

ANNEX III

**SCHEDULE OF RESERVATIONS AND NON-CONFORMING MEASURES FOR
INVESTMENT**

MYANMAR

LIST A

EXPLANATORY NOTES

1. This List sets out pursuant to Article 10.8 (Reservations and Non-Conforming Measures), Myanmar's existing measures that do not conform to the obligation under:
 - (a) Article 10.3 (National Treatment);
 - (b) Article 10.4 (Most-Favoured-Nation Treatment);
 - (c) Article 10.6 (Prohibition of Performance Requirements); and
 - (d) Article 10.7 (Senior Management and Board of Directors).
2. This List sets out the following elements:
 - (a) **Sector** refers to the sectors for which the non-conforming measure is taken;
 - (b) **Subsector** refers to specific sectors for which the entry is made;
 - (c) **Industry Classification** refers to the activities covered by the entry according to:
 - (i) the Central Product Classification (CPC) of the United Nations Statistics Division Version 2.1; or
 - (ii) International Standard Industrial Classification (ISIC) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying;
 - (d) **Level of Government** means the level of government either Central or Regional which maintains the measure for which an entry is taken;
 - (e) **Type of Obligation** refers to the obligations which do not apply to the listed measures;
 - (f) **Description of Measure** refers to measure that do not conform to Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.6 (Prohibition of Performance Requirements), and Article 10.7 (Senior Management and Board of Directors), as the case may be, which do not apply to the listed measures;
 - (g) **Source of Measure** means the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:
 - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement; and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In the interpretation of an entry, all elements of an entry shall be considered. The Description of Measure element shall prevail over all other elements.
4. Notwithstanding the entries contained in this List, if there is overlap between the contents of this List and List B, Myanmar may adopt or maintain relevant measures in accordance with List B.
5. For the purposes of this List:
 - (a) “Direct Investment” means an investment in which the investor has the right to control, influence or manage, of such assets which are invested by the investor within the Union in accordance with its laws and regulations;
 - (b) “Foreign Investment” means any direct investment made by a foreign investor within the Union; and
 - (c) “Myanmar” or “Union” means the Republic of the Union of Myanmar.
6. For greater certainty, Myanmar reserves the right to adopt or maintain any measure with regard to investments in services sectors that are consistent with Chapter 8 (Trade in Services).

1.

Sector	:	All Sectors
Subsector	:	- Manufacturing of products for security and defense being specified by the notification of the Government of Myanmar from time to time. (ISIC 2927, 7522) - Manufacturing and related services of arms and ammunition for the national defense. (ISIC 2927) - Issuing the national postage stamps; establishment and hiring of post office and post boxes which are only to be performed by the post office operator on behalf of the Union. (ISIC 6411, 2221) - Management of natural forest and forest area except the business relating to reduction of carbon emission (ISIC 0200) - Feasibility study and production of radioactive metals such as uranium and thorium (ISIC 1200, 2330) - Control of electric power system (CPC 8631) - Inspection of electrical business (CPC 8621)
Industry Classification	:	ISIC, CPC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	The above mentioned subsectors are to be carried out only by the Union.
Source of Measure	:	- <i>Myanmar Investment Law (2016)</i>, Section 42 (a) - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (A): List of Economic Activities that can be conducted by the State.

2.

Sector	:	All Sectors
Subsector	:	- Publishing and distribution of periodicals in ethnic languages including Myanmar (ISIC 2212, CPC 3241, 8911, 8912) - Freshwater fishing and related services (ISIC 0500, CPC 0421, 8615) - Establishment of quarantine station for exportation and importation of animals (Livestock Breeding and Veterinary Department shall undertake to inspect animals and to issue permits) (ISIC 0500, CPC 8352, 8359, 8612) - Extraction of forest products from forest area and government administered natural forest (ISIC 0200) - Prospecting, exploration feasibility study and production of mineral for small and medium scale businesses in accordance with the Mines Law (ISIC 1110, 1421, 1429) - Refinement of minerals by medium scale and small scale (ISIC 2320) - Performing shallow oil wells up (ISIC 1030, 1110) - Printing and issuing sticker for visa and stay permit for foreigners (ISIC 2221, 6411, CPC 89122, 91210) - Prospecting, exploration and production of jade or gem stones (ISIC 1429, 3691)
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	Foreign investors are not allowed to carry out the investment activities in the above mentioned subsectors.
Source of Measure	:	- <i>Myanmar Investment Law (2016)</i> , Section 42 (a)

		- <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (B): Investment activities that are not allowed to be carried out by foreign investors.
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3.

