

ANNEX II

RESERVATIONS FOR FUTURE MEASURES

SCHEDULE OF VIET NAM

EXPLANATORY NOTES

1. The Schedule of Viet Nam to this Annex sets out, pursuant to Article 8.7 (Non-Conforming Measures) and Article 9.8 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which that Viet Nam may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 8.3 (National Treatment) or Article 9.4 (National Treatment);
- (b) Article 8.4 (Most-Favoured-Nation Treatment) or Article 9.5 (Most-Favoured-Nation Treatment);
- (c) Article 8.5 (Market Access);
- (d) Article 8.6 (Local Presence);
- (e) Article 9.6 (Performance Requirements); or
- (f) Article 9.7 (Senior Management and Boards of Directors).

2. Each Schedule entry sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Sub-Sector**, where referenced, refers to the specific sub-sector for which the entry is made;
- (c) **Industry Classification**, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);
- (d) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.7.2 (Non-Conforming Measures) and Article 9.8.2 (Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;
- (e) **Description** sets out the scope or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and
- (f) **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 8.7.2 (Non-Conforming Measures) and Article 9.8.2 (Non-Conforming Measures), 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. With respect to Annex II entries 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 prior to the date of entry into force of this Agreement is without prejudice to each Party's respective interpretation of the scope of that reservation.

1 Sector: All sectors

Sub-Sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure conferring rights or privileges to socially, economically and geographically disadvantaged minorities and ethnic groups.

Existing Measures:

2 Sector: All sectors¹

Sub sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to investment procedures (including but not limited to procedures for registration of investment, evaluation of investment projects, procedures for investments involving establishment of economic organizations and operational duration of projects, foreign exchange management procedures).²

Existing measures:

- Administrative measures
- *Law on Investment No. 61/2020/QH14* dated 17 June 2020

¹ For greater certainty, this reservation shall not be invoked for the violation of commitments set out in Annex I.

² For greater certainty, the fact that Viet Nam reserves the right to adopt or maintain any measure with respect to investment procedures shall not be construed as Viet Nam reserve the right to adopt or maintain any foreign equity restriction other than as provided in its Schedules in Annex I or Annex II.

3 Sector: All sectors

Sub sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Board of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to state-owned enterprises³, State properties, Government entities and the monitoring and management of investment by State funds, including but not limited to privatization, equitization or divestment of assets through transfer or disposal of equity interests or assets of state-owned enterprises.

Existing measures:

- Administrative measures
- *Law on Investment No. 61/2020/QH14* dated 17 June 2020
- *Law on Enterprise No. 59/2020/QH14* dated 17 June 2020
- *Decree No. 31/2021/ND-CP* dated 26 March 2021
- *Decree No. 47/2021/ND-CP* dated 01 April 2021

³ The term “state-owned enterprise” is defined under Article 4 of the *Law on Enterprises*, 2014.

4 Sector: All sectors

Sub sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure affecting land, property and natural resources⁴ associated with land, including but not limited to acquisition, ownership⁵, lease, policy on the usage of land, land planning, term of land use, rights and obligations of land users.

Existing measures:

- Administrative measures
- *Law on Land No.45/2013/QH13* dated 29 November 2013
- *Law on Real Estate Business No.66/2014/QH13* dated 25 November 2014
- *Law on Housing No.65/2014/QH13* dated 25 November 2014

⁴ Natural resources found in land belong to the Government of Viet Nam.

⁵ For illustrative purposes, foreign organizations and individuals cannot own land. They can only lease land in line with the duration of their investment project subject to approval of a competent State body, which shall not exceed 50 years.

5 Sector: All sectors

Sub sector:

**Obligations
Concerned:** Market Access
National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure in regard of the establishment of commercial presence of foreign enterprises and investors in Viet Nam in the form of branch, except for the follow sectors and sub-sectors:

- Legal services (CPC 861);
- Computer and Related Services (CPC 841-845, CPC 849);
- Management consultant services (CPC 865);
- Services related to management consulting (CPC 866);
- Construction and related engineering services (CPC 51);
- Franchising services (CPC 8929).

