



Schedule to the ASEAN Comprehensive Investment Agreement

VIET NAM

VIET NAM

1.

Sector	: All Sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: National Treatment and Senior Management and Board of Directors shall not apply to any measure in relation to the employment of expatriates. Restrictions ¹ may be imposed on the number or ratio, minimum wages, duration and type of expatriates employed.
Source of Measure	: - Law on Labour, 1994 as amended. - Law on Enterprises, 2005. - Decree 111/2008/ND-CP, dated 10/10/2008. - Decree 03/2006/ND-CP dated 06/01/2006. - Decree 34/2008/ND-CP dated 25/03/2008.

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¹ 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 3 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, 2005.

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2.

Sector	: All Sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Director
Description of Measure	: National Treatment and Senior Management and Board of Director shall not apply to any measure in relation to portfolio investment
Source of Measure	: - Law on Investment, 2005. - Law on Securities (2006) and its implementing regulations. - Circular, Decree, Decision of Prime Minister and Administrative Guidelines.

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3.

Sector	: All Sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: NT may not apply to conditions imposed in investment licenses permits/certificates that were issued before the entry into force of this Agreement ²
Source of Measure	: Decree 101/2006/ND-CP; dated 21/9/2006.

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² For illustrative purposes, the condition may be the investors' commitment to transferring the invested assets to the Government of Vietnam on a non-compensable basis at the time of termination of their projects.

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4.

Sector	: All Sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: National Treatment and Senior Management and Board of Directors may not apply to any measure relating to establishment, acquisition, organization and operation of foreign invested enterprises ³ or foreign invested projects; including but not limited to the issuance of license/permit, legal form, equity participation ⁴ , organization, management and duration of investment ⁵ .
Source of Measure	: - Law on Investments, 2005. - Law on Enterprises, 2005. - Decree 108/2006/ND-CP, dated 22/9/2006. - Decree 139/2007/ND-CP, dated 05/9/2007.

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³ The definition of "Foreign Invested Enterprises" can be found in the Law on Investment, 2005.

⁴ In respect of equity participation, this reservation shall apply unless such equity participation is otherwise specified in the other reservations in this reservation list.

⁵ For illustrative purpose, the measure may include but not limited to:

- Foreign investors investing in Viet Nam must have an investment project and perform the procedures for investment registration or evaluation of investment at the State administrative body for investment in order to be issued with an investment certificate.
- On legal form, foreign investors cannot establish cooperatives.
- On management, the financial reporting by foreign and local investors is different.
- On duration of investment, maximum duration of a foreign investment projects is 50 years.

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5.

Sector	: All Sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: National Treatment and Senior Management and Board of Directors may not apply to any measure relating to State Owned Enterprises ⁶ and 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
Source of Measure	: - Law on Investment, 2005; dated 29/11/2005. - Law on Enterprises, 2005; dated 29/11/2005.

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⁶ The term “State-owned enterprise” is defined under Article 4 of the Law on Enterprises, 2005 as amended as follows: State-owned enterprise means an enterprise in which the State owns more than 50% of the charter capital.

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6.

Sector	:	All Sectors
Sub-Sector	:	-
Industry Classification	:	-
Level of Government	:	Central
Type of Obligation	:	National Treatment
Description of Measure	:	National Treatment may not apply in the event where activities restricted to designated enterprises are liberalized to those other than the designated enterprises, or in the event such designated enterprises no longer operate on a non-commercial basis ⁷ .
Source of Measure	:	<ul style="list-style-type: none">- Law on Investment, 2005.- Administrative Guidelines.

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⁷ For illustrative purposes, 'designated enterprises' may include Vinafood 1, Petroleum Processing and Trading Company, etc.

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7.

Sector	: All Sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: National Treatment may not apply to any measure affecting land, property and natural resources ⁸ associated with land, including but not limited to acquisition, ownership ⁹ , lease, policy on the usage of land, land planning, term of land use, rights and obligations of land users.
Source of Measure	: - Law on Land, 2003 as amended and its implementing regulations. - Law on Real Estate Business, 2006.

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⁸ Natural resources found in land belong to the Government of Viet Nam.

⁹ 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.

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8.

