

ANNEX I

SCHEDULE OF BRUNEI DARUSSALAM

INTRODUCTORY NOTES

1. In the interpretation of an entry in this Annex, all elements of the entry shall be considered, where the **Description** sets out the non-conforming measure for which the entry is made.
2. In accordance with Article 9.12.1 (Non-Conforming Measures) and Article 10.7.1 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **Description** element of that entry.

Sector:	All
Obligations Concerned:	National Treatment (Article 9.4) Senior Management and Boards of Directors (Article 9.11)
Measures:	<i>Companies Act</i> (Chapter 39) <i>Business Names Act</i> (Chapter 92) <i>Miscellaneous Licences Act</i> (Chapter 127) <i>Co-operative Societies Act</i> (Chapter 84) <i>Employment Agencies Order 2004</i> Administrative Measures and Guidelines
Description:	<p><u>Investment</u></p> <p>1. <u>Sole Proprietors and Cooperative Societies</u></p> <p>Foreign nationals may not establish sole proprietorships or cooperative societies.</p> <p>2. <u>Partnerships</u></p> <p>Foreign nationals may not establish a partnership, except with the written approval of the Registrar of Business Names.</p> <p>3. <u>Company Directorship</u></p> <p>A foreign national may not sit on the board of directors of an enterprise established in Brunei Darussalam unless one of the two directors or, where there are more than two directors, at least two of them shall be ordinarily resident in Brunei Darussalam. For the purposes of this entry, a foreign national shall apply to the Ministry of Finance in order to be considered as being “ordinarily resident in Brunei Darussalam”.</p>

Sector: Manufacturing and Services Incidental to Manufacturing

Obligations Concerned: Performance Requirements (Article 9.10)

Measures: Brunei Darussalam Long-Term Development Plan
Administrative Measures and Guidelines

Description: Investment

Foreign investors may not utilise sites under the control of the Ministry of Primary Resources and Tourism and the Brunei Economic Development Board for any manufacturing and services incidental to manufacturing activities unless they comply with the following:

- (a) to purchase, use, or accord a preference to goods produced in Brunei Darussalam, to purchase goods from local suppliers; or
- (b) to transfer technology or other proprietary knowledge to persons in Brunei Darussalam, as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam.

Sector: Agriculture and Services Incidental to Agriculture

Obligations Concerned: Performance Requirements (Article 9.10)

Measures: Brunei Darussalam Long-Term Development Plan
Administrative Measures and Guidelines

Description: Investment

Foreign investors may not utilise sites under the control of the Department of Agriculture, Ministry of Primary Resources and Tourism, for any agriculture and services incidental to agriculture activities unless they comply with these requirements:

- (a) to purchase, use or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers;
- (b) to achieve a given level or percentage of domestic content; or
- (c) to transfer technology or other proprietary knowledge to persons in Brunei Darussalam, as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam.

Sector: Fisheries and Services Incidental to Fisheries

Obligations Concerned: Performance Requirements (Article 9.10)

Measures: Brunei Darussalam Long-Term Development Plan
Administrative Measures and Guidelines

Description: Investment

Foreign investors may not utilise sites under the control of the Department of Fisheries, Ministry of Primary Resources and Tourism, for any fisheries and services incidental to fisheries activities unless they comply with requirements to purchase, use or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers, or to comply with any requirement to transfer technology or other proprietary knowledge, as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam.

