

**ANNEX 3**

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

**MALAYSIA**

**LIST A**

**EXPLANATORY NOTES**

1. This List A sets out, pursuant to Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), Malaysia's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 3 (National Treatment) of Chapter 11 (Investment);
- (b) Article 4 (Most-Favoured-Nation Treatment) of Chapter 11 (Investment);
- (c) Article 5 (Senior Management and Board of Directors) of Chapter 11 (Investment); or
- (d) Article 6 (Prohibition of Performance Requirements) of Chapter 11 (Investment).

2. Each entry in this List A sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Subsector**, where referenced, refers to the specific subsector for which the entry is made;
- (c) **Level of Government** indicates the level of government maintaining the listed measures;
- (d) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, pursuant to Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), do not apply to the listed measures;
- (e) **Description** sets out the non-conforming measure for which the entry is made; and
- (f) **Source of Measure** means the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:
  - (i) means the measure as amended, continued or renewed as of the date of entry into force of the Second Protocol, and
  - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In accordance with Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measure identified in the Description element of that entry.

4. For greater certainty, the Description element of each of the entries in this List A is to be interpreted in accordance with the relevant cited sources of the non-conforming measures. For greater certainty, to the extent of any conflict between the Description element and other elements in an entry, the Description element shall prevail.

5. The Schedules of other Parties shall not be used to interpret Malaysia's commitments or obligations under Chapter 11 (Investment).

1.	Sector	:	All sectors
	Subsector	:	-
	Level of Government	:	Central and Regional
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors
	Description	:	Only Malaysian nationals or permanent residents can register a sole proprietorship or partnership in Malaysia. Foreigners can register a Limited Liability Partnership (LLP), but the compliance officer shall be a citizen or permanent resident of Malaysia that resides in Malaysia.  Foreigners are not allowed to establish or join cooperative societies in Malaysia.
	Source of Measures	:	<i>Registration of Businesses Act 1956</i> [Act 197] <i>Limited Liability Partnerships Act 2012</i> [Act 743] <i>Co-operative Societies Act 1993</i> [Act 502] <i>Sarawak Business Names Ordinance 1932</i> [Chapter 64] (1958 Edition) <i>Sarawak Business, Professions and Trades Licensing Ordinance 1955</i> [Chapter 33] (1958 Edition) <i>Sabah Trades Licensing Ordinance</i> (Sabah Cap. 144) <i>Companies Act 2016</i> [Act 777] General Guidelines for Registration of Limited Liability Partnership

2.	Sector	:	All sectors
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors
	Description	:	At least one director of a private company incorporated in Malaysia shall ordinarily reside in Malaysia by having a principal place of residence in Malaysia.  At least two directors of a public company incorporated in Malaysia shall ordinarily reside in Malaysia by having a principal place of residence in Malaysia.
	Source of Measures	:	<i>Companies Act 2016 [Act 777]</i>

3.	Sector	:	Fisheries
	Subsector	:	Marine capture fisheries
	Level of Government	:	Central and Regional
	Obligations concerned	:	National Treatment Most-Favoured-Nation Treatment
	Description	:	<p>No foreign fishing vessel shall load or unload any fish, fuel, or supplies, or tranship any fish, or fish or attempt to fish or conduct any techno-economic research or waters survey of any fishery, in Malaysian fisheries waters<sup>1</sup> unless authorised to do so.</p> <p>An application for a permit to be issued in respect of a foreign fishing vessel to fish in Malaysian fisheries waters shall be made through a Malaysian agent who shall undertake legal and financial responsibility for the activities to be carried out by such vessel.</p> <p>For the purposes of this entry, "fishing vessel" means any boat, craft, ship or other vessel which is used or equipped to be used for, or of a type used for:</p> <p>(a) fishing; or</p> <p>(b) aiding or assisting other boat, craft, ship or other vessel in the performance of any activity related to fishing, including any of the activities of preparation, processing, refrigeration, storage, supply or transportation of fish.</p>
	Source of Measures	:	<p><i>Fisheries Act 1985</i> [Act 317]</p> <p><i>Lembaga Kemajuan Ikan Malaysia Act 1971</i> [Act 49]</p> <p><i>Exclusive Economic Zone Act 1984</i> [Act 311]</p> <p><i>Continental Shelf Act 1966</i> [Act 83]</p>

<sup>1</sup> For greater certainty, under the *Fisheries Act 1985* [Act 317], "Malaysian fisheries waters" means maritime waters under the jurisdiction of Malaysia over which exclusive fishing rights or fisheries management rights are claimed by law and includes the internal waters of Malaysia, the territorial sea of Malaysia, and the maritime waters comprised in the exclusive economic zone of Malaysia.