Sector	: All Sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: Based on the requirements for socio-economic development ¹⁰ in each period and consistent with the undertakings in international treaties of which the Socialist Republic of Vietnam is a member, the Government regulates the list of investments in which investment is conditional, and the conditions applicable to the establishment of economic organizations, the forms of investment, and opening of the market in a number of sectors as applicable to foreign investors Where an enterprise with foreign owned capital invested in a sector in which investment was unconditional but during the course of the investment activity the list of sectors in which investment is conditional was amended with the result that the relevant sector was included, the investor shall be permitted to continue its investment activity in that sector unconditionally.
Source of Measure	: - Law on Investment, 2005. - Decree 108/2006/ND-CP; dated 22/9/2006.

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¹⁰ For illustrative purposes, socio-economic development plans in each period may include the Five-Year Socio-Economic Development Plans.

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9.

Sector	: All sectors
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: National Treatment and Senior Management and Board of Directors shall not apply to any measure relating to treatments granted to Small and Medium-sized Enterprises ¹¹
Source of Measure	: - Law on Investment, 2005. - Law on Enterprises, 2005. - Decree No 90/2001/ND-CP, dated 23/11/2001. - Decree 56/2009/NĐ-CP, dated 30/6/2009. - Small and Medium-sized Enterprises Development Plan.

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¹¹ The term “small and medium-sized enterprise” is defined under Article 3 of the Decree 56/2009/ND-CP, dated 30/6/2009 of the Government as follows: small and medium-sized enterprise is an enterprise established in accordance with laws which has less than or equal to 300 employees or has total legal capital of less than or equal to 100 billion VND.

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10.

Sector : **Manufacturing, Agriculture and Forestry, Fishery Services incidental to Manufacturing, Fishery, Mining and Quarrying**

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);
- Publishing (ISIC 221): All kinds of publishing product.
 - Publishing of books, brochures, musical books and other publications (ISIC 2211);
 - Publishing of newspapers, journals and periodicals (ISIC 2212);
 - Publishing of recorded media (ISIC 2213);
 - Other publishing (ISIC 2219).
- Printing (ISIC 2221):
 - Books (including books for the blind), pictures, maps, posters, leaflets, calendars;
 - Molding and pressing money, value papers, forms with denomination, financial invoices, checks, etc;
 - Journals, Newspapers, Magazines, Periodicals, Counterfeit stamps, Certificates, Passport, National Identity Cards, etc.
- 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 baked 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 bentonite 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).

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Agriculture and Forestry including:

- 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)¹².

Services Incidental to Manufacturing including:

- Services related to producing of industrial gas such as oxy, nitro, CO2 (solid or liquid) (CPC 88460/ISIC 2411);
- Services related to producing of caustic soda NaOH (liquid) (CPC 88460/ISIC 2411);
- Services incidental to producing of common used insecticides (Foreign investment is allowed in producing of input materials (toxin) only) (CPC 88460/ISIC 2421);
- Services related to producing of common used paints (CPC 88460/ISIC 2422)
- Services related to dairy processing (CPC 88120);
- Services related to cane sugar production and sugar processing industry
- Services related to processing of beer and beverages (CPC 88411/ISIC 1551);
- Services related to processing of tobacco products such as cigarette, cigar, pipe tobacco, chewing tobacco, farmer cut tobacco based on contracts or a fee:
 - Processing of reconstituted tobacco based on contracts or a fee (CPC 88412/ISIC 1600)
 - Processing of hookah based on contracts or a fee (CPC 8412)
- Services related to processing of manufactured tobacco for production of cigarette based on contract or a fee (CPC 88412);
- Services on distributing acid-sulphuric used in producing other products (CPC 88460/ISIC 2411);
- Services related to production of fluorescent tubes and incandescent bulb (CPC 88480);

Fishery:

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

Service Incidental to Fishery, including:

- Services related to production of fishing net and twine for fishery sector (CPC 88200)

¹² List of rare or precious plants and animals can be found in website: www.kiemlam.org.vn

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- Services on repairing and maintaining of fishing boats (CPC 88200)
- Services related to exploiting of fresh-water fisheries (CPC 88200)
- Services related to quarantine, quality control of aquaculture and processing products (CPC 88200)
- Services related to processing and preservation of aquatic products (CPC 8841)
- Services on canning aquatic products (CPC 8841).

