

**ASEAN – HONG KONG, CHINA
FREE TRADE AGREEMENT**

CHAPTER 8 TRADE IN SERVICES

ANNEX 8-1

SCHEDULES OF SPECIFIC COMMITMENTS

SCHEDULE OF MALAYSIA

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
<p>ALL SECTORS INCLUDED IN THIS SCHEDULE UNLESS OTHERWISE INDICATED</p>	<p>3) <u>Acquisition, Mergers and Take-overs</u></p> <p>The acquisition of assets or interests of Malaysian companies and businesses, mergers or take-overs requires approval and apply to the following:</p> <p>(a) the acquisition of the voting rights of a Malaysian corporation by any single foreign interest or associated group of 15 per cent or more, or an aggregate foreign interest of 30 per cent or more or exceeding RM10 million in value;</p> <p>(b) any proposed acquisition of any assets or interests by any means which will result in ownership or control passing to foreign interest; and</p>	<p>3) <u>Land, Property and Real Estate</u></p> <p>Approval may be denied if the acquisition, disposal or dealing of land or any interest in land, property and real estate is undertaken for speculative or non-productive purpose or for purposes which may conflict with the interest of the State.</p> <p><u>Incentives/Preferences</u> Incentives are limited to eligible Malaysian-owned corporations engaged in services sectors promoted by the Government.</p> <p>Any measure and special preference granted to Bumiputera, Bumiputera status companies, trust companies and institutions set up to meet the objectives of the New Economic Policy (NEP) and the National Development Policy (NDP) shall be</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>(c) control of Malaysian corporations through any form of joint-venture agreement, management agreement, technical assistance agreement or other arrangements.</p> <p>Approval is normally granted. However it may be denied in circumstances where the proposed investment conflicts with the interest of the State.</p> <p>4) Unbound except for measures affecting the entry and temporary stay of natural persons defined below or indicated in sectoral commitments</p> <p>1. <u>Intra-corporate Transferees</u></p> <p>(a) senior managers being persons within an organisation having proprietary information of the organisation and</p>	<p>unbound.</p> <p>Corporations in which the Government has an interest shall, in acquiring services, give first consideration to services suppliers in which the Government has an interest. This requirement does not prevent the acquisition of services from other services suppliers where their services are competitive in terms of price, quality and delivery.</p> <p>4) Unbound except for the categories of natural persons referred to under market access</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

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	<p>who exercise wide latitude in decision making relating to the establishment, control and operation of the organisation being directly responsible to the CEO and receive only general supervision or direction from the board of directors or partners of the organisation; and</p> <p>(b) two specialists or experts per organisation being persons within the organisation who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organisation's new service products and technology, research equipment and techniques or management.</p>		

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	<p>Additional specialists or experts may be allowed subject to market test and the training of Malaysians through an acceptable training programme in the relevant services sector or sub sector. Provided that such persons are employees of the foreign services supplier for a period of not less than one year immediately preceding the date of application for a work permit and he is to serve in at least a similar capacity.</p> <p>2. <u>Others</u></p> <p>(a) specialists or experts being persons who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organisation's</p>		

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	<p>products and services subject to market test and the employment of Malaysians as counterparts and/or training of Malaysians through acceptable training programmes in the relevant services sector or sub sector</p> <p>(b) professionals being persons who possess necessary academic credentials, professional qualifications, experience and/or expertise which have been duly recognised by the professional bodies in Malaysia and registered with those respective professional bodies; and</p> <p>(c) business visitors being persons not</p>		

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	<p>based within Malaysia, receiving no remuneration from any source within Malaysia, who has been employed for at least one year by a foreign services supplier, whose entry and temporary stay is for the purposes of negotiating for the sale of services or entering into agreements to sell services for that service supplier and who will not engage in direct sales to the general public.</p> <p>3. Entry and stay of natural persons defined in categories 1 (a) and (b) and 2 (a) and (b) shall not exceed a total of five years. For category 2 (c), the period of stay shall not exceed a total of 90 days.</p>		

