise which intends to supply administrative scrivener services is required to establish an administrative scrivener corporation under the laws and regulations of Japan ("Gyosei-Shoshi-Hojin"). Measures : Administrative Scrivener Law (Law No. 4 of 1951), Chapters 3 through 5 and 8

32.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7299 Professional services n.e.c. Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Description : Trade in Services Maritime procedure agent services are required to be supplied by a natural person who is qualified as a maritime procedure agent under the laws and regulations of Japan ("Kaijidairishi"). Measures : Maritime Procedure Agents Law (Law No. 32 of 1951), Article 17

33.

Sector : Professional Services Subsector : - Industry Classification : JSIC 7222 Land and house surveyors' offices Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A natural person who intends to supply land and house surveyor services is required to be qualified as a land and house surveyor under the laws and regulations of Japan ("Tochi-Kaoku-Chosashi") and to establish an office within the district of the land and house surveyor association to which the natural person belongs. 2. An enterprise which intends

to supply land and house surveyor services is required to establish a land and house surveyor corporation under the laws and regulations of Japan (“Tochi-Kaoku-Chosashi-Hojin”). Measures : Land and House Surveyor Law (Law No. 228 of 1950), Chapters 3 through 5, 7 and 10

34.

Sector : Real Estate Subsector : - Industry Classification : JSIC 6811 Sales agents of buildings and houses JSIC 6812 Land subdividers and developers JSIC 6821 Real estate agents and brokers JSIC 6941 Real estate managers Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A person who intends to conduct building lots and buildings transaction business is required to establish an office in Japan and to obtain a licence from the Minister of Land, Infrastructure, Transport and Tourism or from the prefectural governor having jurisdiction over the district where the office is located. 2. A person who intends to conduct real estate syndication business is required to establish an office in Japan and to obtain permission from or to be registered with the competent Minister or from the prefectural governor having jurisdiction over the district where the office is located or to submit notification to the competent Minister. 3. A person who intends to conduct condominiums management business is required to establish an office in Japan and to be registered in the list maintained by the Ministry of Land, Infrastructure, Transport and Tourism. Measures : Building Lots and Buildings Transaction Business Law (Law No. 176 of 1952), Chapter 2 Real Estate Syndication Law (Law No. 77 of 1994), Chapters 2, and 5 through 7 Law Concerning Improving Management of Condominiums (Law No. 149 of 2000), Chapter 3

35.

Sector : Real Estate Appraisal Services Subsector : - Industry Classification : JSIC 7294 Certified real estate appraisers Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person who intends to supply real estate appraisal services is required to establish an office in Japan and to be registered in the list maintained by the Ministry of Land, Infrastructure, Transport and Tourism or the prefecture having jurisdiction over the district where the office is located. Measures : Law Concerning the Appraisal of Real Estate (Law No. 152 of 1963), Chapter 3

36.

Sector : Seafarers Subsector : - Industry Classification : JSIC 031 Marine fisheries JSIC 451 Oceangoing transport JSIC 452 Coastwise transport Level of Government : Central Government Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services Foreign nationals employed by Japanese enterprises except for the seafarers referred to in the relevant official notifications may not work on vessels flying the Japanese flag. Measures : Mariners Law (Law No. 100 of 1947), Chapter 4 Official Notification of the Director General of Seafarers Department, Maritime Technology and Safety Bureau of the Ministry of Transport, No. 115, 1990 Official Notification of the Director General of Seafarers Department, Maritime Technology and Safety Bureau of the Ministry of Transport, No. 327, 1990 Official Notification of the Director General of Maritime Bureau of the Ministry of Land, Infrastructure and Transport, No. 153, 2004

37.

Sector : Security Guard Services Subsector : - Industry Classification : JSIC 923 Guard services Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in security guard services in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

38.

Sector : Services Related to Occupational Safety and Health Subsector : - Industry Classification : JSIC 7299 Professional services, n.e.c. JSIC 7441 Commodity inspection services JSIC 7452 Environmental surveying certification JSIC 8222 Vocational guidance centers Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence

(Article 8.11) Description : Trade in Services A person who intends to supply inspection or verification services for working machines, skill training courses, and other related services in connection with occupational safety and health, or working environment measurement services is required to be resident or to establish an office in Japan, and to be registered with the Minister of Health, Labour and Welfare or Director-General of the Prefectural Labour Bureau. Measures : Industrial Safety and Health Law (Law No. 57 of 1972), Chapters 5 and 8 Ministerial Ordinance for Registration and Designation related to Industrial Safety and Health Law, and Orders based on the Law (Ministerial Ordinance of the Ministry of Labour No. 44 of 1972) Working Environment Measurement Law (Law No. 28 of 1975), Chapters 2 and 3 Enforcement Regulation of the Working Environment Measurement Law (Ministerial Ordinance of the Ministry of Labour No. 20 of 1975)

39.

Sector : Surveying Services Subsector : - Industry Classification : JSIC 7422 Surveying services Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person who intends to supply surveying services is required to establish a place of business in Japan and to be registered with the Minister of Land, Infrastructure, Transport and Tourism. Measures : Survey Law (Law No. 188 of 1949), Chapter 6

40.

Sector : Transport Subsector : Air Transport Industry Classification : JSIC 4600 Head offices primarily engaged in managerial operations JSIC 4611 Air transport Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in air transport business in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which significant adverse effect is brought to the smooth operation of the Japanese economy.(13) 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. 4. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting air transport businesses as a Japanese air carrier is not granted to the following natural persons or entities applying for the permission: (a) a natural person who does not have Japanese nationality; (b) a foreign country, or a foreign public entity or its equivalent; (c) a legal person or other entity constituted under the laws and regulations of any foreign country; and (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b), or (c); a legal person of which one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b), or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b), or (c). In the event that an air carrier becomes a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the air carriers. 5. A Japanese air carrier or a company having substantial control over such air carrier, such as a holding company, may reject the request from a natural person or an entity set forth in subparagraphs 4(a) through (c), who owns equity investments in such air carrier or company, to enter its name and address in the register of shareholders, in the event that such air carrier or company becomes a legal person referred to in subparagraph 4(d) by accepting such request. 6. Foreign air carriers are required to obtain permission of the Minister of Land, Infrastructure, Transport and Tourism to conduct international air transport business. 7. Permission of the Minister of Land, Infrastructure, Transport and Tourism is required for the use of foreign aircraft for air transportation of passengers or cargoes to and from Japan for remuneration. 8. A foreign aircraft may not be used for a flight between points within Japan. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3 Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

(13) For greater certainty, absence of reference in this description to “national security”, which is referred to in entries No. 10, 12, 13, 15, 37, 46, 47, 55 and 57 of this List A, does not mean that Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) to justify the screening.

41.

Sector : Transport Subsector : Air Transport Industry Classification : JSIC 4600 Head offices primarily engaged in managerial operations JSIC 4621 Aircraft service, except air transport Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in aerial work

business in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which significant adverse effect is brought to the smooth operation of the Japanese economy. (14) 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. 4. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting aerial work business is not granted to the following natural persons or entities applying for the permission: (a) a natural person who does not have Japanese nationality; (b) a foreign country, or a foreign public entity or its equivalent; (c) a legal person or other entity constituted under the laws and regulations of any foreign country; and (e) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b), or (c); a legal person of which one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b), or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b), or (c). In the event that a person conducting aerial work business becomes a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the person conducting aerial work business. 5. A foreign aircraft may not be used for a flight between points within Japan. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3 Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

(14) For greater certainty, absence of reference in this description to “national security”, which is referred to in entries No. 10, 12, 13, 15, 37, 46, 47, 55 and 57 of this List A, does not mean that Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) to justify the screening.

42.

Sector : Transport Subsector : Registration of Aircraft in the National Register Industry Classification : - Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. An aircraft owned by any of the following natural persons or entities may not be registered in the national register: (a) a natural person who does not have Japanese nationality; (b) a foreign country, or a foreign public entity or its equivalent; (c) a legal person or other entity constituted under the laws and regulations of any foreign country; and (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b), or (c); a legal person of which one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b), or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b), or (c). 2. A foreign aircraft may not be registered in the national register. Measures : Civil Aeronautics Law (Law No. 231 of 1952), Chapter 2

43.

Sector : Transport Subsector : Customs Brokerage Industry Classification : JSIC 4899 Services incidental to transport, n.e.c. Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person who intends to conduct customs brokerage business is required to have a place of business in Japan and to obtain permission of the Minister of Finance. Measures : Customs Brokerage Law (Law No. 122 of 1967), Chapter 2 ANNEX III – JAPAN – 53 44. Sector : Transport Subsector : Freight Forwarding Business (excluding freight forwarding business using air transportation) Industry Classification : JSIC 4441 Collect-and-deliver freight transport JSIC 4821 Freight transport, except collect-and-deliver freight transport Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. The following natural persons or entities are required to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism for conducting freight forwarding business using international shipping. Such registration shall be made, or such permission or approval shall be granted, on the basis of reciprocity: (a) a natural person who does not have Japanese nationality; (b) a foreign country, or a foreign public entity or its equivalent; (c) a legal person or other entity constituted under the laws and regulations of any foreign country; and (d) a legal person represented by the natural persons or entities referred to in subparagraph(a), (b), or (c); a legal person of which one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b), or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b), or (c). 2. A person who intends to conduct freight forwarding business is required to establish an office in Japan, and to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism. Measures : Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2 through 4 Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport

No. 20 of 1990)

45.

Sector : Transport Subsector : Freight Forwarding Business (only freight forwarding business using air transportation) Industry Classification : JSIC 4441 Collect-and-deliver freight transport JSIC 4821 Freight transport, except collect-and-deliver freight transport Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. The following natural persons or entities may not conduct freight forwarding business using air transportation between points within Japan: (a) a natural person who does not have Japanese nationality; (b) a foreign country, or a foreign public entity or its equivalent; (c) a legal person or other entity constituted under the laws and regulations of any foreign country; and (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b), or (c); a legal person of which one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b), or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b), or (c). 2. The natural persons or entities referred to in paragraph 1 are required to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism for conducting freight forwarding business using international air transportation. Such registration shall be made, or such permission or approval shall be granted, on the basis of reciprocity. Measures : Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2 through 4 Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport No. 20 of 1990)

46.

Sector : Transport Subsector : Railway Transport Industry Classification : JSIC 421 Railway transport JSIC 4851 Railway facilities services Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in railway transport industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. 4. The manufacture of vehicles or parts and components for the railway transport industry is not included in railway transport industry. Therefore, the prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law do not apply to the investments in the manufacture of these products. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

47.

Sector : Transport Subsector : Road Passenger Transport Industry Classification : JSIC 4311 Common omnibus operators Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in the omnibus industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. 4. The manufacture of vehicles or parts and components for the omnibus industry is not included in the omnibus industry. Therefore, the prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law do not apply to the investments in the manufacture of these products. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

48.

Sector : Transport Subsector : Road Transport Industry Classification : JSIC 431 Common omnibus operators JSIC 432 Common taxicab operators JSIC 433 Chartered omnibus operators JSIC 4391 Motor passenger transport (particularly-contracted) JSIC 441 Common motor trucking JSIC 442 Motor trucking (particularly-contracted) JSIC 443 Mini-sized vehicle freight transport Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. A person who intends to conduct road passenger transport business or road freight transport business is required to establish a place of business in Japan, and to obtain permission of, or to submit

notification to, the Minister of Land, Infrastructure, Transport and Tourism. 2. In respect of common taxicab operators business, the Minister of Land, Infrastructure, Transport and Tourism may not grant permission to a person who intends to conduct the businesses, or may not approve a modification of the business plan of such businesses in the “specified regions” and in the “semi-specified regions” designated by the Minister of Land, Infrastructure, Transport and Tourism. Such permission may be granted, or such modification of the business plan may be approved with respect to “semi-specified regions” when the standards set out in Special Measures Law concerning the proper management and revitalisation of the taxi business in specified and semi-specified regions (Law No. 64 of 2009) are met, including those that the capacity of common taxicab operators businesses in that region does not exceed the volumes of the traffic demand. Such designation would be made when the capacity of common taxicab transportation businesses in that region exceeds or is likely to exceed the volumes of traffic demand to the extent that it would become difficult to secure the safety of transportation and the benefits of passengers. 3. In respect of common motor trucking business or motor trucking business (particularly-contracted), the Minister of Land, Infrastructure, Transport and Tourism may not grant permission to a person who intends to conduct the businesses, or may not approve a modification of the business plan of such businesses, in the “emergency supply or demand adjustment area” designated by the Minister of Land, Infrastructure, Transport and Tourism. Such designation would be made when the capacity of common motor trucking businesses or motor trucking businesses (particularly-contracted) in that area has significantly exceeded the volumes of transportation demand to the extent that the operation of such businesses would become difficult. Measures : Road Transport Law (Law No. 183 of 1951), Chapter 2 Special Measures Law concerning the proper management and revitalisation of the taxi business in specified and semi-specified regions (Law No. 64 of 2009), Chapters 2 and 7 Trucking Business Law (Law No. 83 of 1989), Chapter 2

49.

Sector : Transport Subsector : Services Incidental to Transport Industry Classification : JSIC 4852 Fixed facilities for road transport Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Description : Trade in Services A person who intends to conduct motorway businesses is required to obtain a licence from the Minister of Land, Infrastructure, Transport and Tourism. The issuance of a licence is subject to an economic needs test, such as whether the proposed motorway is appropriate in scale compared with the volume and nature of traffic demand in the proposed area. Measures : Road Transport Law (Law No. 183 of 1951), Chapter 4

50.

Sector : Transport Subsector : Services Incidental to Transport Industry Classification : - Level of Government : Central Government Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services 1. Only a Japanese national may become a pilot in Japan. 2. Pilots directing ships in the same pilotage district are required to establish a pilot association for the pilotage district. Measures : Pilotage Law (Law No. 121 of 1949), Chapters 2 through 4

51.

Sector : Transport Subsector : Water transport Industry Classification : JSIC 451 Oceangoing transport Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6) Description : Trade in Services Oceangoing ship operators of another Party may be restricted or prohibited from entering Japanese ports or from loading and unloading cargoes in Japan in cases where Japanese oceangoing ship operators are prejudiced by that Party. Measures : Law Concerning Special Measures against Unfavourable Treatment to Japanese Oceangoing Ship Operators by Foreign Government (Law No. 60 of 1977)

52.

Sector : Transport Subsector : Water Transport Industry Classification : JSIC 452 Coastwise transport JSIC 453 Inland water transport JSIC 4542 Coastwise ship leasing Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in water transport industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which significant adverse effect is brought to the smooth operation of the Japanese economy. (15) 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. 4. For greater certainty, “water transport industry” refers to oceangoing or seagoing transport, coastwise transport (i.e. maritime transport between ports in Japan), inland water transport and ship leasing industry. However, oceangoing or seagoing transport industry and ship leasing industry excluding coastwise ship leasing industry are exempted from the prior notification requirement and screening procedures under the

Foreign Exchange and Foreign Trade Law. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

(15) For greater certainty, absence of reference in this description to “national security”, which is referred to in entries No. 10, 12, 13, 15, 37, 46, 47, 55 and 57 of this List A, does not mean that Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 10.15 (Security Exceptions) and Article 17.13 (Security Exceptions) to justify the screening.

53.

Sector : Transport Subsector : Water Transport Industry Classification : - Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Description : Trade in Services and Investment Unless otherwise specified in the laws and regulations of Japan, or international agreements to which Japan is a party, ships not flying the Japanese flag are prohibited from entering ports in Japan which are not open to foreign commerce and from carrying cargoes or passengers between ports in Japan. Measures : Ship Law (Law No. 46 of 1899), Article 3

54.

Sector : Vocational Skills Test Subsector : - Industry Classification : - Level of Government : Central Government Type of Obligation : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Some of specific type of non-profit organisation (the employers’ organisations, their federations, general incorporated associations, general incorporated foundations, incorporated labour unions or miscellaneous incorporated non-profit organisations) can supply the service. Such organisation which intends to carry out the vocational skills test for workers is required to establish an office in Japan and to be designated by the Minister of Health, Labour and Welfare. Measures : Human Resources Development Promotion Law (Law No. 64 of 1969), Chapter 5

55.

Sector : Water Supply and Waterworks Subsector : - Industry Classification : JSIC 3611 Water for end users, except industrial users Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in water supply and waterworks industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

56.