Existing measures:

6 Sector: All sectors

Sub sector:

**Obligations
Concerned:** Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure regarding subsidies, including but not limited to subsidies for research and development, subsidies in health, education and audio-visual sectors, and subsidies aimed at promoting the welfare and employment of ethnic minorities.

Existing measures:

7 Sector: All

Sub-Sector:

Obligations Concerned: National Treatment (Article 8.3 and 9.4)

Most-Favored-Nation Treatment (Article 8.4 and 9.5)

Market Access (Article 8.5)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: **Investment**

Viet Nam reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority.

8 Sector: All sectors

Sub sector:

Obligations Concerned: Most-Favoured-Nation Treatment

Description: Cross-Border Trade in Services and Investment

1. Viet Nam reserves the right to adopt or maintain any measure that accords differential treatment to services suppliers or investors of other countries or their investments under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.
2. Viet Nam reserves the right to adopt or maintain any measure that accords differential treatment to services suppliers or investors of other countries or their investments under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement.
3. The treatment referred in paragraph 2, with regards to the Most-Favoured-Nation Treatment provision in Chapter 9 (Investment), does not include the treatment with respect to the management, maintenance, use, enjoyment or disposal of investments in its territory.

Existing measures:

9 Sector: All sectors

Sub sector:

**Obligations
Concerned:**

Most-Favoured-Nation Treatment

Description:

Cross-Border Trade in Services and Investment⁶

Viet Nam reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

- (a) maritime matters, including salvage;
- (b) fisheries; and
- (c) aviation.

Existing measures:

⁶ For greater certainty, this entry is not inconsistent with Viet Nam's obligations set out in the GATS.

10 Sector:	All sectors
Sub-sector:	
Obligations Concerned:	Market Access National Treatment Most-Favoured-Nation Treatment Senior Management and Board of Directors
Level of Government:	Central
Description:	<u>Investment</u>

Viet Nam reserves the right to adopt or maintain any measure in relation to the employment of expatriates. Restrictions⁷ may be imposed on the number or ratio, minimum wages, duration and type of expatriates employed.

- Existing Measures:**
- *Law on Investment No. 61/2020/QH14* dated 17 June 2020
 - *Law on Labour No.45/2019/QH14* dated 20 November 2019
 - *Decree No. 145/2020/ND-CP* dated 14 December 2020
 - Administrative measures.

⁷ For illustrative purpose, the restriction may include but not limited to:

- In the case of managers, executives and specialists, at least 20% of the total number of them shall be Vietnamese nationals. However, a minimum of three non-Vietnamese managers, executives and specialists shall be permitted per enterprise;
- The legal representative of an enterprise shall reside permanently in Viet Nam as stipulated in the *Law on Enterprise*, 2014.

For greater certainty, this reservation shall not be invoked to nullify the commitments set out in Viet Nam's Annex I.

11 Sector: *Professional Services*

- Medical and dental services (CPC 9312)
- Services provided by midwives, nurses, physiotherapists and para-medical personnel (CPC 93191)
- Veterinary services (keeping micro-organism strain for veterinary) (CPC 932)
- Other

Research and Development Services

- Research and development services on social sciences and humanities (CPC 852)
- Interdisciplinary Research and development services (CPC 853)

Real Estate Services

- Involving own or leased property (CPC 821)
- On a fee or contract basis (CPC 822)

Rental/Leasing Services without Operators

- Relating to ships (CPC 83103)
- Relating to other machinery and equipment (mining and oil field equipment; commercial radio, television and communication equipment) (CPC 83109)
- Relating to other transport equipment (CPC 83101+83102+)
- Other (CPC 832)

