

#### **ANNEX 4**

### **NON-CONFORMING MEASURES TO CHAPTER 13 (CROSS-BORDER TRADE IN SERVICES) AND CHAPTER 12 (INVESTMENT) OF THE AGREEMENT BETWEEN THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN, AND MATSU AND NEW ZEALAND ON ECONOMIC COOPERATION**

## **Annex 4:I**

### **Headnote**

1. The Schedule of a Party to Annex 4:I sets out, pursuant to paragraph 1 of Article 8 (Non-Conforming Measures) of Chapter 13 (Cross-Border Trade in Services) and paragraph 1 of Article 9 (Non-Conforming Measures) of Chapter 12 (Investment), a Party's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 5 (National Treatment) of Chapter 13 (Cross-Border Trade in Services) and Article 5 (National Treatment) of Chapter 12 (Investment);

(b) Article 6 (Most-Favored-Nation Treatment) of Chapter 13 (Cross-Border Trade in Services) and Article 6 (Most-Favored-Nation Treatment) of Chapter 12 (Investment);

(c) Article 4 (Market Access) of Chapter 13 (Cross-Border Trade in Services);

(d) Article 7 (Local Presence) of Chapter 13 (Cross-Border Trade in Services);

- (e) Article 7 (Performance Requirements) of Chapter 12 (Investment); or
- (f) Article 8 (Senior Management and Boards of Directors) of Chapter 12 (Investment).

For greater certainty, Article 4 (Market Access) of Chapter 13 (Cross-Border Trade in Services) refers to non-discriminatory measures.

2. Article 7 (Local Presence) and Article 5 (National Treatment) of Chapter 13 (Cross-Border Trade in Services) are separate disciplines and a measure that is only inconsistent with Local Presence need not be reserved against National Treatment.
3. 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 sector for which the entry is made;
  - (c) **“Industry Classification”** , where referenced, refers and only for transparency purposes, to the activities covered by the entry

according to the provisional CPC codes as used in the Provisional Central Product Classification;

- (d) **“Obligations Concerned”** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Article 8.1(a) (Non-Conforming Measures) of Chapter 13 (Cross-Border Trade in Services) and Article 9.1(a)(Non-Conforming Measures) of Chapter 12 (Investment), do not apply to the entry, as set out in paragraph 4;
- (e) **“Measures”** identifies the existing 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
- (f) **“Description”** sets out the non-conforming aspects of the existing measures for which the entry is made.

4. In accordance with Article 8.1(a) (Non-Conforming Measures) of Chapter 13 (Cross-Border Trade in Services) and Article 9.1 (a) (Non-Conforming Measures) of Chapter 12 (Investment), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the measures identified in the **Description** element of that entry.
5. In the interpretation of each entry, all elements of the entry shall be considered in their totality.

## **NEW ZEALAND**

### **ANNEX 4:I**

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	National Treatment (Chapter 12 (Investment) Article 5)
<b>Measure</b>	Companies Act 1993 Financial Reporting Act 1993
<b>Description</b>	<p><u>Investment</u></p> <p>Consistent with New Zealand's financial reporting regime established under the Companies Act and Financial Reporting Act, the following overseas non-issuer companies are required to file audited financial statements with the Registrar of Companies:</p> <ul style="list-style-type: none"> <li>(a) Any company that is incorporated outside New Zealand that carries on business in New Zealand;</li> <li>(b) Any large company incorporated in New Zealand in which shares that carry the right to exercise or control the exercise of 25% or more of the voting power are held by: <ul style="list-style-type: none"> <li>(i) A subsidiary of a company or body corporate incorporated outside New Zealand;</li> <li>(ii) A company or body corporate incorporated outside New Zealand; or</li> <li>(iii) A person not ordinarily resident in New Zealand;</li> </ul> </li> </ul>

- (c) Any company that is a subsidiary of a company or body corporate incorporated outside New Zealand.

A company is 'large' if it meets at least two of the following criteria:

- (a) The total assets of the company and its subsidiaries exceeds NZ\$10 million;
- (b) The company and its subsidiaries have a total turnover of NZ\$20 million or more; and
- (c) The company and its subsidiaries have 50 or more full-time equivalent employees.

These requirements do not apply if the overseas company is a subsidiary of a New Zealand company that has already filed audited group financial statements with the Registrar.



<b>Sector</b>	Business Services
<b>Obligations concerned</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5) Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6)
<b>Measure</b>	Section 100(2)(a) of the Patents Act 1953
<b>Description</b>	<u>Cross-Border Trade in Services</u>  Registration of patent attorneys is restricted to those who satisfy the criteria set out in section 100(2)(a) of the Patents Act 1953, being any person who is a British subject or a citizen of the Republic of Ireland.

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Measure</b>	Dairy Industry Restructuring Act 2001
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>The Dairy Industry Restructuring Act 2001 (DIRA) and regulations provide for the New Zealand government to acquire, free of charge, and without condition, a copy of a regulated database held by the Livestock Improvement Corporation Ltd (LIC) in the event of its demutualisation or certain other events.</p> <p>Furthermore, should LIC be liquidated or removed from New Zealand's register of companies or the New Zealand government receives a copy of the database as specified above, the New Zealand government may determine arrangements for the database to be managed by another dairy industry entity. In doing so it may take into account nationality and residency considerations, including in relation to senior management and composition of the board of directors.</p>

In addition, the DIRA sets out data reporting obligations to the LIC applying to those engaged in herd testing of dairy cattle.

The DIRA also provides for access to the data held in the core database to be denied if access is not beneficial, or is harmful, to the New Zealand dairy industry, which could take into account nationality or residency considerations and the intended use of the data. Conditions may also be applied to data use.

The DIRA restricts who may hold shares in LIC, and this regime may not be amended without the consent of the responsible Minister.

<b>Sector</b>	Communication Services Telecommunications
<b>Obligations concerned</b>	National Treatment (Chapter 12 (Investment) Article 5) Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Measure</b>	Constitution of Chorus Limited
<b>Description</b>	<p><u>Investment</u></p> <p>The Constitution of Chorus Limited requires New Zealand government approval for the shareholding of any single overseas entity to exceed 49.9 percent.</p> <p>At least half of Board directors are required to be New Zealand citizens.</p>

<b>Sector</b>	Communication Services Audio-visual Services
<b>Obligations concerned</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5) Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4) Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7) Performance Requirements (Chapter 12 (Investment) Article 7)
<b>Measure</b>	Radiocommunications Act 1989
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  The acquisition of licences or management rights to use the radio frequency spectrum, or any interest in such licences or management rights, under the Radiocommunications Act 1989 by foreign governments or agents on behalf of foreign governments is subject to the written approval of the Chief Executive of the Ministry of Economic Development.

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Measure</b>	Primary Products Marketing Act 1953
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Under the Primary Products Marketing Act 1953, the New Zealand government may impose regulations necessary to enable producers of products derived from beekeeping; fruit growing; hop growing; deer farming or game deer; or of goats, being the fur bristles or fibres grown by the goat ("primary products") to control the marketing of primary products. In particular, the Primary Products Marketing Act 1953 provides for the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers), and provision of a range of measures relating to such aspects as:</p> <ul style="list-style-type: none"> <li>• The functions, powers, appointment, membership, and dissolution of the marketing authorities;</li> </ul>

- The management of the affairs of the marketing authorities;
- The acquisition of primary products by the marketing authorities and matters relating to the pricing and method of payment for primary products so acquired;
- Matters relating to the production, distribution, licensing, and sale of primary products;
- Matters relating to the payment of fees and levies on primary products;
- The acquisition of information required for the purposes of the marketing authorities; and
- The prescription of offences and penalties relating to the Primary Products Marketing Act 1953.