Sector	:	All Sectors
Subsector	:	- Construction for fish landing site or fishing harbour and fish auction market (ISIC 0500, 4520, 4530) - Research activities related with fishery (CPC 8114) - Veterinary clinic (CPC 8351, 8352, 8559) - Cultivation of crops in agriculture land, distribution of agriculture products for local market and export (ISIC 0111, 0112) - Manufacturing and domestic marketing of plastic product (ISIC 2520, 1920) - Manufacturing and domestic distribution of chemicals based on available natural resources (ISIC 1110, 1120, 2411) - Manufacturing and domestic distribution of flammable solid, liquid, gaseous fuel and aerosol (Acetylene, Gasoline, Propane, Hair Sprays, Perfume, Deodorant, Insect spray) (ISIC 2411, 4020, 5141, 5050, 2320, 2424) - Manufacturing and domestic marketing of oxidant (Oxygen, Hydrogen Peroxide) and compressed gas (Acetone, Argon, Hydrogen, Nitrogen, Acetylene) (ISIC 2411, 2812) - Manufacturing and domestic marketing of corrosive chemical (Sulphur Acid, Nitric Acid) (ISIC 2411, 2421, 2429) - Manufacturing and distribution of industrial chemical gas including compressed, liquefied and solid forms (ISIC 2411, 2412, 2429, 2330, 5149) - Value added manufacturing and domestic distribution of cereal product such as biscuit, wafer, all kinds of noodles and vermicelli (ISIC 1531, 1544, 1549) - Manufacturing and domestic distribution of all kind of confectionery including those of sweet, cocoa and chocolate (ISIC 1543, 2925) - Preserving, canning, processing and domestic distribution of food product except milk and dairy product (ISIC 1512, 1513, 1532, 1542) - Manufacturing and domestic marketing of malt and malt liquors and non-aerated products

		(ISIC 1553) - Manufacturing, distilling, blending, rectifying, bottling and domestic distribution of all kinds of spirits, alcohol, alcoholic beverages and non-alcoholic beverages (ISIC 1551, 1552, 1554, 3131) - Manufacturing and domestic distribution of all kinds of purified ice (ISIC 1554, 4100) - Manufacturing and domestic distribution of purified drinking water (ISIC 1554, 4100) - Manufacturing and domestic distribution of all kinds of soap (ISIC 2424, 5139, 5211) - Manufacturing and domestic wholesale of all kinds of cosmetic product (ISIC 5139, 5211) - Development, sale and lease of residential apartment and condominium (ISIC 4520, 4530, 7010) - Movie production (ISIC 9211, 9213, 9214)
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	Foreign investors are allowed to carry out the investment activities in the above mentioned subsectors only in the form of a joint venture with Myanmar citizen owned entity or Myanmar citizen. The foreign equity ratio shall not be more than 80 per cent in the joint venture company under <i>the Myanmar Investment Rules</i>.
Source of Measure	:	- <i>Myanmar Investment Law (2016)</i>, Section 42 (c) - <i>Myanmar Investment Rules</i>, rule 22 - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (C)

4.

