

ANNEX 3

SCHEDULE OF RESERVATIONS AND NON-CONFORMING MEASURES FOR INVESTMENT

VIET NAM

LIST A

EXPLANATORY NOTES

1. This List A sets out, pursuant to Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), measures that Viet Nam may maintain existing measures that do not conform with obligations imposed by:

- (a) Article 3 (National Treatment) of Chapter 11 (Investment);
- (b) Article 5 (Senior Management and Board of Directors) of Chapter 11 (Investment); or
- (c) Article 6 (Prohibition of Performance Requirements) of Chapter 11 (Investment).

2. Each reservation in this List A shall set out the following elements, where applicable:

- (a) **Sector** refers to the sector or sectors for which the reservation is taken;
- (b) **Subsector** refers to specific industries/products/activities for which the reservation is taken;
- (c) **Level of Government** refers to the level of government adopting or maintaining the measure for which a reservation is taken;
- (d) **Obligations Concerned** refers to the obligations of National Treatment, Senior Management and Board of Directors and Prohibition of Performance Requirements, as the case may be, which do not apply to the listed measures;
- (e) **Description** element sets out the non-conforming measure for which the reservation is made. The obligations under Obligations Concerned element do not apply to the non-conforming measure identified in the Description element of that reservation;
- (f) **Source of Measure** element provides non-binding reference to the non-conforming measures for which the reservation is made for the purposes of transparency and illustration only and shall not be interpreted as an additional binding explanation of such measure.

3. In accordance with Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), the Articles of this Agreement specified in the Obligations

Concerned element of an entry do not apply to the non-conforming measure identified in the Description element of that entry.

4. In the interpretation of a reservation, all elements of a reservation shall be considered, including the relevant cited sources of the non-conforming measures. For greater certainty, to the extent of any conflict between the Description element and other elements in an entry, the Description element shall prevail.

5. The Schedules of other Parties shall not be used to interpret Viet Nam's commitments or obligations under Chapter 11 (Investment).

6. Viet Nam may add, withdraw or modify any of its reservations as set out in this List A for a period of 24 months from the date of entry into force of this Schedule, provided that relevant non-conforming measures are in existence as of the date of entry into force of this Second Protocol. Any such addition, withdrawal or modification will be submitted to the Depositary who will notify the other Parties, including the relevant laws and regulations. Such non-conforming measure shall be deemed to form part of this Schedule and shall take effect upon such notification.

7. These Explanatory Notes shall form part of this List A.

1.	Sector	:	All sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	National Treatment, Senior Management and Board of Directors, and Prohibition of Performance Requirements may not apply to conditions imposed in investment licenses permits/certificates that were issued before the entry into force of this Second Protocol. ¹
	Source of Measure	:	- Decree No. 194/2013/ND-CP dated 21/11/2013 - Decree No. 31/2021/ND-CP dated 26/03/2021

¹ For illustrative purposes, the condition may be the investors' commitment to transferring the invested assets to the Government of Viet Nam on a non-compensable basis at the time of termination of their projects.

2.	Sector	:	Manufacturing
	Sub-sector	:	Aircraft Manufacture Industry
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment
	Description	:	Foreign investment in the manufacture of aircraft may not be permitted except through a joint venture or the purchase of shares in an enterprise. Foreign equity shall not exceed 49 per cent of the total equity of such joint venture or enterprise.
	Source of Measure	:	Decision No. 22/2021/QD-TTg dated 02/07/2021

3.	Sector	:	Manufacturing
	Sub-sector	:	Manufacture of railway rolling stock, spare parts, wagon and coach
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment
	Description	:	Foreign investment in the manufacture of railway rolling stock, spare parts, wagon and coach may not be permitted except through a joint venture or the purchase of shares in an enterprise. Foreign equity shall not exceed 49 per cent of the total equity of such joint venture or enterprise.
	Source of Measure	:	<ul style="list-style-type: none"> - Decision No. 214/QD-TTg dated 10/02/2015 - Decision No. 22/2021/QD-TTg dated 02/07/2021

LIST B
EXPLANATORY NOTES

1. This List B sets out, pursuant to Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), measures that Viet Nam may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 3 (National Treatment) of Chapter 11 (Investment);
- (b) Article 5 (Senior Management and Board of Directors) of Chapter 11 (Investment); or
- (c) Article 6 (Prohibition of Performance Requirements) of Chapter 11 (Investment).