Sector : Wholesale and Retail Trade Subsector : Livestock Industry Classification : JSIC 5219 Miscellaneous agricultural, livestock and aquatic products Level of Government : Central Government Type of Obligation : Local Presence (Article 8.11) Description : Trade in Services A person who intends to conduct livestock trading business is required to be resident in Japan, and to obtain a licence from the prefectural governor having jurisdiction over the place of residence. For greater certainty, “livestock trading” means the trading or exchange of livestock, or the good offices for such trading or exchange. Measures : Livestock Dealer Law (Law No. 208 of 1949), Article 3

57.

Sector : Aerospace Industry Subsector : Aircraft Manufacturing and Repairing Industry Industry Classification (16) : JSIC 16* Manufacture of chemical and allied products JSIC 18* Manufacture of plastic products, except otherwise classified JSIC 19* Manufacture of rubber products JSIC 21* Manufacture of ceramic, stone and clay products JSIC 23* Manufacture of non-ferrous metals and products JSIC 24* Manufacture of fabricated metal products JSIC 25* Manufacture of general-purpose machinery JSIC 27* Manufacture of business oriented machinery JSIC 28* Electronic parts, devices and electronic circuits JSIC 29* Manufacture of electrical machinery, equipment and supplies JSIC 30* Manufacture of information and communication electronics equipment JSIC 31* Manufacture of transportation equipment JSIC 39* Information services JSIC 90* Machine,

etc. repair services, except otherwise classified Level of Government : Central Government Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment 1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in aircraft industry in Japan. 2. The screening is conducted from the viewpoint of whether the investment is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 3. The investors may be required to alter the content of the investment or discontinue the investment process, depending on the screening result. 4. A technology introduction contract between a resident and a non-resident related to aircraft industry is subject to the prior notification requirement and screening procedure under the Foreign Exchange and Foreign Trade Law. 5. The screening is conducted from the viewpoint of whether the conclusion of the technology introduction contract is likely to cause a situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered. 6. The resident may be required to alter the provisions of the technology introduction contract or discontinue the conclusion of that contract, depending on the screening result. 7. The number of licences conferred to manufactures and service suppliers in those sectors may be limited. 8. An enterprise which intends to produce aircraft and supply repair services is required to establish a factory related to manufacture or repair aircraft under the laws and regulations of Japan. Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27, 28 and 30 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 through 5 Aircraft Manufacturing Industry Law (Law No. 237 of 1952), Articles 2 through 5

(16) An asterisk (*) on the JSIC numbers indicates that the activities covered by this entry under such numbers are limited to those related to aerospace industry.

List B. Explanatory Notes

1. This List B sets out, in accordance with paragraph 2 of Article 8.8 (Schedules of Non-Conforming Measures) and paragraph 2 of Article 10.8 (Reservations and Non-Conforming Measures), the entries made by Japan with respect to specific sectors, subsectors, or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors). (17), (18)

2. Each entry sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific sector for which the entry is made;

(c) Industry Classification refers, where applicable, and only for transparency purposes, to the activity covered by the entry according to domestic or international industry classification codes;

(d) Type of Obligation specifies the obligations referred to in paragraph 1 for which the entry is made;

(e) Description sets out the scope of the sector, subsector, or activities covered by the entry; and

(f) Existing Measures identifies, for transparency purposes, existing measures that apply to the sector, subsector, or activities covered by the entry.

3. In the interpretation of an entry, all elements of the entry shall be considered. The Description element shall prevail over all the other elements.

4. With respect to financial services:

(a) for prudential reasons within the context of Article 4 (Prudential Measures) of Annex 8A (Financial Services), Japan shall

not be prevented from taking measures such as non-discriminatory limitations on juridical forms of a commercial presence. For the same reasons, Japan shall not be prevented from applying non-discriminatory limitations concerning admission to the market of new financial services which shall be consistent with a regulatory framework aimed at achieving such prudential objectives. In this context, securities firms are allowed to deal in securities defined in the relevant laws and regulations of Japan, and banks are not allowed to deal in those securities unless allowed in accordance with those laws and regulations; and

(b) services supplied in the territory of another Party to the service consumer in Japan without any active marketing from the service supplier are considered as services supplied under subparagraph (r)(ii) of Article 8.1 (Definitions). 5.

With respect to air transport services, measures affecting traffic rights or measures affecting services directly related to the exercise of traffic rights are not listed in this List B, as these are excluded from the scope of Chapter 8 (Trade in Services) pursuant to Article 8.2 (Scope).

6. Laws and regulations of Japan with regard to spectrum availability affecting obligations under Article 8.5 (Market Access) are not included in this List B, taking into account the Attachment 6 of Guidelines for the Scheduling of Specific Commitments (WTO Document S/L/92, dated 28 March 2001).

7. For the purposes of Chapter 8 (Trade in Services), Japan reserves the right to adopt or maintain any measure with respect to permanent residents of another Party except those of a Party that has submitted a notification under subparagraph (k)(ii) 2 of Article XXVIII of GATS.

8. For the purposes of this List B:

(a) “JSIC” means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on 30 October 2013.

(b) “CPC” means Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

(17) For the purposes of this List B, “Senior Management and Board of Directors” (Article 10.7) specified in the “Type of Obligation” includes the obligation in relation to any measure affecting the supply of a service, which is imposed in accordance with paragraph 3 of Article 10.2 (Scope).

(18) For transparency purposes, entries in this List B may include measures taken by Japan in accordance with Article 10.15 (Security Exceptions), Article 17.12 (General Exceptions), or Article 17.13 (Security Exceptions).

1.

Sector : All Sectors Subsector : - Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. When transferring or disposing of its equity interests in, or the assets of, a state enterprise or a governmental entity, Japan reserves the right to: (a) prohibit or impose limitations on the ownership of such interests or assets by investors of another Party or their investments; (b) impose limitations on the ability of investors of another Party or their investments as owners of such interests or assets to control any resulting enterprise; or (c) adopt or maintain any measure relating to the nationality of executives, managers or members of the board of directors of any resulting enterprise. 2. Notwithstanding paragraph 1, the central level of the Government of Japan shall not adopt any prohibition, limitation, or measure referred to in paragraph 1 by new laws or regulations following the initial transfer from the central level of the Government of Japan to an investor of the interests or assets referred to in paragraph 1.(19) Existing Measures : -

(19) For greater certainty, the central level of the Government of Japan can maintain such prohibition, limitation, or measure that is adopted or maintained at the initial transfer.

2.

Sector : All Sectors Subsector : - Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure relating to investment in or the supply

of telegraph services, betting and gambling services, manufacture of tobacco products, manufacture of Bank of Japan notes, minting and sale of coinage, and postal services in Japan. (20) Existing Measures : Telecommunications Business Law (Law No. 86 of 1984) Supplementary Provisions, Article 5 Postal Law (Law No. 165 of 1947), Article 2 Law Concerning Correspondence Delivery Provided by Private Operators (Law No. 99 of 2002) Horse Racing Law (Law No. 158 of 1948), Article 1-2 Law relating to Motorboat Racing (Law No. 242 of 1951), Article 2 Bicycle Racing Law (Law No. 209 of 1948), Article 1 Auto Racing Law (Law No. 208 of 1950), Article 3 Lottery Law (Law No. 144 of 1948), Article 4 Bank of Japan Act (Law No. 89 of 1997), Articles 46 and 49 The Law relating to Unit of Currency and Issue of Coin (Law No. 42 of 1987), Articles 4 and 10 Sports Promotion Lottery Law (Law No. 63 of 1998), Article 3

(20) For the purposes of this entry, "postal services" means delivery of other persons' correspondence ("tanin-no-shinsho-no-sotatsu") specified in paragraph 2 of Article 4 of Postal Law (Law No. 165 of 1947) and correspondence delivery service ("shinshobin-no-ekimu") within the meaning of the Law Concerning Correspondence Delivery Provided by Private Operators (Law No. 99 of 2002), but does not include special correspondence delivery services ("tokutei-shinshobin-ekimu") within the meaning of the latter Law. Services not included in this definition include delivery of parcels, packages, goods, direct mail, and periodicals.

3.

Sector : All Sectors Subsector : - Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Japan reserves the right to adopt or maintain any measure relating to investment or the supply of services in industries other than those recognised or other than those that should have been recognised by the Government of Japan owing to the circumstances at the time of entry into force of this Agreement. 2. Any industries classified positively and explicitly in JSIC or CPC, at the time of entry into force of this Agreement should have been recognised by the Government of Japan at that time. 3. Japan reserves the right to adopt or maintain any measure relating to investment or the supply of services in industries which were not technically feasible at the time of entry into force of this Agreement. Existing Measures : -

4.

Sector : All Sectors Subsector : - Industry Classification : - Type of Obligation : Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Description : Trade in Services and Investment 1. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement in force on, or signed prior to, the date of entry into force of this Agreement, and any amendment to and the successor agreement of that bilateral or multilateral agreement. 2. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement involving: (a) fisheries; or (b) maritime matters, including salvage. Existing Measures : -

5.

Sector : All Sectors Subsector : - Industry Classification : - Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services Japan reserves the right to adopt or maintain any measure with respect to the supply of a service through the mode of supply referred to in subparagraph (r)(iv) of Article 8.1 (Definitions), subject to Chapter 9 (Temporary Movement of Natural Persons) and Japan's Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons). Existing Measures : -

6.

Sector : Aerospace Industry Subsector : Space Industry Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Japan reserves the right to adopt or maintain any measure relating to investment in space industry. 2. Japan reserves the right to adopt or maintain any measure relating to the supply of services in space industry including: (a) services based on technological introduction contracts for importing technology for development, production, or use; (b) production services on fee or contract basis; (c) repair and maintenance services; and (d) space transportation services. Existing Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27, 28 and 30 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 through 5

7.

Sector : Arms and Explosives Industry Subsector : Arms Industry Explosives Manufacturing Industry Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Japan reserves the right to adopt or maintain any measure relating to investment in arms industry and explosives manufacturing industry. 2. Japan reserves the right to adopt or maintain any measure relating to the supply of services in arms industry and explosives manufacturing industry, including: (a) services based on technological introduction contracts for importing technology for development, production, or use; (b) production services on fee or contract basis; and (c) repair and maintenance services. Existing Measures : Ordnance Manufacturing Law (Law No. 145 of 1953), Article 5 Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27, 28 and 30 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 through 5

8.

Sector : Education and Learning Support Subsector : Primary and Secondary Educational Services Industry Classification : JSIC 811 Kindergartens JSIC 812 Elementary schools JSIC 813 Lower secondary schools JSIC 814 Upper secondary schools, secondary schools JSIC 815 School for special needs education JSIC 819 Integrated centres for early childhood education and care Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure relating to investment in or the supply of primary and secondary educational services. Existing Measures : Fundamental Law of Education (Law No. 120 of 2006), Article 6 School Education Law (Law No. 26 of 1947), Article 2 Private School Law (Law No. 270 of 1949), Article 3 Law concerning Advancement of Comprehensive Service Related to Education, Child Care, etc. of Preschool Children (Law No. 77 of 2006)

9.

Sector : Energy Subsector : Electricity Utility Industry Gas Utility Industry Nuclear Energy Industry Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure relating to investment or the supply of services in the energy industry listed in the “Subsector” element. Existing Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27, 28, and 30 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 through 5

10.

Sector : Financial Services Subsector : Banking and Other Financial Services (excluding Insurance and Insurance-related Services) Industry Classification : - Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services 1. Japan reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraph (r)(i) of Article 8.1 (Definitions) for banking and other financial services, other than provision and transfer of financial information and financial data processing as referred to in subparagraph (b)(xv) of Article 1 (Definitions) of Annex 8A (Financial Services) and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (b)(xvi) of Article 1 (Definitions) of Annex 8A (Financial Services). (21) 2. Japan reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraph (r)(ii) of Article 8.1 (Definitions) for banking and other financial services, other than the services as referred to in subparagraphs (b)(v) through (xvi) of Article 1 (Definitions) of Annex 8A (Financial Services). Existing Measures : Financial Instruments and Exchange Law (Law No. 25 of 1948), Articles 29, 29-2, and 61

(21) With respect to this entry, Japan may require the registration or authorisation of financial service suppliers of another Party and of financial instruments.

11.

Sector : Financial Services Subsector : Insurance and Insurance-related Services Industry Classification : - Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services Japan reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraphs (r)(i) and (ii) of Article 8.1 (Definitions)

for insurance and insurance-related services, other than the following services supplied by a financial service supplier of another Party established in that other Party: (a) insurance of risks relating to: (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom; and (ii) goods in international transit; (b) reinsurance, retrocession and the services auxiliary to insurance as referred to in subparagraphs (b)(ii) and (iv) of Article 1 (Definition) of Annex 8A (Financial Services); and (c) insurance intermediation, such as brokerage and agency as referred to in subparagraph (b)(iii) of Article 1 (Definitions) of Annex 8A (Financial Services), of insurance risks related to services listed in subparagraphs (a) and (b) of this entry.(22) Existing Measures : Insurance Business Law (Law No. 105 of 1995), Articles 185, 186, 275 through 277, 286, and 287 Cabinet Order for Enforcement of Insurance Business Law (Cabinet Order No. 425 of 1995), Articles 19 and 39-2 Ministerial Ordinance for Enforcement of Insurance Business Law (Ministerial Ordinance of the Ministry of Finance No. 5 of 1996), Articles 116 and 212-6

(22) Insurance intermediation services may be supplied only for insurance contracts allowed to be supplied in Japan.

12.

Sector : Fisheries and Services Incidental to Fisheries Subsector : Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone, and Continental Shelf Industry Classification : JSIC 031 Marine fisheries JSIC 032 Inland water fisheries JSIC 041 Marine aquaculture JSIC 042 Inland water aquaculture JSIC 8093 Recreational fishing guide business Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure relating to investment or the supply of services in fisheries in the territorial sea, internal waters, exclusive economic zone, and continental shelf of Japan.(23) Existing Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3 Law for Regulation of Fishing Operation by Foreign Nationals (Law No. 60 of 1967), Articles 3, 4, and 6 Law Concerning the Exercise of Sovereign Rights Concerning Fisheries in the Exclusive Economic Zones (Law No. 76 of 1996), Articles 4, 5, 7 through 12, and 14

(23) For the purposes of this entry, “fisheries” means the work of taking and cultivation of aquatic resources, including the following fisheries related activities: (a) investigation of aquatic resources without taking such resources; (b) luring of aquatic resources; (c) preservation and processing of fish catches; (d) transportation of fish catches and fish products; and (e) provision of supplies to other vessels used for fisheries.

13.

Sector : Information and Communications Subsector : Broadcasting Industry Industry Classification : JSIC 380 Establishments engaged in administrative or ancillary economic activities JSIC 381 Public broadcasting, except cablecasting JSIC 382 Private-sector broadcasting, except cablecasting JSIC 383 Cablecasting Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure relating to investment or the supply of services in broadcasting industry. (24) Existing Measures : Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3 Radio Law (Law No. 131 of 1950), Chapter 2 Broadcast Law (Law No. 132 of 1950), Chapters 2, and 5 through 8

(24) For the purposes of this entry, "broadcasting" means the transmission of telecommunications with the aim of direct reception by the public (paragraph 1 of Article 2 of the Broadcast Law) and does not include on-demand services including those services provided over the internet.

14.

Sector : Land Transaction Subsector : - Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Description : Trade in Services and Investment With respect to the acquisition or lease of land properties in Japan, prohibitions or restrictions may be imposed. Existing Measures : Alien Land Law (Law No. 42 of 1925)

15.

Sector : Public Law Enforcement and Correctional Services and Social Services Subsector : - Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure relating to investment or the supply of services in public law enforcement and correctional services, and in social services such as income security or insurance, social security or insurance, social welfare, public training, health, child care, and public housing. Existing Measures : -

16.

Sector : Security Guard Services Subsector : - Industry Classification : JSIC 923 Guard services Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Japan reserves the right to adopt or maintain any measure relating to the supply of security guard services. Existing Measures : Security Business Law (Law No. 117 of 1972), Articles 4 and 5

17.

Sector : Transport Subsector : Air Transport Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure with respect to investment or the supply of services in airports or airport operation services. (25) Existing Measures : -

(25) For the purposes of this entry, “airport operation services” means the supply of air terminal, airfield, and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services.

18.

Sector : All Sectors Subsector : - Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure relating to investment or the supply of services in the territorial sea, internal waters, exclusive economic zone, and continental shelf of Japan. Existing Measures : -

19.