<b>Sector</b>	Air Transportation
<b>Obligations concerned</b>	National Treatment (Chapter 12 (Investment) Article 5) Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Measure</b>	Civil Aviation Act 1990 Ministerial Guidelines
<b>Description</b>	<u>Investment</u>

Only a licensed air transport enterprise may provide international scheduled air services as a New Zealand international airline. Licenses may be subject to certain conditions, such as that the airline is substantially owned and effectively controlled by New Zealand nationals.

Non-scheduled air services require either an appropriate licence or the approval of the Secretary for Transport in accordance with guidelines issued under the Civil Aviation Act 1990.



<b>Sector</b>	Air Transportation
<b>Obligations concerned</b>	National Treatment (Chapter 12 (Investment) Article 5) Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Measure</b>	Constitution of Air New Zealand Limited
<b>Description</b>	<p><u>Investment</u></p> <p>No one foreign national may hold more than 10% of shares which confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder<sup>1</sup>. In addition:</p> <ul style="list-style-type: none"> <li>• At least three members of the Board of Directors must be ordinarily resident in New Zealand;</li> <li>• More than half of the Board of Directors must be New Zealand citizens; and</li> <li>• The Chairperson of the Board of Directors must be a New Zealand citizen.</li> </ul>

---

<sup>1</sup> The Kiwi Share in Air New Zealand is a single NZ\$1 special rights convertible preference share issued to the Crown. The Kiwi Shareholder is Her Majesty the Queen in Right of New Zealand.

## **CHINESE TAIPEI**

### **ANNEX 4:I**

1

**Sector:** All sectors

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations**

**Concerned:** National Treatment (Chapter 12 (Investment) Article 5)

**Measures:** Land Law of June 15, 2011

**Description:** Investment

Land used for forests reserves, fisheries and aquaculture, hunting reserves, desalination fields, mineral deposits areas, water resources, military purposes, or land adjacent to frontiers shall not be leased or transferred to foreigners, or used as collateral to foreigners.

Foreigners are allowed to acquire land in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu for self-use, investment or public welfare purposes, provided that such acquisition is consistent with the following land use: residences, business operations, churches, hospitals, foreign schools, embassies or consulates, public welfare institutions offices, cemeteries, or other uses approved by the competent authorities of Chinese Taipei.

**2**

**Sector:** Mining

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** National Treatment (Chapter 12 (Investment)

**Concerned:** Article 5)

**Measures:** Mining Law of December 31, 2003

**Description:** Investment

Mining concessions are granted only to natural persons having citizenship of Chinese Taipei or juridical persons incorporated and registered with the authorities of Chinese Taipei.

3

**Sector:** Water

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** National Treatment (Chapter 12 (Investment) Article  
**Concerned:** 5)

**Measures:** Water Act of June 1, 2011

**Description:** Investment

Foreigners are not allowed to acquire water rights, unless otherwise granted by the government upon request by the competent authorities.

The following water uses are exempt from water rights registration:

1. Domestic use and livestock water consumption;
2. Pond digging on private land;
3. Well drilled on private land, provided that its water output yield is less than one hundred litres per minute;
4. Water drawn by means of human power, animal power, or other simple means.

The competent authorities may impose restrictions upon, or order a registration of, the above water use exemptions if such use has interfered with public water business or benefits from water use of others.

**4**

**Sector:** Water Supply

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

**Concerned:**

**Measures:** Water Supply Act of June 15, 2010

Water Act of June 1, 2011

**Description:** Cross-Border Trade in Services

Water supply is reserved to Taiwan Water Corporation, Taipei Water Department, Kinmen County Waterworks and Lienchiang County Waterworks.

<b>Sector:</b>	Services Incidental to Energy Distribution
<b>Sub-Sector:</b>	Natural Gas Supply
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	Senior Management and Boards of Director
<b>Concerned:</b>	(Chapter 12 (Investment) Article 8)
<b>Measures:</b>	Nature Gas Act of February 1, 2011
<b>Description:</b>	<u>Investment</u> Foreigners are not allowed to serve as founders and directors of the board of a natural gas company in Chinese Taipei.

## 6

<b>Sector:</b>	Power Supply, Transmission and Distribution
<b>Sub-Sector:</b>	
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	Market Access (Chapter 13 (Cross-Border Trade in
<b>Concerned:</b>	Services) Article 4)
<b>Measures:</b>	The Statute for Regulating Privately-Owned Utilities of April 26, 2000 The Electricity Act of August 8, 2012
<b>Description:</b>	<u>Cross-Border Trade in Services</u> Establishment of power plants is subject to approval by the competent authority of Chinese Taipei according to an economic needs test. Only the Taiwan Power Company is allowed to transmit and distribute electricity.



7

<b>Sector:</b>	Education Services
<b>Sub-Sector:</b>	Primary and secondary education services (CPC 921 and 922), Adult education and other education services (CPC 924 and 929)
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)
<b>Concerned:</b>	
<b>Measures:</b>	Private School Law of January 16, 2008 Supplementary and Continuing Education Law of June 23, 2004
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u>

### **Primary and Secondary Education**

#### Foreign National Schools

Primary and secondary schools established by foreigners must not enroll students without foreign citizenship.

Note: Foreign national primary and secondary schools established by New Zealand investors shall be exempt from the requirement to be a not-for-profit corporation.

However, no more than two New Zealand for-profit schools can be permitted in Chinese Taipei. New Zealand for-profit schools shall be governed by the applicable laws, regulations and policies of

Chinese Taipei with respect to profit-seeking organisations.

#### Chinese Taipei Schools

New Zealand persons may not participate in primary or secondary schools, other than through financial contribution to an existing school board or in the establishment of a not-for-profit corporation in partnership/joint venture with Chinese Taipei financial contributors in accordance with relevant laws and regulations of Chinese Taipei.

#### **Adult and Other Education**

Foreign persons may not serve as a local manager for institutions providing adult education and/or other education services in Chinese Taipei.

8

<b>Sector:</b>	Transport Services
<b>Sub-Sector:</b>	Internal waterway transport
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border
<b>Concerned:</b>	Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)
<b>Measures:</b>	Shipping Law of January 30, 2013 Law of Ships of December 8, 2010
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u> Foreign vessels may not navigate between ports to transport passengers or cargos unless an approval is granted by the competent authority of Chinese Taipei on annual basis. Docking at ports other than the designated international ports is not permitted for foreign vessels unless seeking shelter or approved by the competent authority of Chinese Taipei.

<b>Sector:</b>	Transport Services
<b>Sub-Sector:</b>	Maritime transportation services and the Operation of “vessels of Chinese Taipei”
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)
<b>Concerned:</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
	Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Measures:</b>	Shipping Law of January 30, 2013
	Law of Ships of December 8, 2010
	Seafarer Act of June 29, 2011
	The Guidelines of Permission and Administration for Employing Foreign Seafarers, August 13, 2012
<b>Description:</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <ol style="list-style-type: none"> <li>1. The requirements of transporting passengers and cargos in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu for foreign vessel carriers include: <ol style="list-style-type: none"> <li>(1) Set up a branch company by law and obtain the approval from the authority of Chinese Taipei; or</li> <li>(2) Authorize a shipping agency of Chinese Taipei to handle the passenger or cargo transporting affairs on their behalf.</li> </ol> </li> <li>2. People seeking to engage in maritime</li> </ol>

transportation services as a vessel carrier shall own at least one vessel of Chinese Taipei.

3. The term “vessels of Chinese Taipei “means ships which are registered with the competent authority of Chinese Taipei. A ship may apply for such registration if:

(1) The ship is owned by the authorities of Chinese Taipei;

(2) The ship is owned by citizens of Chinese Taipei, or

(3) The ship is owned by any of the following companies, which are incorporated under the laws of Chinese Taipei, with principal offices situated within the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

(i) An unlimited company, of which all shareholders are citizens of Chinese Taipei.

