FREE TRADE AGREEMENT
BETWEEN NEW ZEALAND
AND THE EUROPEAN UNION

PREAMBLE

New Zealand,

and

The European Union, hereinafter referred to as "the Union",

hereinafter individually referred to as a "Party" and jointly referred to as the "Parties",

RECOGNISING their longstanding and strong partnership based on the common principles and values reflected in the Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part, done at Brussels on 5 October 2016, and their important economic, trade and investment relationship;

RESOLVED to strengthen their economic relations, and expand bilateral trade and investment;

RECOGNISING the importance of global cooperation to address issues of shared interest;

RECOGNISING the importance of transparency in international trade and investment to the benefit of all stakeholders;

SEEKING to establish a stable and predictable environment with clear and mutually advantageous rules governing trade and investment between the Parties, and to reduce or eliminate barriers thereto;

ACKNOWLEDGING that te Tiriti o Waitangi / the Treaty of Waitangi is a foundational document of constitutional importance to New Zealand;

DESIRING to raise living standards, promote inclusive economic growth and stability, create new employment opportunities and improve the general welfare and, to this end, reaffirming their commitment to promote trade and investment liberalisation;

CONVINCED that this Agreement will create an expanded and secure market for goods and services, thus enhancing the competitiveness of their firms in global markets;

DETERMINED to strengthen their economic, trade, and investment relations in accordance with the objective of sustainable development, in its economic, social and environmental dimensions, and to promote trade and investment that are consistent with the aims for high levels of environmental and labour protection and with relevant internationally recognised standards and agreements to which they are a party;

DETERMINED to enhance consumer welfare through policies that ensure a high level of consumer protection, consumer choice and economic wellbeing;

AFFIRMING the Parties' right to regulate within their territories to achieve legitimate policy objectives, such as the protection of human, animal or plant life or health; social services; public education; safety; the environment, including climate change; public morals; social or consumer protection; animal welfare; privacy and data protection; the promotion and protection of cultural diversity; and, in the case of New Zealand, the promotion or protection of the rights, interests, duties and responsibilities of Māori;

COMMITTED to communicate with all relevant stakeholders from civil society, including the private sector, trade unions and other non-governmental organisations;

RECOGNISING the importance of promoting inclusive participation in international trade, and of addressing barriers and other challenges that exist for domestic stakeholders in accessing international trade and economic opportunities, including in digital trade;

DETERMINED to address the particular challenges faced by small and medium-sized enterprises in contributing to the development of trade and foreign direct investment;

RECOGNISING the importance of international trade in enabling and advancing Māori wellbeing, and the challenges that exist for Māori, including wāhine Māori, in accessing trade and investment opportunities derived from international trade, including the opportunities and benefits created by this Agreement;

SEEKING to advance gender equality and the economic empowerment of women by promoting the importance of gender inclusive policies and practices in economic activities, including international trade, in an effort to eliminate all forms of gender-based discrimination;

REAFFIRMING their commitment to the Charter of the United Nations signed in San Francisco on 26 June 1945 and having regard to the principles articulated in the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948;

BUILDING upon their respective rights and obligations under the Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994, and other multilateral and bilateral instruments of cooperation to which both Parties are a party;

HAVE AGREED AS FOLLOWS:

CHAPTER 1

INITIAL PROVISIONS

ARTICLE 1.1

Objectives of this Agreement

The objectives of this Agreement are to liberalise and facilitate trade and investment, as well as to promote a closer economic relationship between the Parties.

ARTICLE 1.2

General definitions

For the purposes of this Agreement, the following definitions apply:

(a) "agricultural product" means a product listed in Annex 1 to the Agreement on Agriculture;

(b) "CCMAA" means the Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters[1], done at Brussels on 3 July 2017;

[1] OJ EU L 101, 20.4.2018, p. 6.

(c) "customs authority " means:

(i) with respect to New Zealand, the New Zealand Customs Service; and

(ii) with respect to the Union, the services of the European Commission responsible for customs matters, or, as appropriate, the customs administrations and any other authorities empowered in the Member States to apply and enforce customs legislation;

(d) "customs duty" means any duty or charge of any kind imposed on, or in connection with, the importation of a good, but does not include any:

(i) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;

(ii) anti-dumping or countervailing duty applied in conformity with GATT 1994, the Anti-dumping Agreement, and the SCM Agreement; and

(iii) fee or other charge imposed on, or in connection with, importation that is limited in amount to the approximate cost of the services rendered;

(e) "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(f) "day" means a calendar day;

(g) "enterprise" means a juridical person or a branch or a representative office of a juridical person;

(h) "EU" or "Union" means the European Union;

(i) "existing" means, unless otherwise specified in this Agreement, in effect on the date of entry into force of this Agreement;

(j) "good of a Party" means a domestic product within the meaning of GATT 1994, and includes goods originating in that Party;

(k) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System, including all legal notes and amendments thereto developed by the WCO;

(l) "heading" means the first four digits in the tariff classification number under the Harmonized System;

(m) "ILO" means the International Labour Organization;

(n) "juridical person" means any legal entity duly constituted or otherwise organised under the law of a Party, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(o) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement or practice, or any other form[1];

(p) "measures of a Party" means any measures adopted or maintained by:[2]

(i) central, regional or local governments or authorities; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

(q) "Member State" means a Member State of the Union;

(r) "natural person of a Party" means:

(i) for the Union, a national of one of the Member States according to its law[3]; and

(ii) for New Zealand, a national of New Zealand according to its law[4];

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1 For greater certainty, the term "measure" includes the term "omission".

2 For greater certainty, "measures of a Party" includes measures that are adopted or maintained by instructing, directing or controlling the conduct of other entities.

3 The term "natural person of a Party" also includes persons permanently residing in the Republic of Latvia who are not citizens of the Republic of Latvia or any other state but who are entitled, under the law of the Republic of Latvia, to receive a non-citizen's passport.

4 The Union reaffirms its obligations regarding permanent residents of New Zealand under GATS. To that effect, the term "natural person of a Party" also includes persons who have the right of permanent residence in New Zealand and who are not nationals of New Zealand, to the extent that such natural persons are covered by the Union's commitments under GATS.

(s) "OECD" means the Organisation for Economic Co-operation and Development;

(t) "originating" means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of origin and origin procedures);

(u) "originating good" or "good originating in a Party" means a good qualifying under the rules of origin set out in Chapter 3 (Rules of origin and origin procedures);

(v) "person" means a natural person or a juridical person;

(w) "preferential tariff treatment" means the rate of customs duty applicable to an originating good pursuant to the tariff elimination schedules in Annex 2-A (Tariff elimination schedules);

(x) "Sanitary Agreement" means the Agreement between the European Community and New Zealand on sanitary measures applicable to trade in live animals and animal products[1], done at Brussels on 17 December 1996;

(y) "sanitary or phytosanitary measure" or "SPS measure" means any measure as referred to in paragraph 1 of Annex A to the SPS Agreement;

(z) "SDR" means special drawing right;

[1] OJ EU L 57, 26.2.1997, p. 5.

(aa) "service supplier" means a person that supplies or seeks to supply a service;

(bb) "SME" means a small and medium-sized enterprise;

(cc) "territory" means with respect to each Party the area where this Agreement applies in accordance with Article 1.4 (Territorial application);

(dd) "TFEU" means the Treaty on the Functioning of the European Union;

(ee) "the Paris Agreement" means the Paris Agreement under the United Nations Framework Convention on Climate Change[1], done at Paris on 12 December 2015;

(ff) "the Partnership Agreement" means the Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part[2], done at Brussels on 5 October 2016;

(gg) "third country" means a country or territory outside the territorial scope of application of this Agreement;

(hh) "WTO" means the World Trade Organization; and

(ii) "WCO" means the World Customs Organization.

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1 OJ EU L 282, 19.10.2016, p. 4.
2 OJ EU L 321, 29.11.2016, p. 3.

ARTICLE 1.3

WTO Agreements

For the purposes of this Agreement, the following definitions apply:

(a) "Agreement on Agriculture" means the Agreement on Agriculture, contained in Annex 1A to the WTO Agreement;

(b) "Agreement on Safeguards" means the Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;

(c) "Anti-dumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

(d) "Customs Valuation Agreement" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

(e) "DSU" means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;

(f) "GATS" means the General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;

(g) "GATT 1994" means the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

(h) "GPA" means the Agreement on Government Procurement as amended by the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012;

(i) "Import Licensing Agreement" means the Agreement on Import Licensing Procedures, contained in Annex 1A to the WTO Agreement;

(j) "SCM Agreement" means the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement;

(k) "SPS Agreement" means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement;

(l) "TBT Agreement" means the Agreement on Technical Barriers to Trade, contained in Annex 1A to the WTO Agreement;

(m) "TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement; and

(n) "WTO Agreement" means the Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

ARTICLE 1.4

Territorial application

1. This Agreement applies:

(a) to the territories in which the Treaty on European Union and the TFEU are applied and under the conditions laid down in those Treaties; and

(b) to the territory of New Zealand and the exclusive economic zone, seabed and subsoil over which New Zealand exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau.

2. As regards the provisions of this Agreement concerning the tariff treatment of goods, including rules of origin and origin procedures, this Agreement also applies to those areas of the customs territory of the Union within the meaning of Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[1] that are not covered by point (a) of paragraph 1 of this Article.

3. References to "territory" in this Agreement shall be understood in the sense referred to in paragraphs 1 and 2, except as otherwise expressly provided.

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ EU L 269, 10.10.2013, p. 1).

ARTICLE 1.5

Relation to other international agreements

1. Unless otherwise provided for in this Agreement, the existing international agreements between the European Community, the Union, or the Member States, of the one part, and New Zealand, of the other part, are not superseded or terminated by this Agreement.

2. This Agreement shall be an integral part of the overall bilateral relations as governed by the Partnership Agreement and shall form part of the common institutional framework.

3. The Parties affirm their rights and obligations with respect to each other under the WTO Agreement. For greater certainty, nothing in this Agreement requires a Party to act in a manner inconsistent with its obligations under the WTO Agreement.

4. In the event of any inconsistency between this Agreement and any international agreement other than the WTO Agreement to which both Parties are a party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.

5. Unless otherwise specified, where international agreements are referred to in, or incorporated into, this Agreement, in whole or in part, they shall be understood to include amendments thereto and their successor agreements entering into force for both Parties on or after the date of entry into force of this Agreement.

6. If any matter arises regarding the implementation or application of this Agreement as a result of any amendments thereto or successor agreements as referred to in paragraph 5, the Parties may, on request of either Party, consult with each other with a view to finding a mutually satisfactory solution to such matter as necessary.

ARTICLE 1.6

Establishment of a free trade area

The Parties hereby establish a free trade area, in conformity with Article XXIV of GATT 1994 and Article V of GATS.

CHAPTER 2

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

ARTICLE 2.1

Objective

The Parties shall progressively and reciprocally liberalise trade in goods in accordance with this Agreement.

ARTICLE 2.2

Scope

Unless otherwise provided in this Agreement, this Chapter applies to trade in goods of a Party.

ARTICLE 2.3

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "A.T.A. carnet" means the document reproduced in accordance with the Annex to the Customs Convention on the A.T.A. Carnet for the temporary admission of goods, done in Brussels on 6 December 1961;

(b) "consular transaction" means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third country, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration or any other customs documentation in connection with the importation of the good;

(c) "export licensing procedure" means an administrative procedure requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body or bodies as a prior condition for exportation from the territory of the exporting Party;

(d) "import licensing procedure" means an administrative procedure, requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body or bodies as a prior condition for importation into the territory of the importing Party;

(e) "remanufactured good" means a good classified in HS Chapters 84 to 90 or heading 94.02 that:

(i) is entirely or partially comprised of parts obtained from used goods;

(ii) has similar performance and working conditions compared to equivalent goods, when new; and

(iii) is given the same warranty as that applicable to equivalent goods, when new;

(f) "repair" or "alteration" means any processing operation undertaken on a good, regardless of any increase in the value of the good, to remedy operating defects or material damage and entailing the re-establishment of the good to its original function or to ensure compliance with technical requirements for its use, without which the good could no longer be used in the normal way for the purposes for which it was intended; repair or alteration of a good includes restoration and maintenance, but does not include an operation or process that:

(i) destroys the essential characteristics of a good, or creates a new or commercially different good;

(ii) transforms an unfinished good into a finished good; or

(iii) is used to substantially change the function of a good; and

(g) "staging category" means the timeframe for the elimination of customs duties ranging from zero to seven years, after which a good is free of customs duty, unless otherwise specified in Annex 2-A (Tariff elimination schedules).

ARTICLE 2.4

National treatment on internal taxation and regulation

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative Notes and Supplementary Provisions. To that end, Article III of GATT 1994 and its interpretative Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.5

Elimination of customs duties

1. Unless otherwise provided for in this Agreement, each Party shall reduce or eliminate its customs duties on goods originating in the other Party in accordance with Annex 2-A (Tariff elimination schedules).

2. For the purposes of paragraph 1, the base rate of customs duties shall be the base rate specified for each good in Annex 2-A (Tariff elimination schedules).

3. If a Party reduces its applied most-favoured-nation customs duty rate, such duty rate shall apply to goods originating in the other Party for as long as it is lower than the customs duty rate determined pursuant to Annex 2-A (Tariff elimination schedules).

4. Two years after the date of entry into force of this Agreement, on the request of a Party, the Parties shall consult to consider accelerating the reduction or elimination of customs duties set out in Annex 2-A (Tariff elimination schedules). The Trade Committee may adopt a decision to amend Annex 2-A (Tariff elimination schedules) to accelerate the tariff reduction or elimination.

5. A Party may at any time autonomously accelerate the elimination of customs duties set out in Annex 2-A (Tariff elimination schedules) on goods originating in the other Party. That Party shall inform the other Party as early as practicable before the new customs duty rate takes effect.

6. If a Party autonomously accelerates the elimination of customs duties in accordance with paragraph 5 of this Article, that Party may raise the customs duties concerned to the level set out in Annex 2-A (Tariff elimination schedules) for the respective year following any autonomous reduction.

ARTICLE 2.6

Standstill

Unless otherwise provided in this Agreement, a Party shall not increase any customs duty set as the base rate in Annex 2-A (Tariff elimination schedules) or adopt any new customs duty on a good originating in the other Party.

ARTICLE 2.7

Export duties, taxes or other charges

1. A Party shall not adopt or maintain:

(a) any duty, tax or other charge of any kind imposed on, or in connection with, the exportation of a good to the other Party; or

(b) any internal tax or other charge on a good exported to the other Party that is in excess of the tax or charge that would be imposed on like goods when destined for domestic consumption.

2. Nothing in this Article shall prevent a Party from imposing a fee or charge that is permitted under Article 2.8 (Fees and formalities) on the exportation of a good.

ARTICLE 2.8

Fees and formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994, including its interpretative Notes and Supplementary Provisions, that all fees and other charges of whatever character imposed by a Party on, or in connection with, importation or exportation of goods are limited in amount to the approximate cost of services rendered, and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. A Party shall not levy the fees and other charges of whatever character referred to in paragraph 1 on an *ad valorem* basis.

3. Each Party shall promptly publish all fees and other charges of whatever character it imposes on, or in connection with, importation or exportation of goods in such a manner as to enable governments, traders and other interested parties to become acquainted with them.

4. A Party shall not require a consular transaction, including related fees and other charges of whatever character, in connection with the importation of any good of the other Party.

5. For the purposes of this Article, fees or other charges of whatever character do not include export taxes, customs duties, charges equivalent to an internal tax, or other internal charges imposed consistently with Article III:2 of GATT 1994, or anti-dumping or countervailing duties.

ARTICLE 2.9

Repaired or altered goods

1. A Party shall not apply a customs duty to a good, regardless of its origin, that re-enters the Party's territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether that repair or alteration could have been performed in the territory of the Party from which the good was exported for repair or alteration.

2. Paragraph 1 does not apply to a good imported in bond, into free trade zones, or in similar status, that is then exported for repair or alteration and is not reimported in bond, into free trade zones, or in similar status.

3. A Party shall not apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

ARTICLE 2.10

Remanufactured goods

1. A Party shall not accord to remanufactured goods of the other Party treatment that is less favourable than that which the Party accords to equivalent goods, when new.

2. For greater certainty, Article 2.11 (Import and export restrictions) applies to import or export prohibitions or restrictions on the importation or exportation of remanufactured goods. If a Party adopts or maintains import or export prohibitions or restrictions on the importation or exportation of used goods, it shall not apply such measures to remanufactured goods.

3. A Party may require that remanufactured goods be identified as such for distribution or sale in its territory and that the goods meet all applicable technical requirements that apply to equivalent goods, when new.

ARTICLE 2.11

Import and export restrictions

1. A Party shall not adopt or maintain any prohibitions or restrictions on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994, including its interpretative Notes and Supplementary Provisions. To that end, Article XI of GATT 1994 and its interpretative Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. A Party shall not adopt or maintain:

(a) export and import price requirements[1], except as permitted in enforcement of countervailing and anti-dumping duty orders and undertakings; or

(b) import licensing conditioned on the fulfilment of a performance requirement.

ARTICLE 2.12

Origin marking

1. If New Zealand requires a mark of origin on the importation of goods from the Union, New Zealand shall accept the origin mark "Made in the EU" under conditions that are no less favourable than those applied to marks of origin of a Member State.

2. For the purposes of the origin mark "Made in the EU", New Zealand shall treat the Union as a single territory.

[1] For greater certainty, this point is not meant to prevent a Party from relying on the price of imports in order to determine the applicable rate of a customs duty in accordance with this Agreement.

ARTICLE 2.13

Import licensing procedures

1. Each Party shall adopt and administer any import licensing procedures in accordance with Articles 1 to 3 of the Import Licensing Agreement. To that end, Articles 1 to 3 of the Import Licensing Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. A Party that adopts a new import licensing procedure or modifies an existing import licensing procedure, shall notify the other Party of such adoption or modification without delay and in any event no later than 60 days after the date of the publication of the relevant procedure. The notification shall include the information specified in Article 5(2) of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this notification obligation if it notifies the adoption of a new import licensing procedure, or a modification of an existing import licensing procedure, to the WTO Committee on Import Licensing established by Article 4 of the Import Licensing Agreement, including the information specified in Article 5(2) of that Agreement.

3. Upon request of a Party, the other Party shall promptly provide any relevant information, including the information specified in Article 5(2) of the Import Licensing Agreement, regarding any import licensing procedure that it intends to adopt or that it maintains as well as any modification of an existing import licensing procedure.

4. If a Party denies an application for an import licence with respect to a good of the other Party, it shall, on request, and within a reasonable period of time after receiving the request, provide the applicant with a written explanation of the reason for the denial.

ARTICLE 2.14

Export licensing procedures

1. Each Party shall publish any new export licensing procedure, or any modification of an existing export licensing procedure, in such a manner as to enable governments, traders and other interested parties to become acquainted with them. Such publication shall take place, whenever practicable, 45 days before the new export licensing procedure or any modification of an existing export licensing procedure takes effect, and in any event no later than the date on which the new export licensing procedure or any modification of an existing export licensing procedure takes effect.

2. Each Party shall ensure that it includes the following information in its publication of export licensing procedures:

(a) the texts of its export licensing procedures, or of any modifications the Party makes to those procedures;

(b) the goods subject to each export licensing procedure;

(c) for each export licensing procedure, a description of the process for applying for a licence and any criteria an applicant must meet to be eligible to apply for a licence, such as possessing an activity licence, establishing or maintaining an investment, or operating through a particular form of establishment in the territory of a Party;

(d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export licence;

(e) the administrative body or bodies to which an application for a licence or other relevant documentation is to be submitted;

(f) a description of any measure or measures being implemented through the export licensing procedure;

(g) the period during which each export licensing procedure will be in effect, unless the export licensing procedure will remain in effect until withdrawn or revised, resulting in a new publication;

(h) if the Party intends to use an export licensing procedure to administer an export quota, the overall quantity and, if applicable, the value of the quota and the opening and closing dates of the quota; and

(i) any exemptions or exceptions that replace the requirement to obtain an export licence, how to request or use those exemptions or exceptions, and the criteria for granting them.

3. Within 30 days after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing export licensing procedures. A Party that adopts new export licensing procedures, or modifications of existing licensing procedures, shall notify the other Party of such adoption or modification within 60 days after the publication of any new export licensing procedure or any modification of an existing licensing procedure. The notification shall include the reference to the source or sources where the information specified in paragraph 2 is published and, if appropriate, the address of the relevant government website or websites.

4. For greater certainty, nothing in this Article requires a Party to grant an export licence, or prevents a Party from implementing its commitments under United Nations Security Council resolutions, as well as under multilateral non-proliferation regimes and export control arrangements, including:

(a) the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, done at the Hague on 19 December 1995;

(b) the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993;

(c) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at London, Moscow and Washington on 10 April 1972;

(d) the Treaty on the Non-Proliferation of Nuclear Weapons, done at London, Moscow and Washington on 1 July 1968; and

(e) the Australia Group, the Nuclear Suppliers Group, and the Missile Technology Control Regime.

ARTICLE 2.15

Preference utilisation rates

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually exchange comprehensive import statistics for a period starting one year after the date of entry into force of this Agreement until 10 years after the tariff elimination is completed for all goods in accordance with Annex 2-A (Tariff elimination schedules). Unless the Trade Committee decides otherwise, that period shall be automatically extended for five years, and thereafter the Trade Committee may decide to extend it further.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, if applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and for the import of those goods that received non-preferential treatment including under the different regimes used by the Parties upon importation. Such statistics as well as preference utilisation rates may be presented for an exchange of views to the Trade Committee.

ARTICLE 2.16

Temporary admission

1. For the purposes of this Article, the term "temporary admission" means the customs procedure under which certain goods, including means of transport, can be brought into the territory of a Party with conditional relief from the payment of import duties and taxes and without the application of import prohibitions or restrictions of an economic character, on the condition that the goods are imported for a specific purpose and are intended for re-exportation within a specified period without having undergone any change except normal depreciation due to the use made of those goods.

2. Each Party shall grant temporary admission in accordance with its laws, regulations or procedures, to the following goods, regardless of their origin:

(a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, necessary for carrying out the business activity, trade, or profession of a person visiting the territory of the other Party to perform a specified task;

(b) goods, including their component parts, ancillary apparatus, and accessories, intended for display or use at exhibitions, fairs, meetings or similar events;

(c) commercial samples and advertising films and recordings (recorded visual media or audio materials, consisting essentially of images or sound showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party provided that such materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public); and

(d) goods imported for sports purposes, including contests, demonstrations, training, racing or similar events.

3. For the temporary admission of the goods listed in paragraph 2, each Party shall accept A.T.A. carnets issued in the other Party, endorsed there and guaranteed by an association forming part of the international guarantee chain, certified by the competent authorities and valid in the territory of the importing Party.

4. Each Party shall determine the period during which goods may remain under the temporary admissions procedure. The initial period may be extended autonomously by a Party.

5. Each Party may require that the goods benefiting from temporary admission:

(a) be used solely by or under the personal supervision of a national or resident of the other Party in the exercise of the business activity, trade, profession, or sport carried out by that national or resident;

(b) not be sold, leased, disposed of, or transferred while in its territory;

(c) be accompanied by a security that is consistent with the importing Party's obligations under the relevant international customs conventions to which it has acceded;

(d) be identified when imported and exported;

(e) be exported on or before the departure of the national or resident referred to in point (a), or within a period related to the purpose of the temporary admission that the Party may establish, or within one year, unless extended;

(f) be admitted in no greater quantity than is reasonable for its intended use; or

(g) be otherwise admissible into the territory of the Party under its law.

6. If any condition that a Party may impose under paragraph 5 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good as well as any other charges or penalties provided for under its law.

7. Each Party shall allow a good temporarily admitted under this Article to be re-exported through a customs authorised point of departure other than that through which it was admitted.

8. A Party shall relieve the importer or other person responsible for a good temporarily admitted under this Article of liability for failure to export a good temporarily admitted under this Article on presentation of satisfactory proof to the importing Party that the good temporarily admitted under this Article has been destroyed or irretrievably lost, in accordance with the customs legislation of that Party.

ARTICLE 2.17

Duty-free entry of commercial samples of negligible value
and printed advertising material

1. Each Party shall, in accordance with its laws, regulations or procedures, grant duty-free entry to commercial samples of negligible value and printed advertising material imported from the other Party, regardless of their origin.

2. A Party may define commercial samples of negligible value as:

(a) having a value, individually or in the aggregate as shipped, of not more than the amount specified in the law of a Party; or

(b) being so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples.

3. Printed advertising materials are defined as goods classified in HS Chapter 49, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials, and posters, that are used to promote, publicise, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.

ARTICLE 2.18

Specific measures concerning the management of preferential treatment

1. The Parties shall cooperate in preventing, detecting and combating breaches of customs legislation related to the preferential treatment granted under this Chapter in accordance with Chapter 3 (Rules of origin and origin procedures) and Titles I, III, IV and V of the CCMAA.

2. A Party may temporarily suspend the relevant preferential treatment of the goods concerned in accordance with the procedure laid down in paragraphs 3 to 5, if:

(a) that Party has made a finding, on the basis of objective, compelling and verifiable information, that systematic and sectoral breaches of customs legislation related to the preferential treatment granted under this Chapter, resulting in a significant loss of revenue to that Party, have been committed; and

(b) the other Party repeatedly and unjustifiably refuses or otherwise fails to cooperate with respect to the breaches of customs legislation referred to in point (a).

3. The Party that has made a finding as referred to in point (a) of paragraph 2 shall, without undue delay, notify the Trade Committee and enter into consultations with the other Party within the Trade Committee with a view to reaching a mutually acceptable solution.

4. If the Parties fail to agree on an acceptable solution within three months after the notification as referred to in paragraph 3, the Party that made the finding may decide to temporarily suspend the relevant preferential treatment of the goods concerned. The temporary suspension shall apply to only those traders that both Parties during the consultations referred to in paragraph 3 have identified and have agreed that those traders were involved in the breaches of customs legislation. Such temporary suspension shall be notified to the Trade Committee without undue delay.

5. If a Party has made a finding as referred to in point (a) of paragraph 2 and within three months following the notification as referred to in paragraph 4 has established that the temporary suspension as referred to in paragraph 4 has been ineffective in combatting breaches of customs legislation related to the preferential treatment granted under this Chapter, the Party may decide to temporarily suspend the relevant preferential treatment of the goods concerned. The Party may also decide to temporarily suspend the relevant preferential treatment of the goods concerned if, during the consultations referred to in paragraph 3, the Parties were unable to identify and agree on the traders involved in the breaches of customs legislation. This temporary suspension shall be notified to the Trade Committee without undue delay.

6. The temporary suspensions referred to in this Article shall apply only for the period necessary to protect the financial interests of the Party concerned, and in any case they shall not apply longer than six months. If the conditions that gave rise to the initial temporary suspension persist at the expiry of the six month period, the Party concerned may decide to renew the temporary suspension after notifying the other Party. Any such suspension shall be subject to periodic consultations within the Trade Committee.

7. Each Party shall publish, in accordance with its internal procedures, notices to importers about any decision concerning temporary suspensions referred to in this Article.

8. Notwithstanding paragraph 5, if an importer is able to satisfy the customs authority of the importing Party that the goods concerned are fully compliant with the customs law of the importing Party, the requirements of this Agreement, and any other conditions related to the temporary suspension established by the importing Party in accordance with its law, the importing Party shall allow the importer to apply for preferential treatment and recover any duties paid in excess of the applicable preferential tariff rates when the goods concerned were imported.

ARTICLE 2.19

Committee on Trade in Goods

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The functions of the Committee on Trade in Goods, with respect to this Chapter, shall include:

(a) promoting trade in goods between the Parties, including through consultation on accelerating tariff elimination under this Agreement;

(b) promptly addressing barriers to trade in goods between the Parties;

(c) without prejudice to Chapter 26 (Dispute settlement), consulting on and endeavouring to resolve any issues relating to this Chapter, including differences that may arise between the Parties on matters related to the classification of goods under the Harmonized System and Annex 2-A (Tariff elimination schedules), or to an amendment to the Harmonized System Code Structure or each Party's respective nomenclatures, to ensure that the obligations of each Party pursuant to Annex 2-A (Tariff elimination schedules) are not altered;

(d) monitoring preference utilisation rates and statistics, the data of which may be presented for an exchange of views by the Committee on Trade in Goods to the Trade Committee; and

(e) working with any specialised committee or other body established or granted authority to act under this Agreement on issues that may be relevant to that specialised committee or other body, as appropriate.

ARTICLE 2.20

Contact points

Within 90 days after the date of entry into force of this Agreement, each Party shall designate a contact point to facilitate communication between the Parties on matters covered by this Chapter and shall notify the other Party of the contact details for the contact point. Each Party shall promptly notify the other Party of any change of those contact details.

CHAPTER 3

RULES OF ORIGIN AND ORIGIN PROCEDURES

SECTION A

RULES OF ORIGIN

ARTICLE 3.1

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "consignment" means a product that is either sent simultaneously from a consignor to a consignee or covered by a single transport document covering a shipment from the consignor to the consignee or, in the absence of such a document, by a single invoice;

(b) "exporter" means a person, located in a Party, who, in accordance with the requirements laid down in the law of that Party, exports or produces the originating product and makes out a statement on origin;

(c) "importer" means a person who imports the originating product and claims preferential tariff treatment for it;

(d) "material" means any substance used in the production of a product, including any ingredient, raw material, component or part;

(e) "non-originating material" means a material that does not qualify as originating under this Chapter, including a material whose originating status cannot be determined;

(f) "product" means the result of production, even if it is intended for use as a material in the production of another product; and

(g) "production" means any kind of working or processing, including assembly.

ARTICLE 3.2

General requirements for originating products

1. For the purpose of applying preferential tariff treatment by a Party to an originating good of the other Party in accordance with this Agreement, provided that a product satisfies all other applicable requirements of this Chapter, a product shall be considered as originating in the other Party if it is:

(a) wholly obtained in that Party within the meaning of Article 3.4 (Wholly obtained products);

(b) produced in that Party exclusively from originating materials; or

(c) produced in that Party incorporating non-originating materials provided that the product satisfies the requirements set out in Annex 3-B (Product-specific rules of origin).

2. If a product has acquired originating status, the non-originating materials used in the production of that product shall not be considered as non-originating materials when that product is incorporated as a material in another product.

3. The acquisition of originating status shall be fulfilled without interruption in New Zealand or the Union.

ARTICLE 3.3

Cumulation of origin

1. A product originating in a Party shall be considered as originating in the other Party if that product is used as a material in the production of another product in that other Party.

2. Production carried out in a Party on a non-originating material may be taken into account for the purpose of determining whether a product is originating in the other Party.

3. Paragraphs 1 and 2 do not apply if the production carried out in the other Party does not go beyond one or more of the operations referred to in Article 3.6 (Insufficient working or processing).

4. In order for an exporter to complete the statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment) for a non-originating material, the exporter shall obtain from its supplier a supplier's declaration as provided for in Annex 3-D (Supplier's declaration referred to in Article 3.3(4) (Cumulation of origin)) or an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail to enable them to be identified.

ARTICLE 3.4

Wholly obtained products

1. The following shall be considered as wholly obtained in a Party:

(a) a mineral or naturally occurring substance extracted or taken from the soil or the seabed of a Party;

(b) a plant or vegetable grown or harvested in a Party;

(c) a live animal born and raised in a Party;

(d) a product obtained from a live animal raised in a Party;

(e) a product obtained from a slaughtered animal born and raised in a Party;

(f) a product obtained by hunting or fishing conducted in a Party, but not beyond the outer limits of the Party's territorial sea;

(g) a product obtained from aquaculture in a Party, if aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, are born or raised from seed stock, such as eggs, roes, fry, fingerlings or larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding or protection from predators;

(h) a product of sea fishing and other product taken in accordance with international law from the sea outside any territorial sea by a vessel of a Party;

(i) a product made aboard a factory ship of a Party exclusively from a product referred to in point (h);

(j) a product taken or extracted by a Party or a person of a Party from the seabed or subsoil outside any territorial sea, provided that Party or person of that Party has the right to work that seabed or subsoil in accordance with international law;

(k) waste or scrap resulting from manufacturing operations conducted in a Party;

(l) a used product collected in a Party and which is fit only for the recovery of raw materials, including such raw materials; and

(m) a product produced in a Party exclusively from the products referred to in points (a) to (l).

2. The terms "vessel of a Party" and "factory ship of a Party" in points (h) and (i) of paragraph 1 respectively refer only to a vessel or a factory ship which:

(a) is registered in a Member State or in New Zealand;

(b) sails under the flag of a Member State or of New Zealand; and

(c) meets one of the following conditions:

(i) it is at least 50 % owned by nationals of a Member State or of New Zealand; or

(ii) it is owned by one or more juridical persons each of which:

(A) has its head office and main place of business in a Member State or in New Zealand; and

(B) is at least 50 % owned by public entities or persons of a Member State or of New Zealand.

ARTICLE 3.5

Tolerances

1. If non-originating materials used in the production of a product do not satisfy the requirements set out in Annex 3-B (Product-specific rules of origin), the product shall be considered as originating in a Party, provided that:

(a) for all products, except for the products classified under HS Chapters 50 to 63, the value of non-originating materials used in the production of the products concerned does not exceed 10 % of the ex-works price of those products;

(b) for the products classified under HS Chapters 50 to 63, the tolerances set out in Notes 7 and 8 of Annex 3-A (Introductory notes to product-specific rules of origin) apply.

2. Paragraph 1 does not apply if the value or weight of non-originating materials used in the production of a product exceeds any of the percentages for the maximum value or weight of non-originating materials as specified in the requirements set out in Annex 3-B (Product-specific rules of origin).

3. Paragraph 1 does not apply to products wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products). If Annex 3-B (Product-specific rules of origin) requires that the materials used in the production of a product are wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products), paragraphs 1 and 2 apply.

ARTICLE 3.6

Insufficient working or processing

1. Notwithstanding point (c) of Article 3.2(1) (General requirements for originating products), a product shall not be considered as originating in a Party if the production of the product in a Party consists only of one or more of the following operations conducted on non-originating materials:

(a) preserving operations such as drying, freezing, keeping in brine and other similar operations when their sole purpose is to ensure that the product remains in good condition during transport and storage[1];

(b) breaking-up or assembly of packages;

(c) washing or cleaning, removal of dust, oxide, oil, paint or other coverings;

(d) ironing or pressing of textiles and textile articles;

(e) simple painting and polishing operations;

(f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;

[1] Within the context of point (a), preserving operations such as chilling, freezing or ventilating are considered insufficient, whereas operations such as pickling, drying or smoking that are intended to give special or different characteristics to the product are not considered insufficient.

(g) operations to colour or flavour sugar or form sugar lumps, partial or total milling of crystal sugar;

(h) peeling, stoning and shelling of fruits, nuts and vegetables;

(i) sharpening, simple grinding or simple cutting;

(j) sifting, screening, sorting, classifying, grading, matching, including the making-up of sets of articles;

(k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

(l) affixing or printing marks, labels, logos and other like-distinguishing signs on the product or its packaging;

(m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;

(n) simple addition of water or dilution with water or another substance that does not materially alter the characteristics of the product, or dehydration or denaturation of the product;

(o) simple assembly of parts of articles to constitute a complete article or disassembly of the product into parts; or

(p) slaughter of animals.

2. For the purposes of paragraph 1, operations shall be considered to be simple if neither special skills nor especially produced or installed machines, apparatus or equipment are needed for carrying out those operations.

ARTICLE 3.7

Unit of qualification

1. For the purposes of this Chapter, the unit of qualification shall be the particular product that is considered as the basic unit when classifying the product under the HS.

2. If a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each individual product shall be taken into account when applying this Chapter.

ARTICLE 3.8

Packing materials and containers for shipment

Packing materials and containers for shipment that are used to protect a product during transportation shall be disregarded in determining whether a product has originating status.

ARTICLE 3.9

Packaging materials and containers for retail sale

1. Packaging materials and containers in which a product is packaged for retail sale, if classified with that product, shall be disregarded in determining whether the non-originating materials used in the production of the product have undergone the applicable change in tariff classification or a specific manufacturing or processing operation as set out in Annex 3-B (Product-specific rules of origin) or whether the product is wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products).

2. When a product is subject to a value requirement as set out in Annex 3-B (Product-specific rules of origin), the value of the packaging materials and containers in which the product is packaged for retail sale, if classified with that product, shall be taken into account as originating or non-originating, as the case may be, in the calculation for the purposes of the application of the value requirement to the product.

ARTICLE 3.10

Accessories, spare parts and tools

1. For the purposes of this Article, accessories, spare parts, tools and instructional or other information materials of a product are covered if they are:

(a) classified, delivered and invoiced with the product; and

(b) of the type, quantity and value that are customary for the product concerned.

2. In determining whether a product:

(a) is wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products) or satisfies a production process or change in tariff classification requirement as set out in Annex 3-B (Product-specific rules of origin), accessories, spare parts, tools and instructional or other information materials of that product shall be disregarded; and

(b) meets a value requirement as set out in Annex 3-B (Product-specific rules of origin), the value of accessories, spare parts, tools and instructional or other information materials of that product shall be taken into account as originating or non-originating materials, as the case may be, in the calculation for the purposes of the application of the value requirement to the product.

ARTICLE 3.11

Sets

Sets, as referred to in General Rule 3, points (a) and (b), of the General rules for the interpretation of the Harmonized System, shall be considered as originating in a Party if all of their components have originating status. When a set is composed of originating and non-originating components, the set as a whole shall be considered as originating in a Party, if the value of the non-originating components does not exceed 15 % of the ex-works price of that set.

ARTICLE 3.12

Neutral elements

In order to determine whether a product is originating in a Party, it shall not be necessary to determine the originating status of the following neutral elements:

(a) energy and fuel;

(b) plant and equipment, including products used for their maintenance;

(c) machines, tools, dies and moulds;

(d) spare parts and materials used in the maintenance of equipment and buildings;

(e) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;

(f) gloves, glasses, footwear, clothing, safety equipment and supplies;

(g) equipment, devices and supplies used for testing or inspecting the product;

(h) catalysts and solvents; and

(i) other materials that are neither incorporated nor intended to be incorporated into the final composition of the product.

ARTICLE 3.13

Accounting segregation method for fungible materials and fungible products

1. For the purposes of this Article, "fungible materials" or "fungible products" means materials or products that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes.

2. Originating and non-originating fungible materials or fungible products shall be physically segregated during storage in order to maintain their originating and non-originating status.

3. Notwithstanding paragraph 2, originating and non-originating fungible materials may be used in the production of a product without being physically segregated during storage if an accounting segregation method is used.

4. Notwithstanding paragraph 2, originating and non-originating fungible products classified under Chapters 10, 15, 27, 28, 29, headings 32.01 to 32.07, or headings 39.01 to 39.14 of the Harmonized System may be stored in a Party before exportation to the other Party without being physically segregated, if an accounting segregation method is used.

5. The accounting segregation method referred to in paragraphs 3 and 4 shall be applied in conformity with a stock management method under accounting principles that are generally accepted in the Party where the accounting segregation method is used.

6. The accounting segregation method shall be any method that ensures that at any time no more products receive originating status than that would be the case if the materials or the products had been physically segregated.

ARTICLE 3.14

Returned products

If an originating product of a Party exported from that Party to a third country returns to that Party, it shall be considered as a non-originating product unless the returned product:

(a) is the same as that exported; and

(b) has not undergone any operation other than what was necessary to preserve it in good condition while in the third country to which it has been exported or while being exported.

ARTICLE 3.15

Non-alteration

1. An originating product declared for home use in the importing Party shall not, after exportation and prior to being declared for home use, have been altered, transformed in any way or subjected to operations other than to preserve it in good condition or than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific requirements of the importing Party.

2. The storage or exhibition of an originating product may take place in a third country if that originating product is not cleared for home use in that third country.

3. Without prejudice to Section B (Origin procedures) of this Chapter, the splitting of consignments may take place in a third country if the consignments are not cleared for home use in that third country.

4. In case of doubt as to whether the requirements provided for in paragraphs 1 to 3 are complied with, the customs authority of the importing Party may request the importer to provide evidence of compliance with those requirements, which may be given by any means, including contractual transport documents, such as bills of lading, factual or concrete evidence based on marking or numbering of packages or any evidence related to the product itself.

SECTION B

ORIGIN PROCEDURES

ARTICLE 3.16

Claim for preferential tariff treatment

1. The importing Party shall grant preferential tariff treatment to a product originating in the other Party on the basis of a claim by the importer for preferential tariff treatment. The importer shall be responsible for the correctness of the claim for preferential tariff treatment and for compliance with the requirements set out in this Chapter.

2. A claim for preferential tariff treatment shall be based on either:

(a) a statement on origin that the product is originating made out by the exporter; or

(b) the importer's knowledge that the product is originating.

3. A claim for preferential tariff treatment and its basis as referred to in points (a) and (b) of paragraph 2 shall be included in the customs import declaration in accordance with the law of the importing Party.

4. The importer making a claim for preferential tariff treatment based on a statement on origin referred to in point (a) of paragraph 2 shall keep the statement on origin and, when required by the customs authority of the importing Party, shall provide a copy thereof to that customs authority.

ARTICLE 3.17

Claim for preferential tariff treatment after importation

1. If the importer did not make a claim for preferential tariff treatment at the time of importation, and the product would have qualified for preferential tariff treatment at the time of importation, the importing Party shall grant preferential tariff treatment and repay or remit any excess customs duty paid.

2. The importing Party may require as a condition for granting preferential tariff treatment under paragraph 1 that the importer makes a claim for preferential tariff treatment and provides the basis for the claim as referred to in Article 3.16(2) (Claim for preferential tariff treatment). Such a claim shall be made no later than three years after the date of importation or within a longer period if specified in the law of the importing Party.

ARTICLE 3.18

Statement on origin

1. A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, when applicable, information on the originating status of materials used in the production of that product. The exporter shall be responsible for the correctness of the statement on origin and the information provided.

2. A statement on origin shall be made out in one of the language versions included in Annex 3-C (Text of the statement on origin) on an invoice or on any other document that describes the originating product in sufficient detail to enable its identification[1]. The importing Party shall not require the importer to submit a translation of the statement on origin.

3. A statement on origin shall be valid for one year from the date it was made out.

4. A statement on origin may apply to:

(a) a single shipment of one or more products imported into a Party; or

[1] For greater certainty, while the statement on origin must be made out by the exporter and the exporter shall be responsible for providing sufficient detail to identify the originating product, there shall be no requirement regarding either the identity or the place of establishment of the person issuing the invoice or any other document, if that document allows for clear identification of the exporter.

(b) multiple shipments of identical products imported into a Party within the period specified in the statement on origin not exceeding 12 months.

5. The importing Party shall, upon the request of the importer and subject to requirements that the importing Party may provide, allow a single statement on origin for unassembled or disassembled products within the meaning of General Rule 2, point (a), of the General rules for the interpretation of the Harmonized System falling within Sections XV to XXI of the Harmonized System when imported by instalments.

ARTICLE 3.19

Minor errors or minor discrepancies

The customs authority of the importing Party shall not reject a claim for preferential tariff treatment due to minor errors or minor discrepancies in the statement on origin.

ARTICLE 3.20

Importer's knowledge

The importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements of this Chapter.

ARTICLE 3.21

Record-keeping requirements

1. For a minimum of three years after the date on which the claim for preferential tariff treatment referred to in Article 3.16 (Claim for preferential tariff treatment) or the claim for preferential tariff treatment after importation referred to in Article 3.17 (Claim for preferential tariff treatment after importation) was made or for a longer period that may be specified in the law of the importing Party, an importer making that claim for preferential tariff treatment or that claim for preferential tariff treatment after importation for a product imported into the importing Party shall keep:

(a) the statement on origin made out by the exporter, if the claim was based on a statement on origin; or

(b) all records demonstrating that the product satisfies the requirements to obtain originating status, if the claim was based on the importer's knowledge.

2. An exporter who has made out a statement on origin shall, for a minimum of four years after that statement was made out or within a longer period provided for in the law of the exporting Party, keep a copy of that statement and other records demonstrating that the product satisfies the requirements to obtain originating status.

3. If an exporter is not the producer of the products, and has relied on information from a supplier as to the originating status of the products, the exporter shall be required to keep the information provided by that supplier.

4. The records to be kept in accordance with this Article may be held in electronic format.

ARTICLE 3.22

Waiver of procedural requirements

1. Notwithstanding Articles 3.16 to 3.21, the importing Party shall grant preferential tariff treatment to:

(a) a product sent in a small package from private persons to private persons; or

(b) a product forming part of a traveller's personal luggage.

2. Paragraph 1 applies only to products that have been subject to a customs declaration declaring conformity with the requirements of this Chapter, and for which the customs authority of the importing Party has no doubts as to the veracity of such declaration.

3. The following products are excluded from the application of paragraph 1:

(a) products imported by way of trade, except for imports that are occasional and consist solely of products for the personal use of the recipients or travellers or their families, if it is evident from the nature and quantity of the products that the imports have no commercial purpose;

(b) products whose importation forms part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirements of Article 3.16 (Claim for preferential tariff treatment);

(c) products for which the total value exceeds:

(i) for the Union, EUR 500 in the case of products sent in small packages, or EUR 1 200 in the case of products forming part of a traveller's personal luggage. The amounts to be used in a given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The exchange rates shall be those published for that day by the European Central Bank, unless a different exchange rate is communicated to the European Commission by 15 October, and shall apply from 1 January the following year. The European Commission shall notify New Zealand of the relevant exchange rates;

(ii) for New Zealand, NZD 1 000 both in the case of products sent in small packages and in the case of products forming part of a traveller's personal luggage.

4. The importer shall be responsible for the correctness of the customs declaration referred to in paragraph 2. The record-keeping requirements set out in Article 3.21 (Record-keeping requirements) do not apply to the importer when this Article is being applied.

ARTICLE 3.23

Verification

1. The customs authority of the importing Party may conduct a verification as to whether a product is originating or the other requirements of this Chapter are met, on the basis of risk assessment methods, which may include random selection. Such verification may be conducted by means of a request for information to the importer who made the claim for preferential tariff treatment referred to in Article 3.16 (Claim for preferential tariff treatment), at the time the import declaration is submitted, either before or after the release of the products.

2. The information requested pursuant to paragraph 1 shall cover no more than the following elements:

(a) if the claim was based on a statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment), that statement on origin;

(b) if the origin criterion is based on:

(i) the fact that the product is wholly obtained, the applicable category (such as harvesting, mining, fishing) and the place of production;

(ii) change in tariff classification, a list of all the non-originating materials, including their tariff classification (in two-, four- or six-digit format, depending on the origin criterion);

(iii) a value method, the value of the final product as well as the value of all the non-originating materials used in the production of that final product;

(iv) weight, the weight of the final product as well as the weight of the relevant non-originating materials used in the production of that final product;

(v) a specific production process, a specific description of that production process.

3. When providing the requested information, the importer may add any other information considered relevant for the purposes of verification.

4. If the claim for preferential tariff treatment is based on a statement on origin, the importer shall inform the customs authority of the importing Party that the importer does not have the statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment). In that case, the importer may inform the customs authority that the requested information will be provided by the exporter directly.

5. If the claim for preferential tariff treatment is based on the importer's knowledge as referred to in point (b) of Article 3.16(2) (Claim for preferential tariff treatment), after having first requested information in accordance with paragraph 1 of this Article the customs authority of the importing Party conducting the verification may send a request for additional information to the importer if it considers that additional information is required in order to verify whether a product has originating status or whether the other requirements of this Chapter are met. The customs authority of the importing Party may request the importer for specific documentation and information, if appropriate.

6. During verification, the importing Party shall allow the release of the products concerned. The importing Party may condition such release on the importer providing a guarantee or implementing other appropriate precautionary measures required by the customs authorities. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the customs authority of the importing Party has ascertained that the products concerned have originating status, and that the other requirements of this Chapter are fulfilled.

ARTICLE 3.24

Administrative cooperation

1. In order to ensure the proper application of this Chapter, the Parties shall cooperate, through the customs authority of each Party, in verifying whether a product is originating and is in compliance with the other requirements provided for in this Chapter.

2. If the claim for preferential tariff treatment is based on a statement on origin and after having first requested information in accordance with Article 3.23(1) (Verification), the customs authority of the importing Party conducting the verification may also request information from the customs authority of the exporting Party within a period of two years after the date on which the claim for preferential tariff treatment on the basis of a statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment) or the claim for preferential tariff treatment after importation referred to in Article 3.17(2) (Claim for preferential tariff treatment after importation) was made, if the customs authority of the importing Party considers that it requires additional information in order to verify the originating status of the product or whether the other requirements provided for in this Chapter are complied with. The customs authority of the importing Party may request specific documentation and information from the customs authority of the exporting Party, if appropriate.

3. The request for information as referred to in paragraph 2 shall include the following elements:

(a) the statement on origin;

(b) the identity of the customs authority issuing the request;

(c) the name of the exporter;

(d) the subject and scope of the verification; and

(e) where applicable, any relevant documentation.

4. The customs authority of the exporting Party may, in accordance with its law, request documentation or examination by calling for any evidence, or by visiting the premises of the exporter, to review records and observe the facilities used in the production of the product.

5. Without prejudice to paragraph 6, the customs authority of the exporting Party receiving the request for information as referred to in paragraph 2 shall provide the customs authority of the importing Party with the following information:

(a) the requested documentation, where available;

(b) an opinion on the originating status of the product;

(c) the description of the product subject to examination and the tariff classification relevant to the application of this Chapter;

(d) a description and explanation of the production process to support the originating status of the product;

(e) information on the manner in which the examination was conducted; and

(f) supporting documentation, where appropriate.

6. The customs authority of the exporting Party shall not provide to the customs authority of the importing Party information listed in paragraph 5 without the consent of the exporter.

7. Each Party shall notify the other Party of the contact details of its customs authorities and shall notify the other Party of any modification thereof within 30 days after the date of such modification. For the Union, the European Commission shall be responsible for the notifications as referred to in this paragraph.

ARTICLE 3.25

Denial of preferential tariff treatment

1. Without prejudice to the requirements in paragraph 3 of this Article, the customs authority of the importing Party may deny preferential tariff treatment, if:

(a) within three months after the date of a request for information referred to in Article 3.23(1) (Verification):

(i) no reply has been provided by the importer;

(ii) in cases where the claim for preferential tariff treatment is based on a statement on origin, no statement on origin has been provided; or

(iii) in cases where the claim for preferential tariff treatment is based on the importer's knowledge, the information provided by the importer is inadequate to confirm that the product has originating status;

(b) within three months after the date of a request for additional information referred to in Article 3.23(5) (Verification):

(i) no reply has been provided by the importer; or

(ii) the information provided by the importer is inadequate to confirm that the product has originating status;

(c) within ten months after the date of delivery of a request for information pursuant to Article 3.24(2) (Administrative cooperation):

(i) no reply has been provided by the customs authority of the exporting Party; or

(ii) the information provided by the customs authority of the exporting Party is inadequate to confirm that the product has originating status.

2. The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment if the importer fails to comply with requirements of this Chapter other than those relating to the originating status of the products.

3. If the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment under paragraph 1 of this Article, in cases where the customs authority of the exporting Party has provided an opinion on the originating status of the product referred to in point (b) of Article 3.24(5) (Administrative cooperation) confirming the originating status of the products, the customs authority of the importing Party shall notify the customs authority of the exporting Party of its reasons and intention to deny the preferential tariff treatment within two months after the date of receipt of that opinion.

4. If the notification as referred to in paragraph 3 has been made, consultations shall be held at the request of either Party, within three months after the date of such notification. The period for consultations may be extended on a case-by-case basis by mutual agreement between the customs authorities of the Parties. The consultations shall take place in accordance with the procedure set by the Joint Customs Cooperation Committee, unless otherwise agreed between the customs authorities of the Parties.

5. Upon expiry of the period for consultations, where the customs authority of the importing Party cannot confirm that the product is originating, it may deny the preferential tariff treatment if it has sufficient justification for doing so and after having granted the importer the right to be heard. However, when the customs authority of the exporting Party confirms the originating status of the products and provides justification for such confirmation, the customs authority of the importing Party shall not deny preferential tariff treatment to a product on the sole ground that Article 3.24(6) (Administrative cooperation) has been applied.

6. Within two months after the date of its final decision on the originating status of the product, the customs authority of the importing Party shall notify the customs authority of the exporting Party that provided an opinion on the originating status of the product referred to in point (b) of Article 3.24(5) (Administrative cooperation) of that final decision.

ARTICLE 3.26

Confidentiality

1. Each Party shall maintain, in accordance with its law, the confidentiality of information provided by the other Party or a person of that Party, pursuant to this Chapter, and shall protect that information from disclosure.

2. Information obtained by the authorities of the importing Party may only be used for the purposes of this Chapter. A Party may use information collected pursuant to this Chapter in any administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with the requirements set out in this Chapter. A Party shall notify the other Party or a person of that Party who provided the information in advance of such use.

3. Each Party shall ensure that confidential information collected pursuant to this Chapter shall not be used for purposes other than the administration and enforcement of decisions and determinations relating to origin and to customs matters, except with the permission of the other Party or a person of that Party who provided such confidential information. If confidential information is requested for judicial proceedings not relating to origin and customs matters in order to comply with the law of a Party, and provided that Party notifies the other Party or a person of that Party who provided the information in advance and states the legal requirement for such use, permission of the other Party or a person of that Party who provided the confidential information shall not be required.

ARTICLE 3.27

Administrative measures and sanctions

Each Party shall ensure the effective enforcement of this Chapter. Each Party shall ensure that its competent authorities are able, in accordance with its law, to impose administrative measures and, where appropriate, sanctions for violations of the obligations under this Chapter.

SECTION C

FINAL PROVISIONS

ARTICLE 3.28

Ceuta and Melilla

1. For the purposes of this Chapter, the term "Party" does not include Ceuta and Melilla.

2. Products originating in New Zealand, when imported into Ceuta and Melilla, shall in all respects be subject to the same customs regime, including preferential tariff treatment, as that which is applied to products originating in the customs territory of the Union under Protocol 2 concerning the Canary Islands and Ceuta and Melilla of the 1985 Act of Accession[1]. New Zealand shall apply to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime, including preferential tariff treatment, as that which is applied to products imported from and originating in the Union.

3. The rules of origin and origin procedures applicable to New Zealand under this Chapter shall apply in determining the origin of products exported from New Zealand to Ceuta and Melilla. The rules of origin and origin procedures applicable to the Union under this Chapter shall apply in determining the origin of products exported from Ceuta and Melilla to New Zealand.

4. Ceuta and Melilla shall be considered as a single territory.

5. The Spanish customs authorities shall be responsible for the application of this Chapter in Ceuta and Melilla.

[1] OJ EU L 302, 15.11.1985, p. 9.

ARTICLE 3.29

Transitional provisions for products in transit or storage

This Agreement may be applied to products that comply with this Chapter and, on the date of entry into force of this Agreement, are either in transit from the exporting Party to the importing Party or under customs control in the importing Party without payment of import duties and taxes, subject to the making of a claim for preferential tariff treatment referred to in Article 3.16 (Claim for preferential tariff treatment) to the customs authority of the importing Party within 12 months after the date of entry into force of this Agreement.

ARTICLE 3.30

Joint Customs Cooperation Committee

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The Joint Customs Cooperation Committee established under the CCMAA shall, with respect to this Chapter, have the following functions:

(a) considering possible amendments to this Chapter, including those arising from the review of the Harmonized System;

(b) adopting, by decisions, explanatory notes to facilitate the implementation of this Chapter; and

(c) adopt a decision to establish the procedure for consultations referred to in Article 3.25(4) (Denial of preferential tariff treatment).

CHAPTER 4

CUSTOMS AND TRADE FACILITATION

ARTICLE 4.1

Objectives

The objectives of this Chapter are to:

(a) promote trade facilitation for goods traded between the Parties while ensuring effective customs controls, taking into account the evolution of trade practices;

(b) ensure transparency of each Party's laws and regulations relating to the requirements for the import, export and transit of goods and consistency thereof with applicable international standards;

(c) ensure predictable, consistent and non-discriminatory application by each Party of its customs laws and regulations relating to the requirements for the import, export and transit of goods;

(d) promote simplification and modernisation of customs procedures and practices of each Party;

(e) further develop risk management techniques to facilitate legitimate trade while securing the international trade supply chain; and

(f) enhance cooperation between the Parties in the field of customs matters and trade facilitation.

ARTICLE 4.2

Customs cooperation and mutual administrative assistance

1. The competent authorities of the Parties shall cooperate on customs matters in order to ensure that the objectives set out in Article 4.1 (Objectives) are attained.

2. In addition to the CCMAA, the Parties shall develop cooperation, including in the following areas:

(a) exchanging information concerning customs laws and regulations, their implementation, and customs procedures, particularly in the following areas:

(i) the enforcement of intellectual property rights by the customs authorities;

(ii) the facilitation of transit movements and transhipment; and

(iii) relations with the business community;

(b) strengthening their cooperation in the field of customs in international organisations such as the WTO and the WCO;

(c) endeavouring to harmonise their data requirements for import, export and other customs procedures by implementing common standards and data elements in accordance with the WCO Data Model;

(d) exchanging, where relevant and appropriate, through a structured and recurrent communication between customs authorities of the Parties, certain categories of customs-related information for the purpose of improving risk management and the effectiveness of customs controls, targeting high-risk goods and facilitating legitimate trade. Exchanges under this point shall be without prejudice to exchanges of information that may take place between the Parties pursuant to the provisions of the CCMAA on mutual administrative assistance;

(e) strengthening their cooperation on risk management techniques, including sharing best practices, and where appropriate, risk information and control results; and

(f) establishing, where relevant and appropriate, mutual recognition of authorised economic operator programmes and customs controls, including equivalent trade facilitation measures.

3. Without prejudice to other forms of cooperation envisaged under this Agreement, the customs authorities of the Parties shall cooperate, including through exchange of information, and provide each other with mutual administrative assistance in the matters covered by this Chapter in accordance with the provisions of the CCMAA. Any exchange of information between the Parties under this Chapter shall be *mutatis mutandis* subject to the confidentiality and protection of information requirements set out in Article 17 CCMAA as well as any confidentiality and privacy requirements to be agreed by the Parties.

ARTICLE 4.3

Customs provisions and procedures

1. Each Party shall ensure that its customs provisions and procedures are based on:

(a) the international instruments and standards applicable in the area of customs and trade which each Party has accepted, including the substantive elements of the International Convention on the Simplification and Harmonisation of Customs Procedures, done at Kyoto on 18 May 1973, as amended, (Revised Kyoto Convention), the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on 14 June 1983, as well as the Framework of Standards to Secure and Facilitate Global Trade and the WCO Data Model;

(b) the protection and facilitation of legitimate trade through effective enforcement and compliance with the applicable requirements provided under its law;

(c) customs laws and regulations that are proportionate and non-discriminatory, avoiding unnecessary burdens on economic operators, providing for further facilitation for operators ensuring high levels of compliance, including favourable treatment with respect to customs controls prior to the release of goods, and ensuring safeguards against fraud and illicit or damageable activities; and

(d) rules that ensure that any penalty imposed for breaches of customs laws and regulations is proportionate and non-discriminatory and that the imposition of such penalties does not unduly delay the release of the goods.

2. Each Party should periodically review its customs laws, regulations and procedures. Customs procedures shall also be applied in a manner that is predictable, consistent and transparent.

3. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, each Party shall:

(a) simplify and review requirements and formalities wherever possible with a view to ensuring the rapid release and clearance of goods; and

(b) work towards further simplification and standardisation of data and documentation required by customs authorities and other agencies.

ARTICLE 4.4

Release of goods

1. Each Party shall adopt or maintain customs procedures that:

(a) provide for the prompt release of goods within a period that is no longer than necessary to ensure compliance with its laws and regulations and, to the extent possible, upon arrival of the goods;

(b) provide for advance electronic submission and processing of documentation and any other required information prior to the arrival of the goods, to enable the release of goods upon arrival;

(c) allow for the release of goods prior to the final determination of the applicable customs duties, taxes, fees and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met. As a condition for such release, each Party may require a guarantee for any amount not yet determined in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations. Such guarantee shall not be greater than the amount the Party requires to ensure payment of customs duties, taxes, fees and charges ultimately due for the goods covered by the guarantee. The guarantee shall be discharged when it is no longer required; and

(d) allow goods to be released at the point of arrival, without temporary transfer to warehouses or other facilities, provided that the goods are otherwise eligible for release.

2. Each Party shall, to the extent possible, minimise the documentation required for the release of goods.

3. Each Party shall endeavour to allow for the expeditious release of goods in need of urgent clearance, including outside regular business hours of customs authorities and other relevant authorities.

4. Each Party shall, to the extent possible, adopt or maintain customs procedures that provide for expedited release of certain consignments while maintaining appropriate customs control, including allowing the submission of a single document covering all of the goods in the shipment, if possible, by electronic means.

ARTICLE 4.5

Perishable goods

1. For the purposes of this Article, "perishable goods" are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

2. To prevent avoidable deterioration or loss of perishable goods, each Party shall give appropriate priority to perishable goods when scheduling and performing any examinations that may be required.

3. In addition to point (a) of Article 4.4(1) (Release of goods), and at the request of the economic operator, each Party shall, where practicable and in accordance with its laws and regulations:

(a) provide for the clearance of a consignment of perishable goods outside regular business hours of customs authorities and other relevant authorities; and

(b) allow consignments of perishable goods to be moved to and cleared at the premises of the economic operator.

ARTICLE 4.6

Simplified customs procedures

Each Party shall adopt or maintain measures allowing traders or operators fulfilling criteria specified in its laws and regulations to benefit from further simplification of customs procedures. Such measures may include:

(a) customs declarations containing a reduced set of data or supporting documents; or

(b) periodical customs declarations for the determination and payment of customs duties and taxes covering multiple imports within a given period, after the release of those imported goods.

ARTICLE 4.7

Transit and transhipment

1. Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through its respective territory.

2. Each Party shall ensure cooperation and coordination between all authorities and agencies concerned in its respective territory to facilitate traffic in transit.

3. Provided all regulatory requirements are met, each Party shall allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 4.8

Risk management

1. Each Party shall adopt or maintain a risk management system for customs control.

2. Each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

3. Each Party shall concentrate customs control and other relevant border controls on high-risk consignments and shall expedite the release of low-risk consignments. Each Party may also select consignments for such controls on a random basis as part of its risk management.

4. Each Party shall base risk management on assessment of risk through appropriate selectivity criteria.

ARTICLE 4.9

Post-clearance audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audits to ensure compliance with customs and other related laws and regulations.

2. Each Party shall select a person or a consignment for a post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct a post-clearance audit in a transparent manner. Where a person is involved in the audit process and conclusive results have been achieved, the Party shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations and the reasons for the results.

3. The information obtained in a post-clearance audit may be used in further administrative or judicial proceedings.

4. The Parties shall, wherever practicable, use the result of a post-clearance audit in applying risk management.

ARTICLE 4.10

Authorised economic operators

1. Each Party shall establish or maintain a partnership programme for operators who meet specified criteria (hereinafter referred to as "authorised economic operators").

2. The specified criteria to qualify as an authorised economic operator shall be published and they shall relate to compliance with requirements specified in the respective laws and regulations or procedures of the Parties. Such criteria may include:

(a) an appropriate record of compliance with customs and other related laws and regulations;

(b) a system of managing records to allow for necessary internal controls;

(c) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and

(d) supply chain security.

3. The specified criteria to qualify as an authorised economic operator shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail and shall allow the participation of SMEs.

4. The authorised economic operator programme shall include specific benefits for an authorised economic operator, such as:

(a) low rate of physical inspections and examinations as appropriate;

(b) priority treatment if selected for control;

(c) rapid release time as appropriate;

(d) deferred payment of customs duties, taxes, fees and charges;

(e) use of comprehensive guarantees or reduced guarantees;

(f) a single customs declaration for all imports or exports in a given period; and

(g) clearance of goods at the premises of the authorised economic operator or another place authorised by the customs authorities.

5. Notwithstanding paragraphs 1 to 4, a Party may offer the exemplary benefits listed in paragraph 4 through customs procedures generally available to all operators, in which case that Party is not required to establish a separate scheme for authorised economic operators.

6. The Parties may foster cooperation between customs authorities and other government authorities or agencies within a Party in relation to authorised economic operator programmes. Such cooperation may be achieved, *inter alia*, by aligning requirements, facilitating access to benefits and minimising unnecessary duplication.

ARTICLE 4.11

Publication and availability of information

1. Each Party shall promptly publish, in a non-discriminatory and easily accessible manner and as far as possible through the internet, laws, regulations and customs procedures, relating to the requirements for the import, export and transit of goods. This shall include:

(a) importation, exportation and transit procedures, including port, airport, and other entry-point procedures, and required forms and documents;

(b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

(c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

(d) rules for the classification or valuation of products for customs purposes;

(e) laws, regulations and administrative rulings of general application relating to rules of origin;

(f) import, export or transit restrictions or prohibitions;

(g) penalty provisions against breaches of import, export or transit formalities;

(h) appeal procedures;

(i) agreements or parts thereof with any country or countries relating to importation, exportation or transit;

(j) procedures relating to the administration of tariff quotas;

(k) hours of operation for customs offices; and

(l) relevant notices of an administrative nature.

2. Each Party shall endeavour to make public new laws, regulations and customs procedures, relating to the requirements for the import, export and transit of goods prior to their application, as well as changes to and interpretations thereof.

3. Each Party shall, to the extent possible, ensure there is a reasonable time period between the publication of amended or new laws, regulations and customs procedures, fees or charges and their entry into force.

4. Each Party shall make available, and update as appropriate, the following through the internet:

(a) a description of its importation, exportation and transit procedures, including appeal procedures, informing of the practical steps needed for the import and export, and for transit;

(b) the forms and documents required for importation into, exportation from, or transit through the territory of the Party; and

(c) contact information of enquiry points.

