

ANNEX II EXPLANATORY NOTES

1. The Schedule of a Party in this Annex sets out, in accordance with Articles 9.8 (Non-Conforming Measures) and 10.6 (Non-Conforming Measures), 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 9.3 (National Treatment) or 10.2 (National Treatment);
- (b) Article 9.4 (Most-Favored-Nation Treatment) or 10.3 (Most-Favored-Nation Treatment);
- (c) Article 9.6 (Senior Management and Boards of Directors);
- (d) Article 9.7 (Performance Requirements);
- (e) Article 10.4 (Market Access); or
- (f) Article 10.5 (Local Presence).

2. Each Schedule entry sets out the following elements:

- (a) **Sector** refers to the general sector for which the entry is made;
- (b) **Sub-Sector** refers to the specific sector for which the entry is made;
- (c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to Articles 9.8.2 and 10.6.2, shall not apply to the sectors, sub-sectors, or activities scheduled in the entry;
- (d) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and
- (e) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sectors, sub-sectors, or activities covered by the entry.

3. In accordance with Articles 9.8.2 and 10.6.2, the Articles of this Agreement specified in the **Obligations Concerned** element of an entry shall not apply to the sectors, sub-sectors, and activities identified in the **Description** element of that entry.

4. For greater certainty, Local Presence (Article 10.5) and National Treatment (Article 10.2) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 10.5) need not be reserved against National Treatment (Article 10.2).

5. Notwithstanding Article 9.1 (Scope of Application) or Article 10.1 (Scope of

Application), the cross-border trade in gambling and betting services¹ is not subject to Chapter Ten (Cross-Border Trade in Services) and investment in gambling and betting services is not subject to Chapter Nine (Investment).

For greater certainty, each Party retains the right to adopt or maintain any measure in relation to betting and gambling services, in accordance with its respective laws or regulations.

6. The measures relating to:

- (a) the obligation to recycle products and packaging materials;
- (b) the submission of recycling performance plans and results;
- (c) payment of applicable recycling levies;
- (d) the obligation to distribute a certain percentage of low-emission motor vehicle;
and
- (e) the submission and approval of plans to distribute low-emission motor vehicles
are not inconsistent with Article 9.7 (Performance Requirements).

¹ For greater certainty, “gambling and betting services” includes such services supplied through electronic transmission and services that use sa-haeng-seong-ge-im-mul. “Sa-haeng-seong-ge-im-mul,” as defined in Article 2 of Korea’s *Game Industry Promotion Act*, includes, *inter alia*, gambling instruments which result in financial loss or gain through betting or by chance.