

**ANNEX II**

**SCHEDULE OF RESERVATIONS AND NON-**

**CONFORMING MEASURES FOR INVESTMENT**

**The People's Republic of China**

**LIST A**  
**RESERVATIONS FOR EXISTING MEASURES**  
**SCHEDULE OF CHINA**

## Explanatory Notes

1. List A sets out, pursuant to Article 3.14 (Non-Conforming Measures), the reservations of China with respect to existing measures that do not conform with some or all of the obligations imposed by:
  - (a) Article 3.3 (National Treatment);
  - (b) Article 3.4 (Most-Favoured-Nation Treatment);
  - (c) Article 3.9 (Performance Requirements); or
  - (d) Article 3.10 (Senior Management and Boards of Directors).
2. Each Entry in List A sets out the following elements:
  - (a) **Sector** refers to the sector for which the Entry is made;
  - (b) **Obligations Concerned** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
  - (c) **Level of Government** indicates the level of government maintaining the scheduled measure or measures;
  - (d) **Measures**<sup>1</sup> 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
  - (e) **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 non-conforming aspects of the law, regulation, or other measure, as applicable, identified in the **Measures** element of that Entry, as set out in the **Description** element.
4. In the interpretation of an Entry, all elements of the Entry shall be considered. The **Measures** element shall prevail over all other elements, unless otherwise explicitly indicated in the Entry, or where a discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element prevails,

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<sup>1</sup> For greater certainty, in the case of China, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in paragraph 1 of Article 3.14 (Non-Conforming Measures).

in which case the other elements shall prevail to the extent of that discrepancy.

5. Where there is an overlap between the contents of this List and List B, notwithstanding the obligations China assumes pursuant to paragraph 1 of Article 3.14 (Non-Conforming Measures) and this List, China remains entitled to adopt or maintain relevant measures in accordance with paragraph 2 of Article 3.14 (Non-Conforming Measures) and List B.

6. For the purposes of List A:

- (a) "**foreign investor**" means any investor of the other Party or a non-Party;
- (b) "**foreign investor may not invest**" means a foreign investor may not directly or indirectly invest, including by holding any shares, stock or other forms of rights or interest, directly or indirectly, in the territory of China;
- (c) "**Chinese control**" means the circumstances where the total proportion of investment held by foreign investors, whether directly and indirectly, is not greater than 49%;
- (d) "**proportion of investment**" means the aggregate proportion of investment or equity ratio held by an investor and its affiliates in a single enterprise, directly or indirectly;
- (e) Where a party has control or common control over the other party or significantly affects the other party, or two or more parties are controlled by or under the common control of or are significantly affected by another party, they shall constitute the "**affiliates**" to each other.
- (f) for greater certainty, a foreign investor and its affiliates are considered to be one single foreign investor; foreign investors shall not circumvent any requirements for foreign investors as set out in an Entry.

7. 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.

## Entry 1 – Seed Industry

<b>Sector:</b>	Seed Industry
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government</b>	Central, Provincial, Local
<b>Measures:</b>	<p><i>Seed Law</i> (2021), Articles 8, 11 and 61;</p> <p>Relevant item of the <i>Special Administrative Measures for the Access of Foreign Investment (Negative List)</i> which is effective on the date of entry into force of this Agreement.</p>
<b>Description:</b>	<ol style="list-style-type: none"><li>1. Foreign investors may not invest in the research and development, cultivation or planting of the precious and quality varieties which are rare and special in China, and the production of the relevant reproductive materials thereof (including the good genes in the plantation, animal husbandry and fishing industry).</li><li>2. Chinese control is required for investments by foreign investors in the selection and breeding of new varieties of wheat and corn and seed production of wheat and corn.</li><li>3. Foreign investors may not invest in the selection and breeding of transgenic varieties of crops, livestock and poultry raised for breeding purpose, and seeds and sprouts of aquatic animals or plants, and in the production of their transgenic seeds (sprouts).</li></ol>

## Entry 2 – Fishery

<b>Sector:</b>	Fishery
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p><i>Fisheries Law</i> (2013);</p> <p><i>Law on the Exclusive Economic Zone and the Continental Shelf</i> (1998), Article 5,</p> <p><i>Law on the Territorial Sea and the Contiguous Zone</i> (1992), Article 11</p> <p>Relevant item of the <i>Special Administrative Measures for the Access of Foreign Investment (Negative List)</i> which is effective on the date of entry into force of this Agreement.</p>
<b>Description:</b>	Foreign investors may not invest in the fishing of aquatic animals or plants in the sea and inland waters under the jurisdiction of China.