5. Each Party shall, subject to its available resources, establish or maintain enquiry points to answer within a reasonable time enquiries of governments, traders and other interested parties on matters covered by paragraph 1. A Party shall not require the payment of a fee for answering enquiries from the other Party.

ARTICLE 4.12

Advance rulings

1. The customs authority of each Party shall issue advance rulings to an applicant setting out the treatment to be accorded to the goods concerned, in accordance with its laws and regulations. Such rulings shall be issued in writing or in electronic format in a time-bound manner and shall contain all necessary information. Each Party shall ensure that an advance ruling can be issued to, and used in the Party by, an applicant of the other Party.

2. Advance rulings shall be issued with regard to:

(a) the tariff classification of goods;

(b) the origin of goods; and

(c) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts, if permitted by the laws and regulations of a Party.

3. Advance rulings shall be valid for a period of at least three years from the date of their issuance or some other date if specified in the ruling. The issuing Party may modify or revoke, invalidate or annul an advance ruling if the ruling was based on incorrect, incomplete, false or misleading information, an administrative error or if there is a change in the law, the material facts or the circumstances on which the ruling is based.

4. A Party may refuse to issue an advance ruling if the question raised in the application is the subject of an administrative or judicial review, or if the application does not relate to any intended use of the advance ruling or any intended use of a customs procedure. If a Party declines to issue an advance ruling, that Party shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

5. Each Party shall publish, at least:

(a) the requirements for the application for an advance ruling, including the information to be provided and the format;

(b) the time period by which it will issue an advance ruling; and

(c) the length of time for which the advance ruling is valid.

6. If a Party modifies, revokes, invalidates or annuls an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. A Party may only modify, revoke, invalidate or annul an advance ruling with retroactive effect if the advance ruling was based on incomplete, incorrect, false or misleading information.

7. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it. The Party may provide that the advance ruling be binding on the applicant.

8. Each Party shall provide, upon written request from the applicant, a review of an advance ruling or of a decision to amend, revoke or invalidate the advance ruling.

9. Each Party shall endeavour to make publicly available information on advance rulings, taking into account the need to protect personal and commercially confidential information.

10. Each Party shall issue an advance ruling without delay, and normally within 150 days after the date of receipt of all necessary information. This period may be extended, in accordance with the laws and regulations of a Party, if additional time is needed to ensure that the advance rulings are issued in a correct and uniform manner. In that event, the Party shall inform the applicant of the reason for, and the duration of, the extension.

ARTICLE 4.13

Customs brokers

The customs provisions and procedures of a Party shall not require the mandatory use of customs brokers. Each Party shall notify and publish its measures on the use of customs brokers. Each Party shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.

ARTICLE 4.14

Customs valuation

1. Each Party shall determine the customs value of goods in accordance with Part I of the Customs Valuation Agreement. To that end, Part 1 of the Customs Valuation Agreement is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

ARTICLE 4.15

Preshipment inspection activities

A Party shall not require the mandatory use of preshipment inspection activities within the meaning of Article 1(3) of the Agreement on Preshipment Inspection, contained in Annex 1A to the WTO Agreement.

ARTICLE 4.16

Appeal and review

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against administrative actions, rulings and decisions of customs authorities or other competent authorities that affect the import or export of goods or goods in transit.

2. Each Party shall ensure that any person with respect to whom it takes administrative action referred to in paragraph 1 or to whom it issues a ruling or decision referred to in paragraph 1 has access to:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that took the administrative action or that issued the ruling or the decision; or

(b) a judicial appeal or review of the administrative action or the ruling or the decision.

3. Each Party shall ensure that, in cases where the decision on administrative appeal or review under point (a) of paragraph 2 is not issued within the period of time provided for in its laws and regulations or is not issued without undue delay, the petitioner has the right to further administrative or judicial appeal or review or any other recourse to a judicial authority in accordance with the laws and regulations of that Party.

4. Each Party shall ensure that the petitioner is provided in writing, including electronically, with the reasons for the administrative decision, so as to enable the petitioner to have recourse to appeal or review procedures where necessary.

ARTICLE 4.17

Engagement with the business community

1. Considering the need for timely and regular consultations with trade representatives on legislative proposals and general procedures related to customs and trade facilitation issues, each Party's customs administration shall hold consultations with the business community of that Party.

2. Each Party shall ensure, where possible, that its customs and related requirements and procedures continue to meet the needs of the business community, follow internationally accepted best practices, and remain as least trade-restrictive as possible.

ARTICLE 4.18

Joint Customs Cooperation Committee

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The Joint Customs Cooperation Committee shall, with respect to the Chapters and provisions that fall within its competences pursuant to Article 24.4(2) (Specialised committees), except for Chapter 3 (Rules of origin and origin procedures), have the following functions:

(a) identifying areas for improvement in their implementation and operation; and

(b) seeking appropriate ways and methods to reach mutually agreed solutions with regard to any matters that may arise.

3. The Joint Customs Cooperation Committee may adopt decisions in relation to the areas listed in Article 4.2(2) (Customs cooperation and mutual administrative assistance), including, where it considers it necessary, for the purpose of implementing points (d) and (f) of paragraph 2 of that Article.

CHAPTER 5

TRADE REMEDIES

SECTION A

GENERAL PROVISIONS

ARTICLE 5.1

Non-application of preferential rules of origin

For the purposes of Section B (Anti-dumping and countervailing duties) of this Chapter and Section C (Global safeguard measures) of this Chapter, the preferential rules of origin under Chapter 3 (Rules of origin and origin procedures) do not apply.

ARTICLE 5.2

Non-application of dispute settlement

Chapter 26 (Dispute settlement) does not apply to Section B (Anti-dumping and countervailing duties) of this Chapter and Section C (Global safeguard measures) of this Chapter.

SECTION B

ANTI-DUMPING AND COUNTERVAILING DUTIES

ARTICLE 5.3

Transparency

1. Trade remedies should be used in full compliance with the relevant WTO requirements and should be based on a fair and transparent system.

2. Without prejudice to Article 6.5 of the Anti-dumping Agreement and Article 12.4 of the SCM Agreement, each Party shall ensure as soon as possible after any imposition of provisional measures and before a final determination is made, full and meaningful disclosure of all essential facts and considerations on which a decision to apply definitive measures is based. Disclosures shall be made in writing and allow interested parties sufficient time to make their comments.

3. Provided it does not unnecessarily delay the conduct of the investigation, each interested party shall be granted the possibility to be heard in order to express their views during trade remedy investigations.

ARTICLE 5.4

Consideration of public interest

1. A Party may refrain from applying anti-dumping or countervailing measures on the goods of the other Party if, on the basis of the information made available during the investigation pursuant to the requirements under the laws and regulations of that Party, it can be concluded that it is not in the public interest to apply such measures.

2. When making a final determination on the imposition of duties, each Party shall, in accordance with its laws and regulations, take into account information provided by relevant interested parties, which may include the domestic industry, importers and their representative associations, representative users and representative consumer organisations.

ARTICLE 5.5

Lesser duty rule

If a Party imposes an anti-dumping duty on the goods of the other Party, the amount of such duty shall not exceed the margin of dumping. If a duty the amount of which is less than the margin of dumping is sufficient to remove the injury to the domestic industry, the Party shall adopt such lesser duty in accordance with its laws and regulations.

SECTION C

GLOBAL SAFEGUARD MEASURES

ARTICLE 5.6

Transparency

1. At the request of the other Party, the Party initiating a global safeguard investigation or intending to apply global safeguard measures shall provide immediately a written notification of all pertinent information leading to the initiation of a global safeguard investigation or the imposition of global safeguard measures, including on provisional findings, if relevant. This is without prejudice to Article 3.2 of the Agreement on Safeguards.

2. Each Party shall endeavour to impose global safeguard measures in a way that least affects trade between the Parties.

3. For the purposes of paragraph 2, if a Party considers that the legal requirements are met for the imposition of definitive global safeguard measures, the Party intending to apply such measures shall notify the other Party and shall endeavour to provide adequate opportunity for prior consultations with that Party, with a view to reviewing the information provided under paragraph 1 and exchanging views on the proposed global safeguard measures before a final decision is adopted.

SECTION D

BILATERAL SAFEGUARD MEASURES

ARTICLE 5.7

Definitions

For the purposes of this Section, the following definitions apply:

(a) "bilateral safeguard measure" means a bilateral safeguard measure specified in Article 5.8 (Application of a bilateral safeguard measure);

(b) "domestic industry" with respect to an imported good, means the producers as a whole of the like or directly competitive goods operating in the territory of a Party, or the producers whose collective production of the like or directly competitive goods constitutes a major proportion of the total domestic production of such goods;

(c) "serious deterioration" means major difficulties in a sector of the economy producing like or directly competitive goods;

(d) "serious injury" means a significant overall impairment in the position of a domestic industry;

(e) "threat of serious deterioration" means a serious deterioration that is clearly imminent on the basis of facts and not merely on allegation, conjecture or remote possibility;

(f) "threat of serious injury" means a serious injury that is clearly imminent on the basis of facts and not merely on allegation, conjecture or remote possibility; and

(g) "transition period" means a period of seven years starting from the date of entry into force of this Agreement.

ARTICLE 5.8

Application of a bilateral safeguard measure

1. Without prejudice to the Parties' rights and obligations under Section C (Global safeguard measures) of this Chapter, if, as a result of the reduction or elimination of a customs duty under this Agreement, a good originating in a Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry of the other Party, that other Party may apply a bilateral safeguard measure during the transition period and only in accordance with the conditions and procedures laid down in this Section.

2. Bilateral safeguard measures applied pursuant to paragraph 1 may only consist of:

(a) the suspension of any further reduction of the rate of customs duty on the good concerned in accordance with Chapter 2 (National treatment and market access for goods); or

(b) the increase of the rate of customs duty on the good concerned to a level which does not exceed the lesser of:

(i) the most-favoured-nation applied rate of customs duty in effect on the day when the bilateral safeguard measure is applied; or

(ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement.

ARTICLE 5.9

Standards for a bilateral safeguard measure

1. A bilateral safeguard measure shall not be applied:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy the serious injury or the threat of serious injury to the domestic industry or the serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions;

(b) for a period exceeding two years; and

(c) beyond the expiration of the transition period.

2. The period referred to in point (b) of paragraph 1 may be extended by one year provided that:

(a) the competent investigating authorities of the importing Party determine, in conformity with the procedures specified in Sub-Section 1 (Procedural rules applicable to bilateral safeguard measures), that the bilateral safeguard measure continues to be necessary to prevent or remedy the serious injury or the threat of serious injury to the domestic industry or the serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions; and

(b) there is evidence that the domestic industry is adjusting and the total period of application of a bilateral safeguard measure, including the period of initial application and any extension thereof, does not exceed three years.

3. When a Party ceases to apply a bilateral safeguard measure, the rate of customs duty shall be the rate that would have been in effect for the good concerned, in accordance with Annex 2-A (Tariff elimination schedules).

4. A bilateral safeguard measure shall not be applied to the import of a good of a Party which has already been subject to such a bilateral safeguard measure for a period of time equal to half of the duration of the previous bilateral safeguard measure.

5. A Party shall not apply to the same good and at the same time:

(a) a provisional bilateral safeguard measure, a bilateral safeguard measure or an outermost regions safeguard measure pursuant to this Agreement; and

(b) a safeguard measure pursuant to Article XIX of GATT 1994 and the Agreement on Safeguards.

ARTICLE 5.10

Provisional bilateral safeguard measures

1. In critical circumstances, where delay would cause damage that would be difficult to repair, a Party may apply a provisional bilateral safeguard measure, pursuant to a preliminary determination that there is clear evidence that imports of a good originating in the other Party have increased as a result of the reduction or elimination of a customs duty under this Agreement, and that such imports cause serious injury or the threat of serious injury to the domestic industry or serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions.

2. The duration of any provisional bilateral safeguard measure shall not exceed 200 days. During this period, the Party shall comply with the relevant procedural rules laid down in Sub-Section 1 (Procedural rules applicable to bilateral safeguard measures).

3. The customs duty imposed as a result of the provisional bilateral safeguard measure shall promptly be refunded if the subsequent investigation referred to in Sub-Section 1 (Procedural rules applicable to bilateral safeguard measures) does not determine that the increased imports of the good subject to the provisional bilateral safeguard measure cause serious injury or the threat of serious injury to the domestic industry or serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions.

4. The duration of any provisional bilateral safeguard measure shall be counted as part of the period laid down in point (b) of Article 5.9(1) (Standards for a bilateral safeguard measure).

5. The Party applying a provisional bilateral safeguard measure shall inform the other Party immediately upon applying such a provisional bilateral safeguard measure.

6. At the request of the other Party, consultations shall be held immediately after the application of the provisional bilateral safeguard measure.

ARTICLE 5.11

Outermost regions

1. Where any product originating in New Zealand is being directly imported into the territory of one or several outermost regions of the Union[1] in such increased quantities and under such conditions as to cause serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions concerned, the Union, after having examined alternative solutions, may exceptionally apply bilateral safeguard measures limited to the territory of the outermost region or regions concerned.

[1] On the date of entry into force of this Agreement, the outermost regions of the Union are Guadeloupe, French Guiana, Martinique, Reunion, Mayotte, St. Martin, the Azores, Madeira and the Canary Islands. This Article shall also apply to a country or an overseas territory that changes its status to an outermost region by a decision of the European Council in accordance with the procedure set out in Article 355(6) of the TFEU from the date of adoption of that decision. In the event that an outermost region of the Union changes its status in accordance with the same procedure, Article 5.11 (Outermost regions) shall cease to be applicable from the date of entry into force of the relevant decision of the European Council. The Union shall notify New Zealand of any change concerning the status of the territories considered as outermost regions of the Union.

2. For the purposes of paragraph 1, the determination of serious deterioration shall be based on objective factors, including the following elements:

(a) the increase in the volume of imports in absolute or relative terms to the domestic production and to the imports from other sources; and

(b) the effect of such imports on the situation of the relevant industry or the economic sector concerned, including on the levels of sales, production, financial situation and employment.

3. Without prejudice to paragraph 1, this Section applies to any safeguard measure adopted under this Article, *mutatis mutandis*.

ARTICLE 5.12

Compensation and suspension of concessions

1. No later than 30 days after the date of the application of the bilateral safeguard measure, the Party applying that measure shall provide an opportunity for consultations with the other Party in order to mutually agree on appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effect.

2. If the consultations referred to in paragraph 1 do not result in an agreement on trade liberalising compensation within 30 days after the first day of those consultations, the Party to whose originating good the bilateral safeguard measure is applied may suspend the application of concessions having substantially equivalent trade effect in respect of the Party applying the bilateral safeguard measure.

3. The obligation to provide concessions as referred to in paragraph 1 and the right to suspend those concessions under paragraph 2 shall apply only as long as the bilateral safeguard measure is maintained.

4. Notwithstanding paragraph 3, the right to suspend referred to in that paragraph shall not be exercised for the first 24 months during which a bilateral safeguard measure is in effect, provided that the bilateral safeguard measure has been applied as a result of an absolute increase in imports and provided that the bilateral safeguard measure is in conformity with this Agreement.

SUB-SECTION 1

PROCEDURAL RULES APPLICABLE TO BILATERAL SAFEGUARD MEASURES

ARTICLE 5.13

Applicable law

This Sub-Section applies to bilateral safeguard measures which are covered by Section D (Bilateral safeguard measures) of this Chapter and applied by the competent investigating authority of a Party. In cases not covered by this Sub-Section, the competent investigating authority shall apply the rules established under its domestic legislation provided that those rules are in conformity with this Section.

ARTICLE 5.14

Investigation procedures

1. A Party shall apply a bilateral safeguard measure only after an investigation has been carried out by its competent investigating authorities in accordance with Article 3 and Article 4(2), points (a) and (c), of the Agreement on Safeguards. To that end, Article 3 and Article 4(2), points (a) and (c), of the Agreement on Safeguards are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. In order to apply a bilateral safeguard measure, the competent investigating authority shall demonstrate on the basis of objective evidence the existence of a causal link between the increased imports of the product concerned and the serious injury or the threat of serious injury or the existence of a causal link between the increased imports of the product concerned and the serious deterioration or the threat of serious deterioration. The competent investigating authority shall also examine known factors other than the increased imports to ensure that the injury caused by such other factors is not attributed to the increased imports.

3. The investigation shall in all cases be completed within one year after the date of its initiation.

ARTICLE 5.15

Notification and consultation

1. A Party shall promptly notify the other Party in writing if it:

(a) initiates a bilateral safeguard investigation under this Chapter;

(b) determines that the increased imports cause serious injury or the threat of serious injury or serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions;

(c) decides to apply a provisional bilateral safeguard measure, or to apply or extend a bilateral safeguard measure; or

(d) decides to modify a bilateral safeguard measure previously adopted.

2. A Party shall provide to the other Party a copy of the public version of the complaint and the report of its competent investigating authorities that is required under Article 3 of the Agreement on Safeguards.

3. When a Party notifies the other Party that it has decided to apply or extend a bilateral safeguard measure as referred to in point (c) of paragraph 1, that Party shall include in its notification all pertinent information, such as:

(a) evidence that, as a result of the reduction or elimination of a customs duty pursuant to this Agreement, the increased imports of the good of the other Party are causing serious injury or the threat of serious injury to the domestic industry or serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions;

(b) a precise description of the good subject to the bilateral safeguard measure, including its heading or subheading under the HS on which Annex 2-A (Tariff elimination schedules) is based;

(c) a precise description of the bilateral safeguard measure;

(d) the date of application of the bilateral safeguard measure, its expected duration and, if applicable, a timetable for progressive liberalisation of that measure; and

(e) in the case of an extension of the bilateral safeguard measure, evidence that the domestic industry concerned is adjusting.

4. On request of the Party whose good is subject to a bilateral safeguard proceeding under this Chapter, the Party that conducts that proceeding shall provide adequate opportunity for consultations with the requesting Party before a final decision to apply bilateral safeguard measures is taken, with a view to reviewing a notification as referred to in paragraph 1 of this Article or any public notice or report that the competent investigating authority issued in connection with the proceeding, and exchanging views on the proposed measure and reaching an understanding on compensation provided for in Article 5.12 (Compensation and suspension of concessions).

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1

Objectives and general provisions

1. The objectives of this Chapter are to:

(a) protect human, animal and plant health in the respective territories of the Parties while facilitating trade between them;

(b) ensure that the Parties' sanitary and phytosanitary measures do not create unnecessary barriers to trade;

(c) facilitate implementation of the SPS Agreement, international standards and related texts, and in particular, regionalisation and equivalence;

(d) maintain cooperation in international standard-setting bodies;

(e) promote transparency and understanding on the application of each Party's sanitary and phytosanitary measures;

(f) enhance cooperation between and recognise the common objectives of the Parties to combat antimicrobial resistance (hereinafter referred to as "AMR"); and

(g) enhance communication, cooperation and resolution of sanitary and phytosanitary issues that may affect trade between the Parties.

2. In respect of the SPS Agreement, the Parties recall in particular:

(a) the principle that a Party's SPS measures are based on a risk assessment in accordance with Article 5 and other relevant provisions of the SPS Agreement; and

(b) the concept of provisional SPS measures.

ARTICLE 6.2

Scope

1. The Parties affirm their respective rights and obligations under the Sanitary Agreement.

2. Subject to paragraph 3, this Chapter applies:

(a) to sanitary and phytosanitary measures of a Party that may affect trade between the Parties; and

(b) to cooperation on AMR.

3. This Chapter does not apply to any measure of a Party or matters covered by the Sanitary Agreement.

ARTICLE 6.3

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) the definitions in Annex A of the SPS Agreement;

(b) the definitions adopted under the auspices of the Codex Alimentarius Commission;

(c) the definitions adopted under the auspices of the World Organisation for Animal Health;

(d) the definitions adopted under the auspices of the International Plant Protection Convention (hereinafter referred to as the "IPPC");

(e) "competent authority" means a governmental body listed in Annex 6-A (Competent authorities) and includes the relevant national plant protection organisations; and

(f) "import check" means an assessment that may include inspection, examination, sampling, review of documentation, tests or procedures, including laboratory, organoleptic, or identity, conducted at the border of an importing Party by the competent authority of the importing Party to determine whether a consignment complies with the SPS requirements of the importing Party.

ARTICLE 6.4

Specific plant-health-related conditions

1. In accordance with applicable standards agreed under the IPPC, the Parties shall exchange information on their pest status in their respective territories. At the request of a Party, the other Party shall provide the justification for the pest categorisation and related phytosanitary measures.

2. In relation to pest categorisation, each Party shall establish and update a list of regulated pests for plants and plant products for which a phytosanitary concern exists. Such list shall contain:

(a) the quarantine pests not present within any part of its territory;

(b) the quarantine pests present but not widely distributed and under official control;

(c) protected zone quarantine pests; and

(d) where applicable, regulated non-quarantine pests.

3. Each Party shall limit its import requirements for plants or plant products to those needed to mitigate against the risks of the introduction of regulated pests. Import requirements to mitigate the risk from protected zone quarantine pests shall not apply unless the destination of any plants or plant products is known to be within a protected zone.

4. Pre-export inspection by the importing Party's national plant protection organisation should not be a requirement by the importing Party, where inspection of plants or plant products is within the scope of the exporting Party's national plant protection organisation.

ARTICLE 6.5

Recognition of pest freedom

Where regionalisation is defined with respect to a pest free area, pest free place of production, pest free production site, or a protected zone in the plants and plant products sector:

(a) the Parties recognise the concepts of pest free areas, pest free places of production and pest free production sites as specified in relevant IPPC International Standards for Phytosanitary Measures ("ISPMs");

(b) the Parties shall accept each other's:

(i) pest free areas, pest free places of production and pest free production sites; and

(ii) official controls in the establishment and maintenance of pest free areas, pest free places of production and pest free production sites;

(c) New Zealand shall recognise the concept of protected zones within the territory of the Union as equivalent to a pest free area as specified in IPPC ISPM 4 ("Requirements for the establishment of pest free areas");

(d) the exporting Party, if requested by the importing Party, shall identify pest free areas, pest free places of production, pest free production sites and protected zones, and, if requested by the importing Party, provide a full explanation and supporting data as provided for in the relevant ISPMs or as otherwise deemed appropriate; and

(e) the Trade Committee may adopt a decision to amend Annex 6-B (Regional conditions for plants and plant products) to set out any other matter that may pertain to regionalisation or to specify any appropriate risk-based special conditions.

ARTICLE 6.6

Equivalence

1. The Parties acknowledge that recognition of equivalence is an important means to facilitate trade.

2. In determining the equivalence of a specific SPS measure, group of SPS measures or on a systems-wide basis, each Party shall take into account the relevant guidance of the WTO Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as "WTO SPS Committee") and international standards, guidelines and recommendations. The Trade Committee may adopt a decision to set out further guidance and procedures to determine, recognise and maintain equivalence in Annex 6-C (Equivalence recognition of SPS measures).

3. At the request of the exporting Party, the importing Party shall, within a reasonable period of time, explain the objective and rationale of its SPS measure and clearly identify the risk that SPS measure is intended to address.

4. The importing Party shall recognise the equivalence of an SPS measure if the exporting Party objectively demonstrates that its SPS measure achieves the importing Party's appropriate level of protection (hereinafter referred to as "ALOP") in relation to human, animal or plant health.

5. If an equivalence assessment does not result in an equivalence determination by the importing Party, the importing Party shall provide the exporting Party with the rationale for its decision.

6. Without prejudice to Article 6.8(6) (Certification), the Trade Committee may adopt a decision to amend Annex 6-C (Equivalence recognition of SPS measures) in order to:

(a) set out the exporting Party's commodity types which the importing Party recognises as being covered by an SPS measure equivalent to its own or set out the exporting Party's official controls which the importing Party recognises as equivalent to its own; and

(b) specify any appropriate risk-based special conditions or any agreed pest or disease status.

7. If a Party amends an SPS measure in a way that it considers does not affect an equivalence determination specified in this Chapter, the determination shall be applicable to the most recent version of the relevant law or regulation amending that SPS measure.

8. If a Party considers that a previous equivalence determination is affected, that Party shall notify the other Party of that consideration.

9. If an importing Party amends an SPS measure and considers an equivalence determination specified in this Chapter may be affected it shall:

(a) objectively consider whether the previous equivalence determination is no longer sufficient to meet its ALOP; and

(b) consult with the exporting Party and then decide whether the equivalence determination may continue with or without any special conditions.

ARTICLE 6.7

Trade conditions and approval procedures

1. The importing Party shall make publicly available its phytosanitary import health requirements and the procedures used to establish those requirements.

2. If the Parties jointly identify a specific plant or plant product as a priority, the importing Party shall establish specific import requirements for that product without undue delay other than in duly justified circumstances.

3. Where an import request is received in relation to a specific plant or plant product which has previously been approved for import from the exporting Party, the importing Party shall assess the risk profile and, if determined to be the same, complete the approval procedure without undue delay, other than in duly justified circumstances.

4. Each Party shall ensure that procedures used to approve imports from the other Party are undertaken and completed without undue delay, including, if needed, audits and the necessary legislative or administrative measures to complete the approval procedure. Each Party shall in particular avoid unnecessary or unduly burdensome information requests, which shall be limited to what is necessary and take into account information already available to the importing Party, such as information on the applicable laws and regulations and audit reports of the exporting Party.

5. Except as provided for in Article 6.5 (Recognition of pest freedom), each Party shall apply its phytosanitary import conditions to the entire territory of the other Party where the same pest status prevails.

6. Without prejudice to Article 6.10 (Emergency measures), each Party shall recognise as equivalent the official controls applied by the other Party for trade provided that from the date of entry into force of this Agreement, there are no significant changes in the official control systems of the exporting Party that would lower the level of assurance to the importing Party.

7. Without prejudice to Article 6.10 (Emergency measures), the importing Party shall not refuse or stop the importation of a good of the exporting Party solely for the reason that the importing Party is undertaking a review of its SPS measures, if the importing Party permitted the importation of that good from the other Party when the review was initiated.

8. The Parties shall, without any subsequent approval processes, accept each other's lists of establishments that are subject to SPS measures for trade.

9. Each Party shall make the lists of establishments referred to in paragraph 8 available to one another on request.

ARTICLE 6.8

Certification

1. In respect of health certification for plants and plant products the competent authorities shall apply the principles laid down in the IPPC ISPM 7 ("Export Certification System") and IPPC ISPM 12 ("Guidelines for Phytosanitary Certificates").

2. Each Party shall promote the implementation of electronic certification and other technologies to facilitate trade.

3. Without prejudice to Articles 6.2 (Scope) and 6.10 (Emergency measures), food safety certification shall not be required for processed foods covered by this Chapter unless supported by a risk analysis.

4. The Trade Committee may adopt a decision to amend Annex 6-E (Certification) in order to specify further guidance, procedures and requirements in relation to certification.

5. If the importing Party has accepted a commodity SPS measure of the exporting Party as equivalent to its own, the exporting Party may include the model health attestation set out in Section 1 of Annex 6-E (Certification) on the official health certificate.

6. If an importing Party has, in accordance with Article 6.6(7) (Equivalence) or Article 6.6(8) (Equivalence), determined that equivalence is maintained, the import health certificate provided for in Annex 6-E (Certification) shall, where practicable and if applicable, state the initial laws and regulations of the importing Party on the basis of which equivalence was determined.

7. If an importing Party determines that a special condition included in Annex 6-C (Equivalence recognition of SPS measures) is no longer necessary, guarantees to that special condition shall no longer be required and the Trade Committee shall adopt a decision to amend Annex 6-C (Equivalence recognition of SPS measures) accordingly within a reasonable period of time.

ARTICLE 6.9

Transparency, information exchange and technical consultation

1. The Parties shall promptly inform each other of any significant:

(a) findings of epidemiological importance that may relate to a product being traded between the Parties;

(b) food safety matters related to a product being traded between the Parties; or

(c) other pertinent information for the adequate implementation of this Chapter.

2. If the information listed in paragraph 1 has been made available through a notification to the WTO or to the relevant international standard-setting body in accordance with their rules, or on a publicly accessible website of a Party, the obligation in paragraph 1 shall be deemed to have been fulfilled.

3. If either Party has a serious concern with respect to a sanitary or phytosanitary risk, technical consultations regarding that sanitary or phytosanitary risk shall, on request, take place as soon as possible and in any case within 14 days after the date of delivery of the request.

4. If a Party has a significant concern with a SPS measure that the other Party has proposed or implemented, that Party may request technical consultations with the other Party. The Party to which the request is addressed shall respond within 30 days after the date of delivery of the request.

5. With respect to paragraphs 3 and 4, each Party shall endeavour to provide all the information necessary to avoid a disruption in trade and to enable the Parties to reach a mutually acceptable solution that effectively manages any sanitary or phytosanitary risk.

6. The Parties shall seek to resolve any concerns arising from the implementation of this Chapter through technical consultations pursuant to this Article[1] prior to initiating dispute settlement pursuant to Chapter 26 (Dispute settlement).

ARTICLE 6.10

Emergency measures

1. If a Party adopts an emergency measure that is necessary for the protection of human, animal or plant life or health, the competent authority of that Party shall notify the competent authority of the other Party within 24 hours. If a Party requests technical consultations to address the emergency SPS measure, the technical consultations shall be held within 14 days after the date of delivery of the notification of the emergency SPS measure. The Parties shall consider any information provided through the technical consultations.

2. The Party applying the emergency measure shall consider any information provided in a timely manner by the exporting Party when it makes its decision with respect to any consignment that, at the time of adoption of the emergency SPS measure, is being transported between the Parties.

[1] For greater certainty, technical consultations pursuant to this Article shall not replace consultations under Article 26.3 (Consultations) unless the Parties agree otherwise.

3. Where an emergency measure seriously disrupts or suspends trade, the importing Party shall as soon as practically possible revoke that emergency measure or provide relevant scientific and technical justification for its continuation.

ARTICLE 6.11

Audits

1. For the purpose of maintaining confidence in the implementation of this Chapter, each Party has the right to carry out a system-based audit of all, or part of, the control system of the competent authority of the other Party to determine that it is functioning as intended.

2. In undertaking an audit, a Party shall take into account relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations.

3. Any decision or action taken by the auditing Party that may adversely affect trade as a result of the audit shall take into account and be proportionate to:

(a) the risk assessed, supported by objective evidence and data that can be verified; and

(b) the auditing Party's knowledge of, relevant experience with and confidence in the audited Party.

4. The auditing Party shall provide objective evidence and data to the audited Party on request.

5. The auditing Party shall bear its own costs associated with the audits.

6. Each Party shall ensure that procedures are in place to prevent the disclosure of confidential information that is acquired during an audit of the other Party's competent authorities, including procedures to remove any confidential information from a final audit report that is made publicly available.

7. The auditing Party shall consider any comments on the report by the audited Party and shall determine whether the report or part of it is made publicly available or is made available in a more limited way.

8. The Trade Committee may adopt a decision to amend Annex 6-D (Guidelines and procedures for an audit or verification) in order to establish or specify audit guidelines and procedures.

ARTICLE 6.12

Import checks and fees

1. The importing Party shall have the right to carry out import checks based on the sanitary or phytosanitary risks associated with imports. Such checks shall be carried out without undue delay and with minimum trade-disrupting effects.

2. If import checks reveal non-compliance with the relevant import requirements, the action taken by the importing Party shall follow international standards, be based on an assessment of the risk involved and not be more trade-restrictive than required to achieve the importing Party's ALOP.

3. The competent authority of the importing Party shall notify the competent authority of the exporting Party when any non-compliance constitutes a serious risk to human, animal or plant health.

4. The competent authority of the importing Party shall notify the importer or its representative of a non-compliant consignment, including the reason for non-compliance, and provide that importer or its representative with an opportunity for a review of the decision. The competent authority of the importing Party shall consider any relevant information submitted to assist in such a review.

5. Any fees imposed for procedures on imported products shall not be higher than any fees charged for comparable checks of like domestic products and not higher than the actual cost of the service.

6. The Trade Committee may adopt a decision to amend Annex 6-F (Import checks and fees) in order to set out frequency rates and fees for import checks for certain commodities falling within the scope of this Chapter.

ARTICLE 6.13

Scientific robustness and transparency in specified authorisation processes[1]

1. The Parties recognise that authorisation processes shall be based on robust science and conducted in a transparent manner so as to build and maintain public trust and confidence. The Parties shall cooperate on increasing the robustness and transparency of those authorisation processes.

2. The Parties acknowledge that their respective authorisation processes are intended to provide comparable outcomes and that cooperation in this area is desirable.

3. If a person responsible for ensuring that the requirements for obtaining marketing authorisation are met by the business under its control commissions scientific studies in a scientific institution[2] located in a Party with a view to supporting an application for authorisation in the context of certain specified authorisation processes in the other Party, and this is brought to the attention of the Party in which the scientific institution is located, both Parties shall endeavour to share such information with each other.

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[1] For the purposes of this Article, the term "authorisation processes" means all pre-market authorisations in the area of the food chain: i.e. cultivation of genetically modified organisms or genetically modified food and feed, feed additives, food additives, enzymes, flavourings, smoke flavourings, plant protection products, novel foods, food contact materials, health claims, and addition of vitamins and minerals and other substances to foods.

[2] For the purposes of this Article, the term "scientific institution" includes institutions which carry out scientific studies for a fee, for example, universities, laboratories, and testing or research facilities.

4. The Parties may also exchange information on their authorisation processes.

5. A Party may request a fact-finding visit under this Article to a scientific institution located in the other Party to collect information concerning the application of relevant standards by the scientific institution when it conducts a scientific study for the purposes of certain specified authorisation processes in the Party which requests a fact-finding visit.

6. If a Party seeks to conduct a fact-finding visit, it shall notify the other Party no later than 60 days before such visit.

7. If a Party seeks to conduct a fact-finding visit and the scientific institution agrees to such visit, officials of the other Party may accompany the officials of the visiting Party during the fact-finding visit.

8. The final report of any fact-finding visit shall be made available to the competent authorities of both Parties. The relevant portions of the final report shall also be made available to the scientific institution that was visited.

9. The costs of any such fact-finding visit shall be borne by the Party that requests a fact-finding visit.

10. The Trade Committee may adopt a decision to establish detailed implementing rules and any necessary guidance with respect to paragraphs 3 to 9.

ARTICLE 6.14

Antimicrobial resistance

1. The Parties recognise that AMR is a serious threat to human and animal health.

2. The Parties shall, in accordance with the One Health approach, cooperate and facilitate the exchange of information, including with respect to regulations, guidelines, national plans, standards, expertise and experiences in the field of AMR, and identify common views, interests, priorities and policies in that field.

3. The Parties acknowledge that:

(a) their respective antimicrobial regulatory standards, guidelines and surveillance systems deliver comparable controls and health outcomes;

(b) antimicrobial agents that are critical to human and animal treatment and health are a core focus of their respective AMR strategies; and

(c) initiatives are taken on both sides, within their respective strategies and policies, to promote the phasing out of the use of antibiotic agents as growth promoters, in particular those of medical importance, and to reduce the use of antimicrobial agents in animal production.

4. Furthermore, the Parties shall:

(a) cooperate in relevant international fora on the development of future codes, guidelines, standards, recommendations and initiatives;

(b) cooperate on international action plans, especially with regard to responsible and prudent use of antimicrobial agents in order to combat AMR more effectively; and

(c) within the context of their respective strategies and policies support the implementation of agreed international action plans and strategies on AMR.

5. Any regulations, guidelines, strategic plans, standards and other initiatives on AMR shall not be used to create or implement measures affecting trade unless those measures are consistent with the SPS Agreement and relevant provisions of this Chapter.

6. The Committee on Sanitary and Phytosanitary Measures may establish a technical working group on AMR.

ARTICLE 6.15

Fraud in traded commodities

1. The Parties recognise that fraudulent activities by commercial operators engaged in international trade may:

(a) affect the health of humans, animals, plants and consequentially the environment; and

(b) undermine fair commercial practice and consumer confidence.

2. The Parties shall exchange relevant information and cooperate to deter practices that are, or appear to be, non-compliant with their respective SPS measures or that mislead consumers and other relevant stakeholders.

ARTICLE 6.16

Implementation and resources

Each Party shall ensure that its competent authorities have the necessary resources to effectively implement this Chapter.

ARTICLE 6.17

Committee on Sanitary and Phytosanitary Measures

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The Committee on Sanitary and Phytosanitary Measures shall, with respect to this Chapter, have the following functions:

(a) provide a forum to exchange information on each Party's regulatory system, including the scientific and risk assessment basis for its SPS measures;

(b) identify opportunities for cooperation, including trade facilitation initiatives and further work on eliminating unnecessary barriers to trade between the Parties;

(c) promote cooperation in multilateral fora, including in the WTO SPS Committee and international standard-setting bodies, as appropriate;

(d) establish *ad hoc* working groups;

(e) provide a forum for the Parties to update each other at an early stage on regulatory considerations related to SPS measures;

(f) without prejudice to Chapter 26 (Dispute settlement), serve as a forum to resolve specific trade concerns where the Parties have been unable to reach a mutually acceptable solution through technical consultations pursuant to Article 6.9 (Transparency, information exchange and technical consultation);

(g) take any other action in the exercise of its functions as the Parties may agree; and

(h) consider any other matter related to this Chapter.

3. Unless the Parties decide otherwise, the Committee shall meet and establish its work programme no later than one year after the date of entry into force of this Agreement.

CHAPTER 7

SUSTAINABLE FOOD SYSTEMS

ARTICLE 7.1

Objectives

1. The Parties, recognising the importance of strengthening policies and defining programmes that contribute to the development of sustainable, inclusive, healthy, and resilient food systems, agree to establish close cooperation to jointly engage in the transition towards sustainable food systems (hereinafter referred to as "SFS").

2. This Chapter applies in addition to, and without prejudice to, the other Chapters of this Agreement related to food systems or to sustainability, in particular Chapter 6 (Sanitary and phytosanitary measures), Chapter 9 (Technical barriers to trade) and Chapter 19 (Trade and sustainable development).

ARTICLE 7.2

Scope

1. This Chapter applies to the cooperation between the Parties to improve the sustainability of their respective food systems.

2. This Chapter sets out provisions for cooperation in areas which can achieve more sustainable food systems. Indicative areas for cooperation are listed in Article 7.4 (Cooperation to improve the sustainability of food systems).

3. The Parties recognise that priorities for cooperation may change over time as their respective understandings and the international understanding and treatment of food systems develop.

ARTICLE 7.3

Definition of a sustainable food system

1. The Parties recognise that food systems are diverse and context-specific, encompassing a range of actors and their interlinked activities across all areas of the food system, including the production, harvesting, processing, manufacturing, transport, storage, distribution, sale, consumption and disposal of food products.

2. For the purposes of this Chapter, and acknowledging that the definition of SFS can evolve over time, the Parties consider SFS to be a food system which ensures access to safe, nutritious and sufficient food all year round in such a way that the economic, social, cultural and environmental bases to generate food security and nutrition for future generations are not compromised.

ARTICLE 7.4

Cooperation to improve the sustainability of food systems

1. The Parties recognise the importance of cooperation as a mechanism to implement this Chapter as they strengthen their trade and investment relations.

2. Taking account of their respective priorities and circumstances, the Parties shall cooperate to address matters of common interest related to the implementation of this Chapter. Such cooperation may take place bilaterally as well as in international fora.

3. Cooperation may include exchange of information, expertise and experiences, as well as cooperation in research and innovation.

4. The Parties shall cooperate on topics such as:

(a) food production methods and practices which aim to improve sustainability, including organic farming and regenerative agriculture, amongst others;

(b) the efficient use of natural resources and agricultural inputs, including reducing the use and risk of chemical pesticides and fertilisers, where appropriate;

(c) the environmental and climate impacts of food production, including on agricultural greenhouse gas emissions, carbon sinks and biodiversity loss;

(d) contingency plans to ensure the security and resilience of food supply chains and trade in times of international crisis;

(e) sustainable food processing, transport, wholesale, retail and food services;

(f) healthy, sustainable and nutritious diets;

(g) the carbon footprint of consumption;

(h) food loss and waste, in line with the United Nations Sustainable Development Goals Target 12.3;

(i) reduction of the adverse environmental effects of policies and measures linked to the food system; and

(j) indigenous knowledge, participation and leadership in food systems, in line with the Parties' respective circumstances.

ARTICLE 7.5

Additional provisions

1. The cooperation activities under this Chapter shall not affect the independence of each Party's agencies, including a Party's regional agencies.

2. Fully respecting each Party's right to regulate, nothing in this Chapter shall be construed to oblige a Party to:

(a) modify its import requirements;

(b) deviate from its procedures for preparing or adopting regulatory measures;

(c) take action that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

(d) adopt any particular regulatory measure.

ARTICLE 7.6

Committee on Sustainable Food Systems

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The Committee on Sustainable Food Systems shall, with respect to this Chapter, have the following functions:

(a) establishing priorities for cooperation and work plans to implement those priorities;

(b) promoting cooperation in multilateral fora; and

(c) performing any other functions relating to the implementation or operation of this Chapter.

3. In pursuing the objectives of this Chapter, and to monitor the results obtained from its implementation, the Committee on Sustainable Food Systems shall establish each year an annual work plan, including actions with objectives and milestones for those actions.

4. When appropriate, the Committee on Sustainable Food Systems may establish working groups consisting of expert-level representatives of each Party.

5. The Committee on Sustainable Food Systems shall meet within one year after the date of entry into force of this Agreement and thereafter as mutually agreed.

6. The Committee on Sustainable Food Systems may establish rules mitigating potential conflicts of interest for the experts that may participate in its meetings and those of any working group reporting to it.

ARTICLE 7.7

Contact points

Within 90 days after the date of entry into force of this Agreement, each Party shall designate a contact point to facilitate the communication between the Parties on matters covered by this Chapter and shall notify the other Party of the contact details for the contact point. Each Party shall promptly notify the other Party of any change of those contact details.

CHAPTER 8

ANIMAL WELFARE

ARTICLE 8.1

Objective

The objective of this Chapter is to enhance cooperation between the Parties on animal welfare of farmed animals with a view to facilitating trade between the Parties.

ARTICLE 8.2

General provisions and cooperation

1. The Parties recognise that animals are sentient beings.[1]

2. The Parties acknowledge that their farming practices are substantively different but recognise that their respective animal welfare standards and associated systems provide comparable animal welfare outcomes.

3. The Parties shall make best endeavours to cooperate in international fora to promote the development and implementation of science-based animal welfare standards. In particular, the Parties shall cooperate to reinforce and broaden the scope of the World Organisation for Animal Health animal welfare standards, as well as their implementation, with a focus on farmed animals.

4. The Parties shall exchange information, expertise and experiences in the field of animal welfare related to the treatment of animals on the farm, during transport and at slaughter or killing.

5. The Parties shall continue to cooperate on research in the area of animal welfare to facilitate the development of science-based animal welfare standards related to the treatment of animals on the farm, during transport and at slaughter or killing.

[1] As defined in each Party's laws and regulations on animal welfare.

ARTICLE 8.3

Technical working group on animal welfare

The Parties hereby establish a technical working group on animal welfare. The technical working group on animal welfare shall report to and undertake activities specified by the Committee on Sanitary and Phytosanitary Measures.

CHAPTER 9

TECHNICAL BARRIERS TO TRADE

ARTICLE 9.1

Objectives

The objectives of this Chapter are to facilitate trade in goods between the Parties by preventing, identifying and eliminating unnecessary technical barriers to trade, and to enhance cooperation between the Parties in matters covered by this Chapter.

ARTICLE 9.2

Scope

1. This Chapter applies to the preparation, adoption and application of all technical regulations, standards and conformity assessment procedures as defined in Annex 1 to the TBT Agreement that may affect trade in goods between the Parties.

2. This Chapter does not apply to:

(a) purchasing specifications prepared by governmental bodies for production or consumption requirements of bodies to which Chapter 14 (Public procurement) applies; or

(b) SPS measures to which Chapter 6 (Sanitary and phytosanitary measures) applies.

ARTICLE 9.3

Relation to the TBT Agreement

1. Articles 2 to 9 of and Annexes 1 and 3 to the TBT Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Terms used in this Chapter, including in the Annexes to this Chapter, shall have the same meaning as they have in the TBT Agreement.

ARTICLE 9.4

Technical regulations

1. Further to Article 22.8 (Impact assessment), each Party shall endeavour to carry out an impact assessment of planned technical regulations falling within the scope of regulatory measures defined in point (b) of Article 22.2 (Definitions) that may have a significant impact on trade, in accordance with its rules and procedures. For greater certainty, this paragraph also applies to conformity assessment procedures that are part of such technical regulations.

2. If an impact assessment is carried out pursuant to paragraph 1 of this Article, then, further to point (b) of Article 22.8(2) (Impact assessment), each Party shall assess the feasible and appropriate regulatory and non-regulatory options for the proposed technical regulation that may fulfil the Party's legitimate objectives in accordance with Article 2.2 of the TBT Agreement. For greater certainty, such obligation to assess also applies to conformity assessment procedures that are part of such technical regulations.

3. Further to Articles 2.3 and 2.4 of the TBT Agreement, each Party shall review its technical regulations from time to time. In undertaking such a review, each Party shall, *inter alia*, give positive consideration to increasing convergence with relevant international standards, taking into account any new development as regards the relevant international standards and whether previous circumstances that gave rise to divergences from any relevant international standard continue to exist.

4. Without prejudice to Chapter 22 (Good regulatory practices and regulatory cooperation), when developing major technical regulations that may have a significant effect on trade, each Party shall, as required by its rules and procedures, allow persons of the Parties to provide input through a public consultation process, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise. Each Party shall allow persons of the other Party to participate in such consultations on terms no less favourable than those accorded to its own persons, and shall make the results of that consultation process public.

ARTICLE 9.5

International standards

1. International standards developed by the International Organization for Standardization (ISO), the International Electrotechnical Commission (hereinafter referred to as "IEC"), the International Telecommunication Union (ITU), and the Codex Alimentarius Commission (Codex) shall be considered as the relevant international standards within the meaning of Article 2 and Article 5 of, and Annex 3 to, the TBT Agreement provided that they comply with the conditions set out in paragraph 2 of this Article.

2. A standard developed by an international organisation, other than those referred to in paragraph 1, may also be considered a relevant international standard within the meaning of Article 2 and Article 5 of and Annex 3 to the TBT Agreement, provided that:

(a) it has been developed by a standardisation body which seeks to establish consensus either:

(i) among national delegations of the participating WTO Members representing all the national standards bodies in their territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardisation activity relates; or

(ii) among governmental bodies of participating WTO Members; and

(b) it has been developed in accordance with the Decision of the Committee on Technical Barriers to Trade established by Article 13 of the TBT Agreement on Principles for the Development of International Standards, Guides and Recommendations in relation to Article 2 and Article 5 of and Annex 3 to the TBT Agreement.

3. If a Party has not used international standards as a basis for its technical regulations and related conformity assessment procedures, a Party shall, on request from the other Party, identify any substantial deviation from the relevant international standard and explain the reasons why such standards have been judged inappropriate or ineffective for the aim pursued, and provide the evidence on which that assessment is based, where available.

ARTICLE 9.6

Standards

1. With a view to harmonising standards on as wide a basis as possible, and in addition to Article 4.1 of the TBT Agreement, each Party shall encourage the standardisation bodies within its territory, as well as the regional standardisation bodies of which a Party or the standardisation bodies within its territory are members, to:

(a) review national and regional standards that are not based on relevant international standards at regular intervals, with a view to increasing the convergence of those national and regional standards with relevant international standards, among other considerations;

(b) cooperate with the relevant standardisation bodies of the other Party in international standardisation activities, including through cooperation in the international standardisation bodies or at regional level; and

(c) foster bilateral cooperation with the standardisation bodies of the other Party.

2. The Parties should exchange information on:

(a) their respective use of standards in support of technical regulations; and

(b) their respective standardisation processes, and the extent of use of international standards, regional or subregional standards as a base for their national standards.

3. If standards are made mandatory through incorporation into or by reference in a draft technical regulation or conformity assessment procedure, the transparency obligations set out in Article 9.8 (Transparency) of this Chapter and in Article 2 or Article 5 of the TBT Agreement shall apply, to the extent permitted by applicable copyright.

ARTICLE 9.7

Conformity assessment

1. If a Party requires conformity assessment as a positive assurance that a product conforms with a technical regulation, it shall:

(a) select conformity assessment procedures proportionate to the risks involved;

(b) accept the use of a supplier's declaration of conformity (hereinafter referred to as "SDoC"), where appropriate; and

(c) if requested by the other Party, explain the rationale for selecting particular conformity assessment procedures for specific products.

2. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures. Such mechanisms may include:

(a) SDoC;

(b) recognition by a Party of the results of conformity assessment procedures conducted in the territory of the other Party;

(c) cooperative and voluntary arrangements between conformity assessment bodies located in the territories of the Parties;

(d) mutual recognition agreements for the results of conformity assessment procedures with respect to specific technical regulations conducted by bodies located in the territory of the other Party;

(e) use of accreditation to qualify conformity assessment bodies; and

(f) government designation of conformity assessment bodies.

3. If a Party requires third-party conformity assessment as a positive assurance that a product conforms with a technical regulation, and it has not reserved this task to a governmental authority as specified in paragraph 4, it shall:

(a) give preference to the use of accreditation to qualify conformity assessment bodies;

(b) use international standards for accreditation and conformity assessment;

(c) where practicable, use international agreements involving the Parties' accreditation bodies, for example, through the mechanisms of the International Laboratory Accreditation Cooperation (hereinafter referred to as "ILAC") and the International Accreditation Forum (hereinafter referred to as "IAF");

(d) encourage the use of functioning international agreements or arrangements for harmonisation, or facilitation of acceptance of conformity assessment results;

(e) ensure that its rules and procedures do not unnecessarily restrict choice for economic operators amongst the conformity assessment bodies designated by its authorities for a particular product or set of products;

(f) ensure that the activities of its accreditation bodies are consistent with international standards for accreditation and, in that respect, that there are no conflicts of interest between accreditation bodies and conformity assessment bodies in relation to their conformity activities, including personnel;

(g) ensure that conformity assessment bodies carry out their activities in a manner that prevents conflicts of interests affecting the outcome of the conformity assessment;

(h) allow conformity assessment bodies to use subcontractors to perform testing or inspections in relation to the conformity assessment, including subcontractors located in the territory of the other Party. Nothing in this point shall be construed as to prohibit a Party from requiring subcontractors to meet the same requirements that the conformity assessment body to which it is contracted is required to meet in order to perform the contracted tests or inspection itself; and

(i) ensure that the details, including the scope of the designation, of the bodies that have been designated to perform such conformity assessment, are published online.

4. Nothing in this Article shall preclude a Party from requiring that conformity assessment in relation to specific products is performed by specified governmental authorities of the Party. If a Party requires conformity assessment to be performed by its specified governmental authorities, that Party shall:

(a) limit the conformity assessment fees to the approximate cost of the services rendered and, upon the request of an applicant for conformity assessment, explain how any fees it imposes for such conformity assessment are limited to the approximate cost of services rendered; and

(b) ensure that the conformity assessment fees are available on request, if they are not published.

5. Notwithstanding paragraphs 1, 3 and 4 of this Article, in the fields listed in Annex 9-A (Acceptance of conformity assessment (documents)) in respect of which the Union accepts SDoC, New Zealand shall, if it considers non-first-party conformity assessment necessary as an assurance that a product conforms with the requirements of New Zealand's technical regulations, accept:

(a) certificates and test reports issued by conformity assessment bodies that are located in the territory of the Union and that have been accredited by an accreditation body member of the international arrangements for mutual recognition of the ILAC or the IAF, or their successor bodies, or that are otherwise recognised pursuant to New Zealand's technical regulations; or

(b) in relation to electrical safety and electromagnetic compatibility aspects, certificates and test reports that have been issued by conformity assessment bodies that are located in the territory of the Union and under the IEC System for Conformity Assessment Schemes for Electrotechnical Equipment and Components (IECEE) Certification Body (CB) Scheme.

6. SDoC is a first-party attestation of conformity issued[1] by the manufacturer or other authorised first-party on their sole responsibility based on the results of an appropriate type of conformity assessment activity and excluding mandatory third-party assessment.

7. The Parties shall cooperate in the field of mutual recognition in accordance with the Agreement on mutual recognition in relation to conformity assessment between the European Community and New Zealand[2], done at Wellington on 25 June 1998. The Parties may also decide, in accordance with the relevant provisions of that Agreement, to extend its scope as regards the products, the applicable regulatory requirements or the recognised conformity assessment bodies.

ARTICLE 9.8

Transparency

1. Except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, each Party shall allow the other Party to provide written comments on notified proposed technical regulations and conformity assessment procedures within a period of at least 60 days after the date of transmission of the notification of such regulations or procedures to the WTO Central Registry of Notifications. A Party shall give positive consideration to a reasonable request to extend that comment period.

[1] Pursuant to each Party's technical regulations.
[2] OJ EU L 229, 17.8.1998, p. 62.

2. In the event that the notified text is not in one of the official languages of the WTO, each Party shall provide a detailed and comprehensive description of the content of the proposed technical regulation or conformity assessment procedure in the WTO notification format.

3. If a Party receives written comments on its proposed technical regulation or conformity assessment procedure from the other Party, it shall:

(a) if requested by the other Party, discuss the written comments with the participation of its competent regulatory authority, whenever possible, at a time when the comments can be taken into account; and

(b) reply in writing to significant or substantive issues presented in the comments no later than the date of publication of the technical regulation or conformity assessment procedure.

4. Each Party shall make publicly available, preferably by publishing on a website, its responses to significant or substantive issues presented in comments received from other WTO Members on its TBT notification as referred to in paragraph 1 of the proposal for the technical regulation or conformity assessment procedure.

5. If requested by the other Party, a Party shall provide information regarding the objectives of, and rationale for, any technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

6. Each Party shall ensure that its adopted technical regulations and conformity assessment procedures are published online and are accessible free of charge.

7. Each Party shall provide information on the adoption and the entry into force of the technical regulation or conformity assessment procedure and the adopted final text through an addendum to the original notification to the WTO.

8. Further to Article 2.12 of the TBT Agreement, the term "reasonable interval" shall be understood to mean a period of not less than six months, except where this would be ineffective in fulfilling the legitimate objectives pursued.

9. A Party shall consider a reasonable request from the other Party, received prior to the end of the comment period as referred to in paragraph 1 following the transmission to the WTO Central Registry of Notifications to extend the period of time between the adoption of the technical regulation and its entry into force, except where this would be ineffective in fulfilling the legitimate objectives pursued.

ARTICLE 9.9

Marking and labelling

1. A technical regulation of a Party may include or deal exclusively with marking or labelling requirements. In such cases, the relevant principles of Article 2.2 of the TBT Agreement apply to these technical regulations.

2. If a Party requires mandatory marking or labelling of products, it shall:

(a) to the extent possible, only require information that is relevant for consumers or users of the product or that indicates that the product conforms with mandatory technical requirements;

(b) not require any prior approval, registration or certification of the markings or labels of products, nor any fee disbursement, as a precondition for placing on its market products that otherwise comply with its mandatory technical requirements unless it is necessary in view of the risk of the products or the risk of the claims made on the markings and labels to human, animal or plant health or life, the environment or national safety;

(c) if it requires the use of a unique identification number by economic operators, issue such a number to the economic operators of the other Party without undue delay and on a non-discriminatory basis;

(d) provided that the marking and labelling of a product is compliant with and not misleading, contradictory or confusing as regards the regulatory requirements of the importing Party, permit[1] the following:

(i) information in other languages in addition to the language required in the importing Party;

(ii) internationally accepted nomenclatures, pictograms, symbols or graphics; and

(iii) additional information to that required in the importing Party;

[1] For greater certainty, this point refers to the importing Party.

(e) accept that labelling, including supplementary labelling or corrections to labelling, take place in the territory of the importing Party, in accordance with its relevant regulations and procedures as an alternative to labelling in the exporting Party, unless such labelling is necessary in view of the legitimate objectives referred to in Article 2.2 of the TBT Agreement; and

(f) if it considers that legitimate objectives referred to in Article 2.2 of the TBT Agreement are not compromised, endeavour to accept non-permanent or detachable labels, or marking or labelling in the accompanying documentation, rather than requiring marking or labelling to be physically attached to the product.

3. Paragraph 2 of this Article does not apply to marking or labelling of medicinal products and medical devices, as defined by a Party's laws and regulations.

ARTICLE 9.10

Cooperation on market surveillance, safety and compliance of non-food products

1. For the purposes of this Article, the term "market surveillance" means activities conducted and measures taken by public authorities, including those taken in cooperation with economic operators, on the basis of procedures of a Party, to enable that Party to monitor or address safety of products or their compliance with the requirements set out in its laws and regulations.

2. The Parties recognise the importance of cooperation on market surveillance, safety and compliance of non-food products for the facilitation of trade and for the protection of consumers and other users, and the importance of building mutual trust based on shared information.

3. Each Party shall ensure:

(a) impartial and independent conduct of market surveillance functions from conformity assessment functions with a view to avoiding conflicts of interest;[1] and

(b) the absence of any interest that would affect the impartiality of market surveillance authorities in the performance of control or supervision of economic operators.

4. The Parties may cooperate and exchange information in the area of market surveillance, safety and compliance of non-food products, in particular with respect to the following:

(a) market surveillance and enforcement activities and measures;

(b) risk assessment methods and product testing;

(c) coordinated product recalls or other similar actions;

[1] Each Party shall ensure that safeguards are put in place to ensure the impartiality and absence of conflicts of interest if a single entity is entrusted with both market surveillance functions and conformity assessment functions.

(d) scientific, technical and regulatory matters in order to improve non-food product safety and compliance;

(e) emerging issues of significant health and safety relevance;

(f) standardisation-related activities; and

(g) exchange of officials.

5. The Union may provide New Zealand with selected information from its Rapid Alert System for dangerous non-food products with respect to consumer products as referred to in Directive 2001/95/EC of the European Parliament and of the Council[1] or its successor system, and New Zealand may provide the Union with selected information on the safety of non-food consumer products and on preventive, restrictive and corrective measures taken, with respect to consumer products as referred to in the relevant legislation of New Zealand. The information exchange may take the form of:

(a) *ad hoc* exchange, in duly justified cases; or

(b) systematic exchange, based on an arrangement established by decision of the Trade Committee pursuant to Annex 9-C (Arrangement referred to in point (b) of Article 9.10(5) for the systematic exchange of information in relation to the safety of non-food products and related preventive, restrictive and corrective measures).

[1] Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ EU L 11, 15.1.2002, p. 4).

6. The Trade Committee may adopt a decision to establish pursuant to Annex 9-D (Arrangement referred to in Article 9.10(6) for the regular exchange of information regarding measures taken on non-compliant non-food products, other than those covered by point (b) of Article 9.10(5)) an arrangement on the regular exchange of information, including by electronic means, on measures taken with respect to non-compliant non-food products, other than those covered by point (b) of paragraph 5 of this Article.

7. Each Party shall use the information obtained pursuant to paragraphs 4, 5 and 6 for the sole purpose of protection of consumers, health, safety or the environment.

8. Each Party shall treat the information obtained pursuant to paragraphs 4, 5 and 6 as confidential.

9. The arrangements referred to in point (b) of paragraph 5 and in paragraph 6 shall specify the type of information to be exchanged, the modalities for the exchange and the application of confidentiality and personal data protection rules.

10. The Trade Committee shall have the power to adopt decisions in order to determine or amend arrangements referred to in Annexes 9-C (Arrangement referred to in point (b) of Article 9.10(5) for the systematic exchange of information in relation to the safety of non-food products and related preventive, restrictive and corrective measures) and 9-D (Arrangement referred to in Article 9.10(6) for the regular exchange of information regarding measures taken on non-compliant non-food products, other than those covered by point (b) of Article 9.10(5)).

ARTICLE 9.11

Technical discussions and consultations

1. If a Party considers that a draft or proposed technical regulation or conformity assessment procedure of the other Party might significantly adversely affect trade between the Parties, it may request to hold discussions on the matter. The request shall be made in writing and identify:

(a) the measure at issue;

(b) the provisions of this Chapter to which the concerns relate; and

(c) the reasons for the request, including a description of the requesting Party's concerns regarding the measure.

2. A Party shall deliver its request to the TBT Chapter coordinator of the other Party designated pursuant to Article 9.14 (TBT Chapter coordinator).

3. At the request of either Party, the Parties shall meet to discuss the concerns raised in the request, in person, or via any means of communication, including telephone, video conference or other electronic means of communication, within 60 days after the date of delivery of the request and shall endeavour to resolve the matter as expeditiously as possible. If a requesting Party believes that the matter is urgent, it may request that any meeting take place within a shorter time frame. In such cases, the responding Party shall give positive consideration to such a request.

4. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the TBT Chapter coordinator of the other Party. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of such matter.

5. For greater certainty, this Article is without prejudice to Chapter 26 (Dispute settlement).

ARTICLE 9.12

Cooperation

1. The Parties may cooperate in respect of particular areas of mutual interest, with a view to eliminating, reducing or avoiding the creation of technical barriers to trade, and facilitating trade between the Parties, including via digital solutions.

2. The Parties may cooperate and exchange information on any issues related to Annex 9-A (Acceptance of conformity assessment (documents)), including its implementation.

ARTICLE 9.13

Prohibition on animal testing

1. Each Party shall continue to actively support and promote the research, development, validation and regulatory acceptance of alternative methods to animal testing.

2. Each Party shall accept, for the purpose of the safety assessment of products falling under the definition of the term "cosmetic product" in their jurisdiction, test results generated from validated alternative methods to animal testing.

3. A Party shall not require that a product falling under the definition of the term "cosmetic product" in their jurisdiction be tested on animals to determine the safety of such a product.

ARTICLE 9.14

TBT Chapter coordinator

1. Each Party shall designate a TBT Chapter coordinator and notify the other Party of its contact details. Each Party shall promptly notify the other Party of any change to those contact details.

2. The TBT Chapter coordinators shall work jointly to facilitate the implementation of this Chapter and cooperation between the Parties in all TBT matters. To that end and subject to each Party's internal procedures, the TBT Chapter coordinators shall, in particular, have the following responsibilities:

(a) monitoring the implementation and administration of this Chapter, promptly addressing any issue that either Party raises related to the development, adoption, application or enforcement of technical regulations, standards or conformity assessment procedures, and upon either Party's request, consulting on any matter arising under this Chapter;

(b) enhancing cooperation in the development and improvement of technical regulations, standards and conformity assessment procedures;

(c) arranging the technical discussions or consultations referred to in Article 9.11 (Technical discussions and consultations);

(d) arranging the establishment of working groups[1], where relevant; and

(e) exchanging information on developments in non-governmental, regional and multilateral fora related to technical regulations, standards and conformity assessment procedures.

3. The TBT Chapter coordinators shall communicate with one another by any agreed method that is appropriate to carry out their responsibilities.

[1] For greater certainty, the establishment of working groups as such may only be decided by the Trade Committee pursuant to point (a) of Article 24.2(2) (Functions of the Trade Committee).

CHAPTER 10

TRADE IN SERVICES AND INVESTMENT

SECTION A

GENERAL PROVISIONS

ARTICLE 10.1

Objectives

1. The Parties, affirming their commitment to create a better climate for the development of trade and investment between them, hereby lay down the necessary arrangements for the progressive reciprocal liberalisation of trade in services and investment.

2. The Parties reaffirm each Party's right to regulate within their territories to achieve legitimate policy objectives, such as the protection of human, animal or plant life or health, social services, public education, safety, the environment, including climate change, public morals, social or consumer protection, animal welfare, privacy and data protection, the promotion and protection of cultural diversity and, in the case of New Zealand, the promotion or protection of the rights, interests, duties and responsibilities of Māori.

ARTICLE 10.2

Scope

1. This Chapter does not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party, nor to measures regarding nationality or citizenship, residence or employment on a permanent basis.

2. This Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures that are necessary to protect the integrity of its borders and to ensure the orderly movement of natural persons across them, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under this Chapter[1].

3. This Chapter does not apply to:

(a) air services or related services in support of air services[2], other than the following:

(i) aircraft repair and maintenance services;

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1 The sole fact of requiring a visa for natural persons of certain countries and not for those of other countries shall not be regarded as nullifying or impairing benefits accruing under this Chapter.

2 For greater certainty, the term "air services or related services in support of air services" includes the following services: air transportation; services provided by using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services; rental of aircraft with crew; and airport operation services.

(ii) computer reservation system (CRS) services;

(iii) ground handling services;

(iv) the selling and marketing of air transport services; and

(v) the following services provided using a manned aircraft, whose primary purpose is not the transportation of goods or passengers: aerial fire-fighting; flight training; spraying; surveying; mapping; photography; aviation adventure services[1]; and other airborne agricultural, industrial and inspection services;

(b) audio-visual services; and

(c) national maritime cabotage[2].

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1 For greater certainty, the term "aviation adventure services" means services provided using a manned aircraft where users engage in an aerial operation for the purpose of sports or recreation, such as a ride in an ex-military, replica or historic aircraft, hot air balloon rides, or aerobatic rides.

2 Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, for the purposes of this Chapter the term "national maritime cabotage" covers:

(i) for the Union, transportation of passengers or goods between a port or point located in a Member State and another port or point located in that same Member State, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, (hereinafter referred to as "UNCLOS"), and traffic originating and terminating in the same port or point located in a Member State;

(ii) for New Zealand, the carriage by sea of passengers or cargo between a port or point located in New Zealand and another port or point located in New Zealand, and traffic originating and terminating in the same port or point located in New Zealand. For greater certainty, feeder services, as defined in point (d) of Article 10.70(2) (Scope and definitions), and repositioning of empty containers which are not being carried as cargo against payment shall not be considered as national maritime cabotage for the purposes of this Chapter.