2. Each reservation in this List B shall set out the following elements, where applicable:

- (a) **Sector** refers to the sector or sectors for which the reservation is taken;
- (b) **Subsector** refers to specific industries/products/activities for which the reservation is taken;
- (c) **Level of Government** refers to the level of government adopting or maintaining the measure for which a reservation is taken;
- (d) **Obligations Concerned** refers to the obligations of National Treatment, Senior Management and Board of Directors and Prohibition of Performance Requirements, as the case may be, which do not apply to the listed measures;
- (e) **Description** element sets out the non-conforming measure for which the reservation is made. The obligations under Obligations Concerned element do not apply to the non-conforming measure identified in the Description element of that reservation;
- (f) **Existing Measure** element provides non-binding reference to the non-conforming measures for which the reservation is made for the purposes of transparency and illustration only and shall not be interpreted as an additional binding explanation of such measure.

3. In accordance with Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), 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. For greater certainty, where Viet Nam has more than one entry in this List B that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.

5. In the interpretation of a reservation, all elements of a reservation shall be considered, including the relevant cited sources of the non-conforming measures. For greater certainty, to the extent of any conflict between the Description element and other elements in an entry, the Description element shall prevail.
6. The Schedules of other Parties shall not be used to interpret Viet Nam's commitments or obligations under Chapter 11 (Investment).
7. These Explanatory Notes shall form part of this List B.

1.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors
	Description	:	Viet Nam reserves the right to adopt or maintain any measures relating to portfolio investment.
	Existing Measure	:	- Law on Investment - Law on Securities

2.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors
	Description	:	Viet Nam reserves the rights to adopt or maintain any measure relating to investment procedures, such as procedures relating to investment registration certificate or approval in principle of investment projects, and foreign exchange management procedures.
	Existing Measure	:	- Law on Investment - Law on Enterprises - Ordinance on Foreign Exchange Control

3.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to State-Owned Enterprises 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.
	Existing Measure	:	-

4.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to 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.
	Existing Measure	:	-

5.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to land, properties, and natural resources ² associated with land, including but not limited to land acquisition, land ownership ³ , land allocation, land lease, policy on the usage of land, land plans and planning, term of land use, rights and obligations of land users.
	Existing Measure	:	<ul style="list-style-type: none"> - Law on Land - Law on Minerals - Law on Cultural Heritage - Law on Real Estate Business - Law on Investment

² Natural resources found in land belong to the Government of Viet Nam.

³ For illustrative purposes, foreign organizations and individuals cannot own land. The Government of Viet Nam can allocate land or lease land for them in line with the duration of their investment project subject to approval of a competent State body in accordance with Viet Nam's law and regulations.

6.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the rights to adopt or maintain any measure relating to treatments granted to MSMEs.
	Existing Measure	:	Law on Supporting Small and Medium-sized Enterprises

7.	Sector	:	Manufacturing
	Sub-sector	:	<ul style="list-style-type: none"> - Production of firecrackers, including fireworks; - Production of sky-lanterns; - Remanufacturing or refurbishing of information and communication technology (ICT) products; - Production of cigarettes and cigars; - Production of tobacco production; - Production of liquor, alcoholic beverages; - Manufacturing and assembling of buses and transport vehicles of more than 29 seats; - Production of gold.
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to the above-mentioned sub-sectors.
	Existing Measure	:	<ul style="list-style-type: none"> - Law on Investment - Law on Environment Protection - Law on the State Bank of Viet Nam - Decree No. 31/2021/ND-CP dated 26/03/2021

