

ANNEX II

SCHEDULE OF RESERVATIONS AND NON- CONFORMING MEASURES FOR INVESTMENT

The Republic of Belarus

LIST A

RESERVATIONS FOR EXISTING MEASURES
SCHEDULE OF THE REPUBLIC OF BELARUS

Explanatory Notes

1. List A sets out, pursuant to Articles 3.14 (Non-Conforming Measures), existing measures of the Republic of Belarus that are not subject to some or all of the obligations imposed by:

- (a) Article 3.3 (National Treatment);
- (b) Article 3.4 (Most-Favored-Nation Treatment);
- (c) Article 3.9 (Performance Requirements); or
- (d) Article 3.10 (Senior Management and Boards of Directors).

2. Each Schedule entry sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to subparagraph (a) of paragraph 1 of Article 3.14 (Non-Conforming Measures), do not apply to the non-conforming aspects of the **Measures** or the **Description**, as set out in paragraph 3;

(c) **Legal source of the Measures** identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the **Measures** element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(d) **Description** sets out the non-conforming aspects of the measure for which the entry is made.

3. In accordance with subparagraph (a) of paragraph 1 of Article 3.14 (Non-Conforming Measures), and subject to subparagraph (c) of paragraph 1 of Article 3.14 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the law, regulation, or other measure, as applicable, identified in the **Measures** element of that entry, or the non-conforming aspects of the **Description** element.

4. List A only applies to non-services investments by foreign investors, does not apply to any investments by foreign investors in services. Any aspects of such an entry which relate to investment in service are subject to the Chapter II (Trade in Service) only.

5. For activities where importation and (or) exportation of goods might be an integral part of the activity performance, the Republic of Belarus, even if not listed in List A, does not undertake commitments of foreign trade and (or) customs measures with regard to goods.

Entry 1 – Land

Sector	All types of activities
Obligations Concerned	Article 3.3 (National Treatment)
Legal source of the Measure	Land Code of the Republic of Belarus of 23 July 2008 No. 425-Z (Articles 14-19)
Description	<p>1. The right to acquire land in ownership is granted only to citizens of the Republic of Belarus and legal entities of the Republic of Belarus. Land plots may be privately owned by foreign citizens, stateless persons in cases established by legislative acts of the Republic of Belarus. Land plots that are not subject to private ownership, ownership of foreign states, international organizations are determined by national legislation.</p> <p>2. Other types of rights on which land plots can be granted to foreign citizens, stateless persons, as well as foreign legal entities and their representative offices, are determined in accordance with the requirements of the Land Code of the Republic of Belarus and other legislative acts, depending on the purposes of their use.</p> <p>3. Land plots may be leased to citizens, individual entrepreneurs, legal entities of the Republic of Belarus, foreign legal entities and their representative offices, foreign states, diplomatic missions and consular offices of foreign states, international organizations and their representative offices in accordance with the Land Code of the Republic of Belarus and other acts of legislation on the protection and use of land. Terms and other terms of lease of the land plot are determined by the lease agreement of the land plot. The lease term of the land plot must not exceed 99 years.</p>

Entry 2 – Activities of Foreign Citizens

Sector	All types of activities
Obligations Concerned	Article 3.3 (National Treatment)
Legal source of the Measure	Law of the Republic of Belarus “On the Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus” of 4 January 2010 No. 105-Z (Article 11, Part 3)
Description	Foreign citizens and stateless persons temporarily staying or temporarily residing in the Republic of Belarus are prohibited from engaging in entrepreneurial activity without forming a legal entity in the territory of the Republic of Belarus

Entry 3 – Forest Management

Sector	Forest Management
Obligations Concerned	Article 3.3 (National Treatment)
Legal source of the Measure	Forest Code of the Republic of Belarus of 24 December 2015 No. 332-Z (Chapter 8); “Regulation on Establishing the Procedure for Forest Management, Development and Approval of a Forest Management Project, Making Amendments and (or) Additions to It”, approved by Resolution of the Council of Ministers of the Republic of Belarus of 4 November 2016 No. 907
Description	Forest management is carried out by state forestry organizations of the Ministry of Forestry of the Republic of Belarus, as well as other legal entities engaged in forestry

Entry 4 – Subsoil, water, forests, agricultural land

Sector	All types of activities
Obligations Concerned	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Legal source of the Measure	Constitution of the Republic of Belarus (Article 13) Forest Code of the Republic of Belarus of 24 December 2015 No. 332-Z (Article 5) Water Code of the Republic of Belarus of 30 April 2014 No. 149-Z (Article 8) Subsoil Code of the Republic of Belarus of 14 July 2008 No. 406-Z (Article 5)
Description	Subsoil, water and forest constitute the exclusive property of the State. Agricultural land is owned by State