ARTICLE 10.3

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "activity performed in the exercise of governmental authority" means any activity which is performed, including any service that is supplied, neither on a commercial basis nor in competition with one or more economic operators;

(b) "aircraft repair and maintenance services" means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service, it does not include line maintenance;

(c) "computer reservation system (CRS) services" means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

(d) "covered enterprise" means an enterprise in the territory of a Party established in accordance with point (g), directly or indirectly, by an investor of the other Party, in accordance with the applicable law, existing on the date of entry into force of this Agreement or established thereafter;

(e) "cross-border trade in services" means the supply of a service:

(i) from the territory of a Party into the territory of the other Party; or

(ii) in the territory of a Party to the service consumer of the other Party;

(f) "economic activity" means any activity of an industrial, commercial or professional character or any activity of a craftsperson, including the supply of services, except for an activity performed in the exercise of governmental authority;

(g) "establishment" means the setting up or the acquisition of a juridical person, including through capital participation, or the creation of a branch or representative office, in a Party, with a view to creating or maintaining lasting economic links;

(h) "ground handling services" means the supply at an airport, on a fee or contract basis, of the following services: airline representation; administration and supervision; passenger handling; baggage handling; ramp services; catering; air cargo and mail handling; fuelling of aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. The term "ground handling services" does not include: self-handling; security; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra airport transport systems;

(i) "investor of a Party" means a natural person of a Party or a juridical person of a Party, including a Party, that seeks to establish, is establishing or has established an enterprise in accordance with point (g), in the territory of the other Party;

(j) "juridical person of a Party" means:[1]

(i) for the Union:

(A) a juridical person constituted or organised under the law of the Union or of at least one of the Member States and engaged in substantive business operations[2] in the Union; and

(B) shipping companies established outside the Union, and controlled by natural persons of a Member State, whose vessels are registered in, and fly the flag of, a Member State;

(ii) for New Zealand:

(A) a juridical person constituted or organised under the law of New Zealand and engaged in substantive business operations in New Zealand; and

[1] For greater certainty, the shipping companies mentioned in this point are only considered as juridical persons of a Party with respect to their activities relating to the supply of maritime transport services.

[2] In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the Union understands that the concept of "effective and continuous link" with the economy of a Member State of the Union enshrined in Article 54 of the TFEU is equivalent to the concept of "substantive business operations".

(B) shipping companies established outside New Zealand, and controlled by natural persons of New Zealand, whose vessels are registered in, and fly the flag of, New Zealand;

(k) "operation" means the conduct, management, maintenance, use, enjoyment, or sale or other form of disposal of an enterprise;

(l) "selling and marketing of air transport services" means opportunities for the air carrier concerned to sell and market freely its air transport services, including all aspects of marketing such as market research, advertising and distribution, but not including the pricing of air transport services nor the applicable conditions;

(m) "service" means any service in any sector, except services supplied in the exercise of governmental authority; and

(n) "service supplier" means any natural or juridical person that seeks to supply or supplies a service.

SECTION B

INVESTMENT LIBERALISATION

ARTICLE 10.4

Scope

1. This Section applies to measures of a Party affecting establishment or operation to perform economic activities by:

(a) investors of the other Party;

(b) covered enterprises; and

(c) for the purposes of Article 10.9 (Performance requirements), any enterprise in the territory of the Party which adopts or maintains the measure.

2. This Section does not apply to any measure of a Party with respect to public procurement of a good or service purchased for governmental purposes, and not with a view to commercial resale or with a view to use in the supply of a good or service for commercial sale, whether or not that procurement is covered procurement within the meaning of Article 14.1(4) (Incorporation of certain provisions of the GPA).

3. Articles 10.5 (Market access), 10.6 (National treatment), 10.7 (Most-favoured-nation treatment) and 10.8 (Senior management and boards of directors) do not apply to subsidies or grants provided by the Parties, including government-supported loans, guarantees and insurance.

ARTICLE 10.5

Market access

A Party shall not adopt or maintain, with regard to market access through establishment or operation by an investor of the other Party or by a covered enterprise, either on the basis of its entire territory or on the basis of a territorial subdivision, measures that:

(a) impose limitations on[1]:

(i) the number of enterprises that may carry out a specific economic activity, whether in the form of numerical quotas, monopolies, exclusive rights or the requirement of an economic needs test;

(ii) the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

[1] Points (a)(i), (a)(ii) and (a)(iii) do not cover measures taken in order to limit the production of an agricultural or fishery product.

(iii) the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;

(iv) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; or

(v) the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of an economic activity, in the form of numerical quotas or the requirement of an economic needs test; or

(b) restrict or require specific types of legal entity or joint venture through which an investor of the other Party may perform an economic activity.

ARTICLE 10.6

National treatment

Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that which it accords, in like situations, to its own investors and to their enterprises, with respect to establishment and operation in its territory.

ARTICLE 10.7

Most-favoured-nation treatment

1. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that which it accords, in like situations, to investors of a third country and to their enterprises, with respect to establishment and operation in its territory.

2. Paragraph 1 shall not be construed as obliging a Party to extend to investors of the other Party or to covered enterprises the benefit of any treatment resulting from existing or future agreement or arrangement providing for recognition of qualifications, licences or prudential measures as referred to in Article VII of GATS or paragraph 3 of the Annex on Financial Services to GATS.

3. For greater certainty, the treatment referred to in paragraph 1 does not include dispute settlement procedures provided for in other international agreements.

4. For greater certainty, substantive provisions in other international agreements concluded by a Party with a third country do not in themselves constitute the treatment referred to in paragraph 1. Measures of a Party pursuant to those provisions may constitute such treatment and thus give rise to a breach of this Article. The mere transposition of the substantive provisions in other international agreements concluded by a Party with a third country into domestic law, to the extent that it is necessary in order to incorporate them into the domestic legal order, does not in itself qualify as the treatment referred to in paragraph 1.

ARTICLE 10.8

Senior management and boards of directors

A Party shall not require a covered enterprise to appoint natural persons of any particular nationality to senior management positions or as members of the board of directors.

ARTICLE 10.9

Performance requirements

1. A Party shall not impose or enforce any requirement, or enforce any commitment or undertaking, in connection with the establishment or operation of any enterprise in its territory:

(a) to export a given level or percentage of goods or services;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use or accord a preference to goods produced or services supplied in its territory, or to purchase goods or services from natural or juridical persons or any other entities in its territory;

(d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with the enterprise;

(e) to restrict sales of goods or services in its territory that the enterprise produces or supplies by relating such sales in any way to the volume or value of its exports or foreign exchange inflows;

(f) to transfer technology, a production process or other proprietary knowledge to a natural or juridical person or any other entity in its territory;

(g) to supply exclusively from the territory of that Party a good produced or a service supplied by the enterprise to a specific regional market or to the world market;

(h) to locate the headquarters for a specific region or the world market in its territory;

(i) to employ a given number or percentage of natural persons of that Party;

(j) to achieve a given level or value of research and development in its territory;

(k) to restrict the exportation or sale for export; or

(l) with regard to any licence contract[1] in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or with regard to any future licence contract freely entered into between the enterprise and a natural or juridical person or any other entity in its territory, if the requirement is imposed or enforced or the commitment or undertaking is enforced, in a manner that constitutes a direct interference with such licence contract by an exercise of non-judicial governmental authority of a Party[2], to adopt:

(i) a given rate or amount of royalty under a licence contract; or

(ii) a given duration of the term of a licence contract.

2. A Party shall not condition the receipt, or continued receipt of an advantage[3], in connection with the establishment or operation of an enterprise in its territory, on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use or accord a preference to goods produced or services supplied in its territory, or to purchase goods or services from natural or juridical persons or any other entities in its territory;

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1 The term "licence contract" means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

2 For greater certainty, point (l) does not apply when the licence contract is concluded between the enterprise and the Party.

3 For greater certainty, a conditioning of the receipt or continued receipt of an advantage does not constitute a requirement or a commitment or undertaking for the purposes of paragraph 1.

(c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with the enterprise;

(d) to restrict sales of goods or services in its territory that the enterprise produces or supplies by relating such sales in any way to the volume or value of its exports or foreign exchange inflows; or

(e) to restrict the exportation or sale for export.

3. Paragraph 2 shall not be construed as preventing a Party from conditioning the receipt or continued receipt of an advantage, in connection with the establishment or operation of any enterprise in its territory, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

4. Points (f) and (l) of paragraph 1 do not apply when:

(a) the requirement is imposed or enforced, or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority, pursuant to the Party's competition law, to prevent or remedy a distortion of competition; or

(b) a Party authorises the use of an intellectual property right in accordance with Article 31 or Article 31*bis* of the TRIPS Agreement, or adopts or maintains measures requiring the disclosure of data or other proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement.

5. Points (a), (b) and (c) of paragraph 1 and points (a) and (b) of paragraph 2 do not apply to qualification requirements for goods or services with respect to participation in export promotion and foreign aid programmes.

6. Points (a) and (b) of paragraph 2 do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

7. Point (l) of paragraph 1 does not apply if the requirement is imposed or enforced, or the commitment or undertaking is enforced, by a tribunal as equitable remuneration under the Party's copyright laws.

8. This Article is without prejudice to the obligations of a Party under the WTO Agreement.

9. For greater certainty, paragraphs 1 and 2 shall not apply to any commitment, undertaking or requirement other than those set out in those paragraphs.[1]

10. This Article does not apply to the establishment or operation of a financial service supplier.

11. With regard to performance requirements relating to financial service suppliers, the Parties shall negotiate disciplines on performance requirements with respect to the establishment or operation of a financial service supplier.

[1] For greater certainty, this Article shall not be construed as requiring a Party to permit a particular service to be supplied on a cross-border basis if that Party adopts or maintains restrictions or prohibitions on the provision of that service which are consistent with its reservations in Annex 10-A (Existing measures) or Annex 10-B (Future measures).

12. Within 180 days of the date of the successful negotiation by the Parties of the performance requirement disciplines pursuant to paragraph 11 of this Article, the Trade Committee shall amend paragraph 1 of this Article by means of a decision to integrate those performance requirement disciplines into this Article and may amend, as appropriate, the non-conforming measures of each Party in Annex 10-A (Existing measures) and Annex 10-B (Future measures). This Article shall then apply to the establishment and operation of a financial service supplier.

ARTICLE 10.10

Non-conforming measures

1. Articles 10.5 (Market access), 10.6 (National treatment), 10.7 (Most-favoured-nation treatment), 10.8 (Senior management and boards of directors) and 10.9 (Performance requirements), do not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as specified in the Schedule of the Union in Annex 10-A (Existing measures);

(B) the central government of a Member State, as specified in the Schedule of the Union in Annex 10-A (Existing measures);

(C) a regional government of a Member State, as specified in the Schedule of the Union in Annex 10-A (Existing measures); or

(D) a local government, other than that referred to in point (C); and

(ii) for New Zealand:

(A) the central government, as specified in the Schedule of New Zealand in Annex 10-A (Existing measures); or

(B) a local government;

(b) the continuation or prompt renewal of any existing non-conforming measure referred to in point (a); or

(c) a modification of, or amendment to, any existing non-conforming measure referred to in points (a) and (b), to the extent that it does not decrease the conformity of such measure, as it existed immediately before the modification or amendment, with Article 10.5 (Market access), 10.6 (National treatment), 10.7 (Most-favoured-nation treatment), 10.8 (Senior management and boards of directors) or 10.9 (Performance requirements).

2. Articles 10.5 (Market access), 10.6 (National treatment), 10.7 (Most-favoured-nation treatment), 10.8 (Senior management and boards of directors) and 10.9 (Performance requirements) shall not apply to a measure of a Party with respect to sectors, sub-sectors or activities specified in its Schedule in Annex 10-B (Future measures).

3. A Party shall not, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule in Annex 10-B (Future measures), require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

4. Articles 10.6 (National treatment) and 10.7 (Most-favoured-nation treatment) do not apply to any measure that constitutes an exception to, or a derogation from, Article 3 or Article 4 of the TRIPS Agreement, as specifically provided in Articles 3 to 5 of that Agreement.

ARTICLE 10.11

Information requirements

Notwithstanding Articles 10.6 (National treatment) and 10.7 (Most-favoured-nation treatment), a Party may require an investor of the other Party or its covered enterprise to provide information concerning that covered enterprise solely for information or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or the covered enterprise. Nothing in this Article shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable application of its law in good faith.

ARTICLE 10.12

Denial of benefits

A Party may deny the benefits of this Section to an investor of the other Party or to a covered enterprise if the denying Party adopts or maintains measures related to the maintenance of international peace and security, including the protection of human rights, which:

(a) prohibit transactions with that investor or covered enterprise; or

(b) would be violated or circumvented if the benefits of this Section were accorded to that investor or covered enterprise, including where the measures prohibit transactions with a natural or juridical person who owns or controls the investor or the covered enterprise.

SECTION C

CROSS-BORDER TRADE IN SERVICES

ARTICLE 10.13

Scope

1. This Section applies to measures of a Party affecting the cross-border trade in services by service suppliers of the other Party.

2. This Section does not apply to:

(a) any measure of a Party with respect to public procurement of a good or service purchased for governmental purposes, and not with a view to commercial resale or with a view to use in the supply of a good or service for commercial sale, whether or not that procurement is covered procurement within the meaning of Article 14.1(4) (Incorporation of certain provisions of the GPA); or

(b) subsidies or grants provided by the Parties, including government-supported loans, guarantees and insurance.

ARTICLE 10.14

Market access

A Party shall not adopt or maintain, either on the basis of its entire territory or on the basis of a territorial subdivision, a measure that:

(a) imposes limitations on:

(i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

(ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test; or

(iii) the total number of service operations or the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; or

(b) restricts or requires specific types of legal entity or joint venture through which a service supplier may supply a service.

ARTICLE 10.15

Local presence

A Party shall not require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for cross-border trade in services.

ARTICLE 10.16

National treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that which it accords, in like situations, to its own services and services suppliers.[1]

[1] Nothing in this Article shall be construed as requiring either Party to compensate for inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that which it accords to its own services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to services or service suppliers of the other Party.

ARTICLE 10.17

Most-favoured-nation treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that which it accords, in like situations, to services and service suppliers of a third country.

2. Paragraph 1 shall not be construed as obliging a Party to extend to services and service suppliers of the other Party the benefit of any treatment resulting from existing or future agreement or arrangement providing for the recognition of qualifications or licences or of prudential measures as referred to in Article VII of GATS or paragraph 3 of the Annex on Financial Services to GATS.

3. For greater certainty, substantive provisions in other international agreements concluded by a Party with a third country do not in themselves constitute the treatment referred to in paragraph 1. Measures of a Party pursuant to those provisions may constitute such treatment and thus give rise to a breach of this Article.

ARTICLE 10.18

Non-conforming measures

1. Articles 10.14 (Market access), 10.15 (Local presence), 10.16 (National treatment) and 10.17 (Most-favoured-nation treatment) do not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as specified in the Schedule of the Union in Annex 10-A (Existing measures);

(B) the central government of a Member State, as specified in the Schedule of the Union in Annex 10-A (Existing measures);

(C) a regional government of a Member State, as specified in the Schedule of the Union in Annex 10-A (Existing measures); or

(D) a local government, other than that referred to in point (C); and

(ii) for New Zealand:

(A) the central government, as specified in the Schedule of New Zealand in Annex 10-A (Existing measures); or

(B) a local government;

(b) the continuation or prompt renewal of any existing non-conforming measure referred to in point (a); or

(c) a modification of, or amendment to, any existing non-conforming measure referred to in points (a) and (b), to the extent that it does not decrease the conformity of such measure, as it existed immediately before the modification or amendment, with Article 10.14 (Market access), 10.15 (Local presence), 10.16 (National treatment) or 10.17 (Most-favoured-nation treatment).

2. Articles 10.14 (Market access), 10.15 (Local presence), 10.16 (National treatment) and 10.17 (Most-favoured-nation treatment) shall not apply to a measure of a Party with respect to sectors, sub-sectors, or activities specified in its Schedule in Annex 10-B (Future measures).

ARTICLE 10.19

Denial of benefits

A Party may deny the benefits of this Section to a service supplier of the other Party if the denying Party adopts or maintains measures related to the maintenance of international peace and security, including the protection of human rights, which:

(a) prohibit transactions with that service supplier; or

(b) would be violated or circumvented if the benefits of this Section were accorded to that service supplier, including where the measures prohibit transactions with a natural or juridical person who owns or controls that service supplier.

SECTION D

ENTRY AND TEMPORARY STAY OF NATURAL PERSONS FOR BUSINESS PURPOSES

ARTICLE 10.20

Scope and definitions

1. Subject to paragraphs 1 and 2 of Article 10.2 (Scope) of Section A, this Section applies to measures of a Party affecting the entry and temporary stay in its territory of natural persons of the other Party for business purposes, who fall within the scope of the following categories: short-term business visitors, business visitors for establishment purposes, contractual service suppliers, independent professionals and intra-corporate transferees.

2. Commitments on the entry and temporary stay of natural persons for business purposes do not apply in cases where the intent or effect of the entry and temporary stay is to interfere with, or otherwise affect, the outcome of any labour or management dispute or negotiation, or the employment of any natural person who is involved in such dispute or negotiation.

3. For the purposes of this Section, the following definitions apply:

(a) "business visitor for establishment purposes" means a natural person, working in a senior position within a juridical person of a Party, who:

(i) is responsible for setting up or winding down an enterprise of such juridical person in the territory of the other Party;

(ii) does not offer or provide services or engage in any economic activity other than that which is required for the purpose of establishing that enterprise; and

(iii) does not receive remuneration from a source located within the other Party;

(b) "contractual service supplier" means a natural person employed by a juridical person of a Party, other than through an agency for placement and supply services of personnel, which is not established in the territory of the other Party and has concluded a *bona fide* service contract[1] to supply services to a final consumer in the other Party requiring the temporary presence of its employee who:

(i) has offered those services as an employee of the juridical person for a period of not less than one year immediately preceding the date of that employee's application for entry and temporary stay;

[1] The service contract shall comply with the requirements of the law of the Party where that service contract is executed.

(ii) possesses, on the date of that employee's application for entry and temporary stay, the required level of professional experience[1] in the sector of activity that is the object of the contract, a degree or a qualification demonstrating knowledge of an equivalent level[2] and the professional qualification legally required to exercise that activity in the other Party; and

(iii) does not receive remuneration from a source located within the other Party;

(c) "independent professional" means a natural person engaged in the supply of a service and established as self-employed in the territory of a Party who:

(i) has not established in the territory of the other Party;

(ii) has concluded a *bona fide* service contract[3], other than through an agency for placement and supply services of personnel, for a period not exceeding 12 months to supply services to a final consumer in the other Party, requiring that person's presence on a temporary basis; and

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1 The professional experience required by each Party is set out in Annex 10-E (Contractual service suppliers and independent professionals).

2 The level of the degree or a qualification required by each Party is set out in Annex 10-E (Contractual service suppliers and independent professionals). Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether such degree or qualification is equivalent to a university degree or a qualification required in its territory.

3 The service contract shall comply with the requirements of the law of the Party where that service contract is executed.

(iii) possesses, on the date of that person's application for entry and temporary stay, at least six years professional experience in the sector of activity that is the object of the contract, a university degree or a qualification demonstrating knowledge of an equivalent level[1] and the professional qualification legally required to exercise that activity in the other Party;

(d) "intra-corporate transferee" means a natural person who:

(i) has been employed by a juridical person of a Party, or has been a partner in such person, for a period of not less than one year immediately preceding the date of that person's application for the entry and temporary stay in the other Party[2];

(ii) at the time of that person's application for the entry and temporary stay resides outside the territory of the other Party;

(iii) is temporarily transferred to an enterprise of the juridical person in the territory of the other Party that is a member of the group of the originating juridical person, including its representative office, subsidiary, branch or head company; and

(iv) belongs to one of the following categories:

(A) manager or executive; or

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[1] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether such degree or qualification is equivalent to a university degree or a qualification required in its territory.

[2] For greater certainty, a manager or specialist may be required to demonstrate that they possess the professional qualifications and experience needed in the juridical person to which they are transferred.

(B) specialist;

(e) "manager" or "executive" means a natural person working in a senior position, who primarily directs the management of the enterprise or a substantial part of it in the other Party, receiving general supervision or direction principally from higher level executives or the board of directors or from stockholders of the business or their equivalent, and whose responsibilities include:

(i) directing the enterprise or a department or subdivision thereof;

(ii) supervising and controlling the work of other supervisory, professional or managerial employees. This does not include a first-line supervisor unless the employees supervised are professionals, nor does this include an employee who primarily performs tasks necessary for the provision of the service or operation of an investment; and

(iii) having the authority to recommend hiring, dismissing or other personnel-related actions; and

(f) "specialist" means a natural person possessing specialised knowledge at an advanced level of technical expertise, essential to the enterprise's areas of activity, techniques or management, which is to be assessed taking into account not only knowledge that is specific to the enterprise, but also whether the person has a high level of qualification, including adequate professional experience, referring to a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession.

ARTICLE 10.21

Business visitors for establishment purposes and intra-corporate transferees

1. Subject to the relevant conditions and qualifications specified in Annex 10-C (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors):

(a) a Party shall allow:

(i) the entry and temporary stay of business visitors for establishment purposes and intra-corporate transferees; and

(ii) the employment in its territory of intra-corporate transferees of the other Party;

(b) a Party shall not maintain or adopt limitations in the form of numerical quotas or economic needs tests on the total number of natural persons that, in a specific sector, are allowed entry as business visitors for establishment purposes, or that an investor may employ as intra-corporate transferees either on the basis of a territorial subdivision or on the basis of its entire territory; and

(c) each Party shall accord to business visitors for establishment purposes and intra-corporate transferees of the other Party, with regard to measures affecting their business activities during their temporary stay in its territory, treatment no less favourable than that which it accords, in like situations, to its own natural persons.

2. The permissible length of stay for managers or executives and specialists shall be for a period of up to three years.

3. The permissible length of stay for business visitors for establishment purposes shall be up to 90 days in any six-month period for the Union and up to 90 days in any 12-month period for New Zealand.

ARTICLE 10.22

Short-term business visitors

1. Subject to the relevant conditions and qualifications specified in Annex 10-C (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors), a Party shall allow the entry and temporary stay of short-term business visitors of the other Party for the purpose of carrying out the activities listed in Annex 10-C (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors), subject to the following conditions:

(a) the short-term business visitors are not engaged in selling their goods or supplying services to the general public;

(b) the short-term business visitors do not receive remuneration from an entity in the territory of the Party where they are staying temporarily; and

(c) the short-term business visitors are not engaged in the supply of a service in the framework of a contract concluded between a juridical person who has not established in the territory of the Party where they are staying temporarily, and a consumer in such territory, except as provided for in Annex 10-C (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors).

2. Unless otherwise specified in Annex 10-C (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors), a Party shall allow entry of short-term business visitors without the requirement of an economic needs test or other prior approval procedures of similar intent.

3. The permissible length of stay shall be for a period of up to 90 days in any 12-month period.

ARTICLE 10.23

Contractual service suppliers and independent professionals

1. In the sectors, sub-sectors and activities listed in Annex 10-E (Contractual service suppliers and independent professionals), and subject to the relevant conditions and qualifications specified therein, each Party shall:

(a) allow the entry and temporary stay of contractual service suppliers and independent professionals in its territory;

(b) not adopt or maintain limitations on the total number of contractual service suppliers and independent professionals of the other Party allowed temporary entry, in the form of numerical quotas or an economic needs test, either on the basis of a territorial subdivision or on the basis of its entire territory; and

(c) accord to contractual service suppliers and independent professionals of the other Party, with regard to measures affecting the supply of services in its territory, treatment no less favourable than that which it accords, in like situations, to its own service suppliers.

2. For greater certainty, access accorded under this Article relates only to the service that is the subject of the contract and does not confer entitlement to exercise the professional title of the Party where the service is provided.

3. The permissible length of stay shall be for a cumulative period of 12 months, or for the duration of the contract, whichever is less.

ARTICLE 10.24

Non-conforming measures

1. Points (b) and (c) of Article 10.21(1) (Business visitors for establishment purposes and intra-corporate transferees) and points (b) and (c) of 10.23(1) (Contractual service suppliers and independent professionals) shall not apply to:

(a) any existing non-conforming measure that affects the temporary stay of natural persons for business purposes and that is maintained at the level of:

(i) for the Union:

(A) the Union, as specified in the Schedule of the Union in Annex 10-A (Existing measures);

(B) the central government of a Member State, as specified in the Schedule of the Union in Annex 10-A (Existing measures);

(C) a regional government of a Member State, as specified in the Schedule of the Union in Annex 10-A (Existing measures); or

(D) a local government, other than that referred to in point (C); and

(ii) for New Zealand:

(A) the central government, as specified in the Schedule of New Zealand in Annex 10-A (Existing measures); or

(B) a local government;

(b) the continuation or prompt renewal of any existing non-conforming measure referred to in point (a); or

(c) a modification of, or amendment to, any existing non-conforming measure referred to in points (a) and (b) to the extent that it does not decrease the conformity of such measure, as it existed immediately before the modification or amendment, with points (b) and (c) of Article 10.21(1) (Business visitors for establishment purposes and intra-corporate transferees) or points (b) and (c) of Article 10.23(1) (Contractual service suppliers and independent professionals).

2. Points (b) and (c) of Article 10.21(1) (Business visitors for establishment purposes and intra-corporate transferees) or points (b) and (c) of Article 10.23(1) (Contractual service suppliers and independent professionals) shall not apply to any measure that a Party adopts or maintains that affects the temporary stay of natural persons for business purposes with respect to sectors, sub-sectors or activities as set out by that Party in its Schedule in Annex 10-B (Future measures).

ARTICLE 10.25

Transparency

1. Each Party shall make publicly available, if possible by publishing on a website, information on its measures affecting the entry and temporary stay in its territory of natural persons of the other Party as referred to in Article 10.20(1) (Scope and definitions).

2. The information referred to in paragraph 1 shall include the following information relevant to the entry and temporary stay of natural persons, where it exists:

(a) entry conditions;

(b) an indicative list of documentation that may be required in order to verify fulfilment of the entry conditions;

(c) indicative processing time;

(d) applicable fees;

(e) appeal procedures; and

(f) relevant laws of general application pertaining to the entry and temporary stay of natural persons.

SECTION E

REGULATORY FRAMEWORK

SUB-SECTION 1

DOMESTIC REGULATION

ARTICLE 10.26

Scope and definitions

1. This Sub-Section applies to measures of a Party relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards[1] that affect:

(a) cross-border trade in services;

(b) establishment or operation; or

(c) the supply of services through the presence of a natural person of a Party in the territory of the other Party of categories of natural persons as defined in Article 10.20(3) (Scope and definitions);

[1] As far as measures relating to technical standards are concerned, this Sub-Section only applies to measures that affect cross-border trade in services. The term "technical standards" does not include regulatory technical standards or implementing technical standards for financial services.

2. This Sub-Section does not apply to licensing requirements and procedures, qualification requirements and procedures, and technical standards pursuant to a measure that does not conform with Article 10.5 (Market access), 10.6 (National treatment), 10.14 (Market access) or 10.16 (National treatment), and is referred to in Article 10.10(1) or (2) (Non-conforming measures), or in Article 10.18(1) or (2) (Non-conforming measures).

3. For the purposes of this Sub-Section, the following definitions apply:

(a) "authorisation" means the permission to carry out any of the activities referred to in points (a), (b) and (c) of paragraph 1 resulting from a procedure which a natural or juridical person must adhere to in order to demonstrate compliance with licensing requirements, qualification requirements or technical standards; and

(b) "competent authority" means a central, regional or local government or authority or non-governmental body which exercises powers delegated by central, regional or local governments or authorities, and which is entitled to take a decision concerning the authorisation.

ARTICLE 10.27

Submission of applications

Each Party shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation. If an activity for which authorisation is requested is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required.

ARTICLE 10.28

Application timeframes

If a Party requires authorisation, it shall ensure that its competent authorities, to the extent practicable, permit the submission of an application at any time throughout the year. If a specific time period for applying for authorisation is set, the Party shall ensure that the competent authorities allow a reasonable period of time for the submission of an application.

ARTICLE 10.29

Electronic applications and acceptance of copies

If a Party requires authorisation, it shall ensure that its competent authorities:

(a) endeavour to accept applications in electronic format; and

(b) accept copies of documents that are authenticated in accordance with the Party's law, in place of original documents, unless the competent authorities require original documents to protect the integrity of the process of authorisation.

ARTICLE 10.30

Processing of applications

1. If a Party requires authorisation, it shall ensure that its competent authorities:

(a) to the extent practicable, provide an indicative timeframe for the processing of an application;

(b) at the request of the applicant, provide without undue delay information concerning the status of the application;

(c) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's laws and regulations;

(d) if they consider an application complete for processing[1] under the Party's laws and regulations, within a reasonable period of time after the submission of the application, ensure that:

(i) the processing of the application is completed; and

[1] Competent authorities may require that all information is submitted in a specified format to consider it as complete for processing.

(ii) the applicant is informed of the decision concerning the application,[1] to the extent possible in writing[2];

(e) if they consider an application incomplete for processing under the Party's laws and regulations, within a reasonable period of time of the date on which the relevant competent authority determined that the application was incomplete, and to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and

(iii) provide the applicant with the opportunity to provide the additional information that is required to complete the application[3];

if the steps in points (i) to (iii) are not practicable, and the application is rejected due to incompleteness, ensure that they inform the applicant within a reasonable period of time; and

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1 Competent authorities may meet this requirement by informing an applicant in advance in writing, including through a published measure, that a lack of response after a specified period of time from the date of submission of the application indicates acceptance of the application.

2 For greater certainty, "in writing" should be understood as including in electronic form.

3 Such opportunity does not require a competent authority to provide extensions of deadlines.

(f) if they reject an application, either on their own initiative or on request of the applicant, inform the applicant of the reasons for rejection and of the timeframe for an appeal against that decision and, if applicable, the procedures for resubmission of an application. An applicant should not be prevented from submitting another application solely on the basis of a previously rejected application.

2. Each Party shall ensure that its competent authorities grant an authorisation as soon as it is established, in the light of an appropriate examination, that an applicant meets the conditions for obtaining it.

3. Each Party shall ensure that its competent authorities ensure that authorisation, once granted, enters into effect without undue delay, subject to the applicable terms and conditions.

ARTICLE 10.31

Fees

1. For all economic activities covered by this Sub-Section other than financial services, each Party shall ensure that the authorisation fees[1] charged by its competent authorities are reasonable, transparent and do not in themselves restrict the supply of the relevant service or the pursuit of any other economic activity.

[1] Authorisation fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to the provision of a universal service.

2. With regard to financial services, each Party shall ensure that its competent authorities, with respect to authorisation fees that they charge, provide applicants with a schedule of fees or information on how fee amounts are determined, and do not use the fees as a means of avoiding the Party's commitments or obligations.

ARTICLE 10.32

Assessment of qualifications

If a Party requires an examination for authorisation, it shall ensure that its competent authorities schedule such an examination at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. To the extent practicable, each Party shall consider accepting requests in electronic format to take such examinations and the use of electronic means in other aspects of the examination processes.

ARTICLE 10.33

Objectivity, impartiality and independence

If a Party adopts or maintains a measure relating to authorisation, it shall ensure that its competent authorities process applications, reach and administer decisions objectively and impartially and in a manner independent from any person carrying out the economic activity for which authorisation is required.

ARTICLE 10.34

Publication and information available

If a Party requires authorisation, the Party shall promptly publish[1] the information necessary for service suppliers, including those seeking to supply a service, and for persons carrying out or seeking to carry out the economic activity for which the licence or authorisation is required, to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such licence or authorisation. Such information shall include, where it exists:

(a) the requirements and procedures;

(b) contact information of relevant competent authorities;

(c) authorisation fees;

(d) applicable technical standards;

(e) procedures for appeal or review of decisions concerning applications;

(f) procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications;

[1] For the purposes of this Sub-Section, "publish" means to include in an official publication, such as an official journal, or on an official website. Parties are encouraged to consolidate electronic publications in a single portal.

(g) opportunities for public involvement, such as through hearings or comments; and

(h) indicative timeframes for the processing of an application.

ARTICLE 10.35

Technical standards

A Party shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage all persons or entities, including relevant international organisations, designated to develop technical standards, to do so through open and transparent processes.

ARTICLE 10.36

Development of measures

If a Party adopts or maintains measures relating to authorisation, it shall ensure that:

(a) such measures are based on clear, objective and transparent criteria[1];

[1] Such criteria may include competence and the ability to supply a service or carry out any other economic activity, including to do so in a manner consistent with a Party's regulatory requirements, such as health and environmental requirements. Competent authorities may assess the weight to be given to each criterion.

(b) the procedures are impartial, easily accessible to all applicants and are adequate for applicants to demonstrate whether they meet the requirements, where requirements exist; and

(c) the procedures do not in themselves unjustifiably prevent fulfilment of requirements.

ARTICLE 10.37

Limited numbers of licences

If the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, a Party shall, in accordance with its laws and regulations, apply a selection procedure to potential candidates that provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure. In establishing the rules for the selection procedure, a Party may take into account legitimate policy objectives, including considerations of health, safety, protection of the environment and preservation of cultural heritage.

ARTICLE 10.38

Review procedures for administrative decisions

A Party shall maintain judicial, arbitral or administrative tribunals or procedures that provide, at the request of an affected investor or service supplier of the other Party, for a prompt review of, and where justified, appropriate remedies for, administrative decisions that affect establishment or operation, cross-border trade in services or the supply of a service through the presence of a natural person of a Party in the territory of the other Party. If such procedures are not independent of the authority entrusted with the administrative decision concerned, a Party shall ensure that the procedures provide for an objective and impartial review in fact.

SUB-SECTION 2

PROVISIONS OF GENERAL APPLICATION

ARTICLE 10.39

Mutual recognition of professional qualifications

1. For the purposes of this Article, the term "professional qualifications" means formal qualifications, professional experience, professional registration or other attestation of competence.

2. Nothing in this Article shall prevent a Party from requiring that natural persons possess the necessary professional qualifications specified in the territory where the service is supplied, for the sector of activity concerned.

3. Where appropriate, the Parties shall encourage the establishment of dialogue between their relevant experts, regulators and industry bodies to share and facilitate understanding of their respective professional qualifications, registration requirements and processes, and cooperate with a view to achieving mutual recognition of professional qualifications.

4. The Parties shall encourage the relevant professional bodies or authorities in their respective territories to develop and provide a joint recommendation on mutual recognition of professional qualifications to the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property, including Geographical Indications, established pursuant to Article 24.4 (Specialised committees). That joint recommendation shall be supported by evidence of:

(a) the economic value of an envisaged instrument on mutual recognition of professional qualifications (hereinafter referred to as "mutual recognition instrument"); and

(b) the compatibility of the respective regimes, being the extent to which the criteria applied by each Party for the authorisation, licensing, operation and certification of professionals are compatible.

5. On receipt of a joint recommendation referred to in paragraph 4, the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property, including Geographical Indications, shall review the consistency of that joint recommendation with this Chapter within a reasonable period of time. Following such review, the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property, including Geographical Indications, may develop a mutual recognition instrument[1] and the Trade Committee may adopt it by means of decision as an annex to this Agreement.

SUB-SECTION 3

DELIVERY SERVICES

ARTICLE 10.40

Scope and definitions

1. This Sub-Section sets out principles of the regulatory framework for the supply of delivery services and applies to measures of a Party affecting trade in delivery services.

[1] For greater certainty, such mutual recognition instruments shall not lead to the automatic recognition of qualifications but shall set, in the mutual interest of both Parties, the conditions for the competent authorities granting recognition.

2. For the purposes of this Sub-Section, the following definitions apply:

(a) "delivery services" means postal services, courier services, express delivery services or express mail services, which include the collection, sorting, transport and delivery of postal items;

(b) "express delivery services" means the collection, sorting, transport and delivery of postal items at accelerated speed and reliability and may include value added elements such as collection from point of origin, personal delivery to the addressee, tracing, possibility of changing the destination and addressee in transit, or confirmation of receipt;

(c) "express mail services" means international express delivery services supplied through the EMS Cooperative, the voluntary association of designated postal operators under the Universal Postal Union;

(d) "licence" means an authorisation that a regulatory authority of a Party may require of an individual supplier in order for that supplier to offer postal and courier services;

(e) "postal item" means an item up to 31,5 kg addressed in the final form in which it is to be carried by any type of supplier of delivery services, whether public or private, and may include items such as a letter, parcel, newspaper or catalogue;

(f) "postal monopoly" means the exclusive right to supply specified delivery services within a Party's territory or a subdivision thereof pursuant to a legislative measure; and

(g) "universal service" means the permanent supply of a delivery service of specified quality at all points in the territory of a Party or a subdivision of a Party at an affordable price for all users.

ARTICLE 10.41

Universal service

1. Each Party has the right to define the kind of universal service obligation it wishes to maintain and to decide on the scope and implementation of such obligation. Each Party shall administer any universal service obligation in a transparent, non-discriminatory and neutral manner with regard to all suppliers subject to that universal service obligation.

2. If a Party requires inbound express mail services to be supplied on a universal service basis, it shall not accord preferential treatment to those express mail services over other international express delivery services.

ARTICLE 10.42

Universal service funding

A Party shall not impose fees or other charges on the supply of a delivery service that is not a universal delivery service for the purpose of funding the supply of a universal service.[1]

[1] This Article does not apply to generally applicable taxation measures or administrative fees.

ARTICLE 10.43

Prevention of market distortive practices

Each Party shall ensure that suppliers of delivery services subject to a universal service obligation or postal monopoly do not engage in market distortive practices such as:

(a) using revenues derived from the supply of the service subject to a universal service obligation or from the monopoly to cross-subsidise the supply of an express delivery service or any delivery service that is not subject to a universal service obligation; or

(b) unjustifiably differentiating among customers with respect to tariffs or other terms and conditions for the supply of a service subject to a universal service obligation or a postal monopoly.

ARTICLE 10.44

Licences

1. If a Party requires a licence for the provision of delivery services, it shall make publicly available:

(a) all the licensing requirements and the period of time normally required to reach a decision concerning an application for a licence; and

(b) the terms and conditions of licences.

2. Each Party shall ensure that the procedures, obligations and requirements of a licence are transparent, non-discriminatory and based on objective criteria.

3. Each Party shall ensure, if a licence application is rejected by a competent authority, that the competent authority informs the applicant of the reasons for the rejection in writing. Each Party shall establish an appeal procedure through an independent body to be available to applicants whose application for a licence has been rejected. Such body may be a court.

ARTICLE 10.45

Independence of the regulatory body

1. Each Party shall establish or maintain a regulatory body that shall be legally distinct and functionally independent from any supplier of delivery services. If a Party owns or controls a supplier of delivery services, it shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.

2. Each Party shall ensure that the regulatory body performs its tasks in a transparent and timely manner and has adequate financial and human resources to carry out the task assigned to it, and that the regulatory body's decisions are impartial with respect to all market participants.

SUB-SECTION 4

TELECOMMUNICATIONS SERVICES

ARTICLE 10.46

Scope

1. This Sub-Section sets out principles of the regulatory framework affecting telecommunications networks and services and applies to measures of a Party affecting trade in telecommunications services.

2. This Sub-Section does not apply to measures affecting:

(a) broadcasting services as defined in the laws and regulations of each Party; and

(b) services providing, or exercising editorial control over, content transmitted using telecommunications networks and services.

3. Notwithstanding point (a) of paragraph 2, a supplier of broadcasting services shall be considered as a supplier of public telecommunications services, and the networks of that supplier of broadcasting services shall be considered as public telecommunications networks when and to the extent that those public telecommunications networks are also used for providing public telecommunications services.

4. Nothing in this Sub-Section shall be construed as requiring a Party:

(a) to authorise a service supplier of the other Party to establish, construct, acquire, lease, operate or supply telecommunications networks or services other than as provided for in this Agreement; or

(b) to establish, construct, acquire, lease, operate or supply telecommunications networks or services not offered to the public generally, or to oblige a service supplier under its jurisdiction to do so.

ARTICLE 10.47

Definitions

For the purposes of this Sub-Section, the following definitions apply:

(a) "associated facilities" means services, physical infrastructure and other facilities associated with a telecommunications network or telecommunications service that enable or support the supply of services via that network or that service or have the potential to do so;

(b) "essential facilities" means facilities of a public telecommunications network or telecommunications service that:

(i) are exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly be economically or technically substituted in order to provide a service;

(c) "interconnection" means the linking of public telecommunications networks used by the same or different suppliers of telecommunications networks or telecommunications services in order to allow the users of one supplier to communicate with users of the same or another supplier or to access services provided by another supplier. Services may be provided by the suppliers involved or any other supplier who has access to the network;

(d) "leased circuit" means telecommunications services or facilities, including those of a virtual nature, that set aside capacity for the dedicated use of, or availability to, a user between two or more designated points;

(e) "major supplier" means a supplier of telecommunications networks or telecommunications services which has the ability to materially affect the terms of participation (having regard to price and supply) in a relevant market for telecommunications networks or telecommunications services as a result of control over essential facilities or the use of its position in such market;

(f) "network element" means a facility or equipment used in supplying a telecommunications service, including features, functions and capabilities provided by means of such facility or equipment;

(g) "number portability" means the ability of subscribers who so request to retain the same telephone numbers, at the same location in the case of a fixed line, without impairment of quality, reliability or convenience when switching between the same category of suppliers of public telecommunications services;

(h) "public telecommunications network" means any telecommunications network used wholly or mainly for the provision of public telecommunications services between network termination points;

(i) "public telecommunications service" means any telecommunications service that is offered to the public generally;

(j) "subscriber" means any natural or juridical person that is a party to a contract with a supplier of public telecommunications services for the supply of public telecommunications services;

(k) "telecommunications" means the transmission and reception of signals by any electromagnetic means;

(l) "telecommunications network" means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements that are not active, which permit the transmission and reception of signals by wire, radio, optical or other electromagnetic means;

(m) "telecommunications regulatory authority" means the body or bodies charged by a Party with the regulation of telecommunications networks and telecommunications services covered by this Sub-Section;

(n) "telecommunications service" means a service that consists wholly or mainly in the transmission and reception of signals, including broadcasting signals, over telecommunications networks, including those used for broadcasting, but not a service providing or exercising editorial control over content transmitted using telecommunications networks and telecommunications services;

(o) "universal service" means the minimum set of services of specified quality that must be made available to all users, or to a set of users, in the territory of a Party, or in a subdivision of a Party, regardless of their geographical location and at an affordable price; and

(p) "user" means any person using a public telecommunications service.

ARTICLE 10.48

Approaches to regulation

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications services and to enhance consumer welfare, and that economic regulation may not be needed if there is effective and sustainable competition. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that a Party may determine how to implement its obligations under this Sub-Section.

2. In that respect, the Parties recognise that each Party may:

(a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market;

(b) rely on the role of market forces, particularly with respect to market segments that are competitive or that have low barriers to entry, such as services provided by suppliers of telecommunications services that do not own network facilities; or

(c) rely on market structure rules that restrict the activities of some suppliers of telecommunications services that own network facilities, for example by requiring provision of wholesale services on a non-discriminatory basis or prohibiting participation in a retail market, with a view to ensuring market behaviour equivalent to that of participants in a competitive market.

3. For greater certainty, a Party that refrains from engaging in regulation in accordance with point (b) of paragraph 2 of this Article remains subject to the obligations under this Sub-Section. Nothing in this Article shall prevent a Party from regulating telecommunications services.

ARTICLE 10.49

Telecommunications regulatory authority

1. Each Party shall establish or maintain a telecommunications regulatory authority that:

(a) is legally distinct and functionally independent from any supplier of telecommunications networks, telecommunications services or telecommunications equipment;

(b) uses procedures and issues decisions that are impartial with respect to all market participants;

(c) acts independently and does not seek or take instructions from any other body in relation to the exercise of the tasks assigned to it by law to enforce the obligations set out in Articles 10.51 (Interconnection), 10.52 (Access and use), 10.53 (Resolution of telecommunications disputes), 10.55 (Interconnection with major suppliers) and 10.56 (Access to major suppliers' essential facilities);

(d) is sufficiently empowered to carry out the tasks referred to in point (c);

(e) has the power to ensure that suppliers of telecommunications networks or telecommunications services provide it, promptly upon request, with all the information[1], including financial information, necessary to carry out the tasks referred to in point (c); and

(f) exercises its powers transparently and in a timely manner.

2. Each Party shall ensure that the tasks to be undertaken by its telecommunications regulatory authority are made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

3. A Party that retains ownership or control of suppliers of telecommunications networks or telecommunications services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.

[1] Each Party shall ensure that its telecommunications regulatory authority treats information requested in accordance with the requirements of confidentiality.

4. Each Party shall ensure that a user or supplier of telecommunications networks or telecommunications services affected by a decision of its telecommunications regulatory authority has a right of appeal before an appeal body that is independent of both the regulatory authority and other affected parties. Pending the outcome of the appeal, the decision shall stand, unless interim measures are granted in accordance with the law of the Party concerned.

ARTICLE 10.50

Authorisation to provide telecommunications networks or telecommunications services

1. If a Party requires authorisation for the provision of telecommunications networks or telecommunications services, it shall make publicly available the types of telecommunications services requiring authorisation, together with all authorisation criteria, applicable procedures, and terms and conditions generally associated with the authorisation.

2. Each Party shall endeavour to authorise the provision of telecommunications networks or telecommunications services without a formal procedure and permit the supplier to start providing its telecommunications networks or telecommunications services without having to wait for a decision by its telecommunications regulatory authority. If a Party requires a formal authorisation decision, it shall state a reasonable period of time normally required to obtain such a decision and communicate this in a transparent manner. The Party shall endeavour to ensure that the decision is taken within the stated period of time.

3. Each Party shall ensure that any authorisation criteria or applicable procedure, and any obligation or condition imposed on or associated with an authorisation, is objective, transparent, non-discriminatory, related to the service provided and not more burdensome than necessary for the kind of service provided.

4. Each Party shall ensure that an applicant receives in writing the reasons for the denial or revocation of an authorisation, or the imposition of supplier-specific conditions. In such cases, an applicant shall have a right of appeal before an appeal body.

5. Each Party shall ensure that administrative fees imposed on suppliers are objective, transparent, non-discriminatory and commensurate with the administrative costs reasonably incurred in the management, control and enforcement of the obligations set out in this Sub-Section.[1]

ARTICLE 10.51

Interconnection

1. The Parties recognise that interconnection should in principle be agreed on the basis of commercial negotiation between the suppliers of public telecommunications networks or public telecommunications services concerned.

[1] Administrative fees do not include payments for rights to use scarce resources and mandated contributions to the provision of a universal service.

2. To this end each Party shall ensure that a supplier of public telecommunications networks or public telecommunications services in its territory has the right and, when requested by another supplier of public telecommunications networks or public telecommunications services, the obligation to negotiate interconnection for the purpose of providing public telecommunications networks or public telecommunications services.

ARTICLE 10.52

Access and use

1. Each Party shall ensure that any covered enterprise or service supplier of the other Party is accorded access to and use of public telecommunications networks or public telecommunications services on reasonable and non-discriminatory[1] terms and conditions. This obligation shall be carried out, *inter alia*, in line with paragraphs 2 to 5 of this Article.

2. Each Party shall ensure that covered enterprises or service suppliers of the other Party have access to and use of any public telecommunications network or public telecommunications service offered within or across its border, including private leased circuits, and to that end shall ensure, subject to paragraph 5, that such enterprises and suppliers are permitted:

(a) to purchase or lease and attach terminal or other equipment that interfaces with the public telecommunications network and that is necessary to conduct their operations;

[1] For the purposes of this Article, the term "non-discriminatory" means national treatment and most-favoured-nation treatment as referred to in Articles 10.6 (National treatment), 10.7 (Most-favoured-nation treatment), 10.16 (National treatment) and 10.17 (Most-favoured-nation treatment), as well as under terms and conditions no less favourable than those accorded to any other user of like public telecommunications networks or public telecommunications services in like situations.

(b) to interconnect private leased or owned circuits with public telecommunications networks or with circuits leased or owned by another covered enterprise or service supplier; and

(c) to use operating protocols of their choice in their operations, other than as necessary to ensure the availability of the public telecommunications services.

3. Each Party shall ensure that covered enterprises or service suppliers of the other Party may use public telecommunications networks and public telecommunications services for the movement of information within and across borders, including for their intra-corporate communications, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding paragraph 3, a Party may take measures that are necessary to ensure the security and confidentiality of communications, subject to the requirement that such measures are not applied in a manner that would constitute either a disguised restriction on trade in services or on the pursuit of any other economic activity covered by this Chapter or a means of arbitrary or unjustifiable discrimination.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks or public telecommunications services other than as necessary:

(a) to safeguard the public service responsibilities of suppliers of public telecommunications networks or public telecommunications services, in particular their ability to make their public telecommunications services available; or

(b) to protect the technical integrity of public telecommunications networks or public telecommunications services.

ARTICLE 10.53

Resolution of telecommunications disputes

1. Each Party shall ensure that, in the event of a dispute arising between suppliers of telecommunications networks or telecommunications services in connection with rights and obligations that arise from this Sub-Section, and at the request of either party involved in the dispute, its telecommunications regulatory authority issues a binding decision within a reasonable timeframe to resolve the dispute.

2. Each Party shall ensure that a decision by its telecommunications regulatory authority is made available to the public, having regard to the requirements of business confidentiality, and that the parties concerned are given a full statement of the reasons on which the decision is based and have the right of appeal as referred to in Article 10.49(4) (Telecommunications regulatory authority).

3. Each Party shall ensure that the procedure specified in paragraphs 1 and 2 does not preclude either party concerned from bringing an action before a judicial authority, in accordance with the laws and regulations of the Party.

ARTICLE 10.54

Competitive safeguards on major suppliers

Each Party shall adopt or maintain appropriate measures that prevent suppliers of telecommunications networks or telecommunications services who, alone or together, are a major supplier, from engaging in or continuing anti-competitive practices. The anti-competitive practices may include:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other service suppliers on a timely basis technical information about essential facilities and commercially relevant information that is necessary for them to provide services.

ARTICLE 10.55

Interconnection with major suppliers

1. Each Party shall ensure that major suppliers of public telecommunications networks or public telecommunications services provide interconnection at any technically feasible point in the network. Such interconnection shall be provided:

(a) under non-discriminatory terms and conditions, including as regards rates, and technical standards and specifications, including quality and maintenance, and of a quality no less favourable than that provided for their own like services of such major supplier, or for like services of its subsidiaries or other affiliates;

(b) in a timely fashion, on terms and conditions, including as regards rates, and technical standards and specifications, including quality and maintenance, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier does not need to pay for network elements or facilities that it does not require for the service to be provided; and

(c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2. Each Party shall ensure that the procedures applicable for interconnection to a major supplier are made publicly available.

3. Each Party shall ensure that a major supplier in its territory makes publicly available either its interconnection agreements or its reference interconnection offers as appropriate.

ARTICLE 10.56

Access to major suppliers' essential facilities

Each Party shall ensure that a major supplier in its territory makes its essential facilities available to suppliers of telecommunications networks or telecommunications services on reasonable and non-discriminatory terms and conditions for the purpose of providing public telecommunications services, except when this is not necessary to achieve effective competition on the basis of the facts collected and the assessment of the market conducted by the telecommunications regulatory authority.

ARTICLE 10.57

Scarce resources

1. Each Party shall ensure that the allocation and granting of rights of use of scarce resources, including radio frequency spectrum, numbers and rights of way, is carried out using procedures that are objective, timely, transparent, non-discriminatory and that do not create a disincentive for the application for the rights of use of scarce resources.

2. Each Party shall endeavour to take into account the public interest, including the promotion of competition, and to rely on market-based approaches, including mechanisms such as auctions, when allocating and granting rights of use of radio frequency spectrum for public telecommunication services.

3. Each Party shall ensure that the current use of allocated frequency bands is made publicly available, but detailed identification of radio spectrum allocated for specific government uses is not required.

4. Measures of a Party allocating and assigning spectrum and managing frequency are not *per se* inconsistent with Articles 10.5 (Market access) and 10.14 (Market access). Each Party retains the right to establish and apply spectrum and frequency management measures that may have the effect of limiting the number of suppliers of telecommunications services, provided that it does so in a manner consistent with this Agreement. This includes the ability to allocate frequency bands taking into account current and future needs and spectrum availability.

ARTICLE 10.58

Universal service

1. Each Party has the right to define the kind of universal service obligations it wishes to maintain and to decide on their scope and implementation.

2. Each Party shall administer the universal service obligations in a transparent, objective and non-discriminatory way which is neutral with respect to competition and not more burdensome than necessary for the kind of universal service defined by the Party.

3. If a Party designates a universal service supplier, it shall do so in a manner that is efficient, transparent, non-discriminatory and open to all suppliers of public telecommunication networks or public telecommunication services.

4. If a Party decides to compensate a universal service supplier, it shall ensure that such compensation does not exceed the net cost caused by the universal service obligation.

ARTICLE 10.59

Number portability

Each Party shall ensure that a supplier of public telecommunications services provides number portability on reasonable terms and conditions.

ARTICLE 10.60

Confidentiality of information

1. Each Party shall ensure that a supplier that acquires information from another supplier in the process of negotiating an arrangement pursuant to Article 10.51 (Interconnection), 10.52 (Access and use), 10.55 (Interconnection with major suppliers) or 10.56 (Access to major suppliers' essential facilities) uses such information solely for the purpose for which it was supplied and respects at all times the confidentiality of information transmitted or stored.[1]

2. Each Party shall adopt or maintain measures to protect the confidentiality of communications and related traffic data transmitted in the use of public telecommunications networks or public telecommunications services, in a manner that is non-discriminatory and that does not unduly restrict the supply of telecommunication services.

ARTICLE 10.61

Telecommunications connectivity

The Parties recognise the importance of the availability and take-up of very high capacity networks and of high quality telecommunications services, including in rural and remote areas, as a means of enabling persons and businesses to access the benefits of trade.

[1] For greater certainty, a Party may meet this obligation by enabling the enforcement of non-disclosure agreements between suppliers.

SUB-SECTION 5

FINANCIAL SERVICES

ARTICLE 10.62

Scope

1. This Sub-Section applies to measures of a Party affecting the supply of financial services. This Sub-Section does not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article 10.10 (Non-conforming measures) or 10.18 (Non-conforming measures).

2. For the purposes of this Sub-Section, activity performed in the exercise of governmental authority defined in point (a) of Article 10.3 (Definitions) means the following:

(a) an activity conducted by a central bank or a monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(b) an activity forming part of a statutory system of social security or public retirement plans; and

(c) other activities conducted by a public entity on the account of or with the guarantee of or using the financial resources of the Party or its public entities.

3. If a Party allows any of the activities referred to in point (b) or (c) of paragraph 2 of this Article to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, service defined in point (m) of Article 10.3 (Definitions) shall include those activities.

4. Point (a) of Article 10.3 (Definitions) does not apply to financial services covered by this Sub-Section.

ARTICLE 10.63

Definitions

For the purposes of this Sub-Section and of Sections B (Investment liberalisation), C (Cross-border trade in services), D (Entry and temporary stay of natural persons for business purposes) and Sub-Section 1 (Domestic regulation) of Section E (Regulatory framework) of this Chapter, the following definitions apply:

(a) "financial service" means any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

(i) insurance and insurance-related services:

(A) direct insurance (including co-insurance):

(1) life; and

(2) non-life;

(B) reinsurance and retrocession;

(C) insurance intermediation, such as brokerage and agency; and

(D) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

(ii) banking and other financial services (excluding insurance):

(A) acceptance of deposits and other repayable funds from the public;

(B) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;

(C) financial leasing;

(D) all payment and money transmission services, including credit, charge and debit cards, travellers' cheques and bankers' drafts;

(E) guarantees and commitments;

(F) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(1) money market instruments (including cheques, bills and certificates of deposits);

(2) foreign exchange;

(3) derivative products, including futures and options;

(4) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;

(5) transferable securities; and

(6) other negotiable instruments and financial assets, including bullion;

(G) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(H) money broking;

(I) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(J) settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;

(K) provision and transfer of financial information, and financial data processing and related software; and

(L) advisory, intermediation and other auxiliary financial services in respect of the activities listed in points (A) to (K), including credit reference and analysis, investment and portfolio research and advice, and advice on acquisitions and corporate restructuring and strategy;

(b) "financial service supplier" means any natural or juridical person of a Party that seeks to supply or supplies financial services and does not include a public entity;

(c) "public entity" means:

(i) a government, a central bank or monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions;

(d) "new financial service" means a service of a financial nature, including services related to existing and new products, or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but that is supplied in the territory of the other Party; and

(e) "self-regulatory organisation" means any non-governmental body, including a securities or futures exchange or market, clearing agency, other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers by statute or delegation from central, regional or local governments or authorities, where applicable.

ARTICLE 10.64

Prudential carve-out

1. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons, such as:

(a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or

(b) ensuring the integrity and stability of a Party's financial system.

2. Where such measures do not conform with this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

ARTICLE 10.65

Disclosure of information

Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.

ARTICLE 10.66

International standards

1. Each Party shall give due consideration to ensuring that internationally agreed standards for regulation and supervision in the financial services sector and for the fight against tax evasion and avoidance in the financial services sector are implemented and applied in its territory. Such internationally agreed standards include those adopted by the G20, the Financial Stability Board, the Basel Committee on Banking Supervision, in particular its Core Principles for effective banking supervision, the International Association of Insurance Supervisors, in particular its Insurance Core Principles, the International Organization of Securities Commissions, in particular its Objectives and Principles of Securities Regulation, the Financial Action Task Force, and the Global Forum on Transparency and Exchange of Information for Tax Purposes.

2. The Parties shall aim to cooperate and exchange information regarding the development of international standards.

ARTICLE 10.67

Financial services new to the territory of a Party

1. Each Party shall permit a financial service supplier of the other Party established in its territory to supply any new financial service that it would permit its own financial service suppliers to supply in accordance with its law in like situations, provided that the introduction of the new financial service does not require an amendment of an existing law or the adoption of a new law. This does not apply to branches of financial service suppliers of the other Party established within the territory of a Party.

2. A Party may determine the institutional and legal form through which the new financial service may be supplied and require authorisation for the supply of such service. Where such authorisation is required, a decision shall be made within a reasonable time and authorisation may only be refused for prudential reasons.

ARTICLE 10.68

Self-regulatory organisations

If a Party requires membership of, participation in, or access to, any self-regulatory organisation in order for financial service suppliers of the other Party to supply financial services in or into the territory of the first Party, the Party shall ensure observance by that self-regulatory organisation of the obligations under Articles 10.6 (National treatment), 10.7 (Most-favoured-nation treatment), 10.16 (National treatment) and 10.17 (Most-favoured-nation treatment).

ARTICLE 10.69

Clearing and payment systems

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article shall not confer access to the Party's lender of last resort facilities.

SUB-SECTION 6

INTERNATIONAL MARITIME TRANSPORT SERVICES

ARTICLE 10.70

Scope and definitions

1. This Sub-Section sets out principles of the regulatory framework for the provision of international maritime transport services pursuant to Sections B (Investment liberalisation), C (Cross-border trade in services) and D (Entry and temporary stay of natural persons for business purposes) of this Chapter and applies to measures of a Party affecting trade in international maritime transport services. This Sub-Section does not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article 10.10 (Non-conforming measures) or 10.18 (Non-conforming measures).

2. For the purposes of this Sub-Section and Sections B (Investment liberalisation), C (Cross-border trade in services) and D (Entry and temporary stay of natural persons for business purposes) of this Chapter, the following definitions apply:

(a) "container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing or stripping, repairing and making them available for shipments;

(b) "customs clearance" means activities consisting in carrying out, on behalf of another party, customs formalities concerning import, export or through transport of cargoes, irrespective of whether this service is the main activity of the service supplier or a usual complement of its main activity;

(c) "door-to-door or multimodal transport operations" means transporting cargo using more than one mode of transport, involving an international sea-leg, under a single transport document;

(d) "feeder services" means the pre- and onward transportation by sea of international cargo, including containerised, break bulk and dry or liquid bulk cargo, between ports located in the territory of a Party, international cargo *en route* directed to a destination, or coming from a port of shipment, outside the territory of that Party;

(e) "freight forwarding services" means the activity consisting in organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information;

(f) "international cargo" means cargo transported between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States;

(g) "international maritime transport services" means transporting passengers or cargo by sea-going vessels between a port of a Party and a port of the other Party or of a third country, including direct contracting with providers of other transport services, with a view to covering door-to-door or multimodal transport operations under a single transport document, but not the right to provide those other transport services;

(h) "maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

(i) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

(ii) acting on behalf of the companies organising the call of the ship or taking over cargoes when required;

(i) "maritime auxiliary services" means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services and maritime freight forwarding services; and

(j) "maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

(i) the loading or discharging of cargo to or from a ship;

(ii) the lashing or unlashing of cargo; and

(iii) the reception or delivery and safekeeping of cargoes before shipment or after discharge.

ARTICLE 10.71

Obligations

1. Each Party shall implement unrestricted access to international maritime markets and trades on a commercial and non-discriminatory basis by:

(a) according to ships flying the flag of the other Party, or operated by service suppliers of the other Party, treatment no less favourable than that accorded to its own ships, including with regard to:

(i) access to ports;

(ii) the use of infrastructure and services of ports;

(iii) the use of maritime auxiliary services;

(iv) related fees and charges; and

(v) customs facilities and the assignment of berths and facilities for loading and unloading;

(b) permitting international maritime service suppliers of the other Party to establish and operate an enterprise in its territory under conditions no less favourable than those that it accords to its own service suppliers;

(c) making available to international maritime transport service suppliers of the other Party, on reasonable and non-discriminatory terms and conditions, the following services at its ports: pilotage; towing and tug assistance; provisioning; fuelling and watering; garbage collecting and ballast waste disposal; port captain's services; navigation aids; emergency repair facilities; anchorage; berth and berthing services; and shore-based operational services essential to ship operations, including communications, water and electrical supplies;

(d) permitting international maritime transport service suppliers of the other Party, subject to authorisation by the competent authority where applicable, to reposition owned or leased empty containers which are not being carried as cargo against payment between ports of New Zealand or between ports of a Member State; and

(e) permitting international maritime transport service suppliers of the other Party to provide feeder services between the ports of New Zealand or between ports of a Member State, subject to authorisation by the competent authority where applicable.

2. In applying points (a) and (b) of paragraph 1, the Parties shall:

(a) not introduce cargo-sharing arrangements in future agreements with third countries concerning maritime transport services, including in respect of dry or liquid bulk cargo and liner trade;

(b) terminate, within a reasonable period of time, existing cargo-sharing arrangements as referred to in point (a) that exist in previous agreements; and

(c) not adopt or maintain any administrative, technical or other measures which could constitute a disguised restriction, or have arbitrary or unjustifiable discriminatory effects where like conditions prevail, on the free supply of services in international maritime transport.

CHAPTER 11

CAPITAL MOVEMENTS, PAYMENTS AND TRANSFERS

ARTICLE 11.1

Payments and transfers

Each Party shall allow, in freely convertible currency and in accordance with the relevant provisions of the Articles of Agreement of the International Monetary Fund, any payments or transfers with respect to transactions on the current account of the balance of payments that fall within the scope of this Agreement.

ARTICLE 11.2

Capital movements

Each Party shall allow, with regard to transactions on the capital and financial account of the balance of payments, the free movement of capital for the purposes of investment liberalisation and other transactions as provided for under Chapter 10 (Trade in services and investment).

ARTICLE 11.3

Application of laws and regulations relating to capital movements, payments and transfers

1. Nothing in Articles 11.1 (Payments and transfers) and 11.2 (Capital movements) shall be construed to prevent a Party from applying its laws and regulations relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities, derivatives such as futures or options, or in other financial instruments;

(c) financial reporting or record-keeping of capital movements, payments or transfers, where it is necessary to assist law enforcement or financial regulatory authorities;

(d) criminal or penal offences, deceptive or fraudulent practices;

(e) ensuring compliance with orders or judgments in administrative or judicial proceedings; or

(f) social security, public retirement or compulsory savings schemes.

2. A Party shall not apply the laws and regulations referred to in paragraph 1 in an arbitrary or discriminatory manner, or in a manner that would constitute a disguised restriction on capital movements, payments or transfers.

CHAPTER 12

DIGITAL TRADE

SECTION A

GENERAL PROVISIONS

ARTICLE 12.1

Scope

1. This Chapter applies to measures of a Party affecting trade enabled by electronic means.

2. This Chapter does not apply to:

(a) audio-visual services;

(b) information held or processed by or on behalf of a Party, or measures relating to such information, including measures related to its collection; and

(c) measures adopted or maintained by New Zealand that it deems necessary to protect or promote Māori rights, interests, duties and responsibilities[1] in respect of matters covered by this Chapter, including in fulfilment of New Zealand's obligations under te Tiriti o Waitangi / the Treaty of Waitangi, provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or a disguised restriction on trade enabled by electronic means. Chapter 26 (Dispute settlement) does not apply to the interpretation of te Tiriti o Waitangi / the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it.

ARTICLE 12.2

Definitions

1. The definitions set out in Article 10.3 (Definitions) of Chapter 10 (Trade in services and investment) apply to this Chapter.

[1] For greater certainty, Māori rights, interests, duties and responsibilities include those relating to mātauranga Māori.

2. The definition of the term "public telecommunications service" in point (i) of Article 10.47 (Definitions) applies to this Chapter.

