



# **Schedule to the ASEAN Comprehensive Investment Agreement**

# HEADNOTE

## HEADNOTE LIST OF RESERVATIONS

1. The Schedule of ASEAN Member States sets out, pursuant to Article 9 (Reservations), Member States' measures that do not conform to the obligations under:

- (a) Article 5 (National Treatment); and
- (b) Article 8 (Senior Management and Board of Directors).

2. Each reservation sets out the following elements, where applicable:

- (a) "Sector(s)" refers to either manufacturing, agriculture, fishery, forestry, mining and quarrying, services incidental to these sectors (Mode 3 (commercial presence) of services incidental to these sectors), all or a combination of these sectors in which a reservation is taken;
- (b) "Sub-Sector(s)" refers to specific industries/products/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 or, where applicable, ASEAN Harmonised Tariff Nomenclature (AHTN) codes;
  - UN Provisional Central Product Certification (pCPC) 1991 (Series M No. 77) for services incidental to manufacturing, agriculture, fishery, forestry, mining and quarrying sectors (pCPC 881 – 885).

As necessary and appropriate, Member States could specify the exact coverage of the reservations if the reservations do not exactly conform to the classification system.

- (d) "Level of Government" specifies the level of government (Central or Regional) maintaining the measure for which a reservation is taken;
- (e) "Type of Obligation" refers to the obligation of National Treatment (NT) or/and Senior Management and Board of Directors (SMBD), as the case may be, which do not apply to the listed measure(s);
- (f) "Description of Measure" shall refer to measures that do not conform to National Treatment and Senior Management and Board of Directors for which a reservation is taken; and
- (g) "Source of Measure" is identified for transparency purposes only, for existing measures that apply to the sector, sub-sector or activities covered by the reservations.

3. Member States' commitments under the GATS shall apply to measures affecting the supply of services under Modes 1, 2 and 4 of services incidental to manufacturing, agriculture, fishery, forestry, mining and quarrying. For this purpose, Member States need not make any reservations on measures that do not conform to Article 5 (National Treatment) and Article 8 (Senior Management and Board of Directors) for these sectors until such time when this Agreement is reviewed and additional commitments agreed. In addition, consistent with Article 3 of the Agreement, measures affecting liberalisation of investment in services sectors, other than services incidental to manufacturing, agriculture, fishery, forestry, mining and quarrying sectors (pCPC 881 – 885), do not fall within the scope of this Agreement. Therefore, the reservation lists attached to this Headnote do not include reservations on such measures.

4. Each Member State reserves the right to make future reservations on measures that do not conform to Article 5 (National Treatment) and Article 8 (Senior Management and Board of Directors) on:

- (a) new and emerging sectors, sub-sectors, industries, products, or activities; or
- (b) existing sectors, subsectors, industries, products, or activities;

which are unregulated at the time of submission of the reservation lists.

5. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of this Agreement against which the reservation is taken. The "Description of Measure" element shall prevail over all other elements.

6. The ASEAN Member States agree that as soon as possible and in any event no later than 6 months from the date of entry into force of the Agreement, to enter into discussions to seek a mutually agreed solution on the treatment of "permanent residents" of a Member State as an investor. Until such discussions result in a mutually agreed solution, any obligations arising from the recognition of any natural person possessing the right of permanent residence in a Member State as investor under this Agreement shall neither apply to, nor be claimed upon, Cambodia, Indonesia, Myanmar, Philippines, Thailand, and Viet Nam.

7. In the case of Brunei Darussalam where the investor is a "permanent resident" of Brunei Darussalam and also non-national of any country, the other Member State concerned may mutually agree to enter into bilateral consultations, on a case-by-case and non prejudicial basis on the issue of whether to recognise the status of such natural person as an investor of Brunei Darussalam.

8. In the case of Thailand, as stipulated in the Foreign Business Act B.E.2542 (1999), nothing in this Agreement shall apply to an investor of the other Member States which is a juridical person constituted or otherwise organised under the law of a Member State that is not owned and/or controlled by nationals of Member States, and its investment. This provision shall be subject to review by the AIA Council on an annual basis.

**BRUNEI DARUSSALAM**

## BRUNEI DARUSSALAM

1.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment shall not apply with respect to registration requirements for establishment of businesses for public or private company.

### Sole Proprietors and Co-operative Societies

Consistent with the national and social development policies of Brunei Darussalam to nurture the development of local entrepreneurship, the registration for sole proprietorships or cooperative societies is only open to nationals of Brunei Darussalam.

### Partnerships

Applications by foreign individuals<sup>1</sup> are subject to prior written approval or clearance by the Department of Immigration, the Department of Labour, and the Department of Economic Planning and Development, before they are registered.

### Branch of a foreign company

The company must at least have one resident agent in Brunei Darussalam.

<b>Source of Measure</b>	: - Companies Act (Cap 39) - Business Names Act (Cap 92) - Administrative Directives and Guidelines
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<sup>1</sup> For purpose of this reservation, foreign individuals refer to those who do not hold the nationality of Brunei Darussalam.

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## BRUNEI DARUSSALAM

2.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: One of the 2 directors or, where there are more than 2 directors, at least 2 of them shall be ordinarily resident in Brunei Darussalam.
<b>Source of Measure</b>	: - Companies Act (Cap 39) - Administrative Directives and Guidelines

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## BRUNEI DARUSSALAM

3.

<b>Sector</b>	: <b>Manufacturing and Services Incidental to Manufacturing</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC Category D CPC 884 and 885
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: All foreign investment in manufacturing that utilises Government industrial sites* under the control of the Industrial Development Authority (BINA) of Brunei Darussalam must have at least 30% local equity participation.  * As of the entry into force of this Agreement, the sites in operation are as follows:  <ol style="list-style-type: none"><li>1. Beribi Industrial Site</li><li>2. Lambak Kanan East Industrial Site</li><li>3. Lambak Kanan West Industrial Site</li><li>4. Serasa Industrial Site</li><li>5. Salar Industrial Site</li><li>6. Serembangun Industrial Site</li><li>7. Sungai Bera Industrial Site</li><li>8. Pekan Belait Industrial Site</li><li>9. Batu Apoi Industrial Site</li></ol>
<b>Source of Measure</b>	: - National Development Plan - Industrial Coordination Order 2001 - Administrative Directives and Guidelines

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## BRUNEI DARUSSALAM

4.

<b>Sector</b>	: <b>Agriculture and Services Incidental to Agriculture</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC Category A Division 01 CPC 8811, 8812
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: All foreign investment in agriculture that utilises Government sites* as provided for by the Department of Agriculture of Brunei Darussalam must have at least 30% local equity participation.

\* As of the entry into force of this Agreement, the sites in operation are as follows:

### **Brunei-Muara District**

1. Batumpu, Bengkurong-Masin
2. KKP Tanah Tuah, Kulapis
3. KKP Si Bongkok, Kg Batong & Kg Masin
4. KKP Si Bongkok, Kg Parit, Masin
5. KKP Si Tukak 'B', Kg Limau Manis
6. KKP Lumapas
7. KKP Mulaut, Kg Mulaut
8. KKP Limpaki, Kg Mulaut
9. KKP Sungai Tajau, Wasan-Bebuloh
10. KKP Putat
11. KKP Tanjong Nangka
12. KKP Mentiri
13. KKP Wasan
14. KKP HBC Rimba
15. KKP Tungku
16. KKP Mulaut
17. KKP Limau Manis / Kuala Lurah
18. KKP Kg Bebuloh
19. KKP Jerudong (PP Luahan)
20. KKP Terunjing

### **Tutong District**

1. KKP Sungai Paku, Mukim Telisai
2. KKP Kupang
3. KKP Maraburong
4. KKP Padnunok / Sungai Burong, Kiudang
5. KKP Bang Nukat, Lamunin (GP.133)
6. KKP Birau
7. KKP Batang Mitus
8. KKP Bang Nukat, Lamunin (GP.400)
9. KKP Sg. Supon Besar

## BRUNEI DARUSSALAM

### Belait District

1. KKP Rampayoh, Kg Labi
2. KKP Merangking, Bukit Sawat
3. KKP Sungai Liang
4. KKP Tunggulian, Kg Tunggulian, Mukim Liang
5. KKP Lot Sengkuang, Labi
6. KKP Malayan 'A'
7. KKP Malayan 'B'
8. KKP Labi Lama, Kg Tarunan, Labi
9. KKP Kg. Sungai Petai, Mukim Labi
10. KKP Kg. Mumong, Mukim Kuala Belait
11. KKP Kg. Kenapol
12. KKP Kg. Singap
13. KKP Kg. Buau
14. KKP Kg. Tanjong Sudai

### Temburong District

1. KKP Labu Estate A
2. KKP Labu Estate B
3. KKP Bakarut
4. KKP Perdayan
5. KKP Selapon A
6. KKP Selapon B
7. KKP Senukoh A
8. KKP Senukoh B
9. KKP Lakiun
10. KKP Sembabat
11. KKP Kampong Puni

\*KKP: Kawasan Kemajuan Pertanian (Agricultural Development Area).

#### Source of Measure

- :
- National Development Plan
  - Halal Meat Act (Cap 183)
  - Administrative Directives and Guidelines

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## BRUNEI DARUSSALAM

5.

**Sector** : Fishery and Services Incidental to Fishing

**Sub-Sector** : -

**Industry Classification** : ISIC Category B  
CPC 882

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment shall not apply to any measure relating to any fishery activities in Brunei Darussalam, including its Economic Exclusive Zone (EEZ). This may include the requirement for all catch/produce to be processed/landed in Brunei Darussalam.

All foreign investment in this sector that utilises Government sites\* as provided for by the Department of Fisheries of Brunei Darussalam must have at least 30% local equity participation.

\*As of the entry into force of this Agreement, the sites in operation are as follows:

### Aquaculture sites

1. Tanjung Pelompong
2. Pengkalan Sibabau, Phase I and I
3. Telisai, Phase I
4. Lalan Pulau Kaingaran
5. Tunggulian, Phase I and III

**Source of Measure** : - National Development Plan  
- Fisheries Order, 2009  
- Fisheries (Fish Culture Farms) Regulations, 2002  
- Fisheries (Fish Landing Complexes) Regulations, 2002  
- Fisheries (Fish Processing Establishments) Regulations, 2002  
- Fisheries Limits Act (Cap 130)  
- Administrative Directives and Guidelines

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## BRUNEI DARUSSALAM

6.

<b>Sector</b>	: Forestry and Services Incidental to Forestry <u>Except</u> logging and sawmilling
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC Category A, Division 02 CPC 8814
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: All foreign investment in this sub-sector must have at least 30% local equity participation.
<b>Source of Measure</b>	: - National Development Plan - Forest Act (Cap 46), including any Subsidiary Legislation - National Forestry Policy (1990)

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## BRUNEI DARUSSALAM

7.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment shall not apply to any measure as may be stipulated by royal decree or 'titah' of His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam.

Note:

Any amendment or modification of an existing measure or adoption of a new measure shall not be more restrictive to existing investors and their investments than the measure applied to such investors or investments immediately before such amendments or modification or adoption.

**Source of Measure** : Constitution of Brunei Darussalam: Article 4(1), 39, 83(3) and 84 (2)

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## BRUNEI DARUSSALAM

8.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment shall not apply to any measure affecting:

- (i) the commercialisation of projects, privatisation, corporatisation, or divestment of assets owned by the Government.
- (ii) the transfer or disposal of equity interests or assets of a state enterprise, a government entity, or a government-linked company (GLC) of Brunei Darussalam.

**Source of Measure** :

- National Development Plan
- Long-Term Development Plan
- Administrative Directives and Guidelines

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## BRUNEI DARUSSALAM

9.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment shall not apply to any measure on imposing licensing requirements on any business activity, including the regulation and control of such business activity, and to approve or reject the application of such licenses by foreigners, in accordance with its relevant laws and national policies.

Note 1:

This includes application of licenses for new business activities and application for renewal of licenses for existing business activities.

Note 2:

This reservation shall not include local equity requirements unless otherwise provided for in this schedule.

**Source of Measure** :

- National Development Plan
- Long-Term Development Plan
- Miscellaneous Licenses (Chapter 127)
- Industrial Coordination Order 2001
- Poisons Act (1984 ed)
- Petroleum Mining Act (Chapter 44)
- Telecoms Order 2001
- Authority for Info-Communications Technology Industry of Brunei (AITI) Operational Handbook
- Architects, Professional Engineers and Quantity Surveyors, Order 2008
- Administrative Directives and Guidelines

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## BRUNEI DARUSSALAM

10.

<b>Sector</b>	: Agriculture, Fishery, Manufacturing and Forestry, and Services Incidental to these Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National treatment shall not apply to any measure with respect to any activities which relate to national food security.
<b>Source of Measure</b>	: - Long-Term Development Plan - Administrative Directives and Guidelines

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## BRUNEI DARUSSALAM

11.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to the activities using natural resources. This may include limitations in the issuance of permits and quotas.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Long-Term Development Plan</li><li>- Administrative Directives and Guidelines</li><li>- Forest Act (Cap 46), including any Subsidiary Legislation</li><li>- National Forestry Policy (1990)</li><li>- Wild Life Protection Act (Cap 102)</li><li>- Wild Flora and Fauna Order. (2007)</li></ul>

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## BRUNEI DARUSSALAM

12.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to: <ul style="list-style-type: none"><li>(i) any measure affecting all land transactions and use, including ownership and lease of land of property, and conditions on which such land shall be held, including the use of natural resources associated with such land, as subject to approval and consent by His Majesty-in-Council.</li><li>(ii) any measure affecting subdivision and consolidation of land, land use land planning and earthwork and building applications on state and private land.</li></ul>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Land Code, Revised Edition 1984 (Chapter 40)</li><li>- Land Code (Strata), Revised Edition 2000 (Chapter 189)</li><li>- The Control of Subdivision and Consolidation of Land Regulation 1973</li><li>- The Control of Development and Use of Land and Building Regulation 1974</li><li>- Town and Country Planning Act 1972</li></ul>

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## BRUNEI DARUSSALAM

13.

<b>Sector</b>	: Forestry and Services Incidental to Forestry
<b>Sub-Sector</b>	: Logging and sawmilling
<b>Industry Classification</b>	: ISIC 0200 CPC 8814
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Permits and licenses are no longer issued for this sub-sector following the implementation of the National Forestry Policy 1990.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- National Development Plan</li><li>- Long-Term Development Plan</li><li>- Forest Act (Cap 46), including any Subsidiary Legislation</li><li>- National Forestry Policy (1990)</li><li>- Administrative Directives and Guidelines</li></ul>

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## BRUNEI DARUSSALAM

14.

<b>Sector</b>	: Mining and Quarrying, and Services Incidental to Mining and Quarrying
<b>Sub-Sector</b>	: Oil and Gas
<b>Industry Classification</b>	: ISIC Category C, Division 11 CPC 883: Services incidental to mining
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to the oil and gas sector.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Petroleum Mining Act (Cap 44)</li><li>- Petroleum (Pipelines) Act (Cap45)</li><li>- Brunei National Petroleum Company Order 2002.</li><li>- Income Tax (Petroleum) Act (Cap 119)</li><li>- Mining Act (Chapter 42)</li><li>- Administrative Directives and Guidelines</li></ul>

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## BRUNEI DARUSSALAM

15.

<b>Sector</b>	: Mining and Quarrying, and Services Incidental to Mining and Quarrying
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC Category C, Division 10, Division 14 No CPC Code Available
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National treatment shall not apply to any measure affecting the sectoral activities. Foreign equity participation will be considered on a case-by-case basis.
<b>Source of Measure</b>	: - Land Code, Revised Edition 1984 (Chapter 40) - - Land Code, (Strata) (Chapter 189), Revised Edition 2000 - Pollution Control Guidelines for Industrial Development for Brunei Darussalam - Town and Country Planning Act 1972 - Water Supply Act (Revised Edition 1984) (Chapter 121) - Antiquities and Treasure Trove Act 1967 (Revised 1984, 1991, 2002) - Mining Act (Chapter 42) - Administrative Directives and Guidelines

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**CAMBODIA**

## CAMBODIA

1.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central Government and Province/Municipality <sup>1</sup>
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: NT shall not apply to any measure relating to land ownership, leasing, transactions, or use; including conditions on which such land shall be held, including the use of natural resources associated with land.

**"Ownership of Land"**: Only natural persons or legal entities of Khmer nationality (at least 51% of the equity held by Khmer Nationality) shall have the right to ownership of the land in the Kingdom of Cambodia. The State may also provide to natural persons or legal entities of Khmer nationality ownership over immovable property belonging to the State within the strict limits set forth in the Land Law.

A Foreign Legal Entity may use the land in various forms, including concession, long term lease for 15 (fifteen) years or more, and renewable short term lease. Land Use rights include the rights on buildings, arrangements, or improvements made by the lessee for a duration specified in the contract, provided that the uses are exercised in compliance with the law in force.

<b>Source of Measure</b>	: - Constitution of the Kingdom of Cambodia, Article 44. - Land Law (30 August 2001). - Code of Civil Procedure (6 July 2006). - Law on Investment of the Kingdom of Cambodia (5 August 1994) and Law on the Amendment of the Law on Investment of the Kingdom of Cambodia (24 March 2003). - Sub-decree 114 ANKr. BK on the Mortgage and Transfer of the Rights over a Long-term lease or and Economic Land Concession (29 <sup>th</sup> August 2007).
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<sup>1</sup> Provincial/Municipality refers to regional government.

## CAMBODIA

2.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central Government and Province/Municipality<sup>2</sup>

**Type of Obligation** : National Treatment  
Senior Management and Board of Director

**Description of Measure** : National Treatment and Senior Management, Board of Director shall not apply to any measure regarding the hiring of employment policies and obligation of the investor.

Employers must give preference to Cambodians when hiring the workers (Article 263 of Labor Law). Investors shall be obliged to promote the Cambodian staff to a senior management level, and this shall be made overtime.

The maximum percentage of foreigners who may be allowed to be employed in each of the enterprises shall not exceed 10% of the total number of Cambodian employees.

**Source of Measure** : - Labor Law dated March 13, 1997, Article 21 and Article 264.  
- Law on Investment of the Kingdom of Cambodia (5 August 1994) and Law on the Amendment of the Law on Investment of the Kingdom of Cambodia (24 March 2003).  
- Sub-Decree No 111 ANK/BK date on September 27, 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.  
- Code of Civil Procedure (6 July 2006).

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<sup>2</sup> Provincial/Municipality refers to regional government.



## CAMBODIA

3.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central Government and Province/Municipality <sup>3</sup>
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Director
<b>Description of Measure</b>	: NT and SMBD may not apply to any measure relating to investment in the portfolio investment.
<b>Source of Measure</b>	: - Preah Reach Kram No. NS/RKM/1007/028 of 19 October 2007 promulgating the Law on the Issuance and Trading of Non-Government Securities. - The Anukret No. 97/ANKR/BK of 23 July 2008 on the Conduct and Organization of the Securities and Exchange Commission of Cambodia. - National Economic Development Policy. - Stock Market Development Policy and its strategies.

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<sup>3</sup> Provincial/Municipality refers to regional government.

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## CAMBODIA

4.

<b>Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: <b>Production/processing of psychotropic substances and narcotic substances: schedule 1, 2 and 3 of the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances</b>
<b>Industry Classification</b>	: 2429
<b>Level of Government</b>	: Central Government and Province/Municipality <sup>4</sup>
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Director
<b>Description of Measure</b>	: National Treatment and SMBD shall not apply to any measure relating to the manufacturing of narcotic and psychotropic substances.  Manufacturing of narcotic and psychotropic substances of schedule 1 is prohibited in the Kingdom of Cambodia, but the manufacturing of finished products of schedule 2 and 3 is only permitted according to the needs and planning of the Ministry of Health of Cambodia.
<b>Source of Measure</b>	: - Law on the Controlling of Drugs (0197.01/24 1997) Article 1, Article 2, Article 3 and Article 4. - Schedule 1, 2 and 3 of the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances. - Sub-Decree No 111 ANK/BK date on September 27, 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia.

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<sup>4</sup> Provincial/Municipality refers to regional government.

## CAMBODIA

5.

<b>Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: <b>Production of poisonous chemicals, agriculture pesticide/ insecticide and other goods by using chemical substances</b>
<b>Industry Classification</b>	: 2421
<b>Level of Government</b>	: Central Government and Province/Municipality <sup>5</sup>
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Director
<b>Description of Measure</b>	: The production of poisonous chemicals, agriculture pesticide/ insecticide is closed to foreign investors.  The production of other goods by using chemical substances, prohibited by international regulations or the World Health Organization, is closed to all investors.
<b>Source of Measure</b>	: - Prakas No. 598 BRK.KSK dated 15 December 2003 issued by Ministry of Agriculture, Forestry and Fishery. - Sub-Decree No 111 ANK/BK date on September 27, 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia.

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<sup>5</sup> Provincial/Municipality refers to regional government.

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## CAMBODIA

6.

<b>Sector</b>	: Forestry
<b>Sub-Sector</b>	: Forestry and Logging: Forestry exploitation business
<b>Industry Classification</b>	: 0200
<b>Level of Government</b>	: Central Government and Province/Municipality <sup>6</sup>
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Director
<b>Description of Measure</b>	: NT and SMBD shall not apply to any measure relating to restrictions or regulations on forestry and forestry-related industries.  All activities prescribing in the chapter 8 (article 28 to article 39) of the Forestry Law shall be prohibited. Natural Protected Areas shall be governed by the Law on Environmental Protection and Management of Natural Resources, with the purpose to : <ul style="list-style-type: none"><li>- protect and promote environmental quality and public health through the prevention, reduction, and control of pollution.</li><li>- assess the environmental impacts of all proposed projects prior to the issuance of the decision by the Royal Government</li><li>- ensure the rational and sustainable conservation, development, management, and use of the natural resources of the Kingdom of Cambodia</li><li>- encourage and enable the public to participate in environmental protection and natural resource management</li><li>- suppress any acts that cause harm to the environment</li></ul> 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 and 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 of the Kingdom of Cambodia and its Sub-Decree on Environmental Impact Assessment Process (EIAP) for such investment.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Forestry law (Reach Kram NS/RKM/0802/016 dated 31 August 2002).</li><li>- Law on Environmental Protection and Natural Resource Management dated 24 December 1996.</li><li>- Government Declaration date 25 January 1999 on Management and Elimination of Forest Anarchy.</li><li>- Sub-Decree No 111 ANK/BK date on September 27, 2005 on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia.</li></ul>

<sup>6</sup> Provincial/Municipality refers to regional government.

