

ANNEX I

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), a Party’s existing measures that are not subject to some or all of the 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 listed measure(s) as indicated in the introductory note for each Party’s Schedule;
 - (e) “Level of government” indicates the level of government maintaining the listed measures;
 - (f) “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
 - (g) “Description”, as indicated in the introductory note for each Party’s Schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.
3. For greater certainty, if a Party adopts a new measure at a level of government different to the level of government originally specified in an entry, and this new measure effectively replaces (within the territory to which it applies) the non-conforming aspect of the original measure cited in the “Measures” element, the new measure is understood to constitute “amendment” to the original measure within the meaning of subparagraph (1)(c) of Article 8.7 (Non-Conforming Measures – Cross-Border Trade in Services) and subparagraph (1)(c) of Article 13.13 (Non-Conforming Measures – Investment).
 4. 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, those measures continue to apply.

5. 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.
6. 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).