3. For the purposes of this Chapter, the following definitions apply:

(a) "consumer" means any natural person using a public telecommunications service for other than professional purposes;

(b) "digital procurement" means procurement through electronic means;

(c) "direct marketing communication" means any form of commercial advertising by which a person communicates marketing messages directly to a user via a public telecommunications service, including electronic mail and text and multimedia messages (SMS and MMS);

(d) "electronic authentication" means an electronic process or act of verifying that enables the confirmation of:

(i) the electronic identification of a person; or

(ii) the origin and integrity of data in electronic form;

(e) "electronic invoicing" or "e-invoicing" means the automated creation, exchange and processing of invoices between suppliers and buyers using a structured digital format;

(f) "electronic seal" means data in electronic form, used by a juridical person, which is attached to, or logically associated with, other data in electronic form to ensure the origin and integrity of that other data;

(g) "electronic signature" means data in electronic form that is attached to, or logically associated with, other data in electronic form which:

(i) may be used to identify the signatory in relation to the other data in electronic form; and

(ii) is used by a signatory to agree on the other data in electronic form;[1]

(h) "internet access service" means a public telecommunications service that provides access to the internet, and thereby connectivity to virtually all endpoints of the internet, irrespective of the network technology and terminal equipment used;

(i) "personal data" means information relating to an identified or identifiable natural person;

(j) "trade administration document" means a form issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods; and

(k) "user" means a person using a public telecommunications service.

[1] For greater certainty, nothing in this definition prevents a Party from according greater legal effect to an electronic signature that satisfies certain requirements, such as indicating that the data has not been altered or verifying the identity of the signatory.

ARTICLE 12.3

Right to regulate

The Parties reaffirm each Party's right to regulate within their territories to achieve legitimate policy objectives, such as the protection of human, animal or plant life or health, social services, public education, safety, the environment, including climate change, public morals, social or consumer protection, animal welfare, privacy and data protection, the promotion and protection of cultural diversity, and, in the case of New Zealand, the promotion or protection of the rights, interests, duties and responsibilities of Māori.

SECTION B

CROSS-BORDER DATA FLOWS AND PERSONAL DATA PROTECTION

ARTICLE 12.4

Cross-border data flows

1. The Parties are committed to ensuring cross-border data flows to facilitate trade in the digital economy and recognise that each Party may have its own regulatory requirements in this regard.

2. To that end, a Party shall not restrict cross-border data flows taking place between the Parties in the context of an activity that is within the scope of this Chapter, by:

(a) requiring the use of computing facilities or network elements in its territory for data processing, including by requiring the use of computing facilities or network elements that are certified or approved in the territory of the Party;

(b) requiring the localisation of data in its territory;

(c) prohibiting storage or processing of data in the territory of the other Party; or

(d) making the cross-border transfer of data contingent upon the use of computing facilities or network elements in its territory or upon localisation requirements in its territory.

3. For greater certainty, the Parties understand that nothing in this Article prevents the Parties from adopting or maintaining measures in accordance with Article 25.1 (General exceptions) to achieve the public policy objectives referred to therein, which, for the purposes of this Article, shall be interpreted, where relevant, in a manner that takes into account the evolutionary nature of the digital technologies. The preceding sentence does not affect the application of other exceptions in this Agreement to this Article.

4. The Parties shall keep the implementation of this Article under review and assess its functioning within three years after the date of entry into force of this Agreement unless the Parties agree otherwise. A Party may also at any time propose to the other Party to review this Article. Such proposal shall be accorded sympathetic consideration.

5. In the context of the review referred to in paragraph 4, and following the release of the Waitangi Tribunal's Report Wai 2522 dated 19 November 2021, New Zealand:

(a) reaffirms its continued ability to support and promote Māori interests under this Agreement; and

(b) affirms its intention to engage Māori to ensure the review referred to in paragraph 4 takes account of the continued need for New Zealand to support Māori to exercise their rights and interests, and meet its responsibilities under te Tiriti o Waitangi / the Treaty of Waitangi and its principles.

ARTICLE 12.5

Protection of personal data and privacy

1. Each Party recognises that the protection of personal data and privacy is a fundamental right and that high standards in this regard contribute to enhancing consumer confidence and trust in digital trade.

2. Each Party may adopt or maintain measures it deems appropriate to ensure the protection of personal data and privacy, including through the adoption and application of rules for the cross-border transfer of personal data. Nothing in this Agreement shall affect the protection of personal data and privacy afforded by the Parties' respective measures.

3. Each Party shall inform the other Party about any measures referred to in paragraph 2 that it adopts or maintains.

4. Each Party shall publish information on the protection of personal data and privacy that it provides to users of digital trade, including:

(a) how individuals can pursue a remedy for a breach of protection of personal data or privacy arising from digital trade; and

(b) guidance and other information regarding compliance of businesses with applicable legal requirements protecting personal data and privacy.

SECTION C

SPECIFIC PROVISIONS

ARTICLE 12.6

Customs duties on electronic transmissions

1. A Party shall not impose customs duties on electronic transmissions between a person of one Party and a person of the other Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees or other charges on electronic transmissions, provided that such taxes, fees or other charges are imposed in a manner consistent with this Agreement.

ARTICLE 12.7

No prior authorisation

1. Each Party shall endeavour not to impose prior authorisation or any other requirement having an equivalent effect on the supply of services by electronic means.

2. Paragraph 1 shall be without prejudice to authorisation schemes that are not specifically and exclusively targeted at services provided by electronic means, and to rules in the field of telecommunications.

ARTICLE 12.8

Conclusion of contracts by electronic means

Unless otherwise provided for under its laws and regulations, each Party shall ensure that:

(a) contracts may be concluded by electronic means;

(b) contracts are not deprived of legal effect, validity or enforceability solely on the ground that the contract was concluded by electronic means; and

(c) no other obstacles to the use of electronic contracts are created or maintained.

ARTICLE 12.9

Electronic authentication

1. Except in circumstances otherwise provided for under its laws and regulations, a Party shall not deny the legal effect or admissibility as evidence in legal proceedings of an electronic document, an electronic signature, an electronic seal, or the authenticating data resulting from electronic authentication, solely on the ground that it is in electronic form.

2. A Party shall not adopt or maintain measures that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate electronic authentication methods for their electronic transaction; or

(b) prevent parties to an electronic transaction from being able to prove to judicial and administrative authorities that the use of electronic authentication in that electronic transaction complies with the applicable legal requirements.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of electronic transactions, the method of electronic authentication:

(a) is certified by an authority accredited in accordance with the law of that Party; or

(b) meets certain performance standards, which shall be objective, transparent and non-discriminatory and only relate to the specific characteristics of the category of electronic transactions concerned.

4. To the extent provided for under its laws or regulations, a Party shall apply paragraphs 1 to 3 to other electronic processes or means of facilitating or enabling electronic transactions, such as electronic time stamps or electronic registered delivery services.

ARTICLE 12.10

Electronic invoicing

1. The Parties recognise the importance of e-invoicing standards as a key element of digital procurement systems to support interoperability and digital trade and that such systems can also be used for business-to-business and business-to-consumer electronic transactions.

2. Each Party shall ensure that the implementation of measures related to e-invoicing in its jurisdiction is designed to support cross-border interoperability. When developing measures related to e-invoicing, each Party shall take into account, as appropriate, international frameworks, guidelines or recommendations, where such international frameworks, guidelines or recommendations exist.

3. The Parties shall endeavour to share best practices pertaining to e-invoicing and digital procurement systems.

ARTICLE 12.11

Transfer of or access to source code

1. The Parties recognise the increasing social and economic importance of the use of digital technologies, and the importance of the safe and responsible development and use of digital technologies, including in respect of source code of software to foster public trust.

2. A Party shall not require the transfer of, or access to, the source code of software owned by a person of the other Party as a condition for the import, export, distribution, sale or use of such software, or of products containing such software, in or from its territory.[1]

3. For greater certainty, paragraph 2:

(a) does not apply to the voluntary transfer of, or granting of access to, source code of software on a commercial basis by a person of the other Party, for example in the context of a public procurement transaction or a freely negotiated contract; and

[1] This Article does not preclude a Party from requiring that access be provided to software used for critical infrastructure, to the extent required to ensure the effective functioning of critical infrastructure, subject to safeguards against unauthorised disclosure.

(b) does not affect the right of regulatory, administrative, law enforcement or judicial bodies of a Party to require the modification of source code of software to comply with its laws and regulations that are not inconsistent with this Agreement.

4. Nothing in this Article shall:

(a) affect the right of regulatory authorities, law enforcement, judicial or conformity assessment bodies of a Party to access source code of software, either prior to or following import, export, distribution, sale or use, for investigation, inspection or examination, enforcement action or judicial proceeding purposes, to determine compliance with its laws and regulations, including those relating to non-discrimination and the prevention of bias, subject to safeguards against unauthorised disclosure;

(b) affect requirements by a competition authority or other relevant body of a Party to remedy a violation of competition law;

(c) affect the protection and enforcement of intellectual property rights; or

(d) affect the right of a Party to take measures in accordance with point (a) of Article 14.1(2) (Incorporation of certain provisions of the GPA) under which Article III of the GPA is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 12.12

Consumer trust online

1. Recognising the importance of enhancing consumer trust in digital trade, each Party shall adopt or maintain measures to ensure the effective protection of consumers engaging in electronic commerce transactions, including measures that:

(a) proscribe fraudulent and deceptive commercial practices, including misleading commercial practices;

(b) require suppliers of goods and services to act in good faith and abide by fair commercial practices, including by respecting the rights of consumers regarding unsolicited goods and services; and

(c) grant consumers access to redress for breaches of their rights, including a right to remedies in cases where goods or services are paid for and not delivered or provided as agreed.

2. Each Party shall provide a level of protection for consumers engaging in electronic commerce transactions that is at least equivalent to that provided for consumers of commerce conducted by non-electronic means under its laws, regulations and policies.

3. The Parties recognise the importance of entrusting their consumer protection agencies or other relevant bodies with adequate enforcement powers and the importance of cooperation between their consumer protection agencies or other relevant bodies in order to protect consumers and enhance consumer trust online.

4. The Parties recognise the benefits of mechanisms to facilitate the resolution of claims relating to cross-border electronic commerce transactions. To that end, the Parties shall explore options to make such mechanisms available for cross-border electronic commerce transactions between themselves.

ARTICLE 12.13

Unsolicited direct marketing communications

1. Each Party shall adopt or maintain measures to ensure the effective protection of users against unsolicited direct marketing communications.

2. Each Party shall ensure that direct marketing communications are not sent to users who are natural persons unless they have given their consent to receiving such marketing communications. Consent shall be defined in accordance with the law of the Party concerned.

3. Notwithstanding paragraph 2, each Party shall allow persons that have collected, in accordance with its law, the contact details of a user in the context of the supply of goods or services, to send direct marketing communications to that user for their own similar goods or services.

4. Each Party shall ensure that direct marketing communications are clearly identifiable as such, clearly disclose on whose behalf they are made and contain the necessary information to enable users to request cessation free of charge at any moment.

5. Each Party shall provide users with access to redress against suppliers of unsolicited direct marketing communications that do not comply with the measures adopted or maintained pursuant to paragraphs 1 to 4.

ARTICLE 12.14

Cooperation on regulatory matters with regard to digital trade

1. The Parties shall exchange information on the following regulatory matters in the context of digital trade:

(a) the recognition and facilitation of interoperable electronic trust and authentication services;

(b) the treatment of direct marketing communications;

(c) the protection of consumers online, including means for consumer redress and building consumer confidence;

(d) the challenges for SMEs in the use of electronic commerce;

(e) e-government; and

(f) other matters relevant for the development of digital trade.

2. For greater certainty, this Article shall not apply to a Party's rules and safeguards for the protection of personal data and privacy, including on cross-border transfers of personal data.

3. The Parties shall, where appropriate, cooperate and participate actively in international fora to promote the development of digital trade.

4. The Parties recognise the importance of cooperating on cybersecurity matters relevant to digital trade.

ARTICLE 12.15

Paperless trade in goods

1. With a view to creating a paperless border environment for trade in goods, the Parties recognise the importance of eliminating paper forms and documents required for the import, export or transit of goods. To that end, the Parties are encouraged to eliminate paper forms and documents, as appropriate, and transition toward using forms and documents in data-based formats.

2. Each Party shall endeavour to make trade administration documents that it issues or controls, or that are required in the normal course of trade, available to the public in electronic format. For the purposes of this paragraph, the term "electronic format" includes formats suitable for automated interpretation and electronic processing without human intervention, as well as digitised images and forms.

3. Each Party shall endeavour to accept the electronic versions of trade administration documents as the legal equivalent of paper versions of trade administration documents.

4. The Parties shall endeavour to cooperate bilaterally and in international fora to enhance acceptance of electronic versions of trade administration documents.

5. In developing initiatives that provide for the use of paperless trade in goods, each Party shall endeavour to take into account the methods agreed by international organisations.

ARTICLE 12.16

Open internet access

The Parties recognise the benefits of users in their respective territories, subject to each Party's applicable policies, laws and regulations, being able to:

(a) access, distribute and use services and applications of their choice available on the internet, subject to reasonable network management that does not block or slow down traffic based on commercial reasons;

(b) connect devices of their choice to the internet, provided that such devices do not harm the network; and

(c) have access to information on the network management practices of their supplier of internet access services.

CHAPTER 13

ENERGY AND RAW MATERIALS

ARTICLE 13.1

Objectives

The objectives of this Chapter are to facilitate trade and investment between the Parties to promote, develop and increase energy generation from renewable sources and the sustainable production of raw materials, including through the use of green technologies.

ARTICLE 13.2

Principles

1. Each Party retains the sovereign right to determine whether areas within its territory, as well as in its archipelagic and territorial waters, exclusive economic zone and continental shelf, are available for exploring for and producing energy goods and raw materials.

2. Each Party preserves its right to adopt, maintain and enforce measures that are necessary to secure the supply of energy goods and raw materials and are consistent with this Agreement.

ARTICLE 13.3

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "authorisation" means the permission, licence, concession or similar administrative or contractual instrument by which the competent authority of a Party entitles an entity to exercise a certain economic activity in its territory;

(b) "balancing" means actions and processes, in all timelines, through which network operators continuously ensure maintenance of the system frequency within a predefined stability range and compliance with the amount of reserves needed with respect to the required quality;

(c) "energy goods" means the goods from which energy is generated and that are listed by the corresponding HS code in Annex 13 (Lists of energy goods, hydrocarbons and raw materials);[1]

(d) "hydrocarbons" means the goods that are listed by the corresponding HS code in Annex 13 (Lists of energy goods, hydrocarbons and raw materials);

[1] For greater certainty, the term "energy goods" does not include agricultural, forestry or fisheries goods other than biogas or biofuels.

(e) "raw materials" means materials used in the manufacture of industrial goods that are listed by the corresponding HS code in Annex 13 (Lists of energy goods, hydrocarbons and raw materials);[1]

(f) "renewable electricity" means electricity generated from renewable energy sources;

(g) "renewable energy" means energy produced from solar, wind, hydro, geothermal, biological, ocean sources as well as other ambient sources where the original energy source is renewable;

(h) "standard" means a standard as defined in Annex 1 to the TBT Agreement; and

(i) "technical regulation" means a technical regulation as defined in Annex 1 to the TBT Agreement.

ARTICLE 13.4

Import and export monopolies

A Party shall not designate or maintain a designated import or export monopoly. For the purposes of this Article, the term “import or export monopoly” means the exclusive right or grant of authority by a Party to an entity to import energy goods or raw materials from, or export energy goods or raw materials to, the other Party.[2]

[1] For greater certainty, the term "raw materials" does not include agricultural, forestry or fisheries goods.

[2] For greater certainty, this Article is without prejudice to Chapter 10 (Trade in services and investment) and does not include a right that results from granting an intellectual property right.

ARTICLE 13.5

Export pricing

A Party shall not impose a higher price for its exports of energy goods or raw materials to the other Party than the price charged for such energy goods or raw materials when destined for the domestic market, by means of any measure such as licences or minimum price requirements.

ARTICLE 13.6

Domestic pricing

Each Party shall seek to ensure that wholesale electrical energy and natural gas prices reflect actual supply and demand. If a Party decides to regulate the price of the domestic supply of energy goods and raw materials (hereinafter referred to as "regulated price"), it may do so only to achieve a legitimate public policy objective, and only by imposing a regulated price that is clearly defined, transparent, non-discriminatory and proportionate.

ARTICLE 13.7

Authorisation for exploration and production
of energy goods and raw materials

1. If a Party requires an authorisation to explore for or produce electricity, hydrocarbons or raw materials, that Party shall:

(a) grant such an authorisation in accordance with the conditions and procedures set out in Articles 10.33 (Objectivity, impartiality and independence) and 10.34 (Publication and information available); and

(b) ensure a transparent process for granting authorisations and publish at least the type of authorisation and the relevant area or part thereof, in such a manner as to enable potentially interested applicants to submit applications.

2. A Party may grant authorisations without complying with the conditions and procedures set out in Article 10.34 (Publication and information available) and point (b) of paragraph 1 of this Article in any of the following cases related to hydrocarbons:

(a) the area has been subject to a previous procedure complying with Article 10.34 (Publication and information available) and point (b) of paragraph 1 of this Article which has not resulted in an authorisation being granted;

(b) the area is available on a permanent basis for exploration or production; or

(c) the authorisation granted has been relinquished before its date of expiry.

3. A Party may require an entity which has been granted an authorisation to pay a financial contribution or a contribution in kind.[1] The financial contribution or a contribution in kind shall be fixed in a manner that does not interfere with the management and decision-making process of such entity.

4. Each Party shall ensure that the applicant is provided with the reasons for the rejection of its application to enable that applicant to have recourse to procedures for appeal or review. The procedures for appeal or review shall be made public in advance.

ARTICLE 13.8

Assessment of environmental impact

1. Each Party shall ensure that its laws and regulations require an environmental impact assessment for activities related to production of energy goods or raw materials, where such activities may have a significant impact on the environment.

[1] For greater certainty, the terms "financial contribution" and "contribution in kind" in this paragraph do not include any security or payment required for an entity to meet an obligation to fund and carry out decommissioning or any security or payment required for post-decommissioning activities.

2. With respect to the environmental impact assessment referred to in paragraph 1, each Party shall, as required by its laws and regulations:

(a) ensure that all interested persons, including non-governmental organisations, have an early and effective opportunity, and an appropriate time period, to participate in the environmental impact assessment as well as an appropriate time period to provide comments on the environmental impact assessment report;

(b) take into account the findings of the environmental impact assessment relating to the effects on the environment prior to granting the authorisation;

(c) make publicly available the outcome findings of the environmental impact assessment; and

(d) identify and assess as appropriate the significant effects of a project on:

(i) population and human health;

(ii) biodiversity;

(iii) land, soil, water, air, and climate; and

(iv) cultural heritage and landscape, including the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters that are relevant to the project concerned.

ARTICLE 13.9

Offshore risk and safety

1. Each Party shall ensure that regulatory functions relating to safety and environmental protection of offshore oil and gas operations are conducted independently from regulatory functions relating to economic development and licensing of offshore oil and gas operations, such as by maintaining separate legal entities.

2. Each Party shall, when applicable, establish the conditions necessary for safe offshore exploration and production of oil and gas in its territory in order to protect the marine environment and coastal communities against pollution. Such conditions shall be based on high standards of safety and environmental protection for offshore oil and gas operations.

3. The Parties shall cooperate, as appropriate, to internationally promote high standards of safety and environmental protection for offshore oil and gas operations by sharing information and increasing transparency on safety and environmental performance.

ARTICLE 13.10

Access to energy infrastructure for producers of renewable electricity

1. Without prejudice to Article 13.7 (Authorisation for exploration and production of energy goods and raw materials), each Party shall ensure that producers of renewable electricity in its territory are granted access to the electricity transmission and distribution infrastructure in its territory on non-discriminatory, reasonable and cost-reflective terms within a reasonable period of time after the request for access has been submitted and under conditions that allow reliable use of such infrastructure.

2. Each Party shall ensure that owners or operators of electricity transmission and distribution infrastructure in its territory publish the terms and conditions that are referred to in paragraph 1 and take appropriate measures to minimise the curtailment of renewable electricity production.

3. Each Party shall ensure balancing markets are in place where producers of renewable energy may procure goods and services under reasonable and non-discriminatory terms.

4. This Article is without prejudice to the right of each Party to adopt or maintain in its laws and regulations derogations from the right to access to its electricity transmission and distribution infrastructure based on objective and non-discriminatory criteria, provided such derogations are necessary to fulfil a legitimate policy objective, such as the need to maintain the stability of the electricity system.

ARTICLE 13.11

Regulatory body

Each Party shall maintain or establish an independent regulatory body or any other independent body that is:

(a) legally distinct and functionally separate from, and not accountable to:

(i) other authorities; or

(ii) operators or entities providing, or having access to, the electricity transmission and distribution infrastructure; and

(b) entrusted to resolve disputes regarding appropriate terms, conditions and tariffs for access to and use of electricity transmission and distribution infrastructure within a reasonable period of time.

ARTICLE 13.12

Cooperation on standards, technical regulations,
and conformity assessment procedures

1. In accordance with Articles 9.5 (International standards) and 9.6 (Standards), the Parties shall promote cooperation between the regulators or standardisation bodies located within their respective territories in the area of energy efficiency and sustainable renewable energy, with a view to contributing to sustainable energy and climate policy.

2. For the purposes of paragraph 1, the Parties shall endeavour to identify relevant initiatives of mutual interest concerning standards, technical regulations, and conformity assessment procedures related to energy efficiency and sustainable renewable energy.

ARTICLE 13.13

Research, development and innovation

The Parties shall promote research, development and innovation in the areas of energy efficiency, renewable energy and raw materials, and cooperate as appropriate, including to:

(a) promote the dissemination of information and best practices on environmentally sound and economically efficient policies regarding energy goods and raw materials, and cost-effective practices and technologies in the areas of energy efficiency, renewable energy and raw materials, in a manner that is consistent with the adequate and effective protection of intellectual property rights; and

(b) promote research, development and application of energy-efficient and environmentally sound technologies, practices and processes in the areas of energy efficiency, renewable energy and raw materials which would minimise harmful environmental impacts in the entire energy goods and raw materials chains.

ARTICLE 13.14

Cooperation on energy goods and raw materials

The Parties shall cooperate, as appropriate, in the area of energy goods and raw materials with a view to, *inter alia*:

(a) reducing or eliminating trade and investment distorting measures in third countries affecting energy goods and raw materials;

(b) coordinating their positions in international fora where trade and investment issues related to energy goods and raw materials are discussed and fostering international programmes in the areas of energy efficiency, renewable energy and raw materials;

(c) fostering exchange of market data in the area of:

(i) energy goods including information on the organisation of energy markets, promotion of new energy technologies and energy efficiency; and

(ii) raw materials;

(d) promoting corporate social responsibility in accordance with international standards, such as the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance for Responsible Business Conduct;

(e) promoting the values of responsible sourcing and mining globally as well as maximising the contribution of their raw materials sectors and associated industrial value chains to the fulfilment of the United Nations Sustainable Development Goals;

(f) promoting research, development, innovation and training in relevant fields of common interest in the area of energy goods and raw materials;

(g) fostering exchange of information and best practices on domestic policy developments;

(h) promoting the efficient use of resources (i.e. improving production processes as well as durability, reparability, design for disassembly, ease of reuse and recycling of goods); and

(i) promoting internationally high standards of safety and environmental protection for offshore oil, gas and mining operations, by sharing information and increasing transparency on safety and environmental performance.

CHAPTER 14

PUBLIC PROCUREMENT

ARTICLE 14.1

Incorporation of certain provisions of the GPA

1. The Parties affirm their rights and obligations under the GPA.

2. The following provisions of the GPA are incorporated into and made part of this Agreement, *mutatis mutandis*, to apply to procurement covered by Annex 14 (Public procurement market access commitments) to this Agreement:

(a) Articles I to IV, Articles VI to XV, Articles XVI(1) to XVI(3), and Articles XVII and XVIII; and

(b) Appendices II to IV as they relate to each Party.

3. Notwithstanding Article 1.5(5) (Relation to other international agreements), if any of the provisions of the GPA referred to in point (a) of paragraph 2 are amended, those amendments shall not be automatically incorporated into this Chapter, but the Parties shall consult with a view to amending this Chapter, as appropriate.

4. For greater certainty, references to the term "covered procurement" in the provisions incorporated into and made part of this Agreement, *mutatis mutandis*, in accordance with paragraph 2 shall be interpreted as references to procurement covered by Annex 14 (Public procurement market access commitments).

ARTICLE 14.2

Additional disciplines

1. The provisions of this Article apply in addition to the provisions referred to in Article 14.1 (Incorporation of certain provisions of the GPA).

2. As regards the use of electronic means in conducting procurement and publication of notices, all notices relating to covered procurement within the meaning of Article 14.1(4) (Incorporation of certain provisions of the GPA), including notices of intended procurement, summary notices, notices of planned procurement and contract award notices:

(a) shall be directly accessible by electronic means, free of charge, through a single point of access on the internet; and

(b) may also be published in an appropriate paper medium.

Tender documentation shall be made available through electronic means and the Parties shall use electronic means in the submission of tenders to the widest extent practicable.

3. As regards registration systems and qualification procedures, pursuant to Article IX(1) of the GPA, where a Party, including its procuring entities, or any other competent authority maintains a supplier registration system, it shall ensure that information on the supplier registration system is accessible through electronic means and that interested suppliers may request registration at any time. If a supplier meets the conditions for registration, it shall be registered within a reasonable period of time. If a supplier does not meet the conditions for registration, it shall be informed and provided with written reasons within a reasonable period of time.

4. As regards selective tendering, pursuant to Article IX(5) of the GPA, if a procuring entity uses a selective tendering procedure, it shall not limit the number of suppliers invited to submit a tender with the intention of avoiding effective competition.

5. As regards environmental, social and labour considerations, a Party may:

(a) allow procuring entities to take into account environmental, social and labour considerations related to the object of the procurement, provided that such considerations are:

    (i) non-discriminatory; and

(ii) indicated in the notice of intended procurement or in the tender documentation;

(b) take appropriate measures to ensure compliance with its own and with international environmental, social and labour laws, regulations, obligations and standards provided that such laws, regulations, obligations and standards are not discriminatory.

6. As regards the conditions for participation, while a procuring entity of a Party may, in establishing the conditions for participation, require relevant prior experience where essential to meet the requirements of the procurement in accordance with point (b) of Article VIII(2) of the GPA, that procuring entity of a Party shall not require prior experience in the territory of the Party to be a condition of the procurement.

ARTICLE 14.3

Exchange of statistics

Every two years, each Party shall make available to the other Party bilateral statistics on public procurement, subject to their availability in the official online procurement systems of each Party.

ARTICLE 14.4

Modifications and rectifications to coverage

1. A Party may modify its commitments in its respective Section of Annex 14 (Public procurement market access commitments) in accordance with paragraphs 3 to 5 and paragraph 9 of this Article. A Party may rectify its commitments in its respective Section of Annex 14 (Public procurement market access commitments) in accordance with paragraphs 6 to 9 of this Article.

2. If a modification or a rectification of a Party's Annexes to Appendix I to the GPA becomes effective pursuant to Article XIX of the GPA, it shall automatically become effective and applicable for the purposes of this Agreement, *mutatis mutandis*.

3. A Party intending to modify its commitments in its respective Section of Annex 14 (Public procurement market access commitments) shall:

(a) notify the other Party in writing; and

(b) include in the notification a proposal for appropriate compensatory adjustments to the other Party in order to maintain a level of coverage comparable to that existing prior to the modification.

4. Notwithstanding point (b) of paragraph 3, a Party is not required to provide compensatory adjustments to the other Party if the modification covers an entity over which the Party has effectively eliminated its control or influence.

5. The other Party may object to a modification as referred to in paragraph 3, if it considers that:

(a) a compensatory adjustment proposed under point (b) of paragraph 3 is not adequate to maintain a comparable level of mutually agreed coverage; or

(b) the modification does not cover an entity over which the Party has effectively eliminated its control or influence as provided for in paragraph 4.

The other Party shall object in writing within 45 days after the date of delivery of the notification as referred to in point (a) of paragraph 3 or be deemed to have accepted the compensatory adjustment or modification, including for the purposes of Chapter 26 (Dispute settlement).

6. The following changes to a Party's respective Section of Annex 14 (Public procurement market access commitments) shall be considered to be a rectification of a purely formal nature, provided that those changes do not affect the mutually agreed coverage provided for in this Chapter:

(a) a change in the name of an entity;

(b) a merger of two or more entities listed in that Section; and

(c) the separation of an entity listed in that Section into two or more entities that are added to the entities listed in the same Section.

7. In the case of proposed rectifications to a Party's respective Section of Annex 14 (Public procurement market access commitments), the Party shall notify the other Party every two years, in line with the cycle of notifications provided for under the GPA.

8. A Party may notify the other Party of an objection to a proposed rectification within 45 days after the date of delivery of the notification. If a Party submits an objection, it shall set out the reasons why it believes the proposed rectification is not a rectification of a purely formal nature referred to in paragraph 6, and describe the effect of the proposed rectification on the mutually agreed coverage provided for in this Agreement. If no objection is submitted in writing within 45 days after the date of delivery of the notification, the Party shall be deemed to have agreed to the proposed rectification.

9. If the other Party objects to the proposed modification or rectification, the Parties shall seek to resolve the issue through consultations. If no agreement is found within 60 days after the date of delivery of the objection, the Party seeking to modify or rectify its respective Section of Annex 14 (Public procurement market access commitments) may refer the matter to dispute settlement in accordance with Chapter 26 (Dispute settlement). The intended modification or rectification of the relevant Section of Annex 14 (Public procurement market access commitments) shall take effect only when both Parties have agreed or on the basis of a final decision of a panel established under Article 26.5 (Establishment of a panel).

ARTICLE 14.5

Further negotiations

The Parties shall enter into negotiations on market access with a view to making improvements to the coverage provided for under Sub-Section 2 (Sub-central government entities) and Sub-Section 3 (Other entities) of Section B (Schedule of New Zealand) of Annex 14 (Public procurement market access commitments) as soon as possible following New Zealand local authorities, state services or state sector entities being either:

(a) covered by New Zealand in another international trade agreement; or

(b) required to follow the New Zealand Government Procurement Rules[1] after the date of entry into force of this Agreement.[2]

[1] The New Zealand Government Procurement Rules are New Zealand's primary instrument for regulating government procurement. A Whole of Government Direction issued on 22 April 2014 under Section 107 of the Crown Entities Act 2004 required certain classes of entities to follow the Government Procurement Rules.

[2] For greater certainty, this point does not apply if one or more of the entities concerned were required to follow the New Zealand Government Procurement Rules on the date of entry into force of this Agreement.

CHAPTER 15

COMPETITION POLICY

ARTICLE 15.1

Competition principles

The Parties recognise the importance of free and undistorted competition in their trade and investment relations. The Parties acknowledge that anticompetitive business practices and state interventions have the potential to distort the proper functioning of markets and undermine the benefits of liberalisation of trade and investment.

ARTICLE 15.2

Competitive neutrality

This Chapter applies to all enterprises, public or private.

ARTICLE 15.3

Economic activity

This Chapter applies to enterprises only to the extent that the enterprises perform an economic activity. For the purposes of this Chapter, the term "economic activity" pertains to the offering of goods or services on a market.

ARTICLE 15.4

Legislative framework

1. Each Party shall adopt or maintain competition law that:

(a) applies to all enterprises;

(b) applies in all sectors of the economy;[1] and

[1] For greater certainty, pursuant to Article 42 TFEU, Union rules on competition apply to the agricultural sector in accordance with Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ EU L 347, 20.12.2013, p. 671).

(c) addresses, in an effective manner, all of the following practices:

(i) horizontal and vertical agreements between enterprises, decisions by associations of enterprises, and informal cooperation between enterprises that substitutes for the risks of competition, which have as their object or effect the prevention, restriction or distortion of competition;

(ii) abuses by one or more enterprises of a dominant position; and

(iii) concentrations between enterprises that would significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position.

2. The Parties shall ensure that enterprises entrusted with the operation of tasks of public interest shall be subject to the rules of this Chapter, in so far as the application of such rules does not, in law or in fact, obstruct the performance of particular tasks of public interest that are assigned to such enterprises. Assigned tasks of public interest shall be transparent and any limitation to or deviation from the application of the rules of this Chapter shall not go beyond what is strictly necessary to achieve the assigned tasks.

ARTICLE 15.5

Implementation

1. Each Party shall maintain an operationally independent authority that is responsible for, and appropriately equipped with the powers and resources necessary to ensure, the full application, and the effective enforcement, of the competition law referred to in Article 15.4(1) (Legislative framework).

2. Each Party shall apply its competition law in a transparent manner, respecting the principles of procedural fairness, including the rights of defence of the enterprises concerned, in particular the right to be heard and the right to judicial review.

3. Each Party shall make publicly available its competition laws and regulations, and any guidelines used in relation to their enforcement with the exception of internal operating procedures.

4. Each Party shall ensure that its competition laws and regulations are applied and enforced in a manner that does not discriminate on the basis of nationality.

5. Each Party shall ensure that, before a sanction or remedy is imposed in an enforcement proceeding, the respondent is afforded the opportunity to be heard and provide evidence in its defence. In particular, each Party shall ensure that the respondent has a reasonable opportunity to review and contest the evidence on which the imposition of the sanction or the remedy is based.

6. Subject to any redactions necessary to safeguard confidential information, each Party shall ensure that the grounds for any sanction imposed or remedy applied for violation of its competition law are made available to the defendant in a proceeding enforcing its competition laws or regulations.

7. Each Party shall ensure that the addressees of a decision imposing a sanction or a remedy for violation of its competition law are given the opportunity to seek judicial review of such a decision.

ARTICLE 15.6

Private right of action

1. For the purposes of this Article, the term "private right of action" means the right of a person to seek redress, including injunctive, monetary or other remedies, through a court or other independent tribunal for harm to that person's business or property caused by a violation of a Party's competition law, either independently or following a finding of violation by the Party's competition authority or authorities.

2. Recognising that a private right of action is an important supplement to the public enforcement of a Party's competition law, each Party shall adopt or maintain laws or other measures that provide independent private right of action.

ARTICLE 15.7

Cooperation

1. The Parties acknowledge that it is in their common interest to promote cooperation with regard to competition policy and enforcement of competition law.

2. To facilitate the cooperation referred to in paragraph 1, the competition authorities of the Parties may exchange information, subject to the confidentiality rules in the law of each Party.

3. The competition authorities of the Parties shall endeavour to coordinate, where possible and appropriate, their enforcement activities concerning the same or related conduct or cases.

ARTICLE 15.8

Non-application of dispute settlement

Chapter 26 (Dispute settlement) does not apply to this Chapter.

CHAPTER 16

SUBSIDIES

ARTICLE 16.1

Principles

Subsidies may be granted by a Party when subsidies are necessary to achieve a public policy objective. The Parties acknowledge, however, that certain subsidies have the potential to distort the proper functioning of markets, undermine the benefits of trade liberalisation and harm the environment. In principle, subsidies should not be granted by a Party when they negatively affect, or are likely to negatively affect, competition or trade or when they significantly harm the environment.

ARTICLE 16.2

Definitions and scope

1. For the purposes of this Chapter, the term "subsidy" means:

(a) a measure that fulfils the conditions set out in Article 1.1 of the SCM Agreement, irrespective of whether the subsidy is granted to an enterprise, supplying goods or services;[1] and

[1] This Article does not prejudice the outcome of any future discussions in the WTO on the definition of subsidies for services. Depending on the progress of those future discussions at the WTO, the Parties may amend this Agreement in this respect.

(b) a subsidy as defined in point (a) of this paragraph that is specific within the meaning of Article 2 of the SCM Agreement. Any subsidy falling under Article 16.7 (Prohibited subsidies) shall be deemed to be specific within the meaning of Article 2 of that Agreement.

2. This Chapter applies to subsidies granted to enterprises to the extent that those enterprises perform an economic activity. This Chapter applies to all enterprises, public or private. For the purposes of this Chapter, the term "economic activity" pertains to the offering of goods or services on a market.

3. This Chapter applies to subsidies granted to enterprises entrusted with particular roles or tasks in the public interest, to the extent that the application of this Chapter does not, in law or in fact, obstruct the performance of the particular roles or tasks in the public interest entrusted to those enterprises. Such particular roles or tasks in the public interest shall be entrusted in advance in a transparent manner, and any limitation to, or deviation from, the application of this Chapter shall not go beyond what is necessary to achieve the entrusted roles or tasks in the public interest. For the purposes of this paragraph, the formulation "particular roles or tasks in the public interest" includes public service obligations.

4. Articles 16.6 (Consultations) and 16.7 (Prohibited subsidies) do not apply to subsidies granted by sub-central levels of government of each Party. In fulfilling its obligations under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure the observance of this Chapter by sub-central levels of government of that Party.

5. Articles 16.6 (Consultations) and 16.7 (Prohibited subsidies) do not apply to the audio-visual sector.

6. Article 16.7 (Prohibited subsidies) does not apply to subsidies that are granted to:

(a) compensate for the damage caused by natural disasters or other non-economic exceptional occurrences, provided that such subsidies are temporary; and

(b) respond to a national or global health or economic emergency, provided that such subsidies are temporary, targeted and proportionate, having regard to the harm caused by or arising from the emergency.

ARTICLE 16.3

Relation to the WTO Agreement

Nothing in this Chapter shall affect the rights and obligations of either Party under the SCM Agreement, the Agreement on Agriculture, Article XVI of GATT 1994 or Article XV of GATS.

ARTICLE 16.4

Fisheries subsidies

Each Party shall refrain from granting or maintaining harmful fisheries subsidies. For this purpose, the Parties shall cooperate on:

(a) fulfilling the United Nations Sustainable Development Goals Target 14.6;

(b) implementing the WTO Agreement on Fisheries Subsidies, done at Geneva on 17 June 2022, that, among other things, prohibits subsidies that contribute to illegal, unreported and unregulated fishing (hereinafter referred to as "IUU fishing"); and

(c) pursuing, in the framework of the WTO, negotiations for the adoption of comprehensive disciplines regarding the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and overfishing.

ARTICLE 16.5

Transparency

1. With respect to any subsidy granted or maintained within its territory, each Party shall make transparent, within one year after the date of entry into force of this Agreement and every two years thereafter, the following information:

(a) the legal basis and purpose of the subsidy;

(b) the form of the subsidy;

(c) the amount of the subsidy or the amount budgeted for the subsidy; and

(d) if possible, the name of the recipient of the subsidy.

2. Each Party shall meet the transparency requirements set out in paragraph 1 through:

(a) notification pursuant to Article 25 of the SCM Agreement;

(b) notification pursuant to Article 18 of the Agreement on Agriculture; or

(c) publication by the Party, or on its behalf, on a publicly accessible website.

3. Notwithstanding the transparency requirements set out in paragraph 1, a Party (hereinafter referred to as "requesting Party") may request additional information from the other Party (hereinafter referred to as "responding Party") about a subsidy granted by the responding Party, including:

(a) the legal basis and policy objective or purpose of the subsidy;

(b) the total amount or the annual budgeted amount for the subsidy;

(c) if possible, the name of the recipient of the subsidy;

(d) the dates and the duration of the subsidy and any other time limits attached to it;

(e) the eligibility requirements for the subsidy;

(f) any measures taken to limit the potential distortive effect on competition, trade or the environment; and

(g) any other information permitting an assessment of the negative effects of the subsidy.

4. The responding Party shall provide the information requested pursuant to paragraph 3 to the requesting Party in writing no later than 60 days after the date of delivery of the request. If the responding party does not provide, wholly or partially, the information requested by the requesting Party, the responding Party shall explain the reasons for not providing such information in its written response as required by this paragraph.

ARTICLE 16.6

Consultations

1. If, at any time after making a request for additional information pursuant to Article 16.5(3) (Transparency), the requesting Party considers that a subsidy granted by the responding Party is negatively affecting, or is likely to negatively affect, its interests, it may express its concern in writing to the responding Party and request consultations on the matter. Consultations between the Parties to discuss the concerns raised shall be held within 60 days after the date of delivery of the request.

2. If, after the consultations referred to in paragraph 1, the requesting Party considers that the subsidy in question is negatively affecting, or is likely to negatively affect, its interests, in a disproportionate manner:

(a) in the case of subsidies granted to an enterprise supplying goods or services, the responding Party shall endeavour to eliminate or minimise any negative effects of the subsidy on the interests of the requesting Party; or

(b) in the case of subsidies granted in relation to goods covered by Annex 1 to the Agreement on Agriculture, taking into account the relevant provisions of that Agreement, the responding Party shall accord sympathetic consideration to the concerns of the requesting Party with due respect to Article 16.3 (Relation to the WTO Agreement).

3. For the purposes of point (a) of paragraph 2, the Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.

ARTICLE 16.7

Prohibited subsidies

1. The following subsidies that have or could have a significant negative effect on trade between the Parties shall be prohibited:

(a) subsidies whereby a government guarantees debts or liabilities of certain enterprises without any limitation as to the amount of those debts and liabilities or the duration of such guarantee; and

(b) subsidies to an insolvent enterprise, or enterprise in respect of which insolvency is imminent in the short to medium term without the subsidy, if:

(i) there is no credible restructuring plan, based on realistic assumptions, aimed at ensuring the return to long-term viability of the enterprise within a reasonable time period; or

(ii) the enterprise, other than an SME, does not contribute to the costs of restructuring.

2. Point (b) of paragraph 1 does not apply to subsidies provided to enterprises as temporary liquidity support in the form of loan guarantees or loans during the period which is necessary to prepare a restructuring plan. Such temporary liquidity support shall be limited to the amount needed to merely keep the enterprise in business. For the purposes of this paragraph, the formulation "temporary liquidity support in the form of loan guarantees or loans" includes solvency support.

3. Subsidies granted to ensure the orderly market exit of an enterprise are not prohibited.

4. This Article does not apply to subsidies the cumulative amounts or budgets of which are less than SDR 160 000 per enterprise over a period of three consecutive years.

ARTICLE 16.8

Use of subsidies

Each Party shall ensure that enterprises use subsidies only for the policy objective for which those subsidies were granted.

ARTICLE 16.9

Non-application of dispute settlement

Chapter 26 (Dispute settlement) does not apply to Article 16.6 (Consultations).

CHAPTER 17

STATE-OWNED ENTERPRISES

ARTICLE 17.1

Scope

1. This Chapter applies to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies, engaged in a commercial activity that may potentially affect trade or investment between the Parties.[1] Where such state-owned enterprises, enterprises granted special rights or privileges and designated monopolies engage both in commercial and non-commercial activities, only their commercial activities are covered by this Chapter.

2. This Chapter applies to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies at all levels of government.[2]

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[1] Entities created or regulated under the New Zealand Kiwifruit Export Regulations 1999 or the New Zealand Kiwifruit Industry Restructuring Act 1999 are excluded from the application of this Chapter, with the exception of Articles 17.3 (Relation to the WTO Agreement) and 17.7 (Information exchange). Article 17.7 (Information exchange) specifies the application of Article 17.3 (Relation to the WTO Agreement) for the purposes of this Chapter.

[2] The following do not fall within the scope of this Chapter:
(a) local councils and entities covered by Chapter 14 (Public procurement) and Annex 14 (Public procurement market access commitments); and
(b) enterprises to which special rights and privileges have been granted, and designated monopolies that are designated by the local councils referred to in point (a).

3. This Chapter does not apply to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies if in one of the three previous consecutive fiscal years the annual revenue derived from the commercial activities of a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly was less than SDR 100 million. During the first three years after the date of entry into force of this Agreement, that threshold shall be SDR 200 million.

4. This Chapter does not apply to situations where state-owned enterprises, enterprises granted special rights or privileges or designated monopolies act as procuring entities conducting procurement for governmental purposes and not with a view to commercial resale or with a view to use in the production of a good or in the supply of a service for commercial sale.[1]

5. Article 17.5 (Non-discriminatory treatment and commercial considerations) and Article 17.7 (Information exchange) do not apply to an activity performed in the exercise of governmental authority.

6. Article 17.5 (Non-discriminatory treatment and commercial considerations) does not apply with respect to the supply of financial services by a state-owned enterprise pursuant to a government mandate, if that supply of financial services:

(a) supports exports or imports, provided that those financial services are:

(i) not intended to displace commercial financing; or

[1] This is without prejudice to the commitments made by the Parties in Chapter 14 (Public procurement), including, in particular, in Annex 14 (Public procurement market access commitments).

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(b) supports private investment outside the territory of the Party, provided that those financial services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement defined in point (b) of Article 17.2 (Definitions), provided that it falls within the scope of that Arrangement.

7. Article 17.5 (Non-discriminatory treatment and commercial considerations) does not apply to the services in sectors that are outside the scope of Chapter 10 (Trade in services and investment) in accordance with Article 10.2(3) (Scope).

8. Article 17.5 (Non-discriminatory treatment and commercial considerations) does not apply to the extent that a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly of a Party makes a purchase or sale of a good or a service pursuant to:

(a) any existing non-conforming measure in accordance with Article 10.10 (Non-conforming measures) that the Party maintains, continues, renews or amends as set out in its respective Schedule in Annex 10-A (Existing measures); or

(b) any non-conforming measure that the Party adopts or maintains with respect to sectors, sub-sectors, or activities in accordance with Article 10.10 (Non-conforming measures) as set out in its respective Schedule in Annex 10-B (Future measures).

ARTICLE 17.2

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "activity performed in the exercise of governmental authority" means any activity which is performed, including any service that is supplied, neither on a commercial basis nor in competition with one or more economic operators;

(b) "Arrangement" means the Arrangement on Officially Supported Export Credits, developed within the framework of the OECD or a successor undertaking, whether developed within or outside of the OECD framework that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of 1 January 1979;

(c) "commercial activity" means an activity which an enterprise undertakes, the end result of which is the production of a good or the supply of a service to be sold in the relevant market in quantities and at prices determined by that enterprise, and which is undertaken with an orientation towards profit-making[1];

[1] For greater certainty, an activity undertaken by an enterprise that operates on a non-profit basis or a cost-recovery basis is not a commercial activity.

(d) "commercial considerations" means price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately-owned enterprise operating according to market economy principles in the relevant business or industry;

(e) "designate a monopoly" means to establish or authorise a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

(f) "designated monopoly" means an entity, including a consortium or a government agency, that in a relevant market in the territory of a Party is designated as the sole supplier or purchaser of a good or service, but it does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

(g) "enterprise granted special rights or privileges" means an enterprise, public or private, to which a Party has granted, in law or in fact, special rights or privileges[1]; special rights or privileges are granted by a Party when it designates or limits to two or more the number of enterprises authorised to provide a good or a service, other than according to objective, proportional and non-discriminatory criteria, substantially affecting the ability of any other enterprise to supply the same good or service in the same geographical area under substantially equivalent conditions;

[1] For greater certainty, the granting of a quota allocation, licence or permit in relation to either a scarce resource or the distribution of export products to markets where tariff quotas, country-specific preferences or other measures are in force shall not, in and of itself, constitute a special right or privilege.

(h) "state-owned enterprise" means an enterprise in which a Party:

(i) directly owns more than 50 % of the share capital;

(ii) controls the exercise of more than 50 % of the voting rights;

(iii) holds the power to appoint a majority of the members of the board of directors or any other equivalent management body;

(iv) holds the power to control the decisions of the enterprise through any other ownership interest, including minority ownership; or

(v) has the power to direct the actions of the enterprise or otherwise exercise an equivalent level of control in accordance with the law of that Party.

ARTICLE 17.3

Relation to the WTO Agreement

Article XVII of GATT 1994, the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994, Article VIII of GATS, and paragraphs 18 to 21 of the WTO Ministerial Decision of 19 December 2015 on Export Competition (WT/MIN(15)/45 – WT/L/980) are incorporated into and made part of this Agreement, *mutatis mutandis*.[1]

ARTICLE 17.4

General provisions

1. Without prejudice to the rights and obligations of each Party under this Chapter, nothing in this Chapter prevents a Party from establishing or maintaining state-owned enterprises, granting special rights or privileges to enterprises or designating or maintaining monopolies.

2. A Party shall not require or encourage a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly to act in a manner inconsistent with this Chapter.

[1] Article 17.7 (Information exchange) specifies, between the Parties and solely for the purposes of this Agreement, the Parties' understanding of how the obligations under Article XVII:4 of GATT 1994 are to be met for the purposes of this paragraph.

ARTICLE 17.5

Non-discriminatory treatment and commercial considerations

1. Each Party shall ensure that each of its state-owned enterprises, enterprises granted special rights or privileges or designated monopolies, when engaging in commercial activities:

(a) acts in accordance with commercial considerations in its purchase or sale of a good or a service, except to fulfil any terms of its public service mandate that are not inconsistent with point (b) or (c);

(b) in its purchase of a good or a service:

(i) accords to a good or a service supplied by an enterprise of the other Party treatment no less favourable than that which it accords to a like good or a like service supplied by enterprises of the Party; and

(ii) accords to a good or service supplied by a covered enterprise defined in point (d) of Article 10.3 (Definitions) treatment no less favourable than that which it accords to a like good or a like service supplied by enterprises of that Party's own investors in the relevant market in the Party; and

(c) in its sale of a good or a service:

(i) accords to an enterprise of the other Party treatment no less favourable than that which it accords to enterprises of the Party; and

(ii) accords to a covered enterprise as defined in point (d) of Article 10.3 (Definitions) treatment no less favourable than that which it accords to enterprises of that Party's own investors in the relevant market in the Party.

2. Provided that such different terms or conditions or refusal are made in accordance with commercial considerations, points (b) and (c) of paragraph 1 do not preclude a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly from:

(a) purchasing or supplying goods or services on different terms or conditions, including those relating to price; or

(b) refusing to purchase or supply goods or services.

ARTICLE 17.6

Regulatory framework

1. Each Party shall respect and make best use of relevant international standards including the OECD Guidelines on Corporate Governance of State-Owned Enterprises.

2. Each Party shall ensure that any regulatory body or any other body exercising a regulatory function that the Party establishes or maintains:

(a) is independent from, and not accountable to, any of the enterprises regulated by such body; and

(b) acts impartially[1] in like circumstances with respect to all enterprises regulated by such body, including state-owned enterprises, enterprises granted special rights or privileges and designated monopolies.[2]

3. Each Party shall ensure the enforcement of its law on state-owned enterprises, enterprises granted special rights or privileges and designated monopolies in a consistent and non-discriminatory manner.

ARTICLE 17.7

Information exchange

1. A Party which has a reason to believe that its interests under this Chapter are being adversely affected by the commercial activities of a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly (hereinafter referred to as "the entity" in this Article) of the other Party may request the other Party in writing to provide information on the commercial activities of the entity related to the carrying out of obligations under this Chapter in accordance with paragraph 2.

[1] For greater certainty, the impartiality with which the regulatory body or any other body exercising a regulatory function that the Party establishes or maintains exercises its regulatory functions is to be assessed by reference to a general pattern or practice of such regulatory body.

[2] For greater certainty, for those sectors in which the Parties have agreed in other Chapters to specific obligations relating to a regulatory body or any other body exercising a regulatory function that the Party establishes or maintains, the relevant provisions of those Chapters shall prevail.

2. The Party responding to a request shall provide the following information to the requesting Party, provided that the request includes an explanation of how the activities of the entity may be affecting the interests of the requesting Party under this Chapter and that the request indicates which of the following information shall be provided:

(a) the ownership and the voting structure of the entity, indicating the percentage of shares that the responding Party, its state-owned enterprises, enterprises granted special rights or privileges or designated monopolies cumulatively own, and the percentage of voting rights that they cumulatively hold, in the entity;

(b) a description of any special shares or special voting or other rights that the responding Party, its state-owned enterprises, enterprises granted special rights or privileges or designated monopolies hold, where such rights are different from those attached to the general common shares of the entity;

(c) a description of the organisational structure of the entity and its composition of the board of directors or of any other equivalent management body;

(d) a description of which government departments or public bodies regulate or monitor the entity, a description of the reporting requirements imposed on it by those government departments or public bodies, and the rights and practices of those government departments or public bodies with respect to the appointment, dismissal or remuneration of senior executives and members of the board of directors or any other equivalent management body of the entity;

(e) annual revenue and total assets of the entity over the most recent three-year period for which information is available;

(f) any exemptions, immunities and related measures from which the entity benefits under the law of the responding Party;

(g) in respect of entities covered by the New Zealand Local Government Act 2002 or any successor legislation, any information that such entities are obliged to provide under that Act or any successor legislation; and

(h) any additional information regarding the entity that is publicly available, including annual financial reports and third-party audits.

3. Without prejudice to Article 25.7 (Disclosure of information), paragraphs 1 and 2 of this Article shall not require a Party to disclose confidential information the disclosure of which would be inconsistent with its law.

4. If the requested information is not available to the responding Party, the responding Party shall provide the reasons for this in writing to the requesting Party.

CHAPTER 18

INTELLECTUAL PROPERTY

SECTION A

GENERAL PROVISIONS

ARTICLE 18.1

Objectives

The objectives of this Chapter are to:

(a) promote the creation, production, dissemination and commercialisation of innovative and creative goods and services in and between the Parties, contributing to a more sustainable and inclusive economy for the Parties;

(b) promote, support and govern trade between the Parties as well as reduce distortions and impediments to such trade; and

(c) ensure an adequate and effective level of protection and enforcement of intellectual property rights.

ARTICLE 18.2

Scope

1. This Chapter complements and further specifies the rights and obligations of each Party under the TRIPS Agreement and other international agreements in the field of intellectual property to which they are parties.

2. Each Party shall give effect to this Chapter. Each Party shall be free to determine the appropriate method of implementing this Chapter within its own legal system and practice.

3. This Chapter does not preclude a Party from providing more extensive protection for, or enforcement of, intellectual property rights than is required by this Chapter, provided that such protection and enforcement does not contravene this Chapter.

ARTICLE 18.3

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "intellectual property rights" means all categories of intellectual property that are covered by Articles 18.8 (Authors) to 18.45 (Protection of plant variety rights) of this Chapter and Sections 1 to 7 of Part II of the TRIPS Agreement. The protection of intellectual property includes protection against unfair competition as referred to in Article 10^{bis} of the Paris Convention;

(b) "national" means, in respect of the relevant intellectual property right, a person of a Party that would meet the criteria for eligibility for protection provided for in the TRIPS Agreement and multilateral agreements concluded and administered under the auspices of WIPO to which a Party is a contracting party;

(c) "Paris Convention" means the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Stockholm on 14 July 1967;

(d) "WIPO" means the World Intellectual Property Organization; and

(e) "WPPT" means the WIPO Performances and Phonograms Treaty done at Geneva on 20 December 1996.

ARTICLE 18.4

International agreements

1. Each Party shall comply with its commitments under the following international agreements:

(a) TRIPS Agreement;

(b) WIPO Copyright Treaty adopted in Geneva on 20 December 1996;

(c) WPPT;

(d) Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled, done in Marrakesh on 27 June 2013; and

(e) Trademark Law Treaty, done at Geneva on 27 October 1994.

2. Each Party shall make all reasonable efforts to ratify or accede to the following international agreements:

(a) Beijing Treaty on Audiovisual Performances, done at Beijing on 24 June 2012;

(b) Singapore Treaty on the Law of Trademarks, done at Singapore on 27 March 2006; and

(c) The Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs, adopted at Geneva on 2 July 1999.

3. Each Party shall ensure that the procedures provided under the following international agreements are available in its territory:

(a) Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on 27 June 1989, as last amended on 12 November 2007; and

(b) Patent Cooperation Treaty, done at Washington on 19 June 1970, as amended on 3 October 2001.

ARTICLE 18.5

Exhaustion

Nothing in this Agreement prevents a Party from determining whether or under what conditions the exhaustion of intellectual property rights applies under the law of that Party.

ARTICLE 18.6

National treatment

1. In respect of all categories of intellectual property covered by this Chapter, each Party shall accord to nationals of the other Party treatment no less favourable than that which it accords to its own nationals with regard to the protection[1] of intellectual property, subject to the exceptions already provided in, respectively, the Paris Convention, the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886, as revised at Paris on 24 July 1971, the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, done at Rome on 26 October 1961, WPPT, or the Treaty on Intellectual Property in Respect of Integrated Circuits, done at Washington, on 26 May, 1989. In respect of performers, producers of phonograms and broadcasting organisations, this obligation only applies in respect of the rights provided for under this Agreement.

[1] For the purposes of this paragraph, the term "protection" shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically addressed in this Chapter, including the adequate legal protection against the circumvention of effective technological measures referred to in Article 18.17 (Protection of technological measures) and measures concerning rights-management information referred to in Article 18.18 (Obligations concerning rights-management information).

2. A Party may avail itself of the exceptions permitted under paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, provided that such derogation is:

(a) necessary to secure compliance with laws and regulations of the Party that are not inconsistent with this Chapter; and

(b) not applied in a manner that would constitute a disguised restriction on trade.

3. Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

ARTICLE 18.7

TRIPS Agreement and public health

1. The Parties recognise the importance of the Declaration on the TRIPS Agreement and Public Health, adopted at Doha on 14 November 2001 by the Ministerial Conference of the WTO. This Chapter shall be interpreted and implemented consistently with that Declaration.

2. Each Party shall implement Article 31*bis* of the TRIPS Agreement, as well as the Annex to the TRIPS Agreement, including the Appendix to the Annex to the TRIPS Agreement, which entered into force on 23 January 2017.

SECTION B

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

COPYRIGHT AND RELATED RIGHTS

ARTICLE 18.8

Authors

Each Party shall provide authors with the exclusive right to authorise or prohibit:

(a) direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their works;

(b) any form of distribution to the public by sale or other transfer of ownership of the original of their works or of copies thereof;

(c) any communication to the public of their works by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them; and

(d) the commercial rental to the public of originals or copies of their works in respect of at least phonograms, computer programmes[1] and cinematographic works.

ARTICLE 18.9

Performers

Each Party shall provide performers with the exclusive right to authorise or prohibit:

(a) the fixation[2] of their performances;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their performances;

[1] A Party may exclude computer programmes where the computer programme itself is not the essential object of the rental.

[2] The term "fixation" means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device.

(c) any form of distribution to the public, by sale or other transfer of ownership, of the fixations of their performances;

(d) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;

(e) the broadcasting by wireless means and the communication to the public of their performances, except where the performance is itself already a broadcast performance or is made from a fixation; and

(f) the commercial rental to the public of the fixation of their performances.

ARTICLE 18.10

Producers of phonograms

Each Party shall provide producers of phonograms with the exclusive right to authorise or prohibit:

(a) the direct or indirect, temporary or permanent, reproduction by any means and in any form, in whole or in part, of their phonograms;

(b) any form of the distribution to the public, by sale or other transfer of ownership, of their phonograms;

(c) the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them; and

(d) the commercial rental of their phonograms to the public.

ARTICLE 18.11

Broadcasting organisations

Each Party shall provide broadcasting organisations with the exclusive right to authorise or prohibit:

(a) the fixation of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite;

(c) the making available to the public, by wire or wireless means, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite, in such a way that members of the public may access them from a place and at a time individually chosen by them;

(d) the distribution to the public, by sale or otherwise, of fixations, including copies thereof, of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite; and

(e) the rebroadcasting of their broadcasts by wireless means, as well as the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

ARTICLE 18.12

Broadcasting and communication to the public of phonograms published for commercial purposes[1]

1. Each Party shall provide a right in order to ensure that a single equitable remuneration is paid by the user to the performers and producers of phonograms[2], if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting or communication to the public.[3]

2. Each Party shall ensure that the single equitable remuneration is shared between the relevant performers and producers of phonograms. Each Party may enact legislation that, in the absence of an agreement between performers and producers of phonograms, sets the terms according to which performers and producers of phonograms shall share the single equitable remuneration.

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1 A Party may comply with this Article by granting exclusive rights to performers and producers of phonograms for broadcasting and communication to the public.

2 Each Party may grant more extensive rights to performers and producers of phonograms, such as exclusive rights, as regards the broadcasting and communication to the public of phonograms published for commercial purposes.

3 Each Party may decide that the term "communication to the public" does not include the making available to the public of a phonogram, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

ARTICLE 18.13

Term of protection[1]

1. The rights of an author of a work shall run for the life of the author and for 70 years after the author's death, irrespective of the date when the work is lawfully made available to the public.

2. In the case of a work of joint authorship, the term of protection as specified in paragraph 1 shall be calculated from the death of the last surviving author.

3. In the case of anonymous or pseudonymous works, the term of protection shall run for 70 years after the work is lawfully made available to the public. However, if the pseudonym adopted by the author leaves no doubt as to the author's identity, or if the author discloses it during the period referred to in the first sentence of this paragraph, the term of protection applicable shall be that laid down in paragraph 1.

4. If a Party provides that the term of protection of a cinematographic or audio-visual work is calculated on a basis other than the life of a natural person, such term of protection shall be no less than 70 years from the date of the first lawful publication or the first lawful communication to the public, or, failing such lawful publication or lawful communication to the public within 70 years from the making of the work, 70 years from the making of the work.

[1] If on the date of entry into force of this Agreement a Party's laws and regulations do not provide for the terms of protection set out in this Article, this Article shall apply only as of the date such laws and regulations enter into effect in that Party and in any case no later than four years after the date of entry into force of this Agreement. That Party shall notify the other Party the date upon which such laws and regulations entered into effect, if that date is earlier than four years after the date of entry into force of this Agreement.

5. The rights of broadcasting organisations shall expire 50 years after the first transmission of a broadcast, whether that broadcast is transmitted by wire or over the air, including by cable or satellite.

6. The rights of performers shall expire 50 years after the date of the fixation of the performance. However, if a fixation of the performance in a phonogram is lawfully published or lawfully communicated to the public within this period, the rights shall expire 70 years after the date of the first such publication or the first such communication to the public, whichever is the earlier.

7. The rights of producers of phonograms shall expire 50 years after the fixation is made. However, if the phonogram has been lawfully published or lawfully communicated to the public within this period, those rights shall expire 70 years from the date of the first such publication or the first such communication to the public. Each Party may adopt effective measures in order to ensure that the profit generated during the 20 years of protection beyond 50 years is shared fairly between the performers and the producers of phonograms.

8. The terms of protection laid down in this Article shall be calculated from the first day of January of the year following the event that gives rise to them.

9. Each Party may provide for longer terms of protection than those provided for in this Article.

ARTICLE 18.14

Resale right[1]

1. Each Party shall provide, for the benefit of the author of an original work of graphic or plastic art, a resale right, to be defined as an inalienable right, which cannot be waived, even in advance, to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author.

2. The resale right referred to in paragraph 1 shall apply to all acts of resale involving art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art as sellers, buyers or intermediaries.

3. Each Party may provide that the resale right referred to in paragraph 1 shall not apply to acts of resale if the seller has acquired the work directly from the author less than three years before that resale and where the resale price does not exceed a certain minimum amount.

4. The procedure for collection of the remuneration and its amount shall be a matter for determination by the law of each Party.

[1] If on the date of entry into force of this Agreement a Party's laws and regulations do not provide for the protection set out in this Article, this Article shall apply only as of the date such laws and regulations enter into effect in that Party but in any case no later than two years after the date of entry into force of this Agreement. That Party shall notify the other Party the date upon which such laws and regulations entered into effect, if that date is earlier than two years after the date of entry into force of this Agreement.

ARTICLE 18.15

Collective management of rights

1. The Parties recognise the importance of, and shall endeavour to promote, cooperation between their respective collective management organisations for the purpose of fostering the availability of works and other protected subject matter in their respective territories and the transfer of rights revenue between the respective collective management organisations for the use of such works or other protected subject matter.

2. The Parties recognise the importance of, and shall endeavour to promote, transparency of collective management organisations, in particular regarding the rights revenue they collect, the deductions they apply to the rights revenue they collect, the use of the rights revenue collected, the distribution policy and their repertoire.

3. Where a collective management organisation established in the territory of one Party represents another collective management organisation established in the territory of the other Party by way of a representation agreement, the Parties recognise that it is important that the representing collective management organisation:

(a) does not discriminate against right holders of the represented collective management organisation;

(b) accurately, regularly and diligently pays amounts owed to the represented collective management organisation; and

(c) provides the represented collective management organisation with the information on the amount of rights revenue collected on its behalf and any deductions from that amount of rights revenue.

ARTICLE 18.16

Limitations and exceptions

Each Party shall provide for limitations or exceptions to the rights set out in Articles 18.8 (Authors) to 18.12 (Broadcasting and communication to the public of phonograms published for commercial purposes) only in certain special cases which do not conflict with a normal exploitation of the work or other subject matter and do not unreasonably prejudice the legitimate interests of the right holder.

ARTICLE 18.17

Protection of technological measures[1]

1. Each Party shall provide adequate legal protection against the circumvention of any effective technological measures which the person concerned carries out in the knowledge, or with reasonable grounds to know, that they are pursuing such objective.

[1] If on the date of entry into force of this Agreement a Party's laws and regulations do not provide for the protection set out in this Article, this Article shall apply only as of the date such laws and regulations enter into effect in that Party but in any case no later than four years after the date of entry into force of this Agreement. That Party shall notify the other Party the date upon which such laws and regulations entered into effect, if that date is earlier than four years after the date of entry into force of this Agreement.

2. Each Party shall provide adequate legal protection against:

(a) a person manufacturing, importing, distributing, selling, renting or advertising for sale or rental any device, product or component that:

(i) has only a limited purpose or use other than to circumvent any technological measure; or

(ii) is primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any technological measure; and

(b) a person providing any service that is promoted, advertised or marketed for the purpose of enabling or assisting in the circumvention of any technological measure.

3. For the purposes of this Sub-Section, the term "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other protected subject matter, which are not authorised by the right holder of any copyright or related rights covered by this Sub-Section.

4. A Party may adopt or maintain appropriate measures, as necessary, to ensure that the adequate legal protection pursuant to paragraphs 1 and 2 of this Article does not prevent beneficiary persons from enjoying the limitations and exceptions provided for in accordance with Article 18.16 (Limitations and exceptions).

ARTICLE 18.18

Obligations concerning rights-management information

1. Each Party shall provide adequate legal protection against any person knowingly performing without authority any of the following acts:

(a) the removal or alteration of any electronic rights-management information; or

(b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected pursuant to this Sub-Section from which electronic rights-management information has been removed or altered without authority;

if such person knows, or has reasonable grounds to know, that by so doing they are inducing, enabling, facilitating or concealing an infringement of any copyright or related rights as provided by the law of a Party.