### **Entry 3 – Exploration and Exploitation of Exclusive Economic Zone and Continental Shelf**

**Sector:** Exploration and Exploitation of Exclusive Economic Zone and  
Continental Shelf

**Obligations  
Concerned:** Article 3.3 (National Treatment)

**Level of  
Government** Central

**Measures:** *Law on the Exclusive Economic Zone and the Continental Shelf*  
(1998), Article 7.

**Description:** Any international organisation, foreign entity or individual must  
obtain approval from the Chinese government for carrying out  
activities of exploring and exploiting natural resources in the  
exclusive economic zone of China or on the Chinese continental  
shelf, or drilling on the Chinese continental shelf for any purpose.

#### **Entry 4 – Exploration, Exploitation and Smelting of Minerals**

<b>Sector:</b>	Exploration, Exploitation and Smelting of Minerals
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p><i>Notice of the State Council on Classifying Tungsten, Tin, Antimony and Ion-Type Rare Earth Minerals as Specific Minerals Under Protective Mining by the State</i> (1991), Article 2;</p> <p>Relevant item of the <i>Special Administrative Measures for the Access of Foreign Investment (Negative List)</i> which is effective on the date of entry into force of this Agreement.</p>
<b>Description:</b>	<ol style="list-style-type: none"><li>1. Foreign investors may not invest in the exploration, exploitation or ore dressing of rare earth.</li><li>2. Foreign investors may not invest in the exploration, exploitation or ore dressing of tungsten.</li><li>3. Foreign investors may not enter the mining area of rare earth mines or obtain mine geological data, ore samples or production processes and technology without approval.</li></ol>

## Entry 5 – Printing of Publications

**Sector:** Printing of Publications

**Obligations Concerned:** Article 3.3 (National Treatment)

**Level of Government:** Central

**Measures:** *Regulation on the Administration of Printing Industry* (2020), Article 14;  
Relevant item of the *Special Administrative Measures for the Access of Foreign Investment (Negative List)* which is effective on the date of entry into force of this Agreement.

**Description:** Chinese control is required for investments by foreign investors in the printing of publications.

## Entry 6 – Atomic Energy

<b>Sector:</b>	Atomic Energy
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p><i>Regulation of the People's Republic of China on the Control over Nuclear Exports</i> (2006), Articles 2 and 6;</p> <p>Relevant item of the <i>Special Administrative Measures for the Access of Foreign Investment (Negative List)</i> which is effective on the date of entry into force of this Agreement.</p>
<b>Description:</b>	<ol style="list-style-type: none"><li>1. Chinese control is required for investment by foreign investors in the building or operation of nuclear power stations.</li><li>2. Foreign investors may not invest in the exploration, mining, ore dressing, purification, transformation or isotope separation of radioactive mineral resources, or engage in nuclear export businesses for materials and items listed in the Nuclear Export Control List.</li></ol>

## Entry 7 – Government-granted Monopoly

<b>Sector:</b>	Government-granted Monopoly
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Law on Tobacco Monopoly</i> (2015), Articles 1 through 3; Relevant item of the <i>Special Administrative Measures for the Access of Foreign Investment (Negative List)</i> which is effective on the date of entry into force of this Agreement.
<b>Description:</b>	Foreign investors may not invest in the manufacture, wholesale, retail, import or export of leaf tobacco, cigarettes, re-dried leaf tobacco, cigars, cut tobacco and other tobacco products <sup>1</sup> .

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<sup>1</sup> For the purposes of this entry, “other tobacco products” refers to products entirely or partly made of the leaf tobacco as raw material, which are manufactured to be used for smoking, sucking, chewing or snuffing, and other new tobacco products including electronic cigarettes.

## Entry 8 – All Sectors

<b>Sector:</b>	All Sectors
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Regulation of the People's Republic of China on the Administration of Foreign Exchange</i> (2008), Articles 16 and 23; <i>Notice of the State Administration of Foreign Exchange on Reforming and Regulating Policies on the Administration of Foreign Exchange Settlement of Capital Accounts</i> (2016).
<b>Description:</b>	A foreign investor making an investment within the territory of China shall complete a foreign exchange registration in accordance with the relevant provisions, and shall comply with foreign exchange provisions, including provisions on account opening, funds transfer and settlement, receipt and payment and cross-border securities investment quota, etc.

