

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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Group of Negotiations on Services

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COMMUNICATION FROM MALAYSIA

Revised Conditional Offer from Malaysia

Revision

The following communication is circulated at the request of the permanent delegation of Malaysia to the members of the Group of Negotiations on Services.

I. Preamble

1. Malaysia hereby submits a revised conditional offer on initial commitments as indicated in the schedule attached, replacing its offer dated 17 and 27 March 1992 (MTN.GNS/W/122/Rev.1 and Corr.1). In making this offer, Malaysia maintains the right to modify, refine and make technical changes to, or withdraw in whole or parts of this revised offer.
2. This offer will only enter into force at the time of the entry into force of the General Agreement on Trade in Services.
3. All sections in this submission form an integral part of this revised offer.

II. Measures of general application

1. Land

Land is a state matter. The acquisition, disposal and dealings of certain types of land by non-citizens and foreign companies are subject to state laws. Under the National Land Code foreigners and/or foreign companies are allowed to acquire and own industrial land without requiring prior authorization. Approval is however required for the acquisition, disposal and dealings by foreigners and/or foreign companies of land under the categories of "buildings" and "agriculture". The guidelines for the acquisition, dealings and disposal of such land are being finalized. Approval is normally granted for productive purposes as determined by the relevant Federal and State authorities, and upon fulfilment of prerequisite criteria; whilst dealings in land for speculative purposes is strictly prohibited. The acquisition, disposal and dealings in respect of other types of land such as "Native Land", "Malay Reservation Land", "Sultanate Lands" and "Customary Land" are subject to restrictions and prohibitions.

GATT SECRETARIAT

UR-93-0051

2. Investment

(a) The following types of investment proposal require the approval of the Foreign Investment Committee (FIC):

- (i) any proposed acquisition of immovable properties;
- (ii) any proposed acquisition of 15 per cent or more of the voting rights by any single foreign interest or associated group or by any foreign interest in the aggregate of 30 per cent or more of the voting power of a Malaysian company or business. Such acquisitions include subscriptions or conversion of securities;
- (iii) any proposed acquisition of assets or any interests, mergers or take-overs of companies or businesses in Malaysia by any means which will result in ownership or control passing to foreign interests;
- (iv) control of Malaysian companies and business through any form of joint-venture agreement, management agreement and technical assistance agreement or other arrangements;
- (v) any merger or take-over of any company or business in Malaysia;
- (vi) any other proposed acquisition of assets or interest exceeding in value of RM 5 million.

(b) FIC in approving the proposal may impose certain conditions such as equity restructuring, a minimum holding period for immovable properties and the approval of other relevant authorities.

3. Presence of juridical persons

(a) Where local incorporation is offered in the mode "Presence of Juridical Persons", at least two directors of the commercial entity shall have their principal or only place of residence in Malaysia.

(b) Where the employment of full time Malaysian staff is a requirement in the offer, the juridical person shall ensure that the employment structure shall reflect the racial composition of the population.

4. Regulation on entry and temporary presence of natural persons

Where temporary presence of natural persons are offered it means that such persons may enter and have temporary stay in the territory of Malaysia for the period approved subject to meeting regulations, conditions and requirements of the authorities regarding entry and temporary stay. The offer does not apply in those cases where the intent of such movement and presence is to affect or otherwise affect the outcome of labour/management disputes. Furthermore, so as to give effect to Malaysia's offer on presence of natural persons, persons and companies sponsoring or employing such natural persons shall provide, upon requests by the Malaysian authorities, details regarding such persons.

SCHEDULE OF COMMITMENTS OF MALAYSIA

All Sector Offer
Presence Of Natural Persons

The following category of persons are allowed to enter and temporarily stay in Malaysia:

- (a) **business visitor**, as defined below:

'Business visitors' - Natural persons of a member not based in the territory of Malaysia and receiving no remuneration from a source located within Malaysia, who have been employed for at least one year by a juridical person who is a service supplier of a member and whose entrant and temporary stay are for the purpose of selling or negotiating for the sale of services, entering into agreement to sell services for that service supplier, and where these representations will not engage in direct sales to the general public.

Unbound for other categories, unless otherwise specified in the schedules.

All sector Limitation

Where National Treatment is being offered, it shall exclude any measure and incentive granted to Bumiputera, Bumiputera status companies, trust companies and institutions set up to meet the objective of the New Economic Policy (NEP) and the National Development Policy (NDP).

Transparency

The offers in the Non-Financial services sectors, wherever possible, is in accordance with the United Nations Provisional Central Product Classification system.

Conditions And Qualifications On National Treatment.

<u>PROFESSIONAL SERVICES</u>	1. Accounting and auditing services.	1. (1) Foreign based accountants and auditors prohibited from servicing local accounts except as provided in 1(1);	(11) Auditing of off-shore banking and insurance institutions established in Labuan under the Offshore Banking Act and the Offshore Insurance Act requires the approval of the Central Bank.	(3) Commercial presence (4) Presence of natural persons
Sector or Sub-sector	Key:	(1) Cross-border supply (2) Consumption abroad		

2. (1) Foreign based accountants and auditors prohibited from servicing local accounts except as provided in 1(iii);
- (ii) Auditing of off-shore banking and insurance institutions established in Labuan under the Offshore Banking Act and the Offshore Insurance Act requires the approval of the Central Bank.
3. (i) only through a joint-venture with Malaysian accountants or Malaysian accounting firms;
- (ii) Aggregate foreign share holding in the firm is limited to 30%; and
- (iii) principal or only place of residence within Malaysia.
4. (1) In respect of (3) (i), only the accountant who has been registered and who is a partner in the firm; or
- * Requirement of a licence to act as company auditors and receivers.
2. None
3. Unbound for accounts of government, government-owned companies and institutions.
4. With respect to 4 (ii), in order to practise accountancy and auditing in Malaysia, the following conditions must be met:

