

ASEAN – HONG KONG, CHINA

FREE TRADE AGREEMENT

CHAPTER 8 TRADE IN SERVICES

ANNEX 8-1

SCHEDULES OF SPECIFIC COMMITMENTS

SCHEDULE OF BRUNEI DARUSSALAM

BRUNEI DARUSSALAM – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	<p>3) Unbound for measures concerning foreign equity or interest in companies established or wishing to establish a commercial presence unless otherwise specified in the specific commitments.</p> <p>4) Unbound except for measures concerning the entry and temporary presence of intra- corporate transferees at the level of managers, executives and</p>	<p>3) With respect to existing commercial presence:</p> <ul style="list-style-type: none"> - One of the 2 directors or where there are more than 2 directors at least 2 of them shall be ordinarily resident in Brunei Darussalam. - All companies incorporated outside Brunei Darussalam which establish or have established a place of business in Brunei Darussalam must have one or more locally resident agents to accept service of process and any service of process or any notices required to be served on the company. <p>4) Unbound except for measures concerning the categories of natural persons referred to in the market access column.</p>	

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	<p>specialists. Intra-corporate transferees refer to managers, executives and specialists, as defined below, who are employees of firms that provide services within Brunei Darussalam through a branch, subsidiary, or affiliate established in Brunei Darussalam and who have been in the prior employ of their firms outside Brunei Darussalam for a period of not less than one year immediately preceding the date of their application for admission and who are one of the following:</p> <p>(a) Managers - persons within an organisation who primarily direct the organisation, or a department or sub-division of the organisation, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or</p>		

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	<p>commend hiring, firing or other personnel actions (such as promotion or leave authorisation), and exercise discretionary authority over day-to-day operations. Does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p> <p>(b) Executives - persons within the organisation who primarily direct the management of the organisation, exercise wide latitude in decision-making and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to</p>		

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	<p>the actual provision of the service or services of the organisation.</p> <p>(c) Specialists - persons within an organisation who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the organisation's service, research equipment, techniques, or management. (Specialists may include, but are not limited to, members of licensed professions).</p> <p>Entry for these intra-corporate transferees is limited to a three year period that may be extended for up to two additional years for a total term not to exceed five years.</p>		

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II. SECTOR-SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. Professional Services			
b) Auditing services (CPC 862)	<p>1) Foreign-based auditors (public accountants) are allowed to provide public accountancy services in Brunei Darussalam in accordance to Accountants Order, 2010 and approved by the Ministry of Finance through the Public Accountants Oversight Committee (PAOC).</p> <p>2) Foreign-based auditors are allowed to audit local accounts provided they are authorised by the Ministry of Finance.</p>	<p>1) & 2) Professional accountants who intend to become a Public Accountant must possess the following prescribed by the Ministry of Finance:</p> <p>a) Pass examination in accountancy from any recognized professional accountancy body listed below:</p> <p>(i) Certified Practising Accountant Australia</p> <p>(ii) Association of Chartered Accountants of Australia</p> <p>(iii) The Institute of Chartered Accountants of Australia</p> <p>(iv) The Institute of Chartered</p>	

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		<p style="text-align: center;">Accountants of Canada</p> <p style="text-align: center;">(v) The Institute of Chartered Accountants of England and Wales</p> <p style="text-align: center;">(vi) The Institute of Chartered Accountants of Ireland</p> <p style="text-align: center;">(vii) The Institute of Chartered Accountants of New Zealand</p> <p style="text-align: center;">(viii) The Institute of Chartered Accountants of Scotland</p> <p style="text-align: center;">b) Relevant audit practical experience of not less than three (3) years cumulatively within a five (5) year period.</p> <p style="text-align: center;">c) Fulfil 40 units/hours of Continuous Professional Education (CPE) requirements.</p>	