Other Business Services

- Arbitration and conciliation services (CPC 86602), excluding arbitration and conciliation services for commercial disputes between businesses – CPC 86602**
- Related scientific and technical consulting services: map making services (CPC 86754)
- Advertising services (CPC 871): advertising for cigarettes
- Market research and public opinion polling services (CPC 86402)
- Urban planning and urban landscape architectural services (CPC 8674) (excluding services incidental to development of project planning, construction, project supervision, maintenance, renovation and restoration of relics)
- Technical testing and analysis services (CPC 8676): conformity testing of transport vehicles and certification of transport vehicles
- Services incidental to agriculture, hunting and forestry (CPC 881): services relating to investigation, evaluation and exploitation for natural forest including exploitation of woods and wild, rare and precious animals hunting and trapping, aerial photographing, aerial seed planting and aerial chemicals spraying and dusting, micro-bial plant, animal genetic resource in agriculture
- Services incidental to fishing (CPC 882) excluding specialised consultancy services related to marine or freshwater fisheries, fish hatchery services
 - Services incidental to mining (CPC 883): services of supply of equipment, materials and chemicals, supply base services, offshore/marine support vessels, accommodation and catering, helicopter services
 - Services incidental to energy distribution (CPC 887)
 - Placement and supply services of Personnel (CPC 872)
 - Investigation and security (CPC 873)
 - Building-cleaning services (CPC 874)
 - Photographic services (CPC 875)
 - Packaging services (CPC 876)

- Printing, publishing (CPC 88442)
- Convention services (CPC 87909*)
- Other (8790)

Postal services (CPC 7511)

Audiovisual services

- Video tape production and distribution services (9611)
- Radio and television services (CPC 9613)
- Radio and television transmission services (CPC 7524)
- Other

Communication services

- Postal services
- Other communication services

Other distribution services

Educational Services

- Primary education services (CPC 921)

Environmental services

- Sanitation and similar services (CPC 9403)
- Other

Health related and social services

- Social Services (CPC 933)
- Other health related and social services

Tourism and travel related services

- Tourist guides services (CPC 7472)
- Other

Recreational, cultural and sporting services

- News agency services (CPC 962)
- Libraries, archives, museums and other cultural services (CPC 963)
- Sporting and other recreational services, excluding electronic games business (CPC 964**)
- Other

Transport services

- Maritime Transport Services: Rental of vessels with crew (CPC 7213); Passenger transportation (cabotage) (CPC 7211); Freight transportation (cabotage) (CPC 7212); Freight transportation less cabotage Maintenance and repair of vessels (CPC 8868**); Pushing and towing services (CPC 7214); Supporting services for

The () indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.

maritime transport (CPC 745**)

- Internal Waterways Transport: Rental of vessels with crew (CPC 7223); Maintenance and repair of vessels (CPC 8868**); Pushing and towing services (CPC 7224); Supporting services for internal waterway transport (CPC 745**)
- Air Transport Services: Passenger transportation (CPC 731); Freight transportation (CPC 732); Rental of aircraft with crew (CPC 734); Supporting services for air transport (CPC 746)
 - Specialty air services
 - Space Transport (CPC 733)
- Rail Transport Services: Pushing and towing services (CPC 7113); Maintenance and repair of rail transport equipment (CPC 8868**); Supporting services for rail transport services (CPC 743)
- Road Transport Services: Rental of commercial vehicles with operator (CPC 7124); Maintenance and repair of road transport equipment (CPC 6112+8867); Supporting services for road transport services (CPC 744)
- Pipeline Transport: Transportation of fuels (CPC 7131); Transportation of other goods (CPC 7139)
- Services auxiliary to all modes of transport: Cargo-handling services provided at airports
- Other Transport Services

Other services not elsewhere classified CPC 95+97+98+99)

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure that is not consistent with the obligations of National Treatment, Most-Favoured-Nation Treatment, Local Presence, Performance Requirements, Senior Management and Boards of Directors in cross-border trade in services and investment in the above- mentioned sectors and sub-sectors.

Existing

measures:

12 Sector: All sectors

Sub sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure regarding the development policies of small and medium-sized Enterprises.⁸

Existing measures: - *Decree No. 80/2021/ND-CP* dated 26 August 2021 *on assistance to development of small and medium sized enterprise*

⁸ The term “small and medium-sized enterprise” is defined under Article 5 of *Decree No. 80/2021/ND-CP* dated 26 August 2021 on assistance to the development of small and medium sized enterprises.

13 Sector: River Ports, Sea Ports and Airports Construction, operation and management

Sub-Sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors
Local Presence

Description: Investment and Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure with respect to the construction, operation and management of river ports, sea ports and airports.

This entry shall not be invoked to nullify the commitments set out in Viet Nam's Annex I.