(ii) A limited company, of which at least half of the capitals are owned by citizens of Chinese Taipei and that the director authorized to represent such company is a citizen of Chinese Taipei.

(iii) A joint company, of which all shareholders with unlimited liabilities are citizens of Chinese Taipei.

(iv) A company limited by shares, of which the chairman of the board and at least half of the directors are the citizens of Chinese Taipei, and at least half of the capitals are

owned by citizens of Chinese Taipei.

- (4) The ship is owned by a juridical person, which is established under the laws of Chinese Taipei, with its main office situated within the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and at least two-thirds of the members and the statutory representative being citizen of Chinese Taipei.
4. Ship owners or operators shall employ eligible seafarers of Chinese Taipei in the first priority. The employment of foreign seafarers must be approved by the competent authority of Chinese Taipei and the approval is subject to economic needs tests.

10

<b>Sector:</b>	Transport Services
<b>Sub-Sector:</b>	Road transport services, Rail transport services
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 12 (Investment) Article
<b>Concerned:</b>	5)
<b>Measures:</b>	Highway Law of January 27, 2010 Railway Law of February 3, 2006
<b>Description:</b>	<u>Investment</u> Foreigners may not invest in the business of bus transportation, urban bus transportation, tour bus transportation and taxicab transportation in Chinese Taipei. Foreigners may not invest in railway in Chinese Taipei.

11

<b>Sector:</b>	Transport Services
<b>Sub-Sector:</b>	Air Transportation
<b>Industry</b>	Civil air transport enterprise, Specialty air services
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)
<b>Concerned:</b>	Market Access(Chapter 13 (Cross-Border Trade in Services) Article 4) Local Presence(Chapter 13 (Cross-Border Trade in Services) Article 7) Senior Management and Boards of Directors(Chapter 12 (Investment) Article 8)
<b>Measures:</b>	Civil Aviation Act of January 4, 2012 Regulations Governing General Aviation of March 20, 2013
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u> Provision of specialty air services other than services supplied by general aviation enterprises is prohibited in Chinese Taipei. General aviation enterprises must be established in Chinese Taipei, subject to approval by MOTC, and foreign investment in civil air transport enterprise and general aviation enterprise shall be in the following juridical form and not exceed the following thresholds:  1.Unlimited company with the entire body of its shareholders being citizens of Chinese Taipei.  2. Limited company with over 50 percent of capital



owned by citizens or juridical persons of Chinese Taipei and represented by directors who are citizens of Chinese Taipei.

3. Company formed by shareholders of both limited and unlimited liabilities, whose unlimited liability shareholders are citizens of Chinese Taipei.
4. Company limited by shares with over 50 percent of its total shares owned by citizens or juridical persons of Chinese Taipei, whose chairman and over 50 percent of the directors are citizens of Chinese Taipei; and no single foreign citizen or juridical person may hold more than 25 percent of its total shares.

## 12

<b>Sector:</b>	Transport services
<b>Sub-Sector:</b>	Air Transportation
<b>Industry</b>	Ground handling services
<b>Classification:</b>	Catering services
<b>Obligations</b>	National Treatment (Chapter 12 (Investment) Article 5)
<b>Concerned:</b>	Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Measures:</b>	Civil Aviation Act of January 4, 2012

<b>Description:</b>	<p><u>Investment</u></p> <p>Foreign investment in an airport ground handling services company or a catering service company shall be in the following juridical form and not exceed the following thresholds:</p> <ol style="list-style-type: none"><li>1. Unlimited company with the entire body of its shareholders being citizens of Chinese Taipei.</li><li>2. Limited company with over 50 percent of capital owned by citizens or juridical persons of Chinese Taipei and represented by directors who are citizens of Chinese Taipei.</li><li>3. Company formed by shareholders of both limited and unlimited liabilities, whose unlimited liability shareholders are citizens of Chinese Taipei.</li><li>4. Company limited by shares with over 50 percent of its total shares owned by citizens or juridical persons of Chinese Taipei, whose chairman and over 50 percent of the directors are citizens of Chinese Taipei; and no single foreign citizen or juridical person may hold more than 25 percent of its total shares.</li></ol>
---------------------	---

13

<b>Sector:</b>	Transport Services
<b>Sub-Sector:</b>	Air transportation
<b>Industry</b>	Airport operation and management
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 12 (Investment) Article 5)
<b>Concerned:</b>	Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Measures:</b>	Civil Aviation Act of January 4, 2012
<b>Description:</b>	<u>Investment</u> Foreign investment in a private airport terminal company shall be subject to the following conditions: Company limited by shares with over 50 percent of its total shares owned by citizens or juridical persons of Chinese Taipei, whose chairman and over 50 percent of the directors are citizens of Chinese Taipei; and no single foreigner or juridical person may hold more than 25 percent of its total shares.

14

**Sector:** Transport services  
**Sub-Sector:** Air Transportation  
**Industry** Airfield operation and management  
**Classification:**  
**Obligations** National Treatment (Chapter 12 (Investment) Article 5)  
**Concerned:** Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)

**Measures:** Civil Aviation Act of January 4, 2012

**Description:** Investment

Foreign investment in an airfield shall be subject to the following conditions:

1. Unlimited company completely owned by citizens of Chinese Taipei.
2. Limited company with over 50 percent of capital owned by citizens or juridical persons of Chinese Taipei and represented by directors who are citizens of Chinese Taipei.
3. Company formed by shareholders of both limited and unlimited liabilities, whose unlimited liability shareholders are citizens of Chinese Taipei.
4. Company limited by shares with over 50 percent of its total shares owned by citizens or juridical persons of Chinese Taipei, whose chairman and over 50 percent of the directors are citizens of Chinese Taipei; and no single foreign citizen or juridical person may hold more than 25 percent of its total shares.
5. Other juridical persons whose representatives are citizens of Chinese Taipei.

**15**

**Sector:** Transport services

**Sub-Sector:** Air Transportation

**Industry** Auxiliary

**Classification:**

**Obligations** National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5)

**Measures:** Civil Aviation Act of January 4, 2012

**Description:** Cross-Border Trade in Services

Foreign natural persons may only be employed as aircraft pilot, flight engineer, mechanic, repairman and aircraft dispatcher with the approval of the Ministry of Transportation and Communications (MOTC).

16

<b>Sector:</b>	Communications
<b>Sub-Sector:</b>	Telecommunications Services
<b>Industry</b>	Telecommunications Services (CPC 752, other than
<b>Classification:</b>	CPC7524 Programme transmission services)
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)
<b>Concerned:</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4) Local Presence(Chapter 13 (Cross-Border Trade in Services) Article 7) Senior Management and Board of Directors (Chapter 12 (Investment) Article 8)
<b>Measures:</b>	Telecommunications Act of July 11, 2007 Administrative Regulations on Satellite Communication Services of April 18, 2012 Administrative of Ministry of Transportation and Communications of December 28, 2007
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u> <ol style="list-style-type: none"><li>1. The chairman of the Board of a Type I telecommunications enterprise shall be a citizen of Chinese Taipei.</li><li>2. The total direct shareholding by foreigners may not exceed 49%, and the sum of direct and indirect shareholding by foreigners may not exceed 60%.</li><li>3. The percentage of indirect shareholding by foreigners shall be calculated by multiplying the percentage of shareholding by domestic juridical persons in the Type I telecommunications enterprise by the percentage of shareholding or</li></ol>

capital paid by foreigners in the said domestic juridical persons.