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	<p>3) Public Accountant who intends to set up a business in Brunei Darussalam must adhere to Part V of the Accountants Order and it is subject to approval by the Ministry of Finance.</p>	<p>d) Must be a member of Brunei Institute of Certified Public Accountants (BICPA) as National Accountancy Body.</p> <p>3) a) To maintain a location Programme i.e. employ 75% local in audit related posts.</p> <p>b) For applicants who are not citizens or permanent residents of Brunei:</p> <p>i) Must be residing in Brunei for at least 90 days in one year;</p> <p>ii) Must have one local partner who is a Public Accountant at the same firm.</p> <p>For foreign applicants who cannot fulfil requirements in (b) above may be considered if he/she satisfies other requirements</p>	

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	4) Unbound except as indicated under horizontal measures.	4) Unbound except as indicated under horizontal measures. with regards to any other requirements prescribed by the Ministry of Finance.	
(d) Architectural Services (CPC 8671)	<p>1) None, other than plans should be submitted through licensed practising architects and a registered partnership.</p> <p>2) None</p> <p>3) i) The corporation must be registered as a company or a firm in accordance with Companies Act or Business Name Act respectively.</p> <p>ii) Foreign equity participation shall not exceed 45%.</p> <p>iii) Companies or firm must be registered with the Ministry of Development.</p>	<p>1) None</p> <p>2) None</p> <p>3) Unbound</p>	

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	<p>iv) The Board of Directors of a company must comply with the requirements of the relevant professional legislation related to architects and must be registered with the Ministry of Development.</p> <p>4) In addition to those indicated in the horizontal section, the licensed practising architects should have recognised academic and professional qualifications and registered as “qualified persons” with the Ministry of Development. Qualified persons or licensed architects are registered if they have been one year residence in Brunei and practising with a local licensed architect.</p>	<p>4) Unbound</p>	

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(h) Medical and dental services (CPC 9312)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal measures.	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal measures.	
B. Computer and Related Services			
(a) Consultancy services related to installation of computer hardware	1) None 2) None	1) None 2) None	
(b) Software implementation	3) Commercial presence is permitted only through a company which is registered in Brunei Darussalam.	3) None	
(c) Data processing services	4) Unbound except as indicated in the horizontal measures.	4) Unbound except as indicated in the horizontal measures.	
(d) Database services (CPC 841, 842, 843, 844, 845 + 849)	4) Unbound except as indicated in the horizontal measures.	4) Unbound except as indicated in the horizontal measures.	

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E. Rental/Leasing Services without Operators			
b) Rental/leasing services relating to aircraft without operators (CPC 83104)	1) Aircraft must be certified. Entry to Brunei Darussalam is subject to approval and limitations on the basis of infrastructure capacity. 2) None 3) Unbound except: (a) Only through a representative office; or (b) Only by appointment of a General Sales Agent, that is Bruneian Controlled Company; and (c) Permanent address in Brunei Darussalam is required with respect to (a). 4) Unbound except with respect to (b), one technical post subject to: - Local availability test,	1) None 2) None 3) Unbound 4) Unbound except as indicated under horizontal measures (in order to practice a licensed profession in Brunei Darussalam the following conditions must be met:	

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	- Designation of a specified number of Brunei trainees.	(a) residency; (b) registration).	
2. COMMUNICATION SERVICES			
C. Telecommunication Services			
1. Local service (a) Public switched voice telephone services	1) Subject to commercial arrangements with licensed operator(s). 2) Unbound 3) Subject to licence by the appropriate regulatory authority and Brunei Darussalam Companies' Act. Local public switched voice telephone services are provided exclusively by JTB which is a government department. 4) Unbound except as indicated in the horizontal section.	1) Unbound 2) Unbound 3) None except as indicated in the horizontal section. 4) None except as indicated in the horizontal section.	The period of exclusivity for local public switched voice telephone services will be extended for up to 10 years after privatisation of JTB. The government will conduct a review of policy with respect to whether to permit additional suppliers of such services upon the expiry of this period. The period of exclusivity for the two operators expires in year 2010. The government will conduct a review of policy with respect to whether to permit additional suppliers of such services upon the expiry of this period. Issuance of a licence to provide public cellular mobile telephone services employing other than AMPS and GSM technologies will be considered by the government in year 2010 if public

