ANNEX I

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

EXPLANATORY NOTES

1. This Schedule sets out, pursuant to Article 8.7.1 (Non-Conforming Measures) of Chapter 8 (Trade in Services), the existing measures of Hong Kong, China that are not subject to some or all of the following obligations:

(a) Article 8.3 (National Treatment) of Chapter 8 (Trade in Services);

(b) Article 8.4 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services);

(c) Article 8.5 (Market Access) of Chapter 8 (Trade in Services); or

(d) Article 8.6 (Local Presence) of Chapter 8 (Trade in Services).

2. Each Schedule entry sets out the following elements:

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

(b) **Industry Classification**, where referenced, refers to the activity covered by the non-conforming measure, according to:

(i) the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(ii) the Services Sectoral Classification List published by the WTO (WTO document MTN.GNS/W/120 of July 10, 1991); or

(iii) the Maritime Model Schedule appended as Appendix 2 to the WTO document JOB/SERV/137 of March 7, 2013,

where appropriate;

(c) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.7.1(a) (Non-Conforming Measures) of Chapter 8

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

(Trade in Services), do not apply to the listed measure(s) pursuant to paragraph 5;

(d) **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

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

3. For the purposes of this Annex:

(a) "Mode 1" means the supply of a service from the Area of a Party into the Area of the other Party;

(b) "Mode 2" means the supply of a service in the Area of a Party to a person of the other Party;

(c) "Mode 3" means the supply of a service by a service supplier of a Party, through commercial presence in the Area of the other Party;

(d) "Mode 4" means the supply of a service by a natural person of a Party in the Area of the other Party; and

(e) "Trade in Services" means the supply of a service as defined in subparagraph (a), subparagraph (b), subparagraph (c) and subparagraph (d).

4. A measure that is only inconsistent with Article 8.6 (Local Presence) of Chapter 8 (Trade in Services) need not be reserved against Article 8.3 (National Treatment) of Chapter 8 (Trade in Services).

5. In accordance with Article 8.7.1 (Non-Conforming Measures) of Chapter 8 (Trade in Services), 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.

6. Where an inconsistency arises in relation to the interpretation of an entry, the **Description** element of the entry shall prevail to the extent of the inconsistency.

I-HKC-1

(Services)

Sector	BUSINESS SERVICES Professional Services	
Industry Classification	CPC 862	Accounting, auditing and bookkeeping services
Obligations Concerned	National Treatment (Article 8.3) Market Access (Article 8.5) Local Presence (Article 8.6)	
Measures	Section 20AAL of the *Accounting and Financial Reporting Council Ordinance (Cap.588)*	
Description	Provision of statutory auditing services is limited to corporate practices and natural persons licensed as certified public accountants (practising), either as sole proprietors or in partnership. A practising certificate shall not be issued to an applicant unless the person is a certified public accountant ordinarily resident in Hong Kong, China, possesses local experience and knowledge of local law and practice, has complied with the specified continuing professional development requirements, is not bankrupt or has not entered into a voluntary arrangement with the applicant's creditors, is not subject to a disciplinary order/sanction, intends to practise as a certified public accountant (practising) and satisfies the fit and proper requirement.	

I-HKC-2

(Services)

Sector	BUSINESS SERVICES Professional Services
Industry Classification	CPC 8671 Architectural services
Obligations Concerned	National Treatment (Article 8.3) Local Presence (Article 8.6)
Measures	Section 13 of the *Architects Registration Ordinance (Cap. 408)*
Description	To be registered as a Registered Architect, a person has to have one year's relevant experience in Hong Kong, China before the date of his or her application for registration; and to be ordinarily resident in Hong Kong, China.

I-HKC-3

(Services)

Sector	BUSINESS SERVICES Professional Services	
Industry Classification	CPC 8672	Engineering services
	CPC 8673	Integrated engineering services
Obligations Concerned	National Treatment (Article 8.3) Local Presence (Article 8.6)	
Measures	Section 12 of the *Engineers Registration Ordinance (Cap. 409)*	
Description	To be registered as a Registered Professional Engineer, a person has to have one year's relevant experience in Hong Kong, China before the date of his or her application for registration; and to be ordinarily resident in Hong Kong, China.	

I-HKC-4

(Services)

Sector	BUSINESS SERVICES Professional Services	
Industry Classification	CPC 8674	Urban planning and landscape architectural services
Obligations Concerned	National Treatment (Article 8.3) Local Presence (Article 8.6)	
Measures	Section 12 of the *Planners Registration Ordinance (Cap. 418)* Section 12 of the *Landscape Architects Registration Ordinance (Cap. 516)*	
Description	To be registered as a Registered Professional Planner, a person has to have one year's relevant experience in Hong Kong, China before the date of his or her application for registration; and to be ordinarily resident in Hong Kong, China. To be registered as a Registered Landscape Architect, a person has to have one year's relevant experience in Hong Kong, China before the date of his or her application for registration; and to be ordinarily resident in Hong Kong, China.	