Sector:	Forestry and Services Incidental to Forestry
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Market Access (Article 10.5)
Measures:	National Forestry Policy (1990) Brunei Darussalam Long-Term Development Plan Administrative Measures and Guidelines (Strategic Plan 2004 – 2023)
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. Foreign nationals or enterprises shall not establish an enterprise to undertake activities related to forestry or services incidental to forestry:</p> <ul style="list-style-type: none"> (a) except through a joint venture with a Brunei national or Bruneian enterprise in which the foreign national or enterprise does not own more than 70 per cent equity; and (b) unless they comply with any performance requirements which may be imposed, including a requirement to transfer technology or other proprietary knowledge, as long as such requirement does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam. <p>2. For greater certainty, this entry does not apply to logging activities.</p>

Sector:	Construction Services
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Local Presence (Article 10.6)
Measures:	<i>Architects, Professional Engineers and Quantity Surveyors Order 2011</i> <i>Building Control Order 2011 (Draft)</i> Building Control Regulations (Draft) Procedures of Contractors and Suppliers Registration, Ministry of Development (Edition 2009) Administrative Measures and Guidelines
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. Foreign nationals and enterprises are not allowed to supply construction services such as: general construction work for building services, general construction work for civil engineering, installation and assembly work services, building completion and finishing work services, except mining, and mechanical engineering services, unless:</p> <ul style="list-style-type: none"> (a) through an enterprise established in Brunei Darussalam; (b) they register for either Certificate A or Certificate B, as a contractor or supplier; or (c) they comply with any requirement to transfer technology or other proprietary knowledge to persons in Brunei Darussalam as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam. <p>2. In the case of Certificate A, a foreign national or enterprise may not own equity shareholding other than what is prescribed in the table below, in any enterprise that applies to be registered as a contractor or supplier:</p>

Table

Class	Project Threshold	Level of Foreign Equity Allowed
I	Up to BND 50 000	None
II	Exceeding BND 50 000 but not more than BND 250 000	None
III	Exceeding BND 250 000 but not more than BND 500 000	20 per cent
IV	Exceeding BND 500 000 but not more than BND 1.5 million	50 per cent
V	Exceeding BND 1.5 million but not more than BND 5 million	70 per cent
VI	Exceeding BND 5 million	90 per cent
Building Specialist and Supplier	No threshold	90 per cent
Mechanical and Electrical Specialist and Supplier	No threshold	90 per cent

3. For greater certainty, Certificate A refers to certificates which are required for participating in government and private projects, whilst Certificate B refers to certificates which are required for participating in private projects only.

Sector:	Environmental Services
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Local Presence (Article 10.6)
Measures:	Pollution Control Guidelines for Industrial Development of Brunei Darussalam Planning Guidelines for Earthworks Development (Focus on Environmental Sensitive Area) 2009 Planning Guidelines and Standards for Industrial Development 2010 <i>Environmental Impact Assessment Order 2011 (Draft)</i> <i>Environmental Protection and Management Order 2012</i> <i>Hazardous Waste (Control of Export, Import and Transit) Order 2011 (Draft)</i> Hazardous Waste (Control of Export, Import and Transit) Regulations (Draft) Administrative Measures and Guidelines
Description:	<u>Investment and Cross-Border Trade in Services</u> 1. Foreign nationals and enterprises are not allowed to provide consultancy services on environmental protection and management; waste management services; landscape design management and maintenance services and janitorial services, roadside and cleaning works services, unless: <ul style="list-style-type: none"> (a) they are established as an enterprise in Brunei Darussalam; (b) they register for either Certificate A or Certificate B, as a contractor or supplier; or (c) they comply with any requirement to transfer technology or other proprietary knowledge to persons in Brunei Darussalam as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of the technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam.

2. In the case of Certificate A, a foreign national or enterprise may not own equity shareholding other than what is prescribed in the table below, in any enterprise that applies to be registered as a contractor or supplier:

Table

Class	Project Threshold	Level of Foreign Equity Allowed
I	Up to BND 50 000	None
II	Exceeding BND 50 000 but not more than BND 250 000	None
III	Exceeding BND 250 000 but not more than BND 500 000	20 per cent
IV	Exceeding BND 500 000 but not more than BND 1.5 million	50 per cent
V	Exceeding BND 1.5 million but not more than BND 5 million	70 per cent
VI	Exceeding BND 5 million	90 per cent
Building Specialist and Supplier	No threshold	90 per cent
Mechanical and Electrical Specialist and Supplier	No threshold	90 per cent

3. For greater certainty, Certificate A refers to certificates which are required for participating in government and private projects, whilst Certificate B refers to certificates which are required for participating in private projects only.