4.	Sector	:	Manufacturing
	Subsector	:	-
	Level of Government	:	Central and Regional
	Obligations Concerned	:	National Treatment
	Description	:	Foreign equity is restricted to no more than 30 per cent for the manufacture of batik fabric and apparel of batik.
	Source of Measures	:	<i>Industrial Co-ordination Act 1975</i> [Act 156] Administrative Guidelines

5.	Sector	:	Manufacturing
	Subsector	:	-
	Level of Government	:	Central and Regional
	Obligations Concerned	:	Prohibition of Performance Requirements
	Description	:	<p>(a) Companies located within the Licensed Manufacturing Warehouse (LMW) and Free Industrial Zone (FIZ) are subject to export requirements.</p> <p>(b) Companies engaging in petroleum refining activities are subject to export requirements.</p> <p>(c) Expansion projects will be considered only for existing independent palm oil refineries which source 100 per cent from their own plantations. For Sabah and Sarawak, a manufacturing licence will only be considered for new integrated projects which source 50 per cent of crude palm oil from their own plantations. Integrated projects refer to projects with own plantations.</p> <p>(d) For pineapple canning, approval will only be granted for projects which source 100 per cent supply from their own plantations.</p>
	Source of Measures	:	<p><i>Industrial Co-ordination Act 1975 [Act 156]</i></p> <p><i>Customs Act 1967 (Revised 1980) [Act 235]</i></p> <p><i>Free Zone Act 1990 [Act 438]</i></p> <p><i>Petroleum Development Act 1974 [Act 144]</i></p> <p><i>Pineapple Industry (Cannery Control) Regulations (Amendment) 1989</i></p> <p><i>Pineapple Industrial Act 1957 (Revised 1990) [Act 427]</i></p> <p>Administrative Guidelines</p>

6.	Sector	:	All sectors
	Subsector	:	-
	Level of Government	:	Regional
	Obligations Concerned	:	Prohibition of Performance Requirements
	Description	:	Adoption of a given rate or amount of royalty under a license contract may be subject to approval by the relevant State authority.
	Source of Measures	:	Policies and Ministerial Statements Administrative Guidelines



## LIST B

### EXPLANATORY NOTES

1. This List B sets out, pursuant to Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), the specific sectors, subsectors or activities for which Malaysia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 3 (National Treatment) of Chapter 11 (Investment);
- (b) Article 4 (Most-Favoured-Nation Treatment) of Chapter 11 (Investment);
- (c) Article 5 (Senior Management and Board of Directors) of Chapter 11 (Investment); or
- (d) Article 6 (Prohibition of Performance Requirements) of Chapter 11 (Investment).

2. Each entry in this List B sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Subsector**, where referenced, refers to the specific subsector for which the entry is made;
- (c) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, pursuant to Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), do not apply to the sectors, subsectors, or activities, listed in the entry;
- (d) **Description** sets out the scope of the sectors, subsectors or activities, covered by the entry; and
- (e) **Existing Measures** where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

3. In accordance with Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors and activities, identified in the Description element of that entry.

4. For greater certainty, where Malaysia has more than one entry in this List B that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.

5. The Schedules of other Parties shall not be used to interpret Malaysia's commitments or obligations under Chapter 11 (Investment).

6. With respect to the entries in this List B on Most-Favoured-Nation Treatment relating to bilateral or multilateral international agreements, the absence of language

regarding the scope of the reservation for differential treatment resulting from an amendment of those bilateral or multilateral international agreements in force or signed after the date of entry into force of the Second Protocol is without prejudice to Malaysia's interpretation of the scope of that reservation.

