

ANNEX I

EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, pursuant to Article 7.7.1 (Non-Conforming Measures) of Chapter 7 (Cross-Border Trade in Services) and Article 12.8.1 (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), a Party's existing measures that are not subject to the following obligations:

- (a) Article 7.4 (National Treatment) of Chapter 7 (Cross-Border Trade in Services) or Article 12.4 (National Treatment) of Chapter 12 (Establishment and Related Provisions);
- (b) Article 7.6 (Most-Favoured-Nation Treatment) of Chapter 7 (Cross-Border Trade in Services) or Article 12.5 (Most-Favoured-Nation Treatment) of Chapter 12 (Establishment and Related Provisions);
- (c) Article 12.6 (Performance Requirements) of Chapter 12 (Establishment and Related Provisions);
- (d) Article 12.7 (Senior Management and Boards of Directors) of Chapter 12 (Establishment and Related Provisions);
- (e) Article 7.3 (Market Access) of Chapter 7 (Cross-Border Trade in Services);
or
- (f) Article 7.5 (Local Presence) of Chapter 7 (Cross-Border 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 7.7.1(a) (Non-Conforming Measure) of Chapter 7 (Cross-Border Trade in Services) and Article 12.8.1(a) (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), do not apply to the listed measure(s) pursuant to paragraph 7;
- (d) **Level of Government**, where referenced, indicates the level of government maintaining the listed measure(s);
- (e) **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
- (f) **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. For the purposes of paragraph 3(c), “commercial presence” means any type of business or professional establishment including through:

- (a) the constitution, acquisition or maintenance of an enterprise; or
- (b) the creation or maintenance of a branch or a representative office,

within the Area of a Party for the purposes of supplying a service.

5. A measure that is only inconsistent with Article 7.5 (Local Presence) of Chapter 7 (Cross-Border Trade in Services) need not be reserved against Article 7.4 (National Treatment) of Chapter 7 (Cross-Border Trade in Services).

6. A measure that is only inconsistent with Article 12.6 (Performance Requirements) of Chapter 12 (Establishment and Related Provisions) or Article 12.7 (Senior Management and Boards of Directors) of Chapter 12 (Establishment and Related Provisions) need not be reserved against Article 12.4 (National Treatment) of Chapter 12 (Establishment and Related Provisions).

7. In accordance with Article 7.7.1 (Non-Conforming Measures) of Chapter 7 (Cross-Border Trade in Services) and Article 12.8.1 (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.