Sector:	Business Services
Sub-Sector:	Auditing services
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5)
Measures:	<i>Companies Act</i> (Chapter 39) <i>Accountants Order 2010</i> Administrative Measures and Guidelines
Description:	<u>Investment and Cross-Border Trade in Services</u> 1. Foreign nationals and enterprises may not establish financial auditing enterprises in Brunei Darussalam, except through a partnership or joint venture with at least one authorised Bruneian auditor. 2. If they are not established in Brunei Darussalam, foreign nationals and enterprises may not provide financial auditing services in Brunei Darussalam, unless: (a) authorised by the Ministry of Finance; or (b) through a locally established auditor or enterprise provided that they are authorised by the Ministry of Finance. 3. For greater certainty, the term “authorised” refers to a qualified person who has been authorised by the Ministry of Finance to provide financial auditing services.

Sector:	Telecommunication Services
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Performance Requirements (Article 9.10) Market Access (Article 10.5) Local Presence (Article 10.6)
Measures:	<i>Telecommunications Order 2001</i> AiTi Operational Framework
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. Foreign nationals and enterprises may not provide telecommunication services for which Brunei Darussalam requires a licence¹ in the territory of Brunei Darussalam, unless:</p> <ul style="list-style-type: none"> (a) they maintain a physical business presence in Brunei Darussalam; (b) they provide such services through a commercial arrangement with a licensed operator in Brunei Darussalam; and (c) where so required, they locate their transmission equipment used for the provision of public telecommunications networks or supply of public telecommunications services within Brunei Darussalam. <p>2. Except where specifically approved by the Ministry of Communications, foreign nationals and enterprises may not own more than 51 per cent equity shareholding in any telecommunication enterprises. The approval process for exceeding this 51 per cent threshold shall be based on objective criteria and be implemented in an impartial manner.</p> <p>3. Foreign nationals and enterprises may not undertake activities related to telecommunication services unless they</p>

¹ Software application-based services provided over the Internet (Over-the-Top services) do not currently require a licence in Brunei Darussalam.

comply with any performance requirements that may be imposed. Such performance requirements shall not include a requirement to purchase domestic telecommunications equipment.

4. For greater certainty, telecommunication services means any services for telecommunications, which means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception; but excludes any broadcasting service.

Sector:	Business Services
Sub-Sector:	Architectural services Engineering services Integrated engineering services Quantity surveying services Related scientific and technical consulting services Surveying services Urban planning and landscape services
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
Measures:	<i>Architects, Professional Engineers and Quantity Surveyors Order 2011</i> <i>Licensed Land Surveyors Act</i> (Chapter 100) <i>Licensed Land Surveyors (Amendment) Order</i> (Draft) <i>Licensed Land Surveyors Regulations</i> (Draft) <i>Town Planners Registration Order</i> (Draft) <i>Town Planners (Forms and Fees) Rules</i> (Draft) Administrative Measures and Guidelines
Description:	<u>Investment and Cross-Border Trade in Services</u> 1. Foreign nationals and enterprises may not supply architectural services, engineering services, integrated engineering services or quantity surveying services, unless: <ol style="list-style-type: none"> (a) they are resident in Brunei Darussalam for at least 90 days per calendar year and are registered as an architect, professional engineer or quantity surveyor in that sector with Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors; (b) if they are not resident in Brunei Darussalam, through a local enterprise where the services suppliers are registered as an architect, professional engineer or quantity surveyor and

hold a practising certificate in that sector with Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors; or

- (c) through an enterprise established in Brunei Darussalam that is a partnership or joint venture with at least one Brunei national who is registered as an architect, professional engineer or quantity surveyor and holds a practising certificate in that sector with Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors.