- (ii) Only the accountant who is employed by a juridical person in Malaysia subject to:
- (a) local availability test, and
 - (b) registration.
- (a) residency;
- (b) proficiency in the national language;
- (d) supervised practice.
- 2. Architectural Services**
1. Only a Malaysian registered architect shall submit plans, drawings etc to any person or authority in Malaysia.
2. Only a Malaysian registered architect shall submit plans, drawings etc to any person or authority in Malaysia.
3. (i) Only through joint-venture with Malaysian architects and be locally incorporated provided the following conditions are met:
- (a) Registration
 - (b) must be a citizen or permanent resident of Malaysia and has been residing in Malaysia for a period of not less than six months, prior to the date of application for registration; and
1. None
2. None
3. None

- (c) Aggregate foreign shareholding is limited to 30 per cent.
4. (1) In respect of (3)(i), only the architect who is a director of the body corporate; or
- (ii) only one management post per joint-venture subject to employment of at least 10 Malaysian full-time staff; or
- (iii) only an architect who is a consultant to a project, wholly financed by a foreign government, or implemented by a bilateral arrangement between governments, and for a period of up to one year.
4. With respect to 4(iii), in order to practise in Malaysia the following conditions must be met:
- (a) residency;
- (b) supervised practice;
- (c) proficiency in the national language.
1. Only a Malaysian registered professional engineer shall submit plans, drawings etc to any person or authority in Malaysia.
2. Only a Malaysian registered professional engineer shall submit plans, drawings etc to any person or authority in Malaysia.
1. None
2. None

3. Engineering Services

3. (1) Only through joint-venture with Malaysian registered engineers and be locally incorporated provided the following conditions are met:-
- (a) registration;
 - (b) must be a citizen or a permanent resident of Malaysia and at the time of application for registration has been residing in Malaysia for a period of not less than six months; and
 - (c) aggregate foreign shareholding is limited to 30 per cent.
3. None
4. (i) Only two foreign management posts per joint-venture subject to employment of at least 10 or more full-time Malaysian staff.
4. With respect to 4(i), in order to practise as an engineer in Malaysia the following conditions must be met:-
- (a) residency;
 - (b) registration;
 - (c) proficiency in the national language; and
 - (d) supervised practice.
- (ii) Only the engineer who is a representative of a joint-venture project.

- 4. Integrated services**
- Engineering including provision of consultancy services to project owners and management of construction projects from inception to completion, and which may include the selection and coordination of the work of the consultant, contractors and subcontractors involved in the construction project.
1. Only the respective Malaysian licensed / registered professionals shall submit plans, drawings etc to any person or authority in Malaysia.
2. Only the respective Malaysian licensed / registered professionals shall submit plans, drawings etc to any person or authority in Malaysia.
3. (i) Only through joint-venture with Malaysian-controlled companies and be locally incorporated; Aggregate foreign shareholding is limited to 30 per cent; and Registration subject to entry criteria.
3. (ii) Unbound for government, government-owned and institutions.
4. (i) Only with respect to 3(1), two foreign management posts per joint-venture subject to employment of at least 10 or more full-time Malaysian staff, including at least two licensed / registered professionals.
4. With respect to 4(1), in order to practise in Malaysia the following conditions must be met:-
- (a) residency;
- (b) supervised practice;
- (c) proficiency in the national language.

- (ii) With respect to entry of the foreign professional, only as an employee of the juridical person in Malaysia and subject to:-
(a) local availability test;
(b) registration.
5. **Landscape Architectural Services**
Limited to golf courses only.
1. None
2. None
3. None
4. (i) Only one foreign management post per establishment employing at least 10 or more full-time Malaysian staff; or
(ii) Only as a consultant and only on a project basis.
6. **Legal Services**
Limited to advice activity on foreign country law.
1. None
2. None
3. Unbound
4. Unbound

- 7. Legal Services'**
- 1. Provision of legal advisory services
 - 2. None
 - 3. (i) Establishment is confined to the Federal Territory of Labuan;
 - (ii) Registration with the relevant authorities is required;
 - (iii) Subject to entry requirements imposed by the relevant authorities.
- This offer will only be effected after all the necessary amendments to the various legislations and regulations have been passed by the Malaysian Parliament.
- Includes conveyancing.
- 1. None
 - 2. None
 - 3. (i) Practice of Malaysian law is not allowed.
 - (ii) Practice of Malaysian law by Malaysian law firms only through contractor arrangement with such firms.
 - 4. No limitation for foreign lawyers, but establishment must directly employ at least one (1) Malaysian lawyer.
 - 4. None
- 8. Medical Speciality Services**
- 1. Limited to forensic medicine, nuclear medicine, geriatrics, microvascular surgery, neurosurgery, cardiothoracic surgery, plastic surgery, clinical immunology & oncology, traumatology
 - 2. None
 - 3. Unbound
 - 4. (i) Market needs tests;
 - (ii) Only permitted to practise in private hospitals of at least 100 beds;
4. (1) In order to practise in Malaysia the following conditions must be met:-
- (a) residency;
 - (b) registration;
 - (c) supervised practice;

anaesthesiology (intensive care specialist), child psychiatry and physical medicine.	(iii) Only at a specified location; (iv) Has never been suspended / de- registered by any medical qualifying board; (v) May be subject to the compulsory subscription of malpractice insurance or a deposit of good faith/good conduct;	(d) proficiency in the national language. (ii) a change of location will require prior approval; and (iii) foreign nationals are not permitted to set up individual or join group practices.
* Footnote: An applicant, not registered with the MNC but registered outside Malaysia, can apply for temporary certificate of practice for a period not exceeding three months subject to such conditions/restrictions that the MNC may specify;		
<u>COMPUTER AND RELATED SERVICES</u>	9. Consultancy services related to the installation of computer systems	1. None 2. None 3. (i) Only through joint- venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated; Aggregate foreign share-holding in the company is limited to 30 per cent. 1. None 2. None 3. Unbound for accounts of government, government- owned companies and institutions.

4. Only one foreign management post per joint-venture employing a minimum of five full-time Malaysian staff including at least two systems engineers.
4. In order to practise a licensed profession in Malaysia, the following conditions must be met:
- (a) residency;
 - (b) proficiency in the national language; and
 - (c) supervised practice.
1. None
2. None
3. (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated;
- (ii) Aggregate foreign equity in the company is limited to 30 per cent.
1. None
2. None
3. Inbound for accounts of government, government-owned companies and institutions.
4. In order to practise a licensed profession in Malaysia, the following conditions must be met:
- (a) residency;
 - (b) proficiency in the national language.
10. Consultancy related to software implementation services, including systems & software installation services.
4. Only one foreign management post per joint-venture with a minimum of five full-time Malaysian staff, including at least two software engineers.