Sector : All Sectors Subsector : - Industry Classification : - Type of Obligation : Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services Japan reserves the right to adopt or maintain any measure with respect to the supply of the services through the mode of supply referred to in subparagraph (r)(iv) of Article 8.1 (Definitions). Existing Measures : -

20.

Sector : Financial Services Subsector : - Industry Classification : - Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Description : Trade in Services Japan reserves the right to adopt or maintain any measure with respect to the supply of the financial services through the mode of supply referred to in subparagraph (r)(iv) of Article 8.1 (Definitions). Existing Measures : -

21.

Sector : Audio-Visual Services Subsector : - Industry Classification : - Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Local Presence (Article 8.11) Description : Trade in Services Japan reserves the right to adopt or maintain any measure with respect to the supply of audio-visual post production services. Existing Measures : -

22.

Sector : Private Households with Employed Natural Persons Subsector : - Industry Classification : JSIC 792 Domestic services Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Local Presence (Article 8.11) Description : Trade in Services Japan reserves the right to adopt or maintain any measure with respect to the supply of private households with employed natural persons services not related to nursing. Existing Measures : -

23.

Sector : Telemarketing Services Subsector : - Industry Classification : - Type of Obligation : National Treatment (Article 8.4) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Article 8.6) Local Presence (Article 8.11) Description : Trade in Services Japan reserves the right to adopt or maintain any measure with respect to the supply of telemarketing services. Existing Measures : -

24.

Sector : Transport Subsector : Air Transport Industry Classification : - Type of Obligation : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Japan reserves the right to adopt or maintain any measure under any bilateral or multilateral agreement involving aviation. Existing Measures : -

Korea

List A. Explanatory Notes

1. This List sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), Korea's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 8.4 (National Treatment) or 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or

(f) Article 10.7 (Senior Management and Board of Directors).

2. Each List entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Level of Government (1) indicates the level of government maintaining the listed measures;

(c) Obligations Concerned specifies the Articles referred to in paragraph 1 that, pursuant to subparagraph 1(a) of Article 8.8 (Schedules of Non-Conforming Measures) and subparagraph 1(a) of Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;

(d) Description sets out commitments, if any, for liberalisation on the date of entry into force of this Agreement, and the remaining non-conforming aspects of the measure for which the entry is made; and

(e) Measures (2) identify the laws, regulations, or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In the interpretation of a List entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant articles of the Chapters against which the entry is made. To the extent that:

(a) the Measures element is qualified by a liberalisation commitment from the Description element, the Measures element

as so qualified shall prevail over all other elements; and

(b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless any discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. In accordance with subparagraph 1(a) of Article 8.8 (Schedules of Non-Conforming Measures) and subparagraph 1(a) of Article 10.8 (Reservations and Non-Conforming Measures), and subject to subparagraph 1(c) of Article 8.8 (Schedules of Non-Conforming Measures) and subparagraph 1(c) of Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the Measures element of that entry.

5. Where Korea maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a List entry for that measure taken with respect to Article 8.4 (National Treatment), Article 8.6 (Most-Favoured-Nation Treatment), or Article 8.11 (Local Presence) shall operate as a List entry with respect to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), or Article 10.6 (Prohibition of Performance Requirements) to the extent of that measure.

6. For Korea, a foreign person means a foreign national or an enterprise organised under the laws of another country.

7. For greater certainty, Article 8.11 (Local Presence) and Article 8.4 (National Treatment) are separate disciplines and a measure that is only inconsistent with Article 8.11 (Local Presence) need not be reserved against Article 8.4 (National Treatment).

(1) If none is specified, the measure is maintained at the central level of government.

(2) For greater certainty, for Korea, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in paragraph 1 of Article 8.8 (Schedules of Non-Conforming Measures) and paragraph 1 of Article 10.8 (Reservations and Non-Conforming Measures).

1.

Sector : Construction Services Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies construction services in Korea must, prior to the signing of the first contract related to such services, establish an office in Korea. Measure : Framework Act on the Construction Industry (Law No. 17453, 9 June 2020) Articles 9 and 10 Enforcement Decree of the Framework Act on the Construction Industry (Presidential Decree No. 30509, 3 March 2020) Article 13 Enforcement Regulations of the Framework Act on the Construction Industry (Ordinance of the Ministry of Land, Infrastructure and Transport No. 704, 2 March 2020) Article 2 Information and Communication Construction Business Act (Law No. 17359, 9 June 2020) Article 14 Fire Fighting System Installation Business Act (Law No. 17378, 9 June 2020) Articles 4 and 5 Enforcement Decree of the Fire Fighting System Installation Business Act (Presidential Decree No. 30237, 10 December 2019) Article 2 (Table 1) Enforcement Regulations of the Fire Fighting System Installation Business Act (Ordinance of the Ministry of the Interior and Safety, No.156, 15 January 2020) Article 2

2.

Sector : Leasing, Rental, Maintenance, Repair, Sales, and Disposal Services Related to Construction Machinery and Equipment Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies leasing, rental, maintenance, repair, sales, and disposal services related to construction machinery and equipment must establish an office in Korea. Measure : Construction Machinery Management Act (Law No. 17453, 9 June 2020) Article 21 Enforcement Decree of the Construction Machinery Management Act (Presidential Decree No. 30798, 23 June 2020) Articles 13, 14, 15, and 15-2 Enforcement Regulations of the Construction Machinery Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 745, 1 July 2020) Articles 57 through 63, 65-2, and 65-3

3.

Sector : Transportation Services - Automobile Maintenance, Repair, Sales, Disposal, and Inspection Services; Automobile Licence Plate Issuing Services Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence

(Article 8.11) Description : Trade in Services A person that supplies automobile management services (which includes used car sales, maintenance, repair, and disposal services) must establish an office in Korea and obtain authorisation from the head of the si/gun/gu (municipal authorities), which is subject to an economic needs test, as appropriate. A person that supplies automobile inspection services that is designated as a “designated repair facility” must establish an office in Korea. A person that supplies licence plate manufacturing, delivery, and seal services that is designated as a “licence plate issuing agency” must establish an office in Korea. Measure : Automobile Management Act (Law No. 17235, 7 April 2020) Articles 20, 44, 45, and 53 Enforcement Regulations of the Automobile Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 744, 26 June 2020) Articles 7, 8, 83, 87, and 111 Rule on Enforcement of Comprehensive Inspection of Automobiles, Etc. (Ordinance of the Ministry of Land, Infrastructure and Transport No.749, 22 July 2020, Ordinance of the Ministry of Environment No.878, 22 July 2020), Article 16

4.

Sector : Distribution Services - Wholesale and Retail Distribution of Tobacco and Liquor Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person that supplies tobacco wholesale (including importation) or retail distribution services must establish an office in Korea. Only designated tobacco retailers may sell tobacco to retail buyers. The sale of tobacco to retail buyers by mail or in electronic commerce is prohibited. The distance between places of business of tobacco retailers must be at least 50 metres. A person that supplies liquor wholesale distribution services must establish an office in Korea and obtain authorisation from the head of the relevant tax office, which is subject to an economic needs test. The sale of liquor by telephone or in electronic commerce is prohibited. Measure : Tobacco Business Act (Law No. 17142, 31 March 2020) Articles 12, 13, and 16 Enforcement Decree of the Tobacco Business Act (Presidential Decree No. 30509, 3 March 2020) Articles 4 and 5 Enforcement Regulations of the Tobacco Business Act (Ordinance of the Ministry of Economy and Finance No. 796, 24 June 2020) Articles 5, 7, and 7-3 Liquors Act (Law No. 16847, 31 December 2019) Articles 8 through 10 Enforcement Decree of the Liquors Act (Presidential Decree No. 30392, 11 February 2020) Article 9 Notice of National Tax Service, 2020-17 (1 July 2020) and 2019-11 (4 April 2019)

5.

Sector : Agriculture and Livestock Level of Government Central Obligation Concerned : National Treatment (Article 10.3) Description : Investment Foreign persons may not: (i) invest in an enterprise engaged in rice or barley farming; or (ii) hold 50 per cent or more of the equity interest of an enterprise engaged in beef cattle farming. Measure : Foreign Investment Promotion Act (Law No. 16859, 31 December 2019) Article 4 Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 30586, 31 March 2020) Article 5 Regulations on Foreign Investment (Notice of the Ministry of Trade, Industry, and Energy, No.2018-137, 6 July 2018) Attached Table 1 and 2

6.

Sector : Business Services - an-gyung-sa (Optician and Optometry) Services Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Only a natural person that is a licensed an-gyung-sa (optician or optometrist) that has established an office in Korea may engage in optician or optometry services. An an-gyung-sa (optician or optometrist) may not establish more than one office. Measure : Medical Technicians Act (Law No. 17211, 7 April 2020) Article 12 Enforcement Regulations of the Medical Technicians Act (Ordinance of the Ministry of Health and Welfare No. 672, 27 September 2019) Article 15

7.

Sector : Wholesale and Retail Distribution Services Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person that supplies wholesale trade services must establish an office in Korea in order to receive an import business licence to supply such services with respect to: (a) pharmaceuticals and related items; (b) medical devices; or (c) functional foods (including dietary supplements). To supply the following services a person must establish an office in Korea: (a) transportation, sales, and preservation (cold storage) of food and food additives; (b) food supply services; (c) food inspection services; (d) narcotic drug wholesale and retail distribution services; or (e) cosmetics (including functional cosmetics) supply services. The Minister of Health and Welfare controls the supply and demand of the wholesale distribution of imported designated han-yak-jae (Asian medicinal herbs). Certain liquor-selling bars and the wholesale and retail distribution of narcotics require authorisation by the relevant authority. A person that supplies wholesaling or retailing services for used cars must establish an office in Korea and obtain authorisation from the head of the si/gun/gu (municipal authorities), which is subject to an economic need test, as appropriate. Measure : Pharmaceutical Affairs Act (Law No. 17208, 7 April 2020) Articles 42 and 45 Enforcement Decree of

the Pharmaceutical Affairs Act (Presidential Decree No. 30545, 24 March 2020) Article 31-2 Decree on the Facility Standards of Manufacturer and Importer of Pharmaceuticals (Presidential Decree No. 24479, 23 March 2013) Article 6 Supply, Demand and Distribution of Oriental Medicinal Herbs Regulations (Notice of the Ministry of Health and Welfare No. 2015-210, 9 December 2015) Articles 4 and 12. Medical Devices Act (Law No. 17091, 24 March 2020) Article 15 Enforcement Regulations of the Medical Devices Act (Ordinance of Prime Minister No. 1617, 29 May 2020) Articles 29 and 31 Health Functional Foods Act (Law No. 16715, 3 December 2019) Article 6 Enforcement Regulations of the Health Functional Foods Act (Ordinance of the Prime Minister No. 1619, 4 June 2020) Articles 2 and 5 Food Sanitation Act (Law No. 17091, 24 March 2020) Articles 36 and 37 Enforcement Decree of the Food Sanitation Act (Presidential Decree No. 30545, 24 March 2020) Articles 23 and 24 Enforcement Regulations of the Food Sanitation Act (Ordinance of the Prime Minister No. 1610, 13 April 2020) Article 36 (Attached Table 14) Livestock Products Sanitary Control Act (Law No. 17091, 24 March 2020) Articles 21, 22 and 24 Enforcement Decree of the Livestock Products Sanitary Control Act (Presidential Decree No.30545, 24 March 2020) Articles 21 and 22 Enforcement Regulations of the Livestock Products Sanitary Control Act (Ordinance of the Prime Minister No. 1611, 16 April 2020), Article 29 (Attached Table 10) Special Act on Imported Food Safety Management (Law No. 16716, 3 December 2019) Articles 14 and 15 Enforcement Decree of the Special Act on Imported Food Safety Management (Presidential Decree No. 29763, 14 May 2019) Article 2 Enforcement Regulations of the Special Act on Imported Food Safe Management (Ordinance of the Prime Minister No. 1618, 3 June 2020) Article 15 Testing and Inspection of Food and Drugs Act (Law No. 15942, 11 December 2018) Article 6 Enforcement Regulations of the Testing and Inspection of Food and Drugs Act (Ordinance of the Prime Minister No. 1547, 19 June 2019) Article 2 Act on the Control of Narcotics (Law No. 16714, 3 December 2019) Articles 6 and 6-2 Cosmetics Act (Law No. 17250, 7 April 2020) Article 3 Enforcement Regulations of the Cosmetics Act (Ordinance of the Prime Minister No. 1627, 30 June 2020) Article 4 Motor Vehicle Management Act (Law No. 17235, 7 April 2020) Article 53 Enforcement Regulations of the Motor Vehicle Management Act (Ordinance of the Minister of Land, Infrastructure, and Transport No. 744, 26 June 2020) Article 111

8.

Sector : Retail Distribution of Pharmaceuticals Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person that supplies pharmaceutical product retail distribution services (including distribution of han-yak-jae (Asian medicinal herbs)) must establish a pharmacy in Korea. That person may not establish more than one pharmacy nor establish in the form of a corporation. Measure : Pharmaceutical Affairs Act (Law No. 17208, 7 April 2020) Articles 20 and 21 Enforcement Decree on the Pharmaceutical Affairs Act (Presidential Decree No. 30545, 24 March 2020) Article 22-2

9.

Sector : Transportation Services - Rail Transportation and Incidental Services Level of Government Central Obligation Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Description : Trade in Services The existing regulation broadly states that only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services. In practice, however, only juridical persons of Korean nationality (of which shares are 100 per cent owned by the shareholders with Korean nationality) established by a Korean national may supply railroad transportation services on railroad routes constructed on or before 30 June 2005. Only juridical persons that have obtained authorisation from the Minister of Construction and Transportation may supply railroad transportation services on railroad routes constructed on or after 1 July 2005. Such authorisation is subject to an economic needs test. In case that a person who operates a rail transport service business concludes or revises a contract for joint venture or agreement related to transport, he or she must obtain relevant authorisation from the Minister of Land, Infrastructure, and Transport. Only the central or local level of government, or the Korea Rail Network Authority may supply rail construction services and maintain and repair government-owned rail facilities (including high-speed rail). However, juridical persons that meet the criteria in the Private Investment in Social Infrastructure Act may supply rail construction services. Measure : Railroad Service Act (Law No. 16637, 26 November 2019) Articles 5, 6, and 12 Korea Railroad Corporation Act (Law No. 15460, 13 March 2018) Article 9 Act on the Construction of Railroad and the Maintenance of Railroad Facilities (Law No. 17453, 9 June 2020) Article 8 Framework Act on Rail Industry Development (Law No. 17453, 9 June 2020) Articles 3, 20, 26, and 38 Korea Rail Network Authority Act (Law No. 16641, 26 November 2019) Article 7

10.

Sector : Transportation Services - International Maritime Cargo Transportation and Maritime Auxiliary Services Level of Government Central Obligation Concerned : National Treatment (Article 8.4) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services A person that supplies international maritime cargo transportation must be organised as a company in Korea as stipulated under the Korean Commercial Act. A ship investment company must also be organised as a Chusik Hoesa (stock company) in Korea. A person that engages in shipping brokerage services, maritime

agency services and vessel maintenance and repair services must be the company as stipulated under the Korean Commercial Act and registered according to the Maritime Transportation Act. Only a Korean national may supply maritime pilotage services. Measure : Maritime Transportation Act (Law No. 16521, 20 August 2019) Articles 24 and 33 Enforcement Regulations of the Maritime Transportation Act (Ordinance of the Ministry of Oceans and Fisheries No. 402, 6 April 2020) Articles 16, 19, 22, and 23 Pilotage Act (Law No. 17025, 18 February 2020) Article 6 Ship Investment Company Act (Law No. 16507, 20 August 2019) Articles 3 and 31

11.

Sector : Transportation Services - Air Transportation Services Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment The following persons may not supply scheduled or non-scheduled domestic air transportation services or supply international air transportation services as Korean air carriers: (a) a foreign national; (b) a foreign government or a foreign gong-gong-dan-che (organisation for public purposes); (c) an enterprise organised under foreign law; (d) an enterprise in which any of the persons referred to in subparagraphs (a) through (c) owns 50 per cent or more of the equity interest, or has control; or (e) an enterprise organised under Korean law whose dae-pyo-ja (for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals. A person that owns an aircraft or is authorised to operate a chartered aircraft must register the aircraft with the Minister of Land, Infrastructure and Transport. The persons listed in subparagraphs (a) through (e) are not allowed to register an aircraft. Measure : Aviation Safety Act (Law No. 17463, 9 June 2020) Articles 7 and 10 Aviation Business Act (Law No. 16642, 26 November 2019) Articles 7 through 10 Enforcement Regulations of the Aviation Business Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 732, 27 May 2020) Articles 8, 8-2, and 12

12.

