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Annex I

Schedule of Malaysia

1. **Description provides** the non-conforming measures for which the entry is made.
2. In accordance with Articles 10.7(1) (Cross Border Trade in Services – Non- Conforming Measures) and 9.11(1) (Investment – Non-Conforming Measures) the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the Description element of that entry.

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1. Sector: All Sectors

Obligations
Concerned: National Treatment (Article 9.4)

Level of
Government: Federal

Measures: Registration of Business Act 1956
Limited Liability Partnership Act 2012
Co-Operative Societies Act 1993

Description: Investment

Only Malaysian nationals or permanent residents can register a sole proprietorship or partnership in Malaysia except for the Limited Liability Partnership (LLP), the compliance officer shall be a citizen or permanent resident of Malaysia that resides in Malaysia

Foreigners are not allowed to establish or join cooperatives societies in Malaysia.

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2. Sector: Manufacturing
- Obligations Concerned: National Treatment (Article 9.4)
- Level of Government: Federal
- Measures: Industrial Co-ordination Act 1975
Administrative Guidelines
- Description: Investment
- (a) Foreign equity is limited up to 49 per cent for investment in the manufacture or assembly of motor vehicles. However, no foreign equity restrictions are imposed on the following categories:
- i. Luxury passenger vehicles with engine capacity of 1,800 c.c. and above and on the road price not less than RM150,000;
 - ii. Pick-up trucks and commercial vehicles;
 - iii. Hybrid and electric vehicles; and
 - iv. Motorcycles with engine capacity of 200 c.c. and above.
- (b) Foreign equity is limited up to 30 per cent for the manufacture of batik fabric and apparel of batik.

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3. Sector: Manufacturing
- Obligations Concerned: Prohibition on Performance Requirement (Article 9.9)
- Level of Government: Federal and State
- Measures: Industrial Co-ordination Act 1975
Customs Act 1967
Free Zone Act 1990
Petroleum Development Act 1974
Pineapple Industry (Cannery Control) Regulations 1959
Pineapple Industrial Act 1957 (Revised 1990)
Administrative Guidelines
- Description: Investment
- (a) Companies located within the Licensed Manufacturing Warehouse (LMW) and Free Industrial Zone (FIZ) are subject to export conditions.
 - (b) Companies engaging in petroleum refining activity are required to export 100 per cent of its products.
 - (c) Expansion of existing projects in the manufacture of optical disc is subject to export conditions of 100 per cent export.
 - (d) Expansion projects will be considered only for existing independent palm oil refineries which source 100 per cent from its own plantation. For Sabah and Sarawak, manufacturing license will only be considered for new integrated projects which source 50 per cent of crude palm oil from its own plantations. Integrated projects refer to projects with own plantation.
 - (e) For pineapple canning, approval will only be granted for projects which source 100 per cent supply from own plantations.

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4. Sector: Marine Capture Fisheries
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
- Level of
Government: Federal and State
- Measures: Fisheries Act 1985
- Description: Cross-Border Trade in Services and Investment

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 unless authorised to do so.

An application for a licence or 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.

Fishing vessel means any boat, craft, ship or other vessel which is used for equipped to be used for, or of a type used for

- (a) fishing; or
- (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.

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5. Sector: Patent Agent Services
Trademark Agent Services

Obligations
Concerned: Local Presence (Article 10.6)

Level of
Government: Federal

Measures: Patent Act 1983

Description: Cross-Border Trade in Services

Only persons registered with the Intellectual Property Corporation of Malaysia (MyIPO) and residing in Malaysia are allowed to carry out a business, practice, or act as a patent and trademark agent in Malaysia.

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6. Sector: Professional Services covering
Engineering Services
Quantity Surveying Services
Land Surveying Services
Architectural Services
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
- Level of
Government: Federal and State
- Measures: Registration of Engineers Act 1967 (amended 2007)
Registration of Engineers Regulations 1990 (amended 2003)
Architect Act 1967
Architect Rules 1996 (Amendment 2011)
Quantity Surveyors Act 1967
Quantity Surveyors (Amendment) Rules 2004
Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994
Administrative Guidelines
- Description: Cross-Border Trade in Services and Investment

Any qualified persons, who are resident in Malaysia and registered with the relevant professional boards are allowed to provide and supply engineering, quantity surveying, land surveying and architectural services.

Foreigners will be subject to a temporary registration.

Engineering services and architectural services must be authenticated by a registered professional in Malaysia.

