

ANNEX 2

SUBSTANTIAL BUSINESS OPERATIONS

PREAMBLE

The State Parties

CONSIDERING that Article 1 of the Protocol on Trade in Services requires the further definition of the phrase “substantial business operations”;

AWARE that Article 22 of the Protocol provides for denial of benefits of the provisions of the Protocol;

IN PURSUANCE of Article 1 of the Protocol, which defines “substantial business operations” and provides for further development of the definition through negotiations;

ACKNOWLEDGING that the use of the term “substantial business operations” in this Protocol, without further definition, may jeopardise State Parties’ rights and obligations under Article 22;

CONVINCED that defining the term “substantial business operations” will enhance transparency and protect State Parties’ rights and obligations under the Protocol;

HEREBY AGREE that:

Article 1

Objective

The objective of this annex is to elaborate further on the meaning of “substantial business operations” as referred to in Articles 1 and 22 of the Protocol.

Article 2

Scope and Coverage

This annex shall apply to the phrase “substantial business operations” as referred to in Articles 1 and 22 of the Protocol.

Article 3

Meaning of Substantial Business Operations

1. The phrase “substantial business operations” as referred to in Articles 1 and 22 of the Protocol shall have the same meaning as the phrase “substantive business operations” as referred to in Article V of the General Agreement on Trade in Services.
2. State Parties agree that, further to the definition of “substantial business operations” in Article 1 of the Protocol, a juridical person of a non-State Party will be considered not to have substantial business operations if it does not possess a real and continuous link to the economy of a State Party or maintains negligible or no business operations in that State Party.