2. For the purposes of this Article, the term "rights-management information" means any information provided by right holders that identifies the work or other subject matter referred to in this Article, the author or any other right holder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information.

3. Paragraph 2 applies if any of the items of information as referred to in paragraph 2 is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in this Article.

SUB-SECTION 2

TRADEMARKS

ARTICLE 18.19

Trademark classification

Each Party shall maintain a trademark classification system that is consistent with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Nice on 15 June 1957, as amended on 28 September 1979.

ARTICLE 18.20

Signs of a trademark

A trademark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

(a) distinguishing the goods or services of one undertaking from those of other undertakings; and

(b) being represented on the respective trademark register of each Party in a manner that enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

ARTICLE 18.21

Rights conferred by a trademark

1. Each Party shall provide that a registered trademark confers on the proprietor exclusive rights therein. The proprietor shall be entitled to prevent all third parties, not having the proprietor's consent, from using in the course of trade:

(a) any sign that is identical with the registered trademark in relation to goods or services that are identical with those for which the trademark is registered; and

(b) any sign where, because of its identity with, or similarity to, the registered trademark and the identity or similarity of the goods or services covered by that registered trademark and the sign, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association between the sign and the registered trademark.

2. The proprietor of a registered trademark shall be entitled to prevent all third parties from bringing goods, in the course of trade, into the Party where the trademark is registered without being released for free circulation there, where such goods, including packaging, come from third countries and bear without authorisation a trademark that is identical to the trademark registered in respect of such goods, or that cannot be distinguished in its essential aspects from that registered trademark.[1]

3. The entitlement of the proprietor of a registered trademark referred to in paragraph 2 may lapse if, during the proceedings to determine whether the registered trademark has been infringed, evidence is provided by the declarant or the holder of the goods that the proprietor of the registered trademark is not entitled to prohibit the placing of the goods on the market in the country of final destination.

ARTICLE 18.22

Registration procedure

1. Each Party shall provide for a system for the registration of trademarks in which each final negative decision taken by the relevant trademark administration, including partial refusal of registration, shall be communicated in writing to the relevant party, duly reasoned and subject to appeal.

[1] A Party may take additional appropriate measures with a view to ensuring the smooth transit of generic medicines.

2. Each Party shall provide for the possibility for third parties to oppose trademark applications or, where appropriate, trademark registrations. Such opposition proceedings shall be adversarial.

3. Each Party shall provide a publicly available electronic database of trademark applications and trademark registrations.

ARTICLE 18.23

Well-known trademarks

For the purpose of giving effect to protection of well-known trademarks, as referred to in Article 6^{bis} of the Paris Convention and Article 16(2) and (3) of the TRIPS Agreement, each Party shall apply the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO on 20 to 29 September 1999.

ARTICLE 18.24

Exceptions to the rights conferred by a trademark

1. Each Party shall provide for limited exceptions to the rights conferred by a trademark, such as the fair use of descriptive terms, including geographical indications, and may provide other limited exceptions, provided that such limited exceptions take account of the legitimate interests of the proprietor of the trademark and of third parties.

2. The trademark shall not entitle the proprietor of the trademark to prohibit a third party from using, in the course of trade:

(a) the name or address of the third party;

(b) indications concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services; or

(c) the trademark, where it is necessary to indicate the intended purpose of a good or service, in particular as accessories or spare parts,

provided that the third party uses them in accordance with honest practices in industrial or commercial matters.

3. The trademark shall not entitle the proprietor of the trademark to prohibit a third party from using, in the course of trade, an earlier right that only applies in a particular locality if that right is recognised by the law of the Party in question and is used within the limits of the territory in which it is recognised.

ARTICLE 18.25

Grounds for revocation

1. Each Party shall provide that a trademark shall be liable to revocation if, within a continuous period of time determined by the law of each Party[1], the trademark has not been put to genuine use in the relevant territory in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use. However, no person may claim that the proprietor's rights in a trademark should be revoked where, during the interval between expiry of the continuous period of time referred to in the first sentence and the filing of the application for revocation, genuine use of the trademark has been started or resumed. The commencement or resumption of use within a period of time determined by the law of each Party[2] preceding the filing of the application for revocation, which began at the earliest on expiry of the continuous period of non-use, shall, however, be disregarded where preparations for the commencement or resumption occur only after the proprietor becomes aware that the application for revocation may be filed.

2. A trademark shall also be liable to revocation if, after the date on which it was registered:

(a) as a consequence of acts or inactivity of the proprietor of the trademark, the trademark has become the common name in the trade for a good or service in respect of which it is registered; or

[1] For the purposes of this sentence, the period of time determined by the law of each Party shall be at least three years.

[2] For the purposes of this sentence, the period of time determined by the law of each Party shall be at least one month.

(b) as a consequence of the use made of the trademark by the proprietor of the trademark or with the proprietor's consent in respect of the goods or services for which it is registered, the trademark is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

ARTICLE 18.26

Bad-faith applications

A trademark shall be liable to be declared invalid where the application for registration of the trademark was made in bad faith by the applicant. Each Party may also provide that such a trademark shall not be registered.

SUB-SECTION 3

DESIGNS

ARTICLE 18.27

Protection of registered designs

1. Each Party shall provide for the protection of independently created designs that are new or original. This protection shall be provided by registration and shall confer an exclusive right upon holders of such designs in accordance with this Sub-Section. For the purposes of this Article, a Party may consider that a design having individual character is original.

2. The holder of a registered design shall have the right to prevent third parties not having the holder's consent at least from making, offering for sale, selling, importing, exporting, stocking the product bearing and embodying the registered design, or using articles bearing or embodying the protected design if such acts are undertaken for commercial purposes.[1]

[1] A Party may satisfy Article 18.27 (Protection of registered designs), as regards exporting and stocking, by providing the holder of the registered design the right to prevent third parties from offering for sale or hire, or selling or hiring any article bearing or embodying that registered design in a way that gives rise to the exporting or stocking of that article.

3. A Party may provide that a design applied to or incorporated in a product that constitutes a component part of a complex product shall only be considered to be new or original:

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of that complex product; and

(b) to the extent that the visible features of the component part referred to in point (a) fulfil in themselves the requirements as to novelty and originality.

4. For the purposes of point (a) of paragraph 3, the term "normal use" means use by the end user, excluding maintenance, servicing or repair work.

ARTICLE 18.28

Duration of protection

Each Party shall ensure that the right holder of a registered design may have the term of protection renewed for one or more periods of five years each. Each Party shall ensure that the duration of protection available for registered designs amounts to a total term of at least 15 years from the date of filing an application for registration.

ARTICLE 18.29

Protection conferred to unregistered designs

1. Each Party shall confer on holders of an unregistered design the right to prevent the use of the unregistered design by any third party not having the holder's consent only if the contested use results from copying the unregistered design in their respective territory. Such use shall at least cover the offering for sale, putting on the market, importing or exporting the product.[1]

2. The duration of protection available for the unregistered design shall amount to at least three years from the date on which the design was first made available to the public in the territory of the Party.

ARTICLE 18.30

Exceptions and exclusions

1. Each Party may provide limited exceptions to the protection of designs, including unregistered designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected designs and do not unreasonably prejudice the legitimate interests of the holder of the protected design, taking account of the legitimate interests of third parties.

[1] A Party may satisfy Article 18.29 (Protection conferred to unregistered designs), as regards exporting, by providing the holder of the unregistered design the right to prevent third parties from selling, putting on the market or importing the product bearing or embodying the unregistered design in a way that gives rise to the exporting of such product.

2. Design protection shall not extend to designs solely dictated by its technical or functional considerations. A design shall not subsist in features of appearance of a product that must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

3. By way of derogation from paragraph 2 of this Article, a design shall, in accordance with the conditions set out in Article 18.27(1) (Protection of registered designs), subsist in a design which has the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

ARTICLE 18.31

Relationship to copyright

Each Party shall ensure that a design, including an unregistered design, shall also be eligible for protection under its copyright law as from the date on which the design was created or fixed in any form. Each Party shall determine the extent to which, and the conditions under which, such protection is conferred, including the level of originality required.

SUB-SECTION 4

GEOGRAPHICAL INDICATIONS

ARTICLE 18.32

Scope, procedures and definitions

1. This Sub-Section applies to the recognition and protection of geographical indications for wine, spirits and foodstuffs which originate in the Parties.

2. For the purposes of this Sub-Section, the following definitions apply:

(a) "geographical indication" means an indication that identifies a good as originating in a Party, or a region or locality in that Party, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

(b) "product class" means a product class specified in Annex 18-A (Product classes); and

(c) "product specification" means, as regards the relevant good for a geographical indication, the approved requirements for the use of that geographical indication in marketing of that good.

3. Following the completion of an opposition procedure and an examination of the geographical indications, New Zealand shall protect the geographical indications of the Union listed in Section A (List of geographical indications – European Union) of Annex 18-B (Lists of geographical indications) in accordance with, at least, the level of protection set out in this Sub-Section.

4. Following the completion of an opposition procedure and an examination of the geographical indications, the Union shall protect the geographical indications of New Zealand listed in Section B (List of geographical indications – New Zealand) of Annex 18-B (Lists of geographical indications) in accordance with, at least, the level of protection set out in this Sub-Section.

ARTICLE 18.33

Amendment of the list of geographical indications

1. The list of product classes in Annex 18-A (Product classes) and the list of geographical indications in Annex 18-B (Lists of geographical indications) may be amended by decision of the Trade Committee, including by adding geographical indications, updating the list of product classes or removing geographical indications which have ceased to be protected in their place of origin.

2. Additions to Annex 18-B (Lists of geographical indications) shall not exceed 30 geographical indications of each Party every three years after the date of entry into force of this Agreement. New geographical indications shall be added after the opposition procedure is completed in accordance with paragraph 3 of this Article and after new geographical indications are examined to the satisfaction of both Parties.

3. Each Party shall provide that objections to a request for protection of a geographical indication under the opposition procedure referred to in Article 18.32(3) and (4) (Scope, procedures and definitions) may be made, and that any such request for protection may be refused or otherwise not afforded. The grounds of objection to a request for protection of a geographical indication shall be the following:

(a) the geographical indication is identical or confusingly similar to a trademark that has been registered, or applied to be registered, in good faith in the Party in respect of the same or a similar good, or to a trademark in respect of which rights have been acquired in the Party through use in good faith in respect of the same or a similar good;

(b) the geographical indication is identical with or similar to a trademark in relation to any good that is not similar to the good in respect of which the trademark is registered where the trademark is well known in the Party and the use of the geographical indication would indicate a connection between the good and the owner of the trademark and the interests of the trademark owner are likely to be damaged by such use;

(c) the geographical indication is a term customary in common language as the common name for the relevant good in the Party;

(d) the geographical indication is a term that is used in the Party as the name of a plant variety or an animal breed and as a result is likely to mislead consumers as to the true origin of the good;

(e) the geographical indication is a homonymous or partially homonymous geographical indication; and

(f) use or registration of the geographical indication in the Party would be likely to be offensive.

4. For the purposes of this Sub-Section, in determining whether a term is customary in common language as the common name for the relevant good in the Party, the Party may take into account how consumers understand the term in that Party. Factors relevant to such consumer understanding may include evidence as to whether the term is used to refer to the same type of good in question, as indicated by relevant sources, and how the good referenced by the term is marketed and used in trade in that Party.

5. In assessing the objections for protection submitted by a person against any of the grounds listed in paragraph 3, a Party shall base its assessment only on the situation existing in that Party.

ARTICLE 18.34

Protection of geographical indications

1. Each Party shall, in respect of geographical indications of the other Party listed in Annex 18-B (Lists of geographical indications), provide the legal means for interested parties to prevent in its territory:

(a) the commercial use of a geographical indication identifying a good for a like good[1] not meeting the applicable product specifications of the geographical indication even if:

(i) the true origin of the good is indicated;

(ii) the geographical indication is used in translation[2] or transliteration[3]; or

(iii) the geographical indication is accompanied by expressions such as "kind", "type", "style", "imitation", or the like;

(b) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin or nature of the good; and

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1 For the purposes of this Sub-Section, the term "like good" means a good that falls within the same product class as listed in Annex 18-A (Product classes).

2 For greater certainty, it is understood that this is to be assessed on a case-by-case basis. This provision does not apply when evidence is provided that there is no link between the geographical indication and the translated term.

3 For the purposes of this Sub-Section, the term "transliteration" means the conversion of characters following the phonetics of the original language or languages of the relevant geographical indication.

(c) any other use of a geographical indication that constitutes an act of unfair competition within the meaning of Article 10^{bis} of the Paris Convention, which may include commercial use of a geographical indication in a manner that exploits the reputation of that geographical indication, including when the good is used as an ingredient.

2. This Sub-Section does not apply in respect of a geographical indication of a Party listed in Annex 18-B (Lists of geographical indications) that is no longer protected pursuant to the laws and regulations of the other Party.

3. If a geographical indication of a Party listed in Annex 18-B (Lists of geographical indications) ceases to be protected in the territory of the Party of origin, the Party of origin shall promptly notify the other Party and request cancellation of protection for such geographical indication.

4. Nothing in this Sub-Section shall prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where the name is used in such a manner as to mislead the public.

5. Nothing in this Sub-Section shall require a Party to apply the provisions of this Sub-Section in respect of a geographical indication of the other Party with respect to a good for which the relevant indication is identical or similar to:

(a) the customary name of a plant variety or an animal breed and as a result is likely to mislead the consumer as to the true origin of the good; or

(b) a term customary in common language as the common name for such a good in that Party.

6. Nothing in this Sub-Section shall require a Party to apply the provisions of this Sub-Section in respect of any individual component contained in a multicomponent geographical indication of the other Party with respect to a good for which the individual component is identical or similar to:

(a) the customary name of a plant variety or an animal breed and as a result is likely to mislead the consumer as to the true origin of the good; or

(b) a term customary in common language as the common name for such a good in that Party.

7. Nothing in this Sub-Section shall require a Party to apply the provisions of this Sub-Section in respect of any word, or translation or transliteration of any word, contained in a geographical indication of the other Party where that word, or that translation or transliteration is a common English word such as "mountain", "alps" or "river".

ARTICLE 18.35

Date of protection

1. Each Party shall provide that geographical indications listed in Annex 18-B (Lists of geographical indications) and referred to in Article 18.32 (Scope, procedures and definitions) are protected as of the date of entry into force of this Agreement in accordance with Article 18.34 (Protection of geographical indications).

2. For geographical indications added to Annex 18-B (Lists of geographical indications) after the date of entry into force of this Agreement, each Party shall provide that such geographical indications are protected in accordance with Article 18.34 (Protection of geographical indications) from the date on which the names were published for the purposes of the opposition procedure referred to in Article 18.33(2) (Amendment of the list of geographical indications).

ARTICLE 18.36

Right of use of geographical indications

1. A geographical indication protected under this Sub-Section may be used by any operator marketing a good that conforms to the corresponding product specification.

2. Paragraph 1 does not restrict a Party's ability to regulate the production or marketing of goods to which a geographical indication relates in accordance with the law of that Party.

ARTICLE 18.37

Relationship to trademarks

1. The registration of a trademark that contains or consists of a geographical indication of the other Party listed in Annex 18-B (Lists of geographical indications) shall be refused or invalidated *ex officio*, if the Party's laws and regulations so permit or at the request of an interested party, with respect to a good that falls within the product class specified in Annex 18-A (Product classes) for that geographical indication and that does not originate in the place of origin specified in Annex 18-B (Lists of geographical indications) for that geographical indication.

2. If a trademark has been applied for or registered in good faith, or if rights to a trademark have been acquired through use in good faith, in a Party before the date of protection of that geographical indication in accordance with Article 18.35 (Date of protection), measures adopted to implement this Sub-Section in that Party shall not prejudice the eligibility for or the validity of the registration of the trademark, or the right to use the trademark, on the basis that the trademark is identical with, or similar to, a geographical indication. Such trademark may continue to be used and renewed for that good notwithstanding the protection of the geographical indication, provided that no grounds for the trademark's invalidity or revocation exist in the Party's law on trademarks.

3. The law of a Party may provide that any request made in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Party or after the date of registration of the trademark in that Party, provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Party.

ARTICLE 18.38

Enforcement of protection

Each Party shall provide that geographical indications listed in Annex 18-B (Lists of geographical indications) are enforced *ex officio* or at the request of an interested party, in accordance with its law by appropriate administrative and judicial steps.

ARTICLE 18.39

General rules

1. In the case of homonymous geographical indications, for which protection is requested in accordance with Article 18.33 (Amendment of the list of geographical indications), for goods falling within the same product class, the Trade Committee shall adopt a decision to determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

2. A Party that, in the context of negotiations of an international agreement with a third country, considers the possible protection of a geographical indication identifying a good originating in that third country shall inform the other Party and give that Party the opportunity to comment before the geographical indication becomes protected, if:

(a) the geographical indication under consideration in the negotiations with the third country is homonymous with a geographical indication of the other Party listed in Annex 18-B (Lists of geographical indications); and

(b) the concerned good falls within the product class specified in Annex 18-A (Product classes) for the homonymous geographical indication of the other Party.

3. A product specification of a geographical indication listed in Annex 18-B (Lists of geographical indications) shall be that approved, including any amendments thereto that were also approved, by the relevant authorities of the Party in the territory from which the good originates.

4. The protection of a geographical indication of a Party listed in Annex 18-B (Lists of geographical indications) may only be cancelled by the Party in which the good originates.

5. Goods may be marketed and sold until stocks are exhausted, if they have been legally described and presented in a manner prohibited by this Sub-Section on the date:

(a) of entry into force of this Agreement;

(b) of the adoption by decision of the Trade Committee of an amendment to the list of geographical indications in accordance with Article 18.33 (Amendment of the list of geographical indications); or

(c) on which a relevant transitional period set out in Annex 18-B (Lists of geographical indications) ends.

ARTICLE 18.40

Systems of protection of geographical indications

1. Each Party shall establish or maintain a system for the registration and protection of geographical indications in its territory.

2. The system referred to in paragraph 1 shall contain at least the following elements:

(a) official means to make available to the public the list of registered geographical indications;

(b) an administrative process to verify that a geographical indication to be registered identifies a good as originating in the territory of a Party, or a region or locality in that Party, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

(c) an opposition procedure that allows the legitimate interests of third parties to be taken into account; and

(d) a procedure for the cancellation of the protection of a geographical indication that takes into account the legitimate interests of third parties and those of the users of the registered geographical indications in question.

SUB-SECTION 5

PROTECTION OF UNDISCLOSED INFORMATION

ARTICLE 18.41

Scope of protection of trade secrets and definitions

1. Each Party shall provide for appropriate civil judicial procedures and remedies for any trade secret holder to prevent, and obtain redress for, the acquisition, use or disclosure of a trade secret whenever carried out in a manner contrary to honest commercial practices.

2. For the purposes of this Sub-Section, the following definitions apply:

(a) "trade secret" means information that:

(i) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

(ii) has commercial value because it is secret; and

(iii) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret; and

(b) "trade secret holder" means any person lawfully controlling a trade secret.

3. For the purposes of this Sub-Section, at least the following conduct shall be considered to be contrary to honest commercial practices:

(a) the acquisition of a trade secret without the consent of the trade secret holder, if obtained by unauthorised access to, or by appropriation of or copying of any documents, objects, materials, substances or electronic files that are lawfully under the control of the trade secret holder and that contain the trade secret or from which the trade secret can be deduced;

(b) the use or disclosure of a trade secret whenever carried out without the consent of the trade secret holder, by a person who is found to meet any of the following conditions:

(i) having acquired the trade secret in a manner referred to in point (a);

(ii) being in breach of a confidentiality agreement or any other duty not to disclose the trade secret; or

(iii) being in breach of a contractual or any other duty to limit the use of the trade secret; and

(c) the acquisition, use or disclosure of a trade secret whenever carried out by a person who, at the time of the acquisition, use or disclosure, knew or ought, under the circumstances, to have known that the trade secret had been obtained directly or indirectly from another person who was using or disclosing the trade secret unlawfully within the meaning of point (b).

4. Nothing in this Sub-Section shall be understood as requiring either Party to consider any of the following conduct as contrary to honest commercial practices:

(a) independent discovery or creation;

(b) reverse engineering of a product by a person who is lawfully in possession of it and who is free from any legally valid duty to limit the acquisition of the relevant information;

(c) acquisition, use or disclosure of information required or allowed by the law of each Party; and

(d) use by employees of their experience and skills honestly acquired in the normal course of their employment.

5. Nothing in this Sub-Section shall be understood as restricting freedom of expression and information, including the freedom of the media as protected in each Party.

ARTICLE 18.42

Civil judicial procedures and remedies as regards trade secrets

1. Each Party shall ensure that any person participating in the civil judicial proceedings referred to in Article 18.41(1) (Scope of protection of trade secrets and definitions) or who has access to documents that form part of those civil judicial proceedings, is not permitted to use or disclose any trade secret or alleged trade secret that the competent judicial authorities have, in response to a duly reasoned application by an interested party, identified as confidential and of which they have become aware as a result of such participation or access.

2. In the civil judicial proceedings referred to in Article 18.41(1) (Scope of protection of trade secrets and definitions), each Party shall provide that its judicial authorities have the authority at least to:

(a) order provisional measures, in accordance with the law of a Party, to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(b) order injunctive relief to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(c) order the persons that knew or ought to have known that they were acquiring, using or disclosing a trade secret in a manner contrary to honest commercial practices to pay the trade secret holder damages appropriate to the injury suffered as a result of such acquisition, use or disclosure of the trade secret;

(d) take specific measures to preserve the confidentiality of any trade secret or alleged trade secret produced in civil proceedings relating to the alleged acquisition, use and disclosure of a trade secret in a manner contrary to honest commercial practices. Such specific measures may include, in accordance with the law of a Party, the possibility of restricting access to certain documents in whole or in part, restricting access to hearings and their corresponding records or transcript, and making available a non-confidential version of the judicial decision in which the passages containing trade secrets have been removed or redacted; and

(e) impose sanctions on parties or any other persons participating in the legal proceedings who fail or refuse to comply with the court orders concerning the protection of the trade secret or alleged trade secret.

3. Each Party shall ensure that its judicial authorities do not have to apply the civil judicial procedures and remedies referred to in Article 18.41(1) (Scope of protection of trade secrets and definitions) when the conduct contrary to honest commercial practices is carried out in accordance with the law of a Party, to reveal misconduct, wrongdoing or illegal activity or for the purpose of protecting a legitimate interest recognised by the law of a Party.

ARTICLE 18.43

Protection of data submitted to obtain an authorisation
to put a pharmaceutical product[1] on the market

1. Each Party shall protect commercially confidential information submitted to obtain an authorisation to place pharmaceutical products on the market (hereinafter referred to as "marketing authorisation") against disclosure to third parties, unless steps are taken to ensure that the data are protected against unfair commercial use or except where the disclosure is necessary for an overriding public interest.

[1] For the purposes of this Article, the term "pharmaceutical product" shall be defined by the law of each Party. In the case of the Union, the term "pharmaceutical product" means a "medicinal product".

2. Each Party shall ensure that for a period of at least five years from the date of a first marketing authorisation in the Party concerned (hereinafter referred to as "first marketing authorisation") and in accordance with any conditions set out in its law, the authority responsible for the granting of a marketing authorisation does not accept any subsequent application for a marketing authorisation that relies on the results of pre-clinical tests or clinical trials submitted in the application for the first marketing authorisation without the explicit consent of the holder of the first marketing authorisation, unless international agreements recognised by both Parties provide otherwise.

ARTICLE 18.44

Protection of data submitted to obtain marketing authorisation for agricultural chemical products[1]

1. Each Party shall recognise a temporary right of the owner of a test or study report submitted for the first time to obtain a marketing authorisation for an agricultural chemical product. During the period in which that temporary right is held, the test or study report shall not be used for the benefit of any other person who seeks to obtain a marketing authorisation for an agricultural chemical product, unless the explicit consent of the first owner is proved. For the purposes of this Article, the term "temporary right" means "data protection".

[1] For the purposes of this Article, the term "agricultural chemical product" shall be defined by the law of each Party. In the case of the Union, the term "agricultural chemical product" means a "plant protection product".

2. The test or study report referred to in paragraph 1 should fulfil the following conditions:

(a) be necessary for the authorisation or for an amendment to an authorisation in order to allow additional uses; and

(b) be recognised as compliant with the principles of good laboratory practice or of good experimental practice, in accordance with the law of each Party.

3. The period of data protection shall be at least 10 years from the grant of the first authorisation by the relevant authority in the territory of the Party.

4. Each Party may establish rules to avoid duplicative testing on vertebrate animals.

SUB-SECTION 6

PLANT VARIETIES

ARTICLE 18.45

Protection of plant variety rights[1]

Each Party shall have a system[2] in place for the protection of plant variety rights that gives effect to the International Convention for the Protection of New Varieties of Plants (UPOV), as revised at Geneva on 19 March 1991.

[1] For greater certainty, the Parties understand that the measures referred to in Article 25.6(1) (Tiriti o Waitangi / Treaty of Waitangi) may include measures in respect of matters covered by this Sub-Section that New Zealand deems necessary to protect Māori rights, interests, duties and responsibilities in fulfilment of its obligations under te Tiriti o Waitangi / the Treaty of Waitangi, provided that the conditions of Article 25.6 (Tiriti o Waitangi / Treaty of Waitangi) are fulfilled.

[2] For greater certainty, for the purposes of this Sub-Section, the system may be a *sui generis* system.

SECTION C

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

CIVIL AND ADMINISTRATIVE ENFORCEMENT

ARTICLE 18.46

General obligations

1. The Parties reaffirm their commitments under the TRIPS Agreement and in particular under its Part III, and shall provide for the following complementary measures, procedures and remedies necessary to ensure the enforcement of intellectual property rights.[1]

2. Those measures, procedures and remedies shall:

(a) be fair and equitable;

[1] For the purposes of this Section, the term "intellectual property rights" does not include rights covered by Sub-Section 5 (Protection of undisclosed information) of Section B (Standards concerning intellectual property rights).

(b) not be unnecessarily complicated or costly, or entail unreasonable time limits or unwarranted delays;

(c) be effective, proportionate and dissuasive; and

(d) be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

ARTICLE 18.47

Persons entitled to apply for the application of the measures, procedures and remedies

Each Party shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in this Section:

(a) the holders of intellectual property rights in accordance with the law of the Party;

(b) all other persons authorised to use those rights, in particular licensees, in so far as permitted by and in accordance with the law of the Party;

(c) intellectual property collective rights-management bodies that are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the law of the Party; and

(d) professional defence bodies that are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the law of the Party.

ARTICLE 18.48

Measures for preserving evidence

1. Each Party shall ensure that, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may, on application by a party who has presented reasonably available evidence to support their claims that their intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to appropriate safeguards and the protection of confidential information.

2. Provisional measures referred to in paragraph 1 may include the detailed description, with or without the taking of samples, or the physical seizure of the alleged infringing goods, and, in appropriate cases, the materials and implements used in the production or distribution of such goods and the documents relating thereto.

ARTICLE 18.49

Evidence

1. Each Party shall take measures necessary to enable its competent judicial authorities to order, on application by a party that has presented reasonably available evidence sufficient to support its claims and has, in substantiating those claims, specified evidence that lies in the control of the opposing party, that such evidence be produced by the opposing party, subject to the protection of confidential information.

2. Each Party shall also take measures necessary to enable its competent judicial authorities to order, where appropriate, in cases of infringement of an intellectual property right committed on a commercial scale, under the same conditions as in paragraph 1, the communication of banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.

ARTICLE 18.50

Right of information

1. Each Party shall ensure that, in the context of civil proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, its competent judicial authorities may order the infringer or alleged infringer or any other person to provide relevant information in that person's control or possession on the origin and distribution networks of the goods or services that infringe an intellectual property right.

2. For the purposes of this Article, the term "any other person" means a person who, at least:

(a) was found in possession of the infringing goods on a commercial scale;

(b) was found to be using the infringing services on a commercial scale;

(c) was found to be providing on a commercial scale services used in infringing activities; or

(d) was indicated by the person referred to in point (a), (b) or (c) as being involved in the production, manufacture or distribution of the goods or provision of the services.

3. The information referred to in paragraph 1 shall, as appropriate, comprise:

(a) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers; and

(b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

4. Paragraphs 1 and 2 shall apply without prejudice to other law of a Party that:

(a) grants the holder of intellectual property rights to receive fuller information;

(b) governs the use in civil proceedings of the information communicated pursuant to this Article;

(c) governs responsibility for misuse of the right of information;

(d) affords an opportunity for refusing to provide information that would force any other person referred to in paragraph 1 to admit their own participation or that of their close relatives in an infringement of an intellectual property right; or

(e) governs the protection of confidentiality of information sources or the processing of personal data.

ARTICLE 18.51

Provisional and precautionary measures

1. Each Party shall ensure that its judicial authorities may, at the request of the applicant, issue against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis and subject, where appropriate, to a recurring penalty payment where provided for by the law of that Party, the continuation of the alleged infringement of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder. An interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe an intellectual property right.

2. An interlocutory injunction may also be issued to prevent the entry into or movement within the channels of commerce of goods suspected of infringing an intellectual property right.

3. In the case of an alleged infringement committed on a commercial scale, each Party shall ensure that, if the applicant demonstrates circumstances likely to endanger the recovery of damages, its judicial authorities may order the precautionary halt on the transfer of, or dealing in, and, where the law of a Party so provides, the seizure of the movable and immovable property of the alleged infringer, including the freezing of the alleged infringer's bank accounts and other assets. To that end, the competent authorities may order the communication of relevant bank, financial or commercial information, or appropriate access to the relevant information.

4. Each Party shall ensure that its judicial authorities, in respect of the measures specified in paragraphs 1 to 3, have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed, or that such infringement is imminent.

ARTICLE 18.52

Corrective measures

1. Each Party shall ensure that its judicial authorities may order, at the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the destruction or at least the definitive removal from the channels of commerce, of goods that they have found to be infringing an intellectual property right. If appropriate, under the same conditions, the judicial authorities may also order destruction of materials and implements predominantly used in the creation or manufacture of such goods.

2. Each Party shall ensure that its judicial authorities have the authority to order that the measures specified in paragraph 1 are carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

ARTICLE 18.53

Injunctions

Each Party shall ensure that, where a judicial decision is taken finding an infringement of an intellectual property right, its judicial authorities may issue against the infringer an injunction aimed at prohibiting the continuation of the infringement. Each Party shall also ensure that its judicial authorities may issue an injunction against an intermediary whose services are used by a third party to infringe an intellectual property right.

ARTICLE 18.54

Alternative measures

Each Party may provide that its judicial authorities, in appropriate cases and at the request of the person liable to be subject to the measures provided for in Article 18.52 (Corrective measures) or Article 18.53 (Injunctions), may order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in Article 18.52 (Corrective measures) or Article 18.53 (Injunctions) if that person acted unintentionally and without negligence, if execution of the measures in question would cause that person disproportionate harm and if pecuniary compensation to the injured party appears reasonably satisfactory.

ARTICLE 18.55

Damages

1. Each Party shall ensure that its judicial authorities, on application of the injured party, order the infringer who knowingly engaged, or had reasonable grounds to know it was engaging, in an infringing activity, to pay the right holder damages appropriate to the injury the right holder has suffered as a result of the infringement.

2. Each Party shall ensure that when its judicial authorities set the damages referred to in paragraph 1:

(a) they take into account all appropriate aspects, such as the negative economic consequences, including lost profits, that the injured party has suffered, any unfair profits made by the infringer and, in appropriate cases, elements other than economic factors, such as the moral prejudice caused to the right holder by the infringement; or alternatively

(b) they may, in appropriate cases, set the damages as a lump sum on the basis of elements such as at least the amount of royalties or fees that would have been due if the infringer had requested authorisation to use the intellectual property right in question.

3. Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity, each Party may lay down that its judicial authorities may order in favour of the injured party the recovery of profits or the payment of damages that may be pre-established.

ARTICLE 18.56

Legal costs

Each Party shall ensure that reasonable and proportionate legal costs and other expenses incurred by the successful party shall, as a general rule, be borne by the unsuccessful party, unless equity does not allow this.

ARTICLE 18.57

Publication of judicial decisions

Each Party shall provide that, in legal proceedings instituted for infringement of an intellectual property right, its judicial authorities may order, at the request of the applicant and at the expense of the infringer, appropriate measures for the dissemination of the information concerning the decision, including displaying the decision and publishing it in full or in part.

ARTICLE 18.58

Presumption of authorship or ownership

The Parties recognise that, for the purpose of applying the measures, procedures and remedies referred to in Section C (Enforcement of intellectual property rights):

(a) for the author of a literary or artistic work, in the absence of proof to the contrary, to be regarded as such, and consequently to be entitled to institute infringement proceedings, it shall be sufficient for the author's name to appear on the work in the usual manner; and

(b) point (a) shall apply to the holders of rights related to copyright with regard to their protected subject matter *mutatis mutandis*.

ARTICLE 18.59

Administrative procedures

To the extent that any civil remedy can be ordered on the merits of a case as a result of administrative procedures, administrative procedures shall conform to principles equivalent in substance to those set forth in this Sub-Section.

SUB-SECTION 2

BORDER ENFORCEMENT

ARTICLE 18.60

Border measures

1. With respect to goods under customs control, each Party shall adopt or maintain procedures under which a right holder may submit applications to a Party's customs authorities requesting to suspend the release of or detain goods suspected of infringing at least trademarks, copyright and related rights, geographical indications and industrial designs (hereinafter referred to as "suspected goods").

2. Each Party shall have in place electronic systems for the management by its customs authorities of the applications referred to in paragraph 1.

3. Each Party shall provide that, where requested by its customs authorities, the holder of the granted or recorded application shall be obliged to reimburse the costs incurred by the customs authorities, or other parties acting on behalf of customs authorities, from the moment of detention or suspension of the release of the suspected goods, including storage, handling, and any costs relating to the destruction or disposal of the suspected goods.

4. Each Party shall provide that its customs authorities decide about granting or recording an application referred to in paragraph 1 within a reasonable period of time.

5. Each Party shall provide for the granted or recorded application or recordation to apply to multiple shipments.

6. With respect to goods under customs control, each Party shall provide that its customs authorities may act upon their own initiative to suspend the release of or detain suspected goods.

7. Each Party shall ensure that its customs authorities use risk analysis to identify suspected goods.

8. Each Party shall have in place procedures allowing for the destruction of suspected goods without there being any need for prior administrative or judicial proceedings for the formal determination of the infringements, where the persons concerned agree or do not oppose the destruction. If such goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, these goods are disposed of outside the commercial channels in a manner that avoids any harm to the right holder.

9. A Party may have in place procedures allowing for the swift destruction of counterfeit trademark and pirated goods sent in postal or express couriers' consignments.

10. A Party may decide not to apply this Article to the import of goods put on the market in another country by or with the consent of the right holders. A Party may also exclude from the application of this Article goods of a non-commercial nature contained in travellers' personal luggage.

11. Each Party shall ensure that its customs authorities maintain a regular dialogue and promote cooperation with the relevant stakeholders and where necessary with other authorities[1] involved in the enforcement of intellectual property rights.

12. The Parties shall cooperate in respect of international trade in goods suspected of infringing intellectual property rights. In particular, the Parties shall share information, to the extent possible and where necessary, on trade in goods suspected of infringing intellectual property rights affecting a Party.

13. Without prejudice to other forms of cooperation, the mutual administrative assistance provided for in the CCMAA, applies with regard to breaches of legislation on intellectual property rights for the enforcement of which the customs authorities of a Party are competent in accordance with this Article.

[1] For greater certainty, the term "other authorities" does not include judicial authorities.

ARTICLE 18.61

Consistency with GATT 1994 and the TRIPS Agreement

In implementing border measures for the enforcement of intellectual property rights by its customs authorities, whether or not covered by this Sub-Section, each Party shall ensure consistency with its obligations under GATT 1994 and the TRIPS Agreement and, in particular, with Article V of GATT 1994 and Article 41 and Section 4 of Part III of the TRIPS Agreement.

SECTION D

FINAL PROVISIONS

ARTICLE 18.62

Modalities of cooperation

1. The Parties shall cooperate with a view to supporting implementation of the commitments and obligations undertaken under this Chapter.

2. The cooperation of the Parties on intellectual property rights protection and enforcement matters, where necessary and as appropriate, may include the following activities:

(a) exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement;

(b) exchange of experience on legislative progress;

(c) exchange of experience on the enforcement of intellectual property rights;

(d) exchange of experiences on enforcement at central and sub-central levels by customs, police, administrative and judiciary bodies;

(e) coordination to prevent exports of counterfeit goods, including coordination with third countries;

(f) technical assistance, capacity building, exchange and training of personnel;

(g) protection and defence of intellectual property rights and dissemination of information in this regard to *inter alia* business circles and civil society;

(h) raising public awareness of consumers and right holders;

(i) enhancement of institutional cooperation, particularly between the Parties' intellectual property offices;

(j) awareness promotion and education of the general public on policies concerning the protection and enforcement of intellectual property rights;

(k) promotion of protection and enforcement of intellectual property rights with public-private collaboration involving SMEs;

(l) formulation of effective strategies to identify audiences and communication programmes to increase consumer and media awareness on the impact of violations of intellectual property rights, including the risk to health and safety and the connection to organised crime; and

(m) exchange of information and experience on intellectual property-related aspects of genetic resources, traditional knowledge and traditional cultural expressions.

3. Each Party may make publicly available the product specifications, or a summary thereof, and relevant contact points for control or management of geographical indications of the other Party protected pursuant to Sub-Section 4 (Geographical indications).

4. The Parties shall, either directly or through the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property, including Geographical Indications, maintain contact on all matters related to the implementation and functioning of this Chapter.

ARTICLE 18.63

Voluntary stakeholder initiatives

Each Party shall endeavour to facilitate voluntary stakeholder initiatives to reduce intellectual property rights infringement, including online and in other marketplaces, focusing on concrete problems and seeking practical solutions that are realistic, balanced, proportionate and fair for all concerned including in the following ways:

(a) each Party shall endeavour to convene stakeholders consensually in its territory to facilitate voluntary initiatives to find solutions and resolve differences regarding the protection and enforcement of intellectual property rights and reducing infringement;

(b) the Parties shall endeavour to exchange information with each other regarding efforts to facilitate voluntary stakeholder initiatives in their respective territories; and

(c) the Parties shall endeavour to promote open dialogue and cooperation among the Parties' stakeholders, and to encourage the Parties' stakeholders to jointly find solutions and resolve differences regarding the protection and enforcement of intellectual property rights and reducing infringement.

ARTICLE 18.64

Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property, including Geographical Indications

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property, including Geographical Indications, shall, with respect to this Chapter, have the following functions:

(a) exchange information and experiences on issues related to intellectual property, including in the area of geographical indications, including legislative and policy developments, and any other matter of mutual interest related to the implementation and operation of this Chapter;

(b) be responsible for exchanging information on geographical indications for the purpose of considering their protection in accordance with Article 18.34 (Protection of geographical indications); and

(c) further to Article 18.39(2) (General rules), deal with any matter arising from product specifications of protected geographical indications of the other Party listed in Annex 18-B (Lists of geographical indications).

CHAPTER 19

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 19.1

Context and objectives

1. The Parties recall Agenda 21 and the Rio Declaration on Environment and Development, adopted at Rio de Janeiro on 14 June 1992, the Plan of Implementation of the World Summit on Sustainable Development of 2002, the ILO Declaration on Social Justice for a Fair Globalization, adopted at Geneva on 10 June 2008 by the International Labour Conference at its 97th Session (hereinafter referred to as the "ILO Declaration on Social Justice for a Fair Globalization"), the Outcome document of the United Nations Conference on Sustainable Development entitled "The Future We Want" endorsed by United Nations General Assembly Resolution A/RES/66/288, adopted on 27 July 2012, and the United Nations Agenda "Transforming our world: the 2030 Agenda for Sustainable Development", adopted on 25 September 2015 by United Nations General Assembly Resolution A/RES/70/1 (hereinafter referred to as "2030 Agenda for Sustainable Development") and its Sustainable Development Goals.

2. The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing.

3. The Parties affirm their commitment to promote the development of international trade and investment in a way that contributes to the objective of sustainable development.

4. The Parties recognise the urgent need to address climate change, as outlined in the Special Report on Global Warming of 1.5 °C of the Intergovernmental Panel on Climate Change, as a contribution to the economic, social and environmental objectives of sustainable development.

5. The objective of this Chapter is to enhance the integration of sustainable development, notably its environmental and social dimensions (in particular the labour aspects), in the trade and investment relationship between the Parties, including through strengthening dialogue and cooperation.

ARTICLE 19.2

Right to regulate and levels of protection

1. The Parties recognise the right of each Party to:

(a) determine its sustainable development policies and priorities;

(b) establish the levels of domestic environmental and labour protection, including social protection, that it deems appropriate; and

(c) adopt or modify its relevant law and policies.

Such levels, law and policies shall be consistent with each Party's commitment to the agreements and internationally recognised standards referred to in this Chapter.

3. Each Party shall strive to ensure that its relevant law and policies provide for, and encourage, high levels of environmental and labour protection, and shall strive to improve such levels, law and policies.

4. A Party shall not weaken or reduce the levels of protection afforded in its environmental or labour law in order to encourage trade or investment.

5. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental or labour law in order to encourage trade or investment.

6. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental or labour law in a manner affecting trade or investment.

7. A Party shall not establish or use its environmental or labour law or other environmental or labour measures in a manner that would constitute a disguised restriction on trade or investment.

ARTICLE 19.3

Multilateral labour standards and agreements

1. The Parties affirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, as expressed in the ILO Declaration on Social Justice for a Fair Globalization.

2. Recalling the ILO Declaration on Social Justice for a Fair Globalization, the Parties note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.

3. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work adopted at Geneva on 18 June 1998 by the International Labour Conference at its 86th Session and its Follow-up, each Party shall respect, promote and realise the principles concerning the fundamental rights at work which are the subject of the fundamental conventions of the ILO, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;[1]

[1] The Parties affirm the importance of ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, adopted at Geneva on 11 June 2014 by the International Labour Conference at its 103rd Session.

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

4. The Parties welcome the decision of the 110th International Labour Conference by which a safe and healthy working environment is added to the fundamental principles and rights at work. No later than at its first meeting the Trade Committee may adopt a decision to amend paragraph 3 accordingly to reflect this addition.

5. Each Party shall make continued and sustained efforts to ratify the fundamental conventions of the ILO if they have not yet done so.[1]

6. The Parties shall periodically exchange information in an appropriate way on their respective progress with regard to the ratification of ILO conventions or protocols.

7. Each Party shall effectively implement the ILO conventions that New Zealand and the Member States have respectively ratified and which have entered into force.

8. Each Party shall, with due regard to national conditions and circumstances, promote through its laws and practices the strategic objectives of the ILO through which the Decent Work Agenda is expressed, set out in the ILO Declaration on Social Justice for a Fair Globalization, in particular with regard to:

(a) decent working conditions for all, with regard to, *inter alia*, wages and earnings, working hours, other conditions of work and social protection; and

[1] The Parties note that all Member States have ratified the fundamental conventions of the ILO.

(b) social dialogue on labour matters between social partners and relevant government authorities.

9. Each Party shall:

(a) adopt and implement measures and policies regarding occupational health and safety, including compensation in the event of occupational injury or illness; and

(b) maintain an effective labour inspection system.

10. Each Party recalls its obligations under paragraph 7, where it has ratified relevant ILO conventions relating to point (a) or (b) of paragraph 9.

11. The Parties shall work together to strengthen their cooperation on trade-related aspects of labour measures and policies, bilaterally, regionally and in international fora, as appropriate, including in the ILO. Such cooperation may cover *inter alia*:

(a) implementation of fundamental, priority and other up-to-date ILO conventions;

(b) decent work, including the interlinkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue and gender equality;

(c) strengthening protection of the labour rights of each Party's vulnerable groups; and

(d) the impact of labour law and standards on trade and investment, or the impact of trade and investment law on labour.

ARTICLE 19.4

Trade and gender equality

1. The Parties recognise the need to advance gender equality and women's economic empowerment and to promote a gender perspective in the Parties' trade and investment relationship. Moreover, they acknowledge the important current and future contribution by women to economic growth through their participation in economic activity, including international trade. Accordingly, the Parties emphasise their intention to implement this Agreement in a manner that promotes and enhances gender equality.

2. The Parties recognise that inclusive trade policies can contribute to advancing women's economic empowerment and gender equality, in line with United Nations Sustainable Development Goals Target 5 and the objectives of the Joint Declaration on Trade and Women's Economic Empowerment adopted at the WTO Ministerial Conference in Buenos Aires on 12 December 2017.

3. The Parties emphasise the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and the key role that gender-responsive policies and gender mainstreaming can play in this regard. Gender-responsive policies and gender mainstreaming include advancing women's participation in the economy and international trade, including by providing equal rights and access to opportunities for the participation of women in the labour market.

4. Each Party shall promote public awareness and transparency of its gender equality laws, regulations and policies, including their impact on and relevance for inclusive economic growth and trade policy.

5. The Parties reiterate their commitments under Article 19.2 (Right to regulate and levels of protection) in relation to their respective laws aimed at ensuring gender equality and equal opportunities for women and men.

6. Each Party shall effectively implement its obligations under the United Nations conventions to which it is a party that address gender equality or women's rights, including the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, noting in particular its provisions related to eliminating discrimination against women in economic life and in the field of employment. In this respect, the Parties reiterate their respective commitments under Article 19.3 (Multilateral labour standards and agreements), including those regarding effective implementation of the ILO conventions related to gender equality and the elimination of discrimination in respect of employment and occupation.

7. The Parties shall work together on trade-related aspects of gender equality policies and measures, including activities for women, including workers, businesswomen and entrepreneurs, to access and benefit from the opportunities created by this Agreement. To this end, the Parties shall facilitate cooperation between relevant stakeholders, including wāhine Māori[1] in the case of New Zealand.

[1] The term "wāhine Māori" refers to indigenous women of New Zealand.

8. The cooperation referred to in paragraph 7 shall cover matters of joint interest *inter alia*:

(a) exchange of information and best practices related to collection of sex-disaggregated data and gender-based analysis of trade policies;

(b) sharing experiences and best practices related to the design, implementation, monitoring, evaluation and strengthening of policies and programmes aimed at enhancing women's participation in economic activity, including international trade;

(c) promoting women's participation, leadership and education, in particular in fields in which women are traditionally underrepresented such as science, technology, engineering, mathematics (STEM), as well as innovation, e-commerce and any other field related to trade;

(d) promoting financial inclusion, financial literacy and access to trade finance and education; and

(e) exchange of information and experiences with regard to measures relating to licensing requirements and procedures, qualification requirements and procedures, or technical standards relating to authorisation for the supply of a service that do not discriminate based on gender.

9. Acknowledging the importance of the work on trade and gender being carried out at the multilateral level, the Parties shall cooperate in international and multilateral fora, including at the WTO and OECD, to advance trade and gender issues and understanding, including, as appropriate, through voluntary reporting as part of their national reports during their WTO Trade Policy Reviews.

ARTICLE 19.5

Multilateral environmental agreements and international environmental governance

1. The Parties recognise the importance of international environmental governance, in particular the role of the United Nations Environment Programme (hereinafter referred to as "UNEP") and its highest governing body, the United Nations Environment Assembly (hereinafter referred to as "UNEA"), as well as multilateral environmental agreements (hereinafter referred to as "MEAs"), as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environment policies.

2. In light of paragraph 1, each Party shall effectively implement the MEAs, their protocols and amendments that it has ratified and which have entered into force.

3. The Parties shall periodically, and in an appropriate manner, exchange information on their respective situations as regards becoming a party to MEAs, their protocols and amendments.

4. The Parties affirm the right of each Party to adopt or maintain measures to further the objectives of MEAs to which it is a party. The Parties recall that measures adopted or enforced to implement such MEAs may be justified under Article 25.1 (General exceptions).

5. The Parties shall work together to strengthen their cooperation on trade-related aspects of environmental policies and measures, bilaterally, regionally and in international fora, as appropriate, including in the United Nations High-Level Political Forum for Sustainable Development, UNEP, UNEA, MEAs, OECD, Food and Agriculture Organization of the United Nations (hereinafter referred to as "FAO"), and the WTO. Such cooperation may cover *inter alia*:

(a) policies and measures promoting mutual supportiveness of trade and environment including:

(i) sharing information on policies and practices to encourage the shift to a circular economy; and

(ii) promoting, including by removing obstacles to trade and investment, initiatives that contribute to a circular economy;

(b) initiatives on sustainable production and consumption, including initiatives aimed at promoting green growth and pollution abatement;

(c) initiatives to encourage trade and investment in environmental goods and services, including by addressing related tariff and non-tariff barriers;

(d) the impact of environmental law and standards on trade and investment, or the impact of trade and investment law on the environment; and

(e) other trade-related aspects of MEAs, including implementation.

ARTICLE 19.6

Trade and climate change

1. The Parties recognise the importance of taking urgent action to combat climate change and its impacts, and the role of trade in pursuing this objective, consistent with the United Nations Framework Convention on Climate Change done at New York on 9 May 1992 (hereinafter referred to as the "UNFCCC"), the purpose and goals of the Paris Agreement, and with other MEAs and multilateral instruments in the area of climate change.

2. In light of paragraph 1, each Party shall effectively implement the UNFCCC and the Paris Agreement, including commitments with regard to nationally determined contributions.

3. A Party's commitment to effectively implement the Paris Agreement under paragraph 2 includes the obligation to refrain from any action or omission that materially defeats the object and purpose of the Paris Agreement.

4. In light of paragraph 1, each Party shall:

(a) promote the mutual supportiveness of trade and climate policies and measures, thereby contributing to the transition to a low greenhouse gas emission, resource-efficient and circular economy and to climate-resilient development;

(b) facilitate the removal of obstacles to trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, such as renewable energy and energy efficient products and services, for instance through addressing tariff and non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of best available technologies; and

(c) promote emissions trading as an effective policy tool for reducing greenhouse gas emissions efficiently, and promote environmental integrity in the development of international carbon markets.

5. The Parties shall work together to strengthen their cooperation on trade-related aspects of climate change policies and measures bilaterally and regionally, including with third countries and in international fora, as appropriate, including in the UNFCCC, the Paris Agreement, the WTO, the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on 16 September 1987 (hereinafter referred to as the "Montreal Protocol"), the International Civil Aviation Organization (ICAO) and the International Maritime Organization (hereinafter referred to as the "IMO"). Such cooperation may cover *inter alia*:

(a) policy dialogue and cooperation regarding implementation of the Paris Agreement, including with respect to means to promote climate resilience, renewable energy, low-carbon technologies, energy efficiency, sustainable transport, sustainable and climate-resilient infrastructure development, emissions monitoring, and emissions action in relation to third countries as appropriate;

(b) policy and technical exchanges regarding the development and implementation of domestic and international carbon pricing, including emissions trading and the promotion of effective standards of environmental integrity in their implementation;

(c) supporting the development and adoption of ambitious and effective greenhouse gas emissions reduction measures by the IMO to be implemented by and for ships engaged in international trade; and

(d) supporting an ambitious phasing out of ozone depleting substances and phasing down of hydrofluorocarbons under the Montreal Protocol through measures to control their production, consumption and trade, the introduction of environmentally friendly alternatives to them, the updating of safety and other relevant standards, and combating the illegal trade of substances regulated by the Montreal Protocol.

ARTICLE 19.7

Trade and fossil fuel subsidy reform

1. The Parties recall the United Nations Sustainable Development Goals Target 12.C to rationalise inefficient fossil fuel subsidies that encourage wasteful consumption, including by phasing out harmful fossil fuel subsidies, the Glasgow Climate Pact, adopted at Glasgow on 13 November 2021, and the WTO Ministerial Statement on Fossil Fuel Subsidies, adopted at Geneva on 14 December 2021, that encourage efforts towards meeting that Target.

2. The Parties recognise that fossil fuel subsidies can distort markets, disadvantage renewable and clean energy, and be inconsistent with the goals of the Paris Agreement.

3. In light of paragraphs 1 and 2, the Parties share the goal of reforming and progressively reducing fossil fuel subsidies and reaffirm their commitment to work to meet that goal in accordance with national circumstances, while taking fully into account the specific needs of populations affected.

4. The Parties shall strengthen their cooperation on trade-related aspects of fossil fuel subsidy policies and measures bilaterally and in international fora. Recognising that the WTO can play a central role in the fossil fuel reform agenda, the Parties shall work together and encourage the other WTO Members to advance reform and pursue new fossil fuel subsidy disciplines in the WTO, including through enhanced transparency and reporting that will enable the evaluation of the trade, economic, and environment effects of fossil fuel subsidy programmes.

ARTICLE 19.8

Trade and biological diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity and the role of trade in pursuing these objectives, consistent with relevant MEAs to which they are a party, including the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992 (hereinafter referred to as the "Convention on Biological Diversity") and its Protocols, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on 3 March 1973 (hereinafter referred to as "CITES"), and the decisions adopted thereunder.

2. In light of paragraph 1, each Party shall:

(a) implement measures to combat illegal wildlife trade, including with respect to third countries as appropriate;

(b) promote the long-term conservation and sustainable use of CITES-listed species and the inclusion of animal and plant species in the Appendices to the CITES where they meet the criteria for listing, and conduct periodic reviews, which may result in a recommendation to amend the Appendices to the CITES, in order to ensure that they properly reflect the conservation needs of species subject to international trade;

(c) promote trade in products derived from the sustainable use of biological resources in order to contribute to the conservation of biodiversity; and

(d) take appropriate action to conserve biological diversity when it is subject to pressures linked to trade and investment, in particular to prevent the spread of invasive alien species.

3. The Parties recognise the importance of respecting, protecting, preserving and maintaining knowledge, innovations and practices of indigenous peoples and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity, and the role of international trade in supporting this.

4. The Parties shall work together to strengthen their cooperation on trade-related aspects of biodiversity policies and measures bilaterally, regionally and in international fora, as appropriate, including in the Convention on Biological Diversity and CITES. Such cooperation may cover *inter alia*:

(a) initiatives and good practices concerning trade in products and services derived from the sustainable use of biological resources with the aim of conserving biological diversity;

(b) trade and the conservation and sustainable use of biological diversity, including the development and application of natural capital and ecosystem accounting methods, the valuation of ecosystems and their services and related economic instruments;

(c) combatting illegal wildlife trade, including through initiatives to reduce demand for illegal wildlife products and initiatives to enhance information sharing and cooperation;

(d) access to genetic resources, and the fair and equitable sharing of benefits from their utilisation consistent with the objectives of the Convention on Biological Diversity; and

(e) sharing of information and management experience on the movement, prevention, detection, control and eradication of invasive alien species, with a view to enhancing efforts to assess and address the risks and adverse impacts of invasive alien species.

ARTICLE 19.9

Trade and forests

1. The Parties recognise the importance of the conservation and sustainable management of forests for providing environmental functions and economic and social opportunities for present and future generations, and the role of trade in pursuing this objective.

2. In light of paragraph 1, each Party shall:

(a) combat illegal logging and related trade, including with respect to third countries, by legislative or other action;

(b) promote the conservation and sustainable management of forests and trade in forest products harvested in accordance with the law of the country of harvest and from sustainably managed forests; and

(c) exchange information with the other Party on trade-related initiatives regarding sustainable forest management, forest conservation, forest governance, initiatives designed to combat illegal logging, and other relevant policies of mutual interest.

3. Recognising that deforestation is a major driver of global warming and biodiversity loss, the Parties shall exchange knowledge and experience on ways to encourage the consumption and trade in products from deforestation-free supply chains, in order to minimise the risk that goods associated with deforestation or forest degradation are placed on the market.

4. The Parties shall work together to strengthen their cooperation on trade-related aspects of sustainable forest management, minimising deforestation and forest degradation, forest conservation, illegal logging, and the role of forests and wood-based products in climate change mitigation and the circular and bioeconomies, bilaterally, regionally and in international fora as appropriate.

ARTICLE 19.10

Trade and sustainable management of fisheries and aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems as well as promoting responsible and sustainable aquaculture, and the role of trade in pursuing these objectives.

2. The Parties acknowledge that inadequate fisheries management, forms of fisheries subsidies that contribute to overcapacity and overfishing, and IUU fishing threaten fish stocks, the livelihood of persons engaged in responsible fishing practices and the sustainability of trade in fishery products, and confirm the need for action to end such practices.

3. In light of paragraphs 1 and 2, each Party shall:

(a) implement long-term conservation and management measures to ensure sustainable use of marine living resources based on the best scientific evidence available, the application of the precautionary approach and internationally recognised best practices consistent with relevant United Nations and FAO agreements[1], in order to:

(i) prevent overfishing and overcapacity;

(ii) minimise by-catch of non-target species and juveniles; and

(iii) promote the recovery of overfished stocks;

(b) participate constructively in the work of the regional fisheries management organisations (hereinafter referred to as "RFMOs") of which they are members, observers or cooperating non-contracting parties, with the aim of achieving good fisheries governance and sustainable fisheries, such as through the promotion of scientific research and the adoption of conservation measures based on best available science, the strengthening of compliance mechanisms, the undertaking of periodic performance reviews and the adoption of effective control, monitoring and enforcement of the RFMOs' management; and

[1] Relevant United Nations and FAO agreements include the UNCLOS, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, done at Rome on 24 November 1993, the United Nations Agreement on the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted on 4 August 1995, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at Rome on 22 November 2009, and the FAO Code of Conduct for Responsible Fisheries, adopted by means of Resolution 4/95 of the FAO Conference on 31 October 1995, (hereinafter referred to as "FAO Code of Conduct for Responsible Fisheries").

(c) implement an ecosystem-based approach to fisheries management so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised, and promote the long-term conservation of marine turtles, seabirds, marine mammals and other species recognised as threatened in relevant international agreements to which it is a party.

4. The Parties acknowledge that IUU fishing threatens fishery stocks and the livelihoods of responsible fishers, and recognise the importance of concerted national, regional and international action to address IUU fishing in accordance with regional and international instruments[1] and by using relevant bilateral and international frameworks.

5. In support of efforts to combat IUU fishing and to help prevent, deter and eliminate trade in products from species harvested from IUU fishing, each Party shall support monitoring, control, surveillance, compliance and enforcement systems, including by adopting, reviewing or revising, as appropriate, effective measures to:

(a) deter vessels that are flying their flags and their nationals from supporting or engaging in IUU fishing, and respond to IUU fishing when it occurs or is being supported; and

[1] Regional and international instruments include, as they may apply, the 2001 International Plan of Action to Prevent Deter and Eliminate Illegal, Unreported and Unregulated Fishing, the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing, adopted at Rome on 12 March 2005, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at Rome, 22 November 2009, the FAO Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels, as well as instruments establishing and adopted by RFMOs, which are defined as intergovernmental fisheries organisations or arrangements, as appropriate, that have the competence to establish conservation and management measures.

(b) encourage traceability, facilitate electronic traceability and certification to exclude products from IUU fishing from trade flows, and encourage cooperation and information exchange.

6. The Parties shall promote the development of sustainable and responsible aquaculture, taking into account its economic, social, cultural and environmental aspects, including with regard to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries.

7. The Parties shall work together to strengthen their cooperation on trade-related aspects of fishery and aquaculture policies and measures, bilaterally, regionally and in international fora, as appropriate, including in the WTO, FAO, OECD, United Nations General Assembly, RFMOs and other multilateral instruments in this field, with the aim of promoting sustainable fishing practices and trade in fish products from sustainably managed fisheries.

ARTICLE 19.11

Trade and investment supporting sustainable development

1. The Parties recognise that the following can meaningfully contribute to sustainable development:

(a) trade and investment in goods and services that are related to the protection of the environment or that contribute to enhancing social conditions; and

(b) the use of transparent, factual and non-misleading sustainability schemes or other voluntary initiatives.

2. To that end, the Parties recall their commitment under Article 2.5 (Elimination of customs duties) to eliminate customs duties on environmental goods originating in the other Party. Such environmental goods contribute to achieving environmental and climate goals by preventing, limiting, minimising or remediating environmental damage to water, air and soil and by contributing to the dissemination of technologies that serve to mitigate climate change. An illustrative list of such environmental goods[1] is provided in List A of Annex 19 (Environmental goods and services).

3. Further, the Parties recall their commitments on environmental services and manufacturing activities under Chapter 10 (Trade in services and investment), including the Annexes to that Chapter. Those environmental services and manufacturing activities contribute to achieving environmental and climate goals by preventing, limiting, minimising or remediating environmental damage to water, air and soil and by assisting the transition to a circular economy. An illustrative list of such environmental services and manufacturing activities[2] is provided in List B of Annex 19 (Environmental goods and services).

4. In light of paragraph 1, each Party shall promote and facilitate trade and investment in:

(a) environmental goods and services;

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[1] The list of environmental goods in Annex 19 (Environmental goods and services) is non-exhaustive and is without prejudice to the approach to the listing of environmental goods that either New Zealand or the Union may take in other negotiations.

[2] The list of environmental services and manufacturing activities is non-exhaustive and is without prejudice to the approach to the listing of environmental services and manufacturing activities that either New Zealand or the Union may take in other negotiations.

(b) goods that contribute to enhanced social conditions; and

(c) goods subject to transparent, factual and non-misleading sustainability assurance schemes such as fair and ethical trade schemes and ecolabels.

5. Activities to promote and facilitate trade and investment as referred to in paragraph 4 may include:

(a) awareness-raising actions and information and public education campaigns;

(b) adoption of policy frameworks conducive to the deployment of best available technologies;

(c) encouraging the uptake of transparent, factual and non-misleading sustainability schemes, especially for SMEs;

(d) addressing related non-tariff barriers; and

(e) reference to relevant international standards, such as the ILO conventions and guidelines or MEAs.

6. The Parties shall work together to strengthen their cooperation on trade-related aspects of issues covered by this Article bilaterally, regionally and in international and multilateral fora as appropriate, including through the exchange of information, best practices and outreach initiatives.

ARTICLE 19.12

Trade and responsible business conduct and supply chain management

1. The Parties recognise the importance of responsible business conduct and corporate social responsibility practices, including responsible supply chain management, and the role of trade in pursuing this objective.

2. In light of paragraph 1, each Party shall:

(a) promote, including by supporting their dissemination and use, relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the United Nations Global Compact and the United Nations Guiding Principles on Business and Human Rights "Implementing the United Nations "Protect, Respect and Remedy" Framework", endorsed by the United Nations Human Rights Council in its Resolution A/HRC/RES/17/4 on 16 June 2011, (hereinafter referred to as "United Nations Guiding Principles on Business and Human Rights"); and

(b) promote corporate social responsibility, responsible business conduct, including responsible supply chain management, by providing supportive policy frameworks that encourage the uptake of relevant practices by businesses.

3. The Parties recognise the utility of international sector-specific guidelines in the areas of corporate social responsibility and responsible business conduct, and shall promote joint work in that regard. In respect of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and its supplements, each Party shall implement measures to promote the uptake of that OECD Due Diligence Guidance. As members of the FAO Committee on World Food Security, the Parties shall also promote awareness for the "Principles for Responsible Investment in Agriculture and Food Systems" and the "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security".

4. The Parties shall work together to strengthen their cooperation on trade-related aspects of issues covered by this Article bilaterally, regionally and in international fora as appropriate, including through the exchange of information, best practices and outreach initiatives.

ARTICLE 19.13

Scientific and technical information

1. When establishing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, each Party shall take into account available scientific and technical information, relevant international standards, guidelines or recommendations.

2. In accordance with the precautionary approach[1], where there are risks of serious or irreversible damage to the environment or to occupational safety and health, the lack of full scientific certainty shall not be used as a reason for preventing a Party from adopting appropriate measures to prevent such damage.

3. The measures referred to in paragraph 2 shall not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

ARTICLE 19.14

Transparency

In order to inform the development and implementation of such measures, each Party shall, to the extent possible and appropriate, provide interested persons and stakeholders with a reasonable opportunity to comment on:

(a) measures aimed at protecting the environment or labour conditions that may affect trade or investment; and

(b) trade or investment measures that may affect the protection of the environment or labour conditions.

[1] For greater certainty, in relation to the implementation of this Agreement in the territory of the Union, the term "precautionary approach" means the precautionary principle.

ARTICLE 19.15

Committee on Trade and Sustainable Development

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The Committee on Trade and Sustainable Development shall, with respect to this Chapter, have the following functions:

(a) carry out the tasks referred to in point (b) of Article 26.13(3) (Compliance measures);

(b) contribute to the work of the Trade Committee on issues covered by this Chapter, including with regard to topics for discussion with the domestic advisory groups referred to in Article 24.6 (Domestic advisory groups); and

(c) consider any other matter related to this Chapter as agreed between the Parties.

3. The Committee on Trade and Sustainable Development shall publish a report after each of its meetings.

4. Each Party shall give due consideration to communications and opinions from the public on matters related to this Chapter. A Party may inform where appropriate, the domestic advisory groups established under Article 24.6 (Domestic advisory groups) as well as the contact point of the other Party, designated pursuant to Article 19.16 (Contact points), of such communications and opinions.

ARTICLE 19.16

Contact points

Upon the entry into force of this Agreement, each Party shall designate a contact point to facilitate communication and coordination between the Parties on matters covered by this Chapter and shall notify the other Party of the contact details for the contact point. Each Party shall promptly notify the other Party of any change of those contact details.

