ANNEX II

EXPLANATORY NOTES

1.   The Schedule of a Party to this Annex sets out, pursuant to Article 7.7.2 (Non-Conforming Measures) of Chapter 7 (Cross-Border Trade in Services) and Article 12.8.2 (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), the specific sectors, subsectors or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with 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 entry, 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 7.7.2 (Non-Conforming Measures) of Chapter 7 (Cross-Border Trade in Services) and Article 12.8.2 (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), do not apply to the sectors, subsectors or activities covered by the entry;

(d) **Description** sets out the scope or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and

(e) **Existing Measures** where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

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. In accordance with Article 7.7.2 (Non-Conforming Measures) of Chapter 7 (Cross-Border Trade in Services) and Article 12.8.2 (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 sectors, subsectors or activities set out in the **Description** element of that entry.