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
			interest and economic conditions justify the issuance of such licence.
2. International service (a) Public switched voice telephone services	1) Subject to commercial arrangements with licensed operator(s). 2) Unbound 3) Subject to licence by the appropriate regulatory authority and Brunei Darussalam Companies' Act. International public switched voice telephone services are exclusively provided by JTB (government department) and DSTCom (private company). 4) Unbound except as indicated in the horizontal section.	1) Unbound 2) Unbound 3) None except as indicated in the horizontal section. 4) Unbound except as indicated in the horizontal section.	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>3. Mobile services</p> <p>(a) Public cellular mobile telephone service</p>	<p>1) Subject to commercial arrangements with licensed operator(s).</p> <p>2) Unbound</p> <p>3) Subject to licence by the appropriate regulatory authority and Brunei Darussalam Companies' Act. International public switched voice telephone services are exclusively provided by JTB (government department) and DSTCom (private company).</p> <p>4) Unbound except as indicated in the horizontal section.</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) None except as indicated in the horizontal section.</p> <p>4) Unbound except as indicated in the horizontal section.</p>	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(c) Circuit-switched data transmission services (CPC 7523**)	1) None except service provider must use Public Telecom Network under Government National Telecom Authority Control. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	
(d) Telex services (CPC 7523**) (e) Telegraph services (CPC 7522**)	1) None 2) None 3) Subject to license by the appropriate regulatory authority and Brunei Darussalam Companies' Act These services are being provided exclusively by TelBru Sdn Bhd. 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) None, except as indicated in the horizontal section. 4) Unbound except as indicated in the horizontal section.	The period of exclusivity for these services will be extended for up to one year 2016. The government will conduct a review of policy with respect to whether to permit additional suppliers of such services upon the expiry of the period.

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(f) Facsimile services (CPC 7521** + CPC 7529**)	1) None except service provider must use Public Telecom Network under Government National Telecom Authority Control. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	
(h) Electronic mail (CPC 7523**)	1) None except service provider must use Public Telecom Network under Government National Telecom Authority Control. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(j) On-line information and database retrieval (CPC 7523**)	1) None except service provider must use Public Telecom Network under Government National Telecom Authority Control. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	
(k) Electronic data interchange (EDI) (CPC 7523**)	1) None except service provider must use Public Telecom Network under Government National Telecom Authority Control. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section.	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(l) Enhanced/value-added facsimile services, including store and forward and retrieve (CPC 7523**)	<ul style="list-style-type: none"> 1) None except service provider must use Public Telecom Network under Government National Telecom Authority Control. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section. 	<ul style="list-style-type: none"> 1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section. 	
(m) Voice mail services (CPC 7523**)	<ul style="list-style-type: none"> 1) None except service providers must use Public Telecom Network under Government National Authority. 2) Unbound 3) Subject to license by the appropriate regulatory authority and Brunei Darussalam's Companies' Act. 4) Unbound except as indicated in the horizontal section. 	<ul style="list-style-type: none"> 1) Unbound 2) Unbound 3) None except as indicated in the horizontal section. 4) Unbound except as indicated in the horizontal section. 	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES			
CONSTRUCTION SERVICES (CPC 512, 513, 514 + 516, 517, 515)	<ol style="list-style-type: none"> 1) Unbound 2) None 3) <ol style="list-style-type: none"> a) The company should be registered under the office of Registrar of Companies and Business Names, Attorney Generals' Chamber. b) Foreign equity should not exceed 50%. c) The company should be registered with the Ministry of Development. 4) Unbound except as indicated in the horizontal section. 	<ol style="list-style-type: none"> 1) Unbound 2) None 3) Unbound 4) Unbound 	