Services Incidental to Mining and Quarrying (CPC 88300; ISIC 1120):

- Services related to application of science and technology to production, including:
 - Completion of production technology and process for heat-insulation material for covering pipes (CPC 88520);
 - Preparation for the following services:
 - Production of aromatic chemicals for gas industry (CPC 88300);
 - Discharged water treatment on platform and drilling mud supply (CPC 88300);
 - Study on waste oil collection and treatment (CPC 88300);
 - Covering reinforced concrete and anti-corrosive paint for oil and gas pipeline (CPC 88300);
 - Producing gas tanks, gas fired cooker and gas equipment (CPC 88300);
 - Issuing quality certification for gas equipment and facilities (CPC 88300).
- Services related to testing, adjusting, repairing and maintaining industrial measure and control equipment for oil and gas sector (CPC 88300);
- Oil and gas warehouse services (CPC 88300);
- Oil and gas supply base services (CPC 88300);
- Catering and allied services including food and foodstuff, clean-water and vegetable to off-shore construction facilities (CPC 88300);
- Manpower supply services including professional manpower, skills and foreign language training for manpower supplied to foreign countries, signing manpower supply contracts with foreign companies (CPC 88300);
- Services related to gas processing: separating Bupro, Condensate (CPC 88300);
- Leasing services related to other machines and equipment including specialized equipment in oil and gas industry (CPC 88300);
- Services related to database for oil and gas study (CPC 88300);
- Services related to database for geological study and seismic survey for oil and gas industry (CPC 88300);

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- Services related to geological and exploration drilling (CPC 88300);
- Risk assessment, including field-survey, data collection, using special software on impact assessment of frequency and sensitiveness, proposing mitigation measures (CPC 88300);
- Services on Environment Protection and Management, including:
 - Environmental background study (CPC 88300);
 - Establishing oil-spill response plan, including environmental sampling and analysis (sediment samples, biology, soil, water, air), measuring water and air quality, obtaining on-site spectrum, collecting and assessing data on nature (such as environmental climatic, and hydrographic data), socio-economic data, etc, making reports on environmental background study, environmental impact assessment, oil-spill response plan (CPC 88300);
 - Proposing environmental management plan in oil and gas activities, particularly for offshore environment and sensitive coastline areas (CPC 88300).

Industry Classification	: See above
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: No investment license shall be issued to foreign investors ¹³ in these sectors and sub-sectors
Source of Measure	: AIA commitments. Law on Investment, 2005. Law on Environment Protection, 1993. Decree 108/2006/ND-CP, dated 22/9/2006. Decree 59/2006/ND-CP, dated 12/6/2006. Decision 95/2009/QĐ-TTg, dated 17/7/2009. Resolution 12/2000/NQCP; dated 14/8/2000. Decision 38/2007/QĐ-TTg; dated 20/3/2007. Decree 119/2007/ND-CP dated 18/07/2007. Decision 28/2002/QĐ-TTg dated 06/2/2002. Decision 58/2003/QĐ-TTg dated 17/4/2003. Decision 18/2007/QĐ-BCN dated 08/5/2007. Decision 26/2007/QĐ-TTg dated 15/2/2007. Circular 14/2008/TT-BCT, dated 25/11/2008. Decision 32/2000/QĐ-BCN, dated 04/5/2000. Decision 121/2008/QĐ-TTg, dated 29/8/2008. Decree 105/2007/ND-CP, dated 21/6/2007.

¹³ For the purpose of this reservation, the term “Foreign investor” can be found in the Law on Investment, 2005

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Law on Oil & Gas; 1993.
Decree 19/2000/ND-CP dated 08/6/2000.
Law on Fishery, 2003.
Decree 59/2005/ND-CP dated 04/5/2005.
Circular 02/2005/TT-BTS dated 04/5/2005.
Circular 62/2008/TT-BNN dated 20/5/2008.
Law on Technical Standard and Criteria dated 29/06/2006.
Ordinance 12/2003/PL-UBTVQH dated 26/07/2003.
Ordinance on Veterinary dated 29/04/2004.
Decree 59/2005/ND-CP dated 04/5/2005.
Decree 123/2006/ND-CP dated 27/10/2006.
Decree 191/2004/ND-CP dated 18/11/2004.
Decision 10/2007/QD-TTg dated 11/1/2006.
Decision 117/2008/QD-BNN dated 11/12/2008.
Decision 118/2008/QD-BNN dated 11/12/2008.
Decision 116/2008/QD-BNN dated 03/12/2008.
Circular 02/2005/TT-BTS dated 04/5/2005.
Circular 62/2008/TT-BNN dated 20/5/2008.
Decree 32/2006/ND-CP dated 30/03/2006.
Law on Environmental protection.
Decision 328/2005/QD-TTg.
Direction 21/2004/CT-TTg.
Decree 25/2009/ND-CP.
Decision 88/2007/QD-TTg dated 13/6/2007

