MYANMAR – SCHEDULE OF SPECIFIC COMMITMENTS

For the 9th Package of Commitments under ASEAN Framework Agreement on Services

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Subsector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
All Sectors; For a service supplier of another Party who is natural person of that Party but is not national of that Party in mode 1, 2, 3, 4: unbound			
All Sectors[1]	3) (a) Commercial presence of foreign service suppliers and/or providers are permitted in accordance with Myanmar Companies Act 1914 , Partnership Act 1932, Special Companies Act 1950 , the Foreign Investment Law (2012),the Foreign investment Rules (2013), Notification No.1/2013 of Myanmar Investment Commission and Myanmar Citizens' Investment Law (2013). As stipulated in the Foreign Investment Law (2012), the investment may be carried out in any of the following forms: (i) carrying out an investment by a foreigner with one hundred per cent foreign capital on the business permitted by the Commission; (ii) carrying out a joint venture between a foreigner and a citizen or the relevant	3) (a) According to the notification No.167/2011, Non-resident Foreigner will be subject to a withholding tax as follows; **Class of Income** — **Non resident foreigners** ▪ Interest — 15% ▪ Royalties paid for the use of licenses, trademarks, patent rights etc. — 20% ▪ Payments of contracts and buying goods within Myanmar and, by the consistent contracts, agreement or any kinds of agreement, performed for State organizations, city development committees, cooperative societies, companies registered and non-government organizations. — 3.5 %	

[1] Only applies to subsectors inscribing "Subject to horizontal commitments" at their "Additional Commitment" column.

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	Government department and organization; (iii) carrying out by any system contained in the contract which approved by both parties. The proposed investment may be refused subject to such implications as financial arrangements security risk involved and compliance with existing conditions In forming the form of investment in Myanmar, it shall be formed as company in accord with existing law.	▪ Payment of contracts and buying goods inside Myanmar by the consistent contracts or agreement performed for the un-registered foreign entitles and foreign companies. 3.5% According to the 2014 Union Taxation Law, 'Income tax 35 percent shall be assessed upon non-resident foreigner's total income before deduction of allowance prescribed by Income Tax Law Section 6 and 6 (a). If the income is in foreign currency, the income tax must be paid with that foreign currency.'	
	(b) Incorporation of an enterprise, not involving a state enterprise is to be made under the Myanmar Companies Act 1914. If the investment involves a state enterprise, incorporation shall be made under the Myanmar Companies Act 1914, Partnership Act 1932, Special Companies Act 1950, Myanmar Companies Act (Amendment)	<u>Tax</u> According to the Sections 3 (k) of the Income Tax Law, it prescribes the Resident foreigners as follows: (i) in the case of individual, a foreigner who resides in Myanmar for not less than one hundred and eighty- three days during the income year; (ii) in the case of a company, a company formed under the	

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	Act, 1955 and Myanmar Companies Regulation 1957. (c) Services activities are restricted under section 3 of the State-owned Economic Enterprises Law (1989). However, these activities may be permitted by cabinet notification according to the section 4 of the said law. <u>Tax</u> Under the section 27 of Foreign Investment Law promulgated on 2nd November 2012, the Myanmar Investment Commission shall, for the purpose of promoting foreign investments within the State, grant the investor the income tax exemption for a period of 5 consecutive years, inclusive of the year of commencement of production of goods or services. In addition, one or more than one or all of the remaining tax exemptions or tax reliefs may be granted if it is applied.	Myanmar Companies Act or any other existing law wholly or partly with foreigner share-holders; (iii) in the case of an association of persons other than a company, an association formed wholly or partly with foreigners and where the control, management and decision making of its affairs is situated and exercised wholly in the Republic of the Union of Myanmar. In this regards, foreign workers and staff who work at least six months (183 days) in Myanmar and the foreign enterprises formed in Myanmar may be assumed as the resident foreigners. - (b) A foreign lawyer may perform service to client in Myanmar but are not allowed to practice in Myanmar courts of law. (c) The commercial presence of foreign services provider shall be subject to the licensing by the government authorities concerned - (d) According to the Farm Land Law 2012 and the Transfer of	

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		Immoveable Property Restriction Law 1987, the Law Amending the Transfer of Immoveable Property Restriction Law (2005), foreign organizations and persons are not allowed to own land in Myanmar. However, land may be acquired on long term lease, depending on individual circumstance.	

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