## Entry 9 – All Sectors

<b>Sector:</b>	All Sectors
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p><i>Law of the People's Republic of China on Sole Proprietorship Enterprises</i> (1999), Article 47;</p> <p><i>Law of the People's Republic of China on Specialised Cooperatives of Farmers</i> (2017), Articles 2, 3, 4 and 19;</p> <p><i>Regulation on Promoting the Development of Individual Business Entities</i> (2022), Article 2;</p> <p><i>Special Administrative Measures for Market Access of Foreign Investment (Negative List)</i> (2021 Edition), Paragraph 4 of the Notes.</p>
<b>Description:</b>	<ol style="list-style-type: none"><li>1. Foreign investors may not carry out business operations in China in the forms of Individual Business Entities or Sole Proprietorship enterprises, or as members of specialised cooperatives of farmers.</li><li>2. Foreign-funded partnership enterprises may not be established in industries, areas or businesses which are subject to the requirement of "foreign investors may not invest", "Chinese control", "relative Chinese control", or "may invest only in the form of a joint venture", or in industries, areas or businesses which are subject to certain proportion of foreign investment requirements, as included in the Schedule of China in List A and List B.</li></ol>

## Entry 10– All Sectors

<b>Sector:</b>	All Sectors
<b>Obligations Concerned:</b>	Article 3.3 (National Treatment)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Regulation for the Implementation of Foreign Investment Law</i> (2019), Article 34.
<b>Description:</b>	The relevant authorities in the course of performing their duties according to law, shall not grant the licence, enterprise registration, or any other relevant matters if a foreign investor proposes to invest in sectors covered by the Negative List but not in compliance with the requirements listed in the Negative List; nor the project approval for an investment in fixed assets should be issued. <sup>1</sup>

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<sup>1</sup> For the purposes of this entry, “Negative List” refers to the Special Administrative Measures for the Access of Foreign Investment (Negative List) published by the Chinese government which is effective on the date of entry into force of this Agreement and its subsequent renewals.

**List B**

**RESERVATIONS FOR FUTURE MEASURES**

**SCHEDULE OF CHINA**

## Explanatory Notes

1. List B sets out, pursuant to Article 3.14 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which China may maintain existing, or adopt new or more restrictive, measures that do not conform with some or all of the obligations imposed by:
  - (a) Article 3.3 (National Treatment);
  - (b) Article 3.4 (Most-Favoured-Nation Treatment);
  - (c) Article 3.9 (Performance Requirements); or
  - (d) Article 3.10 (Senior Management and Boards of Directors).
2. Each Entry in List B sets out the following elements:
  - (a) **Sector** refers to the sector for which the Entry is made;
  - (b) **Obligations Concerned** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
  - (c) **Description** sets out the scope of the sectors, sub-sectors or activities covered by the Entry.
3. In accordance with paragraph 2 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 sectors, sub-sectors or activities identified in the **Description** element of that Entry.
4. For the purposes of List B, "**foreign investor**" means any investor of the other Party or a non-Party.
5. List B 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.

## Entry 1 – Atomic Energy

<b>Sector:</b>	Atomic Energy
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4 (Most-Favoured-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
<b>Description:</b>	China reserves the right to adopt or maintain any measure with respect to the storage, transportation and reprocessing of spent fuels, decommissioning of nuclear facilities and disposal of radioactive wastes, as well as nuclear import.

## Entry 2 – Ethnic Minorities

<b>Sector:</b>	Ethnic Minorities <sup>1</sup>
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4 (Most-Favoured-National Treatment)
	Article 3.9 (Performance Requirements)
	Article 3.10 (Senior Management and Boards of Directors)
<b>Description:</b>	China reserves the right to adopt or maintain any measure that grants rights or preferences to areas inhabited by people of ethnic minorities with a view to balancing economic development and maintaining social justice.

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<sup>1</sup> For the purposes of this entry, "ethnic minorities" refer to the 55 non-Han minorities that have a lower population than the Han nationality among the 56 ethnic nationalities identified and recognised by the central government of China.

### **Entry 3 – Chinese Traditional Medicine**

<b>Sector:</b>	Chinese Traditional Medicine
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4 (Most-Favoured-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
<b>Description:</b>	China reserves the right to adopt or maintain any measure with respect to the application of processing techniques of Chinese medicinal decoction pieces including steaming, plain stir-baking, stir-baking with adjuvant, calcining and the manufacture of confidential prescription products of Chinese patent medicine.

#### **Entry 4 – 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 Board of Directors)

**Description:** China reserves the right to adopt or maintain any measure with respect to the protection, repair and restoration of cultural relics and intangible cultural heritage, including the investigation, exploration, excavation, transfer, offering as collateral, pledging, lease, exploitation and utilization of such cultural relics and intangible cultural heritage.