## CAMBODIA

7.

<b>Sector</b>	: Mining
<b>Sub-Sector</b>	: Mining including sand exploitation, and Oil and Gas
<b>Industry Classification</b>	: 1410, 1110
<b>Level of Government</b>	: Central Government and Province/Municipality <sup>7</sup>
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Director
<b>Description of Measure</b>	<p>: In order to protect the Natural Environment in all areas within the fresh water and sea water in the Kingdom of Cambodia, all kind of sand exploitation for export abroad shall be prohibited and closed.</p> <p>National Treatment and Senior Management and Board of Director shall not apply to any measure relating to mining including the sand exploitation and oil and gas activities carried out within Cambodia.</p> <p>Investment license in mining including sand exploitation and oil and gas activities is required and shall be subject to terms and conditions determined by the relevant regulatory authorities including: the National Petroleum Authority and the Ministry of Industry, Mines and Energy, Ministry of Water Resources Management and Meteorology.</p>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law on Environmental Protection and National Resource Management dated 24 December 1996.</li><li>- Preah Reach Kram NS/RKM/0701/09 on Law on Mineral Resource Management and Exploitation dated 13 July 2001.</li><li>- Sub-Decree No: 27 ANRK.BK date on April 06, 1999 on the Water Pollution Control.</li><li>- Government Decision No. 29 SSR date on 08 May 2009 on the Limitation of Sand Exploitation.</li></ul>

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<sup>7</sup> Provincial/Municipality refers to regional government.

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**INDONESIA**

## INDONESIA

1.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measures affecting land, property and natural resources associated with land, including acquisition, ownership and lease of land and property.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Article 33 of 1945 National Constitution</li><li>- Law No.5 of 1960 Concerning Basic Regulations on Agrarian Principles</li><li>- Law No. 25 of 2007 Concerning Investment</li></ul>

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## INDONESIA

2.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Business license is given to a foreign investment <sup>1</sup> as required by the relevant regulatory authorities.  National Treatment may not apply to any measure with regard to the duration <sup>2</sup> of the Business License.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law No. 25 of 2007 Concerning Investment</li><li>- Law No. 4 of 2009 Concerning Mining Mineral and Coal</li><li>- Industry Minister Regulation No. 41 of 2008 Concerning Provision and Procedure of Industrial Business Licenses, Expansion Licenses and Industrial Registration</li><li>- Agriculture Minister Regulation No. 26 of 2007 Concerning Guidelines for License on Farming Sectors</li><li>- Government Policy</li></ul>

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<sup>1</sup> For the purpose of this reservation, the term "foreign investment" can be found in Law No. 25 of 2007.

<sup>2</sup> For illustrative examples, the duration of the Business License depends on the respective policy of each sector (e.g. the license period for the manufacturing sector is 30 years and for the fishery and aquaculture (sub sector: Coral) is 5 years).



## INDONESIA

3.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Foreign investor <sup>3</sup> investing in Indonesia must take the form of an Indonesian limited liability company which is subject to Indonesia's Corporate Law, denoted as PT (Perseroan Terbatas).
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law No.25 of 2007 Concerning Investment</li><li>- Law No. 40 Of 2007 Concerning Limited Liability Company</li></ul>

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<sup>3</sup> For the purpose of this reservation, the term "foreign investor" can be found in Law No. 25 of 2007.

## INDONESIA

4.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Foreign investment <sup>4</sup> shall appoint local distribution agents to sell its products to the end-users in Indonesia.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Government Regulation No. 15 of 1998 Concerning The Termination of Foreign Business Activities in The Trade Sectors</li><li>- Trade and Industry Minister Decree No. 160/1998 on Amendment of Trade and Industry Minister Decree No. 77 of 1978 on Provision Concerning The Limited Trade Activities for Production Company in the Frame of Capital Investment</li></ul>

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<sup>4</sup> For the purpose of this reservation, the term "foreign investment" can be found in Law No. 25 of 2007.

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## INDONESIA

5.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: As may be required by the relevant regulatory authorities, a company in which foreign investors <sup>5</sup> own 100% shares, subject to prior notification before the grant of the license, after certain period since commencement of commercial production, the said foreign investors should sell a part of the company's share to domestic investors <sup>6</sup> .

In the case of Mineral and Coal Mining subsector<sup>7</sup>, foreign investors<sup>5</sup>, subject to prior notification before the grant of the license, should sell their shares to domestic investors<sup>6</sup>, on condition that after 5 (five) years from the commencement of commercial production, domestic investors shall own at least 20% of the company's shares.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law No. 25 of 2007 Concerning Investment</li><li>- Law No. 4 of 2009 Concerning Mineral and Coal Mining</li><li>- Government Regulation No.20 of 1994 Concerning Share Ownership in Companies Set Up Under Foreign Capital Investments.</li><li>- Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities</li></ul>
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<sup>5</sup> For the purpose of this reservation, the term "foreign investor" can be found in Law No. 25 of 2007.

<sup>6</sup> For the purpose of this reservation, the term "domestic investor" can be found in Law No. 25 of 2007.

<sup>7</sup> For the purpose of this reservation, the scope of Mineral and Coal Mining subsector is defined in Law No. 4 of 2009 Concerning Mineral and Coal Mining and Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities.

## INDONESIA

6.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment  
Senior Management and Board of Directors

**Description of Measure** : Foreign investment established under Indonesia's Corporate Law must have certain positions<sup>8</sup> to be occupied by Indonesian nationality

**Source of Measure** : - Law No. 13 of 2003 Concerning Manpower  
- Presidential Decree No. 75 of 1995 Concerning The Employment of Expatriates

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<sup>8</sup> For illustrative purposes, this may include but not limited to positions that deals with personnel affairs.

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## INDONESIA

7.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measure with regard to privatization <sup>9</sup> , or divestment of assets through transfer or disposal of equity interests or assets of State owned enterprises including Badan Usaha Milik Negara and Badan Usaha Milik Daerah <sup>10</sup> .
<b>Source of Measure</b>	: Law No. 19 of 2003 Concerning State Owned Enterprises

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<sup>9</sup> For the purpose of this reservation, privatization plan can be found in Law No.19 of 2003.

<sup>10</sup> For the purpose of this reservation, Badan Usaha Milik Negara refers to State Owned Enterprises, while Badan Usaha Milik Daerah refers to Provincial Owned Enterprises.

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## INDONESIA

8.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and SMD shall not apply to any measure with regard to special preferences given for Micro, Small and Medium-sized Enterprises, and Cooperatives denoted as Usaha Mikro, Kecil, Menengah dan Koperasi (UMKM) <sup>11</sup> .
<b>Source of Measure</b>	: - Law No. 20 of 2008 Concerning Micro, Small and Medium Enterprises - Law No. 25 of 1992 Concerning Cooperatives

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<sup>11</sup> For the purpose of this reservation, the definition of Micro, Small, and Medium Sized Enterprises (UMKM) can be found in Law No. 20 of 2008. For the definition of Cooperatives can be found in Law No. 25 of 1992.

For illustrative purpose, the criteria for Micro, Small, and Medium Sized Enterprises, as stipulated in Law No. 20 of 2008, are as follows :

- (1) Criteria for Micro Enterprise are as follows:
  - a. has a net asset, excluding land and building, up to IDR 50 millions; or
  - b. has an annual sales up to IDR 300 millions.
- (2) Criteria for Small Enterprise are as follows:
  - a. has a net asset, excluding land and building, more than IDR 50 millions up to IDR 500 millions; or
  - b. has an annual sales more than IDR 300 millions up to IDR 2.5 billions.
- (3) Criteria for Medium Enterprise are as follows:
  - a. has a net asset, excluding land and building, more than IDR 500 millions up to IDR 10 billions; or
  - b. has an annual sales more than IDR 2.5 billions up to IDR 50 billions.
- (4) The nominal amount as determined in paragraph 1, 2, and 3 above may be changed due to the economic condition by the Presidential Regulation.

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## INDONESIA

9.

<b>Sector</b>	: Agriculture and Fishery
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measures with respect to activities which relate to national food security.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Article 33 of 1945 National Constitution</li><li>- Law No. 7 of 1996 Concerning Foods</li><li>- Government Regulation No. 68 of 2002 Concerning Food Security</li><li>- Government Policy</li></ul>

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## INDONESIA

10.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment shall not apply to any measure affecting the type of activities which may be conducted on land or the usage of land, including but not limited to, land zoning, land use and urban planning policies.

**Source of Measure** : Law No. 26 of 2007 Concerning Spatial Planning

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## INDONESIA

11.

<b>Sector</b>	: Fishery
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC 0500
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Traditional fishery <sup>12</sup> is not allowed to be undertaken by foreign investors <sup>13</sup> . Foreign investors are allowed to undertake fishery activities in Indonesia and its Exclusive Economic Zone, subject to licensing conditions imposed by the relevant regulatory authorities.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law No. 31 of 2004 as amended by Law No. 45 of 2009 Concerning Fishery</li><li>- Law No. 5 of 1983 Concerning Indonesia's Exclusive Economic Zone</li><li>- Presidential Regulation No.36 of 2010 Concerning The List of Businesses Closed and List of Businesses Opened With Reservation In The Investment Sector</li><li>- 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.</li><li>- Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.12/MEN/2007 regarding Aquaculture Business Licensing</li><li>- Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2009 regarding Aquaculture Business Scale</li><li>- Government Policy</li></ul>

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<sup>12</sup>For the purpose of this reservation, the term "traditional fishery" refers to "small scale fisherman" as stipulated in Law Number 31 of 2004 as amended by Law No. 45 of 2009 concerning Fishery and 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. Small scale fisherman is defined as any person whose livelihood is fishing to fulfill daily life needs.

<sup>13</sup> For the purpose of this reservation, the term "foreign investor" can be found in Law No. 25 of 2007.

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## INDONESIA

12.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment shall not apply to any measures relating to portfolio investment

**Source of Measure** : Government Policy

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## INDONESIA

13.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply in the measures relating to the employment of expatriates. Restrictions may be imposed on the number, duration and type of expatriates employed.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law No. 13 of 2003 Concerning Manpower</li><li>- Presidential Decree No. 75 of 1995 Concerning The Employment of Expatriates</li><li>- Manpower and Transmigration Minister Regulation No. 2 of 2008 Concerning Procedures of Employment of Expatriates</li></ul>

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## INDONESIA

14.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measures relating to the issuance of investment implementation licenses/permits <sup>14</sup> at the provincial level <sup>15</sup> , which shall be considered on a case by case basis.
<b>Source of Measure</b>	: - Law No. 32 of 2004 Concerning Regional Government - Provincial Regulations

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<sup>14</sup> For illustrative purposes, this may include location permit, building permit, and nuisance permit.

<sup>15</sup> For the purpose of this reservation, provincial level means the regional level of government as in ACIA.

## INDONESIA

15.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: NT and SMBD may not apply in the event where activities restricted to designated enterprises <sup>16</sup> are liberalized to those other than the designated entities, or in the event where such designated enterprise no longer operate on a non-commercial basis.
<b>Source of Measure</b>	: - Government Regulation No. 13 of 1998 Concerning Public Enterprise - Administrative Guidelines

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<sup>16</sup> For illustrative purposes, this may include State Forestry Public Enterprise denoted as Perum PERHUTANI and National Money Printing Public Enterprise denoted as Perum PERURI

## INDONESIA

16.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: For companies/projects that are in existence before the entry into force of this Agreement, conditions imposed in their approvals for license/permits shall continue to apply. Any changes to these conditions shall be subject to approval.
<b>Source of Measure</b>	: Head of Investment Coordinating Board Regulation No. 12 of 2009 Concerning Guidelines and Procedures For Investment Application

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## INDONESIA

17.

<b>Sector</b>	: <b>Manufacturing Services Incidental to Manufacturing</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC (see below) CPC (see below)
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Certain restrictions/requirements which may be inconsistent with National Treatment may be imposed to foreign investors on the establishment of the following line of businesses in Indonesia :

### **Manufacturing**

#### **1. Closed to Foreign Investors.**

- Salting/drying fish and other waters biota industry and smoked fish industry (ISIC 1512)
- Thread coloring from natural and artificial fiber to be patterned/ dipped/tied thread, performed by hand-work tools ( ISIC 1711)
- Hand painted Batik industry ( ISIC 1712)
- Rubber curing industry (ISIC 2519)
- Manual or semi mechanical processed hand tool industry for handwork and cutting ( ISIC 2893)
- Clay made household necessities industry especially pottery ( ISIC 2691)
- Handicrafts industry that carries specific cultural asset, art value using natural or artificial raw material:
  - Embroidery industry (ISIC 1729)
  - Rattan dan bamboo plait industry; plant plait other than rattan and bamboo industry; carving handicraft from wood, except furniture industry; kitchen household industry from wood, rattan and bamboo; wood, rattan, cork industry that is not classified in other locations (ISIC 2029)
  - Traditional musical instruments (ISIC 3692)
- Hand-tools industry needed for farming to prepare land, process production, post harvest and processing except hoe and shovel (ISIC 2893)
- Palm sugar (ISIC 1542)
- Processed food from seeds and roots, sago, *gnatum gnemon* nut and copra industry, soya sauce industry, soy made food and peanuts other than soya sauce, *tempe*, tofu industry, cracker, chips, peanut cracker, and the like (ISIC 1513; 1514;1549)
- Roots peeling and cleaning industry (ISIC 1531)

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## INDONESIA

- Traditional medicine Industry (ISIC 2423)
- Saw Mill Industry (Production Capacity up to 2000M3/ Year), Primary Rattan Industry (ISIC 2010)
- Mangrove Semi-Finished Goods Art carving industry, except furniture, Kitchen Appliances industry, Goods industry that is not classified elsewhere (ISIC 2029)
- Knitted cloth industry especially Lace (ISIC 1730)
- Moslem woman's praying cloth, scarf, head scarf, and other traditional industries (ISIC 1810)
- Cloth printing industry especially Batik and traditional patterns (ISIC 1712)
- Plantation processing product business industry below certain capacity according to Regulation of Minister of Agriculture Number 26 of 2007:
  - Fiber and Seed Cotton Industry (ISIC 1514, 1711)
  - Crude oil industry (edible oil) from vegetable and animal, coconut oil industry, palm oil industry, rubber to be sheet, thick latex, crumb rubber industry, raw castor oil industry, sugar, sugar cane and sugar cane residue industry, black tea/green tea industry, dry tobacco leaves industry, Copra, Fiber, Coconut Charcoal, Dust, Nata de coco industry, Coffee sorting, cleaning and peeling industry, Cocoa cleaning, peeling and drying industry, cleaning and peeling seed other than coffee and cacao industry, cashew to be dry seed cashew and Cashew Nut Shell Liquid (CNSL) Industry, Peppercorn to be dry white pepper and dry black pepper industry (ISIC 1514, 2429, 1542, 1549, 1600, 2519, 1531)

### **2. Closed to Foreign Investors and Special Permit from Relevant Ministerial/ Government for Domestic Investors.**

- Production of Weapons, Ammunition, explosive devices and War Equipment with special permit from the Minister of Defense (ISIC 2927, 2429)

### **3. Special Permit from Relevant Ministerial/ Government Agencies and Foreign Capital Ownership Limitation**

- Raw Material for Explosives (Ammonium Nitrate) with maximum foreign equity ownership of 49% and a special permit from the Minister of Defense (ISIC 2411)
- Industry of explosive materials and its components for industry need with maximum foreign equity ownership of 49% and a special permit from the Minister of Defense (ISIC 2429)
- Sugar Industry (White Crystal Sugar, Refined Crystal Sugar and Raw Crystal Sugar) with maximum foreign equity ownership of 95% and a special permit from the Minister of Industry and the Minister of Agriculture, and it has to be integrated with the sugar plantation. The manufacturing of

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## INDONESIA

raw crystal sugar is required for any sugar manufacturer with sugarcane input capacity exceeding 8000 tons per day (ISIC 1542)

- Processing of plantation product industry (similar capacity or exceeding a certain capacity, according to Regulation of Minister of Agriculture Number 26 of 2007 with maximum foreign capital ownership of 95% with a special permit from Minister of Agriculture.
  - Fiber and Seed Cotton Industry (ISIC1514, 1711)
  - Crude oil industry (edible oil) from vegetable and animal, coconut oil industry, palm oil industry, rubber to be sheet, thick latex, crumb rubber industry, raw castor oil industry, sugar, sugar cane and sugar cane residue industry, black tea/green tea industry, dry tobacco leaves industry, Copra, Fiber, Coconut Charcoal, Dust, Nata de coco industry, Coffee sorting, cleaning and peeling industry, Cocoa cleaning, peeling and drying industry, cleaning and peeling seed other than coffee and cacao industry, cashew to be dry seed cashew and Cashew Nut Shell Liquid (CNSL) Industry, Peppercorn to be dry white pepper and dry black pepper industry (ISIC 1514, 2429, 1542, 1549, 1600, 2519, 1531)

#### 4. Foreign Capital Ownership Limitation

- Pharmaceutical Industrial Business: Raw Material Medicine Industry, Patent Medicine Industry, with maximum foreign equity ownership of 75% (ISIC 2423)

#### 5. Partnership<sup>17</sup> with Micro, Small and Medium Sized Enterprises and Cooperatives<sup>18</sup>

- Sweetening and saline fruits and vegetable industry (ISIC 1513)
- Printed Batik industry ( ISIC 1712)
- Rattan processing and preserving industry, bamboo and the like ( ISIC 2010)
- Mangrove wood industry:
  - Moulding and construction material component industry (ISIC 2022)
  - Carving handicrafts industry made of wood industry except furniture, Kitchen ware industry ( ISIC 2029)
- Essential Oil Industry ( ISIC 2429)

<sup>17</sup> For this reservation, Partnership with Micro, Small and Medium Sized Enterprises and Cooperatives means cooperation between micro, small and medium size enterprises and cooperatives and foreign investors, which may take any of the following forms joint-operation (plasma-core), sub-contracting, franchise, distributorship, general trading, joint venture and outsourcing.

<sup>18</sup> For the purpose of this reservation, the definition of Micro, Small, and Medium Sized Enterprises (UMKM) can be found in Law No. 20 of 2008. For the definition of Cooperatives can be found in Law No. 25 of 1992.

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- Construction materials:
  - Brick and clay/ceramic industry, other goods made of clay/ceramic industry (ISIC 2691; ISIC 2693)
- Goods made from cement industry (ISIC 2695)
- Industries of lime and products made of lime (ISIC 2694)
- Manufacture of Jewelry and related articles (ISIC 3691)
- Wooden ship industry including tools and equipments for maritime tourism and fishing (ISIC 3511)
- Agricultural machinery industry using medium technology such as rice peeler, corn peeler and handy-tractor (ISIC 2921)
- Industries of multi-various handicrafts:
  1. Handicrafts using plants as raw materials.
  2. Handicrafts using animals as raw materials.
  3. Imitation flowers and decorations.
  4. Imitation jewelry (ISIC 3699).
  5. Handicrafts from mollusk and the like.
  6. Handicrafts made of precious stone and marble.
- Non-metal waste recycle ( ISIC 3720)
- 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 accesories industry, bike and *becak* accesories industry ( ISIC 2899, 2911, 2912, 3591, 3592)
- Milk powder process and condensed milk industry ( ISIC 1520)
- Fishery Processing Business (Usaha Pengolahan Hasil Perikanan - UPI): Fermentation, Reduction/Chemical Process, Surimi and Jelly Fish Process (ISIC 1512)

### **6. Special Permit from Relevant Ministerial/ Government Agencies (applies to both local and foreign investors)**

- Special Printing Industry/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)
- Special Ink Industry. Special permit is required from the Minister of Industry and the National Intelligence Agency (ISIC 2429)
- Pulp Industry (from wood). The raw material should be sourced from industrial plantation forests and special permit is required from the Minister of Industry (ISIC 2101)
- Cigarette Industries

These industries are closed for new investors (both local and foreign). Any expansion of the existing investment requires a special permit from the Minister of Industry.