Sector	:	Manufacturing
Subsector	:	- Manufacturing and distribution of medicines which are produced by using narcotic drugs and psychotropic substances (ISIC 3522) - Cross ownership between Print Media and Broadcasting Media Service (ISIC 2211-2230) - Publishing of periodical newspapers in foreign languages (ISIC 2212) - Manufacturing and distribution of veterinary biological products (ISIC 7310) - Manufacturing and distribution of veterinary medicines (ISIC 3311) - Production, storage, distribution and exporting of agricultural insecticide, fertilizer, hormone, weed killer, etc. (ISIC 2411- 2412) - Production and domestic marketing of mobile handset and telephone (ISIC 3220) - Large scale manufacturing of pulp for paper (ISIC 3411, 2021, 2101) - Manufacturing of vaccine (ISIC 2423) - Research on vaccine and diagnostic test kit production (ISIC 7310-7320) - Manufacturing and maintenance of locomotives, carriages, wagons and spare parts and maintenance of railway (ISIC 2710, 2811, 2911, 2915, 3190, 3520, 3710) - Generation of electric power to be used for train operation (ISIC 3110) - Production and distribution of satellite communication items (ISIC 3530, 6220, 6420) - Production and distribution of radar communication items and related equipment (ISIC 3312, 6420, 3832) - Production and distribution of radio communication items (ISIC 3210, 3220, 3230, 9213) - Production and domestic marketing of bridge connection items (PC Strand, PC bar, Anchor, etc.), steel frame, bally frame, plate girder, steel truss, bridge and related steel structure concrete, steel concrete, compressive strength of concrete and etc. (ISIC 4520, 4530, 4540,

		2695, 2710, 6303, 2811)
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of <i>Myanmar Investment Commission Notification No. 15/2017</i> .
Source of Measure	:	- <i>Myanmar Investment Law (2016)</i>, Section 42 (d) - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

5.

Sector	:	Agriculture
Subsector	:	- Commercial livestock farming (ISIC 1110) - Breeder farm and hatchery (poultry) (ISIC 0140, 1511) - Genetical research, genetic conservation and distribution of animal breeds (ISIC 5121, 7310) - Importation, production and marketing of animal breeds (breeding animals, frozen semen straw and embryos) (ISIC 0121, 0140, 0122) - Laboratory services for the safety of animal feeds and animal products (ISIC 1533, 2429) - Laboratory services for the animal diseases diagnosis (ISIC 1533, 2429, 8511) - Services on research and surveillance for animal health (ISIC 8520) - Importing, production, domestic marketing and re-exporting of seed (ISIC 2921, 5239) - Importing, production and distribution of new species of plant (ISIC 0111, 0112, 2421) - Production and exporting of hybrid seeds (ISIC 0111, 0112, 0113, 1514, 2921) - Laboratory services for agriculture (ISIC 2919) - Research on agriculture and agricultural products (ISIC 7310) - Production of seasonal crops (ISIC 0113, 0111, 3699) - Traditional herbal cultivation and production (ISIC 0111, 0112, 2421) - Traditional medicine research and laboratory (ISIC 3311, 2423) - Pearl culturing and production (ISIC 0501, 3691)
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6)

Description of Measure	:	Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of <i>Myanmar Investment Commission Notification No. 15/2017</i> .
Source of Measure	:	- <i>Myanmar Investment Law</i> (2016), Section 42 (d) - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

6.

Sector	:	Fishery
Subsector	:	- Investment in relation to fisheries resources and fish species (ISIC 0501, 0502) - Marine fishing (ISIC 0501)
Industry Classification (ISIC / CPC)	:	ISIC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of <i>Myanmar Investment Commission Notification No. 15/2017</i> .
Source of Measure	:	- <i>Myanmar Investment Law (2016)</i>, Section 42 (d) - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

7.

Sector	:	Fishery
Subsector	:	- Fishing of marine fish, prawn and other aquatic organism (ISIC 0501) - Service related to processing on board for fish crustaceans and mollusk and other related services and exploitation of sea-products (ISIC 1511, 1512, 1549) - Service related to exploitation of freshwater fishery (ISIC 0501) - Quarantine quality control of aquaculture and processing product, service on supply of feed, medicine and chemical for aquaculture (ISIC 0502, 1512)
Industry Classification (ISIC / CPC)	:	ISIC / CPC 88200
Level of Government	:	Central (Marine Fisheries), State and Region (Fresh water)
Type of Obligation	:	National Treatment (Article 10.3)
Description of Measure	:	If the investors desire to engage in a fishery in the exclusive economic zone, they shall apply to the Department of Fisheries in the prescribed form. Such an investor shall form a joint venture with State Organisation, current joint venture company or private Myanmar company, subject to the approval of the Government of Myanmar. In exceptional circumstances, the investor may apply for permission to operate a fishery in other fisheries water. <i>[Chapter 3, para 6 of the Law relating to the Fishing Rights of Foreign Vessels (Law No. 11/89)]</i> An investor who has been granted a fishery right on application under Section 6 of <i>the Law relating to the Fishing Rights of Foreign Vessels (Law No. 11/89)</i> shall obtain a licence and register at the Department of Fisheries.
Source of Measure	:	- <i>Law relating to the Fishing Rights of Foreign Vessels (Law No. 11/89)</i> - <i>Myanmar Marine Fisheries Law (Law No. 9/90)</i> - According to Section 188, Table 2 of the <i>Myanmar Constitution (2008)</i> was transferred to

