

**Information of Non-Conforming Measures referred to in paragraphs 3 and 5  
of Article 62 in Chapter 5 of the Economic Partnership Agreement between  
Brunei Darussalam and Japan**

**31<sup>st</sup> July 2008  
Brunei Darussalam**

The Sectors or Matters specified in Annex 4

1. All Sectors – Registration requirements for establishment of businesses \*
2. All Sectors – Registration of Partnership \*
3. Manufacturing – Local equity requirements \*
4. Agriculture – Crop and animal production, hunting and related service activities – Local equity requirements \*
5. Fishery – Local equity requirements \*
6. Forestry – except logging and sawmilling- – Local equity requirements \*

Note: For the purposes of this Information, the industry classification codes used are based on the International Standard Industrial Classification of All Economic Activities (ISIC), Revision 4, as approved by the UN Statistical Commission on March 2006.

<b>1. Sector or Matter:</b>	All Sectors – Registration requirements for establishment of businesses *
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• Companies Act (Cap 39)</li> <li>• Business Names Act (Cap 92)</li> <li>• Miscellaneous Licences Act (Cap 127)</li> <li>• Co-operative Societies Act (Cap 84)</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	<ol style="list-style-type: none"> <li>1. National Treatment shall not apply with respect to registration requirements for establishment of businesses, whether in the form of sole proprietorship, co-operative societies, partnership, public or private company, or branch of a foreign company.</li> <li>2. <u>Company Directorship</u> No less than 50% of the board of directors of every company shall be nationals or of residents of Brunei Darussalam.</li> <li>3. <u>Sole Proprietors and Co-operative Societies</u> Consistent with national and social development policies of Brunei Darussalam to nurture the development of local entrepreneurship, foreigners would not be eligible to register as sole proprietors or co-operative societies.</li> </ol>

<b>2. Sector or Matter:</b>	All Sectors – Registration of Partnership *
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57) Most Favoured Nation Treatment (Article 58)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• Companies Act (Cap 39)</li> <li>• Business Names Act (Cap 92)</li> <li>• Miscellaneous Licences Act (Cap 127)</li> <li>• Employment Agencies' Order, 2004</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	<p><u>Partnership</u> Applications by foreign individuals are subject to prior clearance by relevant departments, including Department of Immigration, Department of Labour and Department of Economic Planning and Development, before they are registered.</p>

<b>3. Sector or Matter:</b>	Manufacturing – Local equity requirements *
<b>Industry Classification Codes:</b>	ISIC Section C
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Industrial Coordination Order 2001</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	All foreign investment in manufacturing that utilizes Government industrial sites under the control of the Industrial Development Authority of Brunei Darussalam must have at least 30% local equity participation.

<b>4. Sector or Matter:</b>	Agriculture – Crop and animal production, hunting and related service activities – Local equity requirements *
<b>Industry Classification Codes:</b>	ISIC Section A, Division 01
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Halal Meat Act (Cap 183)</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	All foreign investment in this Sector that utilizes Government sites as provided for by the Department of Agriculture of Brunei Darussalam must have at least 30% local equity participation.

<b>5. Sector or Matter:</b>	Fishery – Local equity requirements *
<b>Industry Classification Codes:</b>	ISIC Section A, Division 03
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Fisheries Act (Cap 61)</li> <li>• Fisheries (Fish Culture Farms) Regulations, 2002</li> <li>• Fisheries (Fish Landing Complexes) Regulations, 2002</li> <li>• Fisheries (Fish Processing Establishments) Regulations, 2002</li> <li>• Fisheries Limits Act (Cap 130)</li> </ul>
<b>Succinct Description of the Measure:</b>	All foreign investment in this Sector that utilizes Government sites as provided for by the Department of Fisheries of Brunei Darussalam must have at least 30% local equity participation.

<b>6. Sector or Matter:</b>	Forestry – except logging and sawmilling – Local equity requirements*
<b>Industry Classification Codes:</b>	ISIC Section A, Division 02, Class 0210, Class 0230 & Class 0240
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Forest Act (Cap 46)</li> <li>• National Forestry Plan</li> </ul>
<b>Succinct Description of the Measure:</b>	All foreign investment in this Sector must have at least 30% local equity participation.