I-HKC-5

(Services)

Sector	BUSINESS SERVICES Rental/Leasing Services without Operators TRANSPORT SERVICES Maritime Transport Services	
Industry Classification	CPC 83103	Rental/Leasing Services without Operators Relating to ships
	CPC 7211	Passenger transportation
	CPC 7212	Freight transportation
	CPC 7213	Rental of vessels with crew
Obligations Concerned	National Treatment (Article 8.3)	
Measures	Section 23B of the *Inland Revenue Ordinance (Cap. 112)*	
Description	Income derived from international operation of ships registered in the Hong Kong Shipping Register is exempted from Hong Kong, China's profit tax.	

I-HKC-6

(Services)

Sector	BUSINESS SERVICES Other Business Services
Industry Classification	CPC 882 Services incidental to fishing
Obligations Concerned	National Treatment (Article 8.3)
Measures	*Fisheries Protection Ordinance (Cap. 171)* Section 12 of the *Merchant Shipping (Local Vessel) Ordinance (Cap. 548)*
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, China; or (b) a company or registered non-Hong Kong company as defined by Section 2(1) of the *Companies Ordinance (Cap. 622)*.

I-HKC-7

(Services)

Sector	BUSINESS SERVICES Other Business Services
Industry Classification	CPC 883+5115 Services incidental to mining
Obligations Concerned	National Treatment (Article 8.3)
Measures	Section 7(1) of the *Mining Ordinance (Cap. 285)*
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.

I-HKC-8

(Services)

Sector	BUSINESS SERVICES Other Business Services	
	TRANSPORT SERVICES Services auxiliary to all modes of transport	
Industry Classification	CPC 884+885	Services incidental to manufacturing except for 88442
	CPC 742	Storage and warehouse services
Obligations Concerned	National Treatment (Article 8.3)	
Measures	Sections 7 and 8A of the *Dutiable Commodities Ordinance (Cap. 109)* Regulation 22 of the *Dutiable Commodities Regulations (Cap. 109A)*	
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.	

I-HKC-9

(Services)

Sector	BUSINESS SERVICES Other Business Services	
Industry Classification	CPC 8847	Manufacture of rubber and plastics products, on a fee or contract basis
	CPC 885	Services incidental to the manufacture of metal products, machinery and equipment
Obligations Concerned	National Treatment (Article 8.3)	
Measures	Sections 5(1), 5(2)(c)(v) and 30 of the *Prevention of Copyright Piracy Ordinance (Cap. 544)*	
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.	

I-HKC-10

(Services)

Sector	BUSINESS SERVICES Other Business Services
Industry Classification	CPC 87302-87305 Security services
Obligations Concerned	Market Access (Article 8.5)
Measures	Section 11 of the S*ecurity and Guarding Services Ordinance (Cap. 460)*
Description	A service supplier may only provide security services in the form of a company incorporated in Hong Kong, China under the *Companies Ordinance (Cap. 622)*.

I-HKC-11

(Services)

Sector	BUSINESS SERVICES Other Business Services	
Industry Classification	CPC 8675	Related scientific and technical consulting services
Obligations Concerned	National Treatment (Articles 8.3) Local Presence (Article 8.6)	
Measures	Section 12 of the *Land Survey Ordinance (Cap. 473)* Section 12 of the *Surveyors Registration Ordinance (Cap. 417)*	
Description	Certain statutory land boundary survey services are required to be carried out by Authorised Land Surveyors registered under the *Land Survey Ordinance (Cap. 473)*. To be qualified for registration as an Authorised Land Surveyor, a person has to attain one year local land boundary survey experience in Hong Kong, China. To be registered as a Registered Professional Surveyor under the *Surveyors Registration Ordinance (Cap. 417)*, a person has to have one year's relevant experience in Hong Kong, China before the date of his or her application for registration; and to be ordinarily resident in Hong Kong, China.	

I-HKC-12

(Services)

Sector	CONSTRUCTION AND RELATED ENGINEERING SERVICES[2] General construction work for civil engineering Installation and assembly work Building completion and finishing work	
Industry Classification	CPC 513	General construction work for civil engineering
	CPC 514+516	Installation and assembly work
	CPC 517	Building completion and finishing work
Obligations Concerned	National Treatment (Article 8.3) Local Presence (Article 8.6)	
Measures	Sections 2, 4, 8B, 30D and 30E of the *Buildings Ordinance (Cap. 123)* Part 2 of the *Building (Administration) Regulations (Cap. 123A)* Part 4 of the *Building (Minor Works) Regulation (Cap. 123N)* Section 13 of the *Architects Registration Ordinance (Cap. 408)* Section 12 of the *Engineers Registration Ordinance (Cap. 409)* Section 12 of the *Surveyors Registration Ordinance (Cap. 417)* Part 1 of the *Buildings Ordinance (Cap. 123)* Schedules 9 and 16 of the *Lifts and Escalators Ordinance (Cap. 618)*	

[2] For railway construction and project implementation services, refer to II-HKC-21 in Annex II Schedule of Hong Kong, China (Reservations for Trade in Services).