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
II. SECTOR-SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. Professional Services			
Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) Only through a locally registered partnership with Malaysian accountants or Malaysian accounting firms and aggregate foreign interests shall not exceed 49 per cent. 4) Unbound except as indicated in the horizontal section. In respect of 1 (b), additional two specialists/experts for each firm/company In respect of 2 (b), residency is required for registration	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	4) The qualifying examination to determine the competence and ability to supply the service for the purposes of registration with the MIA will be conducted in the English language.

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Taxation Services (CPC 863)	1) None 2) None 3) Only through a locally registered partnership or private limited company with Malaysian authorised tax agents / firms and aggregate foreign interests in the partnership shall not exceed 30 per cent. 4) Unbound except as indicated in the horizontal section. In respect of 1 (b), additional two specialists/experts for each firm/company In respect of 2 (b), residency is required for registration	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	4) The qualifying examination to determine the competence and ability to supply the services for the purposes of registration with the professional bodies will be conducted in the English language.

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Architectural services (CPC 8671)	<p>1) None</p> <p>2) None</p> <p>3) a) Architectural services may be supplied only by natural person.</p> <p>b) For multi-disciplinary practices (Architecture, Engineering and/or Quantity Surveying), foreign equity up to a maximum of 30 per cent for joint ventures by professionals who are registered in the country of origin. Foreign Directorship is not allowed.</p> <p>4) Unbound except as indicated in the horizontal section and, in respect of 2 (b) only an architect who is a consultant to a project in</p>	<p>1) Architectural services must be authenticated by a licensed professional architect in Malaysia.</p> <p>2) Architectural services must be authenticated by a licensed professional architect in Malaysia.</p> <p>3) a) None</p> <p>b) Unbound</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	<p>4) The qualifying examination to determine the competence and ability to supply the services for the purposes of registration with the professional bodies will be conducted in the English language.</p>

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	collaboration with a Malaysian professional architect for wholly foreign funded projects		
Engineering services (CPC 8672)	1) None 2) None 3) a) Engineering services may be supplied only by natural person. b) For multi-disciplinary practices (Architecture, Engineering and/or Quantity Surveying), foreign equity up to a maximum of 30 per cent for joint ventures by professionals who are registered in the country of origin. Foreign Directorship is not allowed.	1) Engineering services must be authenticated by a registered professional engineer in Malaysia. 2) Engineering services must be authenticated by a registered professional engineer in Malaysia. 3) a) None b) Unbound	4) The qualifying examination to determine the competence and ability to supply the service for the purpose of registration with the professional bodies will be conducted in English language.

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	4) Unbound except as indicated in the horizontal section and, in respect of 2 (b), subject to temporary registration for a period of one year per temporary registration.	4) Unbound, except for the categories of natural persons referred to under market access.	
Integrated engineering services (CPC 8673)	<p>1) None</p> <p>2) None</p> <p>3) Only through a representative office, regional office or locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both for the purpose of services contract awarded in Malaysia.</p> <p>The aggregate foreign</p>	<p>1) Integrated engineering services must be authenticated by the relevant registered professionals in Malaysia.</p> <p>2) Integrated engineering services must be authenticated by the relevant registered professionals in Malaysia.</p> <p>3) None</p>	4) The qualifying examination to determine the competence and ability to supply the service for the purpose of registration with the professional bodies will be conducted in English language.