The shareholding of an engineering, architectural and quantity surveying services establishment shall be no less than 70% held by any one of the registered professionals. For each of these establishments, the majority of directors shall be registered professionals. This shall also apply to multi-disciplinary practices (MDP) comprising of professional architects, professional engineers with practicing certificate, registered land and/or quantity surveyors with practicing certificate.

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7. Sector: Legal services (other than arbitration)
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
Market Access (Article 10.5)
Local Presence (Article 10.6)
- Level of
Government: Federal and State
- Measures: Legal Profession Act 1976
Legal Profession (Licensing of International Partnerships and Qualified
Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014
Offshore Companies Act 1990
Labuan Trust Companies Act 1990
Advocates Ordinance of Sabah 1953
Advocates Ordinance of Sarawak 1953
- Description: Cross-Border Trade in Services and Investment

Peninsular Malaysia and the Federal Territory of Labuan

Foreign law firms and foreign lawyers are not permitted to practice Malaysian law save as provided for under section 40(O) of the Legal Profession Act 1976 [*Act 166*] and the Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014.

Foreign law firms from recognised jurisdictions must apply to a Selection Committee to be established as a Qualified Foreign Law Firm (QFLF) or an International Partnership (IP) with a Malaysian law firm. A maximum of five (5) QFLF licences may be issued in the initial period and only to foreign law firms with proven expertise in International Islamic Finance.

Only foreign lawyers from recognised jurisdictions can apply to work in a QFLF, an IP or a Malaysian law firm. Such a foreign lawyer must be resident in Malaysia for not less than one hundred and eighty two days in any calendar year.

A QFLF and an IP, and a registered foreign lawyer working in a Malaysian law firm are subject to the provisions of the Legal Profession Act 1976 [*Act 166*].

Foreign lawyers providing legal services in Malaysia on a “*fly-in and fly-out*” basis shall be subject to the provisions under section 37(2B)(b) of the Legal Profession Act 1976 [*Act 166*].

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Sabah and Sarawak

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8. Sector: Real Estate Services on a fee or contract basis
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
- Level of
Government: Federal and State
- Measures: Valuers, Appraisers & Estate Agents Act 1981 (Section 18)
Valuers, Appraisers & Estate Agents Rules 1986
- Description: Cross-Border Trade in Services and Investment
- A person who is not a citizen or permanent resident of Malaysia shall not qualify for registration as a valuer.

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9. Sector: Communications Services
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
- Level of
Government: Federal
- Measures: Communications and Multimedia Act of 1998
Communications and Multimedia (Licensing) Regulations 2000
- Description: Cross-Border Trade in Services and Investment

Licenses for the supply of telecommunications services in Malaysia are divided into individual licenses, and class licenses, depending on the character of the service.

The following persons or classes of persons shall be ineligible to apply for an individual license:

- a) A foreign company defined under the Companies Act 1965 [Act 125];
- b) An individual or a sole proprietorship;
- c) A partnership

The following persons or classes of persons shall be ineligible to be registered as a class licensee:

- i. A foreign individual who is not a permanent resident; and
- ii. A foreign company as defined under the Companies Act 1965.

Foreigners are not permitted to apply for Content Applications Service Providers (CASP) services, a special subset of applications service providers that refers to satellite broadcasting, subscription broadcasting, terrestrial free to air TV or terrestrial radio broadcasting.

Minister may, for good cause or as the public interest may require, permit either of the above to apply to be registered as any one of the licensee mentioned above.

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10. Sector: Education Services
- Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
- Level of Government: Federal
- Measures: Education Act 1996 (Act 550)
Private Higher Education Institutions Act 1996 (Act 555)
- Description: Cross-Border Trade in Services and Investment
- Education services provided in Malaysia can only be provided by education services suppliers that are registered and established in Malaysia.
- Foreigners are not allowed to provide the following education services:
- (a) Preschool;
 - (b) Primary and Secondary School Education Services covering Malaysian National Curriculum; and
 - (c) Religious School.