Existing Measures:

14 Sector: All sectors

Sub sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Board of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to maintaining food security.

Existing measures: - Administrative measures

15 Sector: All sectors

Sub sector:

**Obligations
Concerned:** Market Access
National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam 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 in, take-overs of, and mergers of a public-listed company.

Existing measures:

- *Law on Investment No. 61/2020/QH14* dated 17 June 2020
- *Law on Securities No. 54/2019/QH14* dated 26 November 2019
- Administrative measures

16 Sector: All sectors

Sub sector:

**Obligations
Concerned:** Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Local Presence
Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure relating to activities:

- In the event those activities restricted to designated enterprises are liberalised to those other than the designated entities; or
- In the event such designated enterprise no longer operates on a noncommercial basis.

Existing measures:

17 Sector: All sectors

Sub sector:

**Obligations
Concerned:** Market Access
National Treatment

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to establishment and operation of co-operatives, union of co-operatives, household business and sole-proprietorship.

Existing measures:

18 Sector: Manufacturing and Agriculture

Sub sector: *Manufacturing*

- Production of firecrackers, including fireworks (ISIC 2927);
- Production of sky-lanterns (ISIC 3150);
- Production of fishing-net (ISIC 1723);
- Production and supply of explosive materials (ISIC 2429);
- Production of cigarettes and cigars (ISIC 1600);
- Production of alcoholic beverages and soft drink (ISIC 1551);
- Production of tobacco production (ISIC 1600);
- Production of lubrication oil, grease (ISIC 2320);
- Production of NPK fertilizer (ISIC 2412);
- Production of construction glasses (ISIC 2610);
- Production of clay bricks (ISIC 2693);
- Production of vertical shaft cement production equipment and burnt earth bricks and tiles (ISIC 2694);
- Production of D6-D32 mm construction steel rods and D15-D114mm seam steel pipe; zinc galvanized and color sheets (ISIC 2710);
- Production of fluorescent tubes and bulbs (ISIC 3150);
- Production of under 10000DWT cargo ships; under 800 TEU container ships; lighters and under 500 seats passenger ships (ISIC 3511);
- Production of oil-well cement, barite and betonies for drilling fluids (ISIC 2694);
- Production and supply of industrial explosive materials using in oil and gas activities (ISIC 2429);
- Cane sugar production (ISIC 1542).

Agriculture

Cultivating, producing or processing rare or precious plants, breeding or husbandry of precious or rare wild animal and processing of those plants or animals (including both living animals and processed matter taken from animals)⁹.

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to

⁹ A list of rare or precious plants and animals can be found at: www.kieklam.org.vn

investment in these above-mentioned sectors and sub-sectors.

- Existing measures:**
- Administrative measures
 - *Law on Investment No. 61/2020/QH14* dated 17 June 2020
 - *Law on Environment protection No. 72/2020/QH14* dated 17 November 2020
 - *Law on Oil and Gas No. 51/VBHN-VPQH* dated 10 December 2018
 - *Law on Oil and Gas No.10/2008/QH12* dated 03 June 2008 amending Law on Oil and Gas No. 19/2000/QH10 dated 9 June 2000
 - *Decree No. 59/2006/ND-CP* dated 12 June 2006
 - *Decree No. 19/VBHN-BCT* dated 09 May 2014
 - *Decision No. 95/2009/QD-TTg* dated 17 July 2009
 - *Decree No. 67/2013/ND-CP* dated 27 June 2013
 - *Decision No. 58/2003/QD-TTg* dated 17 April 2003
 - *Decree No. 59/2005/ND-CP* dated 4 May 2005
 - *Decree No. 14/2009/ND-CP* dated 13 February 2009 amending Decree No. 59/2005/ND-CP dated 4 May 2005
 - *Circular No. 62/2008/TT-BNN* dated 20 May 2008
 - *Decree No. 06/2019/ND-CP* dated 22 January 2019

19 Sector: Professional services

Sub-sector: Accounting and bookkeeping services (CPC 862)
Taxation services (CPC 863)

Obligations Concerned: Local Presence
Performance Requirement

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure which may be inconsistent with the obligations of Local presence and Performance requirement in the above sub-sectors.