11. Computer Software development services
refers to the development and production of general purpose software and excludes custom-made software

- | | | | |
|--------|---|--------|---|
| 1. | None | 1. | None |
| 2. | None | 2. | None |
| 3. (1) | Only through a company incorporated and established in Malaysia; | 3. | None |
| (ii) | Foreign equity ownership of up to 100% can be allowed, subject to entry criteria, including minimum capital investment. | 4. (1) | In order to practise a licensed profession in Malaysia, the following conditions must be met: |
| | | (a) | residency; |
| | | (b) | proficiency in the national language. |
| 4. (i) | one key post can be considered for the first 5 years in a professional/graduates engaged directly in computer software development. | 4. (1) | In order to practise a licensed profession in Malaysia, the following conditions must be met: |
| (ii) | Expatriate posts can be considered subject to entry criteria including additional investment. | | |

RESEARCH AND DEVELOPMENT SERVICES

12. Advance Research And Development Services on:-
- (a) Resource-based industries;
(b) Commodities; and
(c) Processing, refining and manufacturing of commodities.
1. None
2. None
3. (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies and be locally incorporated;
(ii) Aggregate foreign shareholding is limited to 30 per cent;
(iii) The joint-venture and/or licensing agreement is subject to approval.
4. Only two foreign management posts per joint-venture employing at least 10 full-time Malaysian staff.
1. None
2. None
3. None
4. None

RENTAL/LEASING SERVICES WITHOUT OPERATORS

13. Leasing or rental services concerning sea-going vessels without operator exclude tugboats, pleasure boats, fishing boats and hovercraft.
1. (i) Vessels to be certified by classification societies or by countries having bilateral shipping agreements with Malaysia; and
1. None

- (ii) Entry into Malaysia subject to approval and **l i m i t a t i o n o n infrastructure capacity.**
2. None
3. Either:
- (i) Only through a representative office; or,
 - (ii) Only by appointment of a General Sales Agent who is a Malaysian-controlled company; and
 - (iii) permanent address in Malaysia with respect to 3(ii).
4. Only with respect to 3(ii), one technical post subject to:
- (a) local availability test;
 - (b) designation of a specified number of Malaysian trainees.
4. In order to practise a licensed profession in Malaysia, the following conditions must be met:
- (a) residency;
 - (b) registration;
 - (c) proficiency in the national language.
14. **Leasing or rental services concerning aircraft without operator**
1. (i) Aircraft to be certified:
- (ii) Entry into Malaysia is subject to approval and **l i m i t a t i o n o n infrastructure capacity.**

2. None
3. Either:
(i) Only through a representative office; or
(ii) Only by appointment of a General Sales Agent who is a Malaysian-controlled company; and
(iii) permanent address in Malaysia with respect to 3(1).
4. Only with respect to 3(iii), one technical post subject to:
(a) local availability test;
(b) designation of a specified number of Malaysian trainees.
4. (1) In order to practise a licensed profession in Malaysia, the following conditions must be met:
(a) residency;
(b) registration;
(c) proficiency in the national language.
15. Leasing or rental services concerning construction, engineering and mining equipment and/or machinery * without operator
1. None
2. None
3. Either:
(i) Only through a representative office; or
(ii) Only by appointment of a General Sales Agent who is a Malaysian-controlled company; and

- * In specified cases, machines and / or equipment may require type approval by standard setting authorities
 - (iii) permanent address in Malaysia with respect to 3(1).
 - 4. Only with respect to 3(iii), one technical post subject to:
 - (a) Local availability test;
 - (b) designation of a specified number of Malaysian trainees.
 - 4. (i) In order to practise a licensed profession in Malaysia, the following conditions must be met:
 - (a) residency;
 - (b) registration;
 - (c) proficiency in the national language.

OTHER BUSINESS SERVICES

16. Advertising services
 - Cover planning, creating and placement services of advertising in periodicals, newspaper, radio and television for clients.
 - Do not include production for radio, television, cinema or for outdoor advertising
1. Placement of advertisements shall be made through local media firms/companies.
 - 1. None
 - 2. None
 - 3. (i) only through joint-venture with Malaysian individuals or Malaysian-controlled companies and be locally incorporated; or
 - (ii) only through acquisition of interest or subscription in an existing advertising company; and

- (iii) Aggregate foreign shareholding is limited to 30 per cent for 3(i) and 3(ii).
4. Only the advertising professional subject to:
(i) local availability test.
(ii) designating a specified number of Malaysian trainees.
17. Management Consulting Services in non-traditional/non-conventional energy
- Cover advisory, guidance and operational assistance services concerning management of the transmission of non-conventional energy.
1. None
2. None
3. (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies and be locally incorporated;
(ii) Aggregate foreign shareholding is limited to 30 per cent.
4. only two foreign management posts per joint-venture employing at least 10 full-time Malaysians, including professional and technical staff.
4. None

- 18. Consultancy in Environment Management Services, including Risk Assessment Management Services.**
1. None 2. None
3. (1) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated;
(ii) Aggregate foreign shareholding is limited to 30 per cent.
3. Unbound for accounts of government, government owned companies and institutions.
4. Only two foreign management posts per joint-venture employing at least 10 or more full-time Malaysian staff, including professional and technical staff.
4. None
- 19. Pharmaceutical consultancy service in the following areas:-**
1. None 2. None
3. (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies and be locally incorporated;
(ii) Aggregate foreign shareholding is limited to 10 per cent.
- (a) basic material manufacturing consultancy in the manufacture of drugs in raw material form;
(b) new systems of drug delivery;

(c) Biotechnology - new techniques for influencing the process and products of living cells and the role of new techniques in new drug development and new methods of producing drugs; and vaccine production.	4. Only one foreign management post per joint-venture.	4. (i) In order to practise a licensed profession in Malaysia, the following conditions must be met:			
		(a) residency;			
		(b) proficiency in the national language; and			
		(c) supervised practice.			
20. Student Placement Services*					
Cover promoting, recruiting and facilitating of students for studies overseas.	1. None	1. None			
	2. None	2. None			
	3. Only through a sponsor who is a Malaysian-controlled company;	3. None			
		4. None			
	4. Only the representative of the educational institution (promoter) subject to a bond/guarantee and for the duration of the promotion only.				