		State and Region Governments in 2011-2012 fiscal years.
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8.

Sector	:	Forestry
Subsector	:	- Logging in forest land and land administered by the Government of Myanmar (ISIC 0200) - Establishment of forest plantation (teak, hardwood, bamboo, cane etc) (ISIC 2010) - Wood-based industry and related businesses with implementation of forest plantation (ISIC 2010, 2021, 2023) - Eco-tourism based on forest area and natural land (ISIC 7513) - Reproduction and distribution of importing genetically modified organism and living modified organism for commercial purposes - Advanced technical research and commercial activities in production of improved valuable and rare tree species, conservation and tissue culture production (ISIC 0200, 7310, 7320) - Development of advanced technology, research and human resource in forest sector (ISIC 7320) - Importing of wildlife animals and plants for breeding and production, distribution at local or overseas through importation and exportation for commercial purposes (ISIC 0121, 0122, 0130) - Prospecting, survey, feasibility study and exploration with foreign investment for large scale production of mineral (ISIC 2699, 7422, 1421, 1429)
Industry Classification (ISIC / CPC)	:	ISIC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3)
Description of Measure	:	Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of <i>Myanmar Investment Commission Notification No. 15/2017</i> .
Source of Measure	:	- <i>Myanmar Investment Law (2016)</i>, Section 42 (d) - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (D): Investment

		activities to be carried out with the approval of the relevant ministries.
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9.

Sector	:	Forestry
Subsector	:	- Extraction of teak and sale of teak (ISIC 0200) - Wood-based industry (ISIC 2010) - Cultivation and conservation of forest plantation with the exception of village-owned fire-wood plantation cultivated by the villager for personal use (ISIC 0200)
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	According to Section 4 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar may, by notification, permit in the interest of Myanmar any economic enterprise which is prescribed under Section 3 to be operated solely by the Government of Myanmar to be carried out by joint-venture between the Government and any other person or any other economic organisation or by any person or any economic organisation subject to conditions. According to Section 5 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar may, by notification, prohibit or prescribe conditions regarding the purchase, procurement, improvement, storage, possession, transport, sale and transfer of products derived from or produced by or used by economic enterprises which are prescribed under Section 3 of the <i>State-owned Economic Enterprises Law 1989</i> to be carried out solely by the Government of Myanmar. According to the <i>Notification No. 86/2017 of Myanmar Investment Commission</i>, a foreign investor shall not be allowed to operate in wood-based industries which use raw timber extracted from natural forests of Myanmar.
Source of Measure	:	<i>Notification No.86/2017 of Myanmar Investment Commission</i>

10.

Sector	:	Mining and Quarrying
Subsector	:	- Exploration and Extraction of Natural Gas and Petroleum (ISIC 1110) - Services relating to Exploration and Extraction of Natural Gas and Petroleum.
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7)
Description of Measure	:	According to Section 3 of the <i>State-owned Economic Enterprises Law 1989</i>, exploration and extraction of natural gas and petroleum are restricted activities to be carried out solely by the Government of Myanmar. However, an investor who wants to engage in these activities shall complete the international bidding round when it is announced. The Management Committee shall consist of a total of seven members in total, four from the Myanmar side, one of whom shall act as Chairman and three from the investor side according to the agreement between the Ministry of Electric and Energy and the investor.
Source of Measure	:	- <i>State-owned Economic Enterprises Law (1989)</i> - <i>State-owned Economic Enterprises Law Related Directives</i>

11.