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>shareholding in the joint-venture corporation shall not exceed 30 per cent.</p> <p>Establishment of such joint-venture corporation is only for duration necessary to complete the services contract.</p> <p>4) Unbound, except as indicated in the horizontal section <i>and in respect of 2 (b), for a period of up to one year or the duration necessary to complete the services contract</i></p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
<p>Urban Planning Services (CPC 86741)</p> <p>covering development services programmes regarding land use, site selection, control and utilisation, road systems and servicing of land with a view to creating and maintaining systematic, coordinated urban planning.</p>	<p>1) None</p> <p>2) None</p> <p>3) Unbound</p> <p>4) Unbound except for:</p> <p style="padding-left: 20px;">(i) independent professionals* with an employment contract with a registered</p>	<p>1) None</p> <p>2) None</p> <p>3) Unbound</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	<p>4) The qualifying examination to determine the competence and ability to supply the service for the purpose of registration with the professional bodies will be conducted in English language.</p>

* Independent professionals is as defined in para 2 (b) in the horizontal section

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	<p>Malaysian town planning company. Independent professionals must possess recognised qualifications and obtained temporary registration with the relevant regulatory authorities;</p> <p>(ii) consultants (with recognised qualifications and subject to registration) for wholly public funded projects and in collaboration with a Malaysian urban planning company; and</p> <p>(iii) Any other requirements or provisions as spelt out under the relevant legislation</p>		

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Landscaping services covering the provision of advisory, planning and designing services for the aesthetic landscaping of golf courses and theme parks (CPC 86742*)	1) None 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian registered landscape architects or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent. 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
B. Computer and Related Services			
a. Consultancy services related to the installation of computer hardware (CPC 841)	1) None 2) None 3) None 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	horizontal section	market access.	
b. Consultancy services related to software implementation service covering advisory and implementation for customised software (CPC 842)	1) None 2) None 3) None 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
c. Data processing services (CPC 843)	1) None 2) None 3) None 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
d. Data base services (CPC 8440)	1) None 2) None 3) None	1) None 2) None 3) None	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	4) Unbound, except for the categories of natural persons referred to under market access.	
F. Other Business Services			
i) Sale or leasing services of advertising space or time (CPC 8711)	<p>1) Commercial presence is required</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent.</p> <p><u>Advertisement through electronic media</u></p> <p>Advertisement must have at least 80 per cent local content and be made in Malaysia.</p> <p>4) Unbound except as indicated in 1 (a) and (b)</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	and 2 (a) and (c) in the horizontal section.	persons referred to under market access.	
ii) Planning, creating and placement services of advertising (CPC 8712)	<p>1) Commercial presence is required</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent.</p> <p><u>Advertisement through electronic media</u></p> <p>Advertisement must have at least 80 per cent local content and be made in Malaysia.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
iii) Other advertising services (CPC 8719)	<p>1) Commercial presence is required</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent.</p> <p><u>Advertisement through electronic media</u></p> <p>Advertisement must have at least 80 per cent local content and be made in Malaysia.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Market research services (CPC 864) and Public opinion polling services (CPC 864)	1) None 2) None 3) Only through a locally incorporated joint venture corporation with Malaysian individuals or Malaysian controlled corporations or both and Bumiputera shareholding in the joint venture is at least 30 per cent. 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
Other Management Consulting Services covering advisory, guidance and operational assistance services concerning management of the transmission of non-conventional energy (CPC 8650*)	1) None 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at	1) None 2) None 3) None	

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	<p>least 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
<p>covering advisory, guidance and operational assistance on environmental management services including risk assessment services (CPC 8650*)</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at least 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>covering advisory and guidance in the field of pharmacy as follows:</p> <ul style="list-style-type: none"> - Basic material manufacturing consultancy in the manufacture of drugs in raw material form; - New systems of drug delivery; - Biotechnology-new techniques for influencing the process and products of living cells; - New techniques in drug development and methods of producing drugs and vaccine; and - Vaccine production (CPC 8650*) 	<p>1) None</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at least 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