  - Clove Cigarette Industry (ISIC 1600)
  - Regular Cigarette Industry (ISIC 1600)
  - Other Cigarette Industries (ISIC 1600)

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- Lead Smelting Industry. A special permit is required from the Minister of Environment and the Minister of Industry (ISIC 2720)
- Narcotics for Pharmaceutical Industry (Pharmaceutical Industry) A special permit is required from the Minister of Health (ISIC 2423)
- Saw Mill Industry with production/output capacity above 2000M<sup>3</sup>/ Year. A special permit is required from the Minister of Forestry (ISIC 2010)
- Veneer Industry, Plywood industry, Laminated Veneer Lumber (LVL) Industry. A special permit is required from the Minister of Forestry (ISIC 2021)
- Wood chip industry and Wood Pellet Industry. A special permit is required from the Minister of Forestry (ISIC 2029)
- Cyclamate and Saccharin Industry. A special permit is required from the Food and Drug Administration (FDA) and the Minister of Trade [(ISIC 2411)
- Lubricating oil industry with special permits from Minister of Energy & Mineral Resources and Minister of Industry (ISIC 2320)

### Services Incidental to Manufacturing

#### 1. Industries Closed to Both National and Foreign Investors

- Manufacture of food and beverages on a fee or contract basis (CPC 88411)
  - Fruits and vegetables canning industry
  - Fruits and vegetables pulverizing, juicing and pasting industry
  - Ice cream industry
  - Cassava starch industry

#### 2. Industries Closed to Foreign Investors

- Manufacture of food and beverages on a fee or contract basis (CPC 88411)
  - Meat processing and preserving industry
  - Fish and the like canning industry
  - Cold storage for fish industry and the like
  - Margarine industry
  - Cooking oil industry
  - Milk industry
  - Industry of food from milk
  - Palm starch industry
  - Feed/fishmeal industry
  - Feed/fishmeal concentrate industry
  - Macaroni, noodle, spaghetti, rice noodle industry and the like
  - Tea and coffee processing industry
  - Spice, food flavor and food enhancer industry
  - Syrup industry
  - Other sugar industry other than syrup industry

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- Soft drink industry
- Manufacture of tobacco on a fee or contract basis: (CPC 88412)
  - Kretek (clove) cigarette industry
  - White cigarette industry
  - Other cigarette industry
  - Other products of tobacco
- Manufacture of leather products on a fee or contract basis (CPC 88423)
  - Leather preserving industry
  - Leather tanning industry
- Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials, on a fee or contract basis (CPC 88430)
  - Saw mill industry, including kiln drying
  - Plywood industry
  - Laminated plywood industry, including decorative plywood
  - Molding and building components industry, including kiln drying
- Manufacture of chemicals and chemicals products, on a fee or contract basis (CPC 88460)
  - Formulated pesticide industry
- Manufacture of furniture on a fee or contract basis (88491)
  - Wood furniture industry, including finishing and designing
  - Rattan and bamboo furniture industry, including finishing and designing

### Source of Measure :

- Law No. 25 of 2007 Concerning Investment
- Presidential Regulation of The Republic of Indonesia No. 36 of 2010 on List of Business Fields Closed to Investment and Business Fields Open, with Conditions, to Investment
- Presidential Decree No. 21 of 2001 concerning Lubricant Supply and Services
- Government Policy

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<b>Sector</b>	: <b>Agriculture Services Incidental to Agriculture</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC (see below) CPC (see below)
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Certain restrictions/requirements which may be inconsistent with National Treatment may be imposed to foreign investors on the establishment of the following line of businesses in Indonesia :

### **Agriculture**

#### **1. Closed to Foreign Investors**

- For each individual crop cultivation in an area less than or equal to 25 hectares:
  - Main food crops are corn, soy, peanuts, green beans, rice, cassava, sweet potato; other food crops are wheat, oats, barley, rye, millet, taro, and other food crops not classified elsewhere (ISIC 0111, 0112).
- For each individual crop cultivation in an area less than 25 hectares:
  - Estate crops as follows:
    - Sugar cane and other sweetening plant cultivation, tobacco plantation, rubber and other producing latex plantations, cotton plantation, textile raw material crop plantation, Medicinal/pharmaceutical crop plantation, essential oil crop plantation, and other crop plantation that is not classified in other location (ISIC 0111, 0112)
    - Coconut plantation, palm plantation, beverage material crop plantation (tea, coffee, and cocoa), cashew plantation, peppercorn plantation, clove plantation, and other spices crop plantation (ISIC 0113)
  - Breeding and propagation of the following:
    - *Jatropha curcas* plantation, sugar cane and other sweetening plants, tobacco plant, rubber and other latex producing plants, textile raw material

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plant, medical/pharmaceutical plant, cotton plant, essential oil plant, and other plants that are not classified in other location (ISIC 0111, 0112)

- Coconut plant, palm plant, plants for beverage material (tea, coffee, and cocoa), cashew plant, peppercorn plant, clove plantation, and other spices plant (ISIC 0113)

- Breeding and Propagation of Forest plants (ISIC 0111, 0200)
- Pig breeding and farming in a quantity less than or equal to 125 heads, native chicken ("*ayam buras*") and its cross-breeding and farming (ISIC 0122)
- Plantation processing product business industry below certain capacity according to Regulation of Minister of Agriculture Number 26 of 2007:
  - Dry Clove Flower Industry (ISIC 0140)
- Capturing and Propagating Wildlife from natural Habitat except reptiles (snake, lizard, turtle, soft shell turtle and crocodile) (ISIC 0150)

### 2. Special Permit from Relevant Ministerial/Government Agencies and Foreign Capital Ownership Limitation

- Cultivation of Agricultural Germ Plasm, including food crops, horticulture, plantation, livestock (maximum foreign capital ownership 49%) with special permit from the Minister of Agriculture (ISIC 0111, 0112, 0113, 0121, 0122)
- Cultivation and Processing of Genetically Modified Organism (GMO) Products (maximum foreign capital ownership 49%) with special permit from the Minister of Agriculture (ISIC 0111, 0112, 0113, 0121, 0122)
- For each individual crop cultivation in an area of more than 25 hectares with special permit from the Minister of Agriculture:
  - Main food crops are corn, soy, peanuts, green beans, rice, cassava, sweet potato (maximum foreign capital ownership 49%) (ISIC 0111, 0112)
  - Other food crops are wheat, oats, barley, rye, millet, taro, and other food crops not classified elsewhere (maximum foreign capital ownership 95%) (ISIC 0111, 0112).
- For each individual crop culturing medium/nursery business with special permit from the Minister of Agriculture:
  - Main food crops are corn, soy, peanuts, green beans, rice, cassava, sweet potato (maximum foreign capital

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- ownership 49%) (ISIC 0111, 0112)
- Other food crops are wheat, oats, barley, rye, millet, taro, and other food crops not classified elsewhere (maximum foreign capital ownership 95%) (ISIC 0111, 0112).
- Estate Crops Plantation with an area equal to or more than 25 Hectares until a certain area stipulated in Regulation of Minister of Agriculture Number 26 of 2007, is subject to a maximum foreign capital ownership 95% and a special permit from the Minister of Agriculture :
  - a. Without an integrated processing unit
    - Jatropha Curcas Plantation, Sugar cane and other sweetening plants, Tobacco plantation, Rubber and other latex producing plantation, raw material Textile Crop plantation, Cotton Plantation, Medicinal/pharmaceutical Crop plantation, Essential oil Crop Plantation, Other Crop plantations that are not classified in other locations (ISIC 0111, 0112)
    - Coconut plantation, Palm plantation, Crop Plantation for Beverage material (Tea, Coffee, and Cacao), Cashew plantation, Peppercorn plantation, Clove plantation, Other spices Crop plantations (ISIC 0113)
  - b. With an integrated processing unit with an input capacity equal to or more than a certain capacity as stipulated in Regulation of Minister of Agriculture Number 26 of 2007
    - Clove plantation and dry flower clove industry (ISIC 0113 & 0140),
    - Cotton plantation and cotton fiber and seed industry (ISIC 0111 & 1514, 1711),
    - Cashew plantation and cashew seed industry and Cashew Nut Shell Liquid (CNSL) (ISIC 0113 & 1531),
    - Peppercorn plantation and dry white peppercorn and dry black peppercorn industry (ISIC 0112 & 1531, 1549),
    - Jatropha Plantation and Jatropha Curcas Oil Industry (ISIC 0111 & 2429),
    - Sugar cane plantation, sugar industry, sugar cane, and sugar cane residue (ISIC 0111 & 1542),
    - Tobacco plantation and dry tobacco leaves industry (ISIC 0111 & 1600),
    - Coconut Plantation and coconut oil industry (ISIC 0113 & 1514),
    - Coconut Plantation and Copra, Fiber, Coconut Charcoal, Dust, Nata de coco industry (ISIC 0113, 1514 & 1549),
    - Palm Plantation and palm oil industry (CPO) (ISIC 0113 & 1514),
    - Cacao Plantation and cleaning, peeling and drying

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- industry (ISIC 0113 & 0140, 1543),
  - Tea plantation and black/green tea industry (ISIC 0113&1549),
  - Essential oil Crop Plantation and Essential Oil industry (ISIC 0111, 0112, 0113 & 2429),
  - Coffee Plantation and Coffee sorting, cleaning and peeling industry (ISIC 0113 & 0140, 1549),
  - Rubber plantation and sheet, thick latex industry and crumb rubber industry (ISIC 0111 & 2519),
  - Seed plantation other than Coffee and Cacao and Seeds other than Coffee and Cacao cleaning and peeling industry (ISIC 0111, 0112, 0113 & 0140, 1531)
- Estate crops plantation with an area more than a certain area related as stipulated in the Regulation of Minister of Agriculture Number 26 of 2007, is required to have an integrated processing unit with an input capacity equal to or more than a certain capacity as stipulated in Regulation of Minister of Agriculture Number 26 of 2007, and is subject to maximum foreign capital ownership 95% and a special permit from the Minister of Agriculture:
  - Clove plantation and dry flower clove industry (ISIC 0113 & 0140),
  - Cotton plantation and cotton fiber and seed industry (ISIC 0111 & 1514, 1711),
  - Cashew plantation and cashew seed industry and Cashew Nut Shell Liquid (CNSL) (ISIC 0113 & 1531),
  - Peppercorn plantation and dry white peppercorn and dry black peppercorn industry (ISIC 0112 & 1531, 1549),
  - Jatropha Plantation and Jatropha Curcas Oil Industry (ISIC 0111 & 2429),
  - Sugar cane plantation, sugar industry, sugar cane, and sugar cane residue (ISIC 0111 & 1542),
  - Tobacco plantation and dry tobacco leaves industry (ISIC 0111 & 1600),
  - Coconut Plantation and coconut oil industry (ISIC 0113 & 1514),
  - Coconut Plantation and Copra, Fiber, Coconut Charcoal, Dust, Nata de coco industry (ISIC 0113, 1514 & 1549),
  - Palm Plantation and palm oil industry (CPO) (ISIC 0113 & 1514),
  - Cacao Plantation and cleaning, peeling and drying industry (ISIC 0113 & 0140, 1543),
  - Tea plantation and black/green tea industry (ISIC 0113&1549),
  - Essential oil Crop Plantation and Essential Oil industry (ISIC 0111, 0112, 0113 & 2429),
  - Coffee Plantation and Coffee sorting, cleaning and peeling industry (ISIC 0113 & 0140, 1549),
  - Rubber plantation and sheet, thick latex industry and crumb rubber industry (ISIC 0111 & 2519),



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- Seed plantation other than Coffee and Cacao and Seeds other than Coffee and Cacao cleaning and peeling industry (ISIC 0111, 0112, 0113 & 0140,1531)
  - Breeding and propagation of the following for an area of 25 hectares or over, until a certain area according to Regulation of Minister of Agriculture Number 26 of 2007 with maximum foreign capital ownership 95%, with a special permit from the Minister of Agriculture:
    - *Jatropha curcas* plantation, Sugar cane and other sweetening plant plantation, Tobacco plantation, raw material Textile Crop plantation, cotton plantation, Rubber and other latex producing plantation, Other crop plantations that are not classified in other locations, Medicinal/pharmaceutical crop plantation, Essential oil Crop Plantation (ISIC 0111, 0112)
    - Cashew plantation, Coconut plantation, Palm plantation, Crop Plantation for Beverage material, Peppercorn plantation, Clove plantation, Other spices crop plantation (ISIC 0113)
  - Product processing plantation industry (harvesting and activities relating to harvesting) with an input capacity equal to or exceeding a certain limit as stated in the Regulation of the Minister of Agriculture Number 26 of 2007, with maximum foreign capital ownership 95%, with a special permit from the Minister of Agriculture:
    - Dry Clove Flower Industry (ISIC 0140)
- 3. Foreign Capital Ownership Limitation**
- Hunting business in Hunting Parks and Hunting Blocks (maximum foreign capital ownership 49%) (ISIC 0150)
  - Raising wild animals (ISIC 0150)
- 4. Partnership<sup>19</sup> with Micro, Small and Medium Sized Enterprises and Cooperatives<sup>20</sup>**
- Tobacco drying and preliminary processing industry (ISIC 0111)
  - Silk worm cocoon/chrysalis (natural silk) farming, Bee farming (ISIC 0122)

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<sup>19</sup> For this reservation, Partnership with Micro, Small and Medium Sized Enterprises and Cooperatives means cooperation between micro, small and medium size enterprise and Cooperatives and foreign investors, which may take any of the following forms: joint-operation (plasma-core), sub-contracting, franchise, distributorship, general trading, joint venture and outsourcing.

<sup>20</sup> For the purpose of this reservation, the definition of Micro, Small, and Medium Sized Enterprises (UMKM) can be found in Law No. 20 of 2008. For the definition of Cooperatives can be found in Law No. 25 of 1992.

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### 5. Locational Requirements

- Pig Breeding and Farming (for quantity of more than 125 heads) with a special permit from the local authority (ISIC 0122)

### 6. Special Permit from Relevant Ministerial/ Government Agencies (applies to both local and foreign investors)

- Capturing and Propagating reptiles (snake, lizard, turtle, soft shell turtle and crocodile) from natural habitat with a special permit from Minister of Forestry (ISIC 0150)

## Services Incidental to Agriculture

### Open with certain restriction

- Estate Plantation (CPC 88110)
  - Pest (diseases & insects) forecasting, control and equipment rental (Partnership<sup>21</sup> with Micro, small and Medium Sized enterprises and cooperatives<sup>22</sup>)
- Agriculture (CPC 88110) (Partnership<sup>21</sup> with Micro, Small and Medium Sized Enterprises and Cooperatives<sup>22</sup>)
  - Food crops land/soil preparation, harvesting, threshing, rice milling unit (to be located outside of Java Island)
  - Horticultural pest control (diseases & insects)
  - Food Crop Pest Control
- Livestock (CPC 88110)
  - a. Partnership<sup>21</sup> with Micro, Small and Medium Sized Enterprises and Cooperatives<sup>22</sup>
    - Slaughterhouses for cattle / poultry
  - b. Partnership<sup>21</sup> with Micro, Small and Medium Sized Enterprises and Cooperatives<sup>22</sup> and Special Permit from Relevant Ministerial/Government Agencies
    - Meat Processing/Butchering Plan
- Estate Plantation (CPC 88110) : Partnership<sup>21</sup> with Micro, Small and Medium Sized Enterprises and Cooperatives<sup>22</sup>
  - Land/Soil preparation
  - Landscape Planning and Survey
  - Plant breeding / transplantation and nursery

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<sup>21</sup> For this reservation, Partnership with Micro, Small and Medium Sized Enterprises and Cooperatives means cooperation between micro, small and medium size enterprise and Cooperatives and foreign investors, which may take any of the following forms: joint-operation (plasma-core), sub-contracting, franchise, distributorship, general trading, joint venture and outsourcing.

<sup>22</sup> For the purpose of this reservation, the definition of Micro, Small, and Medium Sized Enterprises (UMKM) can be found in Law No. 20 of 2008. For the definition of Cooperatives can be found in Law No. 25 of 1992.

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### Source of Measure

:

- Law No. 18 of 2004 Concerning Plantation
- Law No. 18 of 2009 concerning Livestock and Animal Health
- 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 No.36 of 2010 Concerning List of Business Fields Closed to Investment and Business Fields Open, With Conditions, to Investment
- Agriculture Minister Regulation No. 26 of 2007 Concerning Guidelines for License on Estate Crops Sector
- 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 on Horticulture Sector
- Agriculture Minister Regulation No 2 of 2009 concerning Guidelines of Veterinary Medical Services
- Government policy

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<b>Sector</b>	: Forestry and Services Incidental to Forestry
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC (see below) CPC (see below)
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Certain restrictions/requirements which may be inconsistent with National Treatment may be imposed to foreign investors on the establishment of the following line of businesses in Indonesia :

#### Forestry

##### 1. Closed to Foreign Investors

- Exploitation of other forest plants (Sugar Palm, Pecan, Tamarind Seed, Charcoal Raw Material, Cinnamon, etc) (ISIC 0200)
- Exploitation of Swallow Nests in Nature (ISIC 0200)
- Primary industry of forest product other than wood (Pine Sap, Bamboo) (ISIC 0200)
- Gathering wild growing forest plants (ISIC 0200)
- Exploitation of wood forest products from the natural forest (ISIC 0200)
- Forest ecosystem restoration (ISIC 0200)
- Exploitation of wood forest products from the community-based forests (ISIC 0200)
- Exploitation of water resources in forest area (ISIC 0200)

##### 2. Foreign Capital Ownership Limitation

- Growing and gathering wild plants (maximum foreign capital ownership 49%) (ISIC 0200)

##### 3. Partnership<sup>23</sup> with Micro, Small and Medium Sized Enterprises and Cooperatives<sup>24</sup>

- Rattan Exploitation, Bamboo Exploitation, Aquilaria malaccensis (gaharu) Exploitation, Shellac Exploitation,

<sup>23</sup> For this reservation, Partnership with Micro, Small and Medium Sized Enterprises and Cooperatives means cooperation between micro, small and medium size enterprise and Cooperatives and foreign investors, which may take any of the following forms: joint-operation (plasma-core), sub-contracting, franchise, distributorship, general trading, joint venture and outsourcing.

<sup>24</sup> For the purpose of this reservation, the definition of Micro, Small, and Medium Sized Enterprises (UMKM) can be found in Law No. 20 of 2008. For the definition of Cooperatives can be found in Law No. 25 of 1992.

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Alternative crop Plant (Sago) Exploitation, Pine Sap Exploitation, Resin Exploitation, Eaglewood Exploitation, Exploitation of Latex Producing Plants-(ISIC 0200)

### 4. Special Permit from the Minister of Forestry

- Development of Technology used on plant and wildlife genetics (ISIC 0200).

### Services Incidental to Forestry

### Industries Closed to Foreign Investors

- Contractors in the field of lumbering (CPC 88140)

### 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. 36 of 2010 on List of Business Fields Closed to Investment and Business Fields Open, with Conditions, to Investment
- Government Policy

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<b>Sector</b>	<b>: Mining &amp; Quarrying Services Incidental to Mining &amp; Quarrying</b>
<b>Sub-Sector</b>	<b>: -</b>
<b>Industry Classification</b>	<b>: ISIC (see below) CPC (see below)</b>
<b>Level of Government</b>	<b>: Central</b>
<b>Type of Obligation</b>	<b>: National Treatment</b>
<b>Description of Measure</b>	<b>: Certain restrictions/requirements which may be inconsistent with National Treatment may be imposed to foreign investors on the establishment of the following line of businesses in Indonesia :</b>

#### **Mining & Quarrying**

- 1. Closed to Foreign Investors**
  - Sea Sand Extraction (ISIC 1410)
- 2. Foreign Capital Ownership Limitation**
  - Geothermal Drilling (maximum foreign capital ownership 95%) (ISIC 1110, 1120)
  - Oil and Gas Drilling Offshore outside of Eastern Indonesia Territory (maximum foreign capital ownership 95%) (ISIC 1110, 1120)
  - Oil and gas drilling onshore (maximum foreign capital ownership 95%) (ISIC 1110, 1120)
- 3. Special Permit from Relevant Ministerial/Government Agencies**
  - Radioactive Mineral Mining (ISIC 1200). Special Permit is required from the National Agency for Atomic Energy (BATAN)
  - Drilling of crude oil and gas on fee or contract basis (ISIC 1120). Special permit is required from Minister of Energy and Mineral Resources on condition of cooperation with national enterprises and only offshore drilling.

#### **Services Incidental to Mining & Quarrying**

- 1. Closed Only for Foreign Investors:**
  - Services of bottling and filling of Liquified Petroleum Gas (LPG) (CPC 8830)
- 2. Open with certain restriction:**
  - Operation and Maintenance Services of Geothermal Facility (maximum foreign capital ownership 90%) (ISIC 8830)
  - Operation and Maintenance Services of Oil and Gas Facility

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(maximum foreign capital ownership 95%) (ISIC 8830)

- Services incidental to the following general mining activities (CPC 8830) (Special Permit from the Minister of Energy and Mineral Resources)
  - Research for general investigation and exploration of mines in offshore or onshore with various research methods
  - Laboratory analysis and mini processing
  - Research and feasibility study on environment
  - Mine construction, cutting, top layer excavation, mining and mine transportation and mine reclamation
  - Consultancy on mining
  - Operation and consultancy on planning of building construction and other facilities in surrounding general mining project
  - Other business directly related and supporting mining business

**Source of Measure :**

- Law No. 22 of 2001 Concerning Oil and Gas Mining
- Law No.4 of 2009 Concerning Mineral and Coal Mining
- Law No.27 of 2003 Concerning Geothermal
- Presidential Regulation of The Republic of Indonesia No. 36 of 2010 on List of Business Fields Closed to Investment and Business Fields Open, with Conditions, to Investment
- Presidential Decree No. 21 of 2001 concerning Lubricant Supply and Services
- Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities
- Government Regulation No. 59 of 2007 as amended by Government Regulation No 70 of 2010 Concerning Geothermal
- Energy & Mineral Resources Minister Regulation No. 20 of 2008 concerning Enactment of Indonesia's National Work Competence Standards in Oil and Gas Sector
- Government Policy

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## INDONESIA

21.

<b>Sector</b>	: Fishery
<b>Sub-Sector</b>	: Coral
<b>Industry Classification</b>	: ISIC 0500
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: Certain restrictions/requirements which may be inconsistent with National Treatment may be imposed to foreign investors on the establishment of the following line of businesses in Indonesia :</p> <ol style="list-style-type: none"><li><b>1. Closed to Foreign Investors and Special Permit from Relevant Ministerial/Government for Domestic Investors</b><ul style="list-style-type: none"><li>• Utilization (exploitation) and distribution of coral/decorative coral from nature for aquarium usage</li><li>• Utilization (exploitation) and distribution of coral/death coral resulted from transplantation/propagation technique</li></ul></li><li><b>2. Foreign Capital Ownership Limitation</b><ul style="list-style-type: none"><li>• Coral breeding/cultivating with maximum foreign capital ownership of 49%</li></ul></li></ol>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law No. 27 of 2007 concerning Management of Coastal Areas and Small Islands</li><li>- Law No. 31 of 2004 as amended by Law No. 45 of 2009 Concerning Fishery</li><li>- Law No. 5 of 1983 Concerning Indonesia's Exclusive Economic Zone</li><li>- Presidential Regulation No.36 of 2010 Concerning The List of Businesses Closed and List of Businesses Opened With Reservation In The Investment Sector</li><li>- 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.</li><li>- Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.12/MEN/2007 regarding Aquaculture Business Licensing</li><li>- Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2009 regarding Aquaculture Business Scale</li><li>- Decree of the Minister of Forestry of the Republic of Indonesia No. 447/Kpts-II/2003 regarding Procedures on Exploitation or Capturing and Distribution of Wild Plants and Animals</li><li>- Government Policy</li></ul>

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## INDONESIA

22.