Sector : Courier Services Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services To supply international courier services that include commercial document delivery services, as specified in Article 3 of the Enforcement Decree of the Postal Services Act, a person must establish an office in Korea. In order to obtain a trucking business licence from the Minister of Land, Infrastructure and Transport, a domestic courier services supplier must establish an office in the relevant geographic area. Such a licence is subject to an economic needs test. For greater certainty, a person acquiring a domestic courier services supplier does not need to obtain a new trucking business licence provided that the acquirer operates under the same terms and conditions as set out in the acquiree's licence. Measure : Aviation Business Act (Law No. 16642, 26 November 2019) Article 52 Enforcement Regulations of the Aviation Business Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 732, 27 May 2020) Article 52 Trucking Transport Business Act (Law No. 17453, 9 June 2020) Articles 3, 24, and 29 Enforcement Regulations of Trucking Transportation Business Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 738, 17 June 2020) Articles 6, 34, and 41-2

13.

Sector : Telecommunications Services Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment A licence for facilities-based public telecommunications services or a registration for non-facilities-based public telecommunications services shall be granted only to a juridical person organised under Korean law. A licence for facilities-based public telecommunications services shall not be granted to or held by a juridical person organised under Korean law in which a foreign government, foreign person, or deemed foreign person holds in the aggregate more than 49 per cent of the juridical person's total voting shares. A foreign government, foreign person, or deemed foreign person may not in the aggregate hold more than 49 per cent of the total voting shares of a facilities-based supplier of public telecommunications services. In addition, with respect to KT Corporation (KT), a foreign government, foreign person, or deemed foreign person may not be the largest shareholder of KT, except if it holds less than five per cent of the total voting shares of KT. A foreign government, or its representative, or a foreign person may not obtain or hold a radio station licence. A foreign person may not supply cross-border public telecommunications services into Korea, except through a commercial arrangement with a supplier of public telecommunications services that is licensed in Korea. For the purposes of this entry: (a) deemed foreign person means a juridical person organised under Korean law in which a foreign government or a foreign person (including a "specially related person" under subparagraph 6(a) of Article 2 of the Act on Corporate Governance of Financial Companies) is the largest shareholder and holds 15 per cent or more of that juridical person's total voting shares, but does not include a juridical person that holds less than 1 per cent of the total voting shares of a facilities-based supplier of public telecommunications services; (b) consistent with Article 5.2 of the Telecommunications Business Act (Law No. 13823, 27 January 2016), a facilities-based supplier is a supplier that owns transmission facilities; (c) consistent with Article 5.3 of the

Telecommunications Business Act (Law No. 13823, 27 January 2016), a non-facilities-based supplier is a supplier that does not own transmission facilities (but may own a switch, router or multiplexer) and supplies its public telecommunication services through transmission facilities of a licensed facilities-based supplier; and (d) consistent with subparagraph 3 of Article 2 of the Telecommunications Basic Act (Law No. 13586, 22 December 2015), transmission facilities means wireline or wireless transmission facilities (including circuit facilities) that connect transmitting points with receiving points. Measure : Telecommunications Business Act (Law No. 13823, 27 January 2016) Articles 6, 7, 8, 21, and 87 Telecommunications Business Act (Law No. 5385, 28 August 1997) Addenda Article 4 Radio Waves Act (Law No. 16756, 10 December 2019) Articles 13 and 20

14.

Sector : Real Estate Brokerage and Appraisal Services Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies real estate brokerage services or real estate appraisal services must establish an office in Korea. Measure : Licensed Real Estate Agent Act (Law No. 17453, 9 June 2020) Article 9 Enforcement Decree of the Licensed Real Estate Agent Act (Presidential Decree No. 30509, 3 March 2020) Article 13 Enforcement Regulations of the Licensed Real Estate Agent Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 689, 21 February 2020) Article 4 Act on Appraisal and Certified Appraisers (Law No. 17219, 7 April 2020) Articles 20, 21, and 29 Enforcement Decree of the Act on Appraisal and Certified Appraisers (Presidential Decree No. 30428, 18 February 2020) Articles 20, 21, and 25 Enforcement Regulations of the Act on Appraisal and Certified Appraisers (Ordinance of the Ministry of Land, Infrastructure and Transport No. 690, 21 February 2020) Articles 17, 18, and 20

15.

Sector : Retail, Leasing, Rental and Repair Services Related to Medical Devices Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies retail, leasing, rental, or repair services related to medical devices must establish an office in Korea. Measure : Medical Devices Act (Law No. 17091, 24 March 2020) Articles 16 and 17 Enforcement Regulations of the Medical Devices Act (Ordinance of the Prime Minister No. 1617, 29 May 2020) Articles 35 and 37

16.

Sector : Rental Services - Automobiles Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies automobile rental services must establish an office in Korea. Measure : Passenger Transport Service Act (Law No. 17453, 9 June 2020) Articles 28 and 29 Enforcement Regulations of the Passenger Transport Service Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 716, 14 April 2020) Articles 60, 61, 62, and 64

17.

Sector : Scientific Research Services and Sea Map Making Services Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment A foreign person, a foreign government, or a Korean enterprise owned or controlled by a foreign person that intends to conduct marine scientific research in the territorial waters or exclusive economic zone of Korea must obtain prior authorisation or consent from the Minister of Oceans and Fisheries whereas a Korean national or a Korean enterprise not owned or controlled by a foreign person need only to provide notification to the Minister of Oceans and Fisheries. Measure : Marine Scientific Research Act (Law No. 17057, 18 February 2020) Articles 6, 7, and 8 Territorial Sea and Contiguous Zone Act (Law No. 15429, 13 March 2018) Article 5

18.

Sector : Professional Services - Legal Services Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Only a byeon-ho-sa (Korean-licensed lawyer) registered with the Korean Bar Association may supply legal services. Only a byeon-ho-sa (Korean-licensed lawyer) may establish the following types of legal entity: beop-yool-sa-mu-so (law office), beop-mu-beop-in (law company with the characteristics of partnership), beop-mu-beop-in (yoo-han) (limited liability law company), or beop-mu-jo-hap (limited liability partnership law office). For greater certainty, a person that is not a Korean-licensed lawyer is not permitted to invest in any of these types of legal entity. A byeon-ho-sa (Korean-licensed lawyer) or beop-mu-sa (Korean-certified judicial scrivener) who practices in Korea must establish an office in the jurisdiction of the district court in which he or she practices. A gong-jeung-in (Korean

notary public) must establish an office in the jurisdiction of the district office of the public prosecutor in which he or she practices. This entry is subject to the commitments undertaken in the entry for Legal Services – Foreign Legal Consultants in List B. Measure : Attorney-at-law Act (Law No. 17366, 9 June 2020) Articles 4, 7, 21, 21-2, 34, 45, 58-6, 58-22, and 109 Certified Judicial Scriveners Act (Law No.17366, 9 June 2020) Articles 2, 3, and 14 Notary Public Act (Law No. 15150, 12 December 2017) Articles 10, 16, and 17

19.

Sector : Professional Services - Accounting and Auditing Services Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Only a gae-in-sa-mu-so (sole proprietorships), gam-sa-ban (auditing task forces) or hoe-gye-boep-in (accounting corporation limited liability company) established in Korea by gong-in-hoe-gye-sa (Korean-certified public accountants) registered under the Certified Public Accountant Act may supply accounting and auditing services. For greater certainty, a person that is not a Korean-registered certified public accountant may not invest in any of these types of legal entity. Only gong-in-hoe-gye-sa (Korean-certified public accountants) in an auditing task force or an accounting corporation may supply auditing services regulated under the External Audit of Stock Companies Act. Measure : Certified Public Accountant Act (Law No.17291, 19 May 2020) Articles 2, 7, 12, 18, and 23 Act on External Audit of Stock Companies Etc., (Law No. 15514, 20 March 2018) Articles 2 and 9

20.

Sector : Professional Services - Tax Accountant (se-mu-sa) Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Only a se-mu-sa-mu-so (sole proprietorships), se-mu-jo-jeong-ban (tax reconciliation task forces) or, se-mu-beop-in (tax agency corporation limited liability company) established in Korea by se-mu-sa (Korean-certified tax accountants) registered under the Certified Tax Accountant Act may supply se-mu-sa (Korean-certified tax accountants) services, including tax reconciliation services and tax representative services. For greater certainty, a person that is not a Korean-registered certified tax accountant may not invest in any of these types of legal entity. Only a se-mu-jo-jeong-ban (tax reconciliation task force) or a se-mu-beop-in (tax agency corporation limited liability company) may supply tax reconciliation services. Measure : Certified Tax Accountant Act (Law No. 17339, 9 June 2020) Articles 6, 13, 16-3, and 20 Corporate Tax Act (Law No. 16833, 31 December 2019) Article 60 Income Tax Act (Law No. 16834, 31 December 2019) Article 70 Guidelines Governing the Work of Tax Agents, Articles 20 and 22

21.

Sector : Engineering and Other Technical Services - Industrial Safety, Health Institution, and Consulting Services Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies safety and health management or diagnostic services to industrial workplaces must establish an office in Korea. A person that supplies industrial safety or hygiene consulting services, such as evaluation and instruction on safety in a work process and evaluation and instruction on the improvement of work environments, must establish an office in Korea. Measure : Industrial Safety and Health Act (Law No. 17433, 9 June 2020) Articles 17, 18, 21, and 145 Enforcement Decree of the Industrial Safety and Health Act (Presidential Decree No. 30509, 3 March 2020) Article 27 Enforcement Regulations of the Industrial Safety and Health Act (Ordinance of the Ministry of Employment and Labor No. 272, 26 December 2019) Articles 16 and 229

22.

Sector : Engineering and Other Technical Services - Architectural Services, Engineering Services, Integrated Engineering Services, Urban Planning and Landscape Architectural Services, Surveying and Map-making Services (not including cadastral surveying and cadastral map-making services) Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies architectural services, engineering services, integrated engineering services, urban planning and landscape architectural services or surveying and map-making services (not including cadastral surveying and cadastral map-making services) must establish an office in Korea. For greater certainty, this entry does not apply to the supply of services by a foreign architect through a joint contract with a Korean-licensed architect. Measure : Certified Architects Act (Law No. 17453, 9 June 2020) Article 23 Enforcement Decree of the Certified Architects Act (Presidential Decree No. 30774, 9 June 2020) Articles 22 and 23 Enforcement Regulations of the Certified Architects Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 739, 18 June 2020) Article 13 Engineering Industry Promotion Act (Law No. 16652, 26 November 2019) Article 21 Enforcement Decree of the Engineering Industry Promotion Act (Presidential Decree No. 29677, 2 April 2019) Article 33 Professional Engineers Act (Law No. 17347, 9 June 2020) Article 6 Special Act on the Safety Control and Maintenance of Establishments (Law No. 17453, 9 June 2020) Article 28 Enforcement Decree of the Special Act on the Safety Control and Maintenance of Establishment (Presidential Decree No.

30876, 28 July 2020) Article 23 Construction Technology Promotion Act (Law No. 17453, 9 June 2020) Article 26 Enforcement Decree of the Construction Technology Promotion Act (Presidential Decree No. 30885, 30, July 2020) Article 44 Enforcement Regulations of the Construction Technology Promotion Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 726, 26 May 2020) Article 21 Environmental Testing and Inspection Act (Law No. 15200, 12 December 2017) Article 16 Framework Act on the Construction Industry (Law No. 17453, 9 June 2020) Articles 9 and 10. Enforcement Decree of the Framework Act on the Construction Industry (Law No. 30893, 4 August 2020) Article 13 Act on the Establishment, management, Etc. of Spatial Data (Law No. 16812, 10 December 2019) Articles 44 and 54 Enforcement Decree of the Act on the Establishment, management, Etc. of Spatial Data (Presidential Decree No. 30799, 23 June 2020) Articles 34, 35, 36, 45, 46, and 47 Hot Spring Act (Law No. 14795, 18 April 2017) Article 7 Fire Fighting System Installation Business Act (Law No. 17378, 9 June 2020) Article 4

23.

Sector : Business Services - Electronic Billboard Operator Services and Outdoor Advertisement Services Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment A foreign national or a Korean national who serves as a dae-pyo-ja (for example, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise may not serve as the dae-pyo-ja (for example, a chief executive officer, president, or similar principal senior officer) or chief programmer of an enterprise that supplies electronic billboard operator services. At least 20 per cent of the electronic billboard programmes must be non-commercial public advertisements provided by the central or local government. A person that supplies outdoor advertising services must establish an office in Korea. Measure : Broadcasting Act (Law No. 16750, 10 December 2019) Articles 13 and 73 Act on the Management of Outdoor Advertisements, Etc. and Promotion of Outdoor Advertisements Industry (Law No. 17091, 24 March 2020) Article 11 Enforcement Decree of the Act on the Management of Outdoor Advertisements, Etc. and Promotion of Outdoor Advertisements Industry (Presidential Decree No. 30645, 28 April 2020) Articles 14 and 44

24.

Sector : Business Services - Job Placement Services, Labour Supply and Worker Dispatch Services, and Education Services for Seafarers Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services and Investment A person that supplies job placement services for a fee, worker supply services, or worker dispatch (secondment) services must establish an office in Korea. For transparency purposes, as of 16 January 2020 the types of business to which workers may be seconded are limited to the 32 businesses set forth in the Presidential Decree, but the Minister of Employment and Labor can expand the types of business and the secondment period, pursuant to the review and determination by the Committee of the Free Economic Zone. Only the Korea Seafarers Welfare and Employment Center, regional offices of the Minister of Oceans and Fisheries, a seafarer management business operator and an organisation or institution related to maritime affairs and fisheries regulated under Seafarer Act may supply seafaring labour supply services. A person that provides seafarer management services must be the company as stipulated under the Korean Commercial Act and register in accordance with the Maritime Transportation Act. Only the Korea Institute of Maritime and Fisheries Technology may provide education and training for seafarers. Measure : Employment Security Act (Law No. 17326, 26 May 2020) Articles 19 and 33 Enforcement Decree of the Employment Security Act (Presidential Decree No. 29950, 2 July 2019) Articles 21 and 33 Enforcement Regulations of the Employment Security Act (Ordinance of the Ministry of Employment and Labor No. 263, 15 October 2019) Articles 17, 18, and 36 Act Relating to Protection for Dispatched Workers (Law No. 17326, 26 May 2020) Articles 5 through 10 Enforcement Decree of the Act Relating to Protection for Dispatched Workers (Presidential Decree No. 30256, 24 December 2019) Articles 2 and 3 Enforcement Regulations of the Act Relating to Protection for Dispatched Workers (Ordinance of the Ministry of Employment and Labor No. 272, 26 December 2019) Articles 3 and 5 Special Act on Designation and Management of Free Economic Zones (Law No. 16416, 30 April 2019) Article 17. Seafarers Act (Law No. 17032, 18 February 2020) Articles 109, 110, 112,115, 116, 117, 142, and 143 Korea Institute of Maritime and Fisheries Technology Act (Law No. 13272, 27 March 2015) Article 5

25.

Sector : Investigation and Security Services Level of Government Central Obligation Concerned : Market Access (Article 8.5) Local Presence (Article 8.11) Description : Trade in Services Only a juridical person organised under Korean law may supply security services in Korea. For transparency purposes, only five types of security services are permitted in Korea: (a) shi-seol-gyung-bee (facility security); (b) ho-song-gyung-bee (escort security); (c) shin-byun-bo-ho (personal security); (d) gee-gye-gyung-bee (mechanised security); and (e) teuk-soo-gyung-bee (special security). Measure : Security Services Industry Act (Law No. 16316, 16 April 2019) Articles 3 and 4 Enforcement Decree of the Security Services Industry Act (Presidential Decree

No. 30384, 4 February 2020) Articles 3 and 4 Enforcement Regulations of the Security Services Industry Act (Ordinance of the Ministry of the Interior and Safety, No. 112, 23 April 2019) Article 3

26.