2. Foreign nationals and enterprises may not provide urban planning and landscape services, related scientific and technical consulting services, and surveying services, unless:

- (a) they are resident in Brunei Darussalam for at least 90 days per calendar year and are registered as a planner or surveyor in that sector with the Ministry of Development;
- (b) if they are not resident in Brunei Darussalam, through a local enterprise where the services suppliers are registered as planner or surveyor in that sector with the Ministry of Development; or
- (c) through an enterprise established in Brunei Darussalam that is a partnership or joint venture with at least one Brunei national who is registered as a planner or surveyor in that sector with the Ministry of Development.

Sector:	Business Services
Sub-Sector:	Unarmed guard services
Obligations Concerned:	Local Presence (Article 10.6)
Measures:	<i>Security Agencies Act</i> (Chapter 187) Administrative Measures and Guidelines
Description:	<u>Cross-Border Trade in Services</u> Foreign nationals and enterprises may not provide unarmed guard services unless they establish an enterprise in Brunei Darussalam.

Sector:	Business Services
Sub-Sector:	Placement and supply services of personnel Employment agencies
Obligations Concerned:	National Treatment (Article 9.4) Local Presence (Article 10.6)
Measures:	<i>Employment Agencies Order 2004</i> Administrative Measures and Guidelines
Description:	<u>Investment and Cross-Border Trade in Services</u> A foreign national or enterprise may not supply, or establish an enterprise to supply, services to place or supply personnel, or an employment agency, except through a local agent or enterprise registered with the Department of Labour, Ministry of Home Affairs.

Sector: Business Licences

Obligations Concerned: National Treatment (Article 9.4)

Measures: *Miscellaneous Licences Act* (Chapter 127)
Municipal Board Act (Chapter 57)
Municipal Board Enactment 1920
Road Traffic Act (Chapter 68)
Public Entertainment Act (Chapter 181)
Administrative Measures and Guidelines

Description: Investment

1. A “Business Licence” may only be granted to a Brunei national.
2. For greater certainty this entry is limited to the issuance of “Business Licences” for the operation of commercial properties identified in the listed measures. Business Licences are required for the enforcement of health and safety regulations, and do not restrict the participation of foreign nationals in any activity where such a Business Licence is required, unless otherwise provided for in this Schedule.

Sector:	Private Health and Social Services
Sub-Sector:	General medical practitioners Specialised medical practitioners Dental practitioners
Obligations Concerned:	National Treatment (Article 10.3) Local Presence (Article 10.6)
Measures:	<i>Medical Practitioners and Dentists Act</i> (Chapter 112)
Description:	<u>Cross-Border Trade in Services</u> A foreign national may not establish a private practice for the provision of general medical, specialised medical or dental services unless the foreign national has worked in Brunei Darussalam for at least six cumulative years as a general medical, specialised medical or dental practitioner, which shall include three years of clinical service in a public hospital, health centre or clinic under the Ministry of Health.

Sector:	Tourism and Travel Related Services
Sub-Sector:	Travel agents Tour operator services
Obligations Concerned:	National Treatment (Article 9.4)
Measures:	<i>Travel Agents Act</i> (Chapter 103) Administrative Measures and Guidelines
Description:	<u>Investment</u> <ol style="list-style-type: none"> 1. Foreign nationals and enterprises may not establish a travel agency in Brunei Darussalam. 2. Foreign nationals and enterprises may not own more than 70 per cent equity shareholding in any enterprise established in Brunei Darussalam providing tour operator services.