Existing measures:

- *Law on Accounting No. 88/2015/QH13* dated 20 November 2015
- *Decree No. 174/2016/ND-CP* dated 30 December 2016
- *Circular No. 292/2016/TT-BTC* dated 15 November 2016
- *Circular No. 296/2016/TT-BTC* dated 15 November 2016
- *Circular No. 297/2016/TT-BTC* dated 15 November 2016

20 Sector: Rental/Leasing Services without Operators

Sub-sector: Relating to other machinery and equipment (CPC 83109)

**Obligations
Concerned:** Market Access
National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to cross-border supply in rental/leasing services without operators relating to machinery and equipment, except for industrial machinery and equipment.

Viet Nam reserves the right to adopt or maintain any measure with respect to investment in rental/leasing services without operators relating to machinery and equipment.

Existing measures:

21 Sector: Distribution Services

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

- Viet Nam reserves the right to adopt or maintain any measure in regard of cross-border trade in:

- (i) Commission agents' services (CPC 621, 61111, 6113, 6121)
- (ii) Wholesale trade services (CPC 622, 61111, 6113, 6121)
- (iii) Retailing services (CPC 631 + 632, 61112, 6113, 6121)¹⁰

regarding the distribution of products other than products for personal use and legitimate computer software for personal and commercial use.

- Viet Nam reserves the right to adopt or maintain any measure in regard of cross-border trade in services and investment regarding cigarettes and cigars, publications¹¹, video records on whatever medium, precious metals and stones, pharmaceutical products and drugs¹², explosives, processed oil and crude oil, rice, cane and beet sugar.

Existing measures: - *Law on Trade No. 36/2005/QH11* dated 14 June 2005
- *Decree No. 09/2018/ND-CP* dated 15 January 2018

¹⁰ For transparency purposes, these services include multi-level sales by properly trained and certified Vietnamese individual commission agents away from a fixed location for which remuneration is received both for the sales effort and for sales support services that result in additional sales by other contracted distributors.

¹¹ For greater clarity, publications include but are not limited to:

- Printed books, books printed in Braille, e-books (work read or heard through electronic devices, digital devices or the internet);
- Calendars, tear-off calendars, pocket calendars, book calendars, desk calendars;
- Pictures, photos, maps, posters, leaflets, and brochures with content specified in Article 4 of the *Publication Law*;
- Audio tapes and discs, video tapes, and discs substituting or illustrating books.

¹² For the purposes of this schedule, "pharmaceuticals and drugs" do not include non-pharmaceutical nutritional supplements in tablet, capsule or powdered form.

22 Sector: Other Business Services
Sub sector: Services incidental to manufacturing (CPC 884 and 885)

Obligations Concerned: Market Access
National Treatment

Description: Investment

Without prejudice to measures mentioned in Annex I, Viet Nam reserves the right to adopt or maintain any measure with respect to investment in services incidental to manufacturing.

Existing measures - *Law on Technical Standard and Criteria No. 68/2006/QH11* dated 29 June 2006.

23 Sector: Telecommunication services

Sub sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Local Presence
Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the supply and use of telecommunication services other than those specified in Annex I.

Viet Nam reserves the right to adopt or maintain any measure with respect to the investment in, building of, operating and exploiting telecommunication networks and services in rural areas, remote areas and ethnic minority areas of Viet Nam.

Viet Nam reserves the right to adopt or maintain any measure with respect to the supply and use of telecommunication services through telecommunication network.

Existing measures

24 Sector: Audiovisual Services

Sub sector: Motion picture production (CPC 96112, excl. video tape)
Motion picture distribution (CPC 96113, excl. video tape)
Motion picture projection service (CPC 96121)

Obligations Concerned: National Treatment

Description: Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure with respect to cross-border trade in services regarding motion picture production, motion picture distribution and motion picture projection service.

Existing measures

25 Sector: Audiovisual Services

Sub sector: Sound recording

**Obligations
Concerned:** Market Access
National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to sound recording.

Existing measures

26 Sector: Educational services¹³

Sub sector: Secondary education services (CPC 922)

**Obligations
Concerned:** Market Access
National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to secondary education services.

Existing measures

¹³ Only in the technical, natural sciences and technology, business administration and business studies, economics, accounting, international law and language training fields.