Sector : Distribution Services Related to Publications Level of Government Central Obligation Concerned : National Treatment (Article 8.4) Description : Trade in Services Publications for the purposes of domestic distribution are subject to a review process on an ad hoc basis. Measure : Publishing Industry Promotion Act (Law No. 16693, 3 December 2019) Articles 18, 19, and 19-3 Enforcement Decree of the Publishing Industry Promotion Act (Presidential Decree No. 29950, 2 July 2019) Article 12 Enforcement Regulations of the Publishing Industry Promotion Act (Ordinance of the Ministry of Culture, Sports and Tourism No. 397, 23 June 2020) Article 7

27.

Sector : Transportation Services - Aircraft Maintenance and Repair Services Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies aircraft maintenance and repair services must establish an office in Korea. (3) Measure : Aviation Business Act (Law No. 16642, 26 November 2019) Articles 42 and 44 Enforcement Regulations of the Aviation Business Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 732, 27 May 2020) Articles 5, 41, and 43 Aviation Safety Act (Law No. 17463, 9 June 2020) Article 97

(3) For greater certainty, an establishment of office in Korea is not required to supply maintenance and repair services for a Korean aircraft in the territory of other Parties.

28.

Sector : Education Services - Higher Education Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment At least 50 per cent of the members of the board of directors of a private higher education institution must be Korean nationals. If a foreign person contributes at least 50 per cent of the basic property of a higher education institution, up to but not including two thirds of the members of the board of directors of such an institution may be foreign nationals. For the purposes of this entry, basic property means real estate, property designated as basic property by the articles of association, property incorporated into the basic property according to decisions of the board of directors, and an annual budgetary surplus reserve of the institution. Only non-profit school juridical persons approved by the Minister of Education may establish higher education institutions (other than the types of institutions listed in List B) in Korea. The Minister of Education may restrict the total number of students per year in the fields of medicine, pharmacology, veterinary medicine, traditional Asian medicine, medical technicians, and higher education for pre-primary, primary, and secondary teachers, and higher education institutions located in the Seoul Metropolitan Area. For the purposes of this entry, “Seoul Metropolitan Area” includes the Seoul Metropolitan City, Incheon Metropolitan City, and Gyeonggi Province. Only the central or local governments of Korea may establish higher education institutions for training of primary school teachers. Only the central government may establish higher education institutions that supply higher education services to the public through broadcasting. Any new establishment, extension, or transfer of a higher education institution other than Technology Universities and Intra-company Universities may be restricted in the Seoul Metropolitan Area. Operation of joint educational programmes with junior colleges, universities, and industrial universities is limited to foreign universities, which obtained accreditation by foreign public accreditation bodies or which acquired recognition or recommendation by their governments, in fields that the president of the university (junior college) recognises as necessary Credits acquired from other higher educational institutions, local or foreign, are acknowledged to the extent that such acknowledged credits do not exceed half of the total credits required for graduation. Measure : Higher Education Act (Law No. 16742, 10 December 2019) Articles 3, 4, 21, 23, 32, 42, and 43 Enforcement Decree of the Higher Education Act (Presidential Decree No. 30725, 2 June 2020) Articles 13, 15, and 28 Private School Act (Law No. 16679, 3 December 2019) Articles 3, 5, 10, and 21 Enforcement Decree of the Private School Act (Presidential Decree No. 30514, 10 March 2020) Article 9-3 Decree on the Establishment of the Korea National Open University (Presidential Decree No. 30550, 31 March 2020) Articles 1 and 2 Seoul Metropolitan Area Readjustment Planning Act (Law No. 16810, 10 December 2019) Articles 7, 8, 9, and 18 Enforcement Decree of the Seoul Metropolitan Area Readjustment Planning Act (Presidential Decree No. 30545, 24 March 2020) Articles 3, 10, 11, 12, 13, and 14

29.

Sector : Education Services - Adult Education Level of Government Central Obligation Concerned : National Treatment

(Articles 8.4 and 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment The types of adult education institutions that a foreign person may establish in Korea are limited to: (a) hag-won (private teaching institutes for adults) related to lifelong and vocational education; and (b) no later than the date of entry into force of this Agreement, lifelong adult education facilities operated for the purposes other than recognising educational qualifications or conferring diplomas, which include: i. education facilities annexed to workplaces, non-governmental organisations, schools and media organisations; and ii. educational facilities related to the development of knowledge and human resources; all of which are established for adults. For the purposes of this entry, hag-won (private teaching institutes for adults) are facilities that provide tutoring services on subjects related to lifelong or vocational education to ten people or more for a period of 30 days or longer. A foreign national hired by a private teaching institute for adults as a lecturer must possess at least a bachelor's degree or the equivalent and reside in Korea. The establishment, extension, and transfer of the training facilities in Seoul Metropolitan Areas may be restricted. For transparency purposes, superintendent of provincial education offices may regulate tuition rates for hag-won on a non-discriminatory basis. Measure : Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons (Law No. 15967, 18 December 2018) Articles 2, 2-2, and 13 Enforcement Decree of the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act (Presidential Decree No. 30547, 31 March 2020) Article 12 Lifelong Education Act (Law No. 16677, 3 December 2019) Articles 30, and 33 through 38 Foreign Investment Promotion Act (Law No. 16859, 31 December 2019) Article 4 Regulations on Foreign Investment (Notice of the Ministry of Trade, Industry, and Energy, No. 2018-137, 6 July 2018), Attached Table 1 Seoul Metropolitan Area Readjustment Planning Act (Law No. 16810, 10 December 2019) Articles 7, 8, 9, and 18 Enforcement Decree of the Seoul Metropolitan Area Readjustment Planning Act (Presidential Decree No.30545, 24 March 2020) Articles 3, and 10 through 14

30.

Sector : Education Services - Vocational Competency Development Training Services Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies vocational competency development training services must establish an office in Korea. Measure : Workers' Vocational Competency Development Act (Law No. 17326, 26 May 2020) Articles 28, 32, and 36 Enforcement Decree of the Workers' Vocational Competency Development Act (Presidential Decree No. 30850, 14 July 2020) Articles 24 and 26 Enforcement Regulations of the Workers' Vocational Competency Development Act (Ordinance of the Ministry of Employment and Labor No. 288, 14 July 2020) Articles 12, 14, and 18

31.

Sector : Environmental Services - Waste Water Treatment Services, Waste Management Services, Air Pollution Treatment Services, Environmental Preventive Facilities Business, Environmental Impact Assessment, Soil Remediation and Groundwater Purification Services, and Toxic Chemical Control Services Level of Government Central Obligation Concerned : Local Presence (Article 8.11) Description : Trade in Services A person that supplies the environmental services listed in the Sector heading must establish an office in Korea. Measure : Water Environment Conservation Act (Law No. 17326, 26 May 2020) Article 62 Environmental Technology and Industry Support Act (Law No. 17183, 31 March 2020) Article 15 Soil Environment Conservation Act (Law No. 16613, 26 November 2019) Article 23-7 Groundwater Act (Law No. 17326, 26 May 2020) Article 29-2 Clean Air Conservation Act (Law No. 16604, 26 November 2019) Article 68 Environmental Impact Assessment Act (Law No. 16617, 26 November 2019) Article 54 Chemicals Control Act (Law No. 17326, 26 May 2020) Article 28 Wastes Control Act (Law No. 16614, 26 November 2019) Article 25 Enforcement Decree of the Wastes Control Act (Presidential Decree No. 30684, 19 May 2020) Article 8

32.

Sector : Performance Services Level of Government Central Obligation Concerned : National Treatment (Article 8.4) Description : Trade in Services A foreign person who intends to engage in a public performance in Korea, or a person who intends to invite a foreign person to engage in a public performance in Korea must obtain a recommendation from the Korea Media Rating Board. Measure : Public Performance Act (Law No. 16588, 26 November 2019) Articles 6 and 7 Enforcement Decree of the Public Performance Act (Presidential Decree No. 29950, 2 July 2019) Articles 4 and 6 Enforcement Regulations of the Public Performance Act (Ordinance of the Ministry of Culture, Sports and Tourism No. 371, 7 October 2019) Article 4 Enforcement Regulations of the Immigration Control Act (Ordinance of the Ministry of Justice No. 963, 24 December 2019) Table 5

33.

Sector : News Agency (News-tong-sin-sa) Services Level of Government Central Obligation Concerned : National Treatment

(Articles 8.4 and 10.3) Market Access (Article 8.5) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment A news-tong-sin-sa (news agency) organised under foreign law may supply news-tong-sin (news communications) in Korea only under a contract with a news agency organised under Korean law which has a radio station licence, such as Yonhap News. The following persons may not supply news agency services in Korea: (a) a foreign government; (b) a foreign person; (c) an enterprise organised under Korean law whose dae-pyo-ja (for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national or is a person not domiciled in Korea; or (d) an enterprise organised under Korean law in which a foreign person holds 25 per cent or more equity interest. The following persons may not serve as a dae-pyo-ja (for example, a chief executive officer, president, or similar principal senior officer) or editor of a news agency, or serve as im-won (a member of the board of directors) of Yonhap News or the News Agency Promotion Committee: (a) a foreign national; or (b) a Korean national not domiciled in Korea. A foreign news agency may establish a branch or office in Korea for the sole purpose of collecting news. For greater certainty, such branch or office may not distribute news-tong-sin (news communications) in Korea. The following persons may not obtain a radio station licence: (a) a foreign national; (b) a foreign government or its representative; or (c) an enterprise organised under foreign law. Measure : Act on Promotion of News Communications (Law No. 16052, 24 December 2018) Articles 7, 8, 9, 9-5, 16 and 28 Enforcement Decree of the Act on Promotion of News Communications (Presidential Decree No. 30059, 27 August 2019) Articles 4 and 10 Radio Waves Act (Law No. 16756, 10 December 2019) Article 20

34.

Sector : Manufacturing of Biological Products Level of Government Central Obligation Concerned : Prohibition of Performance Requirements (Article 10.6) Description : Investment A person who manufactures blood products must procure raw blood materials from a blood management body in Korea. Measure : Pharmaceutical Affairs Act (Law No. 17208, 7 April 2020) Article 42 Regulations on Safety of Pharmaceuticals, Etc. (Ordinance of the Prime Minister No. 1576, 6 December 2019) Article 11

35.

Sector : Distribution Services - Agriculture and Livestock Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Description : Trade in Services and Investment A foreign person may not hold 50 per cent or more of the shares or equity interest of an enterprise engaged in yook-ryu (meat) wholesaling. Only the Livestock Cooperatives under the Agriculture Cooperative Act may establish and manage a ga-chook-sijang (livestock market) in Korea. Only a local government may establish a gong-yeong-domae-sijang (public wholesale market). Only producers' organisations or public interest corporations prescribed in the Enforcement Decree of the Act on Distribution and Price Stabilization of Agricultural and Fishery Products may establish a gong-pan-jang (joint wholesale market). For greater certainty, Articles 8.4 (National Treatment) and 8.5 (Market Access) do not prevent Korea from adopting or maintaining any measure with respect to the administration of the WTO Tariff-Rate-Quota. Measure : Grain Management Act (Law No. 16891, 29 January 2020) Article 12 Livestock Industry Act (Law No. 17099, 24 March 2020) Article 30 and 34 Seed Industry Act (Law No. 16789, 10 December 2019) Article 42 Control of Livestock and Fish Feed Act (Law No. 17091, 24 March 2020) Article 6 Ginseng Industry Act (Law No. 16101, 31 December 2018) Article 20 Foreign Investment Promotion Act (Law No. 16859, 31 December 2019) Article 4 Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 30586, 31 March 2020) Article 5 Regulations on Foreign Investment (Notice of the Ministry of Trade, Industry, and Energy, No. 2018-137, 6 July 2018) Attached Table 2 Act on Distribution and Price Stabilization of Agricultural and Fishery Products (Law No. 17091, 24 March 2020) Articles 15, 17 and 43 Notice on TRQ Products (Ministry of Agriculture, Food and Rural Affairs Notice No. 2019-92, 31 December 2019)

36.

Sector : Energy Industry - Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) (4) Description : Trade in Services and Investment The aggregate foreign share of Korea Electric Power Corporation (KEPCO)'s issued stocks may not exceed 40 per cent. A foreign person may not become the largest shareholder of KEPCO. The aggregate foreign share of power generation facilities, including cogeneration facilities of heat and power (GHP) for the district heating system (DHS), may not exceed 30 per cent of the total facilities in the territory of Korea. The aggregate foreign share of electric power transmission, distribution and sales businesses should be less than 50 per cent. A foreign person may not be the largest shareholder. Measure : Financial Investment Services and Capital Markets Act (Law No. 17219, 7 April 2020) Article 168 Enforcement Decree of Financial Investment Services and Capital Markets Act (Presidential Decree No. 30525, 10 March 2020) Article 187 Foreign Investment Promotion Act (Law No. 16859, 31 December 2019) Articles 4 and 5 Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 30586, 31 March

2020) Article 5 Regulations on Foreign Investment (No. 2018-137, 6 July 2018, Ministry of Trade, Industry and Energy) Attached Table 1, 2 Designation of Public Corporation (Notice of Ministry of Finance and Economy, No. 2000-17, 28 September 2000) Financial Investment Service Regulations (Financial Services Commission Notice No. 2019-8, 20 March 2019) Article 6-2

(4) Paragraph (a) of the 12th entry of List B does not apply to this entry.

37.

Sector : Energy Industry - Gas Industry Level of Government Central Obligation Concerned : National Treatment (Articles 8.4 and 10.3) (5) Description : Trade in Services and Investment Foreign persons, in the aggregate, may not own more than 30 per cent of the equity of Korea Gas Corporation (KOGAS). Measure : Act on the Improvement of Managerial Structure and Privatization of Public Enterprises (Law No. 17131, 31 March 2020) Article 19 Financial Investment Services and Capital Markets Act (Law No. 17219, 7 April 2020) Article 168 Foreign Investment Promotion Act (Law No. 16859, 31 December 2019) Articles 4 and 5 Articles of Incorporation of the Korea Gas Corporation (3 July 2019) Article 11

(5) Paragraph (a) of the 12th entry of List B does not apply to this entry.

List B. Explanatory Notes

1. This List sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors, or activities for which that Korea may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 8.4 (National Treatment) or 10.3 (National Treatment);

(b) Article 8.5 (Market Access);

(c) Article 8.6 (Most-Favoured-Nation Treatment) or 10.4 (Most-Favoured-Nation Treatment);

(d) Article 8.11 (Local Presence);

(e) Article 10.6 (Prohibition of Performance Requirements); or (f) Article 10.7 (Senior Management and Board of Directors).

2. Each List entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Obligations Concerned specifies the Articles referred to in paragraph 1 that, pursuant to paragraph 2 of Article 8.8 (Schedules of Non-Conforming Measures) and paragraph 2 of Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors, or activities scheduled in the entry;

(c) Description sets out the scope of the sectors, subsectors, or activities covered by the entry; and

(d) Existing Measures identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with paragraph 2 of Article 8.8 (Schedules of Non-Conforming Measures) and paragraph 2 of Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

4. For Korea, foreign person means a foreign national or an enterprise organised under the laws of another country.

5. For greater certainty, Article 8.11 (Local Presence) and Article 8.4 (National Treatment) are separate disciplines and a measure that is only inconsistent with Article 8.11 (Local Presence) need not be reserved against Article 8.4 (National Treatment).

1.

Sector : All Sectors Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt, with respect to

the establishment or acquisition of an investment, any measure that is necessary for the maintenance of public order pursuant to Article 4 of the Foreign Investment Promotion Act and Article 5 of the Enforcement Decree of the Foreign Investment Promotion Act, provided that the measure: (a) is applied in accordance with the procedural requirements set out in the Foreign Investment Promotion Act, Enforcement Decree of the Foreign Investment Promotion Act, and other applicable law; (b) is adopted or maintained only where the investment poses a genuine and sufficiently serious threat to the fundamental interests of society; (c) is not applied in an arbitrary or unjustifiable manner; (d) does not constitute a disguised restriction on investment; and (e) is proportional to the objective it seeks to achieve. Existing Measures : Foreign Investment Promotion Act Enforcement Decree of the Foreign Investment Promotion Act

2.