Sector	:	Mining and Quarrying and Services incidental to Mining and Quarrying
Subsector	:	- Prospecting, survey, feasibility study and exploration with foreign investment for large scale production of mineral (ISIC 1010, 1020, 1310, 1410) - Prospecting, survey, feasibility study and exploration with citizen investment for small, medium and large scale production of mineral (ISIC 1010, 1020, 1310, 1410) - Manufacturing and marketing of gems, jewellery and finished product with foreign investment (ISIC 1429, 3691) - Exploration, finishing and marketing of gem, jewellery and its product with citizen investment (ISIC 1429, 3691)
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central
Type of Obligation	:	National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7)
Description of Measure	:	Under Section 3 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar has the sole right to carry out the following economic activities as state-owned economic enterprises: 1. Exploration, extraction and export of pearl, jade and precious stone; and 2. Exploration, extraction and export of mineral; According to Section 4 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar may, by notification, permit in the interest of Myanmar any economic enterprise which is prescribed under Section 3 to be operated solely by the Government of Myanmar to be carried out by joint venture between the Government of Myanmar and any other person or any other economic organisation or by any person or any economic organisation subject to conditions.

		According to Section 5 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar may, by notification, prohibit or prescribe conditions regarding the purchase, procurement, improvement, storage, possession, transport, sale and transfer of products derived from or produced by or used by economic enterprises which are prescribed under Section 3 of the <i>State-owned Economic Enterprises Law 1989</i>, to be carried out solely by the Government of Myanmar. Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of <i>Myanmar Investment Commission Notification No. 15/2017</i>.
Source of Measure	:	- <i>The State-owned Economic Enterprises Law (No.9/89)</i> - <i>The Myanmar Mines Law 1994 and its Amendment Law (2015)</i> - <i>Myanmar Investment Law (2016)</i>, Section 42 (d) - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

12.

Sector	:	Mining and Quarrying and Services incidental to Mining and Quarrying
Subsector	:	- Importing, producing, constructing and installing of equipment, accessory and part of installation as for construction of the various kind of offshore drilling (ISIC 3511, 4510, 1110, 1120) - Importing, producing, constructing and installing of equipment, accessory and part of installation as for exploring and interpreting of oil and gas by geological, geophysical and geochemical methods (ISIC 3511, 4510, 1110, 1120) - Importing, producing, constructing and installing of equipment, accessory and part of installation as for exploiting, producing and researching of oil and gas (ISIC 3511, 4510, 1110, 1120) - Importing, producing, constructing and installing of equipment, accessory and part of installation as for transporting and constructing pipe line network for oil and gas (ISIC 4020, 4510, 4520, 4530)
Industry Classification (ISIC / CPC)	:	ISIC, CPC
Level of Government	:	Central
Type of Obligation	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description of Measure	:	Under Section 3 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar has the sole right to carry out the exploration, extraction and sale of petroleum and natural gas and production of products of the same as state-owned economic enterprises. According to Section 4 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar may, by notification, permit in the interest of Myanmar any economic enterprise which is prescribed under Section 3 to be operated solely by the Government of Myanmar to be carried out by joint venture between the Government of Myanmar and any other person or any other economic

		organisation or under conditions by any person or any economic organisation subject to conditions. According to Section 5 of the <i>State-owned Economic Enterprises Law 1989</i>, the Government of Myanmar may, by notification, prohibit or prescribe conditions regarding the purchase, procurement, improvement, storage, possession, transport, sale and transfer of products derived from or produced by or used by economic enterprises which are prescribed under Section 3 of the <i>State-owned Economic Enterprises Law 1989</i> to be carried out solely by the Government of Myanmar. Investment activities in the above mentioned subsectors shall be carried out with the approval of the relevant ministries under paragraph (D) of <i>Myanmar Investment Commission Notification No. 15/2017</i>.
Source of Measure	:	- <i>The State-owned Economic Enterprises Law (No.9/89)</i> - <i>The Oilfields Act 1918 and its amendment law (2010)</i> - <i>The Petroleum and Petroleum Product Law (2017)</i> - <i>Myanmar Investment Law (2016)</i>, Section 42 (d) - <i>Myanmar Investment Commission Notification No. 15/2017</i>, paragraph (D): Investment activities to be carried out with the approval of the relevant ministries

13.