27 Sector: Educational services

Sub sector: Higher education services (CPC 923)
Adult education (CPC 924)
Other education services (CPC 929 including foreign language training)

**Obligations
Concerned:** Market Access
National Treatment

Description: Cross-Border Trade in Services

Vietnam reserves the right to adopt or maintain any measure with respect to the supply of above-mentioned services online into the territory of Viet Nam.

Existing measures

28 Sector:	Environmental services
Sub sector:	Sewage Services (CPC 9401) Refuse disposal services (CPC 9402) ¹⁴ Other services - Cleaning services of exhaust gases (CPC 94040) and noise abatement services (CPC 94050)
Obligations Concerned:	National Treatment
Description:	<u>Cross-Border Trade in Services</u>

Viet Nam reserves the right to adopt or maintain any measure with respect to cross-border supply of sewage services; cleaning services of exhaust gases and noise abatement services, except related consulting services.

Existing measures

¹⁴ Import of refuse is forbidden by law. Treatment and disposal of hazardous waste is regulated by Law.

29 Sector: Recreational, cultural and sporting services

Sub sector: Entertainment services (including theatre, live bands and circus services)
(CPC 9619)
Other - electronic games services

**Obligations
Concerned:** Market Access
National Treatment

Description: Cross-Border Trade in Services and Investment

Foreign service suppliers are not permitted to provide entertainment services and electronic games services into the territory of Viet Nam.

Existing measures

30 Sector: Maritime Transport Services

Sub sector: Passenger transportation (CPC 7211)
Freight transportation (CPC 7212)

Obligations Concerned: National Treatment

Description: Cross-Border Trade in Services

Vietnam reserves the right to adopt or maintain any measure with respect to cross-border supply of services regarding passenger transportation and freight transportation, except international freight transportation.

Existing measures

31 Sector: Transportation services

Sub sector:

Maritime Auxiliary Services, including:

- Container handling services¹⁵ (CPC 7411);
- Customs Clearance Services¹⁶;
- Container Station and Depot Services¹⁷
- Shipping agency services

Internal Waterways Transport, including:

- Passenger transport (CPC 7221);
- Freight transport (CPC 7222)

Rail Transport Services, including:

- Passenger transportation (CPC 7111);
- Freight transportation (CPC 7112)

Road Transport Services, including:

- Passenger transportation (CPC 7121+7122);
- Freight transportation (CPC 7123)

Services Auxiliary to all Modes of Transport, including:

- Container handling services, except services provided at airports (part of CPC 7411);
- Storage and warehouse services (CPC 742);
- Freight transport agency services (CPC 748)¹⁸
- Other (part of CPC 749)¹⁹, except freight brokerage services

Obligations National Treatment

Concerned:

Description: Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure with respect to cross-border supply of the above-mentioned services.

Existing measures

¹⁵ Public utility concession or licensing procedures may apply in case of the occupation of the public domain.

¹⁶ "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

¹⁷ "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

¹⁸ Including freight forwarding services. These services mean the activities consisting of organizing and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

¹⁹ Include the following activities: bill auditing; freight brokerage services; freight inspection, weighing and sampling services; freight receiving and acceptance services; transportation document preparation services. These services are provided on behalf of cargo owners.

32 Sector: Defense Industry

Sub - sector:

Obligations Concerned: Market Access
National Treatment
Local Presence
Most-Favored- Nation Treatment
Performance Requirements
Senior Management and Board of Directors

Level of Government: Central

Source of Measure:

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with regard to the defense industry sector.

33 Sector: Power Development

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to power development

Existing measures:

34 Sector: Mining and quarrying, including oil and gas (ISIC 111, ISIC 112)

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure to regulate mining and quarrying (including oil and gas) related activities carried out within the territory or jurisdiction of Viet Nam.