* Without prejudice to government recognition of degrees/diplomas/certificates and any qualifications from any foreign institutions.

- 21. Market research and public opinion polling services**
1. None
 2. None
 3.
 - (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated;
 - (ii) Aggregate foreign shareholding is limited to 30 per cent.
 4. Only two foreign management posts per joint-venture employing at least 10 or more full-time Malaysian staff.
- 22. Translation and Interpretation Services**
- Limited to languages approved by the National Translation Bureau.
1. None
 2. None
 3. Unbound
 4. (i) only professional translators and interpreters possessing the qualifications, recognised by the National Translation Bureau (NTB); and
 - (ii) Local availability test.
 1. None
 2. None
 3. Unbound
 4. (i) Provision of service is prohibited for translation and/ or interpretation involving the following:-
 - English to Malay and vice versa;
 - Any foreign language to Malay and vice versa.

23. Hotel/Tourist Resort Management Services	1.	Not applicable	1.	Not applicable
	2.	None	2.	None
	3. (i)	only through a joint-venture with Malaysian individuals, or Malaysian-controlled companies and be locally incorporated and aggregate foreign equity limited to 30 per cent;	3.	None for joint venture. Unbound for branch.
	(ii)	only through a branch;	4.	None
24. Convention and Exhibition Management Services	(iii)	A minimum capital requirement may be required for branch, and;	1.	None
	(iv)	Management/technical agreement requires approval.	2.	None
	4.	Only one foreign management post per joint-venture.	4.	None
	5.	None	1.	None
6.	6.	None	2.	None
	7.	None	3.	Unbound for accounts of government.
	8.	None	9.	None

- (iii) Aggregate foreign shareholding is limited to 30 per cent.
- 4. Only one foreign management post per joint-venture employing at least 10 full-time Malaysian staff, including at least two(2) management staff.
- 4. None

TELECOMMUNICATION SERVICES

In respect of the offer on telecommunications services as specified below, the following additional measures shall apply: Applications for a licence will not be considered from companies which do not meet a minimum paid-up capital requirement; the provision of the service is subject to market needs test and licensing which shall specify the type of service(s) to be provided; services have to be provided from licensed network operators; simple resale is not allowed.

- 25. Data and transmission services, wrt: Value added services, such as Electronic Mail; Voice Mail, On-Line Information and Data-Base Retrieval, Enhanced/Value-Added Facsimile Services, Code and Protocol Conversion.
 - 1. None
 - 2. None
 - 3. (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and to be locally incorporated; or
 - 1. None
 - 2. None
 - 3. None

- (ii) only through acquisition of interests or subscription in an existing VAS company; and,
 - (iii) Aggregate foreign shareholding is limited to 30 per cent for 3(i) and 3(ii).
- 4.(i) Only two foreign management post per joint-venture employing at least 10 full-time Malaysian staff, one of whom must be designated as a manager (with a relevant degree in engineering or related sciences).
- 4.(1) In order to practise a licensed profession in Malaysia, the following conditions must be met:
(a) residency;
(b) proficiency in the national language; and
(c) supervised practice.
26. Mobile Data services *
- 1. None
 - 2. None
 - 3. (i) only through joint-venture with Malaysian individuals, or Malaysian-controlled companies and to be locally incorporated; or

- (ii) Only through acquisition of interests or subscription in an existing VAS company; and,
 - (iii) Aggregate foreign shareholding is limited to 30 per cent for 3(1) and 3(1).
 - 4. Only one foreign management post per joint-venture employing at least 10 full-time Malaysian staff, one of whom must be designated as a manager (with a relevant degree in engineering or related sciences).
 - * provision of mobile data services subject to frequency availability.
4. (i) In order to practise a licensed profession in Malaysia, the following conditions must be met :
- (a) residency;
 - (b) proficiency in the national language; and
 - (c) supervised practice.
1. None
2. None
3. (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies and be locally incorporated; or
- 27. Telex Services Telegraph Services**
1. None
2. None
3. None

- (iii) only through acquisition of interests or subscription in an existing telex/telegraph company; and
- (iii) Aggregate foreign shareholding is limited to 30 per cent for 3(i) and 3(iii).
4. Only one foreign management post per joint-venture employing at least 10 full-time Malaysian staff, one of whom must be designated as a manager (with a relevant degree in engineering or related sciences).
4. (i) In order to practise a licensed profession in Malaysia the following conditions must be met:
- (a) residency;
 - (b) proficiency in the national language; and
 - (d) supervised practice.
1. None
2. None
3. (i) only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated;
- (ii) Aggregate foreign shareholding is limited to 30 per cent.
28. Consulting services related to IVAN, Rural Telecom Development; HRD
1. None
2. None
3. None

4. Only two foreign management posts per joint-venture employing at least 10 full-time Malaysian staff.
4. (1) In order to practise a licensed profession in Malaysia, the following conditions must be met:
- (a) residency;
 - (b) proficiency in the national language; and
 - (c) supervised practice.

AUDIOVISUAL SERVICES

29. **audiovisual services** cover the distribution of motion pictures, video tapes and sound recording for television
- Do not include production of motion pictures, video tapes or sound recording, and their ancillary services, or the ownership or operation of television or broadcasting.
1. (1) 20 per cent screen quota on foreign footage;
- (ii) Requirement of religious, cultural, national language and education specificity;
 - (iii) Public service functions may be imposed; and
 - (iv) Dubbing into the national language may be required.
2. None
3. (1) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies and be locally incorporated;
1. Unbound for government-owned channel/networks
2. None
3. Unbound

- (iii) Aggregate foreign shareholding is limited to 30 per cent.
4. unbound
30. **Television broadcast transmission services.**
1. (1) 20 per cent screen quota on foreign footage;
- (ii) Requirement of religious cultural, national language and education specificity;
- (iii) Public service functions may be imposed; and
- (iv) Dubbing in the national language may be required.
1. Unbound for government-owned channel/networks
2. None
3. Not applicable
4. Not applicable
- CONSTRUCTION AND RELATED ENGINEERING SERVICES**
31. **Construction Work, including provision of services to implement construction works**
1. Only a Malaysian licensed / registered professional shall submit plans, drawings etc to any person or authority in Malaysia.