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11.

Sector	:	All sectors
Sub-Sector	:	-
Industry Classification	:	-
Level of Government	:	Central
Type of Obligation	:	National Treatment Senior Management and Board of Directors
Description of Measure	:	National Treatment and Senior Management and Board of Directors shall not apply to any measures in relation to maintaining food security ¹⁴
Source of Measure	:	- Decree 12/2006/ND-CP dated 23/01/2006. - Policy on national food security

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¹⁴ For illustrative purpose, Foreign owned enterprises shall not be allowed to export rice and paddy until Jan 1st 2011.

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12.

Sector	: Manufacturing
Sub-Sector	: - Production of industrial explosive devices (ISIC 2429) - Cement production (ISIC 2694) - Production of ready mixed concrete, stone crushing (ISIC 2695) - Automobile assembly and manufacture (ISIC 3410) - Motorcycle assembly and manufacture (ISIC 3591)
Industry Classification	: ISIC 2429, 2694, 2695, 3410, 3591
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: Investment in these sub-sectors shall be subject to planning of the Government which may give preferences to local investors ¹⁵
Source of Measure	: - Law on Mineral 2005 and its guiding legal documents. - Decision No 150/2007/QĐ-TTg, dated 10/9/2007. - Decree No 39/2009/ND-CP dated 23 April 2009. - Decision 121/2008/QĐ-TTg, dated 29/8/2008. - Decision 02/2007/QĐ-BCT, dated 29/8/2007.

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¹⁵ For illustrative purpose, local manufacturer of motorcycles may be given privileges in terms of production quantity to meet the demand of domestic market and location preferences.

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13.

Sector	: Manufacturing
Sub-Sector	: <ul style="list-style-type: none">- Processing of aqua-product and canned seafood (shall be in joint venture form, subject to materials, technology requirements) (ISIC 1512)- Vegetable oil production and processing (in conjunction with development of local raw materials resources) (ISIC 1514)- Dairy processing (in conjunction with development of local raw materials resources) (ISIC 1520)- Leather tanning (in conjunction with development of local raw materials resources and subject to environmental protection requirement) (ISIC 1911)- Paper production (in conjunction with development of local raw materials resources) (ISIC 2101)- Production of automobile tires and tubes up to 450mm (subject to quality requirement) (ISIC 2511)- Production of rubber gloves, labour sanitary boots (subject to quality requirements) (ISIC 2520)- Assembly of marine engines (subject to technology requirements) (ISIC 2911)- Production of electro-mechanical and refrigeration equipment (subject to technology requirement) (ISIC 2919)- Manufacturing of cultivation, processing, reaping machines, insecticide pumps, spare parts of agricultural machines and engines (subject to technology and quality requirements) (ISIC 2921)- Production of household electric appliances (subject to technology requirement) (ISIC 2930)- Production of electrical fans (manufacturing new types of products and subject to quality requirements) (ISIC 2930)- Production of bicycle manufacture (Manufacturing new types of products and subject to quality requirements) (ISIC 3592)- Production of sanitary ceramics, porcelain and tiles (Subject to technology requirement) (ISIC 2691)- Manufacturing and assembling of transport vehicles (ISIC 3410)
Industry Classification	: See above.
Level of Government	: Central
Type of Obligation	: National Treatment

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Description of Measure : Manufacturing projects/investments in these sectors shall comply with specific requirements on local raw material resources¹⁶, technology and/or environment and/or quality which may be inconsistent with National Treatment article under ACIA