Existing measures:

- *Law on Investment No. 61/2020/QH14* dated 17 June 2020
- *Law on Minerals No. 60/2010/QH12* dated 17 November 2010
- *Law on Oil and Gas No. 51/VBHN-VPQH* dated 10 December 2018
- *Law on Oil and Gas No.10/2008/QH12* dated 03 June 2008 amending Law on Oil and Gas No. 19/2000/QH10 dated 9 June 2000
- *Decree No. 31/2021/ND-CP* dated 26 March 2021
- *Decree No. 158/2016/ND-CP* dated 29 November 2016
- *Decree No. 95/2015/ND-CP* dated 19 October 2015
- *Decree No. 17/2020/ND-CP* dated 05 February 2020
- Administrative measures

35 Sector: Manufacturing

Sub-sector: Production of industrial explosive devices (ISIC 2429)
Cement production (ISIC 2694)
Automobile assembly and manufacture (ISIC 3410)
Motorcycle assembly and manufacture (ISIC 3591)

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain measures which may give preferences to local investors.

Existing measures: - *Law on Investment No. 61/2020/QH14* dated 17 June 2020
- *Law on Minerals No. 60/2010/QH12* dated 17 November 2010
- *Decree No. 31/2021/ND-CP* dated 26 March 2021
- *Decree No. 158/2016/ND-CP* dated 29 November 2016
- *Decision No. 1834/QD-TTg* dated 28 October 2015
- *Decree No. 71/2018/ND-CP* dated 15 May 2018
- *Decision No. 1469/QD-TTg* dated 22 August 2014
- *Decision No. 02/2007/QD-BCT* dated 29 August 2007

36 Sector: Manufacturing

Sub-sector:

- Processing of aqua-product and canned seafood (ISIC 1512)
- Vegetable oil production and processing (ISIC 1514)
- Dairy processing (ISIC 1520)
- Leather tanning (ISIC 1911)
- Paper production (ISIC 2101)
- Production of automobile tires and tubes up to 450mm (ISIC 2511)
- Production of rubber gloves, labour sanitary boots (ISIC 2520)
- Assembly of marine engines (ISIC 2911)
- Production of electro-mechanical and refrigeration equipment (ISIC 2919)
- Manufacturing of cultivation, processing, reaping machines, insecticide pumps, spare parts of agricultural machines and engines (ISIC 2921)
- Manufacturing and assembling of transport vehicles (ISIC 3410)

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain technology and/or environment and/or quality requirements in these above subsectors.

Existing measures:

- *Decision No. 1211/QD-TTg* dated 24 July 2014
- *Decision No. 38/2016/QD-TTg* dated 14 September 2016
- *Decision No. 6209/QD-BCT* dated 25 November 2010
- *Decision No. 16/2019/QD-TTg* dated 28 March 2019
- *Decree No. 08/2022/ND-CP* dated 10 January 2022
- *Decree No. 09/2018/ND-CP* dated 15 January 2018
- *Decree No. 15/2018/ND-CP* dated 02 February 2018

37 Sector: Mineral and natural resources investigation, exploitation, prospecting and using

Sub-sector:
Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to mineral and natural resources investigation, exploitation, prospecting and using.

Existing measures:

- *Law on Investment No. 61/2020/QH14* dated 17 June 2020
- *Law on Minerals No. 60/2010/QH12* dated 17 November 2010
- *Law on Environment Protection No. 72/2020/QH14* dated 17 November 2020
- *Decree No. 31/2021/ND-CP* dated 26 March 2021
- *Decree No. 158/2016/ND-CP* dated 29 November 2016

38 Sector: Fishery

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure in relation to fishery activities within Viet Nam sovereignty and jurisdiction waters as defined in accordance with the *1982 United Nations Convention on the Law of the Sea (UNCLOS)*.

No investment license shall be issued to foreign investors²⁰ in:

- Fresh-water fishing, marine fishing (ISIC 0500)
- Coral and natural pearl exploitation (ISIC 0500)

Existing measures:

- *Law on Investment No. 61/2020/QH14* dated 17 June 2020
- *Law on Fishery No.18/2017/QH14* dated 21 November 2017
- *Decree No. 31/2021/ND-CP* dated 26 March 2021
- *Decree No. 14/2009/ND-CP* dated 13 February 2009
- *Decree No. 26/2019/ND-CP* dated 08 March 2019
- *Circular 02. 2018/TT-BNNPTNT* dated 31 January 2018 amending Circular No. 62/2008/TT-BNN dated 20 May 2008

²⁰ For the purpose of this reservation, the term “Foreign investor” can be found in the *Law on Investment, 2020*.