1.	Sector	:	Land and real estate
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Prohibition of Performance Requirements
	Description	:	Acquisitions or dealings of land or activities on land by non-citizens and juridical persons owned by foreign nationals must be approved by the relevant state authority, subject to such conditions and restrictions as may be imposed by that authority.
	Existing Measures	:	<i>Federal Constitution</i> <i>Land Acquisition Act 1960 [Act 486]</i> <i>Land Conservation Act 1960 [Act 385]</i> <i>National Land Code [Act 56 of 1965]</i> <i>Federal Lands Commissioner Act 1957 (Revised 1988) [Act 349]</i> <i>National Land Code (Penang and Malacca Titles) Act 1963 [Act 518]</i> <i>Strata Titles Act 1985 [Act 318]</i> <i>Strata Management Act 2013 [Act 757]</i> <i>Federal Lands Commissioner Act 1957 (Revised 1988) [Act 349]</i> <i>Land (Group Settlement Areas) Act 1960 [Act 530]</i> <i>Malay Reservations Enactment 1933 [F.M.S. Cap. 142]</i> <i>Malay Reservations Enactment 1930 [Enactment 29]</i> <i>Kelantan Malay Reservations Enactment 1930 [No.18 of 1930]</i> <i>Kelantan Land Settlement Act 1955 (Revised 1991) [Act 460]</i> <i>Perlis Malay Reservations Enactment 1935 [No. 7 of 1353]</i> <i>Perlis Land Settlement Enactment 1966 [No. 16 of 1966]</i>

	<p><i>Johore Malay Reservation Enactment 1936</i> [No. 1 of 1936]</p> <p><i>Terengganu Malay Reservation Enactment 1360</i> [No. 17 of 1360]</p> <p><i>Terengganu Settlement Enactment 1356</i> [No. 65 of 1356]</p> <p><i>Malay Reservations (Selangor) (Amendment) Enactment No.15/1961</i></p> <p><i>Malay Reservations (Selangor) (Amendment) Enactment No. 7/1985</i></p> <p><i>Customary Land Enactment 1926</i> [Cap. 215]</p> <p><i>Customary Tenure (Lengkongan Land) Enactment 1960</i> [No. 4 of 1960]</p> <p><i>Undang of Rembau (Lands) Enactment 1949</i> [No. 2 of 1949]</p> <p><i>Sabah Land Ordinance</i> [Sabah Cap. 68]</p> <p><i>Sabah Land Acquisition Ordinance</i> [Sabah Cap. 69]</p> <p><i>Sarawak Land Code 1958</i> [Chapter 81] (1958 Edition)</p> <p><i>Local Government Act 1976</i> [Act 171]</p> <p><i>Town and Country Planning Act 1976</i> [Act 172]</p> <p><i>Federal Territory (Planning) Act 1982</i> [Act 267]</p> <p><i>Federal Capital Act 1960</i> [Act 190]</p> <p><i>Street, Drainage and Building Act 1974</i> [Act 133]</p>
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2.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure affecting the:  (a) full or partial devolvement to the private sector of services provided in the exercise of governmental authority;  (b) divestment of its equity interests in, or the assets of, a juridical person that is wholly or partially owned by the Government of Malaysia; and  (c) privatisation of government-owned entities or assets.
	Existing Measures	:	<i>Minister of Finance (Incorporation) Act 1957</i> [Act 375] <i>Companies Act 2016</i> [Act 777] Privatisation Master Plan Guidelines on Privatisation Bursa Listing Requirements

3.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to Bumiputera, Bumiputera status companies, trust companies and institutions, to meet development and social economic policy objectives.
	Existing Measures	:	<i>Federal Constitution</i> Policies and Ministerial Statements Treasury Instructions Treasury Circulars New Economic Policy (NEP) National Development Policy (NDP) Bumiputera Development Action 2030 (TBP2030)

4.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to national and state unit trusts. This includes unit trust schemes that are created or operated to pursue public policy objectives relating to Bumiputera or affirmative action for the socially disadvantaged.
	Existing Measures	:	-