Sector:	Tourism
Sub-Sector:	Hotels/Boarding House/Lodging
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5)
Measures:	<i>Miscellaneous Licences Act</i> (Chapter 127) Administrative Measures and Guidelines
Description:	<u>Investment and Cross-Border Trade in Services</u> Foreign nationals and enterprises may not establish hotels, boarding houses or lodgings in Brunei Darussalam, unless: <ul style="list-style-type: none"> (a) through a joint venture with a Brunei national or Bruneian enterprise; (b) the majority of senior managers in the joint venture are Brunei nationals; and (c) they comply with any commitment or understanding to purchase, use or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers.

Sector:	Mining and Quarrying of sand (apart from silica sand) and gravel, and Services incidental to Mining and Quarrying of sand and gravel
Obligations Concerned:	National Treatment (Article 9.4)
Measures:	<i>Mining Act</i> (Chapter 42) Administrative Measures and Guidelines
Description:	<p><u>Investment</u></p> <ol style="list-style-type: none"> 1. Unless authorised to do so by the Ministry of Development, a foreign national may not establish an enterprise to mine or quarry for sand (apart from silica sand) or gravel, or provide any services incidental to such mining and quarrying of sand or gravel. 2. Any sand (apart from silica sand) or gravel mined or quarried in Brunei Darussalam is only allowed to be used within Brunei Darussalam and is not allowed to be exported.

Sector: Trade Fair and Exhibition Organising Services

Obligations Concerned: National Treatment (Article 10.3)

Measures: *Public Entertainment Act* (Chapter 181)

Description: Cross-Border Trade in Services

A foreign national may not provide trade fair and exhibition organising services in Brunei Darussalam except with the written approval of the Ministry of Home Affairs or Ministry of Primary Resources and Tourism, which includes the requirement of supporting documents from the relevant government agencies or diplomatic representative office of that respective foreign national, depending on the sector involved.

Sector:	Transport Services
Sub-Sector:	Rail transport services
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
Measures:	Administrative Measures and Guidelines
Description:	<u>Investment and Cross-Border Trade in Services</u> Foreign nationals and enterprises may not provide rail transport services in Brunei Darussalam, unless: <ul style="list-style-type: none"> (a) through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 49 per cent equity shareholding in the joint venture; (b) they comply with any performance requirements imposed, including requirements to transfer a particular technology or other proprietary knowledge as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam; or (c) a majority of the senior managers in the joint venture are Brunei nationals.

Sector:	Transport Services
Sub-Sector:	Maritime passenger transport services Maritime freight transport services Services auxiliary to maritime transport
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
Measures:	Administrative Measures and Guidelines
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. Foreign nationals and enterprises may not provide maritime passenger and freight transport services as Brunei Darussalam-flagged vessels in Brunei Darussalam, unless:</p> <ul style="list-style-type: none"> (a) they register such vessels under the Brunei Darussalam flag through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 40 per cent equity shareholding in the joint venture; (b) they comply with any performance requirements imposed, including a requirement to transfer a particular technology or other proprietary knowledge as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam; and (c) a majority of the senior managers in the joint venture are Brunei nationals. <p>2. Foreign nationals and enterprises may not provide</p>

services auxiliary to maritime transport services at Muara Port, unless:

- (a) through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding in any such enterprise providing services auxiliary to maritime transport services; and
- (b) a majority of the senior managers in any such enterprise established are Brunei nationals.

3. The number of enterprises in Brunei Darussalam providing maritime passenger and freight transport services and services auxiliary to maritime transport at Muara Port may be subject to needs-based quantitative limits.

