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**ANNEX II
SCHEDULE OF BRUNEI DARUSSALAM**

1.

- Sector:** All Sectors
- Obligations Concerned:** National Treatment (Article 9.4 and Article 10.3)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)
- Description:** Cross-Border Trade in Services and Investment
1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the privatisation, corporatisation, commercialisation or divestment of Government assets, entities or agencies including, but not limited to, the following:
 - (a) limitations on ownership of assets;
 - (b) transfer or disposal of equity interests or their assets;
 - (c) the right of foreign investors or their investments to control their assets; and
 - (d) nationality of the senior management or members of the board of directors.
 2. The preceding sentence pertains only to the initial transfer or disposal of such interest. Brunei Darussalam does not reserve this right with respect to subsequent transfers or disposals of such interest.
 3. For greater certainty,
 - (a) where Brunei Darussalam transfers an interest in an existing state enterprise to another state enterprise, such transfer shall not be considered to

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be an initial transfer or disposal of the interest for purposes of the preceding paragraph; and

- (b) where Brunei Darussalam transfers or disposes of an interest in an existing state enterprise in multiple phases, the preceding paragraph shall apply separately to each such phase.

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2.

Sector:

All Sectors

Obligations Concerned:

National Treatment (Article 9.4)

Most-Favoured-Nation Treatment (Article 9.5).¹

Description:

Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to all land transactions other than strata title, which shall be subject to approval and consent by His Majesty-in-Council, including but not limited to:

1. ownership and lease of land;
2. conditions on which such land shall be held; and
3. reciprocal arrangements on ownership and/or lease of diplomatic properties.

¹ Applies only in respect of paragraph 3.

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3.

Sector:

All Sectors

Obligations Concerned:

Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure that accords differential treatment:

1. to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement;
2. to ASEAN Member States under any ASEAN agreement open to participation by any ASEAN Member State, in force or signed after the date of entry into force of this Agreement;
3. to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:
 - (i) Air services; and
 - (ii) Maritime and Port matters.

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4.

Sector:

All Sectors

Obligations Concerned:

Market Access (Article 10.5)

Description:

Cross-Border Trade in Services

Brunei Darussalam reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, including on the total number of foreign natural persons that may be employed in any sector, subject to the provisions of Chapter 12 (Temporary Entry for Business Persons), and in a manner that is not inconsistent with Brunei Darussalam's obligations under Article XVI of the General Agreement on Trade in Services (GATS).

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5.

Sector:

Fishery and Services Incidental to Fisheries

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and
Article 10.4)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to any fishery and services related to fisheries activity in its territory, including its exclusive economic zone, including but not limited to:

1. any differential treatment to foreign nationals due to the application of reciprocity of commitments relating to artisanal fishery activity; and
2. ensuring the availability and sustainability of fisheries resources.

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6.

Sector:

Logging

Obligations Concerned:

National Treatment (Article 9.4)

Description:

Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to logging activities.

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7.

Sector

Silica Sand

Obligations Concerned

National Treatment (Article 9.4)
Performance Requirements (Article 9.9)

Description

Investment

Brunei Darussalam reserves the right to adopt or maintain any measure with respect to the commercialisation of activities relating to silica sand deposits, including mining, quarrying, manufacture and export of such deposits.

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8.

Sector

Petroleum

Obligations Concerned

Most-Favoured Nation Treatment (Article 9.5)

Description

Investment

1. Brunei Darussalam has no existing statutes, regulations or other similar measures that mandate preferential treatment to be accorded to investors of another Party or their investments as compared to investors of any other Party, or of any non-Party, or their investments.
2. With respect to the making of or entry into petroleum mining Agreements for the exploration, exploitation, development, and production rights of petroleum in the territory of Brunei Darussalam, and collateral agreements¹², Brunei Darussalam reserves the right to continue to exercise discretion³ to accord investors of another Party or their investments less favourable treatment than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, except that:

¹ For greater certainty, the expression “making of or entry into petroleum mining Agreements for the exploration, exploitation, development, and production rights of petroleum in the territory of Brunei Darussalam, and collateral agreements” includes: (a) the negotiation, determination and amendment of any terms and conditions in petroleum mining Agreements for the exploration, exploitation, development, and production rights of petroleum, and collateral agreements, or the renewal or extension of the term of such agreements; and (b) any decision by Brunei Darussalam to conduct a bid or tender or other process in relation to any proposed petroleum mining Agreement, for the exploration, exploitation, development, and production rights of petroleum in the territory of Brunei Darussalam, and collateral agreements, and, if any such bid or tender or other process is conducted, the terms and conditions on which any such bid or tender or other process is conducted.

² For greater certainty, the expression “collateral agreements” shall include shareholders’ participation agreements and agreements providing fiscal incentives with respect to petroleum mining Agreements.

