

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

**Explanatory Note**

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 10.13 (Investment Non-Conforming Measures) and 11.6 (Services Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:
  - (a) Article 10.3 or 11.2 (Investment and Services National Treatment);
  - (b) Article 10.4 or 11.3 (Investment and Services Most-Favored-Nation Treatment);
  - (c) Article 11.5 (Services Local Presence);
  - (d) Article 11.9 (Investment Performance Requirements);
  - (e) Article 10.10 (Investment Senior Management and Boards of Directors); or
  - (f) Article 11.4 (Services Market Access).
  
2. Each Schedule entry sets out the following elements:
  - (a) **Sector** refers to the sector for which the entry is made;
  - (b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 10.13 (Investment Non-Conforming Measures) and 11.6 (Services Non-Conforming Measures), do not apply to the listed measure(s);
  - (c) **Level of Government** indicates the level of government maintaining the listed measure(s);
  - (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;
  - (e) **Description** sets out commitments, if any, for liberalization on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the existing measures for which the entry is made.

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3. In the interpretation of a Schedule entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions of the Chapters against which the entry is made. To the extent that:

- (a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and
- (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless there is a discrepancy between the **Measures** element and the other elements considered in their totality in which case the other elements shall prevail to the extent of that discrepancy.

4. In accordance with Article 10.13 (Investment Non-Conforming Measures) and 11.6 (Services Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the law, regulation, or other measure identified in the **Measures** element of that entry.

5. Where a Party maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article 11.2 (Services National Treatment), 11.3 (Services Most-Favored-Nation Treatment), or 11.5 (Services Local Presence) shall operate as a Schedule entry with respect to Article 10.3 (Investment National Treatment), 10.4 (Investment Most-Favored-Nation Treatment), or 10.9 (Investment Performance Requirements) to the extent of that measure.

6. For greater certainty, Article 11.4 (Services Market Access) refers to non-discriminatory measures.