<b>Sector</b>	: Agriculture, Manufacturing Services Incidental to Agriculture, Manufacturing
<b>Sub-Sector</b>	: Horticulture
<b>Industry Classification</b>	: ISIC 0111, 0112, 0113, 0140, 1513, 1514, 1531, 1549, 2423 CPC 88110, 88411
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors shall not apply to any measures related to the Horticulture subsector activities including but not limited to breeding and propagation, cultivation, harvest and post-harvest, processing, and their services incidental.  Transition period of four years is provided for existing investors <sup>25</sup> in the Horticulture subsectors to make adjustment to comply with measures stated in the Law No. 13 of 2010 and its implementing regulation.  The definition of Horticulture subsectors can be found in the Law No. 13 of 2010.
<b>Source of Measure</b>	: - Law No. 13 of 2010 concerning Horticulture - Government Policy

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<sup>25</sup> Existing investors refer to the existing investors before the enactment of Law No. 13 of 2010.

**LAO PDR**

## LAO PDR

1.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: Foreign investors<sup>1</sup> are not allowed to own land, but allowed to lease land or to receive grant concession of land for investment purpose.</p> <p>The period of the lease is between 35 – 50 years and can be extended for another 25 years to a maximum of 75 years, for agriculture, mining and energy.</p>
<b>Source of Measure</b>	<p>: - Land Law No: 04/NA, Art: 3, 64, 65, 66 and 67, Dated: 20 October 2003.</p> <p>- Law on the Promotion of Foreign Investment No: 11/NA, Art: 04, Dated: 22 October 2004.</p>

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<sup>1</sup> Foreign investor means a foreign individual or legal entity investing in Lao PDR. Foreign entity means a foreign company registered outside Lao PDR.

## LAO PDR

2.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: Foreign investors needs to obtain investment license as follows:</p> <ul style="list-style-type: none"><li>- For investment of more than USD 5 million in the provinces of Savannakhet, Champasack and Luangpabang, and for investment of more than USD 3 million in other provinces, requirement of investment license from the Ministry of Planning and Investment (MPI).</li><li>- Investment licenses may be obtained either from the MPI or from the Committee for promotion and Management of Investment (CPMI), for investment of less than USD 5 million in the provinces of Savannakhet, Champasack and Luangpabang.</li><li>- Investment licenses may be obtained either from the MPI or from the Committee for promotion and Management of Investment (CPMI), for investment of less than USD 3 million in the other provinces.</li></ul> <p>The investment term of a foreign investment enterprise depends on the nature, size and conditions of the business activities or project but shall not exceed fifty years and may be extended with the approval of the government. However, the investment term of a foreign investment enterprise shall be for a maximum of seventy-five years.</p>
<b>Source of Measure</b>	: Decree No: 301/PM, Dated: 12 October 2005 of Prime Minister regarding the implementation of the Law on the Promotion of the Foreign Investment, Article 39-43.

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## LAO PDR

3.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: There are 3 types of businesses for foreign investment: Joint Venture<sup>2</sup>, wholly-owned foreign and business cooperation by contracts.</p> <p>Foreign investors investing in a Joint Venture must contribute at least thirty percent (30%) of the total investment capital and minimum registered capital USD 100,000.</p>
<b>Source of Measure</b>	: Investment Law Article: 7; No: 73/PO, Dated 22 October 2004.

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<sup>2</sup> A "joint venture" is an enterprise established and registered under the laws of the Lao's People Democratic Republic, operated and jointly owned by foreign and domestic investors.

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## LAO PDR

4.

<b>Sector</b>	: Mining and Quarrying
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Exploration and extraction mining and agglomeration of hard coal, lignite, peat</li><li>- Exploration and extraction of crude petroleum, natural gas</li><li>- Mining of chemical and fertilizer minerals</li></ul>
<b>Industry Classification</b>	: ISIC 1010, 1020, 1030 ISIC 1110 ISIC 1421
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Investment in mining operations in Lao PDR shall take following forms: <ul style="list-style-type: none"><li>- sole investment by the state;</li><li>- joint investment between the state and domestic or foreign investors;</li><li>- collective or private investment from domestic investors.</li></ul>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Mining Law Article 21, No: 04-97/NA, Dated 12 April 1997.</li><li>- Decree of Prime Minister regarding the implementation of the Law on the Promotion of Foreign Investment No. 301/PM, Dated 12/10/2005, Article 25 and 25.2.</li></ul>
<b>Justification</b>	: Exploitation of natural resources with high technology to preserve the environment and natural resource.

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## LAO PDR

5.

<b>Sector</b>	: Manufacturing
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Production, processing and preserving of meat and meat products (cattle, pigs, sheep, horse)</li><li>- Fish processing and storing</li><li>- Fruit and vegetable process</li><li>- Manufacture of animal and vegetable oil</li><li>- Manufacture of dolls and manufacturing of game and toys</li><li>- Authentic Lao musical instruments</li><li>- Lao traditional textiles</li><li>- Manufacture of veneer sheets, plywood, lamina board, particle board and other panel boards</li><li>- Manufacturing of pesticides</li><li>- Manufacture of ice cream and ice manufacturing</li><li>- Mill</li><li>- Flour and flour product</li><li>- Feedstuff</li><li>- Bakery products</li><li>- Lao local noodles products</li><li>- Non-alcoholic beverage, soft drink, pure water drinking</li></ul>
<b>Industry Classification</b>	: ISIC 1511, 1512, 1513, 1514 ISIC 3694, 3692, 1729 ISIC 2021, 2421 ISIC 1520, 1531, 1532, 1533, 1541, 1544, 1554
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Reserved exclusively for Lao citizens, to promote the domestic production and exportation. Subject to joint venture with domestic investors and/or export 100%.  The establishment of the new wood processing factory is not permitted, except the case of utilizing raw material (wooden) from the reforestation or forest plantation. No new wood processing factory is to be licenced, but investment is promoted if planted wood is used.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Policy of the Ministry of Agriculture and Forestry, order of the Ministry of Agriculture and Forestry, No.2050/MAF99, dated 20/12/1999.</li><li>- The measures stipulated in the article 24, 31 and 32 of the Law on wildlife No. 07/NA, 24/12/2007 are applied only Lao national.</li><li>- Industrial Processing Law 2001.</li><li>- Ministry of Agriculture and Forestry.</li><li>- Handicraft Law.</li></ul>

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## LAO PDR

- Decree of Prime Minister regarding the implementation of the Law on the Promotion of Foreign Investment (No. 301/PM, Dated 12/10/2005) article 24 and annex 4.
- The provision of the Law on forest No. 06/NA, Dated: 24 December 2007; Article: 41, 42, 68, 86, 87 and 88.
- Drugs and food Department, Ministry of Health.
- Food Law No. 04/NA, Article: 38, Dated: 15 May 2004.

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## LAO PDR

6.

<b>Sector</b>	: Mining and Quarrying
<b>Sub-Sector</b>	: Mining of chemical and fertilizer minerals: Guano (Bat Dung) mining
<b>Industry Classification</b>	: 1421
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Collection of Guano is reserved for citizens and companies wholly-owned by citizens.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Order of the Ministry of Agriculture and Forestry, order of the Ministry of Agriculture and Forestry, No.2050/MAF99, dated 20/12/1999.Regarding to prohibition of Guano excavation for export.</li><li>- Order of Ministry of Agriculture and Forestry, No. 613/MAF99, Dated 8/7/2005, regarding utilization and management of Guano in Lao PDR.</li></ul>
<b>Justification</b>	: May not need to reserve for use of domestic citizens as it may not allow the export in the future.

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## LAO PDR

7.

<b>Sector</b>	: Agriculture and Services Incidental to Agriculture
<b>Sub-Sector</b>	: Hunting, trapping and game propagation and services related to hunting
<b>Industry Classification</b>	: ISIC 0150 CPC 88130
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Subject to agreement and specific approval from the Lao government.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Decree of Prime Minister regarding the implementation of the Law on the Promotion of Foreign Investment No. 301/PM, Dated 12/10/2005, Article: 24 annex 4.</li><li>- The measures stipulated in the article 24, 31 and 32 of the Law on wildlife No. 07/NA, 24/12/2007 are applied only Lao national.</li></ul>

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## LAO PDR

8.

<b>Sector</b>	: Fishery
<b>Sub-Sector</b>	: Operation of fish hatcheries
<b>Industry Classification</b>	: ISIC 0500
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Operation of fish/aquaculture hatcheries in the Mekong River and its tributaries in Lao PDR is reserved for citizens and companies wholly-owned by Lao citizens. No foreigner is authorize to undertake fishing activity for commercial purposes in Lao PDR.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Decree of Prime Minister regarding the implementation of the Law on the Promotion of Foreign Investment No. 301/PM, Dated 12/10/2005, Article: 24 annex 4.</li><li>- Policy of the Ministry of Agriculture and Forestry Draft of Fishing and Fishery Law: Article 26 (in endorsement process).</li><li>- Wildlife Law, No. 07/NA, dated 24/12/2007: Article 24, 31 and 32 on catching/hunting aquatic and wild animals.</li></ul>

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**MALAYSIA**

## MALAYSIA

1.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment  
Senior Management and Board of Directors

**Description of Measure** : For a company incorporated in Malaysia, at least 2 directors must have their principal or only place of residence in Malaysia.

**Source of Measure** : Companies Act 1965.

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## MALAYSIA

2.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measures affecting land, property and natural resources associated with land, including acquisition, ownership and lease of land and property.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Federal Constitution.</li><li>- Malaysia Act 1963.</li><li>- National Land Code 1965.</li><li>- Federal Lands Commissioner Act 1957.</li><li>- Malay Reservations Enactment 1933.</li><li>- Sabah Land Ordinance 1950.</li><li>- Sarawak Land Code 1958.</li><li>- Guidelines on the Acquisition of Properties, Economic Planning Unit.</li><li>- Administrative Guidelines.</li></ul>

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## MALAYSIA

3.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measure with respect to treatment of shares in the share capital of a corporation quoted on the official list of the stock exchange, which have been deposited with the central depository, which restricts the rights, benefits, powers and privileges or makes it subject to liabilities, duties and obligations, where such shares are owned by a foreigner <sup>1</sup> , or the shares are quoted separately as foreign shares on the official list of a stock exchange.
<b>Source of Measure</b>	: Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996.

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<sup>1</sup> For the purposes of this reservation, the term 'foreigner' can be found in Securities Industry (Central Depositories) (Foreign Ownership) Regulations, 1996.

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## MALAYSIA

4.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measure with respect to any security to be listed or listed on a stock exchange, and securities subject to regulation governing acquisition of interests or take-overs and mergers.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Capital Market and Services Act 2007.</li><li>- Companies Act 1965.</li><li>- The Malaysian Code on Take-overs and Mergers 1998.</li></ul>

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## MALAYSIA

5.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply to privatisation, or divestment of assets through transfer or disposal of equity interests or assets owned wholly or partially by the Government or Government-linked entity <sup>2</sup> .

All privatised projects are subjected to Malaysia's development policies and the Privatisation Master Plan with regards to foreign participation. Privatisation projects must be at least 75% Malaysian owned. Foreign participation may be considered in the following cases:

- Where foreign expertise is needed to upgrade efficiency and such expertise is not available locally.
- Where their participation is necessary to promote export market;
- Where local capital is insufficient; and
- Where the nature of business requires international linkages and exposure.

All conditions imposed on existing privatised entities will continue to be applicable.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Malaysia privatization programme.</li><li>- Privatisation Master Plan.</li><li>- Guidelines on Privatisation.</li><li>- The Ninth Malaysia Plan.</li><li>- New Economic Policy.</li><li>- National Development Policy.</li><li>- GLC Transformation Programme.</li><li>- Minister of Finance (Incorporation) Act 1957.</li></ul>
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<sup>2</sup> Government-linked entity includes Government-Linked Company (GLC) and Government-Linked Investment Company (GLIC) where the Government holds control of such entity including ability to appoint Board of Directors, Senior Management and make major decisions for the company.

## MALAYSIA

6.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply in the event where activities restricted to designated enterprises <sup>3</sup> are liberalized to those other than the designated entities, or in the event where such designated enterprise no longer operate on a non-commercial basis.
<b>Source of Measure</b>	: - Control of Padi and Rice Act 1994. - Industrial Coordination Act 1975. - Government Policy. - Administrative Guidelines.

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<sup>3</sup> For illustrative purposes, 'Designated enterprises' may include Padiberas Nasional Berhad (BERNAS) and Kualiti Alam Sdn Bhd.

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## MALAYSIA

7.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply to any measure relating to special preferences to: (i) Bumiputera <sup>4</sup> ; and (ii) Bumiputera-status companies <sup>5</sup> , trust companies and institutions.
<b>Source of Measure</b>	: - Federal Constitution. - Aboriginal Peoples Act 1954. - Interpretation Ordinance 2005 (Cap.61). - Interpretation (Definition of Native) (Cap.64). - Government Policy. - New Economic Policy. - National Development Policy. - National Vision Policy. - Guidelines on the Acquisition of Properties, Economic Planning Unit. - Administrative Guidelines.

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<sup>4</sup> The term 'Bumiputera' covers Malays, natives of Sabah and Sarawak, and aborigines.

<sup>5</sup> The phrase 'Bumiputera-status companies' may be found among others, in the Treasury Circular Letter No. 4 of 1995(aka Surat Pekeliling Perbendaharaan No.4 Tahun 1995)

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## MALAYSIA

8.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply in the measures relating to the employment of expatriates. Restrictions may be imposed on the number, duration and type of expatriates employed.
<b>Source of Measure</b>	: - Immigration Act 1959. - Employment (Restriction) 1968 (Revised-1988). - Guidebook on the Employment of Expatriates. - Government Policy.

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## MALAYSIA

9.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measures relating to acquisition and ownership of National and State unit trusts.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Federal Constitution.</li><li>- New Economic Policy.</li><li>- National Development Policy.</li><li>- National Vision Policy</li><li>- Guidelines on Unit Trust Funds.</li></ul>

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## MALAYSIA

10.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central and Regional

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment may not apply in the issuance of licence/permit. This may include numerical limitations and non-issuance of licences.

National Treatment may not apply to conditions<sup>6</sup> imposed in the issuance of licence/permit.

**Source of Measure** : - Government Policy.  
- Industrial Coordination Act 1975.  
- Administrative guidelines.

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<sup>6</sup> For illustrative purposes, this may include compliance with the requirement that employment of workers be reflective of the racial composition of the country and requirement to use local distributors.

## MALAYSIA

11.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measure relating to the rights of statutory bodies. <sup>7</sup>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Article 92 of Federal Constitution.</li><li>- Employees Provident Fund Act 1991.</li><li>- Tabung Haji Act 1995.</li><li>- Tabung Angkatan Tentera Act 1973.</li><li>- State Economic Development Corporation Enactments.</li><li>- Iskandar Regional Development Authority Act 2007.</li><li>- Northern Corridor Implementation Authority Act 2008.</li><li>- East Coast Economic Region Development Council Act 2008.</li><li>- Regional Corridors Development Authorities Act 2006 .</li><li>- Sabah Economic Development and Investment Authority (SEDIA) Act 2009.</li><li>- Administrative Guidelines.</li></ul>

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<sup>7</sup> Examples of statutory bodies include Employees Provident Fund and Lembaga Tabung Haji.

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## MALAYSIA

12.

<b>Sector</b>	: <b>Manufacturing Services Incidental to Manufacturing</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC Divisions 15 to 36
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: For companies/projects that are in existence before the entry into force of this Agreement, conditions imposed in their approvals for licence/permits shall continue to apply. Notwithstanding the liberalisation of similar licence conditions for new companies/projects, or expansion and/or diversification projects, any liberalisation for existing companies/projects shall be considered on a case by case basis.
<b>Source of Measure</b>	: - Industrial Co-ordination Act 1975. - Government Policy. - Administrative Guidelines.

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## MALAYSIA

13

<b>Sector</b>	: <b>Manufacturing</b> <b>Services Incidental to Manufacturing</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC (see below) CPC 884-885
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Foreign equity is limited up to 30% in the following activities/products: <ul style="list-style-type: none"><li>• Fabrics and apparels of Batik (ISIC 1711, ISIC 1712, ISIC 1810)</li><li>• Integrated Portland Cement (ISIC 2694)</li></ul> <p>The following activities/products may be subjected to conditions which may be inconsistent with National Treatment:</p> <p><u>Sectors with specific conditions</u></p> <ul style="list-style-type: none"><li>• Pineapple canning (ISIC 1513)</li><li>• Palm oil milling and refining (ISIC 1514)</li><li>• Wood-based products utilizing local logs (ISIC 2010, ISIC 2021, ISIC 2022)</li><li>• Steel billets/blooms (ISIC 2710)</li><li>• Arms, weapons, ammunitions, explosive, pyrotechnic products, propellant powders, detonating or safety fuses, and the like (ISIC 2429, ISIC 2927)</li><li>• Petroleum refining (ISIC 2320)</li><li>• Manufacture/Assembly of motor vehicles, passenger cars, and commercial vehicles (ISIC 3410)</li></ul> <p><u>Sectors which are currently closed</u></p> <ul style="list-style-type: none"><li>• Sugar refining (ISIC 1542)</li><li>• Liquors and alcoholic beverages (ISIC 1551-3)</li><li>• Tobacco processing and cigarettes (ISIC 1600)</li><li>• Hot rolled steel bars and wire rods (ISIC 2710)</li><li>• Optical discs, including CD, CD-ROM, VCD, DVD (ISIC 2230)</li><li>• Biodiesel (ISIC 2411)</li><li>• Collection, storage, treatment and disposal of hazardous and toxic wastes</li><li>• Ordinary Portland Cement (non-integrated) (ISIC 2694)</li></ul>
<b>Source of Measure</b>	: - Industrial Co-ordination Act 1975. - Customs Act 1967.

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## MALAYSIA

14.

<b>Sector</b>	: <b>Fishery Services Incidental to Fishery</b>
<b>Sub-Sector</b>	: <b>Capture fisheries</b>
<b>Industry Classification</b>	: <b>ISIC Division 05 CPC 882</b>
<b>Level of Government</b>	: <b>Central and Regional</b>
<b>Type of Obligation</b>	: <b>National Treatment</b>
<b>Description of Measure</b>	<p>: Foreign fishing vessels<sup>8</sup> are not allowed to fish or attempt to fish or conduct any research or survey in Malaysia's Exclusive Economic Zone (EEZ).</p> <p>No foreign fishing vessels shall load or unload or land any fish, fuel or supplies or tranship any fish in Malaysian fisheries waters or Malaysian ports without written approval by the Malaysian Government.</p> <p>National Treatment may not apply to any measure relating to tuna fishing. Local equity requirement may be imposed in the establishment of a business operation in Malaysia.</p>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Fisheries Act 1985.</li><li>- Fisheries Development Authority of Malaysia Act 1971.</li><li>- Exclusive Economic Zone Act 1984.</li><li>- Continental Shelf Act 1966.</li><li>- National Land Code.</li></ul>

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<sup>8</sup> For the purpose of this reservation, the term 'foreign fishing vessels' can be found in Section 2 Fisheries Act 1985 (Act 317)

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## MALAYSIA

15.

**Sector** : Agriculture  
Services Incidental to Agriculture

**Sub-Sector** : -

**Industry Classification** : ISIC Division 01  
CPC 8811 – 8813

**Level of Government** : Central and Regional

**Type of Obligation** : National Treatment

**Description of Measure** : Equity ownership must be in line with the national development objectives of growth with equity in order to meet distributional goals.

**Source of Measure** : - National Agricultural Policy.  
- Administrative guidelines.

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## MALAYSIA

16.

<b>Sector</b>	<b>:</b> Forestry Services Incidental to Forestry
<b>Sub-Sector</b>	<b>:</b> Extraction and Harvesting of Timber Forest Plantation
<b>Industry Classification</b>	<b>:</b> ISIC Division 02 CPC 8814
<b>Level of Government</b>	<b>:</b> Central and Regional
<b>Type of Obligation</b>	<b>:</b> National Treatment
<b>Description of Measure</b>	<b>:</b> National Treatment may not apply to measures relating to forest plantation.

Extraction and harvesting of timber is closed to foreign investors in Peninsular Malaysia and Sabah. However, for Sarawak, local involvement and majority local control is required. Forest areas to be opened for such activities will be gradually reduced in the future to enable the resources to be managed sustainably.

For services incidental to extraction and harvesting of timber is closed to foreign investors in Peninsular Malaysia and Sabah. However, for Sarawak, maximum foreign equity ownership allowed is 30%; flexibility could be considered on a case by case basis.

<b>Source of Measure</b>	<b>:</b> <ul style="list-style-type: none"><li>- National Forestry Act 1984 (Act 313).</li><li>- F.M.S Forest Enactment 1934 (Cap. 153).</li><li>- Johor Forest Enactment (J.En.No.58).</li><li>- Kedah Forest Enactment (K.En.15 of 1357).</li><li>- Kelantan Forest Enactment (Kn.En.4 of 1939).</li><li>- Perlis Forest Enactment (Ps.En.3 of 1370).</li><li>- S.S Forest Ordinance (Cap. 147).</li><li>- Sabah Forest Enactment (Sabah En.2 of 68).</li><li>- Sarawak Forest Ordinance (Swk.Cap.126).</li><li>- Terengganu Forest Enactment (Tr. No.44 of 1356).</li><li>- Administrative guidelines.</li></ul>
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## MALAYSIA

17.