Entry 5 – Exclusive Right (Objects)

Sector	Objects (assets) owned exclusively by the State
Obligations Concerned	Article 3.3 (National Treatment) Article 3.9 (Performance Requirements)
Legal source of the Measure	Law of the Republic of Belarus “On Objects Owned Exclusively by the State and Activities Performed Exclusively by the State” of 15 July 2010 No. 169-Z (Articles 7, 8) Law of the Republic of Belarus “On Concessions” of 12 July 2013 No. 63-Z (Article 3)
Description	<ol style="list-style-type: none">1. Assets owned only by the State shall be held and used on behalf of the State by the authorized government bodies and other government organizations to which the assets are assigned for operation or daily management unless otherwise is set out by this Law, other laws or edicts of the President of the Republic of Belarus.2. Assets owned only by the state shall be disposed within the republican and (or) municipal ownership in accordance with the legislated procedure except cases specified in points 3 and 4 hereby.3. Non-governmental entities, foreign countries, international organizations and individuals are allowed to set up assets owned only by the State or to acquire the ownership right in respect of the said assets in other way in cases specified in the laws or edicts of the President of the Republic of Belarus.4. Assets owned only by the State are not subject to privatization unless otherwise is set out in the laws or edicts of the President of the Republic of Belarus.5. In cases specified in the laws or edicts of the President of the Republic of Belarus, assets owned only by the state may be rented out to non-governmental entities, foreign countries and individuals without the right of purchase or transferred to them for gratuitous use.6. Assets owned only by the State cannot be the subject of pledge, trust administration unless otherwise is set out in the edicts of the President of the Republic of Belarus.7. Assets owned only by the State are eligible for concessions.

Entry 6 – Exclusive Right (Activities)

Sector	Activities performed exclusively by the State
Obligations Concerned	Article 3.3 (National Treatment) Article 3.9 (Performance Requirements)
Legal source of the Measure	Law of the Republic of Belarus “On Objects Owned Exclusively by the State and Activities Performed Exclusively by the State” of 15 July 2010 No. 169-Z (Article 10) Law of the Republic of Belarus “On Concessions” of 12 July 2013 No. 63-Z (Article 3)
Description	<p>1. The activities performed exclusively by the State can be performed on behalf of the State by the authorized government bodies and other government organizations except cases specified in point 2 hereby.</p> <p>2. The exclusive right of the State to performance of certain activities can be realized by:</p> <p>2.1. non-governmental entities, individuals based on the edicts of the President of the Republic of Belarus. The President of the Republic of Belarus determines the terms and the procedure of extending the right to realization and realization by non-governmental entities and individuals of the exclusive right of the State to performance of certain activities;</p> <p>2.2. domestic and foreign investors based on concessions.</p>

Entry 7 – Concession

Sector	Objects owned exclusively by the State in accordance with Constitution of the Republic of Belarus (subsoil, water, forests) Objects (assets) owned exclusively by the State Activities performed exclusively by the State
Obligations Concerned	Article 3.3 (National Treatment) Article 3.9 (Performance Requirements)
Legal source of the Measure	Law of the Republic of Belarus “On Concessions” of 12 July 2013 No. 63-Z (Articles 23, 28-30) Law of the Republic of Belarus “On Investments” of 12 July 2013 No. 53-Z Decree of the President of the Republic of Belarus “On Creation of Additional Conditions for Investment Activities in the Republic of Belarus” of 6 August 2009 No. 10
Description	<p>The procedure of selection of a concessionaire and the list of substantial conditions of the concession agreement are determined in accordance with the legislation of the Republic of Belarus.</p> <p>The activity or the right of ownership and use of the concession object is carried out on the basis of the concession agreement and the conditions defined therein</p>