Sector:	Transport Services
Sub-Sector:	Specialty air services (flight training organisation)
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5)
Measures:	Administrative Measures and Guidelines
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. Foreign nationals and enterprises may not provide specialty air transport services (flight training) in Brunei Darussalam, unless:</p> <ul style="list-style-type: none"> (a) through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 49 per cent equity shareholding in any such enterprise providing specialty air services (flight training); (b) they comply with any performance requirements imposed, including a requirement to transfer a particular technology or other proprietary knowledge as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology and is not for the purpose of commercial exploitation by Brunei Darussalam; and (c) a majority of the senior managers in any such enterprises established are Brunei nationals. <p>2. The number of enterprises in Brunei Darussalam providing specialty air services (flight training) may be subject to needs-based quantitative limits.</p>

Sector:	Communication Services
Sub-Sector:	Courier services, including express delivery services
Obligations Concerned:	National Treatment (Article 9.4) Market Access (Article 10.5) Local Presence (Article 10.6)
Measures:	Administrative Measures and Guidelines
Description:	<u>Investment and Cross-Border Trade in Services</u> Foreign nationals and enterprises may not supply courier services, including express delivery services, in Brunei Darussalam, unless through an enterprise established in Brunei Darussalam that is a joint venture, to provide such services.

Sector:	Business Services
Sub-Sector:	Professional services Legal services
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5)
Measures:	<i>Legal Profession Act</i> (Chapter 132)
Description:	<u>Investment and Cross-Border Trade in Services</u> 1. A foreign national or service supplier may not supply legal services in Brunei Darussalam except in relation to international law or home country law. 2. A foreign national or service supplier may not establish an enterprise for the supply of legal services in Brunei Darussalam in relation to international law or home country law, except through a partnership with at least one registered Bruneian advocate and solicitor.

Sector:	Education Services
Sub-Sector:	Higher education services International schools
Obligations Concerned:	National Treatment (Article 9.4) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5)
Measures:	<i>Education Order</i> (Chapter 210)
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. Foreign nationals and enterprises may not supply higher education services through a commercial presence in Brunei Darussalam, unless:</p> <ul style="list-style-type: none"> (a) through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 51 per cent equity shareholding in the joint venture; (b) they comply with any performance requirements imposed, including a requirement to transfer a particular technology or other proprietary knowledge as long as such requirement to transfer technology or other proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by Brunei Darussalam; and (c) a majority of the senior managers in the joint venture are Brunei nationals. <p>2. Foreign enterprises are not allowed to be set up as branches or associate institutions unless authorised by the Minister of Education.</p>

3. Foreign nationals and enterprises may not establish international schools in Brunei Darussalam unless authorised by the Minister of Education.

Sector: Land

Obligations Concerned: National Treatment (Article 9.4)

Measures: *Land Code* (Chapter 40)
Land Acquisition (Chapter 41)
Land Code (Strata) Act (Chapter 189)

Description: Investment

Subject to review and approval by the relevant committee (*Komiti bagi Mempertimbangkan Permohonan Pindahmilik Strata*) chaired by the Minister of Development, or his authorised representative, a foreign national or enterprise:

- (a) may own or lease non-landed property (strata title) for up to a maximum of:
 - (i) 99 years where the property is situated on land which is held in perpetuity (freehold); or
 - (ii) one day less than the term of the lease where the land held is leasehold land; and
- (b) may not own or lease more than 70 per cent of the individual strata titles in a single property.

Sector:	Petroleum
Obligations Concerned:	National Treatment (Article 9.4)
Measures:	<p><i>Petroleum Mining Act</i> (Chapter 44) (the Act) <i>Brunei National Petroleum Company Sendirian Berhad Order, 2002</i> <i>Petroleum (Pipe-Lines) Act</i> (Chapter 45) Administrative Measures and Guidelines</p>
Description:	<p><u>Investment</u></p> <ol style="list-style-type: none"> 1. Under the Act, the State Party has exclusive ownership of and rights over petroleum in the territory of Brunei Darussalam. The State Party presently includes Brunei National Petroleum Company Sdn. Bhd. (“PetroleumBRUNEI”). Private companies may obtain exploration, exploitation, development and production rights for petroleum through petroleum mining Agreements with the State Party. 2. The State Party may require that investment in Brunei Darussalam by an investor of another Party take the form of a joint venture or a similar arrangement with a Bruneian enterprise, which may include PetroleumBRUNEI or any of its subsidiaries. 3. The State Party may require as a contractual term that, during the exploration or development period, all relevant costs with respect to the maximum participating interest of the Bruneian enterprise be borne by the partner that is an investor of another Party. Consequently, on the expiration of the carry interest period, the Bruneian enterprise will bear the costs of future operations in proportion to its participating interests in the petroleum mining Agreement. 4. The State Party may require as a contractual term that a Bruneian enterprise may acquire a participating interest, or increase its participating interest, in the joint venture or similar arrangement upon the occurrence of a stipulated event.