2. Only a Malaysian licensed / registered professional shall submit plans, drawings etc to any person or authority in Malaysia.
3. (i) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated; or,
- (ii) Only through acquisition of interests or subscription in an existing construction company; and,
- (iii) Aggreate foreign shareholding is limited to 30 per cent for 3(i) and 3(ii).
4. (i) Only with respect to 3(i), two foreign management posts per establishment employing at least 10 full-time Malaysian staff; with respect to 3(ii) and 3(iii), employment of foreign professionals shall be subject to:
- (a) local availability test
- (b) temporary registration
2. None
3. Unbound for projects of government, owned companies and institutions
4. With respect to 4(iii), the following conditions must be met:
- (a) residency;
- (b) registration;
- (c) proficiency in the national language, and
- (d) supervised practice

HOSPITAL SERVICES

32. Private Hospital Services

- | | |
|---------|---------|
| 1. None | 1. None |
| 2. None | 2. None |
3. (1) Economic needs test;
(1) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated;
(ii) The joint-venture is limited to a minimum of 100-bed hospitals;
(iv) Aggregate foreign shareholding is limited to 30 per cent;
(v) Range of medical services provided by the hospitals may be limited in future on religious and moral grounds.
3. (i) Not permitted to set up feeder outpatient clinics;
(ii) Prior approval shall be obtained from the government authority for any expansion of private hospitals with foreign equity.
4. (1) In order to practise a licensed profession in Malaysia, the following conditions must be met:
(a) residency;
(b) registration;
(c) proficiency in the national language; and
(d) supervised practice.
4. only one foreign management post per joint-venture employing at least 200 full-time Malaysian staff; additional post for the next 300 staff subject to a maximum of two posts.

FINANCIAL SERVICES INCLUDING INSURANCE

General Conditions and Qualifications

1. The offers in the financial services sector are in accordance with the Annex on Financial Services.
2. These general conditions and qualifications are an integral part of the offers in the financial services sector and are applicable only to services supplied through the mode of commercial presence and movement of natural persons.
3. In respect of offshore banks, commercial banks, merchant banks, offshore insurance and offshore reinsurance companies, insurance companies, or representative offices of commercial banks and merchant banks, the following conditions and limitations on market access, national treatment and movement of natural persons shall apply in addition to specific limitations to the activity of each financial service as specified in each offer.

A. MARKET ACCESS

(a) OFFSHORE BANKS AND OFFSHORE INSURANCE AND REINSURANCE COMPANIES

- (1) Entry is confined to the Federal Territory of Labuan.
- (1) An offshore bank or offshore insurance company or reinsurance company in Labuan requires local incorporation or the setting up of a branch.

(b) COMMERCIAL BANKS AND MERCHANT BANKS

- (1) Entry is permitted only through equity participation in existing locally-incorporated commercial banks and merchant banks or through the setting-up of representative offices.
 - (ii) Unbound for new licences for commercial banks and merchant banks.
 - (iii) Aggregate foreign shareholding in a commercial bank or a merchant bank shall not exceed 30%.
 - (iv) Existing foreign bank branches of commercial banks, after local incorporation, are allowed to be wholly-owned by the existing banks.

- (v) Acquisition of 5% or more of shareholding in a locally incorporated commercial bank or merchant bank requires approval.
 - (vi) Acquisition of shares in each bank is subject to fulfillment of entry requirements. Such requirements would include strength of presence in non-banking areas in Malaysia; fair geographical representation; ability to facilitate trade and contribute to financial and economic development in Malaysia.
 - (vii) An institution owned or controlled by a foreign Government or an agency of such a Government is not allowed to control a commercial bank or a merchant bank in Malaysia.
 - (viii) A licensed financial institution in Malaysia is not allowed to acquire a commercial bank or a merchant bank, but a commercial bank may acquire a merchant bank. A person holding 5% or more of the shares of a licensed financial institution in Malaysia is not allowed to acquire 5% or more of the shares of another commercial bank and merchant bank.
 - (ix) Unbound for appointment of commercial banks and merchant banks as Principal Dealers.
- (c) INSURANCE COMPANIES
- (i) Entry is permitted only through equity participation in existing locally-incorporated insurance companies.
 - (ii) Unbound for new licences for insurance and reinsurance companies.
 - (iii) Aggregate foreign shareholding in an existing locally incorporated insurance company shall not exceed 30%. Shareholding by an individual is limited to 10% and non-individual to 20%.
 - (iv) Local incorporation of existing foreign branches is required and aggregate shareholding of the parent company is limited to 30% shareholding by an individual is limited to 10% and non-individual to 20%.
 - (v) Acquisition of 5% or more of shareholding in a locally incorporated company requires approval.
 - (vi) An insurance company is not allowed to acquire a licensed insurance broking company or another insurance company that carries on the same class of insurance business as that carried on by it. A person holding 5% or more of the shares of an insurance company is not allowed to acquire 5% or more of the shares of another insurance company carrying on the same class of insurance business as that carried on by the insurance company or a licensed insurance broking company of which he is a shareholder.
 - (vii) Acquisition is limited to insurance companies upon fulfillment of entry requirements. Such requirements would include strength of presence in non-bank and non-insurance areas in Malaysia; fair geographical representation; ability to contribute to financial and economic development in Malaysia.

(d) REPRESENTATIVE OFFICES OF COMMERCIAL BANKS AND MERCHANT BANKS

Representative offices can only undertake research, exchange of information and liaison services. They are not permitted to carry on commercial banking or merchant banking business.

B. NATIONAL TREATMENT

- (a) No limitation for offshore banks and off shore insurance companies (life and non-life) in Labuan.
 - ((b)) Unbound for commercial banks.]
 - ((c)) For merchant banks, only if the bank is 70% owned by Malaysians, of which 30% is bumiputera or Government owned.]