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covering advisory and guidance on International Value-Added Network Services, rural telecom development and human resource development in telecommunications (CPC 8650*)	1) None 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at least 30 per cent. 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
Technical Testing and Analysis Services i) Composition and purity testing and analysis services (CPC 86761)	1) None 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at	1) None 2) None 3) None	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>least 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
<p>ii) Testing and analysis services of physical properties (CPC 86762)</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at least 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
iii) Testing and analysis services of integrated mechanical and electrical systems (CPC 86763)	1) None 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at least 30 per cent. 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
iv) Other technical testing and analysis services (CPC 86769)	1) None 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at	1) None 2) None 3) None	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p style="text-align: center;">least 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
<p>Services incidental to agriculture and fishing covering only specialised consultancy, advisory and operational assistance on crop and fisheries management, including value added services such as preservation techniques, etc. (part of CPC 881* and 882*)</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at least 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

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Services incidental to manufacturing (884, 885 except 88442)	1) None 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation is at least 30 per cent. 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
Translation and interpretation services (CPC 87905)	1) None 2) None 3) Translation and interpretation services may be supplied only by a natural person. 4) Unbound except as indicated in 2 (a) in the horizontal section	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under	

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		<p>market access.</p> <p><i>Translation and/or interpretation from English Language to the Malay language or vice versa is not permitted.</i></p>	
<p>Convention Centre (part of CPC 87909)</p> <p>(convention and exhibition management services covering the provision of planning, organisational, management and marketing services or conventions and other similar events)</p>	<p>1) None</p> <p>2) None</p> <p>3) a) <i>Only through joint venture with Malaysian individuals or Malaysian controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent.</i></p> <p>b) for Convention Centers with seating capacity of over 5,000 aggregate foreign shareholdings up to 49% shall be permitted.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	4) Unbound, except for the categories of natural persons referred to under market access.	
2. COMMUNICATION SERVICES			
C. Telecommunication Services			
<u>Basic Telecommunication</u> Based on domestic regulations, Malaysia has reclassified its communications services sector on the basis of provision of Network Service Provider (NSP), provision of Application Service Provider (ASP) Basic local, inter-exchange and international services; supplied over public telecommunications transport networks using any network technology, facilities regardless of whether the means of delivery services are wired or wireless are mapped into the aforementioned three categories.	1) None 2) None 3) With respect to Network Facilities Provider (NFP) and NSP components of the service, only through an acquisition of shares of existing licensed NFP(I), NSP(I). With respect to ASP(I), through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled Corporations; or through acquisition of shares of an existing licensed ASP(I) operator/corporations.	1) None 2) None 3) None	Pro-competition regulatory principle in respect of interconnection (Refer to Annex I)

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Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><i>Individual licence</i></p> <p>1. <i>NFP(I)</i>¹</p> <p>2. <i>NSP(I)</i>²</p> <p>3. <i>ASP(I)</i>³</p>	<ul style="list-style-type: none"> - For NFP(I) and NSP(I) foreign shareholding of up to 30 per cent in these services providers is allowed - For ASP(I), foreign shareholding of up to 49 per cent in these services providers is allowed. [The management control of such companies shall be in the case of Telekom Malaysia, the foreign shareholding permitted shall not exceed 30 per cent <i>with not one single country holding more than 5 per cent of the equity at any one time.</i>] <p>4) Unbound, except as indicated in the horizontal</p>	<p>4) Unbound, except for the categories of natural</p>	

Explanatory Note for Individual Licence Categories

- ¹ Network facilities provider (NFP) individual licence enables the provision of network facilities services such as earth stations, fixed links and cables public payphone facilities, radio communications transmitters and links, satellite hubs and towers, duct and pits used in conjunction with other network facilities.
- ² Network service provider (NSP) individual licence enables the provision of network services such as bandwidth services, broadcasting transmission services, cellular mobile services, customer access services and mobile satellite services.
- ³ Application Service Provider (ASP) individual licence enables the provision of applications services such as PSTN telephony, public cellular telephone telephony services, IP telephony, public payphone service and public switched data service.

