ANNEX I

SCHEDULE OF HONG KONG, CHINA[1]
(Existing Non-Conforming Measures for Establishment)

EXPLANATORY NOTES

1. This Schedule sets out, pursuant to Article 12.6.1 (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), the existing measures of Hong Kong, China that are not subject to the following obligations:

(a) Article 12.4 (National Treatment) of Chapter 12 (Establishment and Related Provisions); or

(b) Article 12.5 (Performance Requirements) of Chapter 12 (Establishment and Related Provisions).

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 obligations referred to in paragraph 1 that, pursuant to Article 12.6.1(a) (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), do not apply to the listed measure(s) pursuant to paragraph 4;

(c) **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 measure for which the entry is made.

3. A measure that is only inconsistent with Article 12.5 (Performance Requirements) of Chapter 12 (Establishment and Related Provisions) need not be reserved against Article 12.4 (National Treatment) of Chapter 12 (Establishment and Related Provisions).

[1] In case of discrepancy or divergence between the authentic texts, the English text of this Schedule shall prevail.

4. In accordance with Article 12.6.1 (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), the obligations of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures set out in the **Description** element of that entry.

I-HKC-1
(Establishment)

Sector	Fishing
Obligations Concerned	National Treatment (Article 12.4)
Description	Under the *Fisheries Protection Ordinance (Cap. 171)*, only certificated local fishing vessels which possess a valid operating licence under the *Merchant Shipping (Local Vessels) Ordinance (Cap. 548)* can be registered for engaging in fishing activities within the waters of Hong Kong, China. Under the *Merchant Shipping (Local Vessels) Ordinance (Cap. 548)*, fishing vessels must be certificated. To be certificated as a Local Vessel Class III "fishing vessel" plying within the waters of Hong Kong, China, the owner of a local vessel shall be: (a) an individual who holds a valid Hong Kong Identity Card and who is ordinarily resident in Hong Kong; or (b) a company or registered non-Hong Kong company as defined by section 2(1) of the *Companies Ordinance (Cap. 622)*.
Source of Measure	*Fisheries Protection Ordinance (Cap. 171)* Section 12 of the *Merchant Shipping (Local Vessels) Ordinance (Cap. 548)*

I-HKC-2
(Establishment)

Sector	Mining
Obligations Concerned	National Treatment (Article 12.4)
Description	When not resident in Hong Kong, China every holder of a prospecting or mining licence and every lessee of a mining lease shall at all times have a duly authorised attorney, approved by the Director of Lands, resident in Hong Kong, China, with full power to represent the holder or lessee in all matters relating to his or her licence or lease.
Source of Measure	Section 7(1) of *Mining Ordinance (Cap. 285)*

I-HKC-3
(Establishment)

Sector	Manufacture and storage of dutiable commodities
Obligations Concerned	National Treatment (Article 12.4)
Description	To apply for a licence for the manufacture or storage of dutiable commodities under the *Dutiable Commodities Ordinance (Cap. 109)*, the applicant has to appoint a responsible person to be held responsible for the running and management of the premises concerned. The responsible person has to be a Hong Kong resident holding a valid Hong Kong Identity Card.
Source of Measure	Sections 7 and 8A of the *Dutiable Commodities Ordinance (Cap. 109)* Regulation 22 of the *Dutiable Commodities Regulations (Cap. 109A)*

I-HKC-4
(Establishment)

Sector	Manufacture of optical discs and stampers
Obligations Concerned	National Treatment (Article 12.4)
Description	To apply for a licence for the manufacture of optical discs or stampers under the *Prevention of Copyright Piracy Ordinance (Cap. 544)*, the applicant has to be a Hong Kong resident holding a valid Hong Kong Identity Card.
Source of Measure	Sections 5(1), 5(2)(c)(v) and 30 of the *Prevention of Copyright Piracy Ordinance (Cap. 544)*