C. PRESENCE OF NATURAL PERSONS

- (a) Unless otherwise specified, temporary movement of natural persons is offered only in respect of supply through the mode of commercial presence.
- (b) No limitation for offshore banks and off shore insurance companies (life and non-life) in Labuan.
- (c) For commercial banks and merchant banks:
 - (i) One foreign national for a foreign-owned commercial bank or merchant bank. Additional foreign nationals are subject to labour market test and eligibility criteria.
 - (ii) For Malaysian-owned banks, foreign nationals are limited to specialised jobs, subject to labour market test and eligibility criteria.
- (d) For a representative office, one foreign national for a management post.
- (e) For insurance companies (life and non-life):
 - (i) For a foreign-owned company, one foreign national to reflect all foreign equity interests, but shall not occupy the CEO position. Additional posts to provide technical expertise, subject to labour market test and eligibility criteria.
 - (ii) For a Malaysian-owned company, foreign nationals are limited to specialised jobs, subject to labour market test and eligibility criteria.

A. BANKING SUB-SECTOR

**3.3. Acceptance of deposits,
and other repayable
funds from the public,
wholesale and retail.**

1. Soliciting, advertising and acceptance of deposits in Malaysia are not allowed.
 1. None.
2. Soliciting and advertising for deposits in Malaysia are not allowed.
 2. None.
3. (i) Only permitted through institutions licensed as a commercial bank, a merchant bank or an offshore bank.
 - (ii) Offshore banks in Labuan are permitted to accept foreign currency deposits only.
 - (iii) Merchant banks are only permitted to accept term deposits from non-individuals. The minimum amount of each term deposit shall be as specified by the Central Bank from time to time.
4. None.

34. Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions

1. (i) Factoring services, building credit, development finance and venture capital finance require commercial presence. Lending of money is subject to Moneylenders Ordinance. Lending of all types require approval of Central Bank.
2. None

3. (i) Loans syndication, factoring, building credit, development finance, venture capital finance and lending through credit cards require approval of the Central Bank.
 - (ii) Except for loan syndication, entry as non-banks for provision of the services in 3(i) above requires local incorporation, with aggregate foreign ownership in such a company limited to 30% and confined to foreign financial institutions.
3. (ii) Non-resident controlled companies are permitted to obtain up to a maximum of 40% of their total credit facilities (including factoring and leasing) from foreign owned banks in Malaysia. (60% must be sourced from Malaysian owned institutions).

- (iii) Provision of factoring services by a commercial bank requires the setting up of a separate entity and subject to approval by the Central Bank.
- (iv) Establishment of a representative office in relation to each of the services in 3(1) above, requires approval of the Central Bank.
- (v) For merchant banks, consumer credit and home mortgages are not permitted.
- (vi) overdraft facilities are not permitted, except when supplied by a commercial bank.
- (vii) Offshore banks are permitted to lend in foreign currencies only.
- 4. For non-banks, one foreign national for a management post other than the CEO, for each establishment. For representative offices of factoring services, building credit and development finance services, one foreign national for a management post.
- 4. Residency requirements are necessary for lending of money.

35. Financial leasing

1. Requires commercial presence
 1. None
 2. None
 3. (1) Entry is limited to foreign financial institutions and requires local incorporation with aggregate foreign ownership in each company limited to 30%. Approval of the Central Bank is required.
 - (i) Leasing operations by a commercial bank requires setting-up a separate entity and subject to approval of the Central Bank.
 - (ii) Establishment of a representative office requires approval of the Central Bank.
 4. For a non-bank, one foreign national for a management post other than the CEO, for each establishment. For leasing representative offices, one foreign national for a management post.

36. All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts
1. Services through electronic fund transfer systems require approval of the Central Bank.
 1. None
 2. None
 3. (i) Offshore banks are permitted to extend payment and money transmission services to non-residents only.
 - (ii) Issue of credit cards and debit cards are not allowed, other than by commercial banks.
 - (iii) Sale and purchase of travellers cheques requires approval of the Central Bank.
 - (iv) Unbound for issue of travellers cheques.
 - (v) Checking account services can only be provided by a commercial bank in Malaysia.
 4. For non-banks, one foreign national for a management post other than the CEO post, for each establishment.
 1. None
 2. None
 3. (i) Unbound for ATM installed by commercial banks.
 4. None

- 37. Guarantees and commitments**
1. Guarantees require approval of the Central Bank.
 1. None
 2. None
 3. None
 4. None
- 38. Trading for own account or account of customers in the following:**
- money market instruments
 - foreign exchange
 - transferable securities
 - exchange rate and interest rate instruments
 - derivative products, including futures and options
 - other negotiable instruments, including bullion
1. Requires approval of Central Bank.
 1. None
 2. None
 2. None
 3. (i) Transactions by offshore banks in Labuan must be conducted in foreign currencies, except for the sale and purchase of currencies with authorised banks in Malaysia. Transactions for own account are limited to instruments created and issued abroad.
 - (ii) Trading for accounts of customers by offshore banks and offshore companies in Labuan is confined to non-resident customers and instruments created and

issued abroad. Trading in shares of Malaysian companies is confined to non-resident customers who are not offshore companies registered or incorporated in Labuan.

- (iii) Trading for own account and customers' accounts by commercial banks and merchant banks in respect of all instruments, except bullion requires approval.
- (iv) Trading in foreign currency is not permitted, except by commercial banks and offshore banks.
4. For non-banks, one foreign national for a management post other than the CEO post, for each establishment.
39. Participation in issues of all kinds of securities, including underwriting and placement as agents (whether publicly or privately) and provision of services related to such issue
- | | |
|---|---------|
| 1. Participation in issues and services related to such issues requires approval. | 1. None |
| 2. None | 2. None |

3. (1) participation by offshore banks in Labuan is limited to non-resident customers and for issues of securities outside Malaysia.
- (ii) participation by commercial banks and merchant banks requires approval. Underwriting requires approval.
4. For non-banks, one foreign national for a management post other than the CEO post, for each establishment.
1. None
2. None
3. (1) Entry only through equity participation in existing institutions, with an aggregate foreign shareholding in each institution limited to 30%, and shareholding by an individual limited to 10% and non-individual to 20%.
- (ii) Unbound for new licences.
4. Unbound
3. None
4. None
1. None
2. None
3. None
4. Unbound

40. Money and foreign exchange broking services

41. Asset management as follows:
- cash or portfolio management,
 - all forms of collective investment management,
 - custodial and depository services
1. Requires approval.
1. None
2. None
3. (i) Asset management by offshore banks and offshore companies is confined to non-resident customers and foreign currency assets. Asset management by offshore banks and offshore companies in Malaysian equities or equity linked investments are confined to non-residents which are not offshore companies registered or incorporated in Labuan.
(ii) Entry requires local incorporation with foreign shareholding in a company limited to 30%.
- (iii) Custodial and depository services for money market instruments require approval of the Central Bank.
- (iv) Collective investment requires approval.