The Sectors or Matters specified in Annex 5

1. All Sectors – Matters relating to royal decree or ‘titah’ of His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam.
2. All Sectors – Matters relating to commercialisation of projects, Privatization or divestment of assets owned by the Government.
3. All Sectors – Matters relating to licensing requirements
4. All Sectors – Matters relating to the transfer or disposal of equity interests or assets of a state enterprise, a government entity, or a government-linked company.
5. All Sectors – Matters relating to the provision of subsidies or grants provided by Brunei Darussalam or the continued receipt of such subsidies or grants.
6. All Sectors – Matters relating to food security and those utilizing local resources.
7. All Sectors – Matters relating to land transactions
8. All Services Sectors
9. All Sectors – Matters relating to ASEAN Agreements
10. All Sectors – Matters relating to the Trans Pacific Strategic Economic Partnership
11. Fishery
12. Forestry – Logging and sawmilling
13. Mining & Quarrying – Oil and Gas Upstream Activities

Note: For the purposes of this Information, the industry classification codes used are based on the International Standard Industrial Classification of All Economic Activities (ISIC), Revision 4, as approved by the UN Statistical Commission on March 2006.

<b>1. Sector or Matter:</b>	All Sectors – Matters relating to royal decree or ‘titah’ of His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	Constitution of Brunei Darussalam, Article 4(1), 39, 83(3) and 84(2).
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure as may be stipulated by royal decree or ‘Titah’ of His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam.
	<u>Note:</u> Any amendment or modification of an existing measure or adoption of a new measure shall not be more restrictive to existing investors of Japan and their investments than the measure applied to such investors or investments immediately before such amendments or modification or adoption.

<b>2. Sector or Matter:</b>	All Sectors – Matters relating to commercialisation of projects, privatization or divestment of assets owned by the Government
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Long-Term Development Plan</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure affecting the commercialisation of projects, privatisation, corporatisation, or divestment of assets owned by the Government.

<b>3. Sector or Matter:</b>	All Sectors – Matters relating to licensing requirements
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Long-Term Development Plan</li> <li>• Miscellaneous Licenses Act (Chapter 127)</li> <li>• Industrial Coordination Order 2001</li> <li>• Poisons Act (1984 ed)</li> <li>• Petroleum Mining Act (Chapter 44)</li> <li>• Administrative Directives and Guidelines</li> <li>• Telecoms Order 2001</li> <li>• Authority for Info-Communications Technology Industry of Brunei (AITI) Operational Handbook</li> <li>• Architects, Professional Engineers and Quantity Surveyors, Order 2008</li> </ul>
<b>Succinct Description of the Measure:</b>	<p>Brunei Darussalam reserves the right to adopt or maintain any measure on imposing licensing requirements on any business activity, including the regulation and control of such business activity, and to approve and reject the application of such licenses by foreigners, in accordance with its relevant laws and national policies.</p> <p><u>Note 1:</u> This includes application of licenses for new business activities and application for renewal of licenses for existing business activities.</p> <p><u>Note 2:</u> This reservation shall not include local equity requirements as provided for in Annex 4.</p>

<b>4. Sector or Matter:</b>	All Sectors – Matters relating to the transfer or disposal of equity interests or assets of a state enterprise, a government entity, or a government-linked company
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Long-Term Development Plan</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure with respect to the transfer or disposal of equity interests or assets of a state enterprise, a government entity, or a government-linked company (GLC) of Brunei Darussalam.

<b>5. Sector or Matter:</b>	All Sectors – Matters relating to the provision of subsidies or grants provided by Brunei Darussalam or the continued receipt of such subsidies or grants
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Long-Term Development Plan</li> <li>• Investment Incentives Order 2001</li> <li>• Income Tax Act (Cap 35)</li> <li>• Income Tax (Amendment) Order 2001</li> <li>• Custom Act (Cap 36)</li> <li>• Customs Order 2006, including any Subsidiary Legislation</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure with respect to the provision of loans, grants, incentives and other subsidies or to any conditions attached to the receipt or the continued receipt of such subsidies or grants, whether or not such loans, grants, incentives and subsidies are offered exclusively to domestic investors and investments.

<b>6. Sector or Matter:</b>	All Sectors – Matters relating to food security and those utilizing local resources
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	There is no existing source of measure as of 31 <sup>st</sup> July 2008.
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure with respect to activities which relate to national food security and those using local resources.