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	section	persons referred to under market access.	
<p>Value-Added Services</p> <p>Telecommunication services of which enhanced value-added services must be provided from channels or lines obtained only from licensed NFP(I) and NSP(I) operators and are also mapped into the three categories below:</p> <p>Class License</p> <p>1. NFP(C)⁴</p> <p>2. NSP(C)⁵</p> <p>3. ASP(C)⁶</p>	<p>1) None</p> <p>2) None</p> <p>3) With respect to NFP and NSP components of the service, only through an acquisition of shares of existing licensed NFP(C), NSP(C).</p> <p>With respect to ASP, through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled Corporations; or through acquisition of shares of an existing licensed ASP(C) operator/corporations.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

⁴ NFP class license enables the provision of niched or limited purpose network facilities such as radio communications transmitters for public mobile radio network services, radio communications transmitters for public radio paging network services, radio communications transmitters and links for public wireless data network services, for sole purpose of end users in buildings or a single clustered building complex.

⁵ NSP class license enables the provision of niched customer access or niched connection services such as public mobile radio work services, one or two way radio paging network services, radio communications transmitters for public radio paging network services, radio communications transmitters and links for public wireless data network services, for sole purpose of end users in buildings or a single clustered building complex.

⁶ ASP class license enables the provision of application services such as audio text hosting services provided on an opt-in basis, directory services, messaging services.

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<ul style="list-style-type: none"> - For NFP(C) and NSP(C) foreign shareholding of up to 30 per cent in these services providers is allowed - With respect to ASP(C), foreign shareholding of up to 49 per cent in these services providers is allowed. <p>4) Unbound, except as indicated in the horizontal section</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

Explanatory Note

- 1) This sector is governed by the Communications and Multimedia Act 1998 and its subsidiary rules and regulations.
- 2) Definitions as per Communications and Multimedia Act 1998
 - a. Network facilities mean any element or combination of elements of physical infrastructure used principally for, or in connection with, the provision of network services, but does not include customer equipment.
 Network facilities provider means a person who is an owner of any network facilities.
 - b. Network services means a service for carrying communications by means of guided and/unguided electromagnetic radiation.
 Network service provider means a person who provides network services.
 - c. Application service means a service provided by means of, but not solely by means of, one or more network services.

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Application service provider means a person who provides an applications service.</p> <p>3) Definitions as per Communications and Multimedia (Licensing) (Amendment) Regulations 2001</p> <p>a. Network facilities provider class licensee means a person who is registered with the Commission to provide a network facility in accordance with the provisions of the Act and these Regulations.</p> <p>Network facilities provider individual licensee means an individual licence granted to a network facilities provider in accordance with the provisions of the Act and these Regulations.</p> <p>b. Network service provider class licensee means a person who is registered with the Commission to provide a network service in accordance with the provisions of the Act and these Regulations.</p> <p>Network service provider individual licensee means an individual licence granted to a network service provider in accordance with the provisions of the Act and these Regulations.</p> <p>c. Application service provider class licensee means a person who is registered with the Commission to provide an application service in accordance with the provisions of the Act and these Regulations.</p> <p>Application service provider individual licensee means an individual licence granted to an applications service provider in accordance with the provisions of the Act and these Regulations</p>			
D. Audiovisual services			
Motion picture, video tape and audio recording distribution services (CPC 96113)	1) Commercial presence is required 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-	1) Unbound 2) None 3) None	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>controlled corporations or both and the aggregate foreign shareholding shall not exceed 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES			
<p>Construction Work</p> <p>Building completion and finishing work (CPC 517)</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) (a) Only through a representative office, regional office or locally incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent.</p> <p>(b) Foreign construction companies that are not</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) (a) None</p> <p>(b) Unbound</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>locally incorporated may carry out the following construction projects jointly with local contractors, on project-by-project basis:</p> <ul style="list-style-type: none"> i) Construction projects wholly financed by foreign investment and/or grants; ii) Construction projects financed by loans of international tendering according to the terms of the loans; iii) Projects with foreign investment equal or more than 50 per cent where local expertise is not available. iv) 100 per cent Malaysian funded construction projects where local expertise is not available. <p>Subject to compulsory sub-</p>		