CHAPTER 20

MĀORI TRADE AND ECONOMIC COOPERATION

ARTICLE 20.1

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "Aotearoa New Zealand" means New Zealand, a Party to this Agreement. Aotearoa is a Māori term that refers to New Zealand;

(b) "te ao Māori" means the Māori worldview based on a holistic approach to life;

(c) "mātauranga Māori" means Māori traditional knowledge that relates to te ao Māori;

(d) "tikanga Māori" means Māori protocols, customs and normal practice;

(e) "kaupapa Māori" means an approach entrenched in te ao Māori;

(f) "Māori relational approaches" refers to whakapapa or family connections, and building strong relationships, which are core values at the heart of the te ao Māori and central to how Māori engage;

(g) "wellbeing" from a te ao Māori perspective, means the balancing and interconnection of numerous factors required for individuals and groups to be truly well and thrive; including taha tinana (body), taha hinengaro (mind), taha wairua (spirit), whenua (land), whakapapa (genealogy) and kaitiakitanga (stewardship); the term "wellbeing" can also include environmental, economic, and cultural aspects;

(h) "taonga" means a highly valuable or prized object, element, natural resource or possession, and can be tangible or intangible;

(i) "Mānuka" means the Māori word used exclusively for the tree *Leptospermum scoparium* grown in Aotearoa New Zealand and products including honey and oil deriving from that tree; Mānuka (spelling variations include "Manuka" and "Maanuka") is culturally important to Māori as a taonga and traditional medicine; and

(j) "wāhine Māori" means indigenous women of Aotearoa New Zealand.

ARTICLE 20.2

Context and purpose

1. The Parties acknowledge that te Tiriti o Waitangi / the Treaty of Waitangi is a foundational document of constitutional importance to Aotearoa New Zealand.

2. The Parties recognise the importance of international trade in enabling and advancing Māori wellbeing, and the challenges that may exist for Māori in accessing the trade and investment opportunities derived from international trade.

3. The purpose of this Chapter is to pursue mutual cooperation to contribute towards Aotearoa New Zealand's efforts to enable and advance Māori economic aspirations and wellbeing.

4. The Parties recognise the importance of cooperation under this Chapter being implemented, in the case of Aotearoa New Zealand, in a manner consistent with te Tiriti o Waitangi / the Treaty of Waitangi and where appropriate informed by te ao Māori, mātauranga Māori, tikanga Māori and kaupapa Māori.

5. The Parties recognise the value that Māori approaches, informed by te ao Māori, mātauranga Māori, tikanga Māori and kaupapa Māori, can contribute to the design and implementation of policies and programmes in Aotearoa New Zealand that protect and promote Māori trade and economic aspirations.

6. The Parties recognise the value of increased Māori participation in international trade and investment, including digital trade. This includes through the promotion of Māori relational approaches, informed by te ao Māori, mātauranga Māori, tikanga Māori and kaupapa Māori, in the case of Aotearoa New Zealand.

7. The Parties recognise the value of enhancing people-to-people links that may result from the opportunities created by this Chapter for both Parties.

ARTICLE 20.3

International instruments

1. The Parties note:

(a) the United Nations Declaration on the Rights of Indigenous Peoples, adopted in New York on 13 September 2007 and their respective positions made on that Declaration;

(b) the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted in Paris on 20 October 2005;

(c) the 2030 Agenda for Sustainable Development;

(d) their rights and responsibilities under the Convention on Biological Diversity; and

(e) the United Nations Guiding Principles on Business and Human Rights.

ARTICLE 20.4

Provisions across this Agreement benefitting Māori

In addition to this Chapter, there are specific provisions in other Chapters of this Agreement that aim to enhance Māori participation in trade and investment opportunities derived from this Agreement that, in the case of Aotearoa New Zealand, further contribute to the ability of the Māori to exercise their rights and interests under te Tiriti o Waitangi / the Treaty of Waitangi. Such provisions include:

(a) Chapter 2 (National treatment and market access for goods), including Mānuka, Mānuka honey, Mānuka oil and other goods of interest to Māori;

(b) Chapter 7 (Sustainable food systems), including cooperation on indigenous knowledge, participation, and leadership in food systems, in line with national circumstances under Article 7.4 (Cooperation to improve the sustainability of food systems);

(c) Chapter 10 (Trade in services and investment);

(d) Chapter 12 (Digital trade);

(e) Chapter 14 (Public procurement);

(f) Chapter 18 (Intellectual property);

(g) Chapter 19 (Trade and sustainable development), including wāhine Māori under Article 19.4 (Trade and gender equality);

(h) Chapter 21 (Small and medium-sized enterprises);

(i) Chapter 24 (Institutional provisions), including Māori representation in the case of Aotearoa New Zealand in the domestic advisory groups referred to in Article 24.6 (Domestic advisory groups) and in the Civil Society Forum under Article 24.7 (Civil Society Forum); and

(j) Chapter 25 (Exceptions and general provisions), including on te Tiriti o Waitangi / the Treaty of Waitangi under Article 25.6 (Tiriti o Waitangi / Treaty of Waitangi).

ARTICLE 20.5

Cooperation activities

1. The Parties acknowledge that cooperation activities under this Chapter shall be carried out within the existing framework set by the Partnership Agreement and subject to the resources available to each Party.[1]

2. To achieve the objectives set out in this Chapter, the Parties may coordinate cooperation activities, with Māori in the case of Aotearoa New Zealand, and other relevant stakeholders as appropriate. Those cooperation activities may include:

(a) collaborating to enhance the ability for Māori-owned enterprises to access and benefit from the trade and investment opportunities created by this Agreement;

(b) collaborating to develop links between Union and Māori-owned enterprises, with a particular focus on SMEs, to facilitate access to new and existing supply chains, enable and strengthen opportunities for digital trade, and facilitate cooperation between enterprises on trade in Māori products;

(c) supporting science, research and innovation links, as appropriate between Union and Māori communities, pursuant to the Agreement on scientific and technological cooperation between the European Community and the Government of New Zealand[2]; and

[1] For greater certainty, this Chapter does not impose any legal or financial obligations requiring the Parties to explore, commence or conclude any individual cooperation activities.

[2] OJ EU L 171, 1.7.2009, p. 28.

(d) cooperating and exchanging information and experience on geographical indications.

3. In undertaking the cooperation activities referred to in paragraph 2, each Party may invite the views and participation of relevant stakeholders, and, in the case of Aotearoa New Zealand, of Māori in accordance with te Tiriti o Waitangi / the Treaty of Waitangi.

4. All cooperation shall be at the request of a Party, on mutually agreed terms in respect of each cooperation activity.

ARTICLE 20.6

Institutional mechanism

1. In accordance with point (b) of Article 24.2(1) (Functions of the Trade Committee), the Trade Committee shall supervise and facilitate the implementation and application of, *inter alia*, this Chapter.

2. In accordance with Article 24.6 (Domestic advisory groups), each Party's domestic advisory group[1] shall advise that Party on issues covered by this Agreement, including those issues that are covered by this Chapter, and may submit recommendations on the implementation of this Chapter.

[1] In the case of Aotearoa New Zealand, the domestic advisory group shall include Māori representatives.

3. In accordance with Article 24.7 (Civil Society Forum), the Civil Society Forum[1] gathering independent civil society organisations established in the territories of the Parties, including members of the domestic advisory groups, shall conduct a dialogue on the implementation of this Agreement, including on the implementation of this Chapter.

4. The Joint Committee established under Article 53(1) of the Partnership Agreement shall monitor the development of the comprehensive relationship between the Parties and exchange views and make suggestions on any issues of common interest, including issues that are not covered by this Agreement.

ARTICLE 20.7

Non-application of dispute settlement

Chapter 26 (Dispute settlement) does not apply to this Chapter.

[1] In the case of Aotearoa New Zealand, the Civil Society Forum shall include Māori representatives.

CHAPTER 21

SMALL AND MEDIUM-SIZED ENTERPRISES

ARTICLE 21.1

Objectives

The Parties recognise the importance of SMEs in the Parties' bilateral trade and investment relations and affirm their commitment to enhance the ability of SMEs to benefit from this Agreement.

ARTICLE 21.2

Information sharing

1. Each Party shall establish or maintain a digital medium, such as an SME-specific website, that allows the public in the Union and in New Zealand to easily access information regarding this Agreement, including:

(a) a summary of this Agreement; and

(b) information designed for SMEs that contains:

(i) a description of the provisions in this Agreement that each Party considers to be relevant to SMEs of both Parties; and

(ii) any additional information that the Party considers would be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

2. Each Party shall provide access through the digital medium referred to in paragraph 1, to the:

(a) text of this Agreement, including its Annexes and Appendices, in particular tariff schedules, and product-specific rules of origin;

(b) equivalent digital medium of the other Party; and

(c) information from its own authorities and other appropriate entities that the Party considers would be useful to persons interested in trading, investing and doing business in that Party.

3. The information referred to in point (c) of paragraph 2 shall, as appropriate, include the following:

(a) customs regulations and procedures for importation, exportation and transit as well as relevant forms, documents and other related information;

(b) sanitary and phytosanitary measures as required by Chapter 6 (Sanitary and phytosanitary measures);

(c) technical regulations and other matters as required by Chapter 9 (Technical barriers to trade);

(d) rules on public procurement, a database containing public procurement notices and other relevant information pursuant to Chapter 14 (Public procurement);

(e) regulations and procedures concerning intellectual property rights as required by Chapter 18 (Intellectual property);

(f) business registration procedures; and

(g) other information that the Party considers may be of assistance to SMEs.

4. Each Party shall provide access through the digital medium referred to in paragraph 1, such as through an internet link on a website to a searchable database or similar, to the following product-specific and generic information with respect to its market:

(a) rates of customs duties and quotas, including most-favoured nation, rates concerning non most-favoured-nation countries and preferential rates and tariff rate quotas;

(b) excise duties;

(c) taxes (value added tax or sales tax);

(d) customs or other fees, including other product-specific fees;

(e) rules of origin as provided for in Chapter 3 (Rules of origin and origin procedures);

(f) duty drawback, deferral, or other types of relief that reduce, refund, or waive customs duties;

(g) criteria used to determine the customs value of the good;

(h) other tariff measures;

(i) information needed for import procedures; and

(j) information related to non-tariff measures or regulations.

5. Each Party shall regularly, or when requested by the other Party, update the information made available under this Article to ensure it is up-to-date and accurate.

6. Each Party shall ensure that information referred to in this Article is presented in a form that is easy for SMEs to use. Each Party shall endeavour to make such information available in English.

7. A Party shall not apply a fee for access to the information referred to in this Article for a person of either Party.

ARTICLE 21.3

SME contact points

1. Each Party shall designate an SME contact point responsible for carrying out the functions listed in this Article and shall notify the other Party of the contact details for the SME contact point. Each Party shall promptly notify the other Party of any change of those contact details.

2. SME contact points shall:

(a) ensure that needs of SMEs are taken into account in the implementation of this Agreement so that SMEs of both Parties can take advantage of this Agreement;

(b) ensure that the information referred to in Article 21.2 (Information sharing) is up-to-date and relevant for SMEs. A Party may, through the SME contact point, suggest additional information that the other Party may include in the information to be provided in accordance with Article 21.2 (Information sharing);

(c) examine any matter relevant to SMEs in connection with the implementation of this Agreement, including:

(i) exchanging information and cooperating as appropriate to assist the Trade Committee in its task to monitor and implement the SME-related aspects of this Agreement; and

(ii) assisting other committees, contact points and working groups established by this Agreement when considering matters of relevance to SMEs;

(d) report periodically on their activities, jointly or individually, to the Trade Committee for its consideration; and

(e) consider any other matter arising under this Agreement pertaining to SMEs as the Parties may agree.

3. SME contact points shall meet as necessary and shall carry out their work in person or by other appropriate means, which may include electronic mail, videoconferencing, or other means.

4. SME contact points may seek to cooperate with experts and external organisations, as appropriate, in carrying out their activities.

ARTICLE 21.4

Non-application of dispute settlement

Chapter 26 (Dispute settlement) does not apply to this Chapter.

CHAPTER 22

GOOD REGULATORY PRACTICES AND REGULATORY COOPERATION

ARTICLE 22.1

General principles

1. Each Party shall be free to determine its approach to good regulatory practices and regulatory cooperation under this Agreement in a manner consistent with its own legal framework, practice and fundamental principles[1] underlying its regulatory management system.

2. Nothing in this Chapter shall be construed as to require a Party to:

(a) deviate from domestic procedures for preparing and adopting regulatory measures;

(b) take actions that would risk compromising or undermining the public policy objective of a particular regulatory measure;

(c) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

(d) achieve any particular regulatory outcome.

[1] For the Union, such principles are the principles that are included in and derived from the TFEU.

3. Each Party shall be free to identify its regulatory priorities and to prepare and adopt regulatory measures to address those regulatory priorities ensuring the levels of protection that the Party considers appropriate.

ARTICLE 22.2

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "regulatory authority" means:

(i) for the Union, the European Commission; and

(ii) for New Zealand, the Executive Government of New Zealand;

(b) "regulatory measures" means, unless otherwise provided in this Chapter:

(i) for the Union:

(A) regulations and directives, as provided in Article 288 TFEU; and

(B) delegated and implementing acts, as provided in Article 290 and Article 291 TFEU, respectively;

(ii) for New Zealand:

(A) Government bills that may become Public Acts of the Parliament of New Zealand, except for the purposes of Articles 22.9 (Periodic review of regulatory measures in effect) and 22.10 (Access to regulatory measures) where it means Public Acts of the Parliament of New Zealand; and

(B) regulations made by Order in Council.

ARTICLE 22.3

Scope

1. This Chapter applies to regulatory measures issued or initiated by the regulatory authority of a Party in respect to any matter covered by this Agreement.

2. For greater certainty, this Chapter does not apply to regulatory authorities and regulatory measures, practices or approaches of the Member States.

ARTICLE 22.4

Transparency of processes and mechanisms

1. The regulatory authority of each Party shall make publicly available and for free descriptions of the general processes and mechanisms under which the regulatory authority prepares, develops, evaluates or reviews its regulatory measures. This shall be done through a digital medium.

2. The descriptions of the general processes and mechanisms referred to in paragraph 1 shall refer to any relevant guidelines, rules or procedures, including those guidelines, rules or procedures regarding opportunities for the public to provide comments.

ARTICLE 22.5

Internal coordination of regulatory development[1]

Further to Article 22.4 (Transparency of processes and mechanisms), for the preparation or development of regulatory measures, the regulatory authority of each Party shall maintain internal processes or mechanisms for internal coordination, consultation and review. Such processes or mechanisms shall, *inter alia*, seek to:

(a) foster good regulatory practices, such as those set forth in this Chapter;

[1] For greater certainty, a Party may comply with Articles 22.5 (Internal coordination of regulatory development) and 22.9(1) (Periodic review of regulatory measures in effect) through any combination of separate or combined processes or mechanisms.

(b) identify and avoid unnecessary duplication and inconsistent requirements in the Party's regulatory measures;

(c) ensure compliance with international trade and investment obligations; and

(d) promote the consideration of effects of the regulatory measures being prepared or developed, which may include those on SMEs.

ARTICLE 22.6

Early information on planned regulatory measures[1]

1. Each Party shall, on at least an annual basis, list planned major regulatory measures[2] that it reasonably expects to adopt within a year and make such list or lists publicly available.

2. With respect to each major regulatory measure, referred to in paragraph 1, the regulatory authority of each Party should make publicly available, as early as possible:

(a) a brief description of its scope and objectives; and

[1] In the case of New Zealand, for the purposes of this Article the term "regulatory measures" means regulations made by Order in Council referred to in point (b)(ii)(B) of Article 22.2 (Definitions).

[2] For the purposes of this Chapter, the regulatory authority of each Party may determine what constitutes a major regulatory measure.

(b) the estimated timing for its adoption, including opportunities for public consultation.

ARTICLE 22.7

Public consultation

1. When preparing or developing major regulatory measures, the regulatory authority of each Party shall, to the extent possible and appropriate:

(a) make publicly available, such as by publishing draft regulatory measures or consultation documents, sufficient details about those major regulatory measures to allow any person to assess whether and how the person's interests might be significantly affected;

(b) offer reasonable opportunities for any person, on a non-discriminatory basis, to provide comments; and

(c) consider the comments received.

2. For the purpose of providing information and receiving comments related to public consultations, the regulatory authority of each Party shall make information accessible to the public by digital means, preferably through a dedicated electronic portal.

3. The regulatory authority of each Party shall endeavour to make publicly available a summary of the results of the consultations and comments received, except to the extent necessary to protect confidential information or withhold personal data or inappropriate content.

ARTICLE 22.8

Impact assessment

1. The regulatory authority of each Party affirms its intention to carry out, in accordance with its respective rules and procedures, an impact assessment of major regulatory measures it is preparing.

2. For carrying out an impact assessment, the regulatory authority of each Party shall promote the identification and consideration of:

(a) the need for a regulatory measure, including the nature and the significance of the problem a regulatory measure intends to address;

(b) any feasible and appropriate regulatory and non-regulatory options that would achieve the Party's public policy objectives, including the option of not regulating;

(c) to the extent possible and relevant, the potential social, economic and environmental impact of the options, such as any impacts on international trade and investment, or the impact on SMEs; and

(d) how the options under consideration relate to relevant international standards, if any, including the reason for any divergence, where appropriate.

3. With respect to any impact assessment that a regulatory authority of a Party has carried out for a regulatory measure, that regulatory authority shall report on the factors it considered in its assessment and summarise the relevant findings. The information shall be made publicly available no later than when the regulatory measure to which it relates is made publicly available.

ARTICLE 22.9

Periodic review of regulatory measures in effect

1. Further to Article 22.4 (Transparency of processes and mechanisms), the regulatory authority of each Party shall maintain processes or mechanisms to promote periodic review of regulatory measures in effect.

2. The regulatory authority of each Party shall endeavour to ensure that periodic reviews consider, where appropriate:

(a) whether there are opportunities to achieve its public policy objectives more effectively and efficiently;[1] and

[1] For greater certainty, this may include whether unnecessary regulatory burdens, including on SMEs, can be reduced.

(b) whether the regulatory measures under review are likely to remain fit for purpose.

3. The regulatory authority of each Party shall, to the extent possible and appropriate, make publicly available any plans for, and the results of, periodic review of regulatory measures in effect.

ARTICLE 22.10

Access to regulatory measures

Each Party shall ensure that regulatory measures in effect are published in a designated register or via a single digital medium that is publicly available, searchable, free of charge and updated regularly.

ARTICLE 22.11

Regulatory cooperation

1. The Parties recognise the value in creating a simple mechanism to identify potential opportunities for undertaking regulatory cooperation between them.

2. A Party may propose a regulatory cooperation activity to the other Party. It shall transmit its proposal to the other Party's contact point designated in accordance with Article 22.12 (Contact points on regulatory cooperation).

3. The proposals may consist of:

(a) bilateral information exchanges on regulatory cooperation approaches; or

(b) informal cooperation between the regulatory authorities.

4. The other Party shall reply to the proposal within a reasonable period of time.

5. Where appropriate, and if the regulatory authorities so agree, the implementation of a regulatory cooperation activity may be carried out by the relevant divisions, departments or agencies in each Party.

ARTICLE 22.12

Contact points on regulatory cooperation

Promptly after the date of entry into force of this Agreement, each Party shall designate a contact point which shall be responsible for coordinating regulatory cooperation activities under Article 22.11 (Regulatory cooperation) and shall notify the other Party of the contact details for the contact point. Each Party shall promptly notify the other Party of any change to those contact details.

ARTICLE 22.13

Non-application of dispute settlement

Chapter 26 (Dispute settlement) does not apply to this Chapter.

CHAPTER 23

TRANSPARENCY

ARTICLE 23.1

Objectives

1. Recognising the impact that their respective regulatory environments may have on trade and investment between them, the Parties aim to provide a predictable regulatory environment and efficient procedures for economic operators, especially SMEs.

2. The Parties affirm their commitments in relation to transparency under the WTO Agreement, and build on those commitments in this Chapter.

ARTICLE 23.2

Definition

For the purposes of this Chapter, "administrative decision" means a decision or action with legal effect that applies to a specific person, good or service in an individual case and covers the failure to take an administrative decision when that is so required by the law of a Party.

ARTICLE 23.3

Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement are promptly published via an officially designated medium and, where feasible, by electronic means, or otherwise made available in such a manner as to enable any person to become acquainted with them.

2. To the extent possible and appropriate, each Party shall provide an explanation of the objective of, and rationale for, the laws, regulations, procedures and administrative rulings of general application referred to in paragraph 1.

3. To the extent possible and appropriate, each Party shall provide a reasonable period of time between publication and entry into force of laws and regulations with respect to any matter covered by this Agreement.

ARTICLE 23.4

Enquiries

1. Each Party shall maintain appropriate mechanisms for responding to enquiries from any person regarding any laws or regulations with respect to any matter covered by this Agreement.

2. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any law or regulation, whether in force or planned, with respect to any matter covered by this Agreement, unless a specific mechanism is established under another Chapter of this Agreement.

ARTICLE 23.5

Administrative proceedings

1. Each Party shall administer all laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement in an objective, impartial and reasonable manner.

2. When administrative proceedings relating to particular persons, goods or services of the other Party are initiated in respect of the application of laws, regulations, procedures or administrative rulings of general application, as referred to in paragraph 1, each Party shall:

(a) endeavour to provide persons that are directly affected by the administrative proceedings with reasonable notice, in accordance with its law, including a description of the nature of the proceedings, a statement of the legal authority under which the proceedings are initiated and a general description of any issues in question; and

(b) afford such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision in so far as time, the nature of the proceedings and the public interest permit.

ARTICLE 23.6

Appeal and review

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and, if warranted, correction of administrative decisions with respect to any matter covered by this Agreement. Each Party shall ensure that its judicial, arbitral or administrative tribunals carry out procedures for appeal or review in a non-discriminatory and impartial manner. Such tribunals shall be impartial and independent of the authority entrusted with administrative enforcement powers.

2. With respect to the tribunals or procedures as referred to in paragraph 1, each Party shall ensure that the parties before such tribunals or to such procedures are provided with:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the administrative authority.

3. Each Party shall ensure that the decision referred to in point (b) of paragraph 2 is, subject to appeal or further review as provided for in its law, implemented by the authority entrusted with administrative enforcement powers.

ARTICLE 23.7

Relation to other Chapters

The provisions set out in this Chapter supplement the specific rules set out in other Chapters of this Agreement.

CHAPTER 24

INSTITUTIONAL PROVISIONS

ARTICLE 24.1

Trade Committee

1. The Parties hereby establish a Trade Committee comprising representatives of both Parties to oversee the attainment of the objectives of this Agreement. Each Party may refer to the Trade Committee any issue relating to the implementation, application and interpretation of this Agreement.

2. The Trade Committee shall meet no later than six months after the date of entry into force of this Agreement. Thereafter, the Trade Committee shall meet on an annual basis, unless otherwise agreed by the representatives of the Parties, or without undue delay at the request of either Party.

3. The meetings of the Trade Committee shall take place in Brussels or Wellington alternately, unless otherwise agreed by the representatives of the Parties. The Trade Committee may meet in person or by other appropriate means of communication, as agreed by the representatives of the Parties.

4. The Trade Committee shall be co-chaired by the New Zealand Minister responsible for trade and the Member of the European Commission responsible for trade, or their respective designees.

ARTICLE 24.2

Functions of the Trade Committee

1. The Trade Committee shall:

(a) consider ways to further enhance trade and investment between the Parties;

(b) supervise and facilitate the implementation and application of this Agreement;

(c) supervise, guide and coordinate the work of specialised committees and other bodies established under this Agreement, and recommend to such specialised committees and other bodies any necessary action;

(d) consider any proposal to amend this Agreement;

(e) without prejudice to Chapter 26 (Dispute settlement) seek appropriate ways and methods of preventing or solving problems that may arise in areas covered by this Agreement, or of resolving disputes that may arise regarding the interpretation or application of this Agreement;

(f) in the event of accession of a third country to the Union, examine any effects of such accession on this Agreement and consider any necessary adjustment or transition measures, sufficiently in advance of the date of accession; and

(g) consider and discuss any matter of interest other than those set out in points (a) to (f) relating to an area covered by this Agreement.

2. The Trade Committee may:

(a) decide to establish specialised committees or other bodies other than those established pursuant to Article 24.4 (Specialised committees), dissolve any such specialised committees or other bodies and determine or change their composition, function and tasks;

(b) allocate responsibilities to specialised committees or other bodies established under this Agreement;

(c) delegate certain of its powers or responsibilities to a specialised committee, except those powers and responsibilities referred to in point (a) or (d) of this paragraph;

(d) recommend to the Parties any amendments to this Agreement;

(e) adopt decisions to issue interpretations of the provisions of this Agreement;

(f) except in relation to this Chapter, until the end of the fourth year following the entry into force of this Agreement, adopt decisions amending this Agreement, provided that such amendments are necessary to correct errors, or to address omissions or other deficiencies;

(g) adopt decisions as envisaged in this Agreement or make recommendations in accordance with Article 24.5 (Decisions and recommendations);

(h) communicate on matters related to this Agreement with all interested parties including private sector, social partners and civil society organisations;

(i) adopt decisions to amend this Agreement in accordance with Article 27.1(3) (Amendments) in the instances set out in Article 24.3 (Amendment of this Agreement by the Trade Committee); and

(j) take any other action in the exercise of its functions as the Parties may agree.

3. The Trade Committee shall regularly inform the Joint Committee established under Article 53(1) of the Partnership Agreement of its activities and those of its specialised committees or other bodies, as relevant, at the regular meetings of that Joint Committee.

ARTICLE 24.3

Amendment of this Agreement by the Trade Committee

The Trade Committee may adopt decisions to amend the following parts of this Agreement in accordance with, where applicable, the relevant provisions included in the Chapters, Annexes or Appendices set out below, as well as in accordance with Article 27.1(3) (Amendments)[1]:

(a) Annex 2-A (Tariff elimination schedules);

(b) Chapter 3 (Rules of origin and origin procedures) and Annex 3-A (Introductory notes to product-specific rules of origin), Annex 3-B (Product-specific rules of origin), including its Appendix 3-B-1 (Origin quotas and alternatives to the product-specific rules of origin in Annex 3-B (Product-specific rules of origin)), Annex 3-C (Text of the statement on origin) and Annex 3-D (Supplier's declaration referred to in Article 3.3(4) (Cumulation of origin));

(c) Annex 6-B (Regional conditions for plants and plant products), Annex 6-C (Equivalence recognition of SPS measures), Annex 6-D (Guidelines and procedures for an audit or verification), Annex 6-E (Certification) and Annex 6-F (Import checks and fees);

[1] For greater certainty, when in this Article reference is made to Annexes, the Trade Committee shall also have the power to amend Appendices to those Annexes even if such Appendices are not explicitly stated in this Article.

(d) Annex 9-A (Acceptance of conformity assessment (documents)), Annex 9-B (Motor vehicles and equipment or parts thereof), Annex 9-C (Arrangement referred to in point (b) of Article 9.10(5) for the systematic exchange of information in relation to the safety of non-food products and related preventive, restrictive and corrective measures), Annex 9-D (Arrangement referred to in Article 9.10(6) for the regular exchange of information regarding measures taken on non-compliant non-food products, other than those covered by point (b) of Article 9.10(5)) and Annex 9-E (Wine and spirits);

(e) the mutual recognition instrument referred to in Article 10.39(5) (Mutual recognition of professional qualifications) of Chapter 10 (Trade in services and investment)[1];

(f) Article 10.9(1) (Performance requirements) and Annex 10-A (Existing measures) and Annex 10-B (Future measures), in order to integrate disciplines on performance requirements with respect to the establishment or operation of a financial service supplier negotiated pursuant to Article 10.9(11) (Performance requirements) of Chapter 10 (Trade in services and investment);

(g) Annex 13 (Lists of energy goods, hydrocarbons and raw materials);

(h) Annex 14 (Public procurement market access commitments);

[1] For greater certainty, the Trade Committee shall have the power to adopt by decision such instrument as an Annex to this Agreement as well as to amend or revoke it after it has been adopted.

(i) Annex 18-A (Product classes) and Annex 18-B (Lists of geographical indications);

(j) Article 19.3(3) and (4) (Multilateral labour standards and agreements) of Chapter 19 (Trade and sustainable development);

(k) Annex 24 (Rules of procedure of the Trade Committee);

(l) Annex 26-A (Rules of procedure for dispute settlement) and Annex 26-B (Code of conduct for panellists and mediators); and

(m) any other provision, Annex or Appendix, for which the possibility of such decision is explicitly foreseen in this Agreement.

ARTICLE 24.4

Specialised committees

1. The following specialised committees are hereby established:

(a) the Committee on Trade in Goods, which addresses matters covered by Chapter 2 (National treatment and market access for goods), Chapter 5 (Trade remedies) and Chapter 9 (Technical barriers to trade);

(b) the Committee on Sanitary and Phytosanitary Measures, which addresses matters covered by Chapter 6 (Sanitary and phytosanitary measures) and Chapter 8 (Animal welfare);

(c) the Committee on Sustainable Food Systems, which addresses matters covered by Chapter 7 (Sustainable food systems);

(d) the Committee on Wine and Spirits, which addresses matters covered by Annex 9-E (Wine and spirits);

(e) the Committee on Trade and Sustainable Development, which addresses matters covered by Chapter 19 (Trade and sustainable development); and

(f) the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property, including Geographical Indications, which addresses matters covered in Chapter 10 (Trade in services and investment), Chapter 11 (Capital movements, payments and transfers), Chapter 12 (Digital trade), Chapter 14 (Public procurement) and Chapter 18 (Intellectual property).

2. The Joint Customs Cooperation Committee shall act under the auspices of the Trade Committee as a specialised committee, which addresses matters covered in Chapter 3 (Rules of origin and origin procedures), Chapter 4 (Customs and trade facilitation) and in the provisions on border enforcement and customs cooperation in Chapter 18 (Intellectual property) and any other customs-related provisions of this Agreement.

3. Unless otherwise provided in this Agreement or agreed by the representatives of the Parties, the specialised committees shall meet once a year, or without undue delay at the request of either Party or at the request of the Trade Committee. The meetings shall take place in the Union or in New Zealand alternately or by any other appropriate means of communication, as agreed by the representatives of the Parties. The specialised committees shall agree on their meeting schedule and set their agenda.

4. Specialised committees shall comprise representatives of each Party and they shall be co-chaired, at an appropriate level, by representatives of each Party.

5. Each specialised committee may decide on its own rules of procedure, in the absence of which the rules of procedure of the Trade Committee shall apply *mutatis mutandis*.

6. With respect to the issues related to their area of competence as listed in paragraph 1, the specialised committees shall have the power to:

(a) monitor and review the implementation and operation of this Agreement;

(b) consider and discuss technical issues arising from the implementation of this Agreement, without prejudice to Chapter 26 (Dispute settlement);

(c) adopt decisions where this Agreement so provides or make recommendations;

(d) conduct the preparatory work necessary to support the functions of the Trade Committee, including when Trade Committee has to adopt decisions or recommendations; and

(e) provide a forum for the Parties to exchange information, discuss best practices and share implementation experiences.

7. With respect to the issues related to their area of competence as listed in paragraph 1, the specialised committees shall:

(a) inform the Trade Committee of the schedule and agenda of their meetings sufficiently in advance;

(b) report to the Trade Committee on the results and conclusions from each of their meetings; and

(c) carry out any task assigned and any responsibility delegated to them by the Trade Committee.

8. The creation or existence of a specialised committee shall not prevent a Party from bringing any matter directly to the Trade Committee.

9. Each Party shall ensure that when a specialised committee meets, all the authorities competent for each issue on the agenda are represented, as each Party deems appropriate, and that each issue can be discussed at the adequate level of expertise.

ARTICLE 24.5

Decisions and recommendations

1. The decisions adopted by the Trade Committee, or, as the case may be, by a specialised committee, shall be binding on the Parties and on all the bodies set up under this Agreement, including the panels referred to in Chapter 26 (Dispute settlement). The Parties shall take measures necessary to implement the decisions adopted by the Trade Committee. Recommendations shall have no binding force.

2. The Trade Committee or, as the case may be, a specialised committee, shall adopt its decisions and make its recommendations by consensus.

ARTICLE 24.6

Domestic advisory groups

1. Each Party shall designate a domestic advisory group within a year after the date of entry into force of this Agreement. The domestic advisory group shall advise the Party concerned on issues covered by this Agreement. It shall comprise a balanced representation of independent civil society organisations including non-governmental organisations, business and employers' organisations as well as trade unions active on economic, sustainable development, social, human rights, environmental and other matters. In the case of New Zealand, the domestic advisory group shall include Māori representatives. The domestic advisory group may be convened in different configurations to discuss the implementation of different provisions of this Agreement.

2. Each Party shall meet with its domestic advisory group at least once a year. Each Party shall consider views or recommendations submitted by its domestic advisory group on the implementation of this Agreement.

3. In order to promote public awareness of the domestic advisory groups, each Party may publish the list of organisations participating in its domestic advisory group and shall publish the contact point for that domestic advisory group.

4. The Parties shall promote interaction between their respective domestic advisory groups.

ARTICLE 24.7

Civil Society Forum

1. The Parties shall facilitate the organisation of a Civil Society Forum to conduct a dialogue on the implementation of this Agreement and shall agree at the first meeting of the Trade Committee on operational guidelines for the conduct of the Civil Society Forum.

2. The Civil Society Forum shall endeavour to meet in conjunction with the meeting of the Trade Committee. The Parties may also facilitate participation in the Civil Society Forum by virtual means.

3. The Civil Society Forum shall be open for the participation of independent civil society organisations established in the territories of the Parties, including members of the domestic advisory groups referred to in Article 24.6 (Domestic advisory groups). Each Party shall endeavour to promote a balanced representation, including non-governmental organisations, business and employers' organisations and trade unions active on economic, sustainable development, social, human rights, environmental and other matters. In the case of New Zealand, the Civil Society Forum shall include Māori representatives.

4. The representatives of the Parties participating in the Trade Committee shall, as appropriate, take part in a session of the meeting of the Civil Society Forum in order to present information on the implementation of this Agreement and to engage in a dialogue with the Civil Society Forum. Such session shall be co-chaired by the co-chairs of the Trade Committee or their designees, as appropriate. The Parties shall, jointly or individually, publish any formal statements made at the Civil Society Forum.

CHAPTER 25

EXCEPTIONS AND GENERAL PROVISIONS

ARTICLE 25.1

General exceptions

1. For the purposes of Chapter 2 (National treatment and market access for goods), Chapter 4 (Customs and trade facilitation), Section B (Investment liberalisation) of Chapter 10 (Trade in services and investment), Chapter 12 (Digital trade), Chapter 13 (Energy and raw materials) and Chapter 17 (State-owned enterprises), Article XX of GATT 1994 and its interpretative Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment or trade in services, nothing in Chapter 10 (Trade in services and investment), Chapter 11 (Capital movements, payments and transfers), Chapter 12 (Digital trade), Chapter 13 (Energy and raw materials) and Chapter 17 (State-owned enterprises) shall be construed to prevent the adoption or enforcement by either Party of measures:

(a) necessary to protect public security or public morals or to maintain public order;[1]

[1] The public security and public order exceptions may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety.

3. For greater certainty, the Parties understand that, to the extent that such measures are otherwise inconsistent with a Chapter or a Section referred to in paragraphs 1 and 2 of this Article:

(a) the measures referred to in point (b) of Article XX of GATT 1994 and in point (b) of paragraph 2 of this Article include environmental measures which are necessary to protect human, animal or plant life or health;

(b) point (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources; and

(c) measures taken to implement MEAs may fall under point (b) or (g) of Article XX of GATT 1994 or under point (b) of paragraph 2 of this Article.

4. Before a Party takes any measures provided for in points (i) and (j) of Article XX of GATT 1994, that Party shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If no agreement is reached within 30 days of providing the information, the Party may apply the relevant measures. Where exceptional and critical circumstances requiring immediate action prevent prior information or examination, the Party intending to take the measures may apply forthwith precautionary measures necessary to deal with the situation. That Party shall inform the other Party immediately thereof.

ARTICLE 25.2

Security exceptions

Nothing in this Agreement shall be construed:

(a) to require a Party to furnish or allow access to any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology and economic activities as carried out directly or indirectly for the purpose of supplying a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived; or

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent a Party from taking any action in pursuance of its obligations under the Charter of the United Nations for the maintenance of international peace and security.

ARTICLE 25.3

Taxation

1. For the purposes of this Article, the following definitions apply:

(a) "direct taxes" means all taxes on income or capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, taxes on wages or salaries paid by enterprises and taxes on capital appreciation;

(b) "residence" means residence for tax purposes; and

(c) "tax convention" means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation that either any Member State, the Union or New Zealand are party to.

2. Nothing in this Agreement shall affect the rights and obligations of either the Union or the Member States or New Zealand, under any tax convention. In the event of any inconsistency between this Agreement and any tax convention, the tax convention shall prevail to the extent of such inconsistency. As regards a tax convention between the Union or the Member States and New Zealand, the relevant competent authorities under this Agreement and the tax convention shall jointly determine whether an inconsistency exists between this Agreement and the tax convention.[1]

3. Articles 10.7 (Most-favoured-nation treatment) and 10.17 (Most-favoured-nation treatment) shall not apply to an advantage accorded by a Party pursuant to a tax convention.

[1] For greater certainty, this is without prejudice to Chapter 26 (Dispute settlement).

4. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade and investment, nothing in this Agreement shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure that:

(a) is aimed at ensuring the equitable or effective[1] imposition or collection of direct taxes; or

(b) distinguishes between taxpayers, who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.

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[1] Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which:

(i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory; or

(ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; or

(iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or

(iv) apply to consumers of services supplied in or from the territory of the other Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; or

(v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or

(vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base.

ARTICLE 25.4

Restrictions in the event of balance-of-payments
and external financial difficulties

1. Where a Party experiences serious balance-of-payments or external financial difficulties, or the threat thereof, that Party may adopt or maintain temporary safeguard measures with regard to capital movements, payments or transfers[1].

2. Any temporary safeguard measure adopted or maintained under paragraph 1 shall:

(a) be consistent with the Articles of Agreement of the International Monetary Fund;

(b) not exceed what is necessary to deal with the circumstances described in paragraph 1;

(c) be temporary and phased out progressively as the circumstances described in paragraph 1 improve;

(d) avoid unnecessary damage to the commercial, economic and financial interests of the other Party; and

(e) be non-discriminatory so that the other Party is treated no less favourably than any non-Party in like situations.

[1] For greater certainty, serious balance-of-payments and external financial difficulties, or the threat thereof, may be caused, among other factors, by serious difficulties relating to monetary or exchange rate policies, or the threat thereof.

3. With respect to trade in goods, a Party may adopt temporary safeguard measures in order to safeguard its external financial position or balance of payments. Any temporary safeguard measure adopted or maintained under this paragraph shall be consistent with GATT 1994 and its Understanding on the Balance-of-Payments Provisions.

4. With respect to trade in services, a Party may adopt temporary safeguard measures in order to safeguard its external financial position or balance of payments. Any temporary safeguard measure adopted or maintained under this paragraph shall be consistent with Article XII of GATS.

ARTICLE 25.5

Temporary safeguard measures

1. In exceptional circumstances of serious difficulties for the operation of the Union's economic and monetary union, or the threat thereof, the Union may adopt or maintain temporary safeguard measures with regard to capital movements, payments or transfers for a period that does not exceed six months.

2. Any temporary safeguard measure adopted or maintained under paragraph 1 shall be limited to the extent that is strictly necessary and shall not constitute a means of arbitrary or unjustified discrimination between New Zealand and a third country in like situations.

ARTICLE 25.6

Tiriti o Waitangi / Treaty of Waitangi

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in goods, trade in services and investment, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement, including in fulfilment of its obligations under te Tiriti o Waitangi / the Treaty of Waitangi.

2. The Parties agree that the interpretation of te Tiriti o Waitangi / the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 26 (Dispute settlement) shall otherwise apply to this Article. A panel established under Article 26.5 (Establishment of a panel) may be requested by the Union to determine only whether any measure referred to in paragraph 1 is inconsistent with its rights under this Agreement.

ARTICLE 25.7

Disclosure of information

1. Nothing in this Agreement shall be construed to require a Party to make available confidential information the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private, except where a panel requires such confidential information in dispute settlement proceedings under Chapter 26 (Dispute settlement). In such cases, the panel shall ensure that confidentiality is fully protected.

2. Each Party shall treat as confidential any information submitted by the other Party to the Trade Committee or to specialised committees that the other Party has designated as confidential.

ARTICLE 25.8

WTO waivers

If a right or obligation in this Agreement duplicates one in the WTO Agreement, any measure taken in conformity with a decision to grant a waiver adopted pursuant to Article IX of the WTO Agreement is deemed to be in conformity with the duplicated provision in this Agreement.

CHAPTER 26

DISPUTE SETTLEMENT

SECTION A

OBJECTIVE AND SCOPE

ARTICLE 26.1

Objective

The objective of this Chapter is to establish an effective and efficient mechanism for avoiding and settling any dispute between the Parties concerning the interpretation and application of this Agreement and the Sanitary Agreement with a view to reaching, where possible, a mutually agreed solution.

ARTICLE 26.2

Scope

1. This Chapter applies, subject to paragraph 2, with respect to any dispute between the Parties concerning the interpretation and application of this Agreement and of the Sanitary Agreement (hereinafter referred to as "covered provisions").

2. The covered provisions shall include all provisions of this Agreement and of the Sanitary Agreement with the exception of:

(a) Sections B (Anti-dumping and countervailing duties) and C (Global safeguard measures) of Chapter 5 (Trade remedies);

(b) Chapter 15 (Competition policy);

(c) Article 16.6 (Consultations);

(d) Chapter 20 (Māori trade and economic cooperation);

(e) Chapter 21 (Small and medium-sized enterprises);

(f) Chapter 22 (Good regulatory practice and regulatory cooperation); and

(g) provisions of te Tiriti o Waitangi / the Treaty of Waitangi, with respect to its interpretation, including as to the nature of the rights and obligations arising under it.

SECTION B

CONSULTATIONS

ARTICLE 26.3

Consultations

1. The Parties shall endeavour to resolve any dispute referred to in Article 26.2 (Scope) by entering into consultations in good faith, with the aim of reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request delivered to the other Party identifying the measure at issue and the covered provisions that it considers applicable.

3. The Party to which the request for consultations is made (hereinafter referred to as "the Party complained against") shall reply to that request for consultations promptly, but no later than 10 days after the date of its delivery. Unless the Parties agree otherwise, consultations shall be held within 30 days after the date of delivery of the request for consultations, and take place in the territory of the Party complained against. The consultations shall be deemed concluded within 30 days after the date of delivery of the request for consultations, or within 90 days after that date for disputes under Chapter 19 (Trade and sustainable development), unless the Parties agree to continue consultations.

4. Consultations on matters of urgency, including those regarding perishable goods, or seasonal goods or services that rapidly lose their trade value, shall be held within 15 days after the date of delivery of the request for consultations. The consultations shall be deemed concluded within those 15 days, unless the Parties agree to continue consultations.

5. During consultations each Party shall provide sufficient factual information so as to allow a complete examination of the manner in which the measure at issue could affect the application of this Agreement or the Sanitary Agreement. Each Party shall endeavour to ensure the participation of personnel of their competent governmental authorities who have expertise in the matter subject to the consultations.

6. In disputes concerning the provisions of Chapter 19 (Trade and sustainable development) which relate to the multilateral agreements or instruments referred to in Chapter 19 (Trade and sustainable development), the Parties shall take into account information from the ILO or relevant organisations or bodies established under MEAs in order to promote coherence between the work of the Parties and those relevant organisations or bodies. Where relevant, the Parties shall seek advice from those relevant organisations or bodies, or any other expert or body they deem appropriate. Each Party may seek, if appropriate, the views of the domestic advisory groups referred to in Article 24.6 (Domestic advisory groups) or other expert advice.

7. Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of either Party in any further proceedings.

8. A measure proposed by a Party, but not yet implemented, may be the subject of consultations under this Article but may not be the subject of panel procedures under Section C (Panel procedures) or mediation under Section D (Mediation).

SECTION C

PANEL PROCEDURES

ARTICLE 26.4

Initiation of panel procedures

1. The Party that sought consultations may request the establishment of a panel, if:

(a) the Party complained against does not respond to the request for consultations within 10 days after the date of its delivery;

(b) consultations are not held within the time periods set out in Article 26.3(3) and (4) (Consultations) respectively;

(c) the Parties agree not to have consultations; or

(d) consultations have been concluded and no mutually agreed solution has been reached.

2. The request for the establishment of a panel (hereinafter referred to as "panel request") shall be made by means of a written request delivered to the other Party, and to any external body entrusted pursuant to paragraph 4, if applicable. The complaining Party shall identify the measure at issue in its panel request, and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.

3. Each Party shall ensure that the panel request is promptly made public.

4. The Trade Committee may decide to entrust an external body with assisting panels under this Chapter, including providing administrative and legal support. The Trade Committee's decision shall also address the costs arising from such entrustment.

ARTICLE 26.5

Establishment of a panel

1. A panel shall be composed of three panellists.

2. Within 15 days after the date of delivery of the panel request, the Parties shall consult in good faith with a view to agreeing on the composition of the panel.

3. If the Parties do not agree on the composition of the panel within the time period provided for in paragraph 2, each Party shall appoint a panellist within 10 days after the expiry of the time period provided for in paragraph 2:

(a) from the sub-list of that Party established under Article 26.6 (Lists of panellists); or

(b) for disputes under Chapter 19 (Trade and sustainable development), from the sub-list of that Party in the TSD list established pursuant to point (b) of Article 26.6(1) (Lists of panellists).

If a Party does not appoint a panellist from its sub-list within the time period provided for in paragraph 3, the co-chair of the Trade Committee from the complaining Party shall select by lot, within 10 days after the expiry of the time period provided for in paragraph 3, the panellist from the sub-list of the Party that has not appointed a panellist. The co-chair of the Trade Committee from the complaining Party may delegate such selection by lot.

4. If the Parties do not agree on the chairperson of the panel within the time period established in paragraph 2, the co-chair of the Trade Committee from the complaining Party shall select by lot, within 10 days after the expiry of that time period, the chairperson of the panel:

(a) from the sub-list of chairpersons established under Article 26.6(2) (Lists of panellists); or

(b) for disputes under Chapter 19 (Trade and sustainable development), from the sub-list of chairpersons in the TSD list established pursuant to point (b) of Article 26.6(1) (Lists of panellists).

The co-chair of the Trade Committee from the complaining Party may delegate such selection by lot.

5. The panel shall be deemed to be established 15 days after the three selected panellists have accepted their appointment in accordance with Rule 10 of Annex 26-A (Rules of procedure for dispute settlement), unless the Parties agree otherwise. Each Party shall promptly make public the date of establishment of the panel.

6. If any of the lists provided for in Article 26.6 (Lists of panellists) have not been established or do not contain sufficient names or contain only names of persons who are not available at the time a panellist is to be selected pursuant to paragraph 3 or 4, the panellists shall be drawn by lot from the individuals who have been formally proposed by one Party or both Parties in accordance with Annex 26-A (Rules of procedure for dispute settlement).

ARTICLE 26.6

Lists of panellists

1. The Trade Committee shall, at its first meeting after the date of entry into force of this Agreement, establish:

(a) a list of individuals who are willing and able to serve as panellists; and

(b) a separate list of individuals who are willing and able to serve as panellists in disputes under Chapter 19 (Trade and sustainable development) (hereinafter referred to as "TSD list").

2. Each of the lists referred to in points (a) and (b) of paragraph 1 shall be composed of the following sub-lists:

(a) one sub-list of individuals established on the basis of proposals by the Union;

(b) one sub-list of individuals established on the basis of proposals by New Zealand; and

(c) one sub-list of individuals who are not nationals of either Party and who shall serve as chairperson of the panel.

3. The sub-lists referred to in points (a), (b) and (c) of paragraph 2, shall include at least three individuals each. The sub-list referred to in point (c) of paragraph 2 shall not have more than six individuals. The Trade Committee shall ensure that those sub-lists are always maintained at this number of individuals.

4. The Trade Committee may establish additional lists of individuals with expertise in specific sectors covered by this Agreement. Subject to the agreement of the Parties, such additional lists shall be used to compose the panel in accordance with the procedure set out in Article 26.5 (Establishment of a panel).

ARTICLE 26.7

Requirements for panellists

1. Each panellist shall:

(a) have demonstrated expertise in law, international trade, and other matters covered by this Agreement;

(b) be independent of, and not be affiliated with or take instructions from, either Party;

(c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and

(d) comply with Annex 26-B (Code of conduct for panellists and mediators).

2. The chairperson shall also have experience in dispute settlement procedures.

3. Notwithstanding point (a) of paragraph 1 and paragraph 2, each panellist on the TSD list shall have specialised knowledge of, or expertise in:

(a) labour or environmental law;

(b) issues addressed in the Chapter 19 (Trade and sustainable development); or

(c) the resolution of disputes arising under international agreements.

4. In view of the subject matter of a particular dispute, the Parties may agree to derogate from the requirement listed in point (a) of paragraph 1.

ARTICLE 26.8

Functions of the panel

The panel:

(a) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the covered provisions;

(b) shall set out, in its decisions and reports, the findings of facts, the applicability of the covered provisions and the basic rationale behind any findings and recommendations that it makes; and

(c) should consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

ARTICLE 26.9

Terms of reference of the panel

1. Unless the Parties agree otherwise within five days after the date of establishment of the panel, the terms of reference of the panel shall be:

"to examine, in the light of the relevant covered provisions referred to by the Parties, the matter referred to in the panel request, to make findings on the applicability of the covered provisions and the conformity of the measure at issue with those provisions, and to deliver a report in accordance with Articles 26.11 (Interim report) and 26.12 (Final report)."

2. If the Parties agree on terms of reference of the panel other than those set out in paragraph 1, they shall notify the agreed terms of reference of the panel to the panel within the time period set out in paragraph 1.

ARTICLE 26.10

Decision on urgency

1. If a Party so requests, the panel shall decide, within 10 days after its establishment, whether the case concerns matters of urgency.

2. If the panel decides that the dispute concerns matters of urgency, the applicable time periods set out in Section C (Panel procedures) of this Chapter shall be half the time prescribed therein, except for the time periods referred to in Article 26.5 (Establishment of a panel) and Article 26.9 (Terms of reference of the panel).

ARTICLE 26.11

Interim report

1. The panel shall deliver an interim report to the Parties within 90 days after the date of establishment of the panel. If the panel considers that such deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its interim report. The panel shall, under no circumstances, deliver its interim report later than 120 days after the date of establishment of the panel.

2. Each Party may deliver to the panel a written request to review precise aspects of the interim report within 10 days after its delivery. A Party may comment on the other Party's written request within six days after the delivery of such request.

ARTICLE 26.12

Final report

1. The panel shall deliver its final report to the Parties within 120 days after the date of establishment of the panel. If the panel considers that such deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its final report. The panel shall, under no circumstances, deliver its final report later than 150 days after the date of establishment of the panel.

2. The final report shall include a discussion on any written request by the Parties on the interim report referred to in Article 26.11(2) (Interim report) and clearly address the comments of the Parties.

ARTICLE 26.13

Compliance measures

1. The Party complained against shall take any measure necessary to comply promptly with the findings and recommendations in the final report in order to bring itself in compliance with the covered provisions.

2. The Party complained against shall, no later than 30 days after delivery of the final report, deliver a notification to the complaining Party of the measures which it has taken or which it envisages to take to comply.

3. In addition, as regards disputes under Chapter 19 (Trade and sustainable development):

(a) the Party complained against shall, no later than 30 days after delivery of the final report, inform its domestic advisory groups referred to in Article 24.6 (Domestic advisory groups) and the contact point of the other Party established pursuant to Article 19.16 (Contact points) of the measures which it has taken or which it envisages to take to comply; and

(b) the Trade and Sustainable Development Committee shall monitor the implementation of the compliance measures. The domestic advisory groups referred to in Article 24.6 (Domestic advisory groups) may submit observations to the Trade and Sustainable Development Committee in that regard.

ARTICLE 26.14

Reasonable period of time

1. If immediate compliance is not possible, the Party complained against shall, no later than 30 days after the date of delivery of the final report, deliver a notification to the complaining Party of the length of the reasonable period of time it will require for such compliance. The Parties shall endeavour to agree on the length of the reasonable period of time to comply.

2. If the Parties have not agreed on the length of the reasonable period of time, the complaining Party may, at the earliest 20 days after the date of delivery of the notification referred to in paragraph 1, request in writing the original panel to determine the length of the reasonable period of time. The panel shall deliver its decision to the Parties within 20 days after the date of delivery of such request.

3. The Party complained against shall deliver a written notification of its progress in complying with the final report to the complaining Party no later than 30 days before the expiry of the reasonable period of time.

4. The Parties may agree to extend the reasonable period of time.

ARTICLE 26.15

Compliance review

1. The Party complained against shall, no later than at the date of expiry of the reasonable period of time, deliver a notification to the complaining Party of any measure that it has taken to comply with the final report.

2. If the Parties disagree on the existence or the consistency with the covered provisions of any measure taken to comply, the complaining Party may deliver a request, in writing, to the original panel to decide on the matter. Such request shall identify any measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly. The panel shall deliver its decision to the Parties within 54 days after the date of delivery of such request.

ARTICLE 26.16

Temporary remedies

1. The Party complained against shall, if requested by the complaining Party, enter into consultations with the complaining Party with a view to agreeing on mutually acceptable compensation, if:

(a) the Party complained against delivers a notification to the complaining Party that it is not possible to comply with the final report;

(b) the Party complained against fails to deliver a notification of any measure taken to comply within the deadline as referred to in Article 26.13 (Compliance measures) or before the date of expiry of the reasonable period of time;

(c) the panel finds that no measure taken to comply exists; or

(d) the panel finds that the measure taken to comply is inconsistent with the covered provisions.

2. For disputes under Chapter 19 (Trade and sustainable development) this Article applies if:

(a) a situation set out in point (a), (b) or (c) of paragraph 1 of this Article arises and the final report of the panel pursuant to Article 26.12 (Final report) finds a violation of:

(i) Article 19.3(3) (Multilateral labour standards and agreements); or

(ii) Article 19.6(3) (Trade and climate change), if that panel, in its final report, finds that the Party complained against failed to refrain from any action or omission that materially defeats the object and purpose of the Paris Agreement; or

(b) a situation set out in point (d) of paragraph 1 of this Article arises and the decision of the panel pursuant to Article 26.15 (Compliance review) finds a violation of:

(i) Article 19.3(3) (Multilateral labour standards and agreements); or

(ii) Article 19.6(3) (Trade and climate change), if the panel, in its decision finds that the Party complained against failed to refrain from any action or omission that materially defeats the object and purpose of the Paris Agreement.

3. If in the circumstances set out in paragraphs 1 and 2, the complaining Party chooses not to request consultations in relation to compensation, or the Parties do not agree on compensation within 20 days after entering into consultations on compensation, the complaining Party may deliver a written notification to the Party complained against that it intends to suspend the application of obligations under the covered provisions. Such notification shall specify the level of intended suspension of obligations.

4. The complaining Party may suspend the obligations 10 days after the date of delivery of the notification referred to in paragraph 3, unless the Party complained against delivers a written request under paragraph 6.

5. The suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation.

6. If the Party complained against considers that the notified level of suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation or that the conditions set out in paragraph 2 are not fulfilled, it may deliver a written request to the original panel before the expiry of the 10-day period provided for in paragraph 4 to decide on the matter. The panel shall deliver its decision on the level of the suspension of obligations or on whether the conditions set out in paragraph 2 are not fulfilled, to the Parties within 30 days after the date of that request. Obligations shall not be suspended until the panel has delivered its decision. The suspension of obligations shall be consistent with that decision.

7. The suspension of obligations or the compensation referred to in this Article shall be temporary and shall not be applied after:

(a) the Parties have reached a mutually agreed solution pursuant to Article 26.26 (Mutually agreed solution);

(b) the Parties have agreed that the measure taken to comply brings the Party complained against into conformity with the covered provisions; or

(c) any measure taken to comply which the panel has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the Party complained against into compliance with those provisions.

ARTICLE 26.17

Review of any measure taken to comply
after the adoption of temporary remedies

1. The Party complained against shall deliver a notification to the complaining Party of any measure it has taken to comply following the suspension of obligations or following the application of temporary compensation, as the case may be. With the exception of cases under paragraph 2, the complaining Party shall terminate the suspension of obligations within 30 days after the date of delivery of the notification. In cases where compensation has been applied, and with the exception of cases under paragraph 2, the Party complained against may terminate the application of such compensation within 30 days after delivery of its notification that it has complied.

2. If the Parties do not reach an agreement on whether the notified measure brings the Party complained against into compliance with the covered provisions within 30 days after the date of delivery of the notification, either Party may deliver a written request to the original panel to decide on the matter, failing which the suspension of obligations or the compensation, as the case may be, shall be terminated. The panel shall deliver its decision to the Parties within 46 days after the date of the delivery of the request. If the panel finds that the measure taken to comply is in conformity with the covered provisions, the suspension of obligations or compensation, as the case may be, shall be terminated. Where relevant, the complaining Party shall adjust the level of suspension of obligations or of compensation in light of the panel decision.

3. If the Party complained against considers that the level of suspension of obligations implemented by the complaining Party exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel to decide on the matter.

ARTICLE 26.18

Replacement of panellists

If during any dispute settlement procedure under this Section a panellist is unable to participate, withdraws, or needs to be replaced because he or she does not comply with Annex 26-B (Code of conduct for panellists and mediators), the procedure provided for in Article 26.5 (Establishment of a panel) applies and any replacement panellist shall have all the powers and duties of the original panellists. The time period for the delivery of the report or decision of the panel shall be extended for the time necessary for the appointment of the new panellist.

ARTICLE 26.19

Rules of procedure for dispute settlement

1. Panel procedures shall be governed by this Section and Annex 26-A (Rules of procedure for dispute settlement).

2. Any hearing of the panel shall be open to the public unless otherwise provided in Annex 26-A (Rules of procedure for dispute settlement).

ARTICLE 26.20

Suspension and termination

1. At the request of both Parties, the panel shall suspend its work at any time for a period agreed by the Parties which does not exceed 12 consecutive months.

2. The panel shall resume its work before the expiry of the suspension period at the written request of both Parties, or at the expiry of the suspension period at the written request of either Party. The requesting Party shall deliver a notification to the other Party accordingly. If the panel does not resume its work at the expiry of the suspension period in accordance with this paragraph, the authority of the panel shall lapse and the dispute settlement procedure shall be terminated.

3. If the work of the panel is suspended, the relevant time periods set out in this Section shall be extended by the same period of time for which the work of the panel was suspended.

ARTICLE 26.21

Right to seek and receive information

1. At the request of a Party, or upon its own initiative, the panel may seek from the Parties, relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the panel for such information.

2. Upon the request of a Party or on its own initiative, the panel may seek any information it deems appropriate from any source. The panel also has the right to seek the opinion of experts, as it deems appropriate, and subject to any terms and conditions agreed by the Parties, where applicable.

3. With regard to matters related to compliance with multilateral agreements and instruments referred to in Chapter 19 (Trade and sustainable development), the opinions of external experts or information requested by the panel should include information and advice from the ILO or relevant organisations or bodies established under MEAs.

4. The panel shall consider *amicus curiae* submissions from natural persons of a Party or legal persons established in a Party in accordance with Annex 26-A (Rules of procedure for dispute settlement).

5. Any information or opinion obtained by the panel pursuant to this Article shall be disclosed to the Parties and the Parties may provide comments thereon.

ARTICLE 26.22

Rules of interpretation

1. The panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969.

2. The panel shall also take into account relevant interpretations in reports of WTO panels and the WTO Appellate Body adopted by the Dispute Settlement Body of the WTO, as well as in arbitration awards under the DSU.

3. Reports and decisions of the panel shall not add to or diminish the rights and obligations of the Parties under this Agreement.

ARTICLE 26.23

Reports and decisions of the panel

1. The deliberations of the panel shall be kept confidential. The panel shall make every effort to draft reports and take decisions by consensus. If this is not possible, the panel shall decide by majority vote. In no case shall separate opinions of panellists be disclosed.

2. The decisions and reports of the panel shall be accepted unconditionally by the Parties. They shall not create any rights or obligations with respect to natural or legal persons.

3. Each Party shall make the reports and decisions of the panel and its submissions publicly available, subject to the protection of confidential information.

4. The panel and the Parties shall treat as confidential any information submitted by a Party to the panel in accordance with Rules 34 to 36 of Annex 26-A (Rules of procedure for dispute settlement).

ARTICLE 26.24

Choice of forum

1. If a dispute arises regarding a particular measure in alleged breach of the covered provisions and a substantially equivalent obligation under any other international trade agreement to which both Parties are party, including the WTO Agreement, the Party seeking redress shall select the forum in which to settle the dispute.

2. Once a Party has selected the forum and initiated dispute settlement procedures under this Section or under any other international trade agreement, that Party shall not initiate dispute settlement procedures under any other agreement with respect to the particular measure referred to in paragraph 1 of this Article, unless the forum selected first fails to make findings for procedural or jurisdictional reasons.

3. For the purposes of this Article:

(a) the dispute settlement procedures under this Section are deemed to be initiated by a Party's panel request in accordance with Article 26.4 (Initiation of panel procedures);

(b) the dispute settlement procedures under the WTO Agreement are deemed to be initiated by a Party's panel request in accordance with Article 6 of the DSU; and

(c) the dispute settlement procedures under any other international trade agreement are deemed to be initiated in accordance with the relevant provisions of that agreement.

4. Nothing in this Agreement shall preclude a Party from suspending obligations authorised by the Dispute Settlement Body of the WTO or authorised under the dispute settlement procedures of any other international trade agreement to which the disputing Parties are party. A Party shall not invoke the WTO Agreement or any other international trade agreement between the Parties to preclude the other Party from suspending obligations pursuant to this Chapter.

SECTION D

MEDIATION

ARTICLE 26.25

Mediation

The Parties may have recourse to mediation with regard to any measure that a Party considers to be adversely affecting trade and investment between the Parties. The mediation procedure is set out in Annex 26-C (Rules of procedure for mediation).

SECTION E

COMMON PROVISIONS

ARTICLE 26.26

Mutually agreed solution

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 26.2 (Scope).

2. If a mutually agreed solution is reached during the panel procedures or mediation procedure, the Parties shall jointly notify that mutually agreed solution to the chairperson of the panel or the mediator, as applicable. Upon such notification, the panel procedures or the mediation procedure shall be terminated.

3. Any mutually agreed solution reached by the Parties shall be made available to the public.

4. Each Party shall take any measure necessary to implement the mutually agreed solution within the agreed time period.

5. No later than at the expiry of the agreed time period the implementing Party shall inform the other Party, in writing, of any measure it has taken to implement the mutually agreed solution.

ARTICLE 26.27

Time periods

1. All time periods set out in this Chapter shall be counted in calendar days from the day following the act to which they refer, unless otherwise specified.

2. Any time period set out in this Chapter may be modified by mutual agreement of the Parties.

3. As regards Section C (Panel procedures), the panel may at any time propose to the Parties to modify any time period set out in this Chapter, stating the reasons for the proposal.

ARTICLE 26.28

Costs

1. Each Party shall bear its own expenses derived from its participation in the panel procedures or mediation procedure.

2. Unless otherwise provided in Annex 26-A (Rules of procedure for dispute settlement), the Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the panellists and mediators. The remuneration of the panellists and mediators shall be in accordance with WTO standards.

3. The Trade Committee may adopt a decision to set out the parameters or other details on the remuneration and the reimbursement of expenses of panellists and mediators, including any related costs that could be incurred in the proceedings. Pending such decision, the remuneration and the reimbursement of expenses of panellists and mediators and of any related costs shall be determined in accordance with Rule 10 of Annex 26-A (Rules of procedure for dispute settlement).

ARTICLE 26.29

Amendment of the Annexes

The Trade Committee may amend Annexes 26-A (Rules of procedure for dispute settlement) and 26-B (Code of conduct for panellists and mediators).

CHAPTER 27

FINAL PROVISIONS

ARTICLE 27.1

Amendments

1. The Parties may agree, in writing, to amend this Agreement.

2. Amendments to this Agreement shall enter into force on the first day of the second month, or on such later date as may be agreed by the Parties, following the date on which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures for entry into force of such amendments.

3. The Trade Committee may amend this Agreement by decision, where provided for in Article 24.3 (Amendment of this Agreement by the Trade Committee). The decision of the Trade Committee shall either specify the date of entry into force of the amendments to this Agreement or, if required by a Party's domestic system, provide that such amendments enter into force after the notification in writing of the completion of any outstanding legal requirements and procedures of the Parties.

ARTICLE 27.2

Entry into force

1. This Agreement shall enter into force on the first day of the second month following the date on which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures for the entry into force of this Agreement. The Parties may agree on another date of entry into force of this Agreement.

2. The written notifications referred to in paragraph 1 shall be sent to the Secretary-General of the Council of the European Union and to the Ministry of Foreign Affairs and Trade of New Zealand.

ARTICLE 27.3

Termination

1. This Agreement shall remain in force unless terminated pursuant to paragraph 2.

2. A Party may notify the other Party of its intention to terminate this Agreement. A notification to the Union shall be sent to the Secretary-General of the Council of the European Union and a notification to New Zealand shall be sent to the Ministry of Foreign Affairs and Trade of New Zealand. The termination of this Agreement shall take effect six months after the date of the delivery of the notification, unless the Parties agree otherwise.

ARTICLE 27.4

Fulfilment of obligations

1. Each Party is fully responsible for the observance of all provisions of this Agreement.

2. Each Party shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement, including their observance at all levels of government as well as by persons exercising delegated governmental authority. Each Party shall perform the obligations set out in this Agreement in good faith.

3. This Agreement forms part of the common institutional framework referred to in Article 52(1) of the Partnership Agreement. A Party may take appropriate measures relating to this Agreement in the event of a particularly serious and substantial violation of any of the obligations described in Article 2(1) or Article 8(1) of the Partnership Agreement as essential elements, which threatens international peace and security so as to require an immediate reaction. A Party may also take such appropriate measures relating to this Agreement in the event of an act or omission that materially defeats the object and purpose of the Paris Agreement. Those appropriate measures shall be taken in accordance with the procedure set out in Article 54 of the Partnership Agreement.