5.	Sector	:	Mining and quarrying
	Subsector	:	Oil and Gas
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Petroleum Nasional Berhad (PETRONAS) and its successor are vested with the entire ownership in, and the exclusive rights, powers, liberties and privileges, which shall be irrevocable, in exploring, exploiting, winning and obtaining petroleum, whether onshore or offshore of Malaysia.  PETRONAS and its successor reserve the right to adopt or maintain any measure relating to the oil and gas upstream industry including related activities.
	Existing Measures	:	<i>Petroleum Development Act 1974</i> [Act 144] Other Implementing Measures



6.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	Most-Favoured-Nation Treatment
	Description	:	<p>Malaysia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of the Second Protocol.<sup>2</sup></p> <p>Malaysia reserves the right to adopt or maintain any measure that accords differential treatment to Member States of ASEAN under any ASEAN agreement open to participation by any Member State of ASEAN, in force or signed after the date of entry into force of the Second Protocol.</p> <p>With regard to the sectors listed below, Malaysia reserves the right to adopt or maintain any measures relating to investment that accords rights, preferences and differential treatment to countries under any international agreement in force or signed after the date of entry into force of the Second Protocol:</p> <ul style="list-style-type: none"> <li>(a) Aviation Matters;</li> <li>(b) Maritime and Port;</li> <li>(c) Broadcasting;</li> <li>(d) Space Transportation;</li> <li>(e) Fisheries; and</li> <li>(f) Financial Services.</li> </ul>
	Existing Measures	:	-

<sup>2</sup> For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

7. Sector	:	Explosives, weapons, ammunitions, as well as military-related equipment or devices, and similar products
Subsector	:	-
Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
Description	:	Malaysia reserves the right to adopt or maintain any measure affecting the arms and explosives sector.
Existing Measures	:	<i>Industrial Co-ordination Act 1975</i> [Act 156] <i>Explosives Act 1957</i> [Act 207] <i>Arms Act 1960</i> [Act 206] <i>Chemical Weapons Convention Act 2005</i> [Act 641] <i>Strategic Trade Act 2010</i> [Act 708]

8.	Sector	:	Gaming, betting and gambling
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to the provision of gaming, betting and gambling.
	Existing Measures	:	<i>Lotteries Act 1952</i> [Act 288] <i>Common Gaming Houses Act 1953</i> [Act 289] <i>Pool Betting Act 1967 (Revised 2018)</i> [Act 809] <i>Betting Act 1953</i> [Act 495] <i>Racing (Totalisator Board) Act 1961</i> [Act 494] <i>Racing Club (Public Sweepstakes) Act 1965</i> [Act 404] <i>Industrial Co-ordination Act 1975</i> [Act 156] Customs Prohibition of Imports and Exports Orders

9.	Sector	:	Application of atomic energy for nuclear power generation including nuclear fuel cycle and electric power generation and fuel cycle; and electric power plants based on fossil fuel or materials
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to application of atomic energy for nuclear power generation including nuclear fuel cycle and electric power generation and fuel cycle; and electric power plants based on fossil fuel or materials.
	Existing Measures	:	<i>Atomic Energy Licensing Act 1984</i> [Act 304] <i>Electricity Supply Act 1990</i> [Act 447]

10.	Sector	:	Manufacturing and services incidental to manufacturing
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to the manufacture of, and services incidental to manufacturing of:  (a) rice; (b) sugar; (c) flour; (d) liquor and alcoholic beverages; (e) tobacco, manufactured tobacco substitutes, cigarettes products, including e-cigarettes, similar apparatus or devices, and components and liquids used for e-cigarettes, similar apparatus or devices; (f) fabrics and apparels of batik; (g) glass and glassware products; (h) biodiesel; (i) machinery and mechanical appliances or part thereof, including power generating machinery and machinery for a specific industry; (j) motor vehicles including motorcycles and scooters, passenger cars and commercial vehicles; (k) base metals and articles of base metal industry or products; and (l) cement and cement products.
	Existing Measures	:	<i>Excise Act 1976</i> [Act 176] <i>Free Zones Act 1990</i> [Act 438] <i>Industrial Co-ordination Act 1975</i> [Act 156] Policies and Ministerial Statements Administrative Guidelines