Source of Measure : - Decision No 17/2004/QD-BCN dated 08/3/2004.
- Decision No 22/2005/QD-BCN dated 26/4/2005
- Decision No 36/2007/QD-BCN dated 06/8/2007.
- Decision No 07/2007/QD-BCN dated 30/01/2007.
- Decision No 177/2004/QD-TTg dated 05/10/2004.
- Decision 147/QD-TTg dated 04/09/2007.
- Decision 36/2007/QD-BCN dated 06/08/2007.
- Decision 249/QD-TTg dated 10/10/2005.
- Decree 80/2006/ND-CP dated 09/8/2006
- Decree 12/2006/ND-CP dated 23/01/2006

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¹⁶ For greater clarity, the requirement on local raw material resources is not local content requirement.

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14.

Sector	: Services incidental to Manufacturing
Sub-Sector	: 1 Services related to manufacturing of water pumps used in agriculture (CPC 88530/ISIC 12912) 2 Services related to producing of plastic packing (CPC 88470) 3 Services related to producing of PP packing (CPC 88492)
Industry Classification	: CPC 884 – CPC 885
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: <u>Sub-sector 1</u> : Foreign investment is restricted and subject to foreign equity requirement of maximum of 30%. <u>Sub-sectors 2 and 3</u> : Foreign investment is restricted.
Source of Measure	: Law on Investment, 2005 and its guiding documents.

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15.

Sector : **Services Incidental to Manufacturing**

Sub-Sector :

- Services related to producing of electronic scales for postal operation (CPC 88560/ISIC 32)
- Services related to producing of small capacity microwave equipment, main distribution frame component (MDF), subscriber local loop equipment, terminal boxes of different size, wiring cables (CPC 88550)
- Services related to producing of small capacity telephone switching systems (CPC 88560)
- Services related to producing of optical fiber terminals (CPC 88560)
- Services related to producing of telephone sets (CPC 88560)
- Services related to producing of H₃PO₄ and HCl acids (CPC 88460/ISIC 2411)
- Services related to producing of chemical products such as phosphor, silicate-natri, tripolyphosphat, aluminium hydroxide, light powder, calcium chloride, active coal and black carbon (CPC 88460/ISIC 2429)
- Services related to manufacturing of products from structure metal (CPC 88520/ISIC 2811)
- Services related to manufacturing of barrels, tanks and metal containers (CPC 88460/ISIC 2812)
- Services related to processing of vegetable oil (In conjunction with development of local raw materials resources requirement) (CPC 88110/ISIC 0112)
- Services related to manufacturing of lifting and loading equipment and machinery (CPC 88530/ISIC 2915)
- Services related to manufacturing of other common used machinery (CPC 88530/ISIC 2919)
- Services related to testing and control of computer's quality (With the commitment to investment supports, training and technology transfer) (CPC 88540)
- Services related to packaging integrated circuits (IC) (Subject to technology transfer requirements) (CPC 88560)
- Services related to assembling of electronics components, electronic and telecommunication products based on contracts or a fee (Subject to technology transfer requirements) (CPC 88550)
- Services related to designing of machinery and equipment by computer (computer-aid-design CAD) (Subject to technology transfer requirements) (CPC 88540)
- Other services (Subject to planning of the Government)
- Services related to processing of alcohol (Subject to brand, quality requirements) (CPC 88411)

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Industry Classification	: CPC 884 – CPC 885
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: Investment in these services sub-sectors shall be subject to technology and quality requirements which may be inconsistent with National Treatment Article under ACIA. ¹⁷
Source of Measure	: Law on Technical Standard and Criteria, 2006. Decree 40/2008/ND-CP dated 07/4/2008

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¹⁷ For illustrative purpose, requirements on quality of services provided by foreign invested enterprises may be higher than those applied to local enterprises.

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16.

Sector	: Mining & Quarrying
Sub-Sector	: Oil and gas
Industry Classification	: ISIC 111, ISIC 112
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: National Treatment and Senior Management and Board of Directors shall not apply to any measure relating to oil and gas activities carried out within Viet Nam. Investment in oil and gas activities shall be subject to approval by the Government of Viet Nam.
Source of Measure	: <ul style="list-style-type: none">- Law on Investment, 2005.- Law on Minerals, 2005.- Decree 160/2005/ND-CP; dated 27/12/2005.- Decree 07/2009/ND-CP dated 22/01/2009

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17.