³ For greater certainty, the discretion under this paragraph may be exercised pursuant to any measure that Brunei Darussalam may adopt or maintain.

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- (a) Brunei Darussalam shall not adopt any statute,⁴ regulation or other similar measure that mandates according investors of another Party or their investments treatment less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments.
- (b) Brunei Darussalam shall accord investors of another Party or their investments treatment no less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, under any bilateral or multilateral international agreement that enters into force or is signed after the date of entry into force of this Agreement.
3. The terms “petroleum mining Agreement”, “collateral agreement” and “petroleum” used herein shall have the meanings ascribed to them under the Act.

Existing Measures

- : Petroleum Mining Act (Chapter 44, Rev. Ed. 2002) (as amended from time to time) (the “Act”)
Brunei National Petroleum Company Sendirian Berhad Order, 2002 (as amended from time to time)
Petroleum (Pipe-Lines) Act (Chapter 45, Rev. Ed. 1984) (as amended from time to time)
Administrative Measures and Guidelines

⁴ For greater certainty, the expression “other similar measure(s)” used in paragraphs 1 and 2(a) of this reservation excludes any decisions or guidance by any member of the Cabinet with respect to the making of or entry into, or amendment of, an individual petroleum mining Agreement or collateral agreements. For greater certainty, any such decision or guidance, shall not be subject to the dispute settlement provisions of this Agreement with respect to the Obligation Concerned.

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9.

Sector: Coal

Obligations Concerned: National Treatment¹ (Article 9.4 and Article 10.3)
Most-Favoured Nation Treatment² (Article 9.5)
Performance Requirements³ (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

1. Subject to paragraph 2, Brunei Darussalam reserves the right to adopt or maintain any measure relating to the exploration, exploitation, development, and production of coal reserves in Brunei Darussalam.
2. In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, this reservation will not apply in relation to the Senior Management and Board of Directors obligation. However, in respect of the remaining Obligations Concerned, Brunei Darussalam reserves the right to adopt and maintain any measure:

¹ In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, Article 9.4 applies only with respect to sub-paragraph 2(a)(ii) and sub-paragraph 2(b) of this entry, and Article 10.3 applies only with respect to sub-paragraph 2(b)(ii) of this entry.

² In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, Article 9.5 applies only with respect to sub-paragraph 2(a)(i) of this entry.

³ In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, Article 9.9 applies only with respect to sub-paragraph 2(b)(i) of this entry.

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- (a) relating to the making of or entry into of contracts for the exploration, exploitation, development, and production rights of coal in the territory of Brunei Darussalam⁴. In this regard, Brunei Darussalam may:
 - (i) exercise discretion⁵ to accord investors of another Party, or their investments, less favourable treatment than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, except that: Brunei Darussalam shall not adopt any statute or regulation that mandates according investors of another Party, or their investments, treatment less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, and; Brunei Darussalam shall accord investors of another Party, or their investments, treatment no less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, under any bilateral or multilateral international agreement that enters into force or is signed after the date of entry into force of this Agreement; and
 - (ii) require an investor of another Party, or its investment, engaged in the exploration, exploitation, development, and

⁴ For greater certainty, the expression “making of or entry into of contracts for the exploration, exploitation, development, and production rights of coal in the territory of Brunei Darussalam” includes: (a) the negotiation, determination and amendment of any terms and conditions in contracts for the exploration, exploitation, development, and production rights of coal, or the renewal or extension of the term of such contracts; and (b) any decision by Brunei Darussalam to conduct a bid or tender or other process in relation to any proposed contracts for the exploration, exploitation, development, and production rights of coal in the territory of Brunei Darussalam, and, if any such bid or tender or other process is conducted, the terms and conditions on which any such bid or tender or other process is conducted.

⁵ For greater certainty, the discretion under this paragraph may be exercised pursuant to any measure that Brunei Darussalam may adopt or maintain.

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production of coal reserves to form a joint venture or a similar arrangement with a Bruneian enterprise. However, such an investor of another Party, or its investment, shall, upon request, be permitted to hold the majority share in the joint venture or similar arrangement⁶. Brunei Darussalam 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 contract; and 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; and

- (b) requiring foreign enterprises acting as operators in the exploration, exploitation, development, and production of coal to:
 - (i) provide a portion of coal and/or its derivatives in Brunei Darussalam for domestic use (“domestic supply obligations”) as outlined in a contract, provided that such measure is not more restrictive than the requirements stipulated in Annex I – 27; and

⁶ For greater certainty, this does not preclude a Bruneian enterprise from holding a majority share in a joint venture or other similar arrangement as a result of commercial negotiations between such an investor of another Party, or its investment, and that Bruneian enterprise.