4. A Type I telecommunications enterprise shall be a company limited by shares incorporated pursuant to the Company Law.
5. The total direct shareholding by foreigners in Chunghwa Telecom Co., Ltd. may not exceed 49%, and the sum of direct and indirect shareholding by foreigners in Chunghwa Telecom Co., Ltd. may not exceed 55%, which is subject to change by announcement promulgated by the authority in charge.
6. Foreign Mobile Satellite Service (MSS) operators shall be able to provide service by entering into a cooperative agreement with a domestic Satellite Communication Operator or International Network Business of Fixed Network Telecommunications Services. The domestic Satellite Communication Operator or International Network Business of Fixed Network Telecommunications Service that has entered into such agreement shall act as a representative to promote the MSS in Chinese Taipei.

17

<b>Sector:</b>	Health Related and Social services
<b>Sub-Sector:</b>	Medical services
<b>Industry</b>	Hospital services
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 12 (Investment) Article
<b>Concerned:</b>	5) Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Measures:</b>	Physicians Act of May 13, 2009 Pharmacists Act of January 26, 2011 Physical Therapists Act of January 29, 2007 Occupational Therapists Act of January 29, 2007 Medical Laboratory Technologists Act of January 29, 2007 Medical Radiology Technologists Act of January 29, 2007 Dietitians Act of May 5, 2004 Dental Technicians Act of January 23, 2009 Nursing Personnel Act of January 29, 2007 Midwives Act of July 2, 2003 Hearing Specialists Act of January 23, 2009 Speech Therapists Act of July 2, 2008 Psychologists Act of November 21, 2001 Medical Care Law of May 20, 2009 Administrative of December 26, 2011
<b>Description:</b>	<u>Investment</u> 1. Medical services Foreigners are not allowed to set up clinics, pharmacy, physical therapy clinic, occupational therapy clinic, clinical laboratory, medical radiation



clinic, dental laboratory, nursing institution, midwifery institution, hearing therapy clinic, speech therapy clinic, psychological therapy clinic, psychological counseling clinic or other medical care institutions.

## 2. Hospital services

No more than one-third of the total number of trustees or directors of the board of a medical care corporate or corporation shall be foreigners.

Furthermore, foreigners shall not be the chairperson of medical care corporation.

18

<b>Sector:</b>	Fisheries and Aquaculture
<b>Sub-Sector:</b>	
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border
<b>Concerned:</b>	Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)
<b>Measures:</b>	Fisheries Law of January 9, 2008
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u> Only citizens of Chinese Taipei may serve as fishery operators (including those engaging in aquaculture business), hereunder unless a foreign national may obtain the approval from the competent authority to operate fisheries in cooperation with any fishery operator of Chinese Taipei.

19

<b>Sector:</b>	Agriculture, Animal Husbandry and Forestry
<b>Sub-Sector:</b>	
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 12 (Investment) Article
<b>Concerned:</b>	5)
<b>Measures:</b>	Statute for Investment by Foreign Nationals of November 19, 1997 Negative List for Investment by Overseas Chinese and Foreign Nationals of December 21, 2010
<b>Description:</b>	<u>Investment</u> Foreign investment is not allowed in forestry, wood logging and hunting industries. Other industries in which foreign investment is conditionally restricted are listed below. Applications will be subject to approval by the Council of Agriculture (COA), and be determined on a case- by-case basis: 1. Agriculture: cultivation on rice, dry land food crops, special crops, vegetables, fruits, mushrooms, flowers and other agricultural and horticultural products; 2. Animal husbandry: raising of cattle, hogs, chickens, ducks and other animal husbandry.

20

**Sector:** Public Welfare Lottery

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** National Treatment (Chapter 13 (Cross-Border

**Concerned:** Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)

**Measures:** Public Welfare Lottery Issue Act of May 28, 2008

**Description:** Cross-Border Trade in Services and Investment

The public welfare lottery shall be issued by a local bank appointed by the competent authority. The term "Bank" shall mean an organization formed and registered in accordance with the provisions of the Banking Act of Chinese Taipei.

**21**

<b>Sector:</b>	Sporting and other Recreational Services
<b>Sub-Sector:</b>	Sporting services
<b>Industry</b>	Sports Facility operation services
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 12 (Investment) Article
<b>Concerned:</b>	5)
<b>Measures:</b>	Regulations Governing Management of Golf Course of August 25, 1999
<b>Description:</b>	<u>Investment</u> Foreign investment is not allowed in golf courses.

22

<b>Sector:</b>	Sports and other recreational services
<b>Sub-Sector:</b>	Sports lottery
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)
<b>Concerned:</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Measures:</b>	Act for Issuance of Sports Lottery of July 1, 2009 Administrative of July 26, 2012
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u> Sports lottery operators shall be companies with limited shares registered under Chinese Taipei's Company Act, with more than 50% of the shares owned by Chinese Taipei's citizens or juridical persons. Foreign banks are not allowed to provide services related to the management of cash flow from sports lotteries.

23

**Sector:** Recreational, Cultural and Sporting Services  
**Sub-Sector:** Library, archive, museum and other cultural services  
**Industry**  
**Classification:**  
**Obligations** National Treatment (Chapter 13 (Cross-Border Trade  
**Concerned:** in Services) Article 5)  
**Measures:** Cultural Heritage Preservation Act of February 5, 2005  
Regulation Governing the Excavation Requirements of  
Historic Site of December 30, 2005

**Description:** Cross-Border Trade in Services  
Foreigners may not investigate and excavate historical sites within the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and its territorial sea. Provided that with the prior approval of the competent authority, foreigners may cooperate with domestic scientific research organizations or professional institutions to conduct such investigation and excavation. Upon conducting joint excavation project carried out by foreigners and domestic scientific research organizations or professional institutions, the representative of the domestic counterpart will invariably be the director of the project. All original data thereby accumulated, such as the unearthed artifacts, etc., must be well preserved. Carrying or transporting those data abroad is strictly forbidden, provided that with the prior approval of the competent authority, they can be carried abroad to conduct the necessary scientific analyses.

24

<b>Sector:</b>	Business Services
<b>Sub-Sector:</b>	Professional services
<b>Industry</b>	Professional Engineers services (CPC 8672, 8673)
<b>Classification:</b>	Engineering Related Scientific and Technical Consulting Services (CPC 86754 )
<b>Obligations Concerned:</b>	Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)
<b>Measures:</b>	Professional Engineers Act of June 22, 2011 Act Governing the Administration of Professional Engineering Consulting Firms of July 2, 2003 Land Surveying and Mapping Act of March 21, 2007
<b>Description:</b>	<u>Cross-Border Trade in Services</u> <b><u>Professional engineering services:</u></b> Local presence is required for the services related to Professional Engineer certification practice in Chinese Taipei.  <b><u>Land Surveying and Mapping Services:</u></b> Local presence is required for the services related to land surveying and mapping services in Chinese Taipei.



25

<b>Sector:</b>	Business Services
<b>Sub-Sector:</b>	Professional services
<b>Industry</b>	CPA services (CPC 86211), Taxation services (CPC
<b>Classification:</b>	8630), CPB services (CPC 86213, 86219, 8622, 8630), Architectural Services (CPC 8671), Veterinary Services (CPC 93201*, 93209* <sup>1</sup> ), Real Estate Services (CPC 82203**, 82205**)
<b>Obligations</b>	Market Access (Chapter 13 (Cross-Border Trade in
<b>Concerned:</b>	Services) Article 4) Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)
<b>Measures:</b>	Certified Public Accountant Law, June 10, 2009 Income Tax Act of December 5, 2012 Certified Public Bookkeepers Act of December 5, 2012 Building Act of January 5, 2011 Architects Act of December 30, 2009 Veterinarian Act, May 27, 2009 Real Estate Broking Management Act of December 30, 2011 Real Estate Appraiser Act of June 15, 2011
<b>Description:</b>	<u>Cross-Border Trade in Services</u> <b><u>CPA attestation services and Income tax certification services</u></b> The CPA services related to accountant attestation practice or a tax agent services related to income tax certification can be provided only by CPA or tax agent of Chinese Taipei, which has established or joined a CPA firm in Chinese Taipei.