11.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment
	Description	:	Malaysia reserves the right to adopt or maintain any measure related to the non-internationalisation of the Ringgit which includes:  (a) the requirement for international settlement to be made in foreign currency;  (b) limitation on the access to Ringgit financing by non-residents for use outside Malaysia; and  (c) limitation on the use of the Ringgit in Malaysia by non-residents.
	Existing Measures	:	<i>Central Bank of Malaysia Act 2009</i> [Act 701] <i>Financial Services Act 2013</i> [Act 758] <i>Islamic Financial Services Act 2013</i> [Act 759] Foreign Exchange Policy Notices

12.	Sector	:	Utilities in relation to gas supply, power generation, power distribution, power transmission including for renewable energy
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to utilities in relation to gas supply, power generation, power distribution, power transmission including for renewable energy.
	Existing Measures	:	<i>Electricity Supply Act 1990</i> [Act 447] <i>Gas Supply Act 1993</i> [Act 501] <i>Renewable Energy Act 2011</i> [Act 725] <i>Sarawak Electricity Ordinance</i> [Chapter 50] <i>Environmental Quality Act 1974</i> [Act 127] New Economic Policy (NEP) Green Technology Master Plan Malaysia 2017-2030 National Energy Efficiency Action Plan (NEEAP) 2015 National Renewable Energy Policy and Action Plan (NREPAP) 2009

13.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment
	Description	:	Where the constitution of a company imposes a prescribed foreign shareholding limit, the company may restrict certain entitlements with respect to shares that have exceeded the prescribed limit <sup>3</sup> (excess shares).
	Existing Measures	:	<i>Companies Act 2016</i> [Act 777] <i>Securities Industry (Central Depositories) Act 1991</i> [Act 453] <i>Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996</i> [P.U.(A) 513/96]

<sup>3</sup> For example, a company may still grant certain entitlements i.e. dividend payment to the foreigner holding the excess shares but such foreigner may not be entitled to vote. For the purposes of this entry, the term “foreigner” can be found in the *Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996* [P.U.(A) 513/96].



14.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment
	Description	:	Malaysia reserves the right to adopt or maintain any measure with respect to securities to be listed or listed on a stock exchange, and any matter relating to the acquisition of interests or take-overs and mergers.
	Existing Measures	:	<i>Capital Market and Services Act 2007 [Act 671]</i> <i>Companies Act 2016 [Act 777]</i> <i>Financial Services Act 2013 [Act 758]</i> <i>Islamic Financial Services Act 2013 [Act 759]</i> The Malaysian Code on Take-overs and Mergers 2016

15.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to employment of expatriates.
	Existing Measures	:	<i>Immigration Act 1959/63</i> [Act 155] <i>Employment (Restriction) Act 1968 (Revised 2017)</i> [Act 796] Policies and Ministerial Statements

16.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to activities restricted to designated juridical persons <sup>4</sup> where such activities are liberalised to those other than the designated juridical persons, or in the event where such designated juridical persons no longer operate on a non-commercial basis.
	Existing Measures	:	<i>Industrial Co-ordination Act 1975</i> [Act 156] Policies and Ministerial Statements Administrative Guidelines

<sup>4</sup> For illustrative purposes, examples of designated juridical persons include Padiberas Nasional Berhad (BERNAS) and Kualiti Alam Sdn. Bhd.

17.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure affecting the issuance of a license or permit. This may include conditions imposed, numerical limitations and non-issuance of licences.
	Existing Measures	:	<i>Industrial Co-ordination Act 1975</i> [Act 156] <i>Petroleum Development Act 1974</i> [Act 144] <i>Customs Act 1967 (Revised 1980)</i> [Act 235] Customs Prohibition of Imports and Exports Orders Policies and Ministerial Statements Administrative Guidelines

18.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to the rights of statutory bodies <sup>5</sup> .
	Existing Measures	:	Policies and Ministerial Statements Administrative Guidelines

<sup>5</sup> For illustrative purposes, examples of statutory bodies include the Employees Provident Fund and Lembaga Tabung Haji.