<b>7. Sector or Matter:</b>	All Sectors – Matters relating to land transactions
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• Land Code, Revised Edition 1984 (Chapter 40)</li> <li>• Land Code (Strata), Revised Edition 2000 (Chapter 189)</li> <li>• The Control of Subdivision and Consolidation of Land Regulation 1973</li> <li>• The Control of Development and Use of Land and Building Regulation 1974</li> <li>• Town and Country Planning Act 1972</li> <li>• Caveat Act (Draft)</li> <li>• Estate Agent and Developers Act (Draft)</li> </ul>
<b>Succinct Description of the Measure:</b>	<p>Brunei Darussalam reserves the right to adopt or maintain any measure affecting all land transactions and use, including ownership and lease of land of property, and conditions on which such land shall be held, including the use of natural resources associated with such land, as subject to approval and consent by His Majesty-in-Council.</p> <p>Brunei Darussalam reserves the right to adopt or maintain any measure affecting subdivision and consolidation of land, land use land planning and earthwork and building applications on state and private land.</p>



<b>8. Sector or Matter:</b>	All Services Sectors
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	National Treatment (Article 57) Most Favoured Nation Treatment (Article 58)
<b>Source of the Measure:</b>	There is no existing source of measure as of 31 <sup>st</sup> July 2008.
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure relating to investments in services, on condition that such measures do not constitute a violation of its obligations under Chapter 6 (Services) including National Treatment and Most Favoured Nation Treatment.

<b>9. Sector or Matter:</b>	All Sectors – Matters relating to ASEAN Agreements
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	Most Favoured Nation Treatment (Article 58)
<b>Source of the Measure:</b>	There is no existing source of measure as of 31 <sup>st</sup> July 2008.
<b>Succinct Description of the Measure:</b>	Most Favoured Nation Treatment may not be accorded to investors of Japan and their investments with respect to preferential treatment granted under any ASEAN agreement.
	<u>Note:</u>
	If Brunei Darussalam enters into an ASEAN agreement on investment after this Agreement comes into force, it shall, upon the request of Japan, consider according to investors of Japan and their investments treatment no less favourable than that it accords, in like circumstances, to investors of an ASEAN member country and their investments pursuant to such ASEAN agreement.

<b>10. Sector or Matter:</b>	All Sectors – Matters relating to the Trans Pacific Strategic Economic Partnership
<b>Industry Classification Codes:</b>	-
<b>Obligations under this Agreement:</b>	Most Favoured Nation Treatment (Article 58)
<b>Source of the Measure:</b>	There is no existing source of measure as of 31 <sup>st</sup> July 2008.
<b>Succinct Description of the Measure:</b>	Most Favoured Nation Treatment may not be accorded to investors of Japan and their investments with respect to preferential treatment granted under the Trans-Pacific Strategic Economic Partnership, for a period of three (3) years from the date of entry into force of this Agreement.
	<u>Note:</u> Both Parties shall, upon the request of either Party, review this reservation before the expiry of the abovementioned duration.

<b>11. Sector or Matter:</b>	Fishery
<b>Industry Classification Codes:</b>	ISIC Section A, Division 03
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Long-Term Development Plan</li> <li>• Fisheries Act (Cap 61), including any Subsidiary Legislation</li> <li>• Brunei Fishery Limits Act (Cap 130)</li> <li>• Proclamation of Exclusive Economic Zone</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	<p>Brunei Darussalam reserves the right to adopt or maintain any measure relating to any fishery activity in its Area, including its Exclusive Economic Zone (EEZ).</p> <p><u>Note:</u> This reservation shall not include local equity requirements as provided for in Annex 4.</p>

<b>12. Sector or Matter:</b>	Forestry – Logging and sawmilling
<b>Industry Classification Codes:</b>	ISIC Section A, Division 02, Class 0220
<b>Obligations under this Agreement:</b>	National Treatment (Article 57)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• National Development Plan</li> <li>• Long-Term Development Plan</li> <li>• Forest Act (Cap 46), including any Subsidiary Legislation</li> <li>• National Forestry Policy (1990)</li> <li>• Administrative Directives and Guidelines</li> </ul>
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure relating to the development, conservation and sustainable management of forest resources.

<b>13. Sector or Matter:</b>	Mining & Quarrying – Oil and Gas Upstream Activities
<b>Industry Classification Codes:</b>	ISIC Section B, Division 06
<b>Obligations under this Agreement:</b>	National Treatment (Article 57) Most Favoured Nation Treatment (Article 58)
<b>Source of the Measure:</b>	<ul style="list-style-type: none"> <li>• Petroleum Mining Act (Cap 44)</li> <li>• Petroleum (Pipelines) Act (Cap 45)</li> <li>• Brunei National Petroleum Company Order 2002</li> <li>• Income Tax (Petroleum) Act (Cap 119)</li> <li>• Administrative Directives and Guidelines</li> <li>• Pollution Control Order 2008 (Draft)</li> </ul>
<b>Succinct Description of the Measure:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure relating to the oil and gas upstream activities.