

MYANMAR – SCHEDULE OF COMMITMENTS

For the 10th 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	<p>3) (a) Commercial presence of foreign service suppliers and/or providers are permitted in accordance with Myanmar Companies Law 2017, with effect from 1 August 2018, Partnership Act 1932, The Special Companies Act 1950, the Myanmar Investment Law (2016), and existing Notifications of Myanmar Investment Commission, the investment Rules (2017).</p> <p>As stipulated in the Myanmar Investment Law (2016), the investment may be carried out in any of the following forms:</p> <p>(i) carrying out an investment by a foreigner with one hundred per cent foreign capital on the business permitted by the Commission;</p> <p>(ii) carrying out a joint venture between a foreigner and a citizen or the relevant Government department and organization;</p> <p>(iii) carrying out by any system contained in the contract</p>	<p>3) (a) According to the notification No.47/2018, Non-resident Foreigner will be subject to a withholding tax as follows;</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 60%;">Type of Payment</th> <th style="text-align: left; width: 40%;">Non resident foreigners</th> </tr> </thead> <tbody> <tr> <td>▪ Interest</td> <td>15%</td> </tr> <tr> <td>▪ Royalties paid for the use of licenses, trademarks, patent rights etc.</td> <td>15%</td> </tr> <tr> <td>▪ Payments by Union Organizations, Union Ministries, Naypyitaw Council, State and Region governments, State own enterprises, Development Committees for purchase of goods, work performed or supply of services within the state under a tender, an auction, perfect competition, contract, agreement or other modes.</td> <td>2.5 %</td> </tr> <tr> <td>▪ Payment by Public Private partnership,</td> <td>2.5%</td> </tr> </tbody> </table>	Type of Payment	Non resident foreigners	▪ Interest	15%	▪ Royalties paid for the use of licenses, trademarks, patent rights etc.	15%	▪ Payments by Union Organizations, Union Ministries, Naypyitaw Council, State and Region governments, State own enterprises, Development Committees for purchase of goods, work performed or supply of services within the state under a tender, an auction, perfect competition, contract, agreement or other modes.	2.5 %	▪ Payment by Public Private partnership,	2.5%	
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¹ Only applies to subsectors inscribing “Subject to horizontal commitments” at their “Additional Commitment” column.

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	<p>which approved by both parties.</p> <hr/> <p>The proposed investment may be refused subject to such implications as financial arrangements security risk involved and compliance with existing conditions.</p> <p>In forming the form of investment in Myanmar, it shall be formed as company in accord with existing law.</p>	<p>joint venture, local companies, body of persons, partnership firms registered and established under an existing law, foreign companies, foreign enterprises for purchase of goods, work performed or supply of services under contract, agreement or other modes.</p> <hr/> <p>According to the 2018 Union Taxation Law, paragraph 23, sub paragraph (a), in respect of the following kind of taxpayer, before the reliefs under section 6 of the Income Tax Law shall be deducted, 25 per cent of income tax shall be assessed on the total net profit income:</p> <p style="padding-left: 40px;">(i) Other income except income under the salary heading of non-resident foreigner</p> <p>And under, paragraph 24, in the case of a non-resident foreigner, the reliefs under section 6 and 6-a of the income tax law shall not be deducted in the case of income under the salary heading, income tax shall be assessed on the total income at the tax rates under sub-section (c), section 19 of the 2018 Union Taxation Law.</p>	

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	<p>(b) Incorporation of an enterprise, not involving a state enterprise is to be made under the Myanmar Companies Law 2017, with the effect from 1 August 2018. If the investment involves a state enterprise, incorporation shall be made under the Myanmar Companies Law 2017, with the effect from 1 August 2018, Partnership Act 1932, Special Companies Act 1950.</p> <p>(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.</p> <p><u>Tax</u></p> <p>Income Tax Exemption for promoted sectors may be granted by Myanmar Investment Commission in accordance with the Myanmar Investment Law (2016).</p>	<p><u>Tax</u></p> <p>According to the Sections 3 (k) of the Income Tax Law, it prescribes the Resident foreigners as follows:</p> <p>(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;</p> <p>(ii) in the case of a company, a company formed under the Myanmar Companies Law or any other existing law wholly or partly with foreigner shareholders;</p> <p>(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.</p> <p>- 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.</p> <p>(b) A foreign lawyer may perform service to client in Myanmar but</p>	

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		<p>are not allowed to practice in Myanmar courts of law.</p> <p>(c) The commercial presence of foreign services provider shall be subject to the licensing by the government authorities concerned</p> <p>(d) According to the Farm Land Law 2012 and the Transfer of 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.</p>	