Entry 8 – Investments in Priority Activities

Sector	All types of activities defined as priority sectors in accordance with national legislation
Obligations Concerned	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Legal source of the Measure	Law of the Republic of Belarus of 12 July 2013 No. 53-Z “On Investment” Decree of the President of the Republic of Belarus “On Creation of Additional Conditions for Investment Activities in the Republic of Belarus” of 6 August 2009 No. 10; Resolution of the Council of Ministers of the Republic of Belarus “On Measures of Implementation of the Decree of President of the Republic of Belarus of 6 August 2009 No 10” of 19 July 2016 No. 563 Resolution of the Council of Ministers of the Republic of Belarus “On Priority Types of Activities (Sectors of Economy) for Implementing Investments and Invalidation of the Decisions of the Council of Ministers of the Republic of Belarus of 26 February 2014 No. 197” of 12 May 2016 No. 372 Resolution of the Council of Ministers of the Republic of Belarus “On Business Plans on Investments Projects” of 26 May 2014 No. 506
Description	<p>1. The list of benefits and conditions provided to investors for the implementation of investment projects corresponding to priority types of activities (sectors of the economy) for investment is determined by national legislation.</p> <p>2. If an investment project corresponding to priority types of activities (sectors of the economy) for investment is implemented on the basis of a decision of the President of the Republic of Belarus or with the conclusion of an investment agreement with the Republic of Belarus by decision of the Government of the Republic of Belarus, investors may be provided with additional benefits, other measures of support. Such benefits may include, but are not limited to, taxation, land issues, procurement issues, pricing, and other areas. The list of such additional benefits is determined individually, taking into account the features and conditions for the implementation of a particular investment project.</p> <p>3. Upon request from Chinese investor(s), the Republic of Belarus should accord adequate opportunity to consult Chinese investor(s) about the benefits in like circumstances, and in accordance with national legislation should consider to provide such benefit to Chinese investors.</p>

Entry 9 – Automobile production

Sector	Automobile production
Obligations Concerned	Article 3.9 (Performance Requirements)
Legal source of the Measure	Edict of the President of the Republic of Belarus “On Measures for Automobile Production Development” of 4 April 2009 No. 175
Description	<p>1. The agreement on the conditions for the production of passenger cars classified in heading 8703 of the Common Commodity Nomenclature for Foreign Economic Activity, concluded between the legal person of the Republic of Belarus and the Ministry of Industry of the Republic of Belarus, shall contain following essential conditions:</p> <ul style="list-style-type: none">i. schedule of works broken down by years and indicating the expected dates for the start of production of passenger cars and reaching the design production capacity of their industrial assembly. At the same time, the production of welding, painting and assembly of car bodies must be started no later than 84 months from the date of conclusion of the agreement;ii. specification (list) of auto components for the production of passenger cars, indicating their name, quantity and cost;iii. obligations of the legal person to reduce the import of auto components (except for bodies) named in the specification (list), in value terms within the first 24 months after the start of production of welding, painting and assembling bodies not less than 5 percent of their total value, within the next 24 months - not less than 10 percent of their total value;iv. volumes of investments broken down by years;v. liability of the parties for non-fulfillment or improper fulfillment of their obligations under the agreement;vi. the term of the agreement - no more than 10 years with the possibility of its extension for a period not exceeding 10 years from the date of expiration of the original agreement;vii. the right of the organization, in agreement with the Ministry of Industry, to replace car models by amending the specification (list). <p>2. Legal entities of the Republic of Belarus that have concluded an agreement with the Ministry of Industry during the period of the agreement (including when extending its validity) are exempted from:</p> <ul style="list-style-type: none">i. import customs duties, taking into account the international obligations of the Republic of Belarus when placing under the customs procedure for the release for domestic consumption of

technological equipment (components and spare parts for it), imported for use in the territory of the Republic of Belarus for the production of cars;

- ii. value added tax collected by the customs authorities when placing under the customs procedure for the release for domestic consumption of technological equipment and auto components imported into the territory of the Republic of Belarus for the production of cars;
- iii. value added tax levied by the tax authorities on the import of technological equipment and auto components from the territory of the Member States of the Customs Union for the production of cars.

Entry 10 – Registration requirements

Sector	All types of activities
Obligations Concerned	Article 3.3 (National treatment)
Legal source of the Measure	Civil code of the Republic of Belarus of 7 December 1998 No. 218-Z Decree of the President of the Republic of Belarus “On State Registration and Liquidation (Termination of Activities) of Business Entities” of 16 January 2009 No. 1
Description	Requirements for the set of documents provided by foreign investor for purposes of the State registration of the company in the Republic of Belarus may differ from the set of documents to be provided by national investors.

LIST B

RESERVATIONS FOR FUTURE MEASURES SCHEDULE OF THE REPUBLIC OF BELARUS

Explanatory Notes

1. List B sets out, pursuant to Article 3.14 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which the Republic of Belarus may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 3.3 (National Treatment);
- (b) Article 3.4 (Most-Favored-Nation Treatment);
- (c) Article 3.9 (Performance Requirements); or
- (d) Article 3.10 (Senior Management and Boards of Directors).