Sector : All Sectors Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment Korea reserves the right to adopt or maintain any measure with respect to the transfer or disposition of equity interests or assets held by state enterprises or governmental authorities. This entry does not apply to former private enterprises that are owned by the state as a result of corporate reorganisation processes. For the purposes of this entry, a state enterprise shall include any enterprise created for the sole purpose of selling or disposing of equity interests or assets of state enterprise or governmental authorities. Trade in Services and Investment Without prejudice to Korea’s commitments undertaken in List A and List B, Korea reserves the right to adopt or maintain any measure with respect to the transfer to the private sector of all or any portion of services provided in the exercise of governmental authority. Existing Measures : Financial Investment Services and Capital Markets Act

3.

Sector : All sectors Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the defence industry. Existing Measures : Foreign Investment Promotion Act Defense Acquisition Program Act

4.

Sector : All sectors Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the critical technology, which is defined in Act on Prevention of Divulgence and Protection of Industrial Technology. Existing Measures : Act on Prevention of Divulgence and Protection of Industrial Technology Enforcement Decree of the Act on Prevention of Divulgence and Protection of Industrial Technology Foreign Investment Promotion Act Enforcement Decree of the Foreign Investment Promotion Act

5.

Sector : All sectors Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure relating to investment or the supply of services in industries other than those recognised or other than those that should have been recognised by the Government of Korea owing to the circumstances as of the date of entry into force of this Agreement. Any services classified positively and explicitly in Korea Standard Industry Code (KSIC) or Central Product Classification (CPC), as of the date of entry into force of this Agreement should have been recognised by the Government of Korea at that time. Korea reserves the right to adopt or maintain any measure relating to investment or the supply of services in industries which were not technically feasible as of the date of entry into force of this Agreement. Existing Measures : -

6.

Sector : All sectors Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the supply of service by the presence of natural

persons, or other movement of natural persons, including immigration, temporary entry or temporary stay, subject to the provisions of Chapter 9 (Temporary Movement of Natural Persons). Existing Measures : -

7.

Sector : Acquisition of Land Obligation Concerned : National Treatment (Article 10.3) Description : Investment Korea reserves the right to adopt or maintain any measure with respect to the acquisition of land by foreign persons, except that a juridical person shall continue to be permitted to acquire land where the juridical person: 1. is not deemed foreign under Article 2 of the Act on Report on Real Estate Transactions, Etc.; and 2. is deemed foreign under the Act on Report on Real Estate Transactions, Etc. or is a branch of a foreign juridical person subject to approval or notification in accordance with the Act on Report on Real Estate Transactions, Etc., if the land is to be used for any of the following legitimate business purposes: (a) land used for ordinary business activities; (b) land used for housing for senior management; and (c) land used for fulfiling land-holding requirements stipulated by pertinent laws. Korea reserves the right to adopt or maintain any measure with respect to the acquisition of farmland by foreign persons. Existing Measures : Act on Report on Real Estate Transactions, Etc. Farmland Act

8.

Sector : Firearms, Swords, Explosives, and Similar Items Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the firearms, swords, explosives, gas sprays, electric shocks, and crossbows sector, including the manufacture, use, sale, storage, transport, import, export, and possession of firearms, swords, explosives, gas sprays, electric shocks, and crossbows. Existing Measures : -

9.

Sector : Disadvantaged Groups Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure that accords rights or preferences to socially or economically disadvantaged groups, such as the disabled, persons who have rendered distinguished services to the state, and ethnic minorities. Existing Measures : -

10.

Sector : State-Owned National Electronic Information System Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure affecting the administration and operation of any state-owned electronic information system that contains proprietary government information or information gathered pursuant to the regulatory functions and powers of the government. Existing Measures : -

11.

Sector : Social Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for public purposes: income security or insurance, social security or insurance, social welfare, public training, public utilities, public transport, public housing, health, and child care. Existing Measures : -

12.

Sector : All Sectors (not including Financial Services) Obligation Concerned : Market Access (Article 8.5) Description : Trade in Services Korea reserves the right to adopt or maintain any measure that is not inconsistent with Korea’s obligations under Article XVI of GATS as set out in Korea’s Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1).

For the purposes of this entry only, Korea's Schedule of Specific Commitments under the GATS is subject to the following modifications: (a) for any sector and subsector with regard to which List A contains an entry (other than an entry with regard to "All Sectors") that does not list Market Access as one in the Obligations Concerned element, "None" is inscribed in the Market Access column for modes 1, 2, and 3, and "Unbound except as indicated in the Horizontal commitments section" is inscribed for mode 4; (b) for any sector and subsector with regard to which List A contains an entry (other than an entry with regard to "All Sectors") that lists a limitation to the Market Access obligation, that limitation is inscribed in the Market Access column with regard to the appropriate mode of supply; and (c) for any sector and subsector listed in Appendix A, Korea's Schedule of Specific Commitments under the GATS is modified as indicated in the Appendix A. These modifications shall not affect any limitation relating to subparagraph 2(f) of of Article XVI of GATS inscribed in the Market Access column of Korea's Schedule of Specific Commitments under the GATS. For greater certainty, an entry of "None" in the Market Access column of Korea's Schedule of Specific Commitments under the GATS shall not be construed to alter the application of Article 8.11 (Local Presence) as modified by Article 8.8 (Schedules of Non-Conforming Measures). Existing Measures : -

13.

Sector : All Sectors Obligation Concerned : Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement (6). Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; (c) maritime matters, including salvage; (d) railroad transportation; or (e) telecommunications. Existing Measures : -

(6) For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

14.

Sector : Environmental Services - Treatment and Supply Services for Potable Water; Collection and Treatment Services for Municipal Sewage; Collection, Transportation, and Disposal Services for Municipal Refuse; Sanitation and Similar Services; Nature and Landscape Protection Services (except for Environmental Impact Assessment Services) Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the following environmental services: treatment and supply of potable water; collection and treatment of municipal sewage; collection, transportation, and disposal of municipal refuse; sanitation and similar services; and nature and landscape protection services (except for environmental impact assessment services). This entry shall not apply to the supply of the aforementioned services pursuant to a contract between private parties, to the extent that private supply of such services is permitted under relevant laws and regulations. Existing Measures : -

15.

Sector : Atomic Energy - Nuclear Power Generation; Manufacturing and Supply of Nuclear Fuel; Nuclear Materials; Radioactive Waste Treatment and Disposal (including treatment and disposal of spent and irradiated nuclear fuel); Radioisotope and Radiation Generation Facilities; Monitoring Services for Radiation; Services Related to Nuclear Energy; Planning, Maintenance, and Repair Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the atomic energy industry. Existing Measures : -

16.

Sector : Energy Services - Electric Power Generation other than Nuclear Power Generation; Electric Power Transmission, Distribution, and Sales; Electricity Business Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to electric power generation, transmission, distribution, and sales. Any such measure shall not decrease the level of foreign ownership permitted in the electric power industry as provided by the entry in List A related to Energy Industry (electric power). Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with subparagraph 1(f) of

Article 10.6 (Prohibition of Performance Requirements). Existing Measures : -

17.

Sector : Energy Services - Gas Industry Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the import and wholesale distribution of natural gas and the operation of terminals and the national high pressure pipeline network. Any such measure shall not decrease the level of foreign ownership permitted in the gas industry as provided by the entry in List A related to Energy Industry (gas industry). Existing Measures : -

18.

Sector : Distribution Services - Commission Agents' Services, Wholesaling and Retailing of Agricultural Raw Materials and Live Animals (nong chuk san mul) Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to: (a) commission agents' services of agricultural raw materials, live animals, food products, beverage; (b) wholesaling (including importation) services of grain, meat, poultry, grain powder, ginseng, red ginseng, fertilisers; and (c) retailing services of rice, ginseng and red ginseng. Existing Measures : -

19.

Sector : Transportation Services – Road Transportation Services (not including Freight Road Transportation Services Related to Courier Services) Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to road transportation services, not including road transportation of containerised freight (excluding cabotage) by international shipping companies and road transportation services related to courier services. Existing Measures : -

20.

Sector : Transportation Services - Internal Waterways Transportation Services and Space Transportation Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to internal waterways transportation services and space transportation services. Existing Measures : -

21.

Sector : Transportation Services - Storage and Warehousing Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to storage and warehousing services related to agricultural, fisheries and livestock products. Existing Measures : -

22.

Sector : Communication Services - Non-monopoly Postal Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the Minister of Science and ICT not needing authorisation from the Minister of Land, Infrastructure and Transport in determining the total number of vehicles that may belong to the Ministry of Science and ICT and allocating the vehicles to postal offices. The Korean Postal Authority reserves exclusive rights for collecting, processing and delivering domestic and international letters. The exclusive rights of the Korean Postal Authority include the right of access to its postal network and operation thereof. Existing Measures : Postal Service Act Regulations on Management of Common-Purpose Motor Vehicles Foreign Investment Promotion Act

23.

Sector : Communication Services - Broadcasting Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3)

Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure relating to broadcasting services. Existing Measures : -

24.

Sector : Communication Services - Broadcasting and Telecommunications Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to subscription-based video services. For the purposes of this entry, subscription-based video services means subscription-based video services that are supplied to end-users over any type of transmission network and includes Internet Protocol-based Television (IPTV), Interactive Broadcasting and Over-the-top Content Services. Existing Measures : Internet Multimedia Broadcasting Act Enforcement Decree of the Internet Multimedia Broadcasting Act

25.

Sector : Communication Services - Broadcasting and Audio-Visual Services Obligation Concerned : Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any preferential co-production arrangement for film or television productions. Official co-production status, which may be granted to a co-production produced under such a co-production arrangement, confers national treatment on works covered by a co-production arrangement. Existing Measures : Promotion of the Motion Pictures and Video Products Act Notice on Programming

26.

Sector : Communication Services - Broadcasting and Audio-Visual Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure setting criteria for determining whether broadcasting or audio-visual programmes are Korean. Existing Measures : Promotion of the Motion Pictures and Video Products Act Enforcement Decree of Promotion of the Motion Pictures and Video Products Act Enforcement Regulations of Promotion of the Motion Pictures and Video Products Act Notice on Programming

27.

Sector : Business Services - Real Estate Services (not including Real Estate Brokerage and Appraisal Services) Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services, except for brokerage and appraisal services. Existing Measures : -

28.

Sector : Business Services - Insolvency and Receivership Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to insolvency and receivership services. Korea reserves the right to adopt or maintain any measure with respect to corporate restructuring services, including corporate restructuring companies, corporate restructuring partnerships, and corporate restructuring vehicles. Existing Measures : -

29.

Sector : Digital Audio or Video Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt any measure to ensure that, upon a finding by the Government of Korea that Korean digital audio or video content or genres thereof is not readily available to Korean consumers, access to such content is not unreasonably denied to Korean consumers. With respect to digital audio or video

services targeted at Korean consumers, Korea reserves the right to adopt any measure to promote the availability of such content. For the purposes of this entry, digital audio or video service means a service that provides streaming audio content, films or other video downloads or streaming video content regardless of the type of transmission (including through the Internet), but does not include broadcasting services as defined by the Broadcasting Act as of the date of entry into force of this Agreement or subscription-based video services as defined in the Communications Services – Broadcasting and Telecommunications Services entry in List B. Existing Measures : Content Industry Promotion Act

30.

Sector : Business Services - Cadastral Surveying Services and Cadastral Map-Making Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to cadastral surveying services and cadastral map related services. Existing Measures : -

31.

Sector : Business and Environmental Services - Examination, Certification, and Classification of Agricultural Raw Materials and Live Animals (nong chuk san mul) Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to examination, certification, and classification of agricultural raw materials and live animal products. Existing Measures : -

32.

Sector : Business Services - Services Incidental to Agriculture, Hunting, Forestry, and Fishing Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, and livestock, including genetic improvement, artificial insemination, rice and barley polishing, and activities related to a rice processing complex. Korea reserves the right to adopt or maintain any measure with respect to the supply of services incidental to agriculture, hunting, forestry, and fishing by the Agricultural Cooperatives, the Forestry Cooperatives, and the Fisheries Cooperatives. Existing Measures : -

33.

Sector : Fishing Obligation Concerned : National Treatment (Article 10.3) Description : Investment Korea reserves the right to adopt or maintain any measure with respect to fishing activities in Korea’s territorial waters and Exclusive Economic Zone. Existing Measures : -

34.

Sector : Publishing of Newspapers and Periodicals Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the publishing (including printing and distribution) of newspapers and periodicals. Existing Measures : Act on the Promotion of Newspapers, Etc. Enforcement Decree of the Act on the Promotion of Newspapers, Etc. Act on Promotion of Periodicals, including Magazines Enforcement Decree of the Act on Promotion of Periodicals, including Magazines

35.

Sector : Education Services - Pre-Primary, Primary, Secondary, Higher, Adult and Other Education Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to pre-primary, primary, and secondary education; health and medicine-related higher education; higher education for prospective pre-primary, primary, and secondary teachers; professional graduate education in law; distance education at all education levels (except adult education services other than health and medicine-related adult education services, provided that such services do not confer academic credit, diplomas, or degrees); and other education services. Existing Measures : -

36.

Sector : Social Services - Human Health Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure (7) with respect to human health services. Existing Measures : -

(7) For greater certainty, this includes measures for the protection of personal information with respect to human health services, including, inter alia, drug dispensing services.

37.

Sector : Audiovisual Services - Motion Picture Promotion, Projection, Advertising, or Post-Production Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to motion picture promotion, projection, advertising, or post-production services. Existing Measures : -

38.

Sector : Other Recreational Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to tourism in rural, fishery, and agricultural sites. Existing Measures : -

39.

Sector : Gambling and Betting Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition on Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to gambling and betting services. For greater certainty, “gambling and betting” includes such services supplied through electronic transmission and services that use sa-haeng-seong-ge-im-mul. “Sa-haeng-seong-ge-im-mul”, as defined in Article 2 of Korea’s Game Industry Promotion Act, includes, inter alia, gaming instruments which result in financial loss or gain through betting or by chance. Existing Measures : Tourism Promotion Act Special Act on the Assistance to the Development of Abandoned Mine Areas National Sports Promotion Act Enforcement Decree of the National Sports Promotion Act Korea Racing Association Act Traditional Bull Fighting Act Bicycle and Motorboat Racing Act Game Industry Promotion Act Act on Special Cases concerning Regulation and Punishment of Speculative Acts, Etc. National Gambling Control Commission Act Enforcement Decree of National Gambling Control Commission Act

40.

Sector : Recreational, Cultural, and Sporting Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to recreational, cultural, and sporting services. Korea reserves the right to adopt or maintain any measure with respect to the conservation and restoration of cultural heritage and properties, including the excavation, inspection, appraisal, dealing, or maintenance of cultural heritage and properties. Korea shall ensure that this entry is not inconsistent with the Performance Services and News Agency (News-tong-sin-sa) Services entries in List A. Existing Measures : Cultural Heritage Protection Act Act on Protection and Inspection of Buried Cultural Heritage Act on Cultural Heritage Maintenance, Etc.

41.