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	contracting to local sub-contractors. 4) Unbound, except as indicated in the horizontal section	4) Unbound, except for the categories of natural persons referred to under market access.	
9. TOURISM AND TRAVEL RELATED SERVICES			
<p>Hotel, Tourist Resort And Restaurant Services</p> <p>Covering the management and operational of hotels or resorts including, outlet which may not include ownership of such properties (CPC 641)</p>	1) None 2) None 3) (a) Entry for service activities under CPC 641 is permitted only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent; (b) or CPC 64110 covering 4- and 5-star hotel establishments only, aggregate foreign	1) None 2) None 3) None	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>shareholdings up to 49 per cent in the joint venture corporation is permitted</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
<p>Food serving services (CPC 642)</p>	<p>1) None</p> <p>2) None</p> <p>3) Entry for service activities under CPC 642 is permitted only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Beverage serving services for consumption on the premises (CPC 643)	1) None 2) None 3) Entry for service activities under CPC 643 is permitted only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent. 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section	1) None 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.	
Travel Agencies and Tour Operators Services for inbound travel only (CPC 7471)	1) None 2) None 3) Joint-venture with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not	1) None 2) None 3) None	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p style="text-align: center;">exceed 49 per cent.</p> <p>4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES			
<p>Other Entertainment Services</p> <p>Theatrical producer, singer group, band and orchestra entertainment services (CPC 96191)</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) Entertainment services may be supplied only by a natural person.</p> <p>4) Unbound except as indicated in 2 (a) in the horizontal section</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
<p>Services provided by authors, composers, sculptors, entertainers and other individual artists (CPC 96192)</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) Entertainment services may be supplied only by a natural person.</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) None</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>(Only through a Malaysian-controlled corporation acting as the local sponsor)</p> <p>4) Unbound except as indicated in 2 (a) in the horizontal section</p>	<p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
Sports events promotion services (CPC 96411)	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) Only through a Malaysian-controlled corporation acting as the local sponsor.</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	
Sports events organisation services (CPC 96412)	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) Only through a Malaysian-controlled corporation acting as the local sponsor.</p>	<p>1) Unbound due to lack of technical feasibility.</p> <p>2) None</p> <p>3) None</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	4) Unbound, except as indicated in the horizontal section	4) Unbound, except for the categories of natural persons referred to under market access.	
11. TRANSPORT SERVICES			
A. Maritime Transport Services			
International maritime transportation services excluding cabotage and government cargo Passenger transportation (CPC 7211) Freight transportation (CPC 7212)	1) None 2) None 3) Only through a representative office, regional office or locally-incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 40 per cent. <u>Malaysian registered vessels</u> To register a vessel in Malaysia, the following conditions must be met:	1) None 2) None 3) Only through a representative office, regional office or locally-incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 40 per cent. <u>Malaysian registered vessels</u> To register a vessel in Malaysia, the following conditions must be met:	The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions: a) Pilotage b) Towing and tug assistance c) Provisioning, fuelling and watering d) Garbage collection and ballast waste disposal e) Port Captain's services f) Navigation aids g) Shore-based operational services essential to ship operations, including