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11. Sector: Private Healthcare Facilities and Services
Allied Health Services
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
- Level of
Government: Federal
- Measures: Medical Regulations 1974
Private Healthcare Facilities and Services Act 1998
Private Healthcare Facilities and Services Regulations 2006
Pharmacy Registration Act 1951
Administrative Guidelines
- Description: Cross-Border Trade in Services and Investment
- Private healthcare facilities and services can only be provided by services suppliers that are registered and established in Malaysia and with authorisation.
- Foreigners are not allowed to establish blood bank, maternity home, psychiatric hospital, pathology laboratory and to practise as general dental practitioners, general medical practitioners, general nurses including midwifery.
- Specialised Dental Services
Foreigners are not allowed to provide specialised dental services or operate a specialised medical facility except in Oral and Maxillo-Facial Reconstructive Surgery.
- Pharmacists
Foreign pharmacists are not allowed to prepare, dispense, assemble or sell medicinal products.
- Allied health services
Foreigners are not allowed to provide allied health services that covers clinical scientist, microbiologist, clinical biochemist, medical geneticist, biomedical scientist, embryologist, medical physicist, entomologist, forensic scientist, nutritionist, speech language pathologist/speech language therapist, audiologist, physiotherapist, counselors, diagnostic radiographer, radiotherapist, food technologist, dietitian, medical social officer, optometrist, health education officer, environmental health officer, medical laboratory technologist, health care food service assistant officer, assistant medical officer and assistant food technologist.

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12. Sector: Customs Agents and Brokers
- Obligations
Concerned: National Treatment (Article 10.3)
- Level of
Government: Federal
- Measures: Customs Act 1967
Customs Regulations 1977
Customs Standing Orders No.45/2003
- Description: Cross-Border Trade in Services
- Foreigners are not allowed to act as customs agents and brokers.

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13. Sector: Tourist guide services
- Obligations
Concerned: National Treatment (Article 10.3)
- Level of
Government: Federal
- Measures: Tourism Industry Act 1992
- Description: Cross-Border Trade in Services
Foreigners are not allowed to provide tourist guide services.

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14. Sector: Utilities
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
Senior Management and Boards of Directors (Article 9.10)
Market Access (Article 10.5)
- Level of
Government: Federal and State
- Measures: Electricity Supply Act 1990
Electricity (Amendment) Ordinance 2003 (Cap A109)
Electricity Rules 1999
Electricity (State Grid Code) Rules 2003
SESCO Ordinance 1962 (Cap 51)
Sarawak Electricity Supply (successor Company) Ordinance 2004
Energy Commission Act 2001
Electricity Regulations 1994
Licensee Supply Regulations 1990
Gas Supply Act 1993
Gas Supply Regulation 1997
Energy Commission Act 2001
Sarawak Gas Supply Services (Operating Company)
Ordinance 1995
Waters Act 1920
- Description: Cross-Border Trade in Services and Investment
- No person, other than a supply authority is authorised to supply, use, work or operate any installation relating to gas, water and electricity.
- Only persons that are registered and established in Malaysia can supply services for gas, water and electricity, and disposal of waste.

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15. Sector: Transport Services
- Sub-sector: International Maritime Transport services (excluding Maritime Cabotage and Government Cargo)
- Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
Market Access (Article 10.5)
Senior Board of Management and Directors (Article 9.10)
- Level of Government: Federal and State
- Measures: Merchant Shipping Ordinance 1952
Merchant Shipping Ordinance 1960 (Sabah)
Merchant Shipping Ordinance 1960 (Sarawak)
Merchant Shipping (Amendment and Extension) Act 2007
Administrative Guidelines
- Description: Cross-Border Trade in Services and Investment
- Foreign shipping vessels are not permitted to provide and supply domestic shipping services, maritime cabotage services and government cargo.
- Malaysia International Ship Registry
- Foreign persons may only provide international maritime services that is not plying in domestic waters only through a representative office, regional office or locally incorporated joint venture corporation with Malaysian individuals or Malaysian controlled corporations or both. Aggregate foreign shareholding in the joint venture corporation shall maintain not less than 51 per cent.
- All joint venture or corporation seeking to register ships under this registry shall appoint a ship manager prior for registration of a ship, whom shall be:
1. A Malaysian citizen having its permanent residence in Malaysia; or
 2. A company incorporated in Malaysia and having its principal place of business in Malaysia.
- Traditional Registry
- Only ships registered on the Traditional Registry may provide domestic maritime services.

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Foreign persons may only register a ship on the Traditional Registry through a representative office, regional office or locally incorporated joint venture corporation with Malaysian individuals or Malaysian controlled corporations or both. Aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent.

All joint venture or corporation seeking to register ships under this registry shall satisfy the following conditions:

1. Majority of senior managers and board of directors shall be Malaysians; and
2. Incorporated in Malaysia and having its main business operations in Malaysia.