19.	Sector	:	Mining and quarrying
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Prohibition of Performance Requirements Senior Management and Board of Directors
	Description	:	Non-citizens and juridical persons owned by foreign nationals will need to seek the approval of the relevant state authority, and subject to such conditions and restrictions as may be imposed by the relevant state authority. Joint ventures with state or state-linked juridical persons may be required.
	Existing Measures	:	<i>Mineral Development Act 1994</i> [Act 525] State Mineral Laws National Mineral Policy 2

20.	Sector	:	Agriculture
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Non-citizens and juridical persons owned by foreign nationals will need to seek the approval of the relevant state authority, and are subject to such conditions and restrictions as may be imposed by the relevant state authority.
	Existing Measures	:	<i>National Land Code</i> [Act 56 of 1965] <i>Sarawak Land Code 1958</i> [Chapter 81] (1958 Edition) <i>Sabah Land Ordinance 1950</i> [Sabah Cap. 68] <i>Town and Country Planning Act 1976</i> [Act 172] <i>Plant Quarantine Act 1976</i> [Act 167] <i>Animals Act 1953</i> (Act 647) Animal Welfare Enactment 2015 [Act 772] Customs Prohibition of Imports and Exports Orders National Agricultural Policy Administrative Guidelines

21.	Sector	:	Forestry
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	<p>Non-citizens and juridical persons owned by foreign nationals will need to seek the approval of the relevant state authority, and are subject to such conditions and restrictions as may be imposed by the relevant state authority.</p> <p>Extraction and harvesting of timber are closed to foreign investors in Peninsular Malaysia and Sabah. However, for Sarawak, local involvement and majority local control are required. Forest areas opened for such activities are subject to an Annual Allowable Cut to enable the resources to be managed sustainably.</p> <p>Services incidental to extraction and harvesting of timber are closed to foreign investors in Peninsular Malaysia and Sabah. However, for Sarawak, the maximum foreign equity ownership allowed is 30 per cent.</p>
	Existing Measures	:	<p><i>National Forestry Act 1984</i> [Act 313] <i>Sabah Forest Enactment 1968</i> [Sabah No. 2 of 1968] <i>Sarawak Forests Ordinance 2015</i> [Chapter 71] <i>International Trade in Endangered Species Act 2008</i> [Act 686] <i>Wildlife Conservation Act 2010</i> [Act 716] <i>Malaysia Timber Industry Board (Incorporation) Act 1973</i> [Act 105] Malaysia Policy on Forestry 2021 State Forestry Laws Administrative Guidelines</p>



22.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests.
	Existing Measures	:	<i>Strategic Trade Act 2010</i> [Act 708] <i>Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001</i> [Act 613] <i>Chemical Weapons Convention Act 2005</i> [Act 641] <i>Arms Act 1960</i> [Act 206] <i>Explosive Act 1957</i> [Act 207] <i>Chemical Weapons Convention Regulations 2007</i> [P.U.(A) 361/2007] Customs Prohibition of Imports and Exports Orders

23.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to investments other than those recognised or should have been recognised by the Government of Malaysia owing to the circumstances existing at the date of entry into force of this Agreement for Malaysia.  Malaysia reserves the right to adopt or maintain any measure relating to investments which was not technically feasible at the date of entry into force of this Agreement for Malaysia.
	Existing Measures	:	-

24.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt, maintain, impose requirements, or enforce a commitment or undertaking, in connection with transfer of technology, production process or other proprietary knowledge.
	Existing Measures	:	-

25.	Sector	:	All sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Malaysia reserves the right to adopt or maintain any measure relating to the Shared Prosperity Vision 2030, the New Industrial Masterplan <sup>6</sup> and the National Investment Aspirations <sup>7</sup> .
	Existing Measures	:	Shared Prosperity Vision 2030 New Industrial Masterplan Policies and Ministerial Statements

<sup>6</sup> Any such measure shall be implemented in a manner consistent with Malaysia's commitments under List A of this Schedule.

<sup>7</sup> Any such measure shall be implemented in a manner consistent with Malaysia's commitments under List A of this Schedule.

26.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment
	Description	:	The purchase of a financial service by a resident from a financial service supplier abroad shall be subject to the requirements, restrictions and conditions imposed under the Foreign Exchange Policy Notices.
	Existing Measures	:	<i>Central Bank of Malaysia Act 2009</i> [Act 701] <i>Financial Services Act 2013</i> [Act 758] <i>Islamic Financial Services Act 2013</i> [Act 759] Foreign Exchange Policy Notices