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5. EDUCATIONAL SERVICES			
Adult Education (CPC 924) Course with the maximum duration of 3 months (Private education)	1) None 2) None 3) (i) Through joint venture, with foreign equity participation shall not exceed 49%. (ii) Foreign employees not exceeding 10% of the workforce. 4) Unbound	1) None 2) None 3) Unbound 4) Unbound	
Foreign Language Training Centre (CPC 929)	1) None 2) None 3) Foreign Equity participation should not exceed 49%. 4) Unbound	1) None 2) None 3) Majority of senior managers in any such enterprise are Bruneian nationals 4) Unbound	

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7. FINANCIAL SERVICES			
A. All insurance and insurance-related Services			
(a) Direct insurance (life) including annuity, disability income, accident and health insurance services (CPC 8121)	1) Unbound 2) None 3) Commercial presence is permitted only through insurance companies that are registered in Brunei Darussalam. 4) Unbound except as indicated in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound except as indicated in the horizontal section.	
(b) Direct insurance (non-life) including disability income, accident and health insurance and contracts of fidelity bonds, performance body or similar contracts of guarantee (CPC 8129)	1) Unbound 2) Compulsory insurance of Motor Third Party Liability and Workmen's Compensation can be purchased only from insurance companies established in Brunei. 3) Commercial presence is permitted only through insurance companies that are registered in Brunei Darussalam.	1) None 2) None 3) None	

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	4) Unbound except as indicated in the horizontal section.	4) Unbound except as indicated in the horizontal section.	
(c) Reinsurance and retrocession (life and non-life) (CPC 81299*)	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section.	
(d) Insurance and intermediation comprising broking and agency services (CPC 8140)	1) Unbound 2) Insurance intermediation is not allowed to act for unregistered insurers. 3) (i) Broking for direct insurance of Bruneian risks requires approval from the Ministry of Finance (ii) Broker, underwriting and insurance managers require approval.	1) Unbound 2) None 3) Unbound	

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	4) Unbound except as indicated in the horizontal section.	4) Unbound except as indicated in the horizontal section.	
Services auxiliary to insurance, as follows: (a) Consultancy (excludes insurance agency services to insurance industry) (b) Actuarial risk assessment (c) Risk management (d) Maritime loss adjusting	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section.	
9. TOURISM AND TRAVEL RELATED SERVICES			
A. Hotels and restaurants (including catering)			
Hotel Lodging Services (CPC 64110) 4 and 5 star hotels only	1) None 2) None 3) Joint ventures in which local equity constitutes not less than 30%. 4) Unbound except as indicated in the horizontal section.	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section.	

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11. TRANSPORT SERVICES			
A. Maritime Transport Services			
a) Passenger Transportation (CPC 7211)	1) None 2) None 3) Unbound 4) None, except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) None, except as indicated in the horizontal section.	
b) Freight Transportation (CPC 7212)	1) None 2) None 3) Unbound 4) None, except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) None, except as indicated in the horizontal section.	
C. Air Transport Services			
c) Rental of aircraft with crew (CPC 734)	1) None except: Aircraft must be certified Entry to Brunei Darussalam is subject to approval and limitation on infrastructure capacity. 2) None	1) None 2) None	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>3) Unbound except:</p> <p style="padding-left: 20px;">(a) Only through a representative office;</p> <p style="padding-left: 40px;">or</p> <p style="padding-left: 20px;">(b) Only by appointment of a General Sales Agent: who is a Bruneian controlled company; and</p> <p style="padding-left: 20px;">(c) Permanent address in Brunei Darussalam with respect to (a).</p> <p>4) Unbound except with respect to (b), one technical post subject to:</p> <ul style="list-style-type: none"> - Local availability test; - Designation of a specified number of Brunei trainees. 	<p>3) Unbound</p> <p>4) Unbound except as indicated in the horizontal section.</p>	

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(d) Maintenance and repair of aircraft (CPC 8868**)	1) None 2) None 3) Unbound 4) None, except as indicated in the horizontal section.	1) None 2) None 3) Unbound 4) None, except as indicated in the horizontal section.	