Sector : Legal Services - Foreign Legal Consultants Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment 1. Korea reserves the right to adopt or maintain any measures including: (a) restrictions on certification, approval, registration, admission, and supervision of, and any other requirements

with respect to, foreign country-licensed lawyers or foreign law firms supplying any type of legal services in Korea; (b) restrictions on foreign country-licensed lawyers or foreign law firms entering into partnerships, commercial associations, affiliations, or any other type of relationship regardless of legal form, with byeon-ho-sa (Korean-licensed lawyers), Korean law firms, beop-mu-sa (Korean-certified judicial scriveners), byeon-ri-sa (Korean-licensed patent attorneys), gong-in-hoe-gye-sa (Korean-certified public accountants), se-mu-sa (Korean-certified tax accountants), or gwan-se-sa (Korean customs brokers); (c) restrictions on foreign country-licensed lawyers or foreign law firms hiring byeon-ho-sa (Korean-licensed lawyers), beop-mu-sa (Korean-certified judicial scriveners), byeon-ri-sa (Korean-licensed patent attorneys), gong-in-hoe-gye-sa (Korean-certified public accountants), se-mu-sa (Korean certified tax accountants), or gwan-se-sa (Korean customs brokers) in Korea; and, (d) restrictions on senior management and the board of directors of legal entities supplying foreign legal consulting services, including with respect to the chairman. 2. Notwithstanding paragraph 1, Korea shall allow, subject to certain requirements consistent with this Agreement, each Party's law firms to establish representative offices (Foreign Legal Consultant (FLC) offices) in Korea and attorneys licensed in each Party to provide legal advisory services on laws of the jurisdiction where they are licensed and public international law as FLCs in Korea. However, they shall not be engaged in: (a) representation for juridical or statutory procedures in courts and other government agencies as well as preparation of legal documents for such procedures; (b) legal representation for the entrustment of the preparation of notarial deeds; (c) activities concerning labour affairs consulting services or a legal case whose objective is the acquisition or loss or change of rights concerning real property in Korea, intellectual property rights, mining rights or other rights arising upon registration thereof with government agencies in Korea; and (d) activities in legal cases concerning family relations or inheritance, in which a Korean national is involved as a party or the property concerned is located in Korea. For transparency purposes: (a) A foreign lawyer who wishes to practice law as a FLC in Korea must be approved by the Minister of Justice, must register with the Korean Bar Association, must have practiced law for at least three years in the jurisdiction where he or she is qualified as a lawyer, and must be in good standing of the legal profession in the jurisdiction. (b) Permission of the Minister of Justice is required for the establishment of a representative office in Korea. The representative office consists of a FLC or FLCs approved by the Minister of Justice. It must have credibility and expertise, and sufficient capability to compensate for damages caused to the client, if any. The chief of the representative office must have practiced law for at least five years, including three years in the jurisdiction of his or her qualification. (c) A representative office can conduct profit-making activities provided that such presence in Korea maintains proper business plans and financial bases and must observe the Foreign Legal Consultant Act, its presidential decree and enforcement rule. (d) For the purpose of this entry, only the law firm which is organised under relevant law of each Party and headquartered in each Party can establish its representative office in Korea. Any type of subordinate or dependent legal entity, including a branch, a local office, a subsidiary or a joint-venture firm of the law firm of a non-Party shall not be permitted to establish its representative office in Korea. For the purposes of this entry, each Party's law firm means a law firm organised under each Party's laws and headquartered in each Party. 3. For greater certainty, (a) foreign lawyers are permitted temporary practice of and representation in international arbitration case without registering as FLC in Korea, provided that their period of stay is less than 90 days in any given calendar year. International arbitration case means a civil or commercial arbitration case for which Korea is the place of arbitration and to which statutes of a country other than Korea, a treaty concluded between Korea and a foreign country, a treaty among countries other than Korea or generally-accepted customary international law is or can be applied. (b) Use of firm name is permitted, provided that it is used with reference to "Foreign legal consultants' office" in Korean. Existing Measures : -

42.

Sector : Professional Services - Foreign Certified Public Accountants Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to public accountancy services. Foreign public accountants intending to provide accountancy services in Korea must be domestically licensed and registered under the Certified Public Accountant Act. Their offices must be established within Korea. A Korean accounting firm or office may, by paying an annual membership fee, acquire membership to international accounting organisations which have world-wide business networks. The following services may be supplied to a Korean accounting firm or office through a membership contract: consultancy for foreign accounting standards and auditing, training of Certified Public Accountants (CPAs), transfer of auditing technology, and exchange of information. Existing Measures : -

43.

Sector : Professional Services - Foreign Certified Tax Accountants Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measures with respect to se-mu-sa (Korean-certified tax accountants) services including those concerning ownership,

partnership, nationality of executives and directors and the scope of services to be provided. Foreign-certified tax accountants intending to provide se-mu-sa (Korean-certified tax accountants) services in Korea must be domestically licensed and registered under the Certified Tax Accountant Act. Their offices must be established within Korea. Existing Measures : -

44.

Sector : Veterinary Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to veterinary services. Existing Measures : -

45.

Sector : Other Professional Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to other professional services, including labour affairs consulting services, patent attorney (byeon-ri-sa) services, and customs clearance services. Existing Measures : -

46.

Sector : Business Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the exportation and re-exportation of controlled commodities, software, and technology. Only persons residing in Korea may apply for a licence to export or re-export such commodities, software, or technology. Existing Measures : -

47.

Sector : Transportation Services - Maritime Passenger Transportation and Maritime Cabotage Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to the provision of international maritime passenger transportation services, maritime cabotage, and the operation of Korean vessels, including the following measures: A person that supplies international maritime passenger transportation services must obtain a licence from the Minister of Oceans and Fisheries, which is subject to an economic needs test. Maritime cabotage is reserved for Korean vessels. Maritime cabotage includes maritime transportation between harbours located along the entire Korean peninsula and any adjacent islands. Korean vessel means: (a) a vessel owned by the Korean government, a state enterprise, or an institution established under the Ministry of Oceans and Fisheries; (b) a vessel owned by a Korean national; (c) a vessel owned by an enterprise organised under the Korean Commercial Code; (d) a vessel owned by an enterprise organised under foreign law that has its principal office in Korea and whose dae-pyo-ja (for example, a chief executive officer, president, or similar principal senior officer) is a Korean national. In the event there is more than one, all dae-pyo-ja must be Korean nationals. For greater certainty, measures relating to the landside aspects of port activities are subject to the application of Article 10.15 (Security Exceptions). Existing Measures : -

48.

Sector : Air Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Local Presence (Article 8.11) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure with respect to air services except aircraft repair and maintenance services, computer reservation system services and the selling and marketing of air transport services. Existing Measures : -

49.

Sector : Manufacturing of Liquor Obligation Concerned : Prohibition of Performance Requirements (Article 10.6) Description : Investment Korea reserves the right to adopt or maintain any measure with respect to manufacturing of liquor. Existing

Measures : -

50.

Sector : Financial Services Obligation Concerned : National Treatment (Articles 8.4 and 10.3) Market Access (Article 8.5) Most-Favoured-Nation Treatment (Articles 8.6 and 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Trade in Services and Investment Korea reserves the right to adopt or maintain any measure affecting the supply of financial services with respect to all obligations concerned, except as specified in Appendix B. Existing Measures : -

Appendix A.

For the following Sectors, Korea's obligations under Article XVI of GATS as set out in Korea's Schedule of Specific Commitments under the GATS(GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.

Sector or Sub-sector	Market Access Improvements
Research and Development Services:	
a. Research and development services on natural sciences	Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4
b. Research and development services on social sciences and humanities	Modify mode 1 and 2 limitations from "Unbound" to "None"
c. Interdisciplinary research and development services	Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4
Market research and public opinion polling services	Modify mode 1 and 2 limitations from "Unbound" to "None"
Services incidental to mining	Modify mode 1 and 2 limitations from "Unbound" to "None"
Packaging services	Modify mode 1 and 2 limitations from "Unbound" to "None"
Tourism and travel related services:	
a. Beverage serving services without entertainment Excluding rail and air transport related facilities in beverage serving services without entertainment	Insert new commitments with "Unbound*" for mode 1, "None" for mode 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4
b. Tour operator services	Insert new commitments with "None" for mode 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4
	Modify mode 3 from "Only travel agencies are allowed

c. Tourist Guides Services	to supply tourist guide services" to "None"
Recreational, Cultural and Sporting Services	Insert new commitments with "Unbound" for mode 1, "None" for modes 2 and 3, "Unbound except as indicated in the Horizontal Commitments section" for mode 4
D. Others	
Game Services (CPC 964**)	

Appendix B. Schedule of Specifics Commitments for Financial Services. Korea

EXPLANATORY NOTES

1. All the commitments in this Appendix are subject to entry requirements, domestic laws, regulations, rules, guidelines, terms and conditions of the Financial Services Commission (FSC) or any other relevant regulatory authorities in Korea, which are consistent with Article VI of GATS and paragraph 2 of the Annex on Financial Services of GATS.

2. Financial sectors are basically re-classified according to the category of the Annex 8A (Financial Services). Therefore the order of subsectors is different from that of the commitment in GATS/SC/48/Suppl.3/Rev.1.

3. Specific statements in the subsectors apply only to existing domestic financial services.

4. All financial services are subject to the following provisions.

(a) For prudential reasons within the context of the Annex 8A (Financial Services), Korea shall not be prevented from taking measures including requirements related to parent companies, the minimum capital requirement, minimum operating funds requirement, business worker's licence and approval for business activities.

(b) A financial institution must be established for only one business defined in related law and thus cannot engage in other business activities regulated by other relevant laws.

(c) Cross-border supply of financial services and supply through consumer movement may not be settled in Korean currency. After the establishment of a commercial presence, financial institutions may handle only transactions, denominated and settled in Korean currency, with residents. Approval is required for transactions denominated or settled in foreign currency or transactions with non-residents.

(d) Assets owned by branches must be kept within the territory of Korea. Capital of the head office is not recognised as the basis for determining the extent of funding and lending activities of domestic branches.

(e) Demand deposit interest rates are regulated.

(f) The management and operation of assets of a financial institution are restricted.

(g) A financial institution may not own non-business real estate. (h) Introduction of new financial products including derivatives is subject to approval.

Modes of Supply: 1) Cross-border Supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
A. Insurance and Insurance-related Services			
Direct Insurance			

a) Life insurance services Including accident and health insurance services	(1) Unbound (2) Unbound (3) Commercial presence is permitted only to foreign life insurance companies. Top executive personnel of each establishment must reside in Korea.	(1) Unbound (2) Unbound (3) None	
b) Non-life insurance services	(1) Unbound except for marine export or import cargo and aviation insurance. (2) Unbound (3) Commercial presence is permitted only to foreign non-life insurance companies. Top executive personnel of each establishment must reside in Korea.	(1) Unbound (2) Unbound (3) None	
c) Reinsurance and retrocession	(1) None (2) None (3) Commercial presence is permitted only to foreign reinsurance and retrocession insurance companies. Top executive personnel of each establishment must reside in Korea.	(1) None(2) None (3) None	
d) Insurance broking and agency services: - Brokerage	(1) Unbound (2) Unbound 3) Commercial presence is permitted only to foreign insurance brokerage companies. Top executive personnel of each establishment must reside in Korea.	(1) Unbound (2) Unbound ((3) None	
- Agency	(1) Unbound (2) Unbound (3) None	(1) Unbound (2) Unbound (3) None	
Services auxiliary to insurance: applicable only to following subsectors): - Claim settlement and adjustment services (8) - Actuarial services	(1) None (2) Unbound (3) Commercial presence is permitted only to foreign claim settlement and adjustment companies and actuarial companies. Top executive personnel of each establishment must reside in Korea.	(1) None(2) None (3) None	

(8) Activities of assessing and adjusting the loss and the amount payable.

B. Banking and other Financial services (excl. insurance)			
a) Deposit (9)	(1) Unbound (2) Unbound (3) Commercial presence is permitted only to foreign financial institutions (except for financial leasing) which deal with the same services in their country of origin. A person may own up to 10 per cent of the stocks of a bank (up to 4 per cent in case of non-financial service business entity) and 15 per cent of the stocks of a provincial bank without the special authorisation of the		

b) Lending (10) c) Financial leasing d) Payment and Money transmission e) Guarantees and commitments f) Foreign exchange services (12) g) Settlement and clearing (13)	relevant authorities (11). A person can own up to 100 per cent of a bank and a provincial bank with the special authorisation of the relevant authorities. Foreign exchange position is regulated. The oversold position of spot foreign exchange is US$ 5 million, or 3 per cent of capital (whichever is greatest). Deposit for specific purpose, such as housing subscription deposit, may be handled only by designated institutions. Securities savings and credit granting are subject to restriction of ceiling and operation. Lending to credit card members through such means as card loans is subject to limitation. For credit card services, maximum limits are applied to various rates such as fees and interest rates. The maturity of CDs shall be more than 30 days. Underlying transaction and documentation requirements apply to foreign exchange transactions. Underlying documentation requirements are exempt in the case of forward transactions. Mandatory lending to small-and-medium sized companies is required. Foreign currency loans are restricted with respect to ceiling and uses. Top executive personnel of financial leasing, credit granting and security savings companies must reside in Korea.	(1) Unbound (2) Unbound (3) None	

(9) Activities in which banks obtain funds from the public by receiving deposits or issuing transferable instruments or other securities.

(10) Activities in which banks provide funds to the public in order to receive interest via loans or bill discounts.

(11) "A person" and "non-financial service business entity" are defined in accordance with the relevant provision of the Presidential Decree of the Bank Act.

(12) Activities of issuance, remittance and collection of foreign exchange.

(13) Activities of settlement and clearing of notes, bills and cheques by banks according to the Article of KFTCI (Korea Financial Telecommunications and Clearings Institute).

h) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise applicable only to the instruments as listed below - Money market instruments (including cheques, bills, certificates of deposit) - Foreign exchange - Financial Derivative products (including futures and options) - Exchange rate and interest Rate instruments (including swaps and forward rate agreements) - Transferable securities - Other negotiable instruments and financial assets (including bullion)	(1) Unbound (2) Unbound (3) Commercial presence is permitted only to foreign financial institutions which deal with the same instruments in their country of origin. Representative offices may be established by pre-notification. Top executive personnel of each establishment must reside in Korea.	(1) Unbound (2) Unbound (3) None	
i) Participation in issues of all kinds of securities - Security issue - Underwriting - Placement - Other services related to securities	(1) Unbound (2) Unbound (3) Commercial presence is permitted only to foreign financial institutions which deal with the issuing of all kinds of securities. Representative offices may be established by pre-notification. Top	(1) Unbound (2) Unbound	

	executive personnel of each establishment must reside in Korea.	(3) None	
j) Asset management, applicable only to services listed below: - Cash or portfolio management - All forms of collective investment management - Custody - Trust (14) (including investment discretionary advisory service)	(1) Unbound (2) Unbound (3) Commercial presence is permitted only to foreign asset management companies. Representative offices may be established by pre-notification. To handle a trust business, approval (two types) is required from the Financial Services Commission both for engaging in businesses other than the main banking businesses and for engaging in the trust business. Unbound for real estate trust businesses. Top executive personnel of each establishment must reside in Korea.	(1) Unbound (2) Unbound (3) None	

(14) Activities where a trustee is commissioned to manage the financial assets for beneficiary's benefit.

k) Credit information services	(1) Unbound (2) Unbound (3) Unbound except for equity participation of less than 50 per cent in existing financial information companies.	(1) Unbound (2) Unbound (3) None	
l) Advisory, intermediation and other auxiliary financial services, applicable only to services listed below: - Investment advice	(1) Unbound (2) Unbound (3) Commercial presence is permitted only to foreign investment advisory companies. Representative offices may be established by pre-notification. Top executive personnel of each establishment must reside in Korea.	(1) Unbound (2) Unbound (3) None	
- Credit rating and analysis	(1) Unbound (2) Unbound (3) Credit rating companies should be designated by the relevant authorities to assess the credit rating of companies which may wish to issue non-guaranteed corporate bonds and commercial papers.	(1) Unbound (2) Unbound (3) None	

New Zealand

List A. Explanatory Notes

1. This List is made pursuant to Chapter 10 (Investment) only. Any aspects of this List which relate to investment in services that are covered by Chapter 8 (Trade in Services) only are retained in this List solely for transparency purposes.

2. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), New Zealand's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); or

(d) Article 10.7 (Senior Management and Board of Directors).

3. Each entry in New Zealand's List sets out the following elements:

(a) Sector refers to the sector in which the entry is made;

(b) Type of Obligation specifies the obligations referred to in paragraph 2;

(c) Level of Government indicates the level of government maintaining the listed measures;

(d) Source of Measure identifies the measures for which the entry is made. A measure cited in the Source of Measure element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
(e) Description of Measure sets out the non-conforming measure to which the entry applies.

4. In accordance with Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Type of Obligation element of an entry do not apply to the measure identified in the Description of Measure element of that entry.

5. All elements of the entry shall be considered in their totality for the purposes of its interpretation.

1.

