

## ANNEX II

### EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, pursuant to Article 8.7 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 13.13 (Non-Conforming Measures – Investment), the specific sectors, sub-sectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:
  - (a) Article 8.3 (National Treatment – Cross-Border Trade in Services) or Article 13.5 (National Treatment – Investment);
  - (b) Article 8.4 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or Article 13.6 (Most-Favoured-Nation Treatment – Investment);
  - (c) Article 8.5 (Market Access – Cross-Border Trade in Services) or Article 13.4 (Market Access – Investment);
  - (d) Article 8.6 (Local Presence – Cross-Border Trade in Services);
  - (e) Article 13.11 (Performance Requirements – Investment); or
  - (f) Article 13.12 (Senior Management and Boards of Directors – Investment).
  
2. Each Schedule entry sets out the following elements:
  - (a) “Sector” refers to the sector for which the entry is made;
  - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) “Industry Classification”, where referenced, refers to the activity covered by the entry, according to the CPC, ISIC Rev. 3.1, or as expressly otherwise described in that entry;

“ISIC Rev. 3.1” means the *International Standard Industrial Classification of all Economic Activities* as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 4, ISIC Rev. 3.1, 2002; and

“CPC” means 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).

- (d) “Obligations concerned” specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.7 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 13.13 (Non-Conforming Measures – Investment), do not apply to the sectors, sub-sectors, or activities listed in the entry;
  - (e) “Description” sets out the scope or nature of the sectors, sub-sectors, or activities covered by the entry to which the reservation applies; and
  - (f) “Existing measures”, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, sub-sectors, or activities covered by the entry.
3. In accordance with Article 8.7 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 13.13 (Non-Conforming Measures – Investment), the Articles specified in the “Obligations concerned” element of an entry do not apply to the sectors, sub-sectors, and activities identified in the “Description” element of that entry.
  4. In the interpretation of a schedule entry, all elements of the entry shall be considered. The “Description” element shall prevail over all other elements.
  5. The list of entries below does not include measures relating to qualification requirements and procedures, technical standards, authorisation requirements and licensing requirements and procedures where they do not constitute a limitation within the meaning of Articles 8.3 (National Treatment – Cross-Border Trade in Services), Article 13.5 (National Treatment – Investment), Article 8.5 (Market Access – Cross-Border Trade in Services), Article 13.4 (Market Access – Investment), or Article 8.6 (Local Presence – Cross-Border Trade in Services). These measures may include, in particular, the need to obtain a licence, to satisfy universal service obligations, to have recognised qualifications in regulated sectors, to have completed a recognised period of training, to pass specific examinations, including language examinations, to fulfil a membership requirement of a particular profession, such as membership in a professional organisation, to have a local agent for service, or to maintain a local address, or any non-discriminatory requirements that certain activities may not be carried out in protected zones or areas. While not listed, such measures continue to apply.
  6. Non-discriminatory measures do not constitute a market access limitation within the meaning of Article 8.5 (Market Access – Cross-Border Trade in Services) or Article 13.4 (Market Access – Investment) of this Agreement for any measure:
    - (a) concerning zoning and planning regulations affecting the development or use of land, or another analogous measure;

- (b) requiring the separation of the ownership of infrastructure from the ownership of the goods or services provided through that infrastructure to ensure fair competition, for example in the fields of energy, transportation, and telecommunications;
  - (c) restricting the concentration of ownership to ensure fair competition;
  - (d) seeking to ensure the conservation and protection of natural resources and the environment, including a limitation on the availability, number, and scope of concessions granted, and the imposition of a moratorium or ban;
  - (e) limiting the number of authorisations granted because of technical or physical constraints, for example telecommunications spectra and frequencies; or
  - (f) requiring that a certain percentage of the shareholders, owners, partners, or directors of an enterprise be qualified or practice a certain profession such as lawyers or accountants.
7. For the purposes of the Schedules of Australia and the United Kingdom, an entry for a requirement to have a local presence in the territory of Australia or the United Kingdom is made against Article 8.6 (Local Presence – Cross-Border Trade in Services), and not against Article 8.3 (National Treatment – Cross-Border Trade in Services) or Article 8.5 (Market Access – Cross-Border Trade in Services).