ARTICLE 27.5

Delegated authority

Unless otherwise provided for in this Agreement, each Party shall ensure that when a juridical person, including a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly, exercises any regulatory, administrative or other governmental authority that the Party has delegated to such a person to carry out, that person acts in accordance with the obligations of that Party under this Agreement.

ARTICLE 27.6

No direct effect

1. Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons, other than rights or obligations created between the Parties under public international law.

2. A Party shall not provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

ARTICLE 27.7

Laws and regulations and amendments thereto

Unless otherwise specified, where reference is made in this Agreement to laws and regulations of a Party, those laws and regulations shall be understood to include amendments thereto.

ARTICLE 27.8

Integral parts of this Agreement

1. The Annexes, Appendices, Declarations, Joint declarations and footnotes to this Agreement shall form an integral part of this Agreement.

2. Each of the Annexes to this Agreement, including its Appendices, shall form an integral part of the Chapter that refers to that Annex or to which reference is made in that Annex. For greater certainty:

(a) Annex 2-A (Tariff elimination schedules) and its Appendices form an integral part of Chapter 2 (National treatment and market access for goods);

(b) Annex 3-A (Introductory notes to product-specific rules of origin),
Annex 3-B (Product-specific rules of origin) and its Appendices and Annexes 3-C (Text of the statement on origin), 3-D (Supplier's declaration referred to in Article 3.3(4) (Cumulation of origin)), 3-E (Joint declaration concerning the principality of Andorra) and 3-F (Joint declaration concerning the Republic of San Marino) form an integral part of Chapter 3 (Rules of origin and origin procedures);

(c) Annexes 6-A (Competent authorities), 6-B (Regional conditions for plants and plant products), 6-C (Equivalence recognition of SPS measures), 6-D (Guidelines and procedures for an audit or verification), 6-E (Certification) and 6-F (Import checks and fees) form an integral part of Chapter 6 (Sanitary and phytosanitary measures);

(d) Annexes 9-A (Acceptance of conformity assessment (documents)), 9-B (Motor vehicles and equipment or parts thereof) and its Appendix, 9-C (Arrangement referred to in point (b) of Article 9.10(5) for the systematic exchange of information in relation to the safety of non-food products and related preventive, restrictive and corrective measures), 9-D (Arrangement referred to in Article 9.10(6) for the regular exchange of information regarding measures taken on non-compliant non-food products, other than those covered by point (b) of Article 9.10(5)), and 9-E (Wine and spirits) and its Appendices form an integral part of Chapter 9 (Technical barriers to trade);

(e) Annex 10-A (Existing measures), Annex 10-B (Future measures), Annex 10-C (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors), Annex 10-D (List of activities of short-term business visitors), Annex 10-E (Contractual service suppliers and independent professionals) and Annex 10-F (Movement of natural persons for business purposes) form an integral part of Chapter 10 (Trade in services and investment);

(f) Annex 13 (Lists of energy goods, hydrocarbons and raw materials) forms an integral part of Chapter 13 (Energy and raw materials);

(g) Annex 14 (Public procurement market access commitments) forms an integral part of Chapter 14 (Public procurement);

(h) Annexes 18-A (Product classes) and 18-B (List of geographical indications) form an integral part of Chapter 18 (Intellectual property);

(i) Annex 19 (Environmental goods and services) forms an integral part of Chapter 19 (Trade and sustainable development);

(j) Annex 24 (Rules of procedure of the Trade Committee) forms an integral part of Chapter 24 (Institutional provisions);

(k) Annexes 26-A (Rules of procedure for dispute settlement), 26-B (Code of conduct for panellists and mediators) and 26-C (Rules of procedure for mediation) form an integral part of Chapter 26 (Dispute settlement); and

(l) Annex 27 (Joint declaration on customs unions) forms an integral part of Chapter 27 (Final provisions).

ARTICLE 27.9

Authentic texts

This Agreement shall be drawn up in duplicate in the English, Bulgarian, Croatian, Czech, Danish, Dutch, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this Agreement.

ANNEX 10-A

EXISTING MEASURES

Headnotes

1. The schedules of New Zealand and the Union set out, under Article 10.10 (Non-conforming measures) or 10.18 (Non-conforming measures), the existing measures of New Zealand and the Union that do not conform with obligations imposed by:

(a) Article 10.5 (Market access) or 10.14 (Market access);

(b) Article 10.6 (National treatment) or 10.16 (National treatment);

(c) Article 10.7 (Most-favoured-nation treatment) or 10.17 (Most-favoured-nation treatment);

(d) Article 10.8 (Senior management and boards of directors);

(e) Article 10.9 (Performance requirements); or

(f) Article 10.15 (Local presence).

2. The reservations of a Party are without prejudice to the rights and obligations of the Parties under GATS.

3. Each entry sets out the following elements:

(a) "sector" refers to the general sector in which the entry is made;

(b) "sub-sector" refers to the specific sector in which the entry is made;

(c) "industry classification" refers, where applicable, to the activity covered by the entry according to the CPC, ISIC Rev. 3.1, or as expressly otherwise described in that entry;

(d) "obligations concerned" specifies the obligation referred to in paragraph 1 for which an entry is made;

(e) "level of government" indicates the level of government maintaining the listed measure;

(f) "measures" identifies the law, regulation or other measure 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;

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(iii) in respect of the schedule of the Union, includes any law, regulation or other measure which implements a directive at Member State level; and

(g) "description" sets out the non-conforming aspects of the existing measure for which the entry is made.

4. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant obligations of the Sections or Sub-Sections against which the entry is made. In the event of an inconsistency between the "measures" element and the other elements of an entry, the "measures" element shall prevail.

5. For the purposes of the schedules of New Zealand and the Union:

(a) "ISIC Rev. 3.1" means the International Standard Industrial Classification of All Economic Activities as set out in Statistical Office of the United Nations, Statistical Papers, Series M No. 4, ISIC Rev. 3.1, 2002;

(b) "CPC" means the Provisional Central Product Classification (Statistical Papers, Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

6. For the purposes of the schedules of New Zealand and the Union, an entry for a requirement to have a local presence in the territory of the Union or New Zealand is made against Article 10.15 (Local presence), and not against Article 10.14 (Market access) or 10.16 (National treatment). Furthermore, such a requirement is not made as an entry against Article 10.56 (Access to major suppliers' essential facilities).

7. An entry made at the level of the Union applies to a measure of the Union, to a measure of a Member State at the central level or to a measure of a government within a Member State, unless the entry excludes a Member State. An entry for a Member State applies to a measure of a government at the central, regional or local level within that Member State. For the purposes of the entries of Belgium, the central level of government covers the federal government and the governments of the regions and the communities as each of them holds equipollent legislative powers. For the purposes of the entries of the Union and the Member States, a regional level of government in Finland means the Åland Islands. An entry made at the level of New Zealand applies to a measure of the central government or a local government.

8. The list of entries in this Annex does not include measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures where they do not constitute a limitation within the meaning of Article 10.5 (Market access), 10.6 (National treatment), 10.14 (Market access), Article 10.15 (Local presence) or 10.16 (National treatment). Such measures may include the need to obtain a licence, to satisfy a universal service obligation, to have a recognised qualification in a regulated sector, to pass a specific examination, including a language examination, to fulfil a membership requirement of a particular profession, such as membership of a professional organisation, to have a local agent for service, or to maintain a local address, or any other non-discriminatory requirements that certain activities may not be carried out in protected zones or areas. While not listed, such measures continue to apply.

9. For greater certainty, for the Union, the obligation to grant national treatment does not entail the requirement to extend to persons of New Zealand the treatment granted in a Member State, in the application of the TFEU, or any measure adopted pursuant to TFEU, including its implementation in the Member States, to:

(a) natural persons or residents of another Member State; or

(b) juridical persons constituted or organised under the law of another Member State or of the Union and having their registered office, central administration or principal place of business in the Union.

10. Treatment granted to juridical persons established by investors of a Party in accordance with the law of the other Party (including, in the case of the Union, the law of a Member State) and having their registered office, central administration or principal place of business within that other Party, is without prejudice to any condition or obligation, consistent with Section B (Investment liberalisation) of Chapter 10 (Trade in services and investment), which may have been imposed on such juridical person when it was established in that other Party, and which shall continue to apply.

11. The schedules of New Zealand and the Union apply only to the territories of New Zealand and the Union in accordance with Article 1.4 (Territorial application) and are only relevant in the context of trade relations between the Union, the Member States and New Zealand. They do not affect the rights and obligations of the Member States under Union law.

12. For greater certainty, non-discriminatory measures do not constitute a limitation within the meaning of Article 10.5 (Market access) or Article 10.14 (Market access) for any measure:

(a) requiring the separation of the ownership of infrastructure from the ownership of the goods or services provided through that infrastructure to ensure fair competition, for example in the fields of energy, transportation and telecommunications;

(b) restricting the concentration of ownership to ensure fair competition;

(c) seeking to ensure the conservation and protection of natural resources and the environment, including a limitation on the availability, number and scope of concessions granted, and the imposition of a moratorium or ban;

(d) limiting the number of authorisations granted because of technical or physical constraints, for example telecommunications spectra and frequencies; or

(e) requiring that a certain percentage of the shareholders, owners, partners, or directors of an enterprise be qualified or practice a certain profession such as lawyers or accountants.

13. With respect to computer services, any of the following services shall be considered as computer and related services, regardless of whether they are delivered via a network, including the internet:

(a) consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance or management of or for computers or computer systems;

(b) computer programmes defined as the sets of instructions required to make computers work and communicate (in and of themselves), as well as consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programmes;

(c) data processing, data storage, data hosting or database services;

(d) maintenance and repair services for office machinery and equipment, including computers; and

(e) training services for staff of clients, related to computer programmes, computers or computer systems, and not elsewhere classified.

For greater certainty, services enabled by computer and related services, other than those listed in points (a) to (e), shall not be regarded as computer and related services in themselves.

14. With respect to financial services, unlike foreign subsidiaries, branches established directly in a Member State by a non-Union financial institution are not, with certain limited exceptions, subject to prudential regulations harmonised at Union level which enable such subsidiaries to benefit from enhanced facilities to set up new establishments and to provide cross-border services throughout the Union. Therefore, such branches receive an authorisation to operate in the territory of a Member State under conditions equivalent to those applied to domestic financial institutions of that Member State, and may be required to satisfy a number of specific prudential requirements such as, in the case of banking and securities, separate capitalisation and other solvency requirements, and reporting and publication of accounts requirements or, in the case of insurance, specific guarantee and deposit requirements, a separate capitalisation, and the localisation in the Member State concerned of the assets representing the technical reserves and at least one third of the solvency margin.

15. With respect to Article 10.5 (Market access), juridical persons supplying financial services and constituted under the law of New Zealand or the law of the Union or of at least one of the Member States, are subject to non-discriminatory limitations on legal form.[1]

16. The following abbreviations are used in the list of reservations in this Annex:

EU Union, including the Member States

AT Austria

BE Belgium

BG Bulgaria

CY Cyprus

CZ Czechia

DE Germany

[1] For example, partnerships and sole proprietorships are generally not acceptable legal forms for financial institutions in New Zealand and the Union. This headnote is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

DK Denmark

EE Estonia

EL Greece

ES Spain

FI Finland

FR France

HR Croatia

HU Hungary

IE Ireland

IT Italy

LT Lithuania

LU Luxembourg

LV Latvia

MT Malta

NL The Netherlands

PL Poland

PT Portugal

RO Romania

SE Sweden

SI Slovenia

SK Slovak Republic

Schedule of the Union

1. Reservation No. 1 – All sectors

2. Reservation No. 2 – Professional services (except health-related professions)

3. Reservation No. 3 – Professional services (health-related and retail of pharmaceuticals)

4. Reservation No. 4 – Research and development services

5. Reservation No. 5 – Real estate services

6. Reservation No. 6 – Business services

7. Reservation No. 7 – Communication services

8. Reservation No. 8 – Construction services

9. Reservation No. 9 – Distribution services

10. Reservation No. 10 – Education services

11. Reservation No. 11 – Environmental services

12. Reservation No. 12 – Financial services

13. Reservation No. 13 – Health services and social services

14. Reservation No. 14 – Tourism and travel-related services

15. Reservation No. 15 – Recreational, cultural and sporting services

16. Reservation No. 16 – Transport services and services auxiliary to transport services

17. Reservation No. 17 – Mining and energy-related activities

18. Reservation No. 18 – Agriculture, fishing and manufacturing

Reservation No. 1 – All sectors

Sector:	All sectors
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

(a) Type of establishment

With respect to Investment liberalisation – National treatment:

The EU: Treatment granted pursuant to the TFEU to juridical persons formed in accordance with the law of the Union or of a Member State and having their registered office, central administration or principal place of business within the Union, including those established in the Union by investors of New Zealand, is not accorded to juridical persons established outside the Union, nor to branches or representative offices of such juridical persons, including to branches or representative offices of juridical persons of New Zealand.

Treatment less favourable may be accorded to juridical persons formed in accordance with the law of the Union or of a Member State which have only their registered office in the Union, unless it can be shown that they possess an effective and continuous link with the economy of one of the Member States.

Measures:

EU: TFEU

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors:

This reservation applies only to health, social or education services:

The EU (applies also to the regional level of government): Any Member State, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity providing health, social or education services (CPC 93, 92), may prohibit or impose limitations on the ownership of such interests or assets, or restrict the ability of owners of such interests and assets to control any resulting enterprise, with respect to investors of New Zealand or their enterprises. With respect to such a sale or other disposition, any Member State may adopt or maintain any measure relating to the nationality of senior management or members of the boards of directors, as well as any measure limiting the number of suppliers.

For the purposes of this reservation:

(i) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of the sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets or imposes nationality requirements or imposes limitations on the numbers of suppliers as described in this reservation shall be deemed to be an existing measure; and

(ii) "state enterprise" means an enterprise owned or controlled through ownership interests by any Member State and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Measures:

EU: As set out in the description element as indicated above.

With respect to Investment liberalisation – National treatment:

In AT: For the operation of a branch, non-European Economic Area (hereinafter referred to as "non-EEA") corporations must appoint at least one person responsible for its representation who is resident in Austria. Executives (managing directors, natural persons) responsible for the observance of the Austrian Trade Act (Gewerbeordnung) must be domiciled in Austria.

In BG: Foreign juridical persons, unless established under the legislation of a Member State of the European Economic Area (hereinafter referred to as "EEA"), may conduct business and pursue activities if established in the Republic of Bulgaria in the form of a company registered in the Commercial Register. Establishment of branches is subject to authorisation. Representative offices of foreign enterprises must be registered with the Bulgarian Chamber of Commerce and Industry and may not engage in economic activity but are only entitled to act as representatives or agents for their owner and may not supply services.

In EE: If the residence of at least half of the members of the management board of a private limited company, a public limited company or the branch of a foreign company is not in Estonia, in another Member State of the EEA or in the Swiss Confederation, the private limited company, the public limited company or the branch of the foreign company shall designate a point of contact whose Estonian address can be used for the delivery of the procedural documents of the undertaking and the declarations of intent addressed to the undertaking (i.e. the branch of a foreign company).

With respect to Investment liberalisation – National treatment and Cross-border trade in services – Local presence:

In FI: At least one of the partners in a general partnership or of general partners in a limited partnership must have residency in the EEA or, if the partner is a juridical person, be domiciled (no branches allowed) in the EEA. Exemptions may be granted by the registration authority.

To carry on trade as a private entrepreneur, residency in the EEA is required.

If a foreign organisation from a country outside the EEA intends to carry on a business or trade by establishing a branch in Finland, a trade permit is required.

Residency in the EEA is required for at least one of the ordinary and one of the deputy members of the board of directors and for the managing director of a company. Company exemptions may be granted by the registration authority.

In SE: A foreign company which has not established a legal entity in Sweden or is conducting its business through a commercial agent shall conduct its commercial operations through a branch, registered in Sweden, with independent management and separate accounts. The managing director and the vice-managing director, if appointed, of the branch, must reside in the EEA. A natural person not resident in the EEA, who conducts commercial operations in Sweden, shall appoint and register a resident representative responsible for the operations in Sweden. Separate accounts shall be kept for the operations in Sweden. The competent authority may in individual cases grant exemptions from the branch and residency requirements. Building projects with duration of less than a year, conducted by a company located or a natural person residing outside the EEA, are exempted from the requirements of establishing a branch or appointing a resident representative.

For limited liability companies and co-operative economic associations, at least 50 % of the members of a board of directors, at least 50 % of the deputy board members, the managing director, the vice-managing director, and at least one of the persons authorised to sign for the company, if any, must reside within the EEA. The competent authority may grant exemptions from this requirement. If none of the company's or society's representatives reside in Sweden, the board must appoint and register a person resident in Sweden, who has been authorised to receive servings on behalf of the company or society.

Corresponding conditions prevail for establishment of all other types of legal entities.

In SK: A foreign natural person whose name is to be registered in the appropriate register (commercial register, entrepreneurial or other professional register) as a person authorised to act on behalf of an entrepreneur is required to submit a residence permit for Slovakia.

Measures:

AT: Aktiengesetz, BGBl. Nr. 98/1965, § 254 (2);

GmbH-Gesetz, RGBl. Nr. 58/1906, § 107 (2); and

Gewerbeordnung, BGBl. Nr. 194/1994, § 39 (2a).

BG: Commercial Law, Article 17a; and

Law for Encouragement of Investments, Article 24.

EE: Äriseadustik (Commercial Code) § 631 (1, 2 and 4).

FI: Laki elinkeinon harjoittamisen oikeudesta (Act on the Right to Carry on a Trade) (122/1919), s. 1;

Osuuskuntalaki (Co-Operatives Act) 1488/2001;

Osakeyhtiölaki (Limited Liabilities Company Act) (624/2006); and

Laki luottolaitostoiminnasta (Act on Credit Institutions) (121/2007).

SE: Lag om utländska filialer m.m (Foreign Branch Offices Act) (1992:160);

Aktiebolagslagen (Companies Act) (2005:551);

The Co-operative Economic Associations Act (2018:672); and Act on European Economic Interest Groupings (1994:1927).

SK: Act 513/1991 on Commercial Code (Article 21); Act 455/1991 on Trade Licensing; and Act no 404/2011 on Residence of Aliens (Articles 22 and 32).

With respect to Investment liberalisation – Market access, National treatment, Performance requirements:

In BG: Established enterprises may employ third-country nationals only for positions for which there is no requirement for Bulgarian nationality. The total number of third-country nationals employed by an established enterprise over a period of the preceding 12 months must not exceed 20 % (35 % for SMEs) of the average number of Bulgarian nationals, nationals of other Member States, of states parties to the Agreement on the EEA or of the Swiss Confederation hired on an employment contract. In addition, the employer must demonstrate that there is no suitable Bulgarian, EU, EEA or Swiss worker for the respective position by conducting a labour market test before employing a third country national.

For highly qualified, seasonal and posted workers, as well as for intra-corporate transferees, researchers and students there is no limitation on the number of third-country nationals working for a single enterprise. For the employment of third-country nationals in these categories, no labour market test is required.

Measures:

BG: Labour Migration and Labour Mobility Act.

With respect to Investment liberalisation – Market access, National treatment:

In PL: The scope of operations of a representative office may only encompass advertising and promotion of the foreign parent company represented by the office. For all sectors except legal services, establishment by non-Union investors and their enterprises may only be in the form of a limited partnership, limited joint-stock partnership, limited liability company, and joint-stock company, while domestic investors and enterprises also have access to the forms of non-commercial partnership companies (general partnership and unlimited liability partnership).

Measures:

PL: Act of 6 March 2018 on rules regarding economic activity of foreign entrepreneurs and other foreign persons in the territory of the Republic of Poland.

(b) Acquisition of real estate

With respect to Investment liberalisation – National treatment:

In AT (applies to the regional level of government): The acquisition, purchase and rental or leasing of real estate by non-Union natural persons and enterprises requires authorisation by the competent regional authorities (Länder). Authorisation will only be granted if the acquisition is considered to be in the public (in particular economic, social and cultural) interest.

In CY: Cypriots or persons of Cypriot origin, as well as nationals of a Member State, may acquire any property in Cyprus without restrictions. A foreigner may not acquire, otherwise than *mortis causa*, any immovable property without obtaining a permit from the Council of Ministers. For foreigners, where the acquisition of immovable property exceeds the extent necessary for the erection of premises for a house or professional roof, or otherwise exceeds the extent of two donums (2 676 square meters), any permit granted by the Council of Ministers shall be subject to such terms, limitations, conditions and criteria which are set by Regulations made by the Council of Ministers and approved by the House of Representatives. A foreigner is any person who is not a citizen of the Republic of Cyprus, including a foreign-controlled company. The term does not include foreigners of Cypriot origin or non-Cypriot spouses of citizens of the Republic of Cyprus.

In CZ: Specific rules apply to agricultural land under state ownership. State agricultural land may be acquired only by Czech nationals, nationals of another Member State, or States party to the Agreement on the EEA or the Swiss Confederation. Juridical persons may acquire state agricultural land from the state only if they are agricultural entrepreneurs in the Czechia or persons with similar status in other Member States of the European Union, or States party to the Agreement on the EEA or the Swiss Confederation.

In DK: Natural persons who are not resident in Denmark, and who have not previously been resident in Denmark for a total period of five years, must in accordance with the Danish Acquisition Act obtain permission from the Ministry of Justice to acquire title to real property in Denmark. This also applies for juridical persons that are not registered in Denmark. For natural persons, acquisition of real property will be permitted if the applicant is going to use the real property as their primary residence.

For juridical persons that are not registered in Denmark, acquisition of real property will in general be permitted, if the acquisition is a prerequisite for the business activities of the purchaser. Permission is also required if the applicant is going to use the real property as a secondary dwelling. Such permission will only be granted if, following an overall and concrete assessment, the applicant is regarded to have particularly strong ties to Denmark.

Permission under the Acquisition Act is only granted for the acquisition of specific real property. The acquisition of agricultural land is in addition governed by the Danish Agricultural Holdings Act, which imposes restrictions on all persons, Danish or foreign, when acquiring agricultural property. Accordingly, any person who wishes to acquire agricultural real property, must fulfil the requirements in that Act. This generally means a limited residence requirement on the agricultural holding applies. The residence requirement is not personal. Juridical entities must be of the types listed in §20 and §21 of the Agricultural Holdings Act and must be registered in the Union or EEA.

In EE: A juridical person from an OECD Member country has the right to acquire immovable property which contains:

(i) less than 10 hectares of agricultural land, forest land or agricultural and forest land in total without restrictions;

(ii) 10 hectares or more of agricultural land if the juridical person has been engaged, for three years immediately preceding the year of making the transaction of acquisition of immovable property, in production of agricultural products listed in Annex I to the TFEU, except fishery products and cotton (hereinafter referred to as "agricultural products");

(iii) 10 hectares or more of forest land if the juridical person has been engaged, for three years immediately preceding the year of making the transaction of acquisition of immovable property, in forest management within the meaning of the Forest Act (hereinafter referred to as "forest management") or production of agricultural products; and

(iv) less than 10 hectares of agricultural land and less than 10 hectares of forest land, but 10 hectares or more of agricultural and forest land in total, if the juridical person has been engaged, for three years immediately preceding the year of making the transaction of acquisition of immovable property, in the production of agricultural products or forest management.

If a juridical person does not meet the requirements in points (ii) to (iv), the juridical person may acquire immovable property which contains 10 hectares or more of agricultural land, forest land or agricultural and forest land in total only with the authorisation of the council of the local government of the location of immovable property to be acquired.

Restrictions on acquiring immovable property apply in certain geographical areas for non-EEA nationals.

In EL: Real estate acquisition or tenancy in the border regions is prohibited for persons whose nationality or base is outside the Member States and the European Free Trade Association. The ban may be lifted by a discretionary decision taken by a committee of the appropriate Decentralised Administration (or the Minister of National Defence in case the properties to be exploited belong to the Fund for the Exploitation of Private Public Property).

In HR: Foreign companies are only allowed to acquire real estate for the supply of services if they are established and incorporated in Croatia as juridical persons. Acquisition of real estate necessary for the supply of services by branches requires the approval of the Ministry of Justice. Agricultural land cannot be acquired by foreigners.

In MT: Non-nationals of a Member State may not acquire immovable property for commercial purposes. Companies with a 25 % (or more) non-Union shareholding must obtain authorisation from the competent authority (Minister responsible for Finance) to buy immovable property for commercial or business purposes. The competent authority will determine whether the proposed acquisition represents a net benefit to the Maltese economy.

In PL: The acquisition of real estate, direct and indirect, by foreigners requires a permit. A permit is issued through an administrative decision by a minister competent in internal affairs, with the consent of the Minister of National Defence, and in the case of agricultural real estate, also with the consent of the Minister of Agriculture and Rural Development.

Measures:

AT: Burgenländisches Grundverkehrsgesetz, LGBl. Nr. 25/2007;

Kärntner Grundverkehrsgesetz, LGBl. Nr. 9/2004;

NÖ- Grundverkehrsgesetz, LGBl. 6800;

OÖ- Grundverkehrsgesetz, LGBl. Nr. 88/1994;

Salzburger Grundverkehrsgesetz, LGBl. Nr. 9/2002;

Steiermärkisches Grundverkehrsgesetz, LGBl. Nr. 134/1993;

Tiroler Grundverkehrsgesetz, LGBL. Nr. 61/1996; Voralberger Grundverkehrsgesetz, LGBl. Nr. 42/2004; and

Wiener Ausländergrundverkehrsgesetz, LGBl. Nr. 11/1998.

CY: Immovable Property Acquisition (Aliens) Law (Chapter 109), as amended.

CZ: Act No. 503/2012, Coll. on State Land Office, as amended.

DK: Danish Act on Acquisition of Real Property (Consolidation Act No. 265 of 21 March 2014 on Acquisition of Real Property);

Acquisition Executive Order (Executive Order No. 764 of 18 September 1995); and

The Agricultural Holdings Act (Consolidation Act No. 27 of 4 January 2017).

EE: Kinnisasja omandamise kitsendamise seadus (Restrictions on Acquisition of Immovables Act) Chapter 2 § 4, Chapter 3§ 10, 2017.

EL: Law 1892/1990, as it stands today, in combination, as far as the application is concerned, with the ministerial decision F.110/3/330340/S.120/7-4-14 of the Minister of National Defence and the Minister of Citizen Protection.

HR: Ownership and other Proprietary Rights Act (OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 143/12, 152/14), Articles 354 to 358.b);

Agricultural Land Act (OG 20/18, 115/18, 98/19), Article 2; and

General Administrative Procedure Act.

HU: Government Decree No. 251/2014 (X. 2.) on the Acquisition by Foreign Nationals of Real Estate other than Land Used for Agricultural or Forestry Purposes; and

Act LXXVIII of 1993 (Paragraph 1/A).

MT: Immovable Property (Acquisition by Non-Residents) Act (Cap. 246); and Protocol No 6 of the EU Accession Treaty on the acquisition of secondary residences in Malta.

PL: Law of 24th March 1920 on the Acquisition of Real Estate by Foreigners (Journal of Laws of 2016, item 1061 as amended).

With respect to Investment liberalisation – Market access, National treatment:

In HU: The purchase of real estate by non-residents is subject to obtaining authorisation from the appropriate administrative authority responsible for the geographical location of the property.

Measures:

HU: Government Decree No. 251/2014 (X. 2.) on the Acquisition by Foreign Nationals of Real Estate other than Land Used for Agricultural or Forestry Purposes; and

Act LXXVIII of 1993 (Paragraph 1/A).

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment:

In LV: Acquisition of urban land by nationals of New Zealand is permitted through juridical persons registered in Latvia or other Member States:

(i) if more than 50 % of their equity capital is owned by nationals of Member States, the Latvian Government or a municipality, separately or in total;

(ii) if more than 50 % of their equity capital is owned by natural persons and companies of a third country with which Latvia has concluded a bilateral agreement on promotion and reciprocal protection of investments and which has been approved by the Latvian Parliament before 31 December 1996;

(iii) if more than 50 % of their equity capital is possessed by natural persons and companies of a third country with which Latvia has concluded a bilateral agreement on promotion and reciprocal protection of investments after 31 December 1996, if in that agreement the rights of Latvian natural persons and companies on acquisition of land in the respective third country have been determined;

(iv) if more than 50 % of their equity capital is possessed jointly by persons referred to in points (i) to (iii); or

(v) which are public joint stock companies, if the shares thereof are quoted in the stock exchange.

Where New Zealand allows Latvian nationals and enterprises to purchase urban real estate in its territory, Latvia will allow nationals and enterprises of New Zealand to purchase urban real estate in Latvia under the same conditions as Latvian nationals.

Measures:

LV: Law on land reform in the cities of the Republic of Latvia, Section 20 and 21.

With respect to Investment liberalisation – National treatment, Most-favoured-nation treatment:

In DE: Certain conditions of reciprocity may apply for the acquisition of real estate.

In ES: Foreign investment in activities directly relating to real estate investments for diplomatic missions by states that are not Member States requires an administrative authorisation from the Spanish Council of Ministers, unless there is a reciprocal liberalisation agreement in place.

In RO: Foreign nationals, stateless persons and juridical persons (other than nationals and juridical persons of a Member State of the EEA) may acquire property rights over land, under the conditions regulated by international treaties, based on reciprocity. Foreign nationals, stateless persons and juridical persons may not acquire property rights in land under more favourable conditions than those applicable to natural or juridical persons of the Union.

Measures:

DE: Einführungsgesetz zum Bürgerlichen Gesetzbuch (EGBGB); Introductory Law to the Civil Code.

ES: Royal Decree 664/1999 of 23 April 1999 relating to foreign investment.

RO: Law 17/2014 on some measures regulating the selling-buying agricultural land situated outside town and amending; and

Law No 268/2001 on the privatisation of companies that own land in public ownership and private management of the state for agricultural and establishing the State Domains Agency, with subsequent amendments.

Reservation No. 2 – Professional services (except health-related professions)

Sector – sub-sector:	Professional services – legal; patent agent, industrial property agent, intellectual property attorney; accounting and bookkeeping; auditing; taxation advisory; architecture and urban planning; engineering and integrated engineering services.
Industry classification:	CPC 861, 862, 863, 8671, 8672, 8673, 8674, part of 879
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

(a) Legal services (part of CPC 861)[1]

For greater certainty, consistent with the Headnotes, in particular paragraph 8 requirements to register with a Bar may include a requirement to have obtained a law degree in the host country or its equivalent, or to have completed some training under the supervision of a licensed lawyer, or to have an office or a postal address within the jurisdiction of a specific Bar in order to be eligible to apply for membership in that Bar. Some Member States may impose a requirement of having the right to practise host-jurisdiction law on natural persons holding certain positions within a law firm, company, enterprise or for shareholders.

[1] For the purposes of this reservation:
(a) "domestic law" means the law of the specific Member State and Union law;
(b) "public international law" excludes Union law and includes law established by international treaties and conventions, as well as international customary law;
(c) "legal advice" includes provision of advice to and consultation with clients in matters including transactions, relationships and disputes, involving the application or interpretation of law; participation with or on behalf of clients in negotiations and other dealings with third parties in such matters; and preparation of documents governed in whole or in part by law; and the verification of documents of any kind for purposes of and in accordance with the requirements of law;
(d) "legal representation" includes preparation of documents intended to be submitted to administrative agencies, the courts or other duly constituted official tribunals; and appearances before administrative agencies, the courts or other duly constituted official tribunals; and
(e) "legal arbitration, conciliation and mediation " means the preparation of documents to be submitted to, the preparation for and appearance before, an arbitrator, conciliator or mediator in any dispute involving the application and interpretation of law. It does not include arbitration, conciliation and mediation services in disputes not involving the application and interpretation of law, which fall under services incidental to management consulting. It also does not include acting as an arbitrator, conciliator or mediator. As a sub-category, international legal arbitration, conciliation or mediation services refers to the same services when the dispute involves parties from two or more countries.

With respect to Investment liberalisation – Market access:

In the EU: Specific non-discriminatory legal form requirements apply in each Member State.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In the EU: Legal representation of persons before the European Union Intellectual Property Office (herein after referred to as "EUIPO") may only be undertaken by a legal practitioner qualified in one of the Member States of the EEA and having their place of business within the EEA, to the extent that they are entitled, within that Member State, to act as a representative in trade mark matters or in industrial property matters and by professional representatives whose names appear on the list maintained for this purpose by the EUIPO. (Part of CPC 861).

In AT: EEA or Swiss nationality as well as residency (commercial presence) is required for the practice of legal services in respect of domestic (Union and Member State) law, including representation before courts. Only lawyers of EEA or Swiss nationality may provide legal services through commercial presence. The practice of legal services in respect of public international law and home country law is only allowed on a Cross-border basis. Equity participation and shares in the operating result of any law firm by foreign lawyers (who must be fully qualified in their home country) is allowed up to 25 %; the rest must be held by fully qualified EEA or Swiss lawyers and only the latter may exercise decisive influence in the decision making of the law firm.

In BE (with respect also to most-favoured-nation treatment): Residency is required for full admission to the Bar, and is necessary for the practice of legal services in respect of Belgian domestic law, including representation before courts. The residency requirement for a foreign lawyer to obtain full admission to the Bar is at least six years from the date of application for registration, or three years under certain conditions. Reciprocity is required.

A foreign lawyer may practise as a legal consultant. A lawyer who is a member of a foreign (non-Union) Bar and wants to establish in Belgium but who does not meet the conditions for registration on the Tableau of fully qualified lawyers, on the EU-list or on the List of Trainee Lawyers, may request registration on the so-called "B-List". A B-List only exists at the Brussels Bar. A lawyer on the B-list may give advice. Representation before the "Cour de Cassation" is subject to nomination on a specific list.

In BG (with respect also to most-favoured-nation treatment): Reserved to nationals of a Member State, of another State party to the Agreement on the EEA, or of the Swiss Confederation, who have been granted authorisation to pursue the profession of lawyer according to the legislation of any of the aforementioned countries. A foreign national (except for the above mentioned) who has been authorised to pursue the profession of lawyer in accordance with the legislation of their own country, may appear before judicial bodies of the Republic of Bulgaria as defence-counsel or mandatary of a national of his or her own country, acting on a specific case, together with a Bulgarian attorney-at-law, in cases where this has been envisaged in an agreement between the Bulgarian and the respective foreign state, or on the basis of mutuality, making a preliminary request to this effect to the Chairperson of the Supreme Bar Council. A country in respect of which mutuality exists shall be designated by the Minister of Justice, upon request of the Chairperson of the Supreme Bar Council. In order to provide legal mediation, a foreign national must have a permit for long-term or permanent residence in the Republic of Bulgaria and have been entered in the Uniform Register of Mediators with the Minister of Justice. In Bulgaria, full national treatment with respect to the establishment and operation of companies, as well as with respect to the supply of services, may be extended only to companies established in, and citizens of, countries with which a bilateral agreement on mutual legal assistance has been or will be concluded.

In CY: EEA or Swiss nationality as well as residency (commercial presence) is required. Only advocates enrolled in the Bar may be partners or shareholders or members of the board of directors in a law company in Cyprus.

In CZ: Full admission to the Bar is required. For the practice of legal services in respect of domestic (Union and Member State) law, including representation before courts, EEA or Swiss nationality is required. For all legal services, residence (commercial presence) is required.

In DE: Only lawyers with EEA or Swiss qualification may be admitted to the Bar and are thus entitled to provide legal services in respect of domestic law. Commercial presence is required in order to obtain full admission to the Bar. Exemptions may be granted by the competent bar association.

For foreign lawyers (with other than EEA and Swiss qualification) there may be restrictions for holding shares of a law firm which provides legal services in domestic law. Foreign lawyers or law firms may offer legal services in foreign law and in public international law if they prove expert knowledge.

A professional company may only become a shareholder in a German law firm if it is admitted to the German Bar and takes one of the legal forms listed in Article 59b of the Federal Lawyers Act. A shareholder must participate actively in the law firm. Branches of foreign law firms may provide legal services if they have been admitted to the Bar. Bar admission requires qualification of shareholders as lawyers or patent attorneys from a state where the corresponding legal profession is recognised by regulation of the German Ministry of Justice as having a comparable education and professional status (section 206 Federal Lawyers Act and section 157 Federal Patent Lawyers Act). The branch must have a separate management with power of agency in Germany and at least one manager of the branch with power of attorney must be admitted to the German bar.

In DK: Legal services provided under the title "advokat" (advocate) or any similar title, as well as representation before the courts, is reserved for advocates with a Danish licence to practice. EU, EEA and Swiss advocates may practice under the title of their country of origin.

Without prejudice to the EU reservation above, shares of a law firm may only be owned by advocates who actively practice law in the firm, its parent company or its subsidiary company; other employees in the firm; or another law firm registered in Denmark. Other employees in the firm may collectively only own less than 10 % of the shares and voting rights, and in order to be shareholders they must pass an exam on the rules of particular importance for the practice of law.

Only advocates who actively practice law in a law firm, its parent company or its subsidiary company, as well as other shareholders, and representatives of employees, may be members of the board of a firm. The majority of the members of the board must be advocates who actively practice law in the firm, its parent company or its subsidiary company. Only advocates who actively practice law in the firm, its parent company or its subsidiary company, and other shareholders having passed the exam mentioned above, may be a director of the law firm.

In EE: Residency (commercial presence) is required for the practice of legal services in respect of domestic (Union and Member State) law, and participation in criminal proceedings representation before the Supreme Court.

In EL: EEA or Swiss nationality and residency (commercial presence) is required for the practice of legal services in respect of domestic (Union and Member State) law, including representation before courts.

In ES: EEA or Swiss nationality is required for the practice of legal services in respect of domestic law, including representation before courts. The competent authorities may grant nationality waivers. A business address is required in order to provide any legal services.

In FI: EEA or Swiss residency and Bar membership is required for the use of the professional title of "advocate" (in Finnish "asianajaja" or in Swedish "advokat"). Legal services, including in relation to Finnish domestic law, may also be provided by non-Bar members.

In FR: Residency or establishment in the EEA is required for full admission to the Bar, which is necessary for the practice of legal services in respect of domestic law, including representation before courts. Representation before the "Cour de Cassation" and "Conseil d'Etat" is subject to quotas and reserved for French and EU nationals. Members of the Bar in New Zealand may register as a foreign legal consultant in France to offer certain legal services in France on a temporary or permanent basis, in respect of New Zealand law and public international law. A business address within the jurisdiction of the French Bar or registration or establishment in the EEA is required to practice on a permanent basis.

In HR: Union nationality is required for the practice of legal services in respect of domestic (Union and Member State) law, including representation before courts. In proceedings involving public international law, parties may be represented before arbitration courts and *ad hoc* courts by a foreign lawyer who is a member of their home country bar association. Only a lawyer who has the Croatian title of lawyer can establish a law firm (New Zealand firms may establish a branch, which may not employ Croatian lawyers).

In HU: Full admission to the Bar is subject to EEA or Swiss nationality and residency (commercial presence) for the practice of legal services in respect of domestic law, including representation before courts. Foreign lawyers may provide legal advice on home country and public international law in partnership with a Hungarian attorney or a law firm. A cooperation contract concluded with a Hungarian attorney (ügyvéd) or law firm (ügyvédi iroda) is required. A foreign legal adviser cannot be a member of a Hungarian law firm. A foreign lawyer is not authorised for the preparation of documents to be submitted to, or act as the client's legal representative before an arbitrator, conciliator or mediator in any dispute.

In LT (with respect also to most-favoured-nation treatment): EEA or Swiss nationality and residency (commercial presence) is required for the practice of legal services in respect of domestic (Union and Member State) law, including representation before courts.

Attorneys from foreign countries may practice as advocates in court only in accordance with international agreements, including specific provisions regarding representation before courts.

In LU (with respect also to most-favoured-nation treatment): EEA or Swiss nationality and residency (commercial presence) is required for the practice of legal services in respect of domestic law, including representation before courts.

The Council of the Order may, on the basis of reciprocity, agree to waive the nationality requirement for a foreign national.

In LV (with respect also to most-favoured-nation treatment): EEA or Swiss nationality is required for the practice of domestic law, including representation before courts. Attorneys from foreign countries may practice as advocates in court only in accordance with a bilateral agreement on mutual legal assistance.

For Union or foreign advocates, special requirements exist. For example, participation in court proceedings in criminal cases is only permitted in association with an advocate of the Latvian Collegium of Sworn Advocates.

In MT: EEA or Swiss nationality as well as residency (commercial presence) is required for the practice of legal services in respect of domestic law, including representation before courts.

In NL: Only locally licensed lawyers registered in the Dutch registry may use the title "advocate". Instead of using the full term "advocate", (non-registered) foreign lawyers must mention their home country professional organisation for the purposes of their activities in the Netherlands.

In PT (with respect also to most-favoured-nation treatment): residency (commercial presence) is required in order to practice Portuguese domestic law. For representation before courts, full admission to the Bar is required. Foreigners holding a diploma awarded by any Faculty of Law in Portugal, may register with the Portuguese Bar (Ordem dos Advogados), under the same terms as Portuguese nationals, if their respective country grants Portuguese nationals reciprocal treatment.

Other foreigners holding a Degree in Law which has been acknowledged by a Faculty of Law in Portugal may register as a member of the Bar Association provided that they undergo the required training and pass the final assessment and admission exam. Only law firms where the shares belong exclusively to lawyers admitted to the Portuguese Bar may practise in Portugal.

Legal consultation is allowed in any area of foreign and public international law by jurists of recognised merit, masters and doctors in law (even if non-lawyers and non-university professors), provided they have their professional residence (domiciliação) in PT, pass an admission exam and are registered in the Bar.

In RO: A foreign lawyer may not make oral or written conclusions before the courts and other judicial bodies, except for international arbitration.

In SE (with respect also to most-favoured-nation treatment): EEA or Swiss residency is required for admission to the Bar and use of the title of "advokat". Exemptions may be granted by the board of the Swedish Bar Association. Without prejudice to the EU reservation above, admission to the Bar is not necessary for the practice of Swedish domestic law. A member of the Swedish Bar Association may not be employed by anyone other than a Bar member or a company conducting the business of a Bar member. However, a Bar member may be employed by a foreign company conducting the business of an advocate, provided that the company in question is domiciled in a country within the Union, the EEA or Switzerland. Subject to an exemption from the Board of the Swedish Bar Association, a member of the Swedish Bar Association may also be employed by a non-Union law firm.

Bar members conducting their practice in the form of a company or a partnership may not have any other objective and may not carry out any other business than the practice of an advocate. Collaboration with other advocate businesses is permitted; however, collaboration with foreign businesses requires permission by the Board of the Swedish Bar Association. Only a Bar member may directly or indirectly, or through a company, practise as an advocate, own shares in the company or be a partner. Only a Bar member may be a member or deputy member of the Board or deputy managing director, or an authorised signatory or secretary of a company or partnership.

In SI (with respect also to most-favoured-nation treatment): Representing clients before a court against payment is conditioned by commercial presence in the Republic of Slovenia. A foreign lawyer who has the right to practice law in a foreign country may perform legal services or practice law under the conditions laid down in Article 34a of the Attorneys Act, provided the condition of actual reciprocity is fulfilled.

Without prejudice to the EU reservation on non-discriminatory legal form requirements, commercial presence for appointed attorneys by the Slovene Bar Association is restricted to sole proprietorship, law firms with limited liability (partnership) or to law firms with unlimited liability (partnership) only. The activities of a law firm shall be restricted to the practice of law. Only attorneys may be partners in a law firm.

In SK (with respect also to most-favoured-nation treatment): EEA nationality as well as residency (commercial presence) in the Slovak Republic is required for the practice of legal services in respect of domestic law, including representation before courts. For non-Union lawyers actual reciprocity is required.

Measures:

EU: Article 120 of Regulation (EU) 2017/1001 of the European Parliament and of the Council[1];

Article 78 of Council Regulation (EC) No 6/2002 of 12 December 2001[2].

AT: Rechtsanwaltsordnung (Lawyers Act) – RAO, RGBl. Nr. 96/1868, Articles 1 and 21c.; Rechtsanwaltsgesetz – EIRAG, BGBl. Nr. 27/2000 as amended; § 41 EIRAG.

BE: Belgian Judicial Code (Articles 428-508); Royal Decree of 24 August 1970.

BG: Attorney Law; Law for Mediation; and Law for the Notaries and Notarial Activity.

CY: Advocates Law (Chapter 2), as amended.

CZ: Act No. 85/1996 Coll., the Legal Profession Act.

[1] Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ EU L 154, 16.6.2017, p. 1).

[2] Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ EU L 3, 5.1.2002, p. 1).

DE: Bundesrechtsanwaltsordnung (BRAO; Federal Lawyers Act);

Gesetz über die Tätigkeit europäischer Rechtsanwälte in Deutschland (EuRAG); and

§ 10 Rechtsdienstleistungsgesetz (RDG).

DK: Retsplejeloven (Administration of Justice Act) chapters 12 and 13 (Consolidated Act No. 1284 of 14 November 2018).

EE: Advokatuuriseadus (Bar Association Act);

Tsiviilkohtumenetluse seadustik (Code of Civil Procedure);

halduskohtumenetluse seadustik (Code of Administrative Court Procedure);

kriminaalmenetluse seadustik (Code of Criminal Procedure); and

väärteomenetluse seadustik (Code of Misdemeanour Procedure).

EL: New Lawyers' Code n. 4194/2013.

ES: Real Decreto 135/2021, de 2 de marzo, por el que se aprueba el Estatuto General de la Abogacía Española, Article 9.1.a.

FI: Laki asianajajista (Advocates Act) (496/1958), ss. 1 and 3; and Oikeudenkäymiskaari (4/1734) (Code of Judicial Procedure).

FR: Loi 71-1130 du 31 décembre 1971, Loi 90- 1259 du 31 décembre 1990 and Ordonnance du 10 septembre 1817 modifiée.

HR: Legal Profession Act (OG 9/94, 117/08, 75/09, 18/11).

HU: Act LXXVIII of 2017 on the professional activities of attorneys-at-law.

LT: Law on the Bar of the Republic of Lithuania of 18 March 2004 No. IX-2066 as last amended on 12 December 2017 by law No XIII-571.

LU: Loi du 16 décembre 2011 modifiant la loi du 10 août 1991 sur la profession d'avocat.

LV: Criminal Procedure Law, s. 79; and Advocacy Law of the Republic of Latvia, s. 4.

MT: Code of Organisation and Civil Procedure (Cap. 12).

NL: Advocatenwet (Act on Advocates).

PT: Law 145/2015, 9 set., alterada p/ Lei 23/2020, 6 jul. (art.º 194 substituído p/ art.º 201.º; e art.º 203.º substituído p/ art.º 213.º);

Portuguese Bar Statute (Estatuto da Ordem dos Advogados) and Decree-Law 229/2004, Articles 5, 7 – 9; Decree-law 88/2003, Articles 77 and 102; Solicitadores Public Professional Association Statute (Estatuto da Câmara dos Solicitadores), as amended by Law 49/2004, mas alterada p/ Lei 154/2015, 14 set; by Law 14/2006 and by Decree-Law n.º 226/2008 alterado p/ Lei 41/2013, 26 jun; and

Law 78/2001, Articles 31, 4 Alterada p/ Lei 54/2013, 31 jul.; Regulation of family and labour mediation (Ordinance 282/2010), alterada p/ Portaria 283/2018, 19 out; Law 21/2007 on criminal mediation, Article 12; Law 22/2013, 26 fev., alterada p/ Lei 17/2017, 16 maio, alterada pelo Decreto-Lei 52/2019, 17 abril.

RO: Attorney Law; Law for Mediation; and Law for the Notaries and the Notarial Activity.

SE: Rättegångsbalken (The Swedish Code of Judicial Procedure) (1942:740); and

Swedish Bar Association Code of Conduct adopted 29 August 2008.

SI: Zakon o odvetništvu (Neuradno prečiščeno besedilo-ZOdv-NPB8 Državnega Zbora RS z dne 7 junij 2019 (Attorneys Act) unofficial consolidated text prepared by the Slovenian parliament from 7 June 2019).

SK: Act 586/2003 on Advocacy, Articles 2 and 12.

With respect to Investment liberalisation – Market access, National treatment:

In PL: Foreign lawyers may establish only in the form of a registered partnership, a limited partnership or a limited joint-stock partnership.

Measures:

PL: Act of 5 July 2002 on the provision by foreign lawyers of legal assistance in the Republic of Poland, Article 19; The Law on Tax Advisory.

With respect to Cross-border trade in services – Local presence:

In IE, IT: Residency (commercial presence) is required for the practice of legal services in respect of domestic (Union and Member State) law, including representation before courts.

Measures:

IE: Solicitors Acts 1954-2011.

IT: Royal Decree 1578/1933, Article 17 law on the legal profession.

(b) Patent agents, industrial property agents, intellectual property attorneys (part of CPC 879, 861, 8613)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Local presence:

In DE: Only patent lawyers having EEA or Swiss qualifications may be admitted to the Bar and are thus entitled to provide patent agent services in Germany in domestic law. Commercial presence is required in order to obtain full admission to the Bar. Exemptions may be granted by the Bar association. Foreign patent lawyers may offer legal services in foreign law when they prove expert knowledge. Registration is required to provide legal services in Germany. Foreign (other than EEA and Swiss qualification) patent lawyers may not establish a firm together with national patent lawyers.

Foreign (other than EEA and Swiss) patent lawyers may have their commercial presence only in the form of a Patentanwalts-GmbH or Patentanwalt-AG by acquiring a minority share.

As of 1 August 2022, a professional company may only become shareholder in a German patent law firm if such professional company is admitted to the German Patent Chamber and takes one of the legal forms listed in Article 52b of the Patent Attorney Regulation. Foreign patent law firms may provide services if they have been admitted to the German Patent Chamber. Such admission requires qualification of a shareholder as a lawyer, tax accountant, auditor or patent attorney and in case of branches a manager with power of agency in Germany.

In FR: To be registered on the industrial property agent services list, establishment or residency in the EEA is required. EEA nationality is required for natural persons. To represent a client in front of the national intellectual property office, establishment in the EEA is required. Provision of services may only be conducted through "société civile professionnelle" (SCP), "société d'exercice liberal" (SEL) or any other legal form, under certain conditions. Irrespective of the legal form, more than half of shares and voting rights must be held by EEA professionals. Law firms may be entitled to provide industrial property agent services (see reservation for legal services).

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment, Local presence:

In AT: EEA or Swiss nationality is required for the practice of patent agency services, residency is required.

In BG and CY: EEA or Swiss nationality is required for the practice of patent agency services. In CY, residency is required.

In EE: Estonian or Union nationality as well as permanent residency is required for the practice of patent agency services.

In ES: Establishment in a Member State, commercial presence, as well as permanent residency, are required for the practice of patent agency services.

With respect to Investment liberalisation –National treatment and Cross-border trade in services – National treatment:

In PT: EEA nationality is required for the practice of industrial property agent services.

In LV: Union nationality is required for patent attorneys.

With respect to Cross-border trade in services – Local presence:

In FI and HU: EEA residency is required for the practice of patent agency services.

In SI: Residency in Slovenia is required for a holder or applicant of registered rights (patents, trademarks, design protection). Alternatively, a patent agent or a trademark and design agent registered in Slovenia is required for the main purpose of providing services such as process and notification.

Measures:

AT: Patent Attorney Act, BGBl. 214/1967 as amended, §§ 2 and 16a.

BG: Chapter 8b of the Act on Patents and Registration of Utility Models.

CY: Advocates Law (Chapter 2), as amended.

DE: Patentanwaltsordnung (PAO). Gesetz über die Tätigkeit europäischer Patentanwälte in Deutschland (EuPAG) and § 10 Rechtsdienstleistungsgesetz (RDG).

EE: Patendivoliniku seadus (Patent Agents Act) § 2, § 14.

ES: Ley 24/2015, de 24 de julio, de Patentes, Articles 175, 176 and 177. Ley 17/2009, de 23 de noviembre, sobre el libre acceso a las actividades de servicios y su ejercicio, Article 3.2.

FI: Tavaramerkkilaki (Trademarks Act) (7/1964);

Laki auktorisoiduista teollisoikeusasiamiehistä (Act on Authorised Industrial Property Attorneys) (22/2014);

Laki kasvinjalostajanoikeudesta (Plant Breeder's Right Act) 1279/2009; and

Mallioikeuslaki (Registered Designs Act) 221/1971.

FR: Code de la propriété intellectuelle.

HU: Act XXXII of 1995 on Patent Attorneys.

LV: The Law on Industrial Property Institutions and Procedures Chapter XVIII (Articles 119-136).

PT: Decree-Law 15/95, as modified by Law 17/2010, by Portaria 1200/2010, Article 5, and by Portaria 239/2013; and Law 9/2009.

SI: Zakon o industrijski lastnini (Industrial Property Act), Uradni list RS, št. 51/06 – uradno prečiščeno besedilo in 100/13 and 23/20 (Official Gazette of the Republic of Slovenia, No. 51/06 – official consolidated text 100/13 and 23/20).

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment, Local presence:

In IE: For establishment, at least one of the directors, partners, managers or employees of a company must be registered as a patent or intellectual property attorney in Ireland. Providing services on a Cross-border basis requires EEA nationality and commercial presence, the principal place of business to be in an Member State of the EEA, and qualification under the law of an Member State of the EEA.

Measures:

IE: Section 85 and 86 of the Trade Marks Act 1996, as amended;

Rule 51 Rule 51A and Rule 51B of the Trade Marks Rules 1996, as amended; Section 106 and 107 of the Patent Act 1992, as amended; and Register of Patent Agent Rules S.I. 580 of 2015.

(c) Accounting and bookkeeping services (CPC 8621 other than auditing services, 86213, 86219, 86220)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Local presence:

In AT: The capital interests and voting rights of foreign accountants and bookkeepers, qualified according to the law of their home country, in an Austrian enterprise may not exceed 25 %. The service supplier must have an office or professional seat in the EEA (CPC 862).

In FR: Establishment or residency is required. Services may be provided through any company form except "société en nom collectif" (SNC) and "société en commandite simple" (SCS). Specific conditions apply to "société d'exercice liberal" (SEL), "association de gestion et comptabilité" (AGC) and "société pluri-professionnelle d'exercice" (SPE) (CPC 86213, 86219, 86220).

In IT: Residence or business domicile is required for enrolment in the professional register, which is necessary for the provision of accounting and bookkeeping services (CPC 86213, 86219, 86220).

In PT (with respect also to most-favoured-nation treatment): Residence or business domicile is required for enrolment in the professional register by the Chamber of Certified Accountants (Ordem dos Contabilistas Certificados), which is necessary for the provision of accounting services, provided that there is reciprocal treatment for Portuguese nationals.

Measures:

AT: Wirtschaftstreuhandberufsgesetz (Public Accountant and Auditing Profession Act, BGBl. I Nr. 58/1999), § 12, § 65, § 67, § 68 (1) 4; and

Bilanzbuchhaltungsgesetz (BibuG), BGBl. I Nr. 191/2013, §§ 7, 11, 28.

FR: Ordonnance 45-2138 du 19 septembre 1945.

IT: Legislative Decree 139/2005; and Law 248/2006.

PT: Decree-Law n.º 452/99, changed by Law n.º 139/2015, september 7th.

With respect to Cross-border trade in services – Local presence:

In SI: Establishment in the European Union is required in order to provide accounting and bookkeeping services (CPC 86213, 86219, 86220).

Measures:

SI: Act on services in the internal market, Official Gazette RS No 21/10.

(d) Auditing services (CPC 86211, 86212 other than accounting and bookkeeping services)

With respect to Investment liberalisation – National treatment, Most-favoured nation treatment and Cross-border trade in services – National treatment, Most-favoured-nation treatment:

In the EU: Supply of statutory auditing services requires approval by the competent authority of a Member State that may recognise the equivalence of the qualifications of an auditor who is a national of New Zealand or of any third country subject to reciprocity (CPC 8621).

Measures:

EU: Directive 2013/34/EU of the European Parliament and of the Council[1]; and

Directive 2006/43/EC of the European Parliament and of the Council[2].

With respect to Investment liberalisation – Market access:

In BG: Non-discriminatory legal form requirements may apply.

Measures:

BG: Independent Financial Audit Act.

[1] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ EU L 182, 29.6.2013, p. 19).

[2] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ EU L 157, 9.6.2006, p. 87).

With respect to Investment liberalisation – Market access, National treatment, and Cross-border trade in services – Local presence:

In AT: The capital interests and voting rights of foreign auditors, qualified according to the law of their home country, in an Austrian enterprise may not exceed 25 %. The service supplier must have an office or professional seat in the EEA.

Measures:

AT: Wirtschaftstreuhandberufsgesetz (Public Accountant and Auditing Profession Act, BGBl. I Nr. 58/1999), § 12, § 65, § 67, § 68 (1) 4.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In DK: Provision of statutory auditing services requires Danish approval as an auditor. Approval requires residency in a Member State of the EEA. Voting rights in approved audit firms of auditors and audit firms not approved in accordance with regulations implementing the Directive 2006/43/EC of the European Parliament and of the Council[1] must not exceed 10 % of the voting rights.

[1] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ EU L 157, 9.6.2006, p. 87).

In FR (with respect also to most-favoured-nation treatment): For statutory audits: establishment or residency is required. New Zealand nationals may provide statutory auditing services in France, subject to reciprocity. Services may be provided through any company form except those in which partners are considered to be traders (commerçants), such as "société en nom collectif" (SNC) and "société en commandite simple" (SCS).

In PL: Establishment in the Union is required in order to provide auditing services.

Legal form requirements apply.

Measures:

DK: Revisorloven (The Danish Act on Approved Auditors and Audit Firms), Act No. 1287 of 20/11/2018.

FR: Code de commerce.

PL: Act of 11 May 2017 on statutory auditors, audit firms and public oversight – Journal of Laws of 2017, item 1089.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In CY: Authorisation is required, subject to an economic needs test. Main criteria: the employment situation in the sub-sector. Professional associations (partnerships) between natural persons are permitted.

In SK: Only an enterprise in which at least 60 % of capital interests or voting rights are reserved to Slovak nationals or nationals of a Member State may be authorised to carry out audits in the Slovak Republic.

Measures:

CY: Auditors Law of 2017 (Law 53(I)/2017).

SK: Act No. 423/2015 on Statutory audit.

With respect to Investment liberalisation – Market access and Cross-border trade in services – National treatment, Local presence:

In DE: Auditing companies (Wirtschaftsprüfungsgesellschaften) may only adopt legal forms admissible within the EEA. General partnerships and limited commercial partnerships may be recognised as "Wirtschaftsprüfungsgesellschaften" if they are listed as trading partnerships in the commercial register on the basis of their fiduciary activities, Article 27 (Wirtschaftsprüferordnung, WPO). However, auditors from third countries registered in accordance with Article 134 (Wirtschaftsprüferordnung, WPO) may carry out the statutory audit of annual fiscal statements or provide the consolidated financial statements of a company with its headquarters outside the Union, whose transferable securities are offered for trading in a regulated market.

Measures:

DE: Handelsgesetzbuch, (HGB; Code of Commercial Law); Gesetz über eine Berufsordnung der Wirtschaftsprüfer (Wirtschaftsprüferordnung, WPO, Public Accountant Act).

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment:

In ES: Statutory auditors must be a national of a Member State. This reservation does not apply to the auditing of non-Union companies listed in a Spanish regulated market.

Measures:

ES: Ley 22/2015, de 20 de julio, de Auditoría de Cuentas (new Auditing Law: Law 22/2015 on Auditing services).

With respect to Investment liberalisation – Market access, National treatment:

In EE: Legal form requirements apply. The majority of the votes represented by the shares of an audit firm shall belong to sworn auditors subject to supervision of a competent authority of a Member State of the EEA, who have acquired their qualification in a Member State of the EEA, or to audit firms. At least three-fourths of the persons representing an audit firm on the basis of law must have acquired their qualifications in a Member State of the EEA.

Measures:

EE: Auditors Activities Act (Audiitortegevuse seadus) § 76-77.

With respect to Investment liberalisation – National treatment, Most-favoured nation treatment and Cross-border trade in services – Local presence:

In SI: Commercial presence is required. A third country audit entity may hold shares or form partnerships in a Slovenian audit company provided that, under the law of the country in which the third-country audit entity is incorporated, Slovenian audit companies may hold shares or form partnership in an audit entity in that country (reciprocity requirement).

Measures:

SI: Auditing Act (ZRev-2), Official Gazette RS No 65/2008 (as last amended No 115/21); and

Companies Act (ZGD-1), Official Gazette RS No 42/2006 (as last amended No 18/21).

With respect to Cross-border trade in services – Local presence:

In BE: An establishment in Belgium is required where the professional activity will take place and where acts, documents and correspondence relating to it will be maintained. At least one administrator or manager of the establishment must be approved as auditor.

In FI: EEA residency is required for at least one of the auditors of a Finnish Limited Liability company and of companies which are under the obligation to carry out an audit. An auditor must be a locally licensed auditor or a locally licensed audit firm.

In HR: Auditing services may be provided only by juridical persons established in Croatia or by natural persons resident in Croatia.

In IT: Residency is required for the provision of auditing services by natural persons.

In LT: Establishment in the EEA is required for the provision of auditing services.

In SE: Only auditors approved in Sweden and auditing firms registered in Sweden may perform statutory auditing services. EEA residency is required. The titles of "approved auditor" and "authorised auditor" may only be used by auditors approved or authorised in Sweden. Auditors of co-operative economic associations and certain other enterprises who are not certified or approved accountants must be resident within the EEA, unless the Government, or a Government authority appointed by the Government, in a particular case allows otherwise.

Measures:

BE: Law of December 7th 2016 on the organisation of the profession and the public supervision of auditors (Public Audit Act).

FI: Tilintarkastuslaki (Auditing Act) (459/2007), Sectoral laws requiring the use of locally licensed auditors.

HR: Audit Act (OG 146/05, 139/08, 144/12), Article 3.

IT: Legislative Decree 58/1998, Articles 155, 158 and 161; and

Decree of the President of the Republic 99/1998; and Legislative Decree 39/2010, Article 2.

LT: Law on Audit of 15 June 1999 No. VIII -1227 (a new version of 3 July 2008 No. X1676).

SE: Revisorslagen (Auditors Act) (2001:883);

Revisionslag (Auditing Act) (1999:1079);

Aktiebolagslagen (Companies Act) (2005:551);

Lag om ekonomiska föreningar (The Co-operative Economic Associations Act) (2018:672); and

Others, regulating the requirements to make use of approved auditors.

(e) Taxation advisory services (CPC 863, not including legal advice and legal representation on tax matters, which are to be found under legal services)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Local presence:

In AT: The capital interests and voting rights of foreign tax advisors, qualified according to the law of their home country, in an Austrian enterprise may not exceed 25 %. The service supplier must have an office or professional seat in the EEA.

Measures:

AT: Wirtschaftstreuhandberufsgesetz (Public Accountant and Auditing Profession Act, BGBl. I Nr. 58/1999), § 12, § 65, § 67, § 68 (1) 4.

With respect to Investment liberalisation – Market access:

In DE: Non-discriminatory legal form requirements apply.

Measures:

DE: Steuerberatungsgesetz (Tax Advisory Act, 4. November 1975 (BGBl. I, p. 2735), last amended by Article 50 of the law of 10. August 2021 (BGBl. I, p. 2436): §§ 3, 34, 40 (1), 49, 50a.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In FR: Establishment or residency is required. Services may be provided through any company form except "société en nom collectif" (SNC) and "société en commandite simple" (SCS). Specific conditions apply to "société d'exercice liberal" (SEL), "association de gestion et comptabilité" (AGC) and "société pluri-professionnelle d'exercice" (SPE).

Measures:

FR: Ordonnance 45-2138 du 19 septembre 1945.

With respect to Cross-border trade in services – Local presence:

In HU: EEA residency is required for the supply of taxation advisory services.

In IT: Residency is required.

Measures:

HU: Act 150 of 2017 on taxing; Government Decree 2018/263 on the registration and training of taxation advisory activities.

IT: Legislative Decree 139/2005; and Law 248/2006.

(f) Architecture and urban planning services, engineering and integrated engineering services (CPC 8671, 8672, 8673, 8674)

With respect to Investment liberalisation – Market access:

In FR: An architect may only establish in France in order to provide architectural services using one of the following legal forms (on a non-discriminatory basis): "société anonyme" (SA), "société à responsabilité limitée" (SARL) (sociétés anonymes, à responsabilité limitée), "entreprise unipersonnelle à responsabilité limitée" (EURL), "société civile professionnelle " (SCP) (en commandite par actions), "société coopérative et participative" (SCOP), "société d'exercice libéral à responsabilité limitée" (SELARL), "société d'exercice libéral à forme anonyme" (SELAFA), "société d'exercice libéral par actions simplifiée" (SELAS) or "société par actions simplifiée" (SAS), or as individual or as a partner in an architectural firm (CPC 8671).

Measures:

FR: Loi 90-1258 relative à l'exercice sous forme de société des professions libérales; Décret 95-129 du 2 février 1995 relatif à l'exercice en commun de la profession d'architecte sous forme de société en participation;

Décret 92-619 du 6 juillet 1992 relatif à l'exercice en commun de la profession d'architecte sous forme de société d'exercice libéral à responsabilité limitée SELARL, société d'exercice libéral à forme anonyme SELAFA, société d'exercice libéral en commandite par actions SELCA; and Loi 77-2 du 3 janvier 1977.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In BG: For consultants that implement assessment of compliance of the investment designs or exercise construction supervision, establishment in Bulgaria is required according to the Bulgarian Commercial Act or registration in the Commercial register of a Member State of the EU or EEA.

Measures:

BG: Article 167, Paragraph 1, Spatial Development Act.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment:

In HR: A design or project created by a foreign architect, engineer or urban planner must be validated by an authorised person in Croatia with regard to its compliance with Croatian Law (CPC 8671, 8672, 8673, 8674).