Sector : All Sectors Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Description of Measure : Investment 1. Consistent with New Zealand's financial reporting regime established under the Companies Act 1993 and Financial Reporting Act 2013, the following types of entities are required to prepare financial statements that comply with generally accepted accounting practice, have those statements audited and registered with the Registrar of Companies (unless exceptions to any of those requirements apply): a) any body corporate that is incorporated outside New Zealand (an "overseas company") that carries on business in New Zealand within the meaning of the Companies Act 1993 and which is "large" 1; b) any "large" New Zealand company in which shares that in aggregate carry the right to exercise or control the exercise of 25 per cent or more of the voting power at a meeting of the company are held by2: (i) a subsidiary of a body corporate incorporated outside New Zealand; (ii) a body corporate incorporated outside New Zealand; or (iii) a person not ordinarily resident in New Zealand; c) any "large" company incorporated in New Zealand which is a subsidiary of an overseas company (3). 2. If a company is required to prepare financial statements and if they have one or more subsidiaries, they must, instead of preparing financial statements in respect of themselves, prepare group financial statements that comply with generally accepted accounting practice in relation to that group. This obligation does not apply if: a) that company (A) is itself a subsidiary of a body corporate (B), where body corporate (B) is: (i) incorporated in New Zealand; or (ii) registered or deemed to be registered under Part 18 of the Companies Act 1993; and b) group financial statements in relation to a group comprising B, A, and all other subsidiaries of B that comply with generally accepted accounting practice are completed; and c) a copy of the group financial statements referred to in paragraph (b) and a copy of the auditor's report on those statements are delivered for registration under the Companies Act 1993 or for lodgement under another Act. 3. If an overseas company is required to prepare: a) financial statements under the Companies Act 1993 it must also, if its New Zealand business meets the asset and revenue thresholds that apply in respect of "large" overseas companies, prepare, in addition to the financial statements of the large overseas company itself, financial statements for its New Zealand business prepared as if that business were conducted by a company formed and registered in New Zealand; and b) group financial statements under the Companies Act 1993, and if the group's New Zealand business meets the asset and revenue thresholds that apply in respect of "large" overseas companies, the group financial statements that are prepared must include, in addition to the financial statements of the group, financial statements for the group's New Zealand business prepared as if the members of the group were companies formed and registered in New Zealand. Source of Measure : - Companies Act 1993 - Financial Reporting Act 2013

(1) An overseas company or subsidiary of an overseas company is "large" in respect of an accounting period if at least one of the following applies: (i) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ$20 million; or (ii) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ$10 million. An audit report is required unless the New Zealand business of that overseas company is not "large" and the law where the company is incorporated does not require an audit.

(2) A New Zealand company is "large" in respect of an accounting period if at least one of the following applies: (i) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ$60 million; or (ii) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ$30 million.

(3) An overseas company or subsidiary of an overseas company is “large” in respect of an accounting period if at least one of the following applies: (i) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ$20 million; or (ii) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ$10 million. An audit report is required unless the New Zealand business of that overseas company is not “large” and the law where the company is incorporated does not require an audit.

2.

Sector : Agriculture, including services incidental to agriculture Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Investment The Dairy Industry Restructuring Act 2001 (DIRA) and Regulations provide for the management of a national database for herd testing data. The DIRA: (a) provides for the New Zealand Government to determine arrangements for the database to be managed by another dairy industry entity. In doing so the New Zealand Government may: (i) take into account the nationality and residency of the entity, persons that own or control the entity, and the senior management and board of directors of the entity; and (ii) restrict who may hold shares in the entity, including on the basis of nationality; (b) requires the transfer of data by those engaged in herd testing of dairy cattle to the Livestock Improvement Corporation (LIC) or successor entity; (c) establishes rules regarding access to the database and that access may be denied on the basis that the database’s intended use could be “harmful to the New Zealand dairy industry”, which may take into account the nationality or residency of the person seeking access. Source of Measure : Dairy Industry Restructuring Act 2001

3.

Sector : Communication services Telecommunications Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Investment The Constitution of Chorus Limited requires New Zealand Government approval for the shareholding of any single overseas entity to exceed 49.9 per cent. At least half of board directors are required to be New Zealand citizens. Source of Measure : Constitution of Chorus Limited

4.

Sector : Communication services Audio-visual services Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Description of Measure : Investment The acquisition of licences or management rights to use the radio frequency spectrum, or any interest in such licences or management rights, under the Radiocommunications Act 1989 by foreign governments or agents on behalf of foreign governments is subject to the written approval of the Chief Executive of the Ministry of Business, Innovation and Employment. Source of Measure : Radiocommunications Act 1989

5.

Sector : Agriculture, including services incidental to agriculture Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description of Measure : Investment Under the Primary Products Marketing Act 1953, the New Zealand Government may impose regulations to enable the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers) for “primary products”, being products derived from beekeeping, fruit growing, hop growing, deer farming or game deer, or goats, being the fur bristles or fibres grown by the goat. Regulations may be issued under the Primary Products Marketing Act 1953 concerning a broad range of the marketing authority’s functions, powers and activities. In particular, regulations may require that board members or personnel be nationals of or resident in New Zealand. Source of Measure : Primary Products Marketing Act 1953

6.

Sector : Air Transportation Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Investment Only a licensed air transport enterprise may provide international scheduled air services as a New Zealand international airline. Only a licensed air transport enterprise may provide international scheduled air services, including cabotage, within New Zealand, as a foreign international airline. Either the Minister for Transport or the Secretary for Transport determines the issuance of

international air services licences. Non-scheduled air services require either an appropriate licence or the approval of the Secretary for Transport in accordance with guidelines issued by the Minister for Transport. Such determinations shall include consideration of the provisions of New Zealand's bilateral and multilateral air services agreements. Licences may be subject to certain conditions, such as that the airline is substantially owned and effectively controlled by New Zealand nationals, or have its principal place of business in New Zealand. Source of Measure : - Civil Aviation Act 1990 - Ministerial Guidelines

7.

Sector : Air Transportation Level of Government : Central Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description of Measure : Investment No one foreign national may hold more than 10 per cent of shares which confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder (New Zealand Government). In addition: (a) no person that owns or operates an airline business, nor any other person 'associated' with a person who owns or operates an airline business, may hold or have an interest in Air New Zealand unless the prior written consent of the Kiwi Shareholder (New Zealand Government) has been given; (b) the location of the Head Office of Air New Zealand, and its principal place of business, shall be in New Zealand; (c) at least three members of the board of directors must be ordinarily resident in New Zealand; (d) more than half of the board of directors must be New Zealand citizens; (e) the Chairperson of the board of directors must be a New Zealand citizen; and (f) Air New Zealand shall continue to be incorporated and registered in New Zealand. Source of Measure : Constitution of Air New Zealand Limited

List B. Explanatory Notes

1. This List is made pursuant to Chapter 10 (Investment) only. Any aspects of this List which relate to investment in services that are covered by Chapter 8 (Trade in Services) only are retained in this List solely for transparency purposes.

2. This List sets out, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors, or activities for which New Zealand may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 10.3 (National Treatment);

(b) Article 10.4 (Most-Favoured-Nation Treatment);

(c) Article 10.6 (Prohibition of Performance Requirements); or

(d) Article 10.7 (Senior Management and Board of Directors).

3. Each entry in New Zealand's List sets out the following elements:

(a) Sector refers to the sector in which the entry is made;

(b) Type of Obligation specifies the obligations referred to in paragraph 2;

(c) Description sets out the nature or scope of the non-conforming measures in the sectors, subsectors or activities covered by the entry; and

(d) Existing Measures is included for transparency purposes. The measures stipulated therein are not exhaustive.

4. In accordance with Article 10.8 (Reservations and Non-Conforming Measures), the Articles of this Agreement specified in the Type of Obligation element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

5. Where an inconsistency arises in relation to the interpretation of an entry, the Description element of the entry shall prevail to the extent of the inconsistency.

1.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to: the provision of public law enforcement and correctional services; and the following, to the extent that they are social services established for a public purpose: o child care; o health; o income security and insurance; o public education; o public housing; o public training; o

public transport; o public utilities; o social security and insurance; and o social welfare. Existing Measures : -

2.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to water, including the allocation, collection, treatment, and distribution of drinking water. This entry does not apply to the wholesale trade and retail of bottled mineral, aerated, and natural water. Existing Measures : -

3.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure solely as part of the act of devolving a service that is provided in the exercise of governmental authority at the date of entry into force of this Agreement. Such measures may include: allowing an enterprise, wholly or majority owned by the New Zealand Government, to be the sole service supplier or one amongst a limited number of service suppliers; and imposing restrictions on the composition of senior management and board of directors. Existing Measures : -

4.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6 Senior Management and Board of Directors (Article 10.7) Description : Investment Where the New Zealand Government wholly owns or has effective control over an enterprise then New Zealand reserves the right to adopt or maintain any measures regarding the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to New Zealand nationals. Existing Measures : -

5.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure that requires the following investment activities to receive prior approval by the New Zealand Government under its overseas investment regime: a) acquisition or control of 25 per cent or more of any class of shares (5) or voting power (6) in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$10 million; b) commencement of business operations or acquisition of an existing business, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ$10 million; c) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand’s overseas investment regime; and d) acquisition, regardless of the dollar value, of 25 per cent or more of any class of shares or voting power in a New Zealand entity that owns commercial fishing quota or annual catch entitlement, or the acquisition of commercial fishing quota or annual catch entitlement. New Zealand reserves the right to adopt or maintain any measure that sets out the approval criteria to be applied to the categories of transactions that require approval under New Zealand’s overseas investment regime. Existing Measures : - Overseas Investment Act 2005 - Fisheries Act 1996 - Overseas Investment Regulations 2005

(5) For greater certainty, the term “shares” includes shares and other types of securities.

(6) For greater certainty, “voting power” includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.

6.

Sector : All sectors Type of Obligation : Most-Favoured-Nation Treatment (Article 10.4) Description : Investment New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or non-party under any

bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. For greater certainty, this includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements. New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or non-party under any international agreement in force or signed after the date of entry into force of this Agreement involving: aviation; fisheries; and maritime matters. Existing Measures : -

7.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Description : Investment New Zealand reserves the right to adopt or maintain any measure regarding the control, management, or use of: - protected areas, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation, and scenery preservation; or - species owned under enactments by the Crown or that are protected by or under an enactment. Existing Measures : Conservation Act 1987 and the enactments listed in: - Schedule 1 of the Conservation Act 1987; - Resource Management Act 1991; and - Local Government Act 1974.

8.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any nationality or residency measures in relation to: animal welfare; and the preservation of plant, animal and human life and health; including in particular: o food safety of domestic and exported foods; o animal feeds; o food standards; o biosecurity; o biodiversity; or o certification of the plant or animal health status of goods. Nothing in this entry shall be construed to derogate from the obligations of Chapter 5 (Sanitary and Phytosanitary Measures), or the obligations of the SPS Agreement. Nothing in this entry shall be construed to derogate from the obligations of Chapter 6 (Standards, Technical Regulations, and Conformity Assessment Procedures), or the obligations of the TBT Agreement. Existing Measures : -

9.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure made by or under an enactment in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone, and the continental shelf, including for the issuance of maritime concessions in the continental shelf. Existing Measures : - Resource Management Act 1991 - Marine and Coastal Area (Takutai Moana) Act 2011 - Continental Shelf Act 1964 - Crown Minerals Act 1991 - EEZ and Continental Shelf (Environmental Effects) Act 2012

10.

Sector : Business Services Legal Services Type of Obligation : Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to the provision of publicly funded legal services. Existing Measures : -

11.

Sector : Business Services Research and Development Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to: Research and development services carried out by State funded tertiary institutions or by Crown Research Institutes when such research is conducted for a public purpose; and Research and experimental development services on physical sciences, chemistry, biology, engineering, and technology, agricultural sciences, medical, pharmaceutical, and other natural sciences. Existing Measures : -

12.

Sector : Business Services Technical Testing and Analysis Services Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Investment New Zealand reserves the right to adopt or maintain any measures in respect of: composition and purity testing and analysis services; technical inspection services; other technical testing and analysis services; geological, geophysical, and

other scientific prospecting services; and drug testing services. Existing Measures : -

13.

Sector : Business Services Fisheries and aquaculture Services related to fisheries and aquaculture Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to control the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges), consistent with the provisions of the United Nations Convention on the Law of the Sea. Existing Measures : - Fisheries Act 1996 - Aquaculture Reform Act 2004

14.

Sector : Business Services Energy Manufacturing Wholesale trade Retail Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt any measure in order to prohibit, regulate, manage or control the production, use, distribution, or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so. Existing Measures : -

15.

Sector : Business Services Services incidental to mining Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to services incidental to mining. Existing Measures : -

16.

Sector : Communication Services Postal Type of Obligation : Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to the supply of postal services. Existing Measures : -

17.

Sector : Communication Services Audio-visual and other Services Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Description : Investment New Zealand reserves the right to adopt or maintain preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under these co-production arrangements, confers national treatment on works covered by these arrangements. Existing Measures : For greater transparency, Section 18 of the New Zealand Film Commission Act 1978 limits Commission funding to films with a “significant New Zealand content”. This criterion is deemed to be satisfied if made pursuant to a co-production agreement or arrangement with the partner country in question.

18.

Sector : Communication Services Audio-visual and other Services Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to the promotion of film and television production in New Zealand and the promotion of local content on public radio and television, and in films. Existing Measures : -

19.

Sector : Agriculture, including services incidental to agriculture Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to: the holding of shares in the cooperative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 (DIRA) or any successor body; and the disposition of assets of that company or its successor bodies. Existing Measures : -

20.

Sector : Agriculture, including services incidental to agriculture Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to the export marketing of fresh kiwifruit to all markets other than Australia. Existing Measures : Kiwifruit Industry Restructuring Act 1999 and Regulations

21.

Sector : Agriculture, including services incidental to agriculture Type of Obligation : National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to: specifying the terms and conditions for the establishment and operation of any government endorsed allocation scheme for the rights to the distribution of export products falling within the HS Code categories covered by the Agreement on Agriculture to markets where tariff quotas, country-specific preferences, or other measures of similar effect are in force; or the allocation of distribution rights to wholesale trade service suppliers pursuant to the establishment or operation of such an allocation scheme. This entry is not intended to have the effect of prohibiting all investment in the provision of wholesale trade and distribution services relating to goods in the HS Code covered by the Agreement on Agriculture. The entry applies in respect of investment to the extent that the services sectors specified in this entry are a subset of agricultural products subject to tariff quotas, country-specific preferences, or other measures of similar effect. Existing Measures : -

22.

Sector : Agriculture, including services incidental to agriculture Type of Obligation : National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to maintain or adopt any measures necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as “export marketing strategies”) for the export marketing of products derived from: agriculture; beekeeping; horticulture; arboriculture; arable farming; and the farming of animals, where there is support within the relevant industry that a mandatory collective marketing plan should be adopted or activated. For the avoidance of doubt, mandatory marketing plans, in the context of this entry, exclude measures limiting the number of market participants or limiting the volume of exports. Existing Measures : New Zealand Horticulture Export Authority Act 1987

23.

Sector : Recreation, cultural, and sporting Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to gambling, betting, and prostitution services. Existing Measures : - Gambling Act 2003 and Regulations - Prostitution Reform Act 2003 - Racing Act 2003 - Racing (Harm Prevention and Minimisation) Regulations 2004 - Racing (New Zealand Greyhound Racing Association Incorporated) Order 2009

24.

Sector : Recreation, cultural, and sporting Library, archive, museum, and other cultural services Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Description : Investment New Zealand reserves the right to adopt or maintain any measure in respect of: cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific or technological heritage, as well as collections that are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions; public archives; library and museum services; or services for the preservation of historical or sacred sites or historical buildings. Existing Measures : -

25.

Sector : Transport Maritime Services Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to: the carriage by sea of passengers or cargo between a port located in New Zealand and another port located in New Zealand and traffic originating and terminating in the same port in New Zealand (maritime “cabotage”); provision of certain Port Services (pilotage, towing and tug assistance provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captains’ services, navigation aids, emergency repair facilities, anchorage, other shore-based operational services essential to ship operations, including communications, water and electrical supplies). However, no measures shall be applied which

deny international maritime transport suppliers reasonable and non-discriminatory access to the above port services; the establishment of registered companies for the purpose of operating a fleet under the New Zealand flag; the registration of vessels in New Zealand; and the regulation and entry of ships crews to New Zealand through the presence of natural person mode of supply. Existing Measures : -

26.

Sector : Financial services Type of Obligation : Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure with respect to financial services as defined in GATS Annex on Financial Services that is not inconsistent with New Zealand's obligations under Articles XVI, XVII, and XVIII of GATS. Existing Measures : -

27.

Sector : All sectors Type of Obligation : National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7) Description : Investment New Zealand reserves the right to adopt or maintain any measure necessary to protect national treasures or specific sites of historical or archaeological value, or measures necessary to support creative arts of national value. (7) Existing Measures : -

(7) "Creative arts" include the performing arts – including theatre, dance, and music – visual arts and craft, literature, film and video, language arts, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution, and interpretation of the arts, and the study and technical development of these art forms and activities.