## Entry 5 – Protection of Biological Resources

<b>Sector:</b>	Protection of Biological Resources
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.9 (Performance Requirements)
<b>Description:</b>	China reserves the right to require approval of the research and development activities conducted by the foreign investment enterprises utilising the biological resources <sup>1</sup> (including human, animals, plants, and microorganism resources) which are originated from and protected by China. China may also require the aforesaid enterprises to conduct such activities in the form of cooperation with Chinese organisations and to share the benefits generated from the research and development, as well as the following application and commercialisation.
<b>Existing Measures</b>	<ul style="list-style-type: none"><li>- <i>Wild Animals Protection Law</i> (Amended in 2022), Articles 21, 22, 25, 26, 28, 29, 30, 31, 33, 34, 37, 38, 39, 40, 42, 43, 48, 49, 50, 51, 52, 53, 55, 56, 57, 58 and 60;</li><li>- <i>Animal Husbandry Law</i> (Amended in 2022), Articles 12, 13, 15, 16, 17, 79 and 80;</li><li>- <i>Grassland Law</i> (Amended in 2013), Articles 44 and 49;</li><li>- <i>Seed Law</i> (Amended in 2021), Articles 8, 9, 10, 11, 80 and 81;</li><li>- <i>Fisheries Law</i> (2013), Articles 8 and 46;</li><li>- <i>Regulation on Wild Plants Protection</i> (Amended in 2017), Articles 9, 16, 18, 20, 21 and 27;</li><li>- <i>Regulation on the Administration of Human Genetic Resources</i> (2019), Articles 7, 21, 22 and 24;</li><li>- <i>Biosecurity Law</i> (2021), Articles 58 and 59;</li><li>- <i>Regulation on the Administration of the Import and Export of Endangered Wild Fauna and Flora (2019 Revision)</i>, Articles 6 and 7.</li></ul>

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<sup>1</sup> For the purposes of this entry, the “biological resources” refers to the genetic resources, organisms or parts thereof, biological communities, or any other biotic component of ecosystems with practical or potential use or value for humanity.

## **Entry 6– Radio and Television**

<b>Sector:</b>	Radio and Television
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4 (Most-Favoured-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Board of Directors)
<b>Description:</b>	China reserves the right to adopt or maintain any measure with respect to the manufacture of ground reception facilities for satellite television and broadcast and key components thereof, and the installation services for ground receiving facilities of satellite television broadcasts.

## **Entry 7 – Non-Government Organisations**

**Sector:** All sectors

**Obligations** Article 3.3 (National Treatment)

**Concerned:** Article 3.4 (Most-Favoured-Nation Treatment)  
Article 3.9 (Performance Requirements)  
Article 3.10 (Senior Management and Board of Directors)

**Description:** China reserves the right to adopt or maintain any measure with respect to non-government organisations (including but not limited to social service institutions, associations, foundations, foreign non-government organisations and other civil social organisations and groups and their representative institutions).

## **Entry 8 – Land**

<b>Sector:</b>	Land
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4 (Most-Favoured-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
<b>Description:</b>	China reserves the right to adopt or maintain any measure with respect to land.

## **Entry 9 – All Sectors**

<b>Sector:</b>	All Sectors
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4 (Most-Favoured-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Board of Directors)
<b>Description:</b>	<p>China reserves the right to adopt or maintain any measure with respect to the evaluation, transfer and disposition of state-owned assets. For the purpose of this Entry, state-owned assets refer to the rights and interests by virtue of all forms of investments directly or indirectly made by the State in an enterprise.</p> <p>For greater certainty, this Entry does not apply to the evaluation, transfer and disposition of assets which are no longer state-owned assets after being transacted.</p>

## Entry 10 – All Sectors

<b>Sector:</b>	All Sectors
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4 (Most-Favoured-Nation Treatment) Article 3.9 (Performance Requirements) Article 3.10 (Senior Management and Board of Directors)
<b>Description:</b>	China reserves the right to adopt or maintain any measure with respect to any special arrangement or favourable treatment for any investor from Hong Kong Special Administration Region, Macao Special Administration Region and Chinese Taipei as well as for any investment by such investors.

## **Entry 11 – Government-granted Monopoly**

**Sector:** Government-granted Monopoly

**Obligations Concerned:** Article 3.3 (National Treatment)

**Description:** China reserves the right to adopt or maintain any measure with respect to the purchase, sale, storage and rotation etc. of China's central grain (oil) reserves that are subject to government-authorised operation.

## **Entry 12 – All Sectors**

**Sector:** All Sectors

**Obligations** Article 3.3 (National Treatment)

**Concerned:** Article 3.4 (Most-Favoured-Nation Treatment)

**Description:** China reserves the right to adopt or maintain any measure with regard to opening A share securities accounts and opening futures accounts by foreign investors

## Entry 13 – All Sectors

<b>Sector:</b>	All Sectors
<b>Obligations</b>	Article 3.3 (National Treatment)
<b>Concerned:</b>	Article 3.4(Most-Favoured-Nation Treatment) Article 3.9(Performance Requirements) Article 3.10 (Senior Management and Boards of Directors)
<b>Description:</b>	<ol style="list-style-type: none"><li>1. China reserves the right to adopt or maintain any measure with respect to a new industry.</li><li>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.4<sup>1</sup>.</li><li>3. China shall notify BELARUS 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.</li></ol>

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<sup>1</sup> 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.