<b>Sector</b>	: Mining and Quarrying Services Incidental to Mining and Quarrying
<b>Sub-Sector</b>	: Oil and Gas Upstream Industries
<b>Industry Classification</b>	: ISIC Divisions 10 to 14 CPC 883
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: PETRONAS is given the exclusive rights, powers, liberties and privileges to explore, exploit, win and obtain petroleum, whether onshore or offshore of Malaysia.
<b>Source of Measure</b>	: - Petroleum Development Act 1974. - Petroleum Mining Act 1966.

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## MALAYSIA

18.

<b>Sector</b>	: Mining and Quarrying Services Incidental to Mining and Quarrying
<b>Sub-Sector</b>	: Other mining and quarrying activities
<b>Industry Classification</b>	: ISIC Divisions 10 to 14 CPC 883
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply to any measure relating to mining and quarrying activities. Joint ventures with state or state-linked enterprises may be required.
<b>Source of Measure</b>	: - Minerals Development Act 1994. - State Mineral Enactments.

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**MYANMAR**

## MYANMAR

1.

<b>Sector</b>	: <b>Manufacturing Sector</b>
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Distilling, blending, rectifying, bottling and marketing of all kinds of spirits, beverages and non beverages (ISIC 1551)</li><li>- Manufacture of wines (ISIC 1552)</li><li>- Manufacture of malt and malt liquors, beer and other brewery products (ISIC 1553)</li><li>- Manufacture of soft beverages, aerated and non-aerated products (ISIC 1554)</li><li>- Manufacture of cigarettes (ISIC 1600)</li><li>- Manufacture of corrugated galvanised iron sheets (ISIC 2710)</li><li>- Manufacture of bakery products (ISIC 1541)</li><li>- Manufacture of pulp, paper and paper board (ISIC 2101)</li></ul>
<b>Industry Classification</b>	: ISIC 1551, 1552, 1553, 1554, 1600, 2710, 1541, 2101
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: No new permits are issued to foreign investors <sup>1</sup>  For Manufacture of pulp, paper and paper board (ISIC 2101), integrated project is compulsory. Integrated project means combining of all plants into a whole Mill which compose Pulp Plant, Paper Plant, Chemical Plant, Recovery Plant, Power Plant and Waste Water Treatment Plant etc.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- The Union of Myanmar Foreign Investment Law (1988).</li><li>- Administrative Guideline.</li></ul>

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<sup>1</sup> According to the Union of Myanmar Foreign Investment Law, "Foreign Investor" means a person or an economic organization making an investment under a permit.



## MYANMAR

2.

<b>Sector</b>	: <b>Manufacturing and Services incidental to Manufacturing</b>
<b>Sub-Sector</b>	: - <b>Manufacture of pharmaceutical drugs (ISIC 2423)</b> - <b>Services related to manufacture of pharmaceuticals (CPC 88570)</b>
<b>Industry Classification</b>	: ISIC 2423 CPC 88570
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Only allowed to State-owned Enterprises under the Ministry. <sup>2</sup>  Require permission from Food and Drug Administration (FDA) under the Ministry of Health.
<b>Source of Measure</b>	: - Directives. - National Drug Law (1992).

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<sup>2</sup> State-Owned Enterprises means enterprises owned or controlled by the respective ministries under the state budget.

## MYANMAR

3.

<b>Sector</b>	: Manufacturing and Services incidental to Manufacturing
<b>Sub-Sector</b>	: - Manufacture of Refined Petroleum Products ( ISIC 2320) - Services relating to manufacture of refined petroleum products (CPC 88450)
<b>Industry Classification</b>	: ISIC 2320 CPC 88450
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: State-owned Enterprises are allowed to operate oil refining and undertake refining activities.  Myanmar Nationals/ Myanmar Companies <sup>3</sup> established under the existing Laws of Myanmar can be allowed subject to the approval of the Cabinet on a case-by-case basis.
<b>Source of Measure</b>	: - The Union of Myanmar Foreign Investment Law (1988). - State-owned Economic Enterprises Law (1989). - Directives. - Myanmar Citizens Investment Law (1994.)
<b>Justification</b>	: - For national interest. - According to the Section 4 of the State-owned Economic Enterprises Law (SEEs), the Government may, by notification, permit in the interest of the Union of Myanmar any economic enterprise which is prescribed under the Section 3, to be operated solely by the Government to be carried out by joint-venture between the Government and any other person or any other organization or under conditions by any person or any economic organization subject to conditions.

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<sup>3</sup> Myanmar Companies are companies solely-owned or controlled by Myanmar Nationals.

## MYANMAR

4.

<b>Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: - <b>Publishing of Newspaper Business (ISIC 2212)</b> - <b>Reproduction of Recorded Media (ISIC 2230)</b>
<b>Industry Classification</b>	: ISIC 2212, 2230
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Newspaper business must be run by Government bodies only.  Reproduction of recorded media business must be run by Government and Myanmar nationals only.
<b>Source of Measure</b>	: - Article (3) of State-owned Economic Enterprises Law (1989). - Decision made by Central Supervisory Board of Printers and Publishers Registration, Press Scrutiny, and Publication which was formed by the Government.
<b>Justification</b>	: Newspaper business is important sector for the Government and State.  Reproductions of recorded media business are important sectors not only for the Government and State but also for the audiences.

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## MYANMAR

5.

<b>Sector</b>	: Forestry and Services Incidental to Forestry
<b>Sub-Sector</b>	: - Production and extraction of hard-wood <sup>4</sup> from the natural forest <sup>5</sup> (ISIC 0200) - Services incidental to Forestry (CPC 8814) <ul style="list-style-type: none"><li>• Extraction of logs from the natural forests</li><li>• Protected areas system <sup>6</sup></li></ul>
<b>Industry Classification</b>	: ISIC 0200 CPC 8814
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Only allowed to State-owned Enterprise under the Ministry
<b>Source of Measure</b>	: - Forest Policy (1995). - State-owned Economic Enterprises Law (1989) - Forest Law (1992) - Protection of Wildlife and Wild Plants and Conservation of Natural Areas Law (1994)
<b>Justification</b>	: Conservation of forest resources and the environment. Biodiversity conservation

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<sup>4</sup> Hard-wood is used to describe wood from non-monocot angiosperm trees and for those trees themselves. These are usually board-leaved; in temperate and boreal latitude they are mostly deciduous, but in tropics and subtropics mostly evergreen.

<sup>5</sup> Natural forests are the forest which might be managed to some degree or unmanaged. After an adequate amount of time without intervention, such a forest might develop some of the basic structure of virgin forest.

<sup>6</sup> Protected Areas System is an area of land/or sea especially dedicated to the production of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means (IUCN, 1994).

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## MYANMAR

6.

<b>Sector</b>	: Fishery
<b>Sub-Sector</b>	: Fishing of marine fish, prawns and other aquatic organisms
<b>Industry Classification</b>	: ISIC 0500
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: If any investor desires to engage in a fishery in the exclusive economic zone, he shall apply to the Department of Fisheries in the prescribed form. Such an investor shall form a joint venture with State organization (or) existing joint venture company or private Myanmar Company, subject to the approval of the Government. Provided that in exceptional circumstances, he may apply for permission to operate a fishery in other fisheries waters.(Chapter 3, para 6 at Law Relating to the Fishing Rights of Foreign Fishing Vessels)(1989).</p> <p>Such an investor shall initially discuss with the Department of Fisheries under the Ministry of Livestock and Fishery. The Ministry shall submit the proposal to Cabinet through Myanmar Investment Commission (MIC) and Trade Council. After getting approval from Cabinet, MIC will issue the investment permit. An investor who has been granted a fishery on application under section 6 shall obtain a licence and register at the Department of Fisheries.</p>
<b>Source of Measure</b>	: - Law relating to the Fishing Right of Foreign Fishing Vessels (1989). - Myanma Marine Fisheries Law (1990).
<b>Justification</b>	: For fishing of marine fish, prawn, and other aquatic organism, different treatment is given to Myanmar citizens according to the provisions of the Myanma Marine Fisheries Law (1990).

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## MYANMAR

7.

<b>Sector</b>	: Services Incidental to Fishery
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Services related to processing on board for fish, crustaceans and mollusks and other related services, exploitation of sea-products.</li><li>- Services related to exploitation of fresh water fisheries.</li><li>- Quarantine, quality control of aquaculture and processing products, services on supply of feed, medicines and chemical for aquaculture.</li></ul>
<b>Industry Classification</b>	: CPC 88200
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>If any investor desires to engage in a fishery in the exclusive economic zone, he shall apply to the Department of Fisheries in the prescribed form. Such an investor shall form a joint venture with State organization (or) existing joint venture company or private Myanmar Company, subject to the approval of the Government. Provided that in exceptional circumstances, he may apply for permission to operate a fishery in other fisheries waters.(Chapter 3, para 6 at Law Relating to the Fishing Rights of Foreign Fishing Vessels)(1989)</p> <p>Such an investor shall initially discuss with the Department of Fisheries under the Ministry of Livestock and Fishery. The Ministry shall submit the proposal to Cabinet through Myanmar Investment Commission (MIC) and Trade Council. After getting approval from Cabinet, MIC will issue the investment permit. An investor who has been granted a fishery on application under section 6 shall obtain a licence and register at the Department of Fisheries.</p>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law relating to the Fishing Rights of Foreign Fishing Vessels (1989).</li><li>- Myanma Marine Fisheries Law (1990)</li></ul>
<b>Justification</b>	: For fishing of marine fish, prawn, and other aquatic organism, different treatment is given to Myanmar citizens according to the provisions of the Myanma Marine Fisheries Law (1990)

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## MYANMAR

8.

<b>Sector</b>	: Mining and Quarrying, and Services Incidental to Mining and Quarrying
<b>Sub-Sector</b>	: - Exploration and Extraction of Natural Gas (ISIC 1110) - Exploration and Extraction of Petroleum (ISIC 1110) - Services relating to Exploration and Extraction of Natural Gas (CPC 88300) - Services relating to Exploration and Extraction of Petroleum (CPC 88300)
<b>Industry Classification</b>	: ISIC 1110 CPC 88300
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: According to the section-3 of State-owned Economic Enterprises (SEEs) Law (1989), Exploration and Extraction of Natural Gas and Petroleum are restricted activities to be carried out solely by the State. However, investor who wants to engage in these activities shall initially discuss with the Ministry of Energy under Production Sharing Contract. The Ministry shall submit the proposal to Cabinet through MIC and Trade Council. After getting approval from Cabinet, the Government will issue notification subject to the State-owned Economic Enterprises Law.  The Management Committee shall consist of a total of 7 members, 4 from the Myanmar side, one of whom shall act as Chairman and 3 from the investor side according to Production Sharing Contract or according to the agreement between Ministry of Energy and the investor.
<b>Source of Measure</b>	: State-owned Economic Enterprises Law (1989).

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## MYANMAR

9.

**Sector** : Services incidental to Mining and Quarrying

**Sub-Sector** : Gemstone

**Industry Classification** : CPC 88300

**Level of Government** : Central

**Type of Obligation** : National Treatment  
Senior Management and Board of Directors

**Description of Measure** : Foreigners and foreign companies are not allowed for prospecting, exploration and mining of gemstone.

Services relating to prospecting, exploration and mining of gemstone are only allowed to the Companies formed solely with Myanmar Citizen under the Special Company Act 1950.

The composition of Joint Management Committee may consist of a minimum of five members and to be mutually agreed by Product Sharing Contract (PSC) Partners.

A minimum of three members from Myanmar side one of who shall act as chairman and two members from the partner company.

The Joint Management Committee is responsible for assisting the General Manager in decision making in financial, technical and procurement issues.

**Source of Measure** : - Ministerial Policy  
- State-owned Economic Enterprises Law(1989)  
- Myanmar Gemstone Law (1995)

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## MYANMAR

10.

<b>Sector</b>	:	All Sectors (Land Ownership)
<b>Sub-Sector</b>	:	-
<b>Industry Classification</b>	:	
<b>Level of Government</b>	:	Central
<b>Type of Obligation</b>	:	National Treatment
<b>Description of Measure</b>	:	National Treatment may not apply to any measures affecting land <sup>7</sup> , property and natural resources associated with land. Land is owned by the State. However, government-owned lands, lands owned by the government department, organization and private lands owned by the citizen can be leased for initial 30 years and extendable two consecutive terms of 15 years subject to the approval of the Myanmar Investment Commission.
<b>Source of Measure</b>	:	<ul style="list-style-type: none"><li>- The Transfer of Immovable Property Restriction Law (1987).</li><li>- Directive 3/90.</li><li>- Directive 5/93.</li><li>- The Central Committee for the Management of Cultivable Land, Fallow Land and Waste Land Notification No. 1/91.</li><li>- Notification No.39/2011 (30<sup>th</sup> September, 2011)</li></ul>

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<sup>7</sup> For the purposes of reservation, land includes residential land, Commercial land, Industrial land and Agricultural & Livestock land.

## MYANMAR

11.

**Sector** : All Sectors  
**Sub-Sector** : -  
**Industry Classification** :  
**Level of Government** : Central  
**Type of Obligation** : National Treatment  
**Description of Measure** : Company incorporation

A foreign company, whether a hundred percent owned or a joint venture and a branch/ representative office, is required to apply and obtain a permit for business operation.

A joint venture with the State equity formed under the Special Company Act 1950 is exempted from obtaining a permit.

**Source of Measure** : - Myanmar companies Act (1914)  
- Special Company Act (1950)  
- Directives

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# PHILIPPINES

**PHILIPPINES**

## PHILIPPINES

1.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure affecting land and property associated with land, including their acquisition, ownership, lease, development, utilization, conservation and protection.
<b>Sources of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Civil Code of the Philippines (Republic Act (R.A.) No. 386).</li><li>- Public Land Act (Commonwealth Act (C.A.) No. 141).</li><li>- Indigenous Peoples Rights Act of 1997 (R.A. No. 8371).</li><li>- Foreign Investments Act of 1991 (R.A. No. 7042, as amended by R.A. No. 8179)</li><li>- Agriculture and Fisheries Modernization Act of 1997 (R.A. No. 8435).</li><li>- Special Purpose Vehicle Act of 2002 (R.A. No. 9182).</li><li>- Investors' Lease Act (R.A. No. 7652).</li><li>- Comprehensive Agrarian Reform Law of 1988 (R.A. No. 6657, as amended by RA No. 9700).</li><li>- Philippine Mining Act of 1995 (R.A. No. 7942).</li><li>- Philippine Fisheries Code of 1998 (R.A. No. 8550).</li><li>- Water Code of the Philippines (Presidential Decree (P.D.) No. 1067).</li><li>- Condominium Act (R.A. No. 4726).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (Executive Order (E.O.) No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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## PHILIPPINES

2.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	<p>: National Treatment and the Senior Management and Board of Directors obligations shall not apply to:</p> <ol style="list-style-type: none"><li>1. a right, franchise, privilege, property or business, which is expressly reserved by the Constitution or the laws of the Philippines to its citizens and its qualified entities that has been transferred, conveyed or leased to a foreign investor not possessing the prescribed requisites by the Constitution or such laws; and</li><li>2. a foreign investor that intervenes in the management, operation, administration or control of such businesses which are reserved for Filipinos, whether such investors are officers, employees or laborers therein, except technical personnel whose employment may be specifically authorized by the Secretary of Justice.</li></ol> <p><u>Note:</u> The election of aliens as members of the board of directors or governing body of corporation or associations engaging in partially nationalized activities shall be allowed in proportion to their allowable participation or share in the capital of such entities.</p>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Act to Punish Acts of Evasion of the Laws on the Nationalization of Certain Rights, Franchises or Privileges (C.A. No. 108, as amended by P. D. No. 715).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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## PHILIPPINES

3.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment shall not apply to measures affecting the establishment of a corporation, partnership, sole proprietorship, association or branch office of a foreign corporation. The operations of these entities shall be subject to their continuing compliance with registration and qualification requirements.  Domestic corporations shall comply with the following requirements: <ol style="list-style-type: none"><li>1. Majority of the incorporators must be residents of the Philippines.</li><li>2. Corporate secretary shall be a resident and citizen of the Philippines.</li><li>3. Treasurer shall be a resident of the Philippines</li><li>4. Majority of the directors must be residents of the Philippines.</li></ol> Branch of a foreign corporation shall have at least one resident agent in the Philippines.
<b>Source of Measure</b>	: - 1987 Constitution of the Republic of the Philippines. - Corporation Code of the Philippines of 1980 (Batas Pambansa (B. P.) Blg. 68). - Presidential and Administrative Issuances.

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## PHILIPPINES

4.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to registration of foreign investment (equity and debt) and foreign loans with the Bangko Sentral ng Pilipinas.

Note:

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 Agent Banks (AABs) or AAB foreign exchange corporations.

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 AABs or AAB foreign exchange corporations, 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 and/or government financial institutions, or by AABs; or (ii) granted by local banks and directly funded or collateralized by offshore loans or deposits.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Foreign Investments Act of 1991 (R.A. No. 7042, as amended by R.A. No. 8179).</li><li>- Foreign Borrowings Act of 1966 (R.A. No. 4860)</li><li>- New Central Bank Act (R.A. No. 7653).</li><li>- Manual of Regulations on Foreign Exchange Transactions (BSP Circular 645).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>
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## PHILIPPINES

5.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to cooperatives. No foreign equity allowed.

Note:

As a general concept, a cooperative is a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful common, social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Cooperative Code of the Philippines (R.A. No. 6938).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>
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## PHILIPPINES

6.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure relating to:  <ol style="list-style-type: none"><li>1. certain areas of investments, when national interest<sup>1</sup> so dictates; and,</li><li>2. regulation over foreign investments within its national jurisdiction and in accordance with its national goals and priorities, as embodied in the Philippines Medium Term Development Plan and provided that such measure shall not affect such existing investments,</li></ol> where such measure is necessary and would not constitute arbitrary or unjustifiable discrimination or a disguised restriction on foreign investments.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Foreign Investments Act of 1991 (R.A. No. 7042, as amended by R.A. No. 8179).</li><li>- Omnibus Investments Code of 1987 (E. O. No. 226, as amended).</li><li>- Special Economic Zone Act of 1995 (R.A. No. 7916, as amended by R.A. No. 8748).</li><li>- Bases Conversion and Development Act of 1992 (R.A. No. 7227, as amended by R.A. No. 9400).</li><li>- Medium Term Philippine Development Plan.</li><li>- Presidential and Administrative Issuances.</li></ul>

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<sup>1</sup> Illustrative examples of NT and SMBD obligation-inconsistent measures in relation to national interest can include decreasing allowable foreign equity to allow more efficient control in the production, distribution and sale of commodities, e.g., oil, during an economic crisis or after a natural calamity, and consequent to the decrease in allowable foreign equity is the reduction in the allowable representation in the senior management and board of directors.

## PHILIPPINES

7.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure relating to small and medium sized domestic market enterprise <sup>2</sup> .  Foreign equity is restricted to a maximum of 40% for domestic market enterprises with paid-in equity capital of less than the equivalent of USD 200,000  <u>Note:</u> Members of the Board of Directors or governing body of corporation or associations shall be allowed in proportion to their allowable participation or share in the capital of such enterprises.
<b>Source of Measure</b>	: - 1987 Constitution of the Republic of the Philippines. - Foreign Investments Act of 1991 (R.A. No. 7042, as amended by R.A. No. 8179). - Presidential and Administrative Issuances.

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<sup>2</sup> The concept of a small and medium sized domestic market enterprise is an enterprise with paid in equity capital of less than the equivalent of USD 200,000.00.

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## PHILIPPINES

8.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure relating to portfolio investments, which shall include but not be limited to stocks listed in the Philippine Stock Exchange, bonds and other securities.
<b>Source of Measure</b>	: - 1987 Constitution of the Republic of the Philippines. - Manual of Regulations on Foreign Exchange Transactions (BSP Circular 645). - Presidential and Administrative Issuances.

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## PHILIPPINES

9.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to export requirement.

Foreign-owned corporations/entities<sup>3</sup> shall export at least 60% of their output to be considered an export enterprise and subject to certain terms and conditions<sup>4</sup>.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Foreign Investments Act of 1991 (R.A. No. 7042).</li><li>- Export Development Act of 1994 (R.A. No. 7844).</li><li>- Omnibus Investments Code of 1987 (E.O. No. 226, as amended).</li><li>- Special Economic Zone Act of 1995 (R.A. No. 7916 as amended by R.A. No. 8748).</li><li>- Bases Conversion and Development Act of 1992 (R.A. No. 7227, as amended by R.A. No. 9400).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Other economic and free port zones' laws.</li><li>- Other Investment Laws.</li><li>- Presidential and Administrative Issuances.</li></ul>
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<sup>3</sup> For guidance on foreign-owned corporations/entities, a "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 Philippine 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 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 stock outstanding and entitled to vote of each 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 each of both corporations must be citizens of the Philippines, in order that the corporation shall be considered a Philippine national.

<sup>4</sup> Terms and conditions shall include but not be limited to equity restrictions, minimum investment thresholds, technology transfer, and quality requirements.

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## PHILIPPINES

10.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure affecting the grant of licenses and permits. This shall include but not be limited to equity restrictions, minimum investment thresholds, duration or validity, areas or hectareage and other conditions and requirements.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Foreign Investments Act of 1991 (R.A. No. 7042, as amended by R.A. No. 8179).</li><li>- Omnibus Investments Code of 1987 (E.O. No. 226, as amended).</li><li>- People's Small-Scale Mining Act of 1991 (R.A. No. 7076).</li><li>- Philippine Mining Act of 1995 (R.A. No. 7942).</li><li>- Magna Carta of Small Farmers (R.A. No. 7607).</li><li>- Decree 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 (P.D. No. 194).</li><li>- Agriculture and Fisheries Modernization Act of 1997 (R.A. No. 8435).</li><li>- Revised Forestry Code (P.D. No. 705).</li><li>- Special Economic Zone Act of 1995 (R.A. No. 7916, as amended by R.A. No. 8748).</li><li>- Bases Conversion and Development Act of 1992 (R.A. No. 7227, as amended by R.A. No. 9400).</li><li>- Laguna Lake Development Act (R.A. No. 4850, as amended).</li><li>- Local Government Code of 1991 (R.A. No. 7160)</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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## PHILIPPINES

11.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure relating to privatization programs and divestment of assets requirement <sup>5</sup> .
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Omnibus Investments Code of 1987 (E.O. No. 226, as amended).</li><li>- Build Operate Transfer Law (R.A. No. 7718).</li><li>- Electric Power Industry Reform Act (R. A. No. 9136).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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<sup>5</sup> The divestment of assets shall be in accordance with the law of registration of the entity and other conditions as mutually agreed by the State and the foreign investors.