2. Each Schedule entry sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to paragraph 2 of Article 3.14 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities scheduled in the entry;

(c) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and

(d) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with paragraph 2 of the Article 3.14 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors, or activities identified in the **Description** element of that entry.

4. Annex II only applies to non-services investments by foreign investors, does not apply to any investments by foreign investors in services. Any aspects of such an entry which relate to investment in service are subject to the Chapter II (Trade in Service) only.

5. For activities where importation and (or) exportation of goods might be an integral part of the activity performance, the Republic of Belarus, even if not listed in this Annex, does not undertake commitments of foreign trade and (or) customs measures with regard to goods.

Entry 1 – Privatization

Sector:	All sectors
Obligations Concerned	Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Description	<p>The Republic of Belarus reserves the right to take decisions about whether to privatize a state-owned enterprise. The Republic of Belarus reserves the right to establish conditions for the privatization deal. The conditions established for the privatization deal, if any, and subsequent treatment of the privatized entity, will not discriminate between national and foreign investors, subject to any reservations listed under the present Agreement</p>

Entry 2 - Energy

Sector:	Activities in the field of energy, except for activities in the field of renewable energy
Obligations Concerned	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Description	The Republic of Belarus reserves the right to adopt or maintain any measure with respect to energy sector, except for renewable energy.

Entry 3 – Alcohol

Sector:	Production, distribution and turnover of alcoholic products, non-food alcohol-containing products, non-food ethyl alcohol
Obligations Concerned	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Description	The Republic of Belarus reserves the right to adopt or maintain any measure with respect to the production, distribution and turnover of alcoholic products, non-food alcohol-containing products, non-food ethyl alcohol.

Entry 4 – Tobacco and electronic smoking systems

Sector:	Production, distribution and turnover of raw tobacco and tobacco products, electronic smoking systems, liquids for electronic smoking systems, systems for the consumption of tobacco, non-tobacco nicotine-containing products, other nicotine-containing and (or) nicotine-free products
Obligations Concerned	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Description	The Republic of Belarus reserves the right to adopt or maintain any measure with respect to the production, distribution and turnover of raw tobacco and tobacco products, electronic smoking systems, liquids for electronic smoking systems, systems for the consumption of tobacco, non-tobacco nicotine-containing products, other nicotine-containing and (or) nicotine-free products

Entry 5 – Mass media

Sector:	Mass media production, release activities and distribution of mass media products Printing and publishing, including printed mass media products
Obligations Concerned	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Description	The Republic of Belarus reserves the right to adopt or maintain any measure with respect to the mass media production, release activities, distribution of mass media products, as well as printing and publishing (including printed mass media products)

Entry 6 - Wildlife

Sector	Provision of wildlife for use
Obligations Concerned	Article 3.3 (National Treatment)
Description	The Republic of Belarus reserves the right to adopt or maintain any measure with respect to the priority in providing wildlife for use in a particular territory or water area for legal entities and citizens of the Republic of Belarus

Entry 7 – Non-Government Organizations

Sector	All sectors
Obligations Concerned	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Description	The Republic of Belarus reserves the right to adopt or maintain any measure with respect to non-government organizations (including but not limited to funds, institutions, public organizations, their units (associations), other units (associations), structural units of foreign associations of citizens or legal entities on the basis of membership)

Entry 8 – All Sectors (New Industries)

Sector:	All Sectors
Obligations Concerned:	Article 3.3 (National Treatment) Article 3.4 (Most-Favored-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
Description:	<ol style="list-style-type: none">1. The Republic of Belarus reserves the right to adopt or maintain any measure with respect to a new industry.2. A new industry refers to an economic activity that does not exist as of the date of entry into force of this Agreement and that cannot be classified in ISIC Rev.4¹.3. The Republic of Belarus shall notify China prior to adopting a measure with respect to a new industry that is inconsistent with the above-mentioned obligations. At the request of either Party, the Parties shall enter into negotiations with regard to the liberalisation commitments for a new industry.

¹ ISIC Rev. 4 refers to the fourth version of International Standard Industrial Classification of all Economic Activities published by the Statistical Office of the United Nations in 2008.

Entry 9 – Protection of Cultural Heritage

Sector:	Protection of Cultural Heritage
Obligations	Article 3.3 (National Treatment)
Concerned:	Article 3.9 (Performance Requirements)
	Article 3.10 (Senior Management and Boards of Directors)
Description:	The Republic of Belarus reserves the right to adopt or maintain any measure with respect to preservation and protection of cultural heritage, including the security of historical, artistic and archaeological heritage