Description

(a) Non-exempted construction and building works shall be carried out by statutory building agents, including Authorized Persons (AP), Registered Structural Engineers (RSE), Registered Geotechnical Engineers (RGE), Registered Contractors (RC) and Technically Competent Persons (TCP); and that:

(i) to register as an AP, a person shall be a Registered Architect (RA), Registered Professional Engineer (RPE) in the relevant disciplines or Registered Professional Surveyor (RPS) and have one year's relevant professional experience in Hong Kong, China;

(ii) to register as an RSE or RGE, a person shall be a RPE in the relevant disciplines and have one year's relevant professional experience in Hong Kong, China;

(iii) to register as a RA or RPE in the relevant disciplines or RPS, a person shall be ordinarily resident in Hong Kong, China;

(iv) to register as a RC, which can be a corporation and include Registered General Building Contractors (RGBCs), Registered Specialist Contractors and Registered Minor Works Contractors (RMWCs), the key personnel of the applicant shall possess adequate working experience, some of which has to be gained in Hong Kong, China; and

(v) to be qualified as a TCP, a person shall possess site experience in Hong Kong, China;

(b) Prescribed inspection of buildings shall be carried out by Registered Inspectors (RIs), while prescribed repair to buildings shall be carried out by RGBCs or RMWCs registered for carrying out minor works items that are relevant to the repair works; and that:

(i) to register as an RI, a person shall be an AP, RSE, RA, RPE in the relevant disciplines or RPS in the relevant divisions and shall possess adequate relevant working experience, some of which has to be gained in Hong Kong, China;

(c) Prescribed inspection of windows shall be carried out by Qualified Persons (QPs), while prescribed repair to windows shall be carried out by RGBCs or RMWCs registered for carrying out minor works items that are relevant to windows; and that:

(i) to be qualified as a QP, a person shall be an AP, RSE, RI, authorized signatory of RGBC or RMWC registered for carrying out minor works items that are relevant to windows; and

(d) Lift works shall be carried out by Registered Lift Engineers (RLE), while escalator works shall be carried out by Registered Escalator Engineers (REE); and that:

(i) to register as a RLE or REE, a person shall be a RPE in relevant disciplines and possessing adequate relevant working experience.

I-HKC-13

(Services)

Sector	EDUCATIONAL SERVICES Primary education services Secondary education services	
Industry Classification	CPC 921	Primary education services
	CPC 922	Secondary education services
Obligations Concerned	National Treatment (Article 8.3) Market Access (Article 8.5)	
Measures	*Education Ordinance (Cap. 279)*	

Description

With respect to Mode 3,

(a) schools registered under the *Education Ordinance (Cap. 279)*, whether private or public, are required to be managed by managers. Section 30(1)(a) of the *Education Ordinance (Cap. 279)* provides that the Permanent Secretary for Education may refuse to register an applicant as manager of a school if it appears to him or her that the applicant is not resident in Hong Kong, China for at least nine months in each year; and

(b) an operator of international schools[3] which offers non-local curriculum is subject to the administrative requirements which include proving the established demand for such non-local curriculum in the community.

[3] International schools are schools which follow a non-local curriculum and whose students do not sit local examinations. It generally refers to those schools offering full non-local curricula designed primarily for non-Chinese speaking students and foreign nationals.

I-HKC-14

(Services)

Sector	EDUCATIONAL SERVICES Higher education services Adult education	
Industry Classification	CPC 923 CPC 924	Higher education services Adult education
Obligations Concerned	National Treatment (Article 8.3) Local Presence (Article 8.6)	
Measures	*Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)*	
Description[4]	With respect to Mode 1, a person who operates non-local courses which are regulated courses is subject to, *inter alia*, the following: an application for registration of a regulated course requires, *inter alia*, the undertaking of a person who states that he or she undertakes to perform, in relation to the course, the functions imposed on a designated person by the *Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)*. Such person shall be ordinarily resident in Hong Kong, China and the holder of a Hong Kong Identity Card. A regulated course conducted in collaboration with a local institution of higher education specified under Schedule 1 to the *Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)* can be exempted from registration subject to requirements stipulated in Section 8 of the *Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)*.	

[4] For these purposes:
(a) the term "non-local courses" means courses purporting to lead to the award of a non-local qualification; and
(b) the term "regulated course" bears the meaning given to it in the *Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)*.