- (v) Assets management by a commercial bank is permitted through the establishment of a separate entity with prior consent of the Central Bank. The shareholding by the foreign commercial bank is limited to 30%. The conduct of asset management business requires separate approval.
4. For non-banks, one foreign national for a management post other than the CEO post, for each establishment.
42. Advisory, intermediation and other auxiliary financial services on all the activities listed in items (33)-(41), including credit reference and analysis, investment portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.
1. Requires approval of the Central Bank.
 2. None
 3. (i) Entry by non-bank institutions is permitted through joint-venture companies incorporated in Malaysia or equity participation in existing companies. Aggregate foreign shareholding in each company is limited to 30%.
 4. None

- (ii) Advice related to securities requires approval.
 - (iii) In the case of offshore banks and offshore companies in Labuan, services are limited to non-resident customers only.
 - (iv) Representative offices of commercial banks, merchant banks and securities companies are permitted to undertake research, information and liaison services only.
- Representative offices of securities companies are permitted to publish and circulate research work outside Malaysia only.
- Circulation within Malaysia requires an investment adviser's licence through a locally incorporated joint-venture.

- (v) For commercial banks and merchant banks and non-bank companies that are not stockbroking firms, investment advice requires separate approval.
 - (vi) All submissions requiring approval of the securities commission must be made through licensed merchant banks.
4. For non-banks, one foreign national for a management post other than the CEO post, for each establishment.

B. INSURANCE SUB-SECTOR
43. Direct Insurance (non-life)

- 1. (i) Soliciting and advertising in Malaysia are not allowed.
 - (ii) Direct insurance abroad requires approval.
- 2. (i) Direct insurance abroad requires approval.
 - (ii) Where a Malaysian exporter or importer is responsible for providing international marine and

aviation cargo insurance,
he is required to insure
with insurance companies
registered in Malaysia.

3. In the case of offshore insurance companies in Labuan, direct insurance of Malaysian risks is not permitted.
 1. Unbound
 2. Unbound
 4. None
3. Branching is only permitted for insurance companies that have 70% Malaysian shareholding of which 30% is Bumiputera or Government-owned.
 1. Unbound
 2. Unbound
 4. None
- 4.4. Direct Insurance (life)
3. (i) Investment-linked insurance business and new life insurance products provided by insurance companies require approval.
 - (ii) In the case of offshore insurance companies in Labuan, underwriting of life insurance of Malaysian residents is not allowed.
 4. None

**45. Reinsurance and
retrocession
(life and non-life)**

1. (i) Obligation on all registered insurance companies to maximise national retention capacity before any outward reinsurance.
- (ii) Voluntary cession up to 30% of each class of non-life reinsurance business to the Malaysian National Reinsurance Bhd.
2. (i) Obligation on all registered insurance companies to maximise national retention capacity before any outward reinsurance.
- (ii) Voluntary cession up to 30% of each class of non-life reinsurance business to the Malaysian National Reinsurance Bhd.
3. Establishment as an offshore reinsurance company is confined to Labuan only.
1. None
2. None
3. (i) None
- (ii) Voluntary cession up to 30% of each class of non-life reinsurance business will not apply.

- (iii) obligation on all registered insurers to maximise national capacity before any outward reinsurance.
- (iv) Measures granting special position to Malaysian National Reinsurance Berhad shall not apply.

4. None.

46. Insurance intermediation as follows:

- offshore broking;
- offshore underwriting; and
- offshore insurance management services

- 1. Insurance intermediation is not allowed except insurance broking services are permitted and confined to offshore companies in Labuan and reinsurance broking to residents.
- 2. Insurance intermediation is not allowed except insurance broking services are permitted and confined to offshore companies in Labuan and reinsurance broking to residents.

3. (i) Establishment is confined to the Federal Territory of Labuan.
(ii) Broking for direct insurance of Malaysian risks is not permitted.
(iii) Broker, underwriting and insurance managers requires approval.
(iv) Insurance broker shall only broke direct insurance products of licensed offshore insurance companies in Malaysia.
(v) Underwriting manager shall only provide services to licensed offshore insurance companies in Malaysia.
4. None
47. 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
3. None
4. None
1. Provision of actuarial services is only permitted to offshore reinsurance and insurance companies in Labuan and requires approval of the Central Bank.
1. None.
2. None

3. Offshore companies in Labuan are not allowed to provide services to Malaysian residents.
4. None

C. CAPITAL MARKET SUB-SECTOR

48. **Securities broking services comprising:**
- (a) broking services;
 - (b) credit reference and analysis;
 - (c) investment portfolio management and advice;
 - (d) market research; and
 - (e) underwriting.
1. (1) Trades on the Malaysian Stock Exchange must be transacted through member companies of the Malaysian Stock Exchange.
- (i) promotion in Malaysia of Malaysian stocks requires approval.
- (ii) provision of investment advisory services and credit reference services requires approval.
2. Trades on the Malaysian Stock Exchange must be transacted through member companies of the Malaysian Stock Exchange.
- 3.(i) Entry only through equity participation into existing stockbroking companies or establishment of joint-ventures with
3. None
4. None

Malaysian stockbroking companies and incorporated in Malaysia; or setting up of representative offices. Aggregate foreign shareholding in each company is limited to 30%. Foreign entry is limited to recognised foreign stockbroking companies. A foreign stockbroking company is permitted to hold shares in only one stockbroking company.