---

<sup>1</sup> Laboratory and technical services, food (including special diets), and other facilities and resources are excluded.

Local presence is required.

**CPB services:**

Local presence is required. Such presence shall not be in the form of company.

**Architectural Services:**

Local presence is required for the services related to architect certification practice in Chinese Taipei. Such presence shall not be in the form of company.

**Veterinary services:**

Local presence is required. Such presence shall not be in the form of company.

**Real Estate Brokering Agency Services**

Local presence is required.

Real estate broking services dealing with the broking business and sale of foreign real estates shall be registered in the form of company under the Company Act of Chinese Taipei.

**Real Estate Appraisal Services:**

Local presence is required for the services related to real estate appraisal certification practice in Chinese Taipei. Such presence shall not be in the form of company.

26

<b>Sector:</b>	Business Services
<b>Sub-Sector:</b>	Professional Services
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border
<b>Concerned:</b>	Trade in Services) Article 5)
<b>Measures:</b>	Notary Act of December 30, 2009 Land Administration Agent Act of December 30, 2011 Enforcement Rules of Examination Act for Professional and Technical Staff of July 25, 2011 Pilotage Law of January 30, 2002 Fire Services Act of December 21, 2011
<b>Description:</b>	<u>Cross-Border Trade in Services</u> Foreign national is not allowed to serve as a notary, land administration agent, pilot, and fire protection equipment engineer/technician.

27

<b>Sector:</b>	Business Services
<b>Sub-Sector:</b>	Legal services
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Concerned:</b>	Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)
<b>Measures:</b>	Attorney Regulation Act and accompanying regulations

**Description:**

Cross-Border Trade in Services

Local presence is required for practicing law by a licensed lawyer of Chinese Taipei and attorney of foreign legal affairs (AFLA). Such presence shall be in the form of sole proprietorship or partnership.

For transparency purposes, AFLA may provide services subject to the following terms:

1. Scope of the services:

(1)AFLA practicing the law of his/her home jurisdiction(s) or international law independently.

(2)AFLA cooperating with the licensed lawyer of Chinese Taipei or acquiring the latter's written opinions in the matters concerning marriage, parental or inheritance cases in which citizen of Chinese Taipei is a party or the estates is located in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

2. The following qualifications are required for the recognition of AFLA by the competent authority of

Chinese Taipei:

- (1) the service provider is qualified as a lawyer in his/her home jurisdiction(s), and
  - (2) the service provider has practiced as a qualified lawyer for at least 5 years in his/her home jurisdiction(s). However, should a foreign lawyer be employed by a licensed lawyer of Chinese Taipei as an assistant or consultant or have practiced his/her home jurisdiction laws elsewhere, the term, up to a maximum of two years of employment or practice may be accredited to the said five year term or
  - (3) any foreign lawyer who is already employed by a licensed lawyer of Chinese Taipei by 1 January 2002 in accordance with the Regulation Concerning Chinese Taipei's Lawyers' Employment of Foreigners and Administration thereof, may apply to become an AFLA after the completion of the two years' employment period.
3. AFLAs who obtain permission from Ministry of Justice may establish partnership with or employ licensed lawyer of Chinese Taipei.
  4. Registration shall be made with the Bar Association in the locality in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu where the law office is located after the person is recognized by Chinese Taipei as AFLA.

Foreigners who are college graduates majoring in law-related subjects or have law-related working

experience for at least two years, or who have passed the lawyer's examination in any foreign country may be employed by licensed lawyers of Chinese Taipei or AFLAs to work as assistants or consultants, but not conducting litigation or providing other legal services under the assistant/consultant's own name.

28

<b>Sector:</b>	Recreational, Cultural and Sporting Services
<b>Sub-Sector:</b>	Recreational services
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 12 (Investment) Article
<b>Concerned:</b>	5)
<b>Measures:</b>	The Statute for Investment by Foreign Nationals of November 19, 1997 Negative List for Investment by Overseas Chinese and Foreign Nationals of June 17, 2013
<b>Description:</b>	<u>Investment</u> Foreigners are not allowed to invest in entertainment establishments which offer personalized attention by a host or hostess of a sexually arousing or seductive nature. Host/hostess services in Chinese Taipei are offered in certain types of coffee/tea shops, ballrooms, dance halls, wine shops, bars, karaoke rooms, etc.

29

<b>Sector:</b>	Business services
<b>Sub-Sector:</b>	Placement and supply services of personnel
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	Most-Favoured-Nation Treatment (Chapter 13
<b>Concerned:</b>	(Cross-Border Trade in Services) Article 6)
	Market Access (Chapter 13 (Cross-Border Trade in
	Services) Article 4)
	Local Presence (Chapter 13 (Cross-Border Trade in
	Services) Article 7)
<b>Measures:</b>	Employment Service Act of January 30, 2012
	Regulations for Authorization and Administration of
	Private Employment Service Agencies of March 2,
	2010
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u>
	Foreign employment service agencies have to apply
	for recognition from the competent authorities of
	Chinese Taipei to refer foreign nationals to work in
	Chinese Taipei, or citizens of Hong Kong, Macau,
	and mainland China to work in Chinese Taipei,
	provided such employment services agencies shall
	not engage in employment services in Chinese
	Taipei. Limitations in the form of country of origin,
	numerical quota and types of services may apply to
	such recognition by the competent authorities.
	Any employment service agency to provide full
	employment services in Chinese Taipei must be a
	company incorporated or a foreign company
	registered under Chinese Taipei's Company Act.
	The competent authorities may authorize foreign



employment service agencies to set up commercial presence to provide full employment services in Chinese Taipei according to the situation of domestic economy and employment market.

30

**Sector:** Postal and Courier Services

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

**Concerned:**

**Measures:** Postal Act of April 27, 2011

**Description:** Cross-Border Trade in Services

Business of delivering letters, postcards or other correspondence is reserved to the Chunghwa Post Co. Ltd., which is a state-owned company. Apart from Chunghwa Post, no others may engage in the business of delivering letters, postcards or other correspondence.

31

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Banking and other financial services
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Concerned:</b>	Local presence (Chapter 13 (Cross-Border Trade in Services) Article 7)
<b>Measures:</b>	Banking Act, November 9, 2011 Offshore Banking Act of June 9, 2010 Regulations Governing Foreign Bank Branches and Representative Offices of December 11, 2009  Regulation for the Implementation of Offshore Banking Act of December 2, 2003 Law Governing Bills Finance Business of June 9, 2010  Trust Enterprise Law, January 16 of 2008 Standards for the Establishment of Trust Enterprises, October 5 of 2009 Financial Securitization Act of July 24, 2002 Real Estate Securitization Act of January 21, 2009  Act Governing Issuance of Electronic Stored Value Cards of January 23, 2009  Regulations Governing Foreign Exchange Brokers of July 29, 2011 Central Bank Act of April 27, 2011
<b>Description:</b>	<u>Cross-Border Trade in Services and Investment</u>

Cross-border financial services suppliers shall not supply any banking services, including solicitation or marketing thereof, to any entities or persons located in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu without prior approval and obtaining related business licenses from the competent authorities.

Banking services may only be provided through the following institutions: commercial banks, branches of foreign banks, offshore banking branches of banks, foreign exchange brokerage firms, credit card institutions, bills finance companies, trust enterprises and issuers of stored value cards.