8.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to maintaining food security.
	Existing Measure	:	-

9.	Sector	:	Mining & Quarrying
	Sub-sector	:	Oil and Gas
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to oil and gas.
	Existing Measure	:	<ul style="list-style-type: none"> - Law on Investment - Law on Minerals - Law on Oil and Gas

10. Sector	:	Mining & Quarrying, except oil and gas, non-metallic minerals and minerals as common construction material
Sub-sector	:	-
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
Description	:	<p>Viet Nam reserves the right to adopt or maintain any measure relating to mining & quarrying, including but not limited to the following subsectors:</p> <ul style="list-style-type: none"> - Survey, exploration and exploitation of minerals; - 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 Viet Nam; - Mineral activities related to the special, toxic, rare and precious minerals including basic geological investigation, prospecting, exploration, exploitation and processing; - Exploring, mining and processing of important minerals, including but not limited to marine minerals.
Existing Measure	:	<ul style="list-style-type: none"> - Law on Minerals - Law on Investment

11. Sector	:	Fishery and Aquaculture
Sub-sector	:	-
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to fishery and aquaculture within Viet Nam's sovereignty and jurisdictional waters as defined in accordance with the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 (UNCLOS).
Existing Measure	:	- Law on Investment - Law on Fishery

12.	Sector	:	Forestry and Hunting
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to forestry and hunting.
	Existing Measure	:	- Law on Forestry - Law on Protection and Development of Forest - Law on Biodiversity

13. Sector	:	Agriculture
Sub-sector	:	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).
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to the above-mentioned subsectors.
Existing Measure	:	- Law on Crop Production - Law on Husbandry

14.	Sector	:	Power Development
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to power development, including but not limited to, generation, transmission and distribution.
	Existing Measure	:	- Law on Electricity

15.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	<p>Viet Nam reserves the right to adopt or maintain any measure relating to sectors that do not exist in the territory of Viet Nam at the date of entry into force of this Second Protocol.</p> <p>Viet Nam reserves the right to adopt or maintain any measure relating to sectors other than those recognised by the Government of Viet Nam at the date of entry into force of this Second Protocol.</p> <p>Any sector classified explicitly in Viet Nam Standard Industry Classification (VSIC) at the date of entry into force of this Second Protocol should have been recognised by the Government of Viet Nam at that time.</p> <p>For greater certainty, sector/sub-sector/activity that are not specifically described in VSIC at the date of entry into force of this Second Protocol, such as sector/sub-sector/activity not elsewhere classified in VSIC, shall be deemed not be recognised by the Government of Viet Nam.</p>
	Existing Measure	:	-

16. Sector	:	Manufacturing
Sub-sector	:	<ul style="list-style-type: none"> - Production of industrial explosive devices; - Cement production; - Production of ready mixed concrete, stone crushing; - Automobile assembly and manufacture; - Motorcycle assembly and manufacture.
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Prohibition of Performance Requirements
Description	:	Investment in these subsectors shall be subject to planning of the Government which may give preferences to local investors. ⁴
Existing Measure	:	<ul style="list-style-type: none"> - Law on Mineral - Decree No. 31/2021/ND-CP dated 26/03/2021 - Decision No 71/2018/ND-CP dated 15/05/2018 - Decision No. 02/2007/QD-BCT dated 29/08/2007

⁴ 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.

17.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to establishment and operation of co-operatives, union of co-operatives, households and sole-proprietorship.
	Existing Measure	:	- Law on Cooperative - Decree No. 193/2013/ND-CP dated 21/11/2013

18. Sector	:	-
Sub-sector	:	Traditional Markets
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to traditional markets.
Existing Measure	:	-

19. Sector	:	All Sectors
Sub-sector	:	-
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Senior Management and Board of Directors
Description	:	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 Measure	:	- Law on Securities - Ordinance on Foreign Exchange Control - Decree No. 155/2020/ND-CP dated 31/12/2020

20.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure conferring rights or privileges to the socially, economically and geographically disadvantaged groups and ethnic minorities.
	Existing Measure	:	-

21.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to the establishment of commercial presence of foreign enterprises and investors in Viet Nam in the form of branch.
	Existing Measure	:	-

22.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to national defence and security.
	Existing Measure	:	-

23.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure with respect to the defence industry.
	Existing Measure	:	Ordinance on Defence Industry dated 26/01/2008 and its implementing regulations.