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## PHILIPPINES

12.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Regional and Local
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure of Autonomous Region of Muslim Mindanao and the Cordillera Administrative Region.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Indigenous Peoples Rights Act of 1997 (R.A. No. 8371).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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## PHILIPPINES

13.

**Sector** : **Manufacturing**

**Sub-Sector** : **Printing and Publishing (e.g., publishing of brochures/pamphlets, printing of catalogues on account of machinery producers)**

**Industry Classification** : **ISIC 2211, 2219, 2221**

**Level of Government** : **Central**

**Type of Obligation** : **National Treatment**

**Description of Measure** : **No foreign equity allowed.**

**Source of Measure** :  
- 1987 Constitution of the Republic of the Philippines.  
- Presidential Memorandum dated 04 May 1994.  
- Presidential and Administrative Issuances.

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## PHILIPPINES

14.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors (SMBD) obligations shall not apply to any measure relating to the employment of foreign nationals. Restrictions may be imposed on the number, duration and type of SMBD positions where foreign nationals may be employed.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Labor Code of the Philippines, as amended (P.D. No. 442, as amended).</li><li>- Philippine Immigration Act of 1940, (C.A. No. 613, as amended).</li><li>- Act to Punish Acts of Evasion of the Laws on the Nationalization of Certain Rights, Franchises or Privileges (C.A. No. 108, as amended by P.D. No. 715).</li><li>- Omnibus Investments Code of 1987 (E.O. No. 226).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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## PHILIPPINES

15.

<b>Sector</b>	: <b>Manufacturing and Services Incidental</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC Division 15-36 (All manufacturing) ISIC 2927 (Manufacture of weapons and ammunitions) ISIC 2429 (Manufacture of other chemical products n.e.c.) ISIC 3530 (Manufacture of aircraft and spacecraft) ISIC 2423 (Manufacture of pharmaceuticals, medicinal chemicals and botanical products) ISIC 2710 (Manufacture of basic iron and steel) and 2731 (Casting of iron and steel) ISIC 3220 (Manufacture of television and radio transmitters and apparatus for line telephony and line telegraphy) ISIC 3320 (Manufacture of optical instruments and photographic equipment)
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to measures relating to investments such as but not limited to the following sectors, for reasons of security, defense, risk to health and morals:  <ol style="list-style-type: none"><li>1. Manufacture of firecrackers and other pyrotechnic devices</li><li>2. Manufacture of arms and explosives</li><li>3. Manufacture of dangerous drugs</li></ol> National Treatment and the Senior Management and Board of Directors obligations shall not apply to measures relating to investments such as but not limited to the following sectors, consistent with economic development goals:  <ol style="list-style-type: none"><li>1. Manufacture of iron and steel products; and,</li><li>2. Establishment, installation, addition and operation of any wood or forest products processing plants.</li></ol> Measures may include but not be limited to foreign equity restrictions and export requirements.
<b>Source of Measure</b>	: - 1987 Constitution of the Republic of the Philippines. - Foreign Investments Act of 1991 (R.A. No. 7042, as amended by R.A. No. 8179.) - Iron & Steel Industry Act (R.A. No. 7103). - Omnibus Investments Code of 1987 (E.O. No. 226). - Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165).

## PHILIPPINES

- Local Government Code of 1991 (R.A. No. 7160).
- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).
- Creating the Cordillera Administrative Region (E.O. No. 220).
- Medium Term Philippine Development Plan.
- Treaties.
- Presidential and Administrative Issuances.

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## PHILIPPINES

16.

<b>Sector</b>	: Agriculture and Fishery and Services Incidental
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC 0111 (Growing of cereals and other crops n.e.c) ISIC 0500 (Fishing, operation of fish hatcheries and fish farms; service activities incidental to fishing) CPC Groups 881-882 (Services incidental to agriculture, hunting and forestry) (Services incidental to fishing)
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure relating to food security, poverty alleviation and social equity, income enhancement and profitability, global competitiveness and sustainability. This shall include restrictions on foreign equity. <sup>6</sup>
<b>Source of Measure</b>	: - 1987 Constitution of the Republic of the Philippines. - Agriculture and Fisheries Modernization Act of 1997 (R.A. No. 8435). - Decree 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 (P.D. No. 194). - Philippine Fisheries Code of 1998 (R.A. No. 8550). - High Value Crops Development Act of 1995 (R.A. 7900). - Local Government Code of 1991 (R.A. No. 7160). - Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734). - Creating the Cordillera Administrative Region (E.O. No. 220). - Presidential and Administrative Issuances.

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<sup>6</sup> For illustrative purposes, small-scale fishing is closed to foreign investments while foreign equity in the production of biofuel crops and deep-sea fishing may be allowed up to 40% subject to other requirements and terms and conditions imposed by the relevant authorities.

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## PHILIPPINES

17.

<b>Sector</b>	: Forestry and Services Incidental
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC 0200 (Forestry, logging and related service activities) CPC Group 881 (Services incidental to agriculture, hunting and forestry)
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to any measure relating to utilization, exploitation, occupation, possession, or conduct of any activity within any forest and grazing land.  Foreign equity may be allowed up to 40%, subject to government approval  <u>Note:</u> Members of the Board of Directors or governing body of corporation or associations shall be allowed in proportion to their allowable participation or share in the capital of such enterprises.
<b>Source of Measure</b>	: - 1987 Constitution of the Republic of the Philippines. - Revised Forestry Code of the Philippines (P.D. No. 705). - Chainsaw Act (R.A. No. 9175). - Local Government Code of 1991 (R.A. No. 7160). - Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734). - Creating the Cordillera Administrative Region (E.O. No. 220). - Presidential and Administrative Issuances.

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## PHILIPPINES

18.

<b>Sector</b>	: Mining and Quarrying and Services Incidental
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC Section C (Mining & Quarrying) CPC Group 883 (Services Incidental to Mining)
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and the Senior Management and Board of Directors obligations shall not apply to measures relating to exploration, development and utilization of mineral resources <sup>7</sup> . This shall include but not be limited to prohibition on foreign equity in small-scale mining and restriction on foreign equity on other mining activities.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- People's Small-Scale Mining Act of 1991 (R.A. No. 7076).</li><li>- Establishing Small-scale Mining as a New Dimension in Mineral Developments (P.D. No. 1899).</li><li>- Philippine Mining Act of 1995 (R.A. No. 7942).</li><li>- Geothermal Energy, Natural Gas and Methane Gas Law (R.A. No. 5092).</li><li>- Atomic Energy Regulatory and Liability Act of 1968 (R.A. No. 5207).</li><li>- Coal Development Act of 1976 (PD 972).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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<sup>7</sup> For greater certainty, mineral resources shall include, but not be limited to metallic and non-metallic minerals, oil, geothermal, petroleum, natural gas, coal, and radioactive materials such as uranium and thorium.

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## PHILIPPINES

19.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to measures affecting national patrimony <sup>8</sup> and the rights of indigenous cultural communities in accordance with national development.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- 1987 Constitution of the Republic of the Philippines.</li><li>- Indigenous Peoples Rights Act of 1997 (R.A. No. 8371).</li><li>- Local Government Code of 1991 (R.A. No. 7160).</li><li>- Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734).</li><li>- Creating the Cordillera Administrative Region (E.O. No. 220).</li><li>- Presidential and Administrative Issuances.</li></ul>

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<sup>8</sup> "National patrimony" refers to the natural resources of the Philippines and cultural heritage of the Filipinos. It also refers to Filipinos' intelligence in arts, sciences and letters.



**SINGAPORE**

## SINGAPORE

1.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: - : -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: 1. Financial institutions extending Singapore dollar (S\$) credit facilities  (i) exceeding S\$5 million per entity to non-resident financial entities; or (ii) 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 currency upon draw-down or before remittance abroad.  2. Financial institutions 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.
<b>Source of Measure</b>	: - Insurance Act, Cap. 142, MAS Notice 149. - Banking Act, Cap. 19, MAS Notice 757. - Finance Companies Act, Cap. 108, MAS Notice 816. - Monetary Authority of Singapore Act, Cap. 186, MAS Notice 1105. - Securities and Futures Act, 2001, Act 42 of 2001, MAS Notice 1201.

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## SINGAPORE

2.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: Individual investors, apart from the Singapore Government, shall be subject to the following equity ownership limits in the enterprises, and/or their successor bodies, listed below:</p> <ul style="list-style-type: none"><li>(i) Singapore Technologies Engineering: 15%</li><li>(ii) Singapore Power, Power Grid, Power Supply, Power Gas: 10%</li><li>(iii) PSA Corporation: 5%</li><li>(iv) Singapore Airlines: 5%</li></ul> <p>For the purposes of this reservation, ownership of equity by an investor in these enterprises and/or their successor bodies includes both direct and indirect ownership of equity.</p>
<b>Source of Measure</b>	: Government directives.

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## SINGAPORE

3.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: Only a Singapore citizen, Singapore permanent resident or Singapore Employment Pass holder shall be allowed to register a business without appointing a local manager.  A local manager shall be a Singapore citizen, Singapore permanent resident or Singapore Employment Pass holder.  All locally incorporated companies shall comply with the following requirements: (i) At least 1 director of the company shall be resident in Singapore. (ii) All branches of foreign companies registered in Singapore shall have at least 2 agents resident in Singapore.  To be resident in Singapore, a person shall either be a Singapore citizen or Singapore permanent resident or Singapore Employment Pass holder.
<b>Source of Measure</b>	: - Business Registration Act, Cap. 32, 2001 Revised Edition. - Companies Act, Cap. 50, 1994 Revised Edition.

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## SINGAPORE

4.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: NT shall not apply to any measure affecting the type of activities which may be conducted on land or the usage of land, including but not limited to, land zoning, land use and urban planning policies.
<b>Source of Measure</b>	: Urban Redevelopment Authority Act, Chapter 340, 1985 Revised Edition

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## SINGAPORE

5.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : NT shall not apply to any measure affecting State Land, including but not limited to alienation and divestment.

**Source of Measure** : State Lands Act, Cap. 314; 1996 Revised Edition/

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## SINGAPORE

6.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: NT and SMBD shall not apply to any measure affecting: <ul style="list-style-type: none"><li>(i) the full or partial devolvement to the private sector of services provided in the exercise of governmental authority;</li><li>(ii) the divestment of its equity interests in, and/or the assets of, an enterprise that is wholly owned by the Singapore government; and</li><li>(iii) the divestment of its equity interests in, and/or the assets of, an enterprise that is partially owned by the Singapore government.</li></ul>
<b>Source of Measure</b>	: Government Policy.

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## SINGAPORE

7.

**Sector** : Manufacturing

**Sub-Sector** : Manufacturing of Arms and Explosives

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment  
Senior Management and Board of Directors

**Description of Measure** : NT and SMBD shall not apply to any measure affecting the arms and explosives sector. The manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives are regulated for the protection of vital security interests.

**Source of Measure** : Arms and Explosives Act, Cap. 13, 1985 Revised Edition.

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## SINGAPORE

8.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: NT and SMBD shall not apply to any measure in relation to the retention of a controlling interest by the Singapore Government in Singapore Technologies Engineering ("the Company") and/or its successor body, including but not limited to controls over the appointment and termination of members of the Board of Directors, divestment of equity and dissolution of the Company.
<b>Source of Measure</b>	: Government Policy.

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## SINGAPORE

9.

<b>Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: 1551, 1553, 1600, 2710, 2731, 1549, 3140
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: NT shall not apply to any measure affecting the manufacture for sale or other commercial purpose of any goods scheduled in the Control of Manufacture Act.  (i) beer and stout,  (ii) cigars,  (iii) drawn steel products,  (iv) chewing gum, bubble gum, dental chewing gum, or any like substance;  (v) cigarettes  (vi) matches, and  (vii) firecrackers.
<b>Source of Measure</b>	: Control of Manufacture Act, Cap. 57, 2001 Revised Edition.

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## SINGAPORE

10.

<b>Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: <b>Manufacturing of Optical Discs</b>
<b>Industry Classification</b>	: 2230
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: NT shall not apply to any measure affecting the manufacture for sale or other commercial purpose of any goods scheduled in the Manufacture of Optical Discs Act.  (i) compact discs (CD), including compact discs-read only memory (CD-ROM),  (ii) digital video discs (DVD), including digital video discs-read only memory (DVD-ROM),  (iii) video compact discs (VCD),  (iv) master discs, and  (v) stampers.
<b>Source of Measure</b>	: Manufacture of Optical Discs Act, Cap. 170C, 2005 Revised Edition.

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## SINGAPORE

11.

**Sector** : Agriculture

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : NT shall not apply to any measure affecting pig farming.  
(No more licences are issued for this sector.)

**Source of Measure** : Government policy.

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## SINGAPORE

12.

**Sector** : Mining

**Sub-Sector** : -

**Industry Classification** : ISIC Divisions 10 – 14  
CPC 883

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : NT shall not apply to any measure affecting quarrying.  
(No more licences are being issued for this sector.)

**Source of Measure** : Sand and Granite Quarries Act, Cap. 284, 1985 Revised Edition.

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## SINGAPORE

13.

**Sector** : **Manufacturing**

**Sub-Sector** : **Publishing and printing of newspapers**

Newspapers means any physical publication containing news, intelligence, reports of occurrences, or any remarks, observations or comments relating thereto or to any matter of public interest, printed in any language and published for sale or free distribution at intervals not exceeding one week.

**Industry Classification** : 2212

**Level of Government** : Central

**Type of Obligation** : National Treatment  
Senior Management and Board of Directors

**Description of Measure** : NT and SMBD shall not apply to any measure affecting the publishing or printing of newspapers, including but not limited to, shareholding limits and management control.

**Source of Measure** : Newspaper and Printing Presses Act (Cap. 206).

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**THAILAND**

## THAILAND

1.

<b>Sector</b>	: Manufacturing, Agriculture, Forestry, and Fishery
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Printing of newspaper</li><li>- Extraction of Thai herbs</li><li>- Making or casting Buddha images and monk alms bowls</li><li>- Rice farming, farming or gardening</li><li>- Animal farming</li><li>- Forestry and wood fabrication from natural forest</li><li>- Fishery for aquatic animals in Thai waters and within Thailand's exclusive economic zone</li></ul>
<b>Industry Classification</b>	: ISIC 2221, 2423, 2899, 011, 012, 0130, 0140, 0200, 0500
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Foreigner <sup>1</sup> is not allowed to have equity participation of 50% or more of registered capital.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>

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<sup>1</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).



## THAILAND

2.

<b>Sector</b>	<b>:</b>	<b>Manufacturing</b>
<b>Sub-Sector</b>	<b>:</b>	<ul style="list-style-type: none"><li>- Carved wood</li><li>- Thai silk yarn, weaving Thai silk or Thai silk pattern printing</li><li>- Thai musical instruments</li><li>- Goldware, silverware, nielloware, bronzeware or lacquerware</li><li>- Crockery of Thai arts and culture</li><li>- Wood fabrication for furniture and utensil production</li></ul>
<b>Industry Classification</b>	<b>:</b>	ISIC 1711, 1712, 2021, 2023, 2029, 2221, 2693, 2720, 3692
<b>Level of Government</b>	<b>:</b>	Central
<b>Type of Obligation</b>	<b>:</b>	National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	<b>:</b>	<p>More than 50% of Thai equity participation is required.</p> <p>Foreigner<sup>2</sup> is allowed to obtain 50% or more of registered capital, subject to all following conditions:</p> <ol style="list-style-type: none"><li>1. Permission by the Minister of Commerce with the approval of the Cabinet is required, and following condition shall be fulfilled;<ul style="list-style-type: none"><li>- Thai nationals or Thai juridical persons shall hold the shares of not less than 40% of the capital of that foreign juridical person.</li><li>- The number of Thai directors shall not be less than two-fifths of the total number of directors.</li></ul></li><li style="text-align: center;">or</li><li>Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted;</li><li>2. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht;</li><li>3. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and</li><li>4. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.</li></ol>
<b>Source of Measure</b>	<b>:</b>	<ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Investment Promotion Act B.E. 2520 (1977), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>

<sup>2</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

## THAILAND

3.

<b>Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: - Rice milling - Plywood, veneer board, chipboard or hardboard - Lime
<b>Industry Classification</b>	: ISIC 1531, 1532, 2021, 2029, 2694
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: More than 50% of Thai equity participation is required.

Foreigner<sup>3</sup> is allowed to obtain 50% or more of registered capital, subject to following conditions:

1. Permission under Foreign Business Act B.E. 2542 (1999) by the Director-General of the Department of Business Development with the approval of the Foreign Business Committee is required.  
or  
Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted;
2. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht;
3. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and
4. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.

<b>Source of Measure</b>	: - Foreign Business Act B.E. 2542 (1999), as amended. - Investment Promotion Act B.E. 2520 (1977), as amended. - Ministerial regulations. - Administrative guidelines.
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<sup>3</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

## THAILAND

4.

<b>Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: <b>Manufacture of sugar from sugar-cane</b>
<b>Industry Classification</b>	: <b>ISIC 1542</b>
<b>Level of Government</b>	: <b>Central</b>
<b>Type of Obligation</b>	: <b>National Treatment</b> <b>Senior Management and Board of Directors</b>
<b>Description of Measure</b>	: <b>Foreigner<sup>4</sup> shall be prohibited from manufacturing of sugar from sugarcane, unless permission is obtained from the Cabinet.</b>
<b>Source of Measure</b>	: - Foreign Business Act B.E. 2542 (1999), as amended. - Ministerial regulations. - Administrative guidelines.

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<sup>4</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

## THAILAND

5.

<b>Sector</b>	: Manufacturing
<b>Sub-Sector</b>	: Tobacco products
<b>Industry Classification</b>	: ISIC 1600
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: Prohibitions or restrictions which are inconsistent with National Treatment and Senior Management and Board of Directors may apply to foreigner <sup>5</sup> in manufacture of Tobacco products.
<b>Source of Measure</b>	: Tobacco Act B.E. 2509 (1966), as amended.

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<sup>5</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

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## THAILAND

6.

<b>Sector</b>	: Manufacturing
<b>Sub-Sector</b>	: Playing cards
<b>Industry Classification</b>	: ISIC 2221
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: Prohibitions or restrictions which are inconsistent with National Treatment and Senior Management and Board of Directors may apply to foreigner <sup>6</sup> in manufacture, production, or printing of playing card
<b>Source of Measure</b>	: Playing cards Act B.E. 2586 (1943), as amended.

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<sup>6</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

## THAILAND

7.

<b>Sector</b>	: Manufacturing
<b>Sub-Sector</b>	: Alcoholic beverages and ethyl alcohol
<b>Industry Classification</b>	: ISIC 1551-3
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: Prohibitions or restrictions which are inconsistent with National Treatment and Senior Management and Board of Directors may apply to foreigner <sup>7</sup> in manufacture and production of alcoholic beverages and ethyl alcohol.
<b>Source of Measure</b>	: Liquor Act B.E. 2493 (1950) Ministerial regulations Administrative guidelines

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<sup>7</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

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## THAILAND

8.

<b>Sector</b>	: Agriculture and Services Incidental to Agriculture
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Silkworm farming</li><li>- Services incidental to silkworm farming</li><li>- Salt farming, including underground salt</li><li>- Services incidental to salt farming, including underground salt</li></ul>
<b>Industry Classification</b>	: ISIC 0122, 1422; CPC 88110, 88120
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	<p>More than 50% of Thai equity participation is required.</p> <p>Foreigner<sup>8</sup> is allowed to obtain 50% or more of registered capital, subject to all following conditions:</p> <ol style="list-style-type: none"><li>1. Permission by the Minister of Commerce with the approval of the Cabinet is required, and following condition shall be fulfilled;<ul style="list-style-type: none"><li>- Thai nationals or Thai juridical persons shall hold the shares of not less than 40% of the capital of that foreign juridical person.</li><li>- The number of Thai directors shall not be less than two-fifths of the total number of directors.</li></ul><p style="text-align: center;">or</p><p>Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted;</p></li><li>2. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht;</li><li>3. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and</li><li>4. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.</li></ol>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Investment Promotion Act B.E. 2520 (1977), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>

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<sup>8</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

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## THAILAND

9.

<b>Sector</b>	: Agriculture
<b>Sub-Sector</b>	: Plant cultivation, propagation including artificial and transplant propagation, and breeding
<b>Industry Classification</b>	: ISIC 0111
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: More than 50% of Thai equity participation is required.

For onion seed, foreigner is allowed to obtain up to 51% of registered capital, subject to laws and regulations.

Foreigner<sup>9</sup> is allowed to obtain 50% or more of registered capital, subject to following conditions:

2. Permission under Foreign Business Act B.E. 2542 (1999) by the Director-General of the Department of Business Development with the approval of the Foreign Business Committee is required.

Or

Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted.

3. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht.
4. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and
5. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Investment Promotion Act B.E. 2520 (1977), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>
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<sup>9</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

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## THAILAND

10.

<b>Sector</b>	: Fishery
<b>Sub-Sector</b>	: Fishery, specifically aquaculture
<b>Industry Classification</b>	: ISIC 0500
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: More than 50% of Thai equity participation is required.

For the culture of tuna deep sea cage and indigenous breeding spiny lobsters; *Panulirus versicolor*, *P. homarus*, *P. ornatus*, *P. longipes*, *P. penicillatus* and *P. polyphagus*, foreigner is allowed to obtain up to 51% of registered capital, subject to laws and regulations.