- (ii) New licences subject to economic needs test and/or geographical location.
- (iii) Representative offices are permitted to undertake research, information and liaison services only.
- (iv) Trading in non-listed transferable debt instruments requires approval.

Dissemination of research in Malaysia requires an investment advisor's licence through a locally incorporated joint-venture.

4. (i) Only one foreign national for a management post per establishment, subject to labour market test.
- (ii) One foreign national for a senior management post per representative office.
49. Futures broking services for commodity futures traded on the Kuala Lumpur Commodity Futures Exchange
4. None
1. Trades on the Malaysian Commodity Futures Exchange must be conducted through Malaysian incorporated companies which are members of the Exchange.
2. None
3. (i) Entry requires local incorporation or setting up of representative offices. Aggregate foreign shareholding in a company is limited to 30% or any higher percentage as determined by the relevant authorities.
- (ii) Representative offices are permitted to undertake research, information and liaison services only.

(iii) Total membership of the Exchange will be based on economic needs.

4. Only one foreign national for a management post per establishment, subject to labour market test.

HOTELS AND RESTAURANTS

50. Hotel and Hotel services including lodging accommodation provided to transients, and food and beverage serving services.

1. Not applicable
2. None
3. With respect to the establishment of hotel(s), the following conditions shall apply:-

- (i) The company shall be incorporated and established in Malaysia;
- (ii) For the first 5 years (computed) from the date of incorporation, 100 percent foreign shareholding is allowed;

1. Not applicable
2. None
3. None

- (iii) After 5 years, aggregate foreign shareholding is limited to 51 per cent, so that at least 49 per cent is held by Malaysians including at least 30 per cent by Bumiputera.
4. Only one foreign management post per hotel establishment subject to entry criteria, including the requirement of a specified number of Malaysian trainees.
1. Not applicable
2. None
3. With respect to the establishment of a tourist project, the following conditions shall apply:-
1. Not applicable
2. None
3. None
- (i) The company shall be incorporated and established in Malaysia;
(ii) For the first 5 years (computed) from the date of incorporation, 100 per cent foreign shareholding is allowed;

51. Tourism projects

- (iii) After 5 years, aggregate foreign shareholding is limited to 51 per cent, so that at least 49 per cent is held by Malaysians including at least 30 per cent by Bumiputera.
 - 4. Only one foreign management post per joint-venture subject to entry criteria including the requirement of a specified number of Malaysian trainees.
- 4. None
- 1. None
 - 2. None
- 3. (1) Only through joint-venture with Malaysian individuals, or Malaysian-controlled companies, and be locally incorporated;
- (i) Aggregate foreign shareholding limited to 30 per cent;
 - (ii) Requirement of licence including a minimum capital requirement; and
- 3. (1) Unbound for accounts of the government, government-owned companies and institutions.

TRAVEL AGENCY AND TOUR OPERATOR SERVICES

52. Travel Agency and Tour Operator Services

- (iv) Establishment of branches shall be subject to additional licensing requirements.
4. Only one foreign management post per joint-venture establishment.
4. Residency requirement
5. International maritime transportation covers liner shipping, bulk, tramp, and other international shipping, including passenger transportation does not include cabotage, government cargoes and government-sponsored passenger transportation
1. None
2. None
- 3.(1) Only through a representative office for foreign-flagged vessels; or,
(ii) only through joint-venture with Malaysian individuals, or Malaysian-controlled companies and be locally incorporated for right to be Malaysian-flagged;
(iii) principle business premise to be in Malaysia for 3(1);
1. None
2. None
3. (1) Unbound
- (11) Incentives and subsidies only apply to companies that have 70 per cent Malaysian shareholding, of which 30 per cent is bumi putera or government owned

MARITIME TRANSPORT SERVICES

- (iv) Aggregate foreign shareholding is limited to 30 per cent with respect to 3(11)
- 4.(1) Only with respect of 3(11), only two foreign management posts (shore personnel); and
- (11) Manning vessels requirement in respect of foreign crew restricted to:-
- Ratings : 10%
Officers: 10%
- (111) Ship crew for duration of berth.
1. None
2. None
- 3.(1) Only through joint-venture with Malaysian individuals or Malaysian-controlled companies, and be locally incorporated;
- (11) Aggregate foreign shareholding is limited to 30 per cent; and
54. **Vessel Salvage and refloating services**

- (iii) A minimum capital requirement may be imposed.
4. Only two foreign management posts per establishment. 4. None

AIR TRANSPORT SERVICES

55. Non-scheduled passenger transportation by air for charter international flights for group inclusive tours.
1. Subject to approval, including limitation on infrastructure capacity.
2. None
3. Unbound
4. Only the aircraft crew for the duration of the operation of the tour in Malaysia.
56. Passenger transportation by air (except for government passengers).
1. Subject to Air Services Agreement.
2. None
3. Subject to Air Services Agreement.
4. See offer on "Airline Office".
1. None
2. None
3. None
4. See offer on "Airline Office".

57. Airline Office

- | | | |
|--|--|---------|
| Limited to sales and marketing only. | 1. None | 1. None |
| | 2. None | 2. None |
| 3. Only one (1) branch office per airline company. | 3. Unbound for accounts of government, owned companies and institutions. | |
| | 4. Only one foreign post per airline company. | 4. None |

RECREATIONAL, CULTURAL AND SPORTING SERVICES

- | | | |
|---|---|---|
| 58. Theatre, singing group, band and orchestra entertainment services and circus | 1. Not applicable | 1. Not applicable |
| | 2. None | 2. None |
| | 3. Unbound | 3. Unbound |
| | 4. (1) Subject to entry criteria including:- | 4. For specified cases, inclusion of Malaysian entertainers/artistes is required. |
| | (a) a Malaysian sponsor who is a juridical person; | |
| | (b) bond or guarantee; | |
| | (c) meeting cultural, regional specificity; and for the period approved only. | |

- 59. Sports events management services**
- 1. Not applicable
 - 2. None
 - 3. (1) Only through a local sponsor who is a Malaysian-controlled company.
(ii) Performance bond for each project/event.
 - 4. Only the promoter subject to sponsorship/guarantee and for the duration of the event only.
 - 1. Not applicable
 - 2. None
 - 3. Unbound for government sponsored events