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16. Sector: Distribution Services
- Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Prohibition on Performance Requirement (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Local Presence (Article 10.6)
Market Access (Article 10.5)
- Level of Government: Federal
- Measures: Guidelines on Foreign Participation in the Distribution Trade Services in Malaysia (Amendment) 2010
Franchise Act 1998
Companies Act 1965
Guideline on Convenience Stores with Foreign Interest
- Description: **Cross-Border Trade in Service and Investment**
- Foreigners are not allowed to operate supermarkets, mini markets, permanent wet markets, permanent pavement markets, fuel stations with or without kiosk, news agent, medical hall, Malaysian cuisine restaurants, bistro, jewelry stores and textile.
- All hypermarkets, superstores, departmental stores, specialty stores, franchise businesses, and convenience stores (as defined in the relevant Guidelines) with foreign equity must be incorporated locally under the Companies Act 1965.
- All foreign involvement in distributive trade shall obtain the approval of the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) on:
- acquisition;
 - mergers and/or takeovers;
 - opening of new branches/ outlets/ chain stores;
 - relocation or expansion of existing and new branches/ outlets/ chain stores;
 - acquisitions of outlets of other operators;
 - purchase and sale of properties to operate distributive trade activities prior to obtaining the approval / license from local authorities and other agencies to operate distributive trade activities.
- All distributive trade companies with foreign equity shall:
- a) appoint Bumiputera director/directors;

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- b) hire personnel at all levels including management to reflect the racial composition of the Malaysian population;
- c) formulate plans on human resource such as capacity building and transfer of knowledge to assist Bumiputera participation in the distributive trade sector;
- d) hire at least 1 per cent of the total workforce from persons with disabilities

The minimum capital investment is RM50 million for hypermarkets, RM25 million for superstores, RM20 million for department stores, and RM1 million for specialty stores and convenience stores, subject to review every three years.

No less than 30 per cent of the equity in hypermarkets, superstores and convenience stores is to be held by Bumiputera.

Hypermarkets, superstores, convenience stores and departmental stores shall seek to allocate 30 percent of the Stock Keeping Units displayed on the shelf space for Bumiputera SME goods and products in each outlet within 3 years.

One hypermarket will be allowed for every 250,000 residents and one superstore for every 200,000 residents.

All hypermarkets, superstores, and departmental stores shall begin operation within 2 years from the date of approval from MDTCC.

Specialty store may be allowed to operate if it fulfils the following objectives:

- absence of local players in proposed format
- create employment opportunities; and
- transfer of technology/skills; and unique/ exclusive nature of business.

Foreigners are not allowed to apply for a franchise broker/consultant license.

The sale of a franchise is deemed to be in Malaysia where:

- i) an offer to sell or buy a franchise;
- ii) is made in Malaysia and accepted within or outside Malaysia;
- iii) is made outside Malaysia and accepted within Malaysia; and
- iv) the franchised business is or will be operating in Malaysia.

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There are three (3) types of franchises as follows:

Type of Franchises	Definition
Franchisor	A person who grants a franchise to a franchisee and includes a master franchisee and his relationship with a sub-franchisee.
Master Franchisee	A person who has been granted the rights by a franchisor to sub-franchise to another person, at his own expense, the franchise of the franchisor.
Franchisee of Foreign	A person who has been granted the rights by a foreign franchisor but does not sub-franchise to another person.

For convenience stores, only a foreign company that is not associated with the franchisor (according to Franchise Act 1998) may invest or own not more than 30% equity interest*

*For greater certainty, only a foreign company that is not associated with the franchisor means only a foreign company that is not the franchisor according to Franchise Act 1998.

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17. Sector: Construction and Related Engineering Services
- Obligations Concerned: Market Access (Article 10.5)
National Treatment (Article 10.3) (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)
- Level of Government: Federal
- Measures: Registration of Engineers Act 1967 (amended 2007)
Registration of Engineers Regulations 1990 (amended 2003)
Architect Act 1967
Quantity Surveyors Act 1967
Quantity Surveyors (Amendment) Rules 2004
Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994
Administrative Guidelines
- Description: Cross-Border Trade in Services and Investment
- Only an entity incorporated in Malaysia registered with the Malaysian Construction Development Board (CIDB) and locally incorporated either through a representative office, regional office or joint-venture corporation with Malaysian individuals or Malaysian controlled corporations may be permitted to provide construction and related services.
- Any entity incorporated in Malaysia, whose foreign equity exceeds more than 30 per cent by way of a joint-venture corporation or consortium with Malaysian individuals or Malaysian controlled corporations, is subjected to the registration requirements by CIDB.
- The senior management and board of directors of each foreign entity shall be of Malaysian majority that shall have control over its management and investment.