Sector	:	All Sectors (Land Ownership)
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Type of Obligation	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4)
Description of Measure	:	State is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the State and shall permit citizens right of private property, right of inheritance, right of private initiative and patent in accordance with the Law under the <i>Myanmar Constitution 2008</i>. Section 50(a) of the <i>Myanmar Investment Law (2016)</i> provides that an investor who obtains a permit or an endorsement under this Law has the right to obtain a long-term lease of land or building from the private owned or from the relevant government departments, governmental organisations managed by the Government of Myanmar, or owned by the Union in accordance with the stipulations in order to do investment. Citizen investors may invest in their own land or building in accordance with relevant laws. Section 50(e) of the <i>Myanmar Investment Law 2016</i> provides that the Government of Myanmar may grant more favorable terms and conditions for the lease of land and the use of land by Myanmar citizen investors. However, government-owned lands, lands owned by the government department, organisation and private lands owned by the citizens can be leased up to initially 50 years depending upon the category of business, industry and the volume of amount and can be extendable for two consecutive terms of 10 years subject to the approval of the Myanmar Investment Commission.
Source of Measure	:	- <i>The Myanmar Constitution (2008)</i> - <i>Myanmar Investment Law (2016)</i>

	- <i>Transfer of Immovable Property Restriction Act (1987)</i> - <i>Farmland Law (2012)</i>, Chapter III, Section 9(a-f) - <i>Vacant, Fallow and Virgin Lands Management Law (2012)</i>, Chapter IV, Section 11(a-e), Chapter V, Section 12,14.
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14.

Sector	:	All Sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central
Type of Obligation	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	According to Section 76 of the <i>Myanmar Investment Law (2016)</i> , Myanmar reserves the right to adopt or maintain existing non-conforming measure with respect to: - funding, capacity building and training for Myanmar Citizen investors and citizen-owned small and medium enterprises; and - exemptions and reliefs for the locations where Myanmar Citizen-owned business operate or undertake other economic activities.
Source of Measure	:	<i>Myanmar Investment Law (2016)</i> , Section 76

15.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central
Type of Obligation	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description of Measure	:	Myanmar reserves the right to maintain existing measures relating to the following investments activities which are stipulated as the prohibited investments under Section 41 of <i>Myanmar Investment Law</i>: (a) investment activities which may bring or cause hazardous or poisonous wastes into the Union; (b) investment activities which may bring technologies, medicines, flora and fauna and instruments which are still being tested abroad, or which have not obtained approvals to use, plant or cultivate, except the investments which are made for the purpose of research and development; (c) investment activities which may affect the traditional culture and customs of the ethnic groups within the Union; (d) investment activities which may affect the public; (e) investment activities which may cause an enormous harmful impact to the natural environment and ecosystem; (f) investment activities which manufacture goods or provide services that are prohibited under the applicable laws.
Source of Measure	:	- <i>Myanmar Investment Law (2016)</i>, Section 41 - <i>Myanmar Investment Rules (2017)</i>, rule 12

16.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All levels
Type of Obligation	:	Senior Management and Board of Directors (Article 10.7)
Description of Measure	:	Myanmar reserves the rights to maintain existing measures relating to composition of board of directors which refers that a director shall be a resident in the Union.
Source of Measure	:	<i>Myanmar Companies Law (2017)</i>

LIST B

EXPLANATORY NOTES

1. This List sets out pursuant to Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors, subsectors or activities for which Myanmar may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:
 - (a) Article 10.3 (National Treatment);
 - (b) Article 10.4 (Most-Favoured-Nation Treatment);
 - (c) Article 10.6 (Prohibition of Performance Requirements); and
 - (d) Article 10.7 (Senior Management and Board of Directors).
2. This List sets out the following elements:
 - (a) **Sector** refers to the general sectors in which an entry is made;
 - (b) **Subsector** refers to specific sectors in which an entry is made;
 - (c) **Industry Classification** refers to the activities covered by the entry according to:
 - (i) the Central Product Classification (CPC) of the United Nations Statistics Division Version 2.1; or
 - (ii) International Standard Industrial Classification (ISIC) Revision 3 for manufacturing, agriculture, fishery, forestry, mining and quarrying;
 - (d) **Level of Government** means the level of government either Central or Regional which maintain the measure for which an entry is made;
 - (e) **Obligation Concerned** specifies the obligations referred to in paragraph 1 that, pursuant to Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;
 - (f) **Description** sets out the scope or nature of the sector, subsector, or activities covered by the entry; and
 - (g) **Existing Measures** are identified for transparency purpose only, for existing measure that apply to the sector, subsector or activities covered by the entry.
3. In the interpretation of an entry, all elements of an entry shall be considered. The Description element shall prevail over all other elements.
4. Notwithstanding the obligations contained in List A, where there is overlap between the contents of List A and this List, Myanmar may adopt or maintain relevant measures in accordance with this List.