Foreigner<sup>10</sup> is allowed to obtain 50% or more of registered capital, subject to following conditions:

1. Permission under Foreign Business Act B.E. 2542 (1999) by the Director-General of the Department of Business Development with the approval of the Foreign Business Committee is required.

Or

Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted.

2. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht.
3. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and
4. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Investment Promotion Act B.E. 2520 (1977), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>
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<sup>10</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

## THAILAND

11.

<b>Sector</b>	: Forestry
<b>Sub-Sector</b>	: Forestry from forest plantation
<b>Industry Classification</b>	: ISIC 0200
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: More than 50% of Thai equity participation is required.

Foreigner<sup>11</sup> is allowed to obtain 50% or more of registered capital, subject to following conditions:

1. Permission under Foreign Business Act B.E. 2542 (1999) by the Director-General of the Department of Business Development with the approval of the Foreign Business Committee is required.

Or

Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted.

2. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht.
3. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and
4. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.

<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Investment Promotion Act B.E. 2520 (1977), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>
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<sup>11</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999), as amended.

## THAILAND

12.

<b>Sector</b>	: Mining
<b>Sub-Sector</b>	: - Mining, including rock blasting or crushing - Rock salt mining
<b>Industry Classification</b>	: ISIC 10 -14
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: Equity participation of up to 60% by foreigner <sup>12</sup> is allowed subject to criteria listed below;  <ol style="list-style-type: none"><li>1. Foreigner which is a juridical person of Member State must be registered as a registered ordinary partnership, limited partnership or limited company in Thailand.</li><li>2. A debt to equity ratio of 3:1 or lower shall be maintained.</li><li>3. Concessions must be granted by the Department of Primary Industries and Mines, Ministry of Industry as provided by the Mineral Act B.E. 2510 (1967) as amended by the Mineral Act (No.2) B.E. 2516 (1973), the Mineral Act (No.3) B.E. 2522 (1979), the Mineral Act (No.4) B.E. 2534 (1991); and the Mineral Act (No.5) B.E. 2545 (2002).</li><li>4. At least two fifths of the member of Board of Directors must be Thai nationals.</li></ol>
<b>Source of Measure</b>	: - Foreign Business Act B.E. 2542 (1999), as amended. - Administrative guidelines.

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<sup>12</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

## THAILAND

13.

<b>Sector</b>	: Services Incidental to Agriculture, Forestry, Fishery, and Manufacturing
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Services incidental to rice farming, farming or gardening, animal farming</li><li>- Services incidental to forestry and wood fabrication from natural forest</li><li>- Services incidental to fishery for aquatic animals in Thai waters and within Thailand's exclusive economic zone</li><li>- All services incidental to manufacturing</li></ul>
<b>Industry Classification</b>	: CPC 88110, 88120, 88130, 88140, 8820, 884-885
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: More than 50% of Thai equity participation is required. Foreigner <sup>13</sup> is not allowed to have equity participation of 50% or more of registered capital.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>

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<sup>13</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

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## THAILAND

14.

**Sector** : **Services Incidental to Mining**

**Sub-Sector** : -

**Industry Classification** : CPC 8830

**Level of Government** : Central

**Type of Obligation** : National Treatment  
Senior Management and Board of Directors

**Description of Measure** : More than 50% of Thai equity participation is required.

Foreigner<sup>14</sup> is allowed to obtain 50% or more of registered capital, subject to all following conditions;

1. Permission by the Minister of Commerce with the approval of the Cabinet is required, and following condition shall be fulfilled;
  - Thai nationals or Thai juridical persons shall hold the shares of not less than 40% of the capital of that foreign juridical person.
  - The number of Thai directors shall not be less than two-fifths of the total number of directors.

Or

Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted;

2. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht;
3. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and
4. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.

**Source of Measure** : - Foreign Business Act B.E. 2542 (1999), as amended.  
- Investment Promotion Act B.E. 2520 (1977), as amended.  
- Ministerial regulations.  
- Administrative guidelines.

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<sup>14</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

## THAILAND

15.

<b>Sector</b>	: Services Incidental to Agriculture, Forestry, and Fishery
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- All services incidental to Agriculture, except services incidental to rice farming, farming or gardening, and animal farming</li><li>- All services incidental to Forestry, except forestry and wood fabrication from natural forest</li><li>- All services incidental to Fishery, except services incidental to fishery for aquatic animals in Thai waters and within Thailand specific economic zone</li></ul>
<b>Industry Classification</b>	: CPC 88110, 88120, 88130, 88140, 8820,
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: More than 50% of Thai equity participation is required.  Foreigner <sup>15</sup> is allowed to obtain 50% or more of registered capital, subject to following conditions: <ol style="list-style-type: none"><li>1. Permission by the Director-General of the Department of Business Development with the approval of the Foreign Business Committee is required. Or Promotion under Investment Promotion Act B.E. 2520 (1977) or permission under law governing Industrial Estate Authority of Thailand or other related laws is granted;</li><li>2. The minimum capital used at the commencement of the business operation shall not be less than that prescribed by ministerial regulations and shall in no case be less than three million Baht;</li><li>3. Foreigner shall apply for license or certificate from Department of Business Development, Ministry of Commerce; and</li><li>4. Foreigner shall comply with other conditions prescribed in Foreign Business Act B.E. 2542 (1999) and related laws.</li></ol>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Investment Promotion Act B.E. 2520 (1977), as amended.</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>

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<sup>15</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

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## THAILAND

16.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: In order to operate business in Thailand, foreigner <sup>16</sup> shall obtain a license or certificate from the Department of Business Development, and comply with conditions set forth in the Foreign Business Act B.E. 2542 (1999) <sup>17</sup> and subsidiary legislations.
<b>Source of Measure</b>	: - Foreign Business Act B.E. 2542 (1999), as amended. - Ministerial regulations. - Administrative guidelines.

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<sup>16</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

<sup>17</sup> For illustrative purposes, 'conditions set forth in the Foreign Business Act B.E. 2542 (1999)' may include, for example, the ratio of the capital and loans and the number of foreign directors who must have domicile in the Kingdom.

## THAILAND

17.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: Minimum capital used 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 in the Ministry of Commerce's regulations, which in no case shall be less than three million Baht.</p> <p>In all other cases, minimum capital used at the commencement of the business operation shall not be less than that prescribed by the Ministry of Commerce's regulations and shall in no case be less than two million Baht.</p>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Foreign Business Act B.E. 2542 (1999), as amended.</li><li>- Ministry of Commerce's regulations, as amended.</li><li>- Administrative guidelines.</li></ul>

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## THAILAND

18.

**Sector** : All sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : Foreigner<sup>18</sup> is permitted to own land according to Investment Promotion Act B.E. 2520 (1977), Industrial Estate Authority of Thailand Act B.E. 2522 (1979), and the Petroleum Act B.E. 2514 (1971).

Foreigner, who brings money at least 40 million Baht for investment, is allowed to own land for residential purpose not exceeding 1 rai (1 rai = 1,600 square meters) with a permission by the Ministry of Interior.

In the case of hiring the land more than 100 rai for commercial or industrial purposes, where a foreigner or a juridical person according to Section 97 of Land Code is a hirer, sub-hirer or transferee of the right of hirer, its investment in an operation of such commerce or industry shall not be less than 100 million Baht, excluding the cost of hire. Also, the total amount of money invested shall be foreign exchange brought into the Kingdom or withdrawn from the foreign currency deposit account or withdrawn from the non-resident Baht account.

**Source of Measure** : - Foreign Business Act B.E. 2542 (1999), as amended.  
- Hire of Immovable Property for Commerce and Industry Act B.E. 2542 (1999), as amended.  
- Land Code, as amended.  
- Act Promulgating the Land Code B.E. 2497 (1954), as amended  
- Land Code Amendment Act (No.8) B.E. 2542 (1999), as amended.  
- Ministerial regulations.  
- Administrative guidelines.

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<sup>18</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in the Land Code B.E. 2497 (1954).

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## THAILAND

19.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Foreigner <sup>19</sup> is not allowed to own housing except condominium <sup>20</sup> .  The total condominium units owned by foreigners must not exceed 49% of the condominium units in each condominium.
<b>Source of Measure</b>	: - Foreign Business Act B.E. 2542 (1999), as amended. - Condominium Act B.E. 2522 (1979), as amended. - Ministerial regulations. - Administrative guidelines.

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<sup>19</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in the Condominium Act B.E. 2522 (1979).

<sup>20</sup> For the purposes of this reservation, the definition of 'condominium' can be found in the Condominium Act B.E. 2522 (1979).

## THAILAND

20.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to Small and Medium Enterprise <sup>21</sup> .
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Small and Medium Enterprises Promotion Act B.E. 2543 (2000), as amended.</li><li>- Fisheries Act B.E. 2490 (1947), as amended.</li><li>- National Economic and Social Development Plan</li><li>- Ministerial regulations.</li><li>- Administrative guidelines.</li></ul>

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<sup>21</sup> For the purposes of this reservation, the definition of 'Small and Medium Enterprise' can be found in the Small and Medium Enterprises Promotion Act B.E. 2543. For illustrative purposes, measure relating to Small and Medium Enterprise may include, for example, Thai SMEs may be given priority to the access of land and water resources in designated areas, and foreign participation is not allowed in small-scale/ aquaculture entrepreneur.

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## THAILAND

21.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Director shall not apply to any measure with respect to privatization, or divestment of assets through transfer or disposal of equity interests or assets owned wholly or partially by the government, a state enterprise <sup>22</sup> , a state agency, or a government entity.  All conditions imposed on existing privatised entities will continue to be applicable.
<b>Source of Measure</b>	: - National Economic and Social Development Plan. - Ministerial regulations. - Administrative guidelines.

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<sup>22</sup> For illustrative purposes, 'State enterprise' may include, for example, PTT Public Company Limited, Thailand Tobacco Monopoly, Playing Cards Factory, Liquor Distillery Organisation, the Police Printing, Industrial Estate Authority of Thailand, Forest Industry Organisation, and Rubber Estate Organisation.

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## THAILAND

22.

**Sector** : All sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment

**Description of Measure** : National Treatment shall not apply to any measures relating to portfolio investments.

**Source of Measure** : - Exchange Control Act B.E. 2485 (1942), as amended.  
- Bank of Thailand Act B.E. 2485 (1942), as amended.  
- Regulations, Circulars and Guidelines.

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## THAILAND

23.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measures relating to foreign exchange transactions by non-residents and measures relating to transactions in, and holdings of, local currency by non-residents <sup>23</sup> , for the prevention of Thai Baht speculation.
<b>Source of Measure</b>	: - Exchange Control Act B.E. 2485 (1942), as amended. - Bank of Thailand Act B.E. 2485 (1942), as amended. - Securities and Exchange Act B.E. 2535 (1992), as amended. - Regulations, Circulars and Guidelines.

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<sup>23</sup> 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 forward.

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## THAILAND

24.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Foreigner <sup>24</sup> is allowed to work in vocations <sup>25</sup> which are not reserved for Thai national.
<b>Source of Measure</b>	: - Working Aliens Act B.E. 2551 (2008). - Ministerial regulations. - Administrative guidelines.

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<sup>24</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in the Working Aliens Act B.E. 2551 (2008).

<sup>25</sup> These vocations are listed in Working Aliens Act B.E. 2551 (2008). For illustrative purposes, vocations which are reserved for Thai national may include, for example, farmers, Buddha images makers, monk alms bowls makers, and Thai musical instruments makers.

## THAILAND

25.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: Foreigner <sup>26</sup> shall comply with other conditions <sup>27</sup> relating to investment in accordance with national development.  <u>Note:</u> This reservation shall not include local equity requirements unless otherwise provided.
<b>Source of Measure</b>	: - The Constitution of the Kingdom of Thailand B.E. 2550 (2007). - Foreign Business Act B.E. 2542 (1999), as amended. - Natural Reserved Forest Act B.E. 2507 (1964), as amended. - Commercial Forest Plantation Act B.E. 2535 (1992), as amended. - Chainsaw Act B.E. 2545 (2002), as amended. - Fisheries Act B.E. 2490 (1947), as amended. - Ministerial regulations. - Administrative guidelines.

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<sup>26</sup> For the purposes of this reservation, the definition of 'foreigner' can be found in Foreign Business Act B.E. 2542 (1999).

<sup>27</sup> For illustrative purposes, conditions may include, for example, the ratio of the capital and loans, and the number of foreign directors who must have domicile in the Kingdom. Forest plantation in the area of natural reserved forests is reserved for Thai nationals only. The applicant for forest plantation in the private areas must have the ownership of such area. Only Thai nationals can apply for the license on the possession of a chainsaw. License for aquaculture in public areas is allowed for Thai nationals only.



**VIET NAM**

## VIET NAM

1.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors shall not apply to any measure in relation to the employment of expatriates. Restrictions <sup>1</sup> may be imposed on the number or ratio, minimum wages, duration and type of expatriates employed.
<b>Source of Measure</b>	: - Law on Labour, 1994 as amended. - Law on Enterprises, 2005. - Decree 111/2008/ND-CP, dated 10/10/2008. - Decree 03/2006/ND-CP dated 06/01/2006. - Decree 34/2008/ND-CP dated 25/03/2008.

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<sup>1</sup> For illustrative purpose, the restriction may include but not limited to:

- In the case of managers, executives and specialists, at least 20% of the total number of them shall be Vietnamese nationals. However, a minimum of 3 non-Vietnamese managers, executives and specialists shall be permitted per enterprise;
- The legal representative of an enterprise shall reside permanently in Viet Nam as stipulated in the Law on Enterprise, 2005.

## VIET NAM

2.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Director
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Director shall not apply to any measure in relation to portfolio investment
<b>Source of Measure</b>	: - Law on Investment, 2005. - Law on Securities (2006) and its implementing regulations. - Circular, Decree, Decision of Prime Minister and Administrative Guidelines.

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## VIET NAM

3.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: NT may not apply to conditions imposed in investment licenses permits/certificates that were issued before the entry into force of this Agreement <sup>2</sup>
<b>Source of Measure</b>	: Decree 101/2006/ND-CP; dated 21/9/2006.

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<sup>2</sup> For illustrative purposes, the condition may be the investors' commitment to transferring the invested assets to the Government of Vietnam on a non-compensable basis at the time of termination of their projects.

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## VIET NAM

4.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply to any measure relating to establishment, acquisition, organization and operation of foreign invested enterprises <sup>3</sup> or foreign invested projects; including but not limited to the issuance of license/permit, legal form, equity participation <sup>4</sup> , organization, management and duration of investment <sup>5</sup> .
<b>Source of Measure</b>	: - Law on Investments, 2005. - Law on Enterprises, 2005. - Decree 108/2006/ND-CP, dated 22/9/2006. - Decree 139/2007/ND-CP, dated 05/9/2007.

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<sup>3</sup> The definition of "Foreign Invested Enterprises" can be found in the Law on Investment, 2005.

<sup>4</sup> In respect of equity participation, this reservation shall apply unless such equity participation is otherwise specified in the other reservations in this reservation list.

<sup>5</sup> For illustrative purpose, the measure may include but not limited to.

- Foreign investors investing in Viet Nam must have an investment project and perform the procedures for investment registration or evaluation of investment at the State administrative body for investment in order to be issued with an investment certificate.
- On legal form, foreign investors cannot establish cooperatives.
- On management, the financial reporting by foreign and local investors is different.
- On duration of investment, maximum duration of a foreign investment projects is 50 years.

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## VIET NAM

5.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply to any measure relating to State Owned Enterprises <sup>6</sup> and monitoring and management of investment by State funds, including but not limited to privatization, equitization or divestment of assets through transfer or disposal of equity interests or assets of State Owned Enterprises
<b>Source of Measure</b>	: - Law on Investment, 2005; dated 29/11/2005. - Law on Enterprises, 2005; dated 29/11/2005.

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<sup>6</sup> The term "State-owned enterprise" is defined under Article 4 of the Law on Enterprises, 2005 as amended as follows: State-owned enterprise means an enterprise in which the State owns more than 50% of the charter capital.

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## VIET NAM

6.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply in the event where activities restricted to designated enterprises are liberalized to those other than the designated enterprises, or in the event such designated enterprises no longer operate on a non-commercial basis <sup>7</sup> .
<b>Source of Measure</b>	: - Law on Investment, 2005. - Administrative Guidelines.

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<sup>7</sup> For illustrative purposes, 'designated enterprises' may include Vinafood 1, Petroleum Processing and Trading Company, etc.

## VIET NAM

7.

<b>Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment may not apply to any measure affecting land, property and natural resources <sup>8</sup> associated with land, including but not limited to acquisition, ownership <sup>9</sup> , lease, policy on the usage of land, land planning, term of land use, rights and obligations of land users.
<b>Source of Measure</b>	: - Law on Land, 2003 as amended and its implementing regulations. - Law on Real Estate Business, 2006.

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<sup>8</sup> Natural resources found in land belong to the Government of Viet Nam.

<sup>9</sup> For illustrative purposes, foreign organizations and individuals cannot own land. They can only lease land in line with the duration of their investment project subject to approval of a competent State body, which shall not exceed 50 years.

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## VIET NAM

8.

**Sector** : All Sectors

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment  
Senior Management and Board of Directors

**Description of Measure** : Based on the requirements for socio-economic development<sup>10</sup> in each period and consistent with the undertakings in international treaties of which the Socialist Republic of Vietnam is a member, the Government regulates the list of investments in which investment is conditional, and the conditions applicable to the establishment of economic organizations, the forms of investment, and opening of the market in a number of sectors as applicable to foreign investors

Where an enterprise with foreign owned capital invested in a sector in which investment was unconditional but during the course of the investment activity the list of sectors in which investment is conditional was amended with the result that the relevant sector was included, the investor shall be permitted to continue its investment activity in that sector unconditionally.

**Source of Measure** : - Law on Investment, 2005.  
- Decree 108/2006/ND-CP; dated 22/9/2006.

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<sup>10</sup> For illustrative purposes, socio-economic development plans in each period may include the Five-Year Socio-Economic Development Plans.

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## VIET NAM

9.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors shall not apply to any measure relating to treatments granted to Small and Medium-sized Enterprises <sup>11</sup>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law on Investment, 2005.</li><li>- Law on Enterprises, 2005.</li><li>- Decree No 90/2001/ND-CP, dated 23/11/2001.</li><li>- Decree 56/2009/NĐ-CP, dated 30/6/2009.</li><li>- Small and Medium-sized Enterprises Development Plan.</li></ul>

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<sup>11</sup> The term "small and medium-sized enterprise" is defined under Article 3 of the Decree 56/2009/ND-CP, dated 30/6/2009 of the Government as follows: small and medium-sized enterprise is an enterprise established in accordance with laws which has less than or equal to 300 employees or has total legal capital of less than or equal to 100 billion VND.

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## VIET NAM

10.

**Sector** : **Manufacturing, Agriculture and Forestry, Fishery  
Services incidental to Manufacturing, Fishery, Mining and  
Quarrying**

**Sub-Sector** : **Manufacturing:**

- Production of firecrackers, including fireworks (ISIC 2927);
- Production of sky-lanterns (ISIC 3150);
- Production of fishing-net (ISIC 1723);
- Production and supply of explosive materials (ISIC 2429);
- Publishing (ISIC 221): All kinds of publishing product.
  - Publishing of books, brochures, musical books and other publications (ISIC 2211);
  - Publishing of newspapers, journals and periodicals (ISIC 2212);
  - Publishing of recorded media (ISIC 2213);
  - Other publishing (ISIC 2219).
- Printing (ISIC 2221):
  - Books (including books for the blind), pictures, maps, posters, leaflets, calendars;
  - 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.
- Production of cigarettes and cigars (ISIC 1600);
- Production of alcoholic beverages and soft drink (ISIC 1551);
- Production of tobacco production (ISIC 1600);
- Production of lubrication oil, grease (ISIC 2320);
- Production of NPK fertilizer (ISIC 2412);
- Production of construction glasses (ISIC 2610);
- Production of clay bricks (ISIC 2693);
- Production of vertical shaft cement production equipment and baked earth bricks and tiles (ISIC 2694);
- Production of D6-D32 mm construction steel rods and D15-D114mm seam steel pipe; zinc galvanized and color sheets (ISIC 2710);
- Production of fluorescent tubes and bulbs (ISIC 3150);
- Production of under 10000DWT cargo ships; under 800 TEU container ships; lighters and under 500 seats passenger ships (ISIC 3511);
- Production of oil-well cement, barite and bentonite for drilling fluids (ISIC 2694);
- Production and supply of industrial explosive materials using in oil and gas activities (ISIC 2429);
- Cane sugar production (ISIC 1542).

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## VIET NAM

### Agriculture and Forestry including:

- 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)<sup>12</sup>.

### Services Incidental to Manufacturing including:

- Services related to producing of industrial gas such as oxy, nitro, CO2 (solid or liquid) (CPC 88460/ISIC 2411);
- Services related to producing of caustic soda NaOH (liquid) (CPC 88460/ISIC 2411);
- Services incidental to producing of common used insecticides (Foreign investment is allowed in producing of input materials (toxin) only) (CPC 88460/ISIC 2421);
- Services related to producing of common used paints (CPC 88460/ISIC 2422)
- Services related to dairy processing (CPC 88120);
- Services related to cane sugar production and sugar processing industry
- Services related to processing of beer and beverages (CPC 88411/ISIC 1551);
- Services related to processing of tobacco products such as cigarette, cigar, pipe tobacco, chewing tobacco, farmer cut tobacco based on contracts or a fee:
  - Processing of reconstituted tobacco based on contracts or a fee (CPC 88412/ISIC 1600)
  - Processing of hookah based on contracts or a fee (CPC 8412)
- Services related to processing of manufactured tobacco for production of cigarette based on contract or a fee (CPC 88412);
- Services on distributing acid-sulphuric used in producing other products (CPC 88460/ISIC 2411);
- Services related to production of fluorescent tubes and incandescent bulb (CPC 88480);

### Fishery:

- Fresh-water fishing, marine fishing (ISIC 0500)
- Coral and natural pearl exploitation.(ISIC 0500)

### Service Incidental to Fishery, including:

- Services related to production of fishing net and twine for fishery sector (CPC 88200)

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<sup>12</sup> List of rare or precious plants and animals can be found in website: [www.kiemlam.org.vn](http://www.kiemlam.org.vn)

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## VIET NAM

- Services on repairing and maintaining of fishing boats (CPC 88200)
- Services related to exploiting of fresh-water fisheries (CPC 88200)
- Services related to quarantine, quality control of aquaculture and processing products (CPC 88200)
- Services related to processing and preservation of aquatic products (CPC 8841)
- Services on canning aquatic products (CPC 8841).