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18. Sector: Freight road transportation services
- Obligations
Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
Market Access (Article 10.5)
- Level of
Government: Federal
- Measures: Land Public Transport Act 2010
Panduan Dasar Pelesenan Suruhanjaya Pengangkutan Awam Darat
(SPAD)
- Description: Cross-Border Trade in Services and Investment
- Only entities that are registered and established in Malaysia are allowed to provide freight road transportation services in Malaysia.
- Foreigners are not allowed to own more than 49 per cent of equity shareholding in any entity providing and supplying freight transportation services covering transportation of containerized freight based on a fee or contractual basis.

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19. Sector: Wholesale and Distribution Services

Obligations

Concerned: National Treatment (Article 10.3) (Article 9.4)

Level of

Government: Federal

Measures:

Price Control Act 1946
Control of Supplies Act 1961

Description:

Cross-Border Trade in Services and Investment

Foreigners are not permitted to provide wholesale and distribution services for fabrics and apparels of batik, motor vehicles including motorcycles and scooters, passenger cars and commercial vehicles (excluding automotive components and parts of these vehicles).

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20. Sector: Oil and Gas

Obligations

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

Level of

Government: Federal

Measures:

Petroleum Development Act 1974
Other Implementing Measures

Description:

Cross-Border Trade in Services and Investment

The Prime Minister of Malaysia may make non-conforming regulations for the purposes of carrying into effect the provisions of the Petroleum Development Act of 1974 with respect to the upstream oil and gas sector¹, and may in particular, provide for the conduct of or the carrying on of:

- (a) any business or service relating to the exploration, exploitation, winning or obtaining of petroleum; and
- (b) any business involving the manufacture and supply of equipment used in the petroleum industry;

except:

- (a) regulations shall not be adopted or maintained with respect to the supply of the following 12 goods or services² that impose non-conforming requirements:
 - i. Seismic Data Acquisition;
 - ii. Directional Drilling services, Gyro While Drilling services, Measurement While Drilling services, and Logging While Drilling services;

¹ For greater certainty, the Prime Minister may make non-conforming regulations pursuant to the Petroleum Development Act of 1974 that are more non-conforming than existing regulations made pursuant to the Act. This reservation does not require the Prime Minister to maintain existing regulations.

² For greater certainty, in the event Malaysia decides to offer a contract to an investor or service supplier of another Party for the supply of above-listed goods or services together with other goods or services, the investor or service supplier of the other Party may hold the prime contract, subject to meeting the PETRONAS LLRC requirements with respect to the supply of the other goods or services.

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- iii. Cementing Related Services;
- iv. Gas Turbines and related maintenance and repair services;
- v. Control Valves services;
- vi. Oil Country Tubular Goods;
- vii. Induction motor services;
- viii. Distributed Control Systems (DCS) services;
- ix. Transformer services;
- x. Structural Steel;
- xi. Linepipes; and
- xii. Process pipes.

(b) regulations shall not be adopted or maintained that impose restrictions on mode of entry for foreign entities that wish to participate in Malaysia's upstream oil and gas sector activities of exploring, exploiting, winning and obtaining petroleum that are more non-conforming than the following requirements:

- i) a requirement to have a local establishment;
- ii) a requirement to partner with a PETRONAS subsidiary;
- iii) a requirement, during the exploration stage, that the PETRONAS subsidiary's participating interest as a Petroleum Arrangement Contractor is 'carried' at maximum of its participating interest³; and
- iv) a requirement that the Petroleum Arrangement Contractors may only procure goods and services from PETRONAS' List of Licensed Registered Companies (LLRC);

(c) regulations shall not be adopted or maintained that impose restrictions on mode of entry for foreign entities that seek to supply goods and services to Malaysia's upstream oil and gas sector that are more non-conforming than the following requirements:

- i) a requirement to be licensed on the PETRONAS LLRC; and
- ii) a requirement to appoint a local as an exclusive agent, or to establish in Malaysia and form a joint venture with a local company or individual;

³ During the exploration period, all exploration and other costs are borne by the Petroleum Arrangement Contractors other than the PETRONAS subsidiary. Consequently, upon the expiry of the carried interest period, the PETRONAS subsidiary will bear the costs of future operations in proportion to its participating interest in the production-sharing contract.

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- (d) regulations with respect to local participation requirements for equity, board of directors and senior management positions for foreign entities licensed on the PETRONAS LLRC that seek to supply goods and services shall not be adopted or maintained that are more non-conforming than the requirements for relevant work categories listed in the existing Standardised Work and Equipment Categories for products and services; and
- (e) after Malaysia negotiates and executes a contract with an operator or service supplier, non-conforming regulations shall not be applied in a manner that is inconsistent with the terms and conditions of the contract.