39 Sector: Forestry and Hunting

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Performance Requirements
Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to investment in forestry and hunting activities.

Existing measures: - Administrative measures
- *Law on Forestry No. 16/2017/QH14* dated 15 November 2017

40 Sector: Traditional Markets

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to traditional markets.

Existing measures:

41 Sector: All Sectors

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt and maintain any measures relating to any new services other than those classified positively and explicitly in CPC Prov ST/ESA/STAT/SER.M/77, 1991 or services that were not technically feasible on the date of entry into force of this Agreement.

Existing measures:

42 Sector: Geodesic and cartography

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to geodesic and cartographic activities.

Existing measures: *Decree No. 27/2019/ND-CP* dated 13 March 2019

43 Sector: National heritage related activities and services

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to cultural heritage related activities and services.

Existing measures: - *Law on Heritage No. 10/VBHN-VPQH* dated 23 July 2013
- *Law on Heritage No. 32/2009/QH12* dated 18 June 2009 amending
Law on Heritage No. 28/2001/QH10 dated 29 June 2001

44 Sector: Commodity exchange

Sub-sector:

**Obligations
Concerned:** Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to Commodity exchange.

Existing measures:

45 Sector: Services relating to secured transaction registration;
Legal consultant services;
Services relating to legal documentation and certification of Viet Nam's law;
Judicial administration services, including but not limited to services relating to nationality, criminal, record and civil record;
Civil enforcement;
Adoption, including child adoption

Sub-sector:

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the above sub-sectors.

Existing measures:

- *Law on Lawyers No. 03/VBHN-VPQH* dated 31 December 2015
- *Law on Lawyers No. 20/2012/QH13* dated 20 November 2012 amending Law on Lawyers No. 65/2006/QH11 and related Decrees
- *Law on Public Notary No. 53/2014/QH13* dated 20 June 2014
- *Decree No. 29/2015/ND-CP* dated 15 March 2015
- *Law on Nationality No. 56/2014/QH13* dated 24 June 2014 amending Law on Nationality No. 24/2008/QH12 dated 13 November 2008
- *Law on Criminal Record No. 28/2009/QH12* dated 17 June 2009
- *Decree No. 102/2017/ND-CP* dated 01 September 2017 on the registration of secured transaction

46 Sector: Money (note) printing
Lottery, betting and gambling services

Sub-sector:

**Obligations
Concerned:** Market Access
National Treatment
Most-Favoured-Nation Treatment
Local Presence
Performance Requirements
Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to money (note) printing, lottery, betting and gambling services.

Existing measures:

47 Sector: All
Obligations Concerned: National Treatment (Article 8.3 and 9.4)
Market Access (Article 8.5)
Most-Favored- Nation Treatment (Article 8.4 and 9.5)

Description: **Cross-Border Trade in Services and Investment**

Viet Nam reserves the right to adopt or maintain any measure with regard to the supply of a service by a national of a Party in the territory of the other Party, except for measures relating to entry and temporary stay of natural persons included in Viet Nam's schedule of specific commitments to the GATS, titled WT/ACC/VNM/48/Add.2.

48 Sector: All sectors

Sub-Sector:

Obligations Concerned: Market Access
National Treatment

Description: Investment and Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure that is not inconsistent with Viet Nam’s obligations under Article XVI and Article XVII of GATS.

For the purposes of this entry, Viet Nam’s Schedule of Specific Commitments is modified as set out in Appendix II-A.

Existing Measures:

Appendix II-A

For the purposes of entry at Annex II – Reservations for Future Measures – Schedule of Viet Nam, Viet Nam’s obligations under Article XVI and Article XVII of GATS as set out in Viet Nam’s Schedule of Specific Commitments in Services under the GATS (WT/ACC/VNM/48/Add.2) are improved in the following sectors as described below.

Sector/Sub-Sector	Market Access Improvement	National Treatment Improvement
Rental/Leasing Services without Operators		
Relating to other machinery and equipment (CPC 83109) (limited to industrial machinery and equipment)	Replace existing restriction under mode 1 with “None”.	Replace existing restriction under mode 1 with “None”.