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- (ii) unless as may otherwise be authorised by Brunei Darussalam, purchase the services listed in Appendix I – A to Annex I – 28 either from Bruneian nationals or enterprises, or foreign nationals or enterprises under a contract, provided that they engage Bruneian nationals or enterprises to provide other services.
- 3. Any non-conforming measure adopted or maintained after the signature of this Agreement in relation to sub-paragraph 2(a)(ii) and sub-paragraph 2(b) above shall be deemed to be an existing non-conforming measure and subject to paragraphs 1, 5, 6 and 7 of Article 9.11 (Non-Conforming Measures) of the Agreement.

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10.

Sector:

Private Health Services

- Pharmacists, nurses, midwives and allied health services
- Private laboratory services
- Private radiology services

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description:

Cross-Border Trade in Services and Investment

1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the private practice of pharmacists, nurses, midwives and allied health services.
2. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment of private laboratory services and private radiology services.

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11.

Sector:

Private Health Services
- Private Health Centres/Clinics

Obligations Concerned:

Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment of private health centres/clinics, including but not limited to:

1. requiring that such private health centres/clinics be established in the form of a joint venture with a Bruneian national;
2. limiting the number of private health centres/clinics that can be established in Brunei Darussalam;
3. requiring such private health centre/clinic to carry out research and development within the territory of Brunei Darussalam, or transfer of technology; or
4. requiring a majority of the senior managers in the private health centres/clinics to be of Bruneian nationality.

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12.

Sector:

Broadcasting Services

Obligations Concerned:

National Treatment (Article 9.4)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to any licensable free-to-air or subscription broadcasting services offered on a scheduled programming basis. These measures include, but are not limited to ownership, control and funding of an enterprise providing the aforementioned services.

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13.

Sector:

Business Services

- Professional Services
- Legal Services

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description:

Cross-Border Trade in Services and Investment

1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of legal services in Brunei Darussalam, in relation to the laws of Brunei Darussalam.
2. This reservation does not apply to the supply of legal services in Brunei Darussalam in relation to international law or home country law, which is set out in Annex I.

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14.

Sector:

Printing, publishing and reproduction of newspapers including matters relating to the collection and publication of news and the distribution of newspapers

Obligations Concerned:

National Treatment (Article 9.4)
Performance Requirements (Article 9.9)

Description:

Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the printing, publishing, and reproduction of newspapers including matters relating to the collection and publication of news and the distribution of newspapers.

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15.

Sector:

Transport Services
- Air Transport Services

Obligations Concerned:

National Treatment (Article 9.4)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Description:

: Investment

Brunei Darussalam reserves the right to adopt or maintain any measure related to air transport services including, but not limited to,:

1. the ownership, operation and management of airports and heliports in Brunei Darussalam;
2. the supply of ground handling operations; and
3. specialty air services, except in relation to flight training as provided for in Annex I.

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16.

Sector:

Private Educational Services

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of private pre-primary, primary and secondary education services, other than private educational services supplied by international schools for Brunei Darussalam citizens, including the following:

1. equity shareholding by foreign nationals or companies in the ownership of schools and higher learning institutions;
2. the total number of schools and higher learning institutions that may be established in Brunei Darussalam;
3. the total number of employees, including teachers; or
4. the nationality of senior management or board of directors.

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17.

Sector: Electricity Services

Obligations Concerned: Performance Requirements (Article 9.9)
Market Access (Article 10.5)

Description: Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the generation, supply, transmission and distribution of electrical energy.

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18.

Sector:

Transport Services
- Land Transport Services

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of land transport services including but not limited to passenger transportation, freight transportation, and commercial vehicle with operator, pushing and towing services, maintenance and repair of road transport equipment and supporting services for road transport services.

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19.

Sector:

Trade Services

- Supply of potable water for human consumption

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)

Performance Requirements (Article 9.9)

Market Access (Article 10.5)

Description:

Cross-Border Trade in Services and Investment

1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of potable water, including, but not limited to:
 - (a) the supply of water as a public utility;
 - (b) the extraction of ground water; and
 - (c) the export of water.
2. For greater certainty, this reservation is only limited to the supply of potable water that may be used or required for any purposes or activity, and does not include additional restrictions on any activities utilising such supply of potable water including the manufacturing of bottled water which is an activity addressed in Annex I.

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20.

Sector:

Business Services

- Valuers (Appraisers) and Estate Agents

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)

Market Access (Article 10.5)

Local Presence (Article 10.6)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of valuers (appraisers) and estate agent services.

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21.

Sector:

Business Services
- Taxation

Obligations Concerned:

National Treatment (Article 9.4 and Article 10.3)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description:

Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the representation of taxpayers (either by individuals or enterprises) in their tax matters; including, but not limited to, preparing and furnishing of income tax returns, filing responses to notices issued by tax authority and filing notices of objection and handling payment in relation to tax.

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22.

Sector: Trade Services
- Wholesale trade services and retail trade services
of tobacco

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of wholesale and retail trade services of tobacco products.