5. In this List:
- (a) “Direct Investment” means an investment in which the investor has the right to control, influence or manage, of such assets which are invested by the investor within the Union in accordance with the law;
 - (b) “Foreign Investment” means any direct investment made by a foreign investor within the Union; and
 - (c) “Union” means the Republic of the Union of Myanmar.
6. For greater certainty, Myanmar reserves the rights to adopt or maintain any measures with regard to services sectors, subject to Chapter 8 (Trade in Services).

1.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	Most-Favoured-Nation Treatment (Article 10.4)
Description	:	Myanmar reserves the right to adopt or maintain any measure that accords more favourable treatment to the investors of non-Parties under any international agreement or arrangement in force or signed before the date of entry into force of this Agreement.
Existing Measures	:	-

2.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	Most-Favoured-Nation Treatment (Article 10.4)
Description	:	Myanmar reserves the right to adopt or maintain any measure and mechanism relating to: 1. Preferential treatment accorded to investors or their investments under any existing or future bilateral, regional or international agreements or arrangements, or any form of economic or regional cooperation of which Myanmar is or may become a party; and 2. Any existing or future preferential treatment accorded to investors or their investments in any agreement or arrangement between or among Member States of ASEAN.
Existing Measures	:	-

3.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Senior Management and Board of Director (Article 10.7)
Description	:	1. Myanmar reserves the right to adopt or maintain any measure relating to investment or the supply of services in sectors or industries other than those recognised or other than those that should have been recognised by the Government of Myanmar owing to the circumstances at the date of entry into force of this Agreement for it. Any sectors or industries classified positively and explicitly in ISIC or CPC, at the date of entry into force of this Agreement for Myanmar should have been recognised by the Government of Myanmar at that time. 2. Myanmar reserves the right to adopt or maintain any measure with respect to new sectors or industries. Any sector classified in the ISIC Code version 3 or CPC version 2.1 as of the date of entry into force of this Agreement shall not be considered a new sector or industry for the purposes of this entry.
Existing Measures	:	-

4.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4)
Description	:	Myanmar reserves the right to adopt or maintain any measure relating to national defense, public order and security.
Existing Measures	:	-

5.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure relating to the following sectors: 1. investment which is administered and operated by law of the concerned ministries and organisations; 2. banking, insurance and financial services.
Existing Measures	:	<i>The State-owned Economic Enterprises Law (No.9/89)</i>

6.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description	:	Myanmar reserves the right to adopt or maintain any measure and condition imposed in approvals for licences or permits to the companies or projects which were in existence before the date of entry into force of this Agreement.
Existing Measures	:	-

7.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6)
Description	:	Myanmar reserves the right to adopt or maintain any measure, with respect to the establishment or acquisition of an investment pursuant to Section 47(a) of the <i>Myanmar Investment Law (2016)</i> .
Existing Measures	:	-

8.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the rights to adopt or maintain any measure relating to investment activities which may socially or economically disadvantage the indigenous people.
Existing Measures	:	- <i>The Myanmar Constitution (2008)</i> , Sections 96, 188 and 196 - <i>Myanmar Investment Rules</i>

9.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4)
Description	:	Myanmar reserves the rights to adopt or maintain any measure relating to the acquisition or usage of land in the territory of Myanmar, including development and usage of land or other type of activities which may be conducted on land in accordance with its land zoning, land usage, urban planning, development control, conservation and preservation policies as well as policies relating to environmental protection, nature reserve and national park.
Existing Measures	:	-