The following financial institutions incorporated in Chinese Taipei shall only be companies limited by shares: commercial banks, bills finance companies, foreign exchange brokerage firms, trust companies and issuers of stored value cards.

32

**Sector:** Financial Services

**Sub-Sector:** Banking and other financial services

**Industry**

**Classification:**

**Obligations**

**Concerned:** National Treatment (Chapter 12 (Investment) Article 5)

**Measures:** Regulations Governing Foreign Bank Branches and Representative Offices of December 11, 2009

Offshore Banking Act of June 9, 2010

Regulation for the Implementation of Offshore Banking Act of December 2, 2003

**Description:** Investment

**Foreign bank branches and offshore banking units**

A foreign bank may not apply for approval to establish a branch or an offshore banking unit in Chinese Taipei unless the bank is ranked, by capital or assets, among the top five hundred banks in the world within one year prior to application, or has business dealings with the banks and/or enterprises in Chinese Taipei in an aggregate amount of more than US\$1,000,000,000 in three calendar years prior to application, of which no less than US\$180,000,000 have been in the form of medium or long term credits.

33

**Sector:** Financial Services

**Sub-Sector:** Banking and other financial services

**Industry**

**Classification:**

**Obligations**

**Concerned:** National Treatment (Chapter 12 (Investment) Article 5)

**Measures:** Regulations Governing Foreign Bank Branches and Representative Offices of December 11, 2009  
The Banking Act, November 9, 2011

**Description:** Investment

**New Taiwan dollar (NTD) lending**

A foreign bank branch may not extend more than NT\$7,000,000,000 or the amount calculated based on the net worth of a foreign bank branch according to the restrictions set forth by the competent authority pursuant to Paragraph 1, Article 33-3 of Banking Act, whichever is higher, to the same judicial person, same concerned party or same affiliated entity. A foreign bank branch may not extend more than NT\$1,500,000,000 or the amount calculated based on the net worth of a foreign bank branch according to the restrictions set forth by the competent authority pursuant to Paragraph 1, Article 33-3 of Banking Act, whichever is higher, to the same natural person.

The term “net worth” calculated according to the authorization provisions that apply *mutatis mutandis* to the branches of foreign banks shall mean the net worth of a foreign bank branch in the previous fiscal year following final settlement of accounts.

**34**

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Securities & Futures
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	Local Presence (Chapter 13 (Cross-Border Trade in Services)
<b>Concerned:</b>	Article 7)
<b>Measures:</b>	Securities and Exchange Act, January 4 2012 Futures Trading Act, June 9 2010 Securities Investment Trust and Consulting Act, June 9 2010 Standards Governing the Establishment of Securities Firms, June 16 2009 Standards Governing the Establishment of Futures Commission Merchants, October 2 2007
<b>Description:</b>	<u>Cross-Border Trade in Services</u>  Cross-border financial services suppliers shall not supply any financial services related to securities and futures, including solicitation or marketing thereof, to any entities or persons located in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu without prior approval and obtaining related business licenses from the competent authorities.

35

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Insurance and insurance related services
<b>Industry</b>	
<b>Classification:</b>	
<b>Obligations</b>	Local Presence (Chapter 13 (Cross-Border Trade in
<b>Concerned:</b>	Services) Article 7)
<b>Measures:</b>	Insurance Act of June 6, 2012
<b>Description:</b>	<u>Cross-Border Trade in Services</u> Except as provided in the GATS commitments of Chinese Taipei, no insurance and insurance related financial services, including solicitation or marketing thereof, may be provided to any entities or persons located in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu without prior approval and obtaining related business licenses from the competent authorities.



## **ANNEX 4:II**

### **Headnote**

1. The Schedule of each Party to Annex 4:II sets out, pursuant to Article 8.2 (Non-Conforming Measures) of Chapter 13 (Cross-Border Trade in Services) and Article 9 (Non-Conforming Measures) of Chapter 12 (Investment), the specific sectors, sub-sectors or activities for which a Party may maintain existing, or adopt new or more restrictive measures that do not conform with the obligations imposed by:

(a) Chapter 12 (Investment) Article 5 and Chapter 13 (Cross-Border Trade in Services) Article 5 (National Treatment);

(b) Chapter 12 (Investment) Article 6 and Chapter 13 (Cross-Border Trade in Services) Article 6 (Most-Favoured-Nation Treatment);

(c) Chapter 13 (Cross-Border Trade in Services) Article 4 (Market Access);

(d) Chapter 13 (Cross-Border Trade in Services) Article 7 (Local Presence);

(e) Chapter 12 (Investment) Article 7 (Performance Requirements); or

(f) Chapter 12 (Investment) Article 8 (Senior Management and Boards of Directors).

For greater certainty, Chapter 13 (Cross-Border Trade in Services) Article 4 (Market Access) refers to non-discriminatory measures.

2. Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7) and National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5) are separate disciplines and a measure that is only inconsistent with Local Presence need not be reserved against National Treatment.
3. 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 sector for which the entry is made;
  - (c) “**Industry Classification**”, where referenced, refers and only for transparency purposes, to the activities covered by the entry according to the relevant industry classification codes;
  - (d) “**Obligations Concerned**” specifies the obligation(s) referred to in paragraph 1 that, pursuant to Article 8.2(Non-Conforming Measures) of Chapter 13(Cross-Border Trade in Services) and 9.2 (Non-Conforming Measures) of Chapter 12 (Investment), do not apply to the sectors, subsectors, or activities listed in the entry;
  - (e) “**Description**” sets out the nature and/or scope of the sector, sub-sector, or activities covered by the entry; and
  - (f) “**Existing measures**” are included for transparency purposes. The measures stipulated therein are not exhaustive.

4. In accordance with Chapter 13 (Cross-Border Trade in Services) Article 8.2 and Chapter 12 (Investment) Article 9.2 (Non-Conforming Measures), the articles of this Agreement 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.
5. In the interpretation of each entry, the “Description” element shall prevail over all the other elements.

## **NEW ZEALAND**

### **ANNEX 4:II**

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment Article) 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>• The provision of public law enforcement and correctional services; and</li> <li>• The following, to the extent that they are social services established for a public purpose: <ul style="list-style-type: none"> <li>○ Child care;</li> <li>○ Health;</li> </ul> </li> </ul>

- Income security and insurance;
- Public education;
- Public housing;
- Public training;
- Public transport;
- Public utilities;
- Social security and insurance; and
- Social welfare.

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to water, including the allocation, collection, treatment and distribution of drinking water.</p> <p>This reservation does not apply to the wholesale trade and retail of bottled mineral, aerated and natural water.</p>

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt and maintain any measure solely as part of the act of devolving a service, that is provided in the exercise of governmental authority at the time the Agreement enters into force. Such measures may include:</p> <ul style="list-style-type: none"> <li>• Restricting the number of service suppliers;</li> <li>• Allowing an enterprise, wholly or majority owned by the Government of New Zealand, to be the sole service supplier or one amongst a limited number of service</li> </ul>



suppliers;

- Imposing restrictions on the composition of senior management and boards of directors;
- Requiring local presence; and
- Specifying the juridical form of the service supplier(s).

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Where the New Zealand government wholly owns or has effective control over an enterprise then New Zealand reserves the right to adopt or maintain any measures regarding the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to New Zealand nationals.</p>

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure that is not inconsistent with New Zealand's obligations under Article XVI of the GATS.<sup>1</sup></p>

---

<sup>1</sup> This means that the stipulation in Chapter 13 (Cross-Border Trade in Services) Article 8 (Non-Conforming Measures) not to decrease the conformity of the measure as it existed immediately before the amendment, does not apply with respect to the Market Access entries in New Zealand's Schedule to Annex 4:I.