Sector	: Mining & Quarrying, except Oil and Gas
Sub-Sector	: -
Industry Classification	: ISIC1310, 1320, 1410
Level of Government	: Central
Type of Obligation	: National Treatment Senior Management and Board of Directors
Description of Measure	: National Treatment and Senior Management and Board of Directors may not apply to any measure in relation to mining & quarrying investment, including but not limited to the following sectors: <ul style="list-style-type: none">- Survey, exploration and exploitation of minerals- Exploitation, processing of rare and precious minerals, raw materials- Exploitation, processing of rare and precious minerals, rare metals, raw materials; exploitation of clay for production of construction materials; exploitation of high-quality sand for production of construction and technical glasses- Projects in exploitation of precious or rare mineral shall be subject to approval by the Government of Vietnam- Mineral activities related to the special, toxic, rare and precious minerals including basic geological investigation, prospecting, exploration, exploitation and processing
Source of Measure	: - Decree 108/2006/ND-CP dated 22/9/2006. - Law on Minerals, 2005. - Decree 160/2005/ND-CP dated 27/12/2005. - Decree 07/2009/ND-CP dated 22/01/2009

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18.

Sector	:	Services Incidental to Mining and Quarrying
Sub-Sector	:	-
Industry Classification	:	CPC 883
Level of Government	:	Central
Type of Obligation	:	National Treatment
Description of Measure	:	<p>Foreign equity participation in joint ventures shall not exceed 49%. From 11 January 2010, the foreign equity participation in joint ventures may be 51%. From 11 January 2012, 100% foreign-invested enterprises may be permitted.</p> <p>National Treatment shall not apply to any measure relating to the services incidental to mining and quarrying activities.</p> <p>Investment in the oil and gas related activities carried out within Viet Nam shall be subject to law, regulations and procedures of Viet Nam.</p>
Source of Measure	:	Law on Investment, 2005.

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19.

Sector	: Fishery
Sub-Sector	: -
Industry Classification	: -
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: National Treatment shall not apply to any measure relating to fishery activities within Viet Nam sovereignty and jurisdiction waters as defined in accordance with the 1982 UNCLOS.
Source of Measure	: <ul style="list-style-type: none">- Law on Fishery, 2003.- Decree 108/2006/ND-CP, dated 22/09/2006.- Decree 49/1998/ ND-CP dated 13/7/1998.- Decree 86/2001/ND-CP dated 16/11/2001.- Decree 191/2004/ND-CP dated 18/11/2004.- Decree 59/2005/ND-CP dated 04/5/2005.- Decision 10/2007/QD-TTg dated 11/1/2006.- Circular 02/2005/TT-BTS dated 04/5/2005.- Circular 62/2008/TT-BNN dated 20/5/2008.

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20.

Sector	:	Service Incidental to Fishery
Sub-Sector	:	Fry production and aquaculture operation
Industry Classification	:	CPC 88200
Level of Government	:	Central
Type of Obligation	:	National Treatment
Description of Measure	:	Requirements on technology, fry quality of foreign invested enterprises must be higher than those that apply to local enterprises
Source of Measure	:	<ul style="list-style-type: none">- Law on Technical Standard and Criteria, 2006.- Law on Fishery, dated 26/11/2003.- Decree 59/2005/ND-CP dated 04/5/2005.- Circular 02/2005/TT-BTS dated 04/5/2005.- Circular 62/2008/TT-BNN dated 20/5/2008.

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21.

Sector	:	Service Incidental to Fishery
Sub-Sector	:	1. Services related to sending vessels for buying sea-products (CPC 88200) 2. Services related to hiring of fishing boats and employees (CPC 88200) 3. Services related to processing on board for fish (CPC 88200) crustaceans and mollusks and other related services 4. Services related to exploiting of sea-products (CPC 88200) 5. Services on collecting and buying aquatic products (CPC 8820)
Industry Classification	:	8820)
Level of Government	:	CPC 88200
Type of Obligation	:	Central
Description of Measure	:	National Treatment
Source of Measure	:	<u>Sub-sectors 1 and 2</u> : Foreign investment is restricted and subject to foreign equity requirement of maximum of 30%. <u>Sub-sectors 3 and 4</u> : Foreign investment is restricted and subject to foreign equity requirement of maximum of 40%. Decree 33/2010/ND – CP dated 31/03/2010 - Decree 32/2010/ND-CP dated 30/03/2010 - Decree 59/2005/ND – CP dated 04/5/2005 - Decree 14/2009/ND-CP dated 13/2/2009 - Decree 27/2005/ND-CP dated 08/03/2005 - Administrative Guidelines

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22.