### **Services Incidental to Mining and Quarrying (CPC 88300; ISIC 1120):**

- Services related to application of science and technology to production, including:
  - Completion of production technology and process for heat-insulation material for covering pipes (CPC 88520);
  - Preparation for the following services:
    - Production of aromatic chemicals for gas industry (CPC 88300);
    - Discharged water treatment on platform and drilling mud supply (CPC 88300);
    - Study on waste oil collection and treatment (CPC 88300);
    - Covering reinforced concrete and anti-corrosive paint for oil and gas pipeline (CPC 88300);
    - Producing gas tanks, gas fired cooker and gas equipment (CPC 88300);
    - Issuing quality certification for gas equipment and facilities (CPC 88300).
- Services related to testing, adjusting, repairing and maintaining industrial measure and control equipment for oil and gas sector (CPC 88300);
- Oil and gas warehouse services (CPC 88300);
- Oil and gas supply base services (CPC 88300);
- Catering and allied services including food and foodstuff, clean-water and vegetable to off-shore construction facilities (CPC 88300);
- Manpower supply services including professional manpower, skills and foreign language training for manpower supplied to foreign countries, signing manpower supply contracts with foreign companies (CPC 88300);
- Services related to gas processing: separating Bupro, Condensate (CPC 88300);
- Leasing services related to other machines and equipment including specialized equipment in oil and gas industry (CPC 88300);
- Services related to database for oil and gas study (CPC 88300);
- Services related to database for geological study and seismic survey for oil and gas industry (CPC 88300);

## VIET NAM

- Services related to geological and exploration drilling (CPC 88300);
- Risk assessment, including field-survey, data collection, using special software on impact assessment of frequency and sensitiveness, proposing mitigation measures (CPC 88300);
- Services on Environment Protection and Management, including:
  - Environmental background study (CPC 88300);
  - Establishing oil-spill response plan, including environmental sampling and analysis (sediment samples, biology, soil, water, air), measuring water and air quality, obtaining on-site spectrum, collecting and assessing data on nature (such as environmental climatic, and hydrographic data), socio-economic data, etc, making reports on environmental background study, environmental impact assessment, oil-spill response plan (CPC 88300);
  - Proposing environmental management plan in oil and gas activities, particularly for offshore environment and sensitive coastline areas (CPC 88300).

<b>Industry Classification</b>	: See above
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: No investment license shall be issued to foreign investors <sup>13</sup> in these sectors and sub-sectors
<b>Source of Measure</b>	: AIA commitments. Law on Investment, 2005. Law on Environment Protection, 1993. Decree 108/2006/ND-CP, dated 22/9/2006. Decree 59/2006/ND-CP, dated 12/6/2006. Decision 95/2009/QĐ-TTg, dated 17/7/2009. Resolution 12/2000/NQCP; dated 14/8/2000. Decision 38/2007/QĐ-TTg; dated 20/3/2007. Decree 119/2007/ND-CP dated 18/07/2007. Decision 28/2002/QĐ-TTg dated 06/2/2002. Decision 58/2003/QĐ-TTg dated 17/4/2003. Decision 18/2007/QĐ-BCN dated 08/5/2007. Decision 26/2007/QĐ-TTg dated 15/2/2007. Circular 14/2008/TT-BCT, dated 25/11/2008. Decision 32/2000/QĐ-BCN, dated 04/5/2000. Decision 121/2008/QĐ-TTg, dated 29/8/2008. Decree 105/2007/ND-CP, dated 21/6/2007.

<sup>13</sup> For the purpose of this reservation, the term "Foreign investor" can be found in the Law on Investment, 2005

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## VIET NAM

Law on Oil & Gas; 1993.  
Decree 19/2000/ND-CP dated 08/6/2000.  
Law on Fishery, 2003.  
Decree 59/2005/ND-CP dated 04/5/2005.  
Circular 02/2005/TT-BTS dated 04/5/2005.  
Circular 62/2008/TT-BNN dated 20/5/2008.  
Law on Technical Standard and Criteria dated 29/06/2006.  
Ordinance 12/2003/PL-UBTVQH dated 26/07/2003.  
Ordinance on Veterinary dated 29/04/2004.  
Decree 59/2005/ND-CP dated 04/5/2005.  
Decree 123/2006/ND-CP dated 27/10/2006.  
Decree 191/2004/ND-CP dated 18/11/2004.  
Decision 10/2007/QD-TTg dated 11/1/2006.  
Decision 117/2008/QD-BNN dated 11/12/2008.  
Decision 118/2008/QD-BNN dated 11/12/2008.  
Decision 116/2008/QD-BNN dated 03/12/2008.  
Circular 02/2005/TT-BTS dated 04/5/2005.  
Circular 62/2008/TT-BNN dated 20/5/2008.  
Decree 32/2006/ND-CP dated 30/03/2006.  
Law on Environmental protection.  
Decision 328/2005/QD-TTg.  
Direction 21/2004/CT-TTg.  
Decree 25/2009/ND-CP.  
Decision 88/2007/QD-TTg dated 13/6/2007

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## VIET NAM

11.

<b>Sector</b>	: All sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors shall not apply to any measures in relation to maintaining food security <sup>14</sup>
<b>Source of Measure</b>	: - Decree 12/2006/ND-CP dated 23/01/2006. - Policy on national food security

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<sup>14</sup> For illustrative purpose, Foreign owned enterprises shall not be allowed to export rice and paddy until Jan 1<sup>st</sup> 2011.

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## VIET NAM

12.

Sector	: Manufacturing
Sub-Sector	: <ul style="list-style-type: none"><li>- Production of industrial explosive devices (ISIC 2429)</li><li>- Cement production (ISIC 2694)</li><li>- Production of ready mixed concrete, stone crushing (ISIC 2695)</li><li>- Automobile assembly and manufacture (ISIC 3410)</li><li>- Motorcycle assembly and manufacture (ISIC 3591)</li></ul>
Industry Classification	: ISIC 2429, 2694, 2695, 3410, 3591
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: Investment in these sub-sectors shall be subject to planning of the Government which may give preferences to local investors <sup>15</sup>
Source of Measure	: <ul style="list-style-type: none"><li>- Law on Mineral 2005 and its guiding legal documents.</li><li>- Decision No 150/2007/QĐ-TTg, dated 10/9/2007.</li><li>- Decree No 39/2009/ND-CP dated 23 April 2009.</li><li>- Decision 121/2008/QĐ-TTg, dated 29/8/2008.</li><li>- Decision 02/2007/QĐ-BCT, dated 29/8/2007.</li></ul>

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<sup>15</sup> 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.

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## VIET NAM

13.

**Sector** : **Manufacturing**

**Sub-Sector** :

- Processing of aqua-product and canned seafood (shall be in joint venture form, subject to materials, technology requirements) (ISIC 1512)
- Vegetable oil production and processing (in conjunction with development of local raw materials resources) (ISIC 1514)
- Dairy processing (in conjunction with development of local raw materials resources) (ISIC 1520)
- Leather tanning (in conjunction with development of local raw materials resources and subject to environmental protection requirement) (ISIC 1911)
- Paper production (in conjunction with development of local raw materials resources) (ISIC 2101)
- Production of automobile tires and tubes up to 450mm (subject to quality requirement) (ISIC 2511)
- Production of rubber gloves, labour sanitary boots (subject to quality requirements) (ISIC 2520)
- Assembly of marine engines (subject to technology requirements) (ISIC 2911)
- Production of electro-mechanical and refrigeration equipment (subject to technology requirement) (ISIC 2919)
- Manufacturing of cultivation, processing, reaping machines, insecticide pumps, spare parts of agricultural machines and engines (subject to technology and quality requirements) (ISIC 2921)
- Production of household electric appliances (subject to technology requirement) (ISIC 2930)
- Production of electrical fans (manufacturing new types of products and subject to quality requirements) (ISIC 2930)
- Production of bicycle manufacture (Manufacturing new types of products and subject to quality requirements) (ISIC 3592)
- Production of sanitary ceramics, porcelain and tiles (Subject to technology requirement) (ISIC 2691)
- Manufacturing and assembling of transport vehicles (ISIC 3410)

**Industry Classification** : See above.

**Level of Government** : Central

**Type of Obligation** : National Treatment

## VIET NAM

**Description of Measure** : Manufacturing projects/investments in these sectors shall comply with specific requirements on local raw material resources<sup>16</sup>, technology and/or environment and/or quality which may be inconsistent with National Treatment article under ACIA

**Source of Measure** : - Decision No 17/2004/QD-BCN dated 08/3/2004.  
- Decision No 22/2005/QD-BCN dated 26/4/2005  
- Decision No 36/2007/QD-BCN dated 06/8/2007.  
- Decision No 07/2007/QD-BCN dated 30/01/2007.  
- Decision No 177/2004/QD-TTg dated 05/10/2004.  
- Decision 147/QD-TTg dated 04/09/2007.  
- Decision 36/2007/QD-BCN dated 06/08/2007.  
- Decision 249/QD-TTg dated 10/10/2005.  
- Decree 80/2006/ND-CP dated 09/8/2006  
- Decree 12/2006/ND-CP dated 23/01/2006

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<sup>16</sup> For greater clarity, the requirement on local raw material resources is not local content requirement.

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## VIET NAM

14.

Sector	: Services incidental to Manufacturing
Sub-Sector	: 1 Services related to manufacturing of water pumps used in agriculture (CPC 88530/ISIC 12912) 2 Services related to producing of plastic packing (CPC 88470) 3 Services related to producing of PP packing (CPC 88492)
Industry Classification	: CPC 884 – CPC 885
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: <u>Sub-sector 1</u> : Foreign investment is restricted and subject to foreign equity requirement of maximum of 30%.  <u>Sub-sectors 2 and 3</u> : Foreign investment is restricted.
Source of Measure	: Law on Investment, 2005 and its guiding documents.

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## VIET NAM

15.

**Sector** : **Services Incidental to Manufacturing**

**Sub-Sector** :

- Services related to producing of electronic scales for postal operation (CPC 88560/ISIC 32)
- Services related to producing of small capacity microwave equipment, main distribution frame component (MDF), subscriber local loop equipment, terminal boxes of different size, wiring cables (CPC 88550)
- Services related to producing of small capacity telephone switching systems (CPC 88560)
- Services related to producing of optical fiber terminals (CPC 88560)
- Services related to producing of telephone sets (CPC 88560)
- Services related to producing of H<sub>3</sub>PO<sub>4</sub> and HCl acids (CPC 88460/ISIC 2411)
- Services related to producing of chemical products such as phosphor, silicate-natri, tripolyphosphat, aluminium hydroxide, light powder, calcium chloride, active coal and black carbon (CPC 88460/ISIC 2429)
- Services related to manufacturing of products from structure metal (CPC 88520/ISIC 2811)
- Services related to manufacturing of barrels, tanks and metal containers (CPC 88460/ISIC 2812)
- Services related to processing of vegetable oil (In conjunction with development of local raw materials resources requirement) (CPC 88110/ISIC 0112)
- Services related to manufacturing of lifting and loading equipment and machinery (CPC 88530/ISIC 2915)
- Services related to manufacturing of other common used machinery (CPC 88530/ISIC 2919)
- Services related to testing and control of computer's quality (With the commitment to investment supports, training and technology transfer) (CPC 88540)
- Services related to packaging integrated circuits (IC) (Subject to technology transfer requirements) (CPC 88560)
- Services related to assembling of electronics components, electronic and telecommunication products based on contracts or a fee (Subject to technology transfer requirements) (CPC 88550)
- Services related to designing of machinery and equipment by computer (computer-aid-design CAD) (Subject to technology transfer requirements) (CPC 88540)
- Other services (Subject to planning of the Government)
- Services related to processing of alcohol (Subject to brand, quality requirements) (CPC 88411)

## VIET NAM

<b>Industry Classification</b>	: CPC 884 – CPC 885
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Investment in these services sub-sectors shall be subject to technology and quality requirements which may be inconsistent with National Treatment Article under ACIA. <sup>17</sup>
<b>Source of Measure</b>	: Law on Technical Standard and Criteria, 2006. Decree 40/2008/ND-CP dated 07/4/2008

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<sup>17</sup> For illustrative purpose, requirements on quality of services provided by foreign invested enterprises may be higher than those applied to local enterprises.

## VIET NAM

16.

<b>Sector</b>	: Mining & Quarrying
<b>Sub-Sector</b>	: Oil and gas
<b>Industry Classification</b>	: ISIC 111, ISIC 112
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors shall not apply to any measure relating to oil and gas activities carried out within Viet Nam.  Investment in oil and gas activities shall be subject to approval by the Government of Viet Nam.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law on Investment, 2005.</li><li>- Law on Minerals, 2005.</li><li>- Decree 160/2005/ND-CP; dated 27/12/2005.</li><li>- Decree 07/2009/ND-CP dated 22/01/2009</li></ul>

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## VIET NAM

17.

<b>Sector</b>	: Mining & Quarrying, except Oil and Gas
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC1310, 1320, 1410
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply to any measure in relation to mining & quarrying investment, including but not limited to the following sectors: <ul style="list-style-type: none"><li>- Survey, exploration and exploitation of minerals</li><li>- Exploitation, processing of rare and precious minerals, raw materials</li><li>- Exploitation, 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</li><li>- Projects in exploitation of precious or rare mineral shall be subject to approval by the Government of Vietnam</li><li>- Mineral activities related to the special, toxic, rare and precious minerals including basic geological investigation, prospecting, exploration, exploitation and processing</li></ul>
<b>Source of Measure</b>	: - Decree 108/2006/ND-CP dated 22/9/2006. - Law on Minerals, 2005. - Decree 160/2005/ND-CP dated 27/12/2005. - Decree 07/2009/ND-CP dated 22/01/2009

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## VIET NAM

18.

<b>Sector</b>	: Services Incidental to Mining and Quarrying
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: CPC 883
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	<p>: Foreign equity participation in joint ventures shall not exceed 49%. From 11 January 2010, the foreign equity participation in joint ventures may be 51%. From 11 January 2012, 100% foreign-invested enterprises may be permitted.</p> <p>National Treatment shall not apply to any measure relating to the services incidental to mining and quarrying activities.</p> <p>Investment in the oil and gas related activities carried out within Viet Nam shall be subject to law, regulations and procedures of Viet Nam.</p>
<b>Source of Measure</b>	: Law on Investment, 2005.

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## VIET NAM

19.

<b>Sector</b>	: Fishery
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to fishery activities within Viet Nam sovereignty and jurisdiction waters as defined in accordance with the 1982 UNCLOS.
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law on Fishery, 2003.</li><li>- Decree 108/2006/ND-CP, dated 22/09/2006.</li><li>- Decree 49/1998/ ND-CP dated 13/7/1998.</li><li>- Decree 86/2001/ND-CP dated 16/11/2001.</li><li>- Decree 191/2004/ND-CP dated 18/11/2004.</li><li>- Decree 59/2005/ND-CP dated 04/5/2005.</li><li>- Decision 10/2007/QD-TTg dated 11/1/2006.</li><li>- Circular 02/2005/TT-BTS dated 04/5/2005.</li><li>- Circular 62/2008/TT-BNN dated 20/5/2008.</li></ul>

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## VIET NAM

20.

<b>Sector</b>	: Service Incidental to Fishery
<b>Sub-Sector</b>	: Fry production and aquaculture operation
<b>Industry Classification</b>	: CPC 88200
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Requirements on technology, fry quality of foreign invested enterprises must be higher than those that apply to local enterprises
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law on Technical Standard and Criteria, 2006.</li><li>- Law on Fishery, dated 26/11/2003.</li><li>- Decree 59/2005/ND-CP dated 04/5/2005.</li><li>- Circular 02/2005/TT-BTS dated 04/5/2005.</li><li>- Circular 62/2008/TT-BNN dated 20/5/2008.</li></ul>

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## VIET NAM

21.

<b>Sector</b>	: Service Incidental to Fishery
<b>Sub-Sector</b>	: <ol style="list-style-type: none"> <li>1. Services related to sending vessels for buying sea-products (CPC 88200)</li> <li>2. Services related to hiring of fishing boats and employees (CPC 88200)</li> <li>3. Services related to processing on board for fish (CPC 88200) crustaceans and mollusks and other related services</li> <li>4. Services related to exploiting of sea-products (CPC 88200)</li> <li>5. Services on collecting and buying aquatic products (CPC 8820)</li> </ol>
<b>Industry Classification</b>	: 8820)
<b>Level of Government</b>	: CPC 88200
<b>Type of Obligation</b>	: Central
<b>Description of Measure</b>	: National Treatment
<b>Source of Measure</b>	: <p><u>Sub-sectors 1 and 2</u>: Foreign investment is restricted and subject to foreign equity requirement of maximum of 30%.</p> <p><u>Sub-sectors 3 and 4</u>: Foreign investment is restricted and subject to foreign equity requirement of maximum of 40%.</p> <p>Decree 33/2010/ND – CP dated 31/03/2010            - Decree 32/2010/ND-CP dated 30/03/2010            - Decree 59/2005/ND – CP dated 04/5/2005            - Decree 14/2009/ND-CP dated 13/2/2009            - Decree 27/2005/ND-CP dated 08/03/2005            - Administrative Guidelines</p>

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## VIET NAM

22.

<b>Sector</b>	: Forestry
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC 0200
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: National Treatment shall not apply to any measure relating to investment in forestry activities, including but not limited to the following: <ul style="list-style-type: none"><li>- Not to grant license to exploit natural forest to foreign investors</li><li>- To provide rights and obligations of foreign individuals and organizations different from those of Vietnamese individuals and organizations</li></ul>
<b>Source of Measure</b>	: <ul style="list-style-type: none"><li>- Law on Protection and Development of Forest, 2004.</li><li>- Decree 23/2006/QĐ-TTg dated 3/3/2006.</li><li>- WTO's commitments.</li></ul>

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## VIET NAM

23.

<b>Sector</b>	: Services Incidental to Agriculture, Hunting and Forestry
<b>Sub-Sector</b>	: Services relating to investigation, evaluation and exploitation for natural forest, including exploitation of woods and wild, rare and precious animals, hunting, trapping, aerial seed planting and aerial chemicals spraying and dusting, microbial plant, animal genetic resource in agriculture.
<b>Industry Classification</b>	: CPC 8812
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: No investment license will be issued for foreign investors in those sub-sectors.
<b>Source of Measure</b>	: Law on Investment, 2005. Law on Protection and Development of Forest, 2004.

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## VIET NAM

24.

<b>Sector</b>	: <b>Services Incidental to Agriculture, Hunting and Forestry</b>
<b>Sub-Sector</b>	: <b>Services incidental to agriculture, hunting and forestry, <u>other than</u> services relating to investigation, evaluation and exploitation for natural forest, including exploitation of woods and wild, rare and precious animals hunting and trapping, aerial seed planting and aerial chemicals spraying and dusting, micro-bial plant, animal genetic resource in agriculture.</b>
<b>Industry Classification</b>	: CPC 881
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment Senior Management and Board of Directors
<b>Description of Measure</b>	: Foreign investors are only permitted to invest in the form of joint-venture or business co-operation contract. Foreign equity shall not exceed 51% of the legal capital <sup>18</sup> of joint venture.  Foreign investments in these sectors are restricted to certain geographical areas <sup>19</sup> as may be approved on a case-by-case basis.
<b>Source of Measure</b>	: - Law on Investment dated 29/11/2005 - Law on Protection and Development of Forest dated 03/12/2004

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<sup>18</sup> "Legal capital" means, as defined by the Law on Enterprises 2005, article 4, provision 7, the minimum level of capital as stipulated by law to form an enterprise.

<sup>19</sup> The certain geographical areas may include, but not limited to natural reserves.

## VIET NAM

25.

<b>Sector</b>	<b>:</b>	<b>Manufacturing</b>
<b>Sub-Sector</b>	<b>:</b>	<b>Aircraft Manufacture Industry</b>
<b>Industry Classification</b>	<b>:</b>	<b>CPC 88590 (ISIC 353)</b>
<b>Level of Government</b>	<b>:</b>	<b>Central</b>
<b>Type of Obligation</b>	<b>:</b>	<b>National Treatment</b>
<b>Description of Measure</b>	<b>:</b>	The foreign equity participation shall not exceed 49% of the legal capital <sup>20</sup> of the Joint-venture companies operating in air-plane manufacture
<b>Source of Measure</b>	<b>:</b>	Decision No 38/2007/QĐ-TTg dated 20/3/ 2007

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<sup>20</sup> "Legal capital" means, as defined by the Law on Enterprises 2005, article 4, provision 7, the minimum level of capital as stipulated by law to form an enterprise.



## VIET NAM

26.

<b>Sector</b>	: <b>Manufacturing and Services Incidental to Manufacturing</b>
<b>Sub-Sector</b>	: <ul style="list-style-type: none"><li>- Manufacture of railway rolling stock, spare parts, wagon and coach</li><li>- Services related to manufacturing of railway rolling stock, spare parts, wagon and coach</li></ul>
<b>Industry Classification</b>	: CPC 88590 (ISIC 352)
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment
<b>Description of Measure</b>	: Joint-venture form is only permitted and foreign equity participation shall not exceed 49% of the legal capital <sup>21</sup> of the Joint venture.
<b>Source of Measure</b>	: Decision 1686/QĐ-TTg dated 20/11/2008.

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<sup>21</sup> "Legal capital" means, as defined by the Law on Enterprises 2005, article 4, provision 7, the minimum level of capital as stipulated by law to form an enterprise.

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