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 12 (Investment) Article 5)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure that requires the following investment activities to receive prior approval by the New Zealand government under its overseas investment regime:</p> <ul style="list-style-type: none"> <li>(a) Acquisition or control of 25 per cent or more of any class of shares or voting power in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$20 million;</li> <li>(b) Commencement of business operations or acquisition of an existing business, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$20 million;</li> <li>(c) Acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific</li> </ul>

approval according to New Zealand's Overseas Investment legislation; and

- (d) Acquisition, regardless of the dollar value, of 25 per cent or more of any class of shares or voting power in a New Zealand entity that owns commercial fishing quota or annual catch entitlement, or the acquisition of commercial fishing quota or annual catch entitlement.

New Zealand reserves the right to adopt or maintain any measure that sets out the approval criteria to be applied to the categories of transactions that require approval under New Zealand's overseas investment regime.

**Existing measures**

Overseas Investment Act 2005

Fisheries Act 1996

Overseas Investment Regulations 2005

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure regarding the control, management or use of:</p> <ul style="list-style-type: none"> <li>• Protected areas, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation, and scenery preservation; or</li> <li>• Species owned under enactments by the Crown or that are protected by or under an enactment.</li> </ul>
<b>Existing measures</b>	<p>Conservation Act 1987 and the enactments listed in Schedule 1 of the Conservation Act 1987</p> <p>Resource Management Act 1991</p> <p>Local Government Act 1974 and subsequent amendments</p>

<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any nationality or residency measures in relation to:</p> <ul style="list-style-type: none"> <li>• Animal welfare; and</li> <li>• The preservation of plant, animal and human life and health; including in particular: <ul style="list-style-type: none"> <li>○ Food safety of domestic and exported foods;</li> <li>○ Animal feeds;</li> <li>○ Food standards;</li> <li>○ Biosecurity;</li> <li>○ Biodiversity; and</li> <li>○ Certification of the plant or animal health status of goods.</li> </ul> </li> </ul>

Nothing in this reservation shall be construed to derogate from the obligations of Chapter 6 (Sanitary and Phytosanitary Measures), or the obligations of the SPS Agreement.

Nothing in this reservation shall be construed to derogate from the obligations of Chapter 7 (Technical Barriers to Trade), or the obligations of the TBT Agreement.



<b>Sector</b>	All Sectors
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to maintain or adopt any measure made by or under an enactment in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone, and the continental shelf, including for the issuance of maritime concessions in the continental shelf.</p>
<b>Existing measures</b>	<p>Resource Management Act 1991</p> <p>Marine and Coastal Area (Takutai Moana) Act 2011</p> <p>Continental Shelf Act 1964</p> <p>Crown Minerals Act 1991</p> <p>Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012</p>

<b>Sector</b>	Business Services Legal Services
<b>Obligations concerned</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5) Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4) Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the provision of publicly funded legal services.

<b>Sector</b>	Business Services Fire Services
<b>Obligations concerned</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5) Market access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the provision of fire fighting services, excluding aerial fire fighting services.
<b>Existing Measures</b>	Fire Service Act 1975 Forest and Rural Fires Act 1977

<b>Sector</b>	Business Services Research and Development
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>• Research and development services carried out by State funded tertiary institutions or by research organisations that are part of the New Zealand State sector when such research is conducted for a public purpose; and</li> <li>• Research and experimental development services on physical sciences, chemistry, biology, engineering and technology, agricultural sciences, medical, pharmaceutical and other natural sciences i.e. CPC 8510.</li> </ul>

For the avoidance of doubt, the reservation in respect of the Most-Favoured-Nation Treatment obligation does not apply to the entry on Research and Development services carried out by State funded tertiary institutions or by research organisations that are part of the New Zealand State sector when such research is conducted for a public purpose.

<b>Sector</b>	Business Services Technical Testing and Analysis Services
<b>Obligations concerned</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5) Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6) Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measures in respect of:</p> <ul style="list-style-type: none"> <li>• Composition and purity testing and analysis services;</li> <li>• Technical inspection services;</li> <li>• Other technical testing and analysis services;</li> <li>• Geological, geophysical, and other scientific prospecting services; and</li> <li>• Drug testing services.</li> </ul>

<b>Sector</b>	Business Services Fisheries and aquaculture
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to control the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges) consistent with the provisions of the United Nations Convention on the Law of the Sea.</p>
<b>Existing Measures</b>	<p>Fisheries Act 1996</p> <p>Aquaculture Reform Act 2004</p>

<b>Sector</b>	Business Services Energy Manufacturing Wholesale trade Retail
<b>Obligations concerned</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5) Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6) Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4) Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7) Performance Requirements (Chapter 12 (Investment) Article 7) Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt any measure in order to prohibit, regulate, manage or control the production, use, distribution or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.



<b>Sector</b>	Communication Services Audio-visual and other Services
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under these co-production arrangements, confers national treatment on works covered by these arrangements.</p>
<b>Existing Measures</b>	<p>For greater transparency, section 18 of the New Zealand Film Commission Act 1978 limits Commission funding to films with a “significant New Zealand content”. This criterion is deemed to be satisfied if made pursuant to a co-production agreement or arrangement with the partner country in question.</p>

<b>Sector</b>	Communication Services Audio-visual and other Services
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to the promotion of film and television production in New Zealand and the promotion of local content on public radio and television, and in films.</p>

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations concerned</b>	<p>National Treatment (Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measures with respect to:</p> <ul style="list-style-type: none"> <li>• The holding of shares in the co-operative dairy company arising from the amalgamation authorised by section 7(1)(a) of the Dairy Industry Restructuring Act 2001 (DIRA) (or any successor body); and</li> <li>• The disposition of assets of that company or its successor bodies.</li> </ul>
<b>Existing Measures</b>	Dairy Industry Restructuring Act 2001 and Regulations

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measures with respect to the export marketing of fresh kiwifruit to all markets other than Australia.</p>
<b>Existing Measures</b>	Kiwifruit Industry Restructuring Act 1999 and Regulations.

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measures with respect to:</p> <ul style="list-style-type: none"> <li>• Specifying the terms and conditions for the establishment and operation of any government endorsed allocation scheme for the rights to the distribution of export products falling within the HS categories covered by the WTO Agreement on Agriculture to markets where tariff quotas, country-specific preferences or other measures of similar effect are in force; and</li> <li>• The allocation of distribution rights to wholesale trade service suppliers pursuant to the establishment or operation of such an allocation scheme.</li> </ul>

This reservation is not intended to have the effect of prohibiting all investment in the provision of wholesale trade and distribution services relating to goods in the HS chapters covered by the WTO Agreement on Agriculture. The entry applies in respect of investment to the extent that the services sectors specified in this reservation are provided with respect to agricultural products that are subject to tariff quotas, country-specific preferences or other measures of similar effect.

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to maintain or adopt any measures necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as “export marketing strategies”) for the export marketing of products derived from:</p> <ul style="list-style-type: none"> <li>• Agriculture;</li> <li>• Beekeeping;</li> <li>• Horticulture;</li> <li>• Arboriculture;</li> <li>• Arable farming; and</li> <li>• The farming of animals,</li> </ul> <p>Where there is support within the relevant industry that a mandatory collective marketing plan should</p>

be adopted or activated.

For the avoidance of doubt, mandatory marketing plans, in the context of this reservation, exclude measures limiting the number of market participants or limiting the volume of exports.

**Existing Measures**

New Zealand Horticulture Export Authority Act  
1987



<b>Sector</b>	Education Services
<b>Obligations concerned</b>	National Treatment (Chapter 12 (Investment) Article 5) Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the use of statutorily protected educational terms and titles.
<b>Existing Measures</b>	In the interests of greater transparency such terms include: “university”, “college of education”, “polytechnic” and “institute of technology” as set out in section 292 of the Education Act 1989.