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<ul style="list-style-type: none"> a) Owner of that vessel must be a Malaysian citizen or corporation incorporated in Malaysia; b) Majority shareholding to be held by Malaysians; c) Majority of the board of directors to be Malaysians; and d) Principal place of business to be in Malaysia. <p>4) Unbound, except as indicated in the horizontal section</p>	<ul style="list-style-type: none"> a) Owner of that vessel must be a Malaysian citizen or corporation incorporated in Malaysia; b) Majority shareholding to be held by Malaysians; c) Majority of the board of directors to be Malaysians; and d) Principal place of business to be in Malaysia. <p>4) Unbound, except for the categories of natural persons referred to under market access.</p>	<ul style="list-style-type: none"> communications, water and electrical supplies h) Emergency repair facilities i) Anchorage, berth and berthing services
<p>Rental/Leasing Services Concerning Vessels without Operator (Bareboat Charter) for International Shipping (CPC 83103)</p> <p>Excludes cabotage and offshore trades</p>	<ul style="list-style-type: none"> 1) None 2) None 3) Only through a representative office, regional office or Malaysian-controlled corporation acting as an agent 	<ul style="list-style-type: none"> 1) None 2) None 3) Only through a representative office, regional office or Malaysian-controlled corporation acting as an agent 	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	4) Unbound, except as indicated in the horizontal section. Ship crew is permitted to disembark only for duration of berth subject to applicable domestic regulations.	4) Unbound, except as indicated in the horizontal section	
<p>SUPPORTING SERVICES FOR MARITIME TRANSPORT</p> <p>Vessel salvage and refloating services except on inland waters (CPC 74540)</p> <p><i>(Vessels salvage services provided on ocean and seas. Such services consist of Recovering distressed and sunk vessels\ and their cargoes, including the raising of sunken vessels, the righting of capsized vessels and the refloating of stranded vessels)</i></p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a representative office, regional office or locally-incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation of at least 30 per cent.</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a representative office, regional office or locally-incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation of at least 30 per cent</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Maritime agency services</p> <p>Covering marketing and sales of maritime transport and related services and acting on behalf of the companies organising the call of the ship or taking over cargoes when required</p> <p>(CPC 748*)</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a representative office, regional office or locally-incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation of at least 30 per cent</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a representative office, regional office or locally-incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and Bumiputera shareholding in the joint-venture corporation of at least 30 per cent</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Maritime freight forwarding services</p> <p>Consist of organising and monitoring shipment operations on behalf of shippers, through the procurement of transport and related services, reparation of documentation and provision of business information</p> <p>(CPC 7480)</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 49 per cent; and establishment of local branches requires additional licences.</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 49 per cent; and establishment of local branches requires additional licences.</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

MALAYSIA – SCHEDULE OF SPECIFIC COMMITMENTS

ANNEX I

Principles	Procedural Requirements
1. Competition Safeguards	<p>The regulatory body must take measures to:</p> <ul style="list-style-type: none"> - Maintain fair competition among network operators; - Safeguards the interest of consumers;
2. Universal Service	<ul style="list-style-type: none"> - Ensure that network operators contribute to Universal Service Obligation particularly the extension of services into rural and other undeserved areas as stipulated in the licences;
3. Public availability of licensing criteria	<ul style="list-style-type: none"> - To advise other network operators on the licensed status of each network operator including terms and conditions pertaining to the operator's licence which govern the right of the licensee to interconnect with operators;
4. Independent regulator	<p>To exercise its functions with respect to the conduct of telecommunications operators and the running of telecommunications services in Malaysia as provided for under Section 3B of the Telecommunications Act;</p>
5. Interconnection arrangements	<p>To ensure that the following principles pertaining to interconnection arrangements are adhered to:</p> <ul style="list-style-type: none"> - Interconnection and access between network operators shall be on an equitable and non-discriminatory basis; - Charges for interconnection facilities and services provided by network operators shall be fair and equitable; - The technical qualities of interconnect facilities and services provided by network operators shall be of no less quality than that provided by them within their own networks; - A domestic network operator in any of the market segments shall not abuse its

	<p>market power to limit access to essential facilities only for interconnection;</p> <ul style="list-style-type: none">- The network operator that provides the access connection to the customer should be allowed to tell him (the customer);- No cross-subsidies should be allowed between carriers whereby one carrier has to bear an inequitable share of the Universal Service Obligation burden where the said share is not proportional to its market share.
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