10.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure relating to health assessment, cultural heritage impact assessment, environmental impact assessment and social impact assessment.
Existing Measures	:	-

11.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale and rental services.
Existing Measures	:	-

12.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure affecting the land, cultural heritage, natural and mineral resources associated with land.
Existing Measures	:	-

13.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure affecting the administration, management and operation of any state-owned economic enterprises.
Existing Measures	:	-

14.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to investor or investment relating to portfolio investments.
Existing Measures	:	-

15.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	All Levels
Obligation Concerned	:	National Treatment (Article 10.3) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure relating to special preferences or treatments granted to small and medium enterprises.
Existing Measures	:	- <i>Myanmar Investment Law (2016)</i> - <i>Myanmar Companies Law (2017)</i> - <i>Small and Medium Enterprises Development Law (2015)</i>

16.

Sector	:	All sectors
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description	:	According to rule 12 of the <i>Myanmar Investment Rules</i> , the Myanmar Investment Commission may issue notifications of prohibited investment activities with the approval of the Government of Myanmar accordingly.
Existing Measures	:	- <i>Myanmar Investment Law (2016)</i> - <i>Myanmar Investment Rules (2017)</i>

17.

Sector	:	Manufacturing
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Obligation Concerned	:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Prohibition of Performance Requirements (Article 10.6)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to the following investment activities: 1. tobacco and tobacco related products; 2. manufacturing and marketing of malt and malt liquors and non-aerated products; and 3. distilling, blending, rectifying, bottling and marketing of all kinds of spirits, alcohol, alcoholic beverages and non-alcoholic beverages.
Existing Measures	:	-

18.

Sector	:	Agriculture
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to any agriculture activity relating to the following: 1. production and cultivating of seasonal crops; 2. contract farming; 3. production and exportation of oil seed; 4. production and cultivating of perennial crop; 5. production of orchards; and 6. exploration, extraction and export of pearls.
Existing Measures	:	-

19.

Sector	:	Fishery
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to marine fishing, breeding and production of fish and prawns in fresh water and seawater.
Existing Measures	:	<i>The State-owned Economic Enterprises Law (1989)</i>

20.

Sector	:	Forestry
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to the extraction of wood and teak, logging in forest land and land administered by the Government of Myanmar, sale of teak, wood and wood product within the country and abroad, and any activity relating to wood industry which uses raw timber extracted from natural forests.
Existing Measures	:	- <i>Notification No. 86/2017 of Myanmar Investment Commission</i> - <i>The State-owned Economic Enterprises Law (1989)</i>

21.

Sector	:	Mining and Quarrying and Services incidental to Mining and Quarrying
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to: - exploration, production and sale of natural gas and petroleum; - services relating to exploration and production of natural gas and petroleum; - exploration, extraction and export of metals; - exploration, extraction and export of jade and precious stones; and - exploration, extraction and export of construction and decoration rock.
Existing Measures	:	<i>The State-owned Economic Enterprises Law (1989)</i>

22.

Sector	:	Mining and Quarrying and Services incidental to Mining and Quarrying
Subsector	:	-
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to prospecting, exploration, production, purchasing, storing, processing, transportation, selling and transferring of any mineral, gemstone, metallic mineral, industrial mineral or stone pursuant to the <i>Myanmar Mines Law</i> and its <i>amendment Law</i> .
Existing Measures	:	- <i>The Myanmar Mines Law, 1994 and its amendment Law (2015)</i> - <i>The State-owned Economic Enterprises Law (1989)</i>

23.

Sector	:	Electricity Generating
Subsector	:	Electricity Generating and Electricity Generating Services
Industry Classification (ISIC / CPC)	:	-
Level of Government	:	Central or Regional
Obligation Concerned	:	National Treatment (Article 10.3) Prohibition of Performance Requirements (Article 10.6) Senior Management and Board of Directors (Article 10.7)
Description	:	Myanmar reserves the right to adopt or maintain any measure with respect to prospecting, exploration, production, purchasing, storing, processing, transportation, selling and transferring of any electricity generation pursuant to the <i>State-owned Economic Enterprises Law (1989)</i> .
Existing Measures	:	<i>The State-owned Economic Enterprises Law (1989)</i>