<b>Sector</b>	Financial Services
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to financial services as defined in the GATS <i>Annex on Financial Services</i> that is not inconsistent with New Zealand's obligations under Articles XVI, XVII and XVIII of GATS.</p>

<b>Sector</b>	Health and Social Services
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to the supply of adoption services.</p>
<b>Existing Measures</b>	<p>Adoption Act 1955</p> <p>Adoption (Inter-country) Act 1997</p>

<b>Sector</b>	Health and Social Services
<b>Obligations concerned</b>	<p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to the following services to the extent that they are provided by the private sector:</p> <ul style="list-style-type: none"> <li>• Hospital services; and</li> <li>• Maternity deliveries and related services, including services provided by midwives.</li> </ul>

<b>Sector</b>	Recreation, cultural and sporting
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to gambling, betting and prostitution services.</p>
<b>Existing Measures</b>	<p>Gambling Act 2003 and Regulations</p> <p>Prostitution Reform Act 2003</p> <p>Racing Act 2003</p> <p>Racing (Harm Prevention and Minimisation) Regulations 2004</p> <p>Racing (New Zealand Greyhound Racing Association Incorporated) Order 2009</p>

<b>Sector</b>	Recreation, cultural and sporting Library, archive, museum and other cultural services
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13) Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13) Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13) Cross-Border Trade in Services) Article 7)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measures in respect of:</p> <ul style="list-style-type: none"> <li>• Cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific or technological heritage, as well as collections that are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions;</li> <li>• Public archives;</li> </ul>

- Library and museum services; and
- Services for the preservation of historical or sacred sites or historical buildings.

<b>Sector</b>	Transport Maritime Services
<b>Obligations concerned</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>• The carriage by sea of passengers and/or cargo between a port located in New Zealand and another port located in New Zealand and traffic originating and terminating in the same port in New Zealand (maritime “cabotage”);</li> <li>• Provision of certain Port Services (pilotage, towing and tug assistance provisioning,</li> </ul>



fuelling and watering, garbage collecting and ballast waste disposal, port captains' services, navigation aids, emergency repair facilities, anchorage, other shore-based operational services essential to ship operations, including communications, water and electrical supplies). However no measures shall be applied which deny international maritime transport suppliers reasonable and non-discriminatory access to the above port services;

- The establishment of registered companies for the purpose of operating a fleet under the New Zealand flag; and
- The registration of vessels in New Zealand.

<b>Sector</b>	Distribution Services
<b>Obligations Concerned</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)
<b>Description</b>	<p><u>Cross-Border Trade in Services</u></p> <p>New Zealand reserves the right to adopt or maintain any measure for public health or social policy purposes with respect to wholesale and retail trade services of tobacco products and alcoholic beverages.</p>

## **CHINESE TAIPEI**

### **Annex 4:II**

**1**

**Sector:** All Sectors

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations**

**Concerned:**

National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)

Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)

Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)

Performance Requirements (Chapter 12 (Investment) Article 7)

Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)

**Description:** Cross-Border Trade in Services and Investment

Chinese Taipei may adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public sewage services.

2

**Sector:** Issues relating to Indigenous Peoples

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations**

**Concerned:**

National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)

Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)

Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)

Performance Requirements (Chapter 12 (Investment) Article 7)

Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)

**Description:** Cross-Border Trade in Services and Investment

Chinese Taipei may adopt or maintain any measure with respect to the rights or preferences granted to its Indigenous peoples.

3

**Sector:** Games of Luck and Chance

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)  
**Concerned:**

Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)

Performance Requirements (Chapter 12 (Investment) Article 7)

**Description:** Cross-Border Trade in Services and Investment

Chinese Taipei reserves the right to adopt or maintain any measure relating to the operation of games of luck and chance, and of activities involving bets including but not limited to the issuance and operation of lottery.

4

<b>Sector:</b>	Transportation Services
<b>Sub-sector</b>	Air transportation
<b>Industry</b>	Ground handling services
<b>Classification:</b>	
<b>Obligations</b>	National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5)
<b>Concerned:</b>	Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

<b>Description:</b>	<u>Cross-Border Trade in Services</u> Chinese Taipei reserves the right to adopt or maintain any measure as part of the act of devolving baggage handling and hangar services that is provided by the government owned airport at the time this Agreement enters into force. A local responsible agent may be required for baggage handling services.
---------------------	---

## 5

**Sector:** Audiovisual Services

**Sub-Sector:** Television broadcast transmission services (CPC 75241)  
Radio broadcast transmission services (CPC 75242)

### Industry

#### Classification:

**Obligations** National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)

**Concerned:** Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)

Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)

Performance Requirements (Chapter 12 (Investment) Article 7)

Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)

**Description:** Cross-Border Trade in Services and Investment

Chinese Taipei reserves the right to adopt or maintain any measure relating to broadcasting services in its territory, to international broadcasting services originating from Chinese Taipei, and to the allocation of spectrum in relation to broadcasting services.



**6**

**Sector:** Financial Services

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)

**Concerned:**

**Description:**

Cross-Border-Trade in Services and Investment

Chinese Taipei may adopt or maintain any measure that accords differential treatment to countries under a bilateral or multilateral international agreement in force after the date of entry into force of this Agreement, involving financial services.

7

**Sector:** All sectors

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** National treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)

**Concerned:** Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)

Performance Requirements (Chapter 12 (Investment) Article 7)

**Description:** Cross-Border Trade in Services and Investment

Chinese Taipei may adopt or maintain any measure with respect to the rights or preferences granted to minorities with social or economic disadvantages.

8

**Sector:** All Sectors

**Sub-Sector:**

**Industry**

**Classification:**

**Obligations** National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)

**Concerned:** Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)

Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)

Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)

Performance Requirements (Chapter 12 (Investment) Article 7)

Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)

**Description:** Cross-Border Trade in Services and Investment

Chinese Taipei reserves the right to maintain or adopt any measure in order to prohibit, regulate, manage or control the production, use, distribution and retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.

<b>Sector:</b>	All sectors
<b>Obligations Concerned:</b>	<p>National Treatment (Chapter 13 (Cross-Border Trade in Services) Article 5 and Chapter 12 (Investment) Article 5)</p> <p>Most-Favoured-Nation Treatment (Chapter 13 (Cross-Border Trade in Services) Article 6 and Chapter 12 (Investment) Article 6)</p> <p>Market Access (Chapter 13 (Cross-Border Trade in Services) Article 4)</p> <p>Local Presence (Chapter 13 (Cross-Border Trade in Services) Article 7)</p> <p>Performance Requirements (Chapter 12 (Investment) Article 7)</p> <p>Senior Management and Boards of Directors (Chapter 12 (Investment) Article 8)</p>

<b>Description:</b>	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>Chinese Taipei reserves the right to maintain existing restrictions on investment and cross-border trade in services by persons of a non-Party or investors or service suppliers owned or controlled by persons of a non-Party.</p>
---------------------	--

However, any amendment to the restrictions existing at any particular moment, including the criteria used to determine whether an investor or a service supplier is deemed to be a person of a non-Party or owned or controlled by persons of a non-Party, shall not increase the non-conformity of the restrictions as they

existed immediately before the amendment, with Articles 4 (Market Access), 5 (National Treatment), 6 (MFN Treatment), 7 (Local Presence) of Chapter 13 (Cross-Border Trade in Services) and Articles 5 (National Treatment), 6 (MFN Treatment), 7 (Performance Requirements), 8 (Senior Management and Boards of Directors) of Chapter 12 (Investment).