Sector	:	Forestry
Sub-Sector	:	-
Industry Classification	:	ISIC 0200
Level of Government	:	Central
Type of Obligation	:	National Treatment
Description of Measure	:	National Treatment shall not apply to any measure relating to investment in forestry activities, including but not limited to the following: <ul style="list-style-type: none">- Not to grant license to exploit natural forest to foreign investors- To provide rights and obligations of foreign individuals and organizations different from those of Vietnamese individuals and organizations
Source of Measure	:	<ul style="list-style-type: none">- Law on Protection and Development of Forest, 2004.- Decree 23/2006/QD-TTg dated 3/3/2006.- WTO's commitments.

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VIET NAM

23.

Sector	: Services Incidental to Agriculture, Hunting and Forestry
Sub-Sector	: Services relating to investigation, evaluation and exploitation for natural forest, including exploitation of woods and wild, rare and precious animals, hunting, trapping, aerial seed planting and aerial chemicals spraying and dusting, microbial plant, animal genetic resource in agriculture.
Industry Classification	: CPC 8812
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: No investment license will be issued for foreign investors in those sub-sectors.
Source of Measure	: Law on Investment, 2005. Law on Protection and Development of Forest, 2004.

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VIET NAM

24.

- Sector** : **Services Incidental to Agriculture, Hunting and Forestry**
- Sub-Sector** : **Services incidental to agriculture, hunting and forestry, other than** services relating to investigation, evaluation and exploitation for natural forest, including exploitation of woods and wild, rare and precious animals hunting and trapping, aerial seed planting and aerial chemicals spraying and dusting, micro-bial plant, animal genetic resource in agriculture.
- Industry Classification** : CPC 881
- Level of Government** : Central
- Type of Obligation** : National Treatment
Senior Management and Board of Directors
- Description of Measure** : Foreign investors are only permitted to invest in the form of joint-venture or business co-operation contract. Foreign equity shall not exceed 51% of the legal capital¹⁸ of joint venture.
- Foreign investments in these sectors are restricted to certain geographical areas¹⁹ as may be approved on a case-by-case basis.
- Source of Measure** : - Law on Investment dated 29/11/2005
- Law on Protection and Development of Forest dated 03/12/2004

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¹⁸ "Legal capital" means, as defined by the Law on Enterprises 2005, article 4, provision 7, the minimum level of capital as stipulated by law to form an enterprise.

¹⁹ The certain geographical areas may include, but not limited to natural reserves.

VIET NAM

25.

Sector	: Manufacturing
Sub-Sector	: Aircraft Manufacture Industry
Industry Classification	: CPC 88590 (ISIC 353)
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: The foreign equity participation shall not exceed 49% of the legal capital ²⁰ of the Joint-venture companies operating in air-plane manufacture
Source of Measure	: Decision No 38/2007/QD-TTg dated 20/3/ 2007

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²⁰ "Legal capital" means, as defined by the Law on Enterprises 2005, article 4, provision 7, the minimum level of capital as stipulated by law to form an enterprise.

VIET NAM

26.

Sector	: Manufacturing and Services Incidental to Manufacturing
Sub-Sector	: - Manufacture of railway rolling stock, spare parts, wagon and coach - Services related to manufacturing of railway rolling stock, spare parts, wagon and coach
Industry Classification	: CPC 88590 (ISIC 352)
Level of Government	: Central
Type of Obligation	: National Treatment
Description of Measure	: Joint-venture form is only permitted and foreign equity participation shall not exceed 49% of the legal capital ²¹ of the Joint venture.
Source of Measure	: Decision 1686/QĐ-TTg dated 20/11/2008.

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²¹ "Legal capital" means, as defined by the Law on Enterprises 2005, article 4, provision 7, the minimum level of capital as stipulated by law to form an enterprise.