24.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to weapon, explosives and supporting tools.
	Existing Measure	:	Law on Management and use of weapons, explosives and supporting tools

25.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to the renewable energy and atomic energy.
	Existing Measure	:	- Law on Atomic Energy - Decree No. 31/2021/ND-CP dated 26/03/2021 - Decision No. 2068/QD-TTg dated 25/11/2015

26.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to river ports, sea ports and airports.
	Existing Measure	:	- Law on Viet Nam Civil Aviation - Viet Nam Maritime Code

27.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to cultural heritage, belief and religion.
	Existing Measure	:	- Law on Cultural Heritage - Law on Belief and Religion

28. Sector	:	Mining and Quarrying
Sub-sector	:	Non-metallic minerals and minerals as common construction materials
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
Description	:	Viet Nam reserves the right to adopt any measure relating to the above sub-sector, except processing of non-metallic minerals ⁵ , and minerals as common construction material.
Existing Measure	:	Law on Mineral

⁵ For greater certainty, non-metallic minerals and minerals as common construction material shall be defined as in Viet Nam's law and regulations. Non-metallic minerals do not include water, hot water mineral and mineral water.

29. Sector	:	-
Sub-sector	:	Publishing, Printing, Press, News-gathering Agencies, Mass Media, Radio and Television Broadcasting, in any form
Level of Government	:	All levels
Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to the above sub-sectors.
Existing Measure	:	Decree No. 31/2021/ND-CP dated 26/03/2021

30.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt any measure relating to requirements on transfer of technology.
	Existing Measure	:	-

31. Sector	:	All Sectors
Sub-sector	:	-
Level of Government	:	All levels
Obligations Concerned	:	Prohibition of Performance Requirements
Description	:	<p>Royalty</p> <p>Viet Nam reserves the right to adopt or maintain any measure with respect to requirements on royalty relating to health, taxation, national defence and security, public interest.</p> <p>Viet Nam reserves the right to adopt or maintain any measure with respect to requirements on royalty when Viet Nam holds shares, interest or benefits in a person who is a party to the license contract, under which the royalty is related.</p> <p>Viet Nam reserves the right to adopt or maintain any measure with respect to requirements on royalty under a license contract, between or among related parties⁶.</p>
Existing Measure	:	-

⁶ Related parties shall be as defined under the laws and regulations of Viet Nam.

32.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors
	Description	:	Viet Nam reserves the rights to adopt or maintain any measure in relation to the employment of expatriates. Restrictions ⁷ may be imposed on the number or ratio, minimum wages, duration and type of expatriates employed.
	Existing Measure	:	- Labour Code - Law on Enterprises

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

- In the case of managers, executives and specialists, at least 20 per cent 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.

33.	Sector	:	All Sectors
	Sub-sector	:	-
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to investment in all services sectors and sub-sectors.
	Existing Measure	:	-

34.	Sector	:	-
	Sub-sector	:	Manufacture of spacecraft or parts thereof
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to investment in the above-mentioned sub-sectors.
	Existing Measure	:	-

35.	Sector	:	-
	Sub-sector	:	Space transport of freights or passengers
	Level of Government	:	All levels
	Obligations Concerned	:	National Treatment Senior Management and Board of Directors Prohibition of Performance Requirements
	Description	:	Viet Nam reserves the right to adopt or maintain any measure relating to investment in the above-mentioned sub-sectors.
	Existing Measure	:	-