5. The terms “State Party”, “petroleum mining Agreement” and “petroleum” used herein shall have the meanings ascribed to them under the Act.

Sector:	Petroleum
Obligations Concerned:	Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11)
Measures:	Administration Measures and Guidelines
Description:	<p><u>Investment</u></p> <p>Foreign enterprises acting as operators in the upstream, midstream and downstream oil and gas industry may be:</p> <ul style="list-style-type: none"> (a) contractually required to provide a portion of natural gas or manufactured petrochemical products and their derivatives in Brunei Darussalam for domestic use; or (b) required to appoint a certain percentage of Brunei nationals to management positions.

Sector:	Services supporting the petroleum industry
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3)
Measures:	Local Business Development Directive No. 2 of the Energy Department, Prime Minister's Office
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <ol style="list-style-type: none">1. A foreign national or enterprise shall not supply, or establish an enterprise to supply services in the upstream, midstream and downstream petroleum industry in the services listed in Appendix I – A, unless as may otherwise be authorised by the Government of Brunei Darussalam.2. Where a foreign national or enterprise has a contract for the provision of services listed in Appendix I – A, it may only provide such services through a Brunei national or Bruneian enterprise.

Sector:	Services supporting the petroleum industry
Obligations Concerned:	Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Local Presence (Article 10.6)
Measures:	Local Business Development Directive No. 2 of the Energy Department, Prime Minister’s Office
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. A foreign national or enterprise may supply, or establish an enterprise to supply services in the upstream, midstream and downstream petroleum industry other than those listed in Appendix I – A.</p> <p>2. Where the total approved contract value for the supply of services in paragraph 1 is more than BND 10 million, the foreign national or enterprise must comply with the following requirements:</p> <ul style="list-style-type: none"> (a) appoint at least 40 per cent or more, Brunei nationals to the enterprise’s management positions in Brunei Darussalam within the duration of the contract period; (b) accord a preference to goods and services produced in Brunei Darussalam so that at least 40 per cent, or more, of goods and services are produced or purchased in Brunei Darussalam within the duration of the contract period; and (c) establish or maintain a representative office or any form of enterprise, or be resident in Brunei Darussalam, <p>unless as may otherwise be authorised by the Government of Brunei Darussalam.</p>

Sector:	Services supporting the petroleum industry
Sub-Sector:	Operation of Marine Supply Base and Shipyard
Obligations Concerned:	National Treatment (Article 9.4) Market Access (Article 10.5)
Measures:	Administrative Measures and Guidelines
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <ol style="list-style-type: none"> 1. Foreign nationals or enterprises may not establish a marine supply base or shipyard to supply services to the oil and gas industry except through a joint venture with a Brunei national or Bruneian enterprise, and may not own more than 49 per cent equity shareholding in the joint venture. 2. The number of marine supply bases or shipyards in Brunei Darussalam may be subject to needs-based quantitative limits.

APPENDIX I – A

Work Categories

Corporate Services

1. Provision of environmental health services, including pest prevention services. This does not include advisory and consultancy services
2. Provision of media publication services
3. Provision of event management services
4. Provision of travel arrangements for staff (other than those booked online)

Engineering Design

1. Provision of quantity surveying services

Facility Management

1. Provision of supply, rental, installation and maintenance of air-conditioners for onshore and offshore areas
2. Provision of catering, cleaning, laundry and recreational services at offshore facilities
3. Provision of housekeeping and catering services for onshore oil and gas facilities including lodging
4. Provision of building and maintenance services for staff housing
5. Provision of electrical maintenance services for staff housing
6. Provision of landscape maintenance services
7. Provision of packing and transportation services for staff
8. Provision of office support services
9. Provision of security services
10. Provision of warehousing services for storage

11. Provision of maintenance services for industrial buildings
12. Provision of civil infrastructure services including maintenance, construction, renovation and demolition
13. Provision of courier services to worldwide locations and within Brunei

Inspection Services

1. Provision of specialist inspection and non-destructing testing services

Instrumentation – Aftermarket

1. Provision of after-sales maintenance services for instrumentation equipment and spare parts

Land

1. Provision of spot or term hire of light vehicles
2. Provision of spot or term hire of medium/heavy vehicles. This does not include specialised or special-purpose vehicles
3. Provision of material handling and manpower services
4. Provision of material clearing and forwarding services for air and sea freight
5. Provision of road fuel tankers and maintenance services for transport of petroleum products domestically

Marine Vessels

1. Provision of chartered anchor handling tugs
2. Provision of chartered barges for accommodation and working deck space
3. Provision of chartered Liquefied Natural Gas (LNG) tugs to support berthing of LNG vessels
4. Provision of chartered contingencies utility craft to support safety coverage
5. Provision of chartered fast crew boats for passenger transfer and light cargo

6. Provision of chartered vessels for general purpose launches, area launches, standby launches
7. Provision of chartered supply vessels

Offshore Maintenance Services

1. Provision of offshore construction and maintenance services including work pack preparation, project preparation, installation, repair and maintenance work
2. Provision of blasting and painting services for offshore facilities
3. Provision of scaffolding equipment and maintenance activities for offshore platforms

Onshore Fabrication

1. Provision of onshore fabrication services to support onshore brownfield projects and minor maintenance activities
2. Provision of onshore fabrication services to support offshore structures
3. Provision of onshore construction services

Onshore Maintenance Services

1. Provision of fabrication, installation and maintenance of onshore production support facilities including landfield maintenance and construction, tank maintenance and construction, project support for brownfield/greenfield projects and other associated services
2. Provision of scaffolding for onshore work
3. Provision of well tie-in services for onshore wells
4. Provision of workshop services including maintenance, repair, testing of equipment

Rotating equipment – aftermarket

1. Provision of after-sales maintenance services for rotating equipment and spare parts

Static equipment – aftermarket

1. Provision of after-sales maintenance services for static equipment and spare parts

Training

1. Provision of basic management, supervisory and development training. Training activities are either non-technical (such as soft skills) or minimal technical training. This does not include higher or tertiary education services, such as specialised technical training and engineering expertise.

Well Construction Services

1. Provision of chemicals and brine mixing services to support drilling activities
2. Provision of low-end drilling tools and equipment
3. Provision of post-drilling platform and tank cleaning services

Well Intervention

1. Provision of coil tubing services and equipment for onshore activities
2. Provision of hoist services for in support of onshore wells workover operations and related activities
3. Provision of equipment and personnel for well abandonment services
4. Provision of well integrity and maintenance services

Product Categories

1. Supply of materials and equipment for civil works including building material and hardware, small tools, textiles and clothing
2. Supply of flat-rack containers for storage and transportation
3. Supply of material handling accessories including wire ropes, cordage chains and tackles
4. Supply of non-office materials and equipment including furniture and household requisites
5. Supply of office materials and equipment including office machines, stationery and consumables
6. Supply of vehicles and vehicles accessories including bicycles. This does not include

specialised or special-purpose vehicles.

7. Supply of abrasives, polishes and compounds
8. Supply of lubricants including oil products, greases and fuel additives
9. Supply of workshop tools and accessories including machine and pneumatic tools and accessories, welding and spraying equipment