Measures:

HR: Act on Physical Planning and Building Activities (OG118/18, 110/19); Physical Planning Act (OG 153/13, 39/19).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In CY: Nationality and residency conditions apply for the provision of architecture and urban planning services, engineering and integrated engineering services (CPC 8671, 8672, 8673, 8674).

Measures:

CY: Law 41/1962 as amended; Law 224/1990 as amended; and Law 29(i)2001 as amended.

With respect to Cross-border trade in services – Local presence:

In CZ: Residency in the EEA is required.

In HU: EEA residency is required for supply of the following services, insofar as they are being supplied by a natural person present in the territory of Hungary: architectural services, engineering services (only applicable to graduate trainees), integrated engineering services and landscape architectural services (CPC 8671, 8672, 8673, 8674).

In IT: Residency, professional domicile or a business address in Italy is required for enrolment in the professional register, which is necessary for the supply of architectural and engineering services (CPC 8671, 8672, 8673, 8674).

In SK: Residency in the EEA is required for registration in the professional chamber, which is necessary for the supply of architectural and engineering services (CPC 8671, 8672, 8673, 8674).

Measures:

CZ: Act No. 360/1992 Coll. on practice of profession of authorised architects and authorised engineers and technicians working in the field of building constructions.

HU: Act LVIII of 1996 on the Professional Chambers of Architects and Engineers.

IT: Royal Decree 2537/1925 regulation on the profession of architect and engineer;
Law 1395/1923; and

Decree of the President of the Republic (D.P.R.) 328/2001.

SK: Act 138/1992 on Architects and Engineers, Articles 3, 15, 15a, 17a and 18a.

With respect to Cross-border trade in services – Market access, National treatment:

In BE: The provision of architectural services includes control over execution of the works (CPC 8671, 8674). Foreign architects authorised in their host countries and wishing to practice their profession on an occasional basis in Belgium are required to obtain prior authorisation from the Council of Order in the geographical area where they intend to supply services.

Measures:

BE: Law of February 20, 1939 on the protection of the title of the architect's profession; and

Law of 26th June 1963, which creates the Order of Architects Regulations of
December 16th, 1983 of ethics established by national Council in the Order of Architects
(Approved by Article 1st of A.R. of April 18th, 1985, M.B., May 8th, 1985).

Reservation No. 3 – Professional services (health-related and retail of pharmaceuticals)

Sector – sub-sector:	Professional services – medical (including psychologists) and dental services; midwives; nurses; physiotherapists and paramedical personnel; veterinary services; retail sales of pharmaceutical, medical and orthopaedic goods; and other services provided by pharmacists
Industry classification:	CPC 9312, 93191, 932, 63211
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

(a) Medical, dental, midwives, nurses, physiotherapists and para-medical services (CPC 852, 9312, 93191)

With respect to Investment liberalisation – National treatment, Most-favoured-nation treatment and Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment:

In IT: Union nationality is required for the supply of services by psychologists. Foreign professionals may be allowed to practice based on reciprocity (part of CPC 9312).

Measures:

IT: Law 56/1989 on the psychologist profession.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment, Local presence:

In CY: Cypriot nationality and residency conditions apply for the provision of medical (including psychologists), dental, midwives', nursing, physiotherapy and para-medical services.

Measures:

CY: Registration of Doctors Law (Chapter 250) as amended;

Registration of Dentists Law (Chapter 249) as amended;

Law 75(I)/2013 – as amended – Podologists;

Law 33(I)/2008 – as amended – Medical Physics;

Law 34(I)/2006 – as amended – Occupational Therapists;

Law 9(I)/1996 – as amended – Dental Technicians;

Law 68(I)/1995 – as amended – Psychologists;

Law 16(I)/1992 – as amended – Opticians;

Law 23(I)/2011 – as amended – Radiologists / Radiotherapists;

Law 31(I)/1996 – as amended – Dieticians / Nutritionists;

Law 140/1989 – as amended – Physiotherapists; and

Law 214/1988 – as amended – Nurses.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access, Local presence:

In DE (applies also to the regional level of government): Geographical restrictions may be imposed on professional registration, which applies to nationals and non-nationals alike.

Doctors (including psychologists, psychotherapists, and dentists) must register with the regional associations of statutory health insurance physicians or dentists (kassenärztliche or kassenzahnärztliche Vereinigungen), if they wish to treat patients insured by the statutory sickness funds. This registration can be subject to quantitative restrictions based on the regional distribution of doctors. For dentists this restriction does not apply. Registration is necessary only for doctors participating in the public health scheme. Non-discriminatory restrictions on the legal form of establishment required to provide these services may exist (§ 95 SGB V).

For midwives' services, access is restricted to natural persons only. For medical and dental services, access is possible for natural persons, licensed medical care centres and mandated bodies. Establishment requirements may apply.

Regarding telemedicine, the number of information and communications technology service suppliers may be limited to guarantee interoperability, compatibility and necessary safety standards. This limitation is applied in a non-discriminatory manner (CPC 9312, 93191).

Measures:

DE: Bundesärzteordnung (BÄO; Federal Medical Regulation);

Gesetz über die Ausübung der Zahnheilkunde (ZHG);

Gesetz über den Beruf der Psychotherapeutin und des Psychotherapeuten (PsychThG; Act on the Provision of Psychotherapy Services);

Gesetz über die berufsmäßige Ausübung der Heilkunde ohne Bestallung (Heilpraktikergesetz);

Gesetz über das Studium und den Beruf von Hebammen (HebG);and

Bundes-Apothekerordnung.

Additional legislation with regard to midwives can exist on regional level.

Gesetz über die Pflegeberufe (PflBG);

Sozialgesetzbuch Fünftes Buch (SGB V; Social Code, Book Five) – Statutory Health Insurance.

Regional level:

Heilberufekammergesetz des Landes Baden-Württemberg;

Gesetz über die Berufsausübung, die Berufsvertretungen und die Berufsgerichtsbarkeit der Ärzte, Zahnärzte, Tierärzte, Apotheker sowie der Psychologischen Psychotherapeuten und dervKinder- und Jugendlichenpsychotherapeuten (Heilberufe-Kammergesetz – HKaG) in Bayern;

Berliner Heilberufekammergesetz (BlnHKG);

Hamburgisches Kammergesetz für die Heilberufe (HmbKGH); Gesetz über die Berufsgerichtsbarkeit der Heilberufe; Hamburgisches Gesetz über die Ausübung des Berufs der Hebamme und des Entbindungspflegers (Hamburgisches Hebammengesetz);

Heilberufsgesetz Brandenburg (HeilBerG);

Bremisches Gesetz über die Berufsvertretung, die Berufsausübung, die Weiterbildung und die Berufsgerichtsbarkeit der Ärzte, Zahnärzte, Psychotherapeuten, Tierärzte und Apotheker (Heilberufsgesetz – HeilBerG);

Heilberufsgesetz Mecklenburg-Vorpommern (Heilberufsgesetz M-V – HeilBerG);

Heilberufsgesetz (HeilBG NRW);

Heilberufsgesetz (HeilBG Rheinland-Pfalz);

Gesetz über die öffentliche Berufsvertretung, die Berufspflichten, die Weiterbildung und die Berufsgerichtsbarkeit der Ärzte/ Ärztinnen, Zahnärzte/ Zahnärztinnen, psychologischen Psychotherapeuten/ Psychotherapeutinnen und Kinder- und Jugendlichenpsychotherapeuten/psychotherapeutinnen, Tierärzte/Tierärztinnen und Apotheker/Apothekerinnen im Saarland (Saarländisches Heilberufekammergesetz – SHKG);

Gesetz über Berufsausübung, Berufsvertretungen und Berufsgerichtsbarkeit der Ärzte, Zahnärzte, Tierärzte, Apotheker sowie der Psychologischen Psychotherapeuten und der Kinder und Jugendlichenpsychotherapeuten im Freistaat Sachsen (Sächsisches Heilberufekammergesetz – SächsHKaG)and Thüringer Heilberufegesetz.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, Local presence:

In FR: While other types of legal form are also available for Union investors, foreign investors only have access to the legal forms of "société civile professionnelle" (SCP) and "société d'exercice liberal" (SEL). For medical, dental and midwives' services, French nationality is required. However, access by foreigners is possible within annually established quotas. For medical, dental and midwives' services and services supplied by nurses, provision through SEL à forme anonyme, à responsabilité limitée par actions simplifiée or en commandite par actions, société coopérative (for independent general and specialised practitioners only) or société interprofessionnelle de soins ambulatoires (SISA) for multidisciplinary health home (MSP) only.

Measures:

FR: Loi 90-1258 relative à l'exercice sous forme de société des professions libérales, Loi n°2011-940 du 10 août 2011 modifiant certaines dipositions de la loi n°2009-879 dite HPST, Loi n°47-1775 portant statut de la coopération; and Code de la santé publique.

With respect to Investment liberalisation – Market access:

In AT: Specific non-discriminatory legal form requirements may apply (CPC 9312, part of 9319). Cooperation of physicians for the purpose of ambulatory public healthcare, so-called group practices, can take place only under the legal form of Offene Gesellschaft (OG) or Gesellschaft mit beschränkter Haftung (GmbH). Only physicians may be associates of such a group practice. They must be entitled to independent medical practice, registered with the Austrian Medical Chamber and actively pursue the medical profession in the practice. Other persons may not act as associates of the group practice and may not share in its revenues or profits (part of CPC 9312).

Measures:

AT: Medical Act, BGBl. I Nr. 169/1998, §§ 52a – 52c;

Federal Act Regulating High Level Allied Health Professions, BGBl. Nr. 460/1992; and Federal Act regulating Medical Masseurs lower and upper level, BGBl. Nr. 169/2002.

(b) Veterinary services (CPC 932)

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment and Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment:

In AT: Only nationals of a Member State of the EEA may provide veterinary services. The nationality requirement is waived for nationals of a non-Member State of the EEA where there is a Union agreement with that State providing for national treatment with respect to investment and Cross-border trade of veterinary services.

In ES: Membership in a professional association is required for the practice of the profession and requires Union nationality. This requirement may be waived through a bilateral professional agreement. The supply of veterinary services is restricted to natural persons.

In FR: EEA nationality is required for the supply of veterinary services, but the nationality requirement may be waived subject to reciprocity. The legal forms available to a company providing veterinary services are limited to "société civile professionnelle" (SCP) and "société d'exercice liberal" (SEL).

Other legal forms of company provided for by French domestic law or the law of another Member State of the EEA and having their registered office, central administration or principal place of business therein may be authorised, under certain conditions.

Measures:

AT: Tierärztegesetz (Veterinary Act), BGBl. Nr. 16/1975, §3 (2) (3).

ES: Real Decreto 126/2013, de 22 de febrero, por el que se aprueban los Estatutos Generales de la Organización Colegial Veterinaria Española; Articles 62 and 64.

FR: Code rural et de la pêche maritime.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In CY: Nationality and residency conditions apply for the supply of veterinary services.

In EL: EEA or Swiss nationality is required for the supply of veterinary services.

In HR: Only legal and natural persons established in a Member State for the purpose of conducting veterinary activities may supply cross border veterinary services in the Republic of Croatia. Only Union nationals may establish a veterinary practice in the Republic of Croatia.

In HU: EEA nationality is required for membership of the Hungarian Veterinary Chamber, which is necessary in order to supply veterinary services. Authorisation for establishment is subject to an economic needs test. Main criteria: labour market conditions in the sector.

Measures:

CY: Law 169/1990 as amended.

EL: Presidential Decree 38/2010, Ministerial Decision 165261/IA/2010 (Gov. Gazette 2157/B).

HR: Veterinary Act (OG 83/13, 148/13, 115/18), Articles 3 (67), Articles 105 and 121.

HU: Act CXXVII of 2012 on the Hungarian Veterinary Chamber and on the conditions how to supply Veterinary services.

With respect to Cross-border trade in services – Local presence:

In CZ: Physical presence in the territory is required for the supply of veterinary services.

In IT and PT: Residency is required for the supply of veterinary services.

In PL: Physical presence in the territory is required for the supply of veterinary services. To pursue the profession of veterinary surgeon in the territory of Poland, non-Union nationals must pass an exam in the Polish language organised by the Polish Chambers of Veterinary Surgeons.

In SI: Only legal and natural persons established in a Member State for the purpose of supplying veterinary activities may supply cross border veterinary services to the Republic of Slovenia.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access, Local presence:

In SK: Residency in the EEA is required for registration in the professional chamber, which is necessary for the exercise of the profession. The provision of veterinary services is restricted to natural persons.

Measures:

CZ: Act No. 166/1999 Coll. (Veterinary Act), §58-63, 39; and

Act No. 381/1991 Coll. (on the Chamber of Veterinary Surgeons of the Czech Republic), paragraph 4.

IT: Legislative Decree C.P.S. 233/1946, Articles 7-9; and

Decree of the President of the Republic (DPR) 221/1950, paragraph 7.

PL: Law of 21st December 1990 on the Profession of Veterinary Surgeon and Chambers of Veterinary Surgeons.

PT: Decree-Law 368/91 (Statute of the Veterinary Professional Association) alterado p/ Lei 125/2015, 3 set.

SI: Pravilnik o priznavanju poklicnih kvalifikacij veterinarjev (Rules on recognition of professional qualifications for veterinarians), Uradni list RS, št. (Official Gazette No 71/2008, 7/2011, 59/2014 and 21/2016, Act on services in the internal market, Official Gazette RS No 21/2010).

SK: Act 442/2004 on Private Veterinary Doctors and the Chamber of Veterinary Doctors, Article 2.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In DE (applies also to the regional level of government): The supply of veterinary services is restricted to natural persons. Telemedicine may only be provided in the context of primary treatment involving the prior physical presence of a veterinarian.

In DK and NL: The supply of veterinary services is restricted to natural persons.

In IE: The supply of veterinary services is restricted to natural persons or partnerships.

In LV: The supply of veterinary services is restricted to natural persons.

Measures:

DE: Bundes-Tierärzteordnung (BTÄO; Federal Code for the Veterinary Profession).

Regional level:

Acts on the Councils for the Medical Profession of the Länder (Heilberufs- und Kammergesetze der Länder) and (based on those)

Baden-Württemberg, Gesetz über das Berufsrecht und die Kammern der Ärzte, Zahnärzte, Tierärzte Apotheker, Psychologischen Psychotherapeuten sowie der Kinder- und Jugendlichenpsychotherapeuten (Heilberufe-Kammergesetz – HBKG);

Bayern, Gesetz über die Berufsausübung, die Berufsvertretungen und die Berufsgerichtsbarkeit der Ärzte, Zahnärzte, Tierärzte, Apotheker sowie der Psychologischen Psychotherapeuten und der Kinder- und Jugendlichenpsychotherapeuten (Heilberufe-Kammergesetz – HKaG);

Berlin, Berliner Heilberufekammergesetz (BlnHKG);

Brandenburg, Heilberufsgesetz (HeilBerG);

Bremen, Gesetz über die Berufsvertretung, die Berufsausübung, die Weiterbildung und die Berufsgerichtsbarkeit der Ärzte, Zahnärzte, Psychotherapeuten, Tierärzte und Apotheker (Heilberufsgesetz – HeilBerG);

Hamburg, Hamburgisches Kammergesetz für die Heilberufe (HmbKGH);

Hessen, Gesetz über die Berufsvertretungen, die Berufsausübung, die Weiterbildung und die Berufsgerichtsbarkeit der Ärzte, Zahnärzte, Tierärzte, Apotheker, Psychologischen Psychotherapeuten und Kinder- und Jugendlichenpsychotherapeuten (Heilberufsgesetz);

Mecklenburg-Vorpommern, Heilberufsgesetz (HeilBerG);

Niedersachsen, Kammergesetz für die Heilberufe (HKG);

Nordrhein-Westfalen, Heilberufsgesetz NRW (HeilBerg);

Rheinland-Pfalz, Heilberufsgesetz (HeilBG);

Saarland, Gesetz Nr. 1405 über die öffentliche Berufsvertretung, die Berufspflichten, die Weiterbildung und die Berufsgerichtsbarkeit der Ärzte/Ärztinnen, Zahnärzte/Zahnärztinnen,Tierärzte/Tierärztinnen und Apotheker/Apothekerinnen im Saarland (Saarländisches Heilberufekammergesetz – SHKG);

Sachsen, Gesetz über Berufsausübung, Berufsvertretungen und Berufsgerichtsbarkeit der Ärzte, Zahnärzte, Tierärzte, Apotheker sowie der Psychologischen Psychotherapeuten und der Kinder- und Jugendlichenpsychotherapeuten im Freistaat Sachsen (Sächsisches Heilberufekammergesetz – SächsHKaG);

Sachsen-Anhalt, Gesetz über die Kammern für Heilberufe Sachsen-Anhalt (KGHB-LSA);

Schleswig-Holstein, Gesetz über die Kammern und die Berufsgerichtsbarkeit für die Heilberufe (Heilberufekammergesetz – HBKG);

Thüringen, Thüringer Heilberufegesetz (ThürHeilBG); and

Berufsordnungen der Kammern (Codes of Professional Conduct of the Veterinary Practitioners' Councils).

DK: Lovbekendtgørelse nr. 40 af lov om dyrlæger af 15. januar 2020 (Consolidated act No. 40 of January 15th, 2020, on veterinary surgeons).

IE: Veterinary Practice Act 2005.

LV: Veterinary Medicine Law.

NL: Wet op de uitoefening van de diergeneeskunde 1990 (WUD).

(c) Retail sales of pharmaceuticals, medical and orthopaedic goods and other services provided by pharmacists (CPC 63211)

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors:

In AT: The retail of pharmaceuticals and specific medical goods to the public may only be carried out through a pharmacy. Nationality of a Member State of the EEA or the Swiss Confederation is required in order to operate a pharmacy. Nationality of a Member State of the EEA or the Swiss Confederation is required for leaseholders and persons in charge of managing a pharmacy.

Measures:

AT: Apothekengesetz (Pharmacy Law), RGBl. Nr. 5/1907 as amended, §§ 3, 4, 12; Arzneimittelgesetz (Medication Act), BGBl. Nr. 185/1983 as amended, §§ 57, 59, 59a; and Medizinproduktegesetz (Medical Products Law), BGBl. Nr. 657/1996 as amended, § 99.

With respect to Investment liberalisation – Market access, National treatment:

In DE: Only natural persons (pharmacists) are permitted to operate a pharmacy. Nationals of other countries or persons who have not passed the German pharmacy exam may only obtain a licence to take over a pharmacy which has already existed during the preceding three years. The total number of pharmacies per person is restricted to one pharmacy and up to three branch pharmacies.

In FR: EEA or Swiss nationality is required in order to operate a pharmacy.

Foreign pharmacists may be permitted to establish within annually established quotas.
A pharmacy opening must be authorised. Commercial presence including sale at a distance of medicinal products to the public by means of information society services, must take one of the legal forms allowed under national law on a non-discriminatory basis: "société d'exercice libéral" (SEL) anonyme, par actions simplifiée, à responsabilité limitée unipersonnelle or pluripersonnelle, en commandite par actions, société en noms collectifs (SNC) or société à responsabilité limitée (SARL) unipersonnelle or pluripersonnelle only.

Measures:

DE: Gesetz über das Apothekenwesen (ApoG; German Pharmacy Act); Bundes-Apothekerordnung;

Gesetz über den Verkehr mit Arzneimitteln (AMG);

Gesetz über Medizinprodukte (MPG);

Verordnung zur Regelung der Abgabe von Medizinprodukten (MPAV).

FR: Code de la santé publique; and

Loi 90-1258 du 31 décembre 1990 relative à l'exercice sous forme de société des professions libérales and Loi 2015-990 du 6 août 2015.

With respect to Investment liberalisation – National treatment:

In EL: Union nationality is required in order to operate a pharmacy.

In HU: EEA nationality is required in order to operate a pharmacy.

In LV: In order to commence independent practice in a pharmacy, a foreign pharmacist or pharmacist's assistant, educated in a state which is not a Member State or a Member State of the EEA, must work for at least one year in a pharmacy in a Member State of the EEA under the supervision of a pharmacist.

Measures:

EL: Law 5607/1932 as amended by Laws 1963/1991 and 3918/2011; The Presidential Decree 64/2018 (Government Gazette 124/issue A/11-7-2018).

HU: Act XCVIII of 2006 on the General Provisions Relating to the Reliable and Economically Feasible Supply of Medicinal Products and Medical Aids and on the Distribution of Medicinal Products.

LV: Pharmaceutical Law, s. 38.

With respect to Investment liberalisation – Market access:

In BG: Managers of pharmacies must be qualified pharmacists and may only manage one pharmacy in which they themselves work. A quota (not more than four) exists for the number of pharmacies which may be owned per person in the Republic of Bulgaria.

In DK: Only natural persons, who have been granted a pharmacist licence from the Danish Health and Medicines Authority, are permitted to provide retail services of pharmaceuticals and specific medical goods to the public.

In ES, HR, HU, and PT: Establishment authorisation is subject to an economic needs test. Main criteria: population and density conditions in the area.

In IE: The mail order of pharmaceuticals is prohibited, with the exception of non-prescription medicines.

In MT: Issuance of Pharmacy licences under specific restrictions. No person shall have more than one licence in their name in any town or village (Regulation 5(1) of the Pharmacy Licence Regulations (LN279/07)), except in a case in which there are no further applications for that town or village (Regulation 5(2) of the Pharmacy Licence Regulations (LN279/07)).

In PT: In commercial companies in which the capital is represented by shares, these shall be nominative. A person shall not hold or exercise, at the same time, directly or indirectly, ownership, operation or management of more than four pharmacies.

In SI: The network of pharmacies in Slovenia consists of public pharmacy institutions, owned by municipalities, and of private pharmacies with a concession where the majority owner must be a pharmacist by profession. Mail order of pharmaceuticals requiring a prescription is prohibited. Mail order of non-prescription medicines requires special state permission.

Measures:

BG: Law on Medicinal Products in Human Medicine, arts. 222, 224, 228.

DK: Apotekerloven (Danish Pharmacy Act) LBK nr. 1040 03/09/2014.

ES: Ley 16/1997, de 25 de abril, de regulación de servicios de las oficinas de farmacia (Law 16/1997, of 25 April, regulating services in pharmacies), Articles 2, 3.1; and

Real Decreto Legislativo 1/2015, de 24 de julio por el que se aprueba el Texto refundido de la Ley de garantías y uso racional de los medicamentos y productos sanitarios (Ley 29/2006).

HR: Health Care Act (OG 100/18, 125/19).

HU: Act XCVIII of 2006 on the General Provisions Relating to the Reliable and Economically Feasible Supply of Medicinal Products and Medical Aids and on the Distribution of Medicinal Products.

IE: Irish Medicines Boards Acts 1995 and 2006 (No. 29 of 1995 and No. 3 of 2006); Medicinal Products (Prescription and Control of Supply) Regulations 2003, as amended (S.I. 540 of 2003); Medicinal Products (Control of Placing on the Market) Regulations 2007, as amended (S.I. 540 of 2007); Pharmacy Act 2007 (No. 20 of 2007); Regulation of Retail Pharmacy Businesses Regulations 2008, as amended, (S.I. No 488 of 2008).

MT: Pharmacy Licence Regulations (LN279/07) issued under the Medicines Act (Cap. 458).

PT: Decree-Law 307/2007, Articles 9, 14 and 15 Alterado p/ Lei 26/2011, 16 jun., alterada:

– p/ Acórdão TC 612/2011, 24/01/2012;

– p/ Decreto-Lei 171/2012, 1 ago.;

– p/ Lei 16/2013, 8 fev.;

– p/ Decreto-Lei 128/2013, 5 set.;

– p/ Decreto-Lei 109/2014, 10 jul.;

– p/ Lei 51/2014, 25 ago.;

– p/ Decreto-Lei 75/2016, 8 nov.; and Ordinance 1430/2007revogada p/ Portaria 352/2012, 30 out.

SI: Pharmacy Services Act (Official Gazette of the RS No. 85/2016, 77/2017, 73/2019); and Medicinal Products Act (Official Gazette of the RS, No. 17/2014, 66/2019).

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment and Cross-border trade in services – Market access, National treatment:

In IT: The practice of the profession is possible only for natural persons enrolled in the register, as well as for juridical persons in the form of partnerships, where every partner of the company must be an enrolled pharmacist. Enrolment in the pharmacist professional register requires nationality of a Member State or residency and practice of the profession in Italy. Foreign nationals having the necessary qualifications may enrol if they are citizens of a country with which Italy has a special agreement authorising the exercise of the profession, on condition of reciprocity (D. Lgsl. CPS 233/1946 Articles 7-9 and D.P.R. 221/1950 paragraphs 3 and 7). New or vacant pharmacies are authorised following a public competition. Only nationals of a Member State enrolled in the Register of pharmacists (albo) are able to participate in a public competition.

Establishment authorisation is subject to an economic needs test. Main criteria: population and density conditions in the area.

Measures:

IT: Law 362/1991, Articles 1, 4, 7 and 9;

Legislative Decree CPS 233/1946, Articles 7-9; and

Decree of the President of the Republic (D.P.R. 221/1950, paragraphs 3 and 7).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In CY: A nationality requirement applies for the provision of retail sales of pharmaceuticals, medical and orthopaedic goods and other services provided by pharmacists (CPC 63211).

Measures:

CY: Pharmacy and Poisons Law (Chapter 254) as amended.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In BG The retail of pharmaceuticals and specific medical goods to the public may only be carried out through a pharmacy. The mail order of pharmaceuticals is prohibited, with the exception of non-prescription medicines.

In EE: The retail of pharmaceuticals and specific medical goods to the public may only be carried out through a pharmacy. Mail order sales of medicinal products as well as delivery by post or express service of medicinal products ordered through the Internet is prohibited. Establishment authorisation is subject to an economic needs test. Main criteria: density conditions in the area.

In EL: Only natural persons who are licenced pharmacists, and companies founded by licenced pharmacists, are permitted to provide retail services of pharmaceuticals and specific medical goods to the public.

In ES: Only natural persons who are licenced pharmacists are permitted to provide retail services of pharmaceuticals and specific medical goods to the public. No pharmacist may obtain more than one licence.

In LU: Only natural persons are permitted to provide retail services of pharmaceuticals and specific medical goods to the public.

In NL: Mail order of medicine is subject to requirements.

In PL: The practice of the profession is possible only for natural persons enrolled in the register, as well as for juridical persons in the form of partnerships, where every partner of the company must be an enrolled pharmacist.

Measures:

BG: Law on Medicinal Products in Human Medicine, arts. 219, 222, 228, 234(5).

EE: Ravimiseadus (Medicinal Products Act), RT I 2005, 2, 4; § 29 (2) and § 41 (3); and Tervishoiuteenuse korraldamise seadus (Health Services Organisation Act, RT I 2001, 50, 284).

EL: Law 5607/1932 as amended by Laws 1963/1991 and 3918/2011.

ES: Ley 16/1997, de 25 de abril, de regulación de servicios de las oficinas de farmacia (Law 16/1997, of 25 April, regulating services in pharmacies), Articles 2, 3.1; and

Real Decreto Legislativo 1/2015, de 24 de julio por el que se aprueba el Texto refundido de la Ley de garantías y uso racional de los medicamentos y productos sanitarios (Ley 29/2006).

LU: Loi du 4 juillet 1973 concernant le régime de la pharmacie (annex a043);

Règlement grand-ducal du 27 mai 1997 relatif à l'octroi des concessions de pharmacie (anne a041); and

Règlement grand-ducal du 11 février 2002 modifiant le règlement grand-ducal du 27 mai 1997 relatif à l'octroi des concessions de pharmacie (annex a017).

NL: Geneesmiddelenwet, article 67.

PL: Article 99. Para 4, ACT of 6 September 2001 – Pharmaceutical law Journal of Laws of 2021.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – Local presence:

In BG: Permanent residency is required for pharmacists.

Measures:

BG: Law on Medicinal Products in Human Medicine, arts. 146, 161, 195, 222, 228.

With respect to Cross-border trade in services – Local presence:

In DE, SK: Residency is required in order to obtain a licence as a pharmacist or to open a pharmacy for the retail of pharmaceuticals and certain medical goods to the public.

Measures:

DE: Gesetz über das Apothekenwesen (ApoG; German Pharmacy Act);

Gesetz über den Verkehr mit Arzneimitteln (AMG);

Gesetz über Medizinprodukte (MPG); and

Verordnung zur Regelung der Abgabe von Medizinprodukten (MPAV).

SK: Act 362/2011 on pharmaceuticals and medical devices, Article 6; and

Act 578/2004 on healthcare providers, medical employees, professional organisation in healthcare.

Reservation No. 4 – Research and development services

Sector – sub-sector:	Research and development (R&D) services
Industry classification:	CPC 851, 853
Obligations concerned:	Market access
	National treatment
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

The EU: For publicly funded R&D services benefitting from funding provided by the Union at the Union level, exclusive rights or authorisations may only be granted to nationals of the Member States and to juridical persons of the Union having their registered office, central administration or principal place of business in the Union (CPC 851, 853).

For publicly funded R&D services benefitting from funding provided by a Member State, exclusive rights or authorisations may only be granted to nationals of the Member State concerned and to juridical persons of the Member State concerned having their headquarters in that Member State (CPC 851, 853).

Measures:

EU: All currently existing and all future Union research or innovation framework programmes, including the Horizon 2020 Rules for Participation and regulations pertaining to Joint Technology Initiatives (JTIs), and the European Institute of Innovation and Technology (EIT), as well as existing and future national, regional or local research programmes.

Reservation No. 5 – Real estate services

Sector – sub-sector:	Real estate services
Industry classification:	CPC 821, 822
Obligations concerned:	Market access
	National treatment
	Most-Favoured Nation treatment
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In CY: For the supply of real estate services, nationality and residency conditions apply.

Measures:

CY: The Real Estate Agents Law 71(1)/2010 as amended.

With respect to Cross-border trade in services – Local presence:

In CZ: Residency for natural persons and establishment for juridical persons in the Czechia are required to obtain a licence necessary for the provision of real estate services.

In HR: Commercial presence in EEA is required to supply real estate services.

In PT: EEA residency is required for natural persons. EEA incorporation is required for juridical persons.

Measures:

CZ: Trade Licensing Act.

HR: Real Estate Brokerage Act (OG 107/07 and 144/12), Article 2.

PT: Decree-Law 211/2004 (Articles 3 and 25), as amended and republished by Decree-Law 69/2011.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – Local presence:

In DK: For the supply of real estate services by a natural person present in the territory of Denmark, only authorised real estate agents who are natural persons that have been admitted to the Danish Business Authority's real estate agent register may use the title of "real estate agent". The act requires that the applicant be a Danish resident or a resident of the Union, EEA or the Swiss Confederation.

The Act on the sale of real estate is only applicable when providing real estate services to consumers. The Act on the sale of real estate does not apply to the leasing of real estate (CPC 822).

Measures:

DK: Lov om formidling af fast ejendom m.v. lov. Nr. 526 af 28.05.2014 (The Act on the sale of real estate).

With respect to Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment:

In SI: In so far as New Zealand allows Slovenian nationals and enterprises to supply real estate agent services, Slovenia will allow nationals of New Zealand and New Zealand enterprises to supply real estate agent services under the same conditions, in addition to the fulfilment of the following requirements: entitlement to act as a real estate agent in New Zealand, submission of the relevant documentation on impunity in criminal procedures, and inscription on the register of real estate agents at the competent Ministry in Slovenia.

Measures:

SI: Real Estate Agencies Act.

Reservation No. 6 – Business services

Sector – sub-sector:	Business services – rental or leasing services without operators; services related to management consulting; technical testing and analyses; related scientific and technical consulting services; services incidental to agriculture; security services; placement services; translation and interpretation services and other business services
Industry classification:	ISIC Rev. 37, part of CPC 612, part of 621, part of 625, 831, part of 85990, 86602, 8675, 8676, 87201, 87202, 87203, 87204, 87205, 87206, 87209, 87901, 87902, 87909, 88, part of 893
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

(a) Rental or leasing services without operators (CPC 83103, CPC 831)

With respect to Investment liberalisation – Market access, National treatment:

In SE: To fly the Swedish flag, proof of dominating Swedish operating influence must be shown in the case of foreign ownership interests in ships. Dominating Swedish operating influence means that the operation of the ship is located in Sweden and that more than half of the ship's shares are under Swedish ownership or ownership of persons in another EEA country. Other foreign ships may under certain conditions be granted an exemption from this rule where they are rented or leased by Swedish juridical persons through bareboat charter contracts (CPC 83103).

Measures:

SE: Sjölagen (Maritime Law) (1994:1009), Chapter 1, § 1.

With respect to Cross-border trade in services – Local presence:

In SE: Suppliers of rental or leasing services of cars and certain off-road vehicles (terrängmotorfordon) without a driver, rented or leased for a period of less than one year, are obliged to appoint someone to be responsible for ensuring, among other things, that the business is conducted in accordance with applicable rules and regulations and that road traffic safety rules are followed. The responsible person must reside in the EEA (CPC 831).

Measures:

SE: Lag (1998: 492) om biluthyrning (Act on renting and leasing cars).

(b) Rental or leasing services and other business services related to aviation

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment and Cross-border trade in services –- Market access, National treatment, Most-favoured nation treatment:

The EU: For rental or leasing of aircraft without crew (dry lease), aircraft used by an air carrier of the Union are subject to applicable aircraft registration requirements. A dry lease agreement to which a Union carrier is a party shall be subject to requirements in the Union or national law on aviation safety, such as prior approval and other conditions applicable to the use of third countries' registered aircraft. To be registered, aircraft may be required to be owned either by natural persons meeting specific nationality criteria or by enterprises meeting specific criteria regarding ownership of capital and control (CPC 83104).

With respect to computer reservation system (hereinafter referred to as "CRS") services, where Union air carriers are not accorded, by CRS service suppliers operating outside the Union, equivalent (meaning non-discriminatory) treatment to the treatment provided by Union CRS service suppliers to air carriers of a third country in the Union, or where Union CRS services suppliers are not accorded, by non-Union air carriers, equivalent treatment to the treatment provided by air carriers in the Union to CRS service suppliers of a third country, measures may be taken to accord the equivalent discriminatory treatment, respectively, to the non-Union air carriers by the CRS services suppliers operating in the Union, or to the non-Union CRS services suppliers by Union air carriers.

Measures:

EU: Regulation (EC) No 1008/2008 of the European Parliament and of the Council[1]; and Regulation (EC) No 80/2009 of the European Parliament and of the Council[2].

[1] Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ EU L 293, 31.10.2008, p. 3).

[2] Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89 (OJ EU L 35, 4.2.2009, p. 47).

With respect to Investment liberalisation – National treatment and Cross-border trade in services – Market access, National treatment

In BE: Private (civil) aircraft belonging to natural persons who are not nationals of a member state of the EEA may only be registered if they are domiciled or resident in Belgium without interruption for at least one year. Private (civil) aircraft belonging to foreign legal entities not formed in accordance with the law of a member state of the EEA may only be registered if they have a seat of operations, an agency or an office in Belgium without interruption for at least one year (CPC 83104).

Measures:

BE: Arrêté Royal du 15 mars 1954 réglementant la navigation aérienne.

(c) Services related to management consulting – arbitration and conciliation services (CPC 86602)

With respect to Cross-border trade in services –National treatment, Local presence:

In BG: For mediation services, permanent or long-term residency in the Republic of Bulgaria is required for citizens of countries other than a member state of the EEA or the Swiss Confederation.

In HU: A notification, for admission to the register, to the Minister responsible for justice is required for the supply of mediation (such as conciliation) activities.

Measures:

BG: Mediation Act, Art. 8.

HU: Act LV of 2002 on Mediation.

(d) Technical testing and analysis services (CPC 8676)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In CY: The provision of services by chemists and biologists requires nationality of a Member State.

In FR: The profession of biologist is reserved for natural persons, and EEA nationality is required.

Measures:

CY: Registration of Chemists Law of 1988 (Law 157/1988), as amended.

FR: Code de la Santé Publique.

With respect to Investment liberalisation –National treatment and Cross-border trade in services – Market access, Local presence:

In BG: Establishment in Bulgaria according to the Bulgarian Commercial Act and registration in the Commercial register is required for supply of technical testing and analysis services.

For the periodic inspection for proof of technical condition of road transport vehicles, a person should be registered in accordance with the Bulgarian Commercial Act or the Non-Profit Legal Persons Act, or else be registered in another member state of the EEA.

The testing and analysis of the composition and purity of air and water may be conducted only by the Ministry of Environment and Water of Bulgaria, or its agencies.

Measures:

BG: Technical Requirements towards Products Act;

Measurement Act;

Clean Ambient Air Act;

Article 148, Paragraph 2, Road Traffic Act;

Water Act; and

Ordinance N-32 for the periodical inspection for proof of technical condition of road transport vehicles.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment, Most-favoured-nation treatment, Local presence:

In IT: For biologists, chemical analysts, agronomists and "periti agrari", residency and enrolment in the professional register are required. Third-country nationals may enrol on condition of reciprocity.

Measures:

IT: Biologists, chemical analysts: Law 396/1967 on the profession of biologists; and Royal Decree 842/1928 on the profession of chemical analysts.

(e) Related scientific and technical consulting services (CPC 8675)

With respect to Investment liberalisation – National treatment, Most-favoured-nation treatment and Cross-border trade in services – National treatment, Most-favoured-nation treatment, Local presence:

In IT: Residency or professional domicile in Italy is required for enrolment in the geologists' register, which is necessary for the practice of the professions of surveyor or geologist in order to supply services relating to the exploration and the operation of mines, etc. Nationality of a Member State is required, however, foreigners may enrol on condition of reciprocity.

Measures:

IT: Geologists: Law 112/1963, Articles 2 and 5; D.P.R. 1403/1965, Article 1.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In BG: For natural persons, nationality and residency of a member state of the EEA or the Swiss Confederation is required in order to supply services pertinent to geodesy, cartography and cadastral surveying. For legal entities, trade registration under the legislation of a Member State of the EEA or the Swiss Confederation is required.

Measures:

BG: Article 16-17, Cadastre and Property Register Act; and Article 24, Paragraph 1, Geodesy and Cartography Act.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment:

In CY: A nationality requirement applies for the supply of relevant services.

Measures:

CY: Law 224/1990 as amended.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access:

In FR: For surveying, access through "société d'exercice liberal" (SEL) (anonyme, à responsabilité limitée ou en commandite par actions“, "société civile professionnelle" (SCP), "société anonyme" (SA) and "société à responsabilité limitée" (SARL) (sociétés anonymes, à responsabilité limitée) only. For exploration and prospecting services establishment is required. This requirement may be waived for scientific researchers, by decision of the Minister of scientific research, in agreement with the Minister of Foreign affairs.

Measures:

FR: Loi 46-942 du 7 mai 1946 and décret n°71-360 du 6 mai 1971.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In HR: Services of basic geological, geodetic and mining consulting as well as related environmental protection consulting services in the territory of Croatia may be carried out only jointly with or through domestic juridical persons.

Measures:

HR: Ordinance on requirements for issuing approvals to juridical persons for performing professional environmental protection activities (OG No.57/10), Arts. 32-35.

(f) Services incidental to agriculture (part of CPC 88)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services –National treatment, Most-favoured-nation treatment, Local presence:

In IT: For biologists, chemical analysts, agronomists and "periti agrari", residency and enrolment in the professional register are required. Third-country nationals may enrol on condition of reciprocity.

Measures:

IT: Biologists, chemical analysts: Law 396/1967 on the profession of biologists; and Royal Decree 842/1928 on the profession of chemical analysts.

With respect to Investment liberalisation – Market access, Most-favoured-nation treatment and Cross-border trade in services – Market access, Most-favoured-nation treatment:

In PT: The professions of biologist, chemical analyst and agronomist are reserved for natural persons. For third-country nationals, a reciprocity regime applies in the case of engineers and technical engineers (and not a citizenship requirement). For biologists, there is neither a citizenship nor a reciprocity requirement.

Measures:

PT: Decree Law 119/92 alterado p/ Lei 123/2015, 2 set. (Ordem dos Engenheiros);

Law 47/2011 alterado p/ Lei 157/2015, 17 set. (Ordem dos Engenheiros Técnicos); and

Decree Law 183/98 alterado p/ Lei 159/2015, 18 set. (Ordem dos Biólogos).

(g) Security Services (CPC 87302, 87303, 87304, 87305, 87309)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment, Local presence:

In IT: Nationality of a Member State and residency is required in order to obtain the necessary authorisation to supply security guard services and the transport of valuables.

In PT: The provision of security services by a foreign supplier on a Cross-border basis is not allowed.

A nationality requirement exists for specialised personnel.

Measures:

IT: Law on public security (TULPS) 773/1931, Articles 133-141; Royal Decree 635/1940, Article 257.

PT: Law 34/2013 alterada p/ Lei 46/2019, 16 maio; and Ordinance 273/2013 alterada p/ Portaria 106/2015, 13 abril.

With respect to Investment liberalisation – National treatment, Most-favoured-nation treatment and Cross-border trade in services – Local presence:

In DK: There is a residence requirement for individuals applying for an authorisation to provide security services. Residence is also required for managers and the majority of members of the board of a legal entity applying for an authorisation to conduct security services. However, residence for management and boards of directors is not required to the extent it follows from international agreements or orders issued by the Minister for Justice.

Measures:

DK: Lovbekendtgørelse 2016-01-11 nr. 112 om vagtvirksomhed.

With respect to Cross-border trade in services – Local presence:

In EE: Residency is required for security guards.

Measures:

EE: Turvaseadus (Security Act) § 21, § 22.

(h) Placement Services (CPC 87201, 87202, 87203, 87204, 87205, 87206, 87209)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment (applies to the regional level of government):

In BE: In all Regions in Belgium, a company having its head office outside the EEA has to demonstrate that it supplies placement services in its country of origin. In the Walloon Region, a specific type of legal entity (régulièrement constituée sous la forme d'une personne morale ayant une forme commerciale, soit au sens du droit belge, soit en vertu du droit d'un Etat membre ou régie par celui-ci, quelle que soit sa forme juridique) is required to supply placement services. A company having its head office outside the EEA has to demonstrate that it fulfils the conditions as set out in the Decree (for instance on the type of legal entity). In the German-speaking community, a company having its head office outside the EEA has to fulfil the admission criteria established by the mentioned Decree (CPC 87202).

Measures:

BE: Flemish Region: Article 8, § 3, Besluit van de Vlaamse Regering van 10 december 2010 tot uitvoering van het decreet betreffende de private arbeidsbemiddeling.

Walloon Region: Décret du 3 avril 2009 relatif à l'enregistrement ou à l'agrément des agences de placement (Decree of 3 April 2009 on registration of placement agencies), Article 7; and Arrêté du Gouvernement wallon du 10 décembre 2009 portant exécution du décret du 3 avril 2009 relatif à l'enregistrement ou à l'agrément des agences de placement (Decision of the Walloon Government of 10 December 2009 implementing the Decree of 3 April 2009 on registration of placement agencies), Article 4.

German-speaking community: Dekret über die Zulassung der Leiharbeitsvermittler und die Überwachung der privaten Arbeitsvermittler / Décret du 11 mai 2009 relatif à l'agrément des agences de travail intérimaire et à la surveillance des agences de placement privées, Article 6.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment, Local presence:

In DE: Nationality of a Member State of the EEA or a commercial presence in the Union is required in order to obtain a licence to operate as a temporary employment agency (pursuant to Section 3 paragraphs 3 to 5 of this Act on temporary agency work (Arbeitnehmerüberlassungsgesetz). The Federal Ministry of Labour and Social Affairs may issue a regulation concerning the placement and recruitment of non-EEA personnel for specified professions such as health- and care-related professions. The licence or its extension shall be refused if establishments, parts of establishments or ancillary establishments which are not located in the EEA are intended to execute the temporary employment pursuant to Section 3 paragraph 2 of the Act on temporary agency work (Arbeitnehmerüberlassungsgesetz).

In ES: Prior to the start of the activity, placement agencies are required to submit a sworn statement certifying the fulfilment of the requirements stated by the current legislation (CPC 87201, 87202).

Measures:

DE: Gesetz zur Regelung der Arbeitnehmerüberlassung (AÜG);

Sozialgesetzbuch Drittes Buch (SGB III; Social Code, Book Three) – Employment Promotion; and

Verordnung über die Beschäftigung von Ausländerinnen und Ausländern (BeschV; Ordinance on the Employment of Foreigners).

ES: Real Decreto-ley 8/2014, de 4 de julio, de aprobación de medidas urgentes para el crecimiento, la competitividad y la eficiencia (tramitado como Ley 18/2014, de 15 de octubre).

(i) Translation and interpretation services (CPC 87905)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access:

In BG: To carry out official translation activities, foreign natural persons are required to hold a permit for long-term, prolonged or permanent residency in the Republic of Bulgaria.

Measures:

BG: Regulation for the legalisation, certification and translation of documents; and

Order of the Minister of Foreign Affairs for establishing a temporary regime for certification under Article 21 (a), Paragraph 2 of the abovementioned Regulation.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In HU: Official translations, official certifications of translations, and certified copies of official documents in foreign languages may only be provided by the Hungarian Office for Translation and Attestation (OFFI).

In PL: Only natural persons may be sworn translators.

Measures:

HU: Decree of the Council of Ministers No. 24/1986 on Official translation and interpretation.

PL: Act of 25 November 2004 on the profession of sworn translator or interpreter (Journal of Laws from 2019 item 1326).

With respect to Cross-border trade in services – Local presence:

In FI: Residency in the EEA is required for certified translators.

Measures:

FI: Laki auktorisoiduista kääntäjistä (Act on Authorised Translators) (1231/2007), s. 2(1).

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment:

In CY: For the provision of official and certified translations by sworn translators, registration and entry in the Register of Sworn Translators upon approval by the Council for the Registration of Sworn Translators is necessary. Nationality and residency requirements apply.

In HR: EEA nationality is required for certified translators.

Measures:

CY: The Registration and Regulation of the Sworn Translators Services Law 2019 (45(I)/2019) as amended.

HR: Ordinance on permanent court interpreters (OG 88/2008), Article 2.

(j) Other business services (part of CPC 612, part of 621, part of 625, 87901, 87902, 88493, part of 893, part of 85990, 87909, ISIC 37)

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In SE: Pawn-shops must be established as a limited liability company or as a branch (part of CPC 87909).

Measures:

SE: Pawn shop act (1995:1000).

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In CZ: Only an authorised package company may supply services relating to packaging take-back and recovery; and such a company must be a juridical person established as a joint-stock company (CPC 88493, ISIC 37).

Measures:

CZ: Act. 477/2001 Coll. (Packaging Act) paragraph 16.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In NL: To provide hallmarking services, commercial presence in the Netherlands is required. The hallmarking of precious metal articles is currently exclusively granted to two Dutch public monopolies (part of CPC 893).

Measures:

NL: Waarborgwet 1986.

With respect to Investment liberalisation – Market access, National treatment:

In PT: Nationality of a Member State is required for the provision of collection agency services and credit reporting services (CPC 87901, 87902).

Measures:

PT: Law 49/2004.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Local presence:

In CZ: A licence is required to supply auction services. To obtain a licence (for the supply of voluntary public auctions), a company must be incorporated in the Czechia, a natural person must obtain a residency permit, and the company or natural person must be registered in the Commercial Register of the Czech Republic (part of CPC 612, part of 621, part of 625, part of 85990).

Measures:

CZ: Act no.455/1991 Coll.;

Trade Licence Act; and

Act No. 26/2000 Coll., on public auctions.

With respect to Cross-border trade in services – Market access:

In SE: An economic plan for a building society must be certified by two persons. These persons must be publicly approved by authorities in the EEA (CPC 87909).

Measures:

SE: Cooperative building societies law (1991:614).

Reservation No. 7 – Communication services

Sector – sub-sector:	Communication services – postal and courier services
Industry classification:	Part of CPC 71235, part of 73210, part of 751
Obligations concerned:	Market access
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

The EU: The organisation of the siting of letter boxes on a public highway, the issuing of postage stamps and the provision of the registered mail service used in the course of judicial or administrative procedures may be restricted in accordance with national legislation. Licensing systems may be established for those services for which a general universal service obligation exists. These licences may be subject to a particular universal service obligation or a financial contribution to a compensation fund.

Measures:

EU: Directive 97/67/EC of the European Parliament and of the Council[1].

Reservation No. 8 – Construction Services

Sector – Sub-sector:	Construction and related engineering services
Industry Classification:	CPC 51
Obligations concerned:	National treatment
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

[1] Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ EU L 15, 21.1.1998, p. 14).

Description:

In CY: Nationality requirement.

Measure:

The Registration and Control of Contractors of Building and Technical Works Law of 2001 (29 (I) / 2001-2013), Articles 15 and 52.

Reservation No. 9 – Distribution services

Sector – Sub-sector:	Distribution services – general, distribution of tobacco
Industry Classification:	CPC 3546, part of 621, 6222, 631, part of 632
Obligations concerned:	Market access
	National treatment
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

(a) Distribution services (CPC 3546, 631, 632 except 63211, 63297, 62276, part of 621)

With respect to Investment liberalisation – Market access:

In PT: A specific authorisation scheme exists for the installation of certain retail establishments and shopping centres. This relates to shopping centres that have a gross leasable area equal to or greater than 8 000 m^2, and retail establishments having a sales area equal to or exceeding 2 000 m^2, when located outside shopping centres. Main criteria: contribution to a multiplicity of commercial offers; assessment of services to consumers; quality of employment and corporate social responsibility; integration in the urban environment; and contribution to eco-efficiency (CPC 631, 632 except 63211, 63297).

Measures:

PT: Decree-Law No. 10/2015, 16 January.

With respect to Investment liberalisation – Market Access, National treatment and Cross-border trade in services – Market access, National treatment:

In CY: A nationality requirement exists for distribution services provided by pharmaceutical representatives (CPC 62117).

Measures:

CY: Law 74(I) 2002 as amended.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In LT: The distribution of pyrotechnics is subject to licensing. Only juridical persons of the Union may obtain a licence (CPC 3546).

Measures:

LT: Law on Supervision of Civil Pyrotechnics Circulation (23 March 2004. No. IX-2074).

(b) Distribution of tobacco (part of CPC 6222, 62228, part of 6310, 63108)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In ES: There is a state monopoly on retail sales of tobacco. Establishment is subject to a Member State nationality requirement. Only natural persons may operate as a tobacconist. No tobacconist may obtain more than one licence (CPC 63108).

In FR: There is a state monopoly on the wholesale and retail sale of tobacco. There is a nationality requirement for tobacconists (buraliste) (part of CPC 6222, part of 6310).

Measures:

ES: Law 14/2013 of 27 September 2014.

FR: Code général des impôts.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In AT: Only natural persons may apply for authorisation to operate as a tobacconist.

Priority is given to nationals of a Member State of the EEA (CPC 63108).

Measures:

AT: Tobacco Monopoly Act 1996, § 5 and § 27.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access, National treatment:

In IT: A licence is required in order to distribute and sell tobacco. Licences are granted through public procedures. The granting of licences is subject to an economic needs test. Main criteria: population and geographical density of existing selling points (part of CPC 6222, part of 6310).

Measures:

IT: Legislative Decree 184/2003;

Law 165/1962;

Law 3/2003;

Law 1293/1957;

Law 907/1942; and

Decree of the President of the Republic (D.P.R.) 1074/1958.

Reservation No. 10 – Education services

Sector – Sub-sector:	Education services (privately funded)
Industry Classification:	CPC 921, 922, 923, 924
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access:

In CY: Nationality of a Member State is required for owners and majority shareholders in a privately funded school. Nationals of New Zealand may obtain authorisation from the Minister of Education in accordance with the specified form and conditions.

Measures:

CY: Private Schools Law of 2019 (N. 147(I)/2019), as amended; The Institutions of Tertiary Education Law 1996 (N. 67(I)/1996) as amended; the Private Universities (Establishment, Operation and Control) Law 2005 (N. 109(I)/2005) as amended; and the Quality Assurance and Accreditation in Higher Education and the Establishment and Operation of an Agency on Related Matters Law 2015 (N. 136(I)/2015) as amended.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In BG: Privately funded primary and secondary education services may only be supplied by authorised legal entities under Bulgarian law or under the laws of a Member State. Foreign owned kindergartens and schools may be established or transformed at the request of foreign legal entities in accordance with international agreements and conventions. Foreign higher education institutions cannot establish subsidiaries in the territory of Bulgaria. Foreign higher education institutions may open faculties, departments, institutes and colleges in Bulgaria only within the structure of Bulgarian higher education institutions and in cooperation with them (CPC 921, 922).

Measures:

BG: Pre-school and School Education Act; and

The Higher Education Act, Paragraph 4 of the additional provisions.

With respect to Investment liberalisation – Market access, National treatment:

In SI: Privately funded elementary schools may be founded by Slovenian persons only. The service supplier must establish a registered office or branch office in Slovenia (CPC 921).

Measures:

SI: Organisation and Financing of Education Act (Official Gazette of Republic of Slovenia, No. 12/1996) and its revisions, Article 40.

With respect to Cross-border trade in services – Local presence:

In CZ and SK: Establishment in a Member State is required to apply for state approval to operate as a privately funded higher education institution. This reservation does not apply to post-secondary technical and vocational education services (CPC 923 except CPC 92310).

Measures:

CZ: Act No. 111/1998, Coll. (Higher Education Act), § 39; and

Act No. 561/2004 Coll. on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act).

SK: Law No. 131 2002 on Universities.

With respect to Investment liberalisation – Market Access and Cross-border trade in services:
Market access:

In ES and IT: An authorisation is required in order to open a privately funded university which issues recognised diplomas or degrees. An economic needs test is applied. Main criteria: population and density of existing establishments.

In ES: The procedure involves obtaining advice of the Parliament.

In IT: This is based on a three-year programme and only Italian juridical persons may be authorised to issue state-recognised diplomas (CPC 923).

Measures:

ES: Ley Orgánica 6/2001, de 21 de Diciembre, de Universidades (Law 6 / 2001 of 21 December, on Universities), Article 4.

IT: Royal Decree 1592/1933 (Law on secondary education);

Law 243/1991 (Occasional public contribution for private universities);

Resolution 20/2003 of CNVSU (Comitato nazionale per la valutazione del sistema universitario); and

Decree of the President of the Republic (DPR) 25/1998.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access:

In EL: Nationality of a Member State is required for owners and a majority of the members of the board of directors in privately funded primary and secondary schools, and for teachers in privately funded primary and secondary education (CPC 921, 922). Education at university level shall be provided exclusively by institutions which are fully self-governed public law juridical persons. However, Law 3696/2008 permits the establishment by Union residents (natural or juridical persons) of private tertiary education institutions granting certificates which are not recognised as being equivalent to university degrees (CPC 923).

Measures:

EL: Laws 682/1977, 284/1968, 2545/1940;

Presidential Decree 211/1994 as amended by Presidential Decree 394/1997;

Constitution of Hellas, Article 16, paragraph 5;

Law 3549/2007; and

Law 3696/2008 Establishment and Operation of Colleges and other provisions (Government Gazette 177/issue A/25-8-2008).

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In AT: The provision of privately funded university level education services in the area of applied sciences requires an authorisation from the competent authority, the AQ Austria (Agency for Quality Assurance and Accreditation Austria). An investor seeking to provide such services must have their primary business being the supply of such services, and must submit a needs assessment and a market survey for the acceptance of the proposed study programme. The competent Ministry may deny the approval if the decision of the accreditation authority does not comply with national educational interests. The applicant for a private university requires authorisation from the AQ Austria. The competent Ministry may deny the approval if the decision of the accreditation authority does not comply with national educational interests (CPC 923).

Measures:

AT: University of Applied Sciences Act, BGBl. I Nr. 340/1993 as amended, § 2, 8; Private Higher Education Act, BGBl. I Nr. 77/2020, § 2; and

Act on Quality Assurance in Higher Education, BGBl. Nr. 74/2011 as amended, § 25 (3).

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment and Cross-border trade in services – Market access, National treatment:

In FR: Nationality of a Member State is required in order to teach in a privately funded educational institution (CPC 921, 922, 923). However, nationals of New Zealand may obtain an authorisation from the relevant competent authorities in order to teach in primary, secondary and higher level educational institutions. Nationals of New Zealand may also obtain an authorisation from the relevant competent authorities in order to establish and operate or manage primary, secondary or higher level educational institutions. Such authorisation is granted on a discretionary basis.

Measures:

FR: Code de l'éducation.

With respect to Investment – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In MT: Service suppliers seeking to provide privately funded higher or adult education services must obtain a licence from the Ministry of Education and Employment. The decision on whether to issue a licence may be discretionary (CPC 923, 924).

Measures:

MT: Legal Notice 296 of 2012.

Reservation No. 11 – Environmental services

Sector – sub-sector:	Environmental services – processing and recycling of used batteries and accumulators, old cars and waste from electrical and electronic equipment; protection of ambient air and climate cleaning services of exhaust gases
Industry classification:	Part of CPC 9402, 9404
Obligations concerned:	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

In SE: Only entities established in Sweden or having their principal seat in Sweden are eligible for accreditation to supply control services of exhaust gas (CPC 9404).

In SK: Incorporation in the EEA (residency requirement) is required to supply services for processing and recycling of used batteries and accumulators, waste oils, old cars, and waste from electrical and electronic equipment (part of CPC 9402).

Measures:

SE: The Vehicles Act (2002:574).

SK: Act 79/2015 on Waste.

Reservation No. 12 – Financial services

Sector – sub-sector:	Financial services – insurance and banking
Industry Classification:	Not applicable
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

a) Insurance and insurance-related services

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In IT: Access to the actuarial profession is permitted through natural persons only. Professional associations (no incorporation) among natural persons is permitted. Union nationality is required for practice of the actuarial profession, except for foreign professionals who may be allowed to practice based on reciprocity.

Measures:

IT: Article 29 of the code of private insurance (Legislative decree No. 209 of 7 September 2005); and Law 194/1942, Article 4, Law 4/1999 on the register.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Local presence:

In BG: Pension insurance may only be provided by a joint-stock company licensed in accordance with the Code of Social Insurance and registered under the Commerce Act or under the legislation of another Member State (no branches).

In BG, ES, PL and PT: Direct branching is not permitted for insurance intermediation, which is reserved to companies formed in accordance with the law of a Member State (local incorporation is required). For PL, there is a residency requirement for insurance intermediaries.

Measures:

BG: Insurance Code, articles 12, 56-63, 65, 66 and 80 paragraph 4; and

Social Insurance Code Art. 120a–162, Art. 209–253, Art. 260–310.

ES: Reglamento de Ordenación, Supervisión y Solvencia de Entidades Aseguradoras y Reaseguradoras (RD 1060/2015, de 20 de noviembre de 2015), article 36.

PL: Act on insurance and reinsurance activity of September 11, 2015 (Journal of Laws of 2020, item 895 and 1180);

Act on insurance distribution of December 15, 2017 (Journal of Laws 2019, item 1881);

Act on the organisation and operation of pension funds of August 28, 1997 (Journal of Laws of 2020, item 105); and

Act of 6 March 2018 on rules regarding economic activity of foreign entrepreneurs and other foreign persons in the territory of the Republic of Poland.

PT: Article 7 of Decree-Law 94-B/98 revoked by Decree-Law 2/2009, January 5th; and chapter I, Section VI of Decree-Law 94-B/98, articles 34, nr. 6, 7, and article 7 of Decree-Law 144/2006, revoked by Law 7/2019, January 16th. Article 8 of the legal regime governing the business of insurance and reinsurance distribution, approved by Law 7/2019, of January 16th.

With respect to Investment liberalisation – National treatment:

In AT: The management of a branch office must consist of at least two natural persons resident in Austria.

In BG: There is a residency requirement for members of the managing and supervisory body of (re)insurance undertakings and every person authorised to manage or represent the (re)insurance undertaking. At least one of the persons managing and representing the pension insurance company is required to be fluent in the Bulgarian language.

Measures:

AT: Insurance Supervision Act 2016, Article 14 para. 1 No. 3, Federal Law Gazette I No. 34/2015 (Versicherungsaufsichtsgesetz 2016, § 14 Abs. 1 Z 3, BGBl. I Nr. 34/2015).

BG: Insurance Code, articles 12, 56-63, 65, 66 and 80 paragraph 4; and

Social Insurance Code, Art. 120a–162, Art. 209–253, Art. 260–310.

With respect to Investment liberalisation – Market access, National treatment:

In BG: Before establishing a branch or agency to provide insurance, a foreign insurer or reinsurer must have been authorised to operate in its country of origin in the same classes of insurance as those it wishes to provide in Bulgaria.

The income of supplementary voluntary pension funds, as well as similar income directly connected with voluntary pension insurance provided by persons who are registered under the legislation of another Member State and who may, in compliance with the legislation concerned, perform voluntary pension insurance operations, shall not be taxable according to the procedure established by the Corporate Income Tax Act.

In ES: Before establishing a branch or agency in Spain in order to provide certain classes of insurance, a foreign insurer must have been authorised to operate in the same classes of insurance in its country of origin for at least five years.

In PT: In order to establish a branch or agency, foreign insurance undertakings must have been authorised to carry out the business of insurance or reinsurance, according to relevant national law for at least five years.

Measures:

BG: Insurance Code, articles 12, 56-63, 65, 66 and 80 paragraph 4; and

Social Insurance Code, Art. 120a–162, Art. 209–253, Art. 260–310.

ES: Reglamento de Ordenación, Supervisión y Solvencia de Entidades Aseguradoras y Reaseguradoras (RD 1060/2015, de 20 de noviembre de 2015), article 36.

PT: Article 7 of Decree-Law 94-B/98 and chapter I, Section VI of Decree-Law 94-B/98, articles 34, nr. 6, 7, and article 7 of Decree-Law 144/2006; Article 215 of legal regime governing the taking up and pursuit of the business of insurance and reinsurance, approved by Law 147/2005, of September 9th.

With respect to Investment liberalisation – Market access:

In AT: In order to obtain a licence to open a branch office, foreign insurers must have a legal form corresponding or comparable to a joint stock company or a mutual insurance association in their home country.

Measures:

AT: Insurance Supervision Act 2016, Article 14 para. 1 No. 1, Federal Law Gazette I No. 34/2015 (Versicherungsaufsichtsgesetz 2016, § 14 Abs. 1 Z 1, BGBl. I Nr. 34/2015).

With respect to Investment liberalisation – Market access and Cross-border trade in financial services – National treatment, Local presence:

In EL: Insurance and reinsurance undertakings with head offices in third countries may operate in Greece via the establishment of a subsidiary or branch. A "branch" in this situation is not required to take any specific legal form, as it means a permanent presence in the territory of a Member State (Greece) of an undertaking with a head office outside the Union, which receives authorisation in that Member State (Greece) and which conducts an insurance business.

Measures:

EL: Art. 130 of the Law 4364/ 2016 (Gov. Gazette 13/ A/ 05.02.2016).

With respect to Cross-border trade in services – National treatment, Local presence:

In AT: Promotional activity and intermediation on behalf of a subsidiary not established in the Union or of a branch not established in Austria (except for reinsurance and retrocession) are prohibited.

In DK: No individuals or companies or companies (including insurance companies) may, for business purposes, assist in effecting direct insurance for persons resident in Denmark, for Danish ships or for property in Denmark, other than insurance companies licensed by Danish law or by Danish competent authorities.

In SE: The supply of direct insurance by a foreign insurer is allowed only through the mediation of an insurance service supplier authorised in Sweden, provided that the foreign insurer and the Swedish insurance company belong to the same group of companies or have an agreement of cooperation between them.

With respect to Cross-border trade in services – Local presence:

In DE, HU and LT: The supply of direct insurance services by insurance companies not incorporated in the Union requires the setting up and authorisation of a branch.

In SE: The provision of insurance intermediation services by undertakings not incorporated in the EEA requires the establishment of a commercial presence (local presence requirement).

In SK: Air and maritime transport insurance, covering aircraft or vessels and responsibility, may be underwritten only by insurance companies established in the Union or by the branch office of the insurance companies not established in the Union authorised in the Slovak Republic.

Measures

AT: Insurance Supervision Act 2016, Article 13 para. 1 and 2, Federal Law Gazette I No. 34/2015 (Versicherungsaufsichtsgesetz 2016, § 13 Abs. 1 und 2, BGBl. I Nr. 34/2015).

DE: Versicherungsaufsichtsgesetz (VAG) for all insurance services; in connection with Luftverkehrs-Zulassungs-Ordnung (LuftVZO) only for compulsory air liability insurance.

DK: Lov om finansiel virksomhed jf. lovbekendtgørelse 182 af 18. februar 2015.

HU: Act LX of 2003.

LT: Law on Insurance, 18 of September, 2003 Nr. IX-1737, last amendment 13 of June 2019 Nr. XIII-2232.

SE: Lag om försäkringsförmedling (Insurance Distribution Mediation Act) (Chapter 3, section 3, 2018:12192005:405); and Foreign Insurers Business in Sweden Act (Chapter 4, section 1 and 10, 1998:293).

SK: Act 39/2015 on insurance.

(b) Banking and other financial services

With respect to Investment liberalisation – Market access, National treatment, Cross-border trade in services – Local presence:

In BG: For pursuing the activities of lending with funds which are not raised through taking of deposits or other repayable funds, acquiring holdings in a credit institution or another financial institution, financial leasing, guarantee transactions, acquisition of claims on loans and other forms of financing (such as factoring or forfeiting), non-bank financial institutions are subject to a registration regime with the Bulgarian National Bank. The financial institution must have its main business in the territory of Bulgaria.

In BG: Non-EEA banks may pursue banking activity in Bulgaria after obtaining a licence from the Bulgarian National Bank for taking up and pursuing of business activities in the Republic of Bulgaria through a branch.

In IT: In order to be authorised to operate the securities settlement system or to provide central securities depository services with an establishment in Italy, a company is required to be incorporated in Italy (no branches).

In the case of collective investment schemes other than undertakings for collective investment in transferable securities (hereinafter referred to as "UCITS") harmonised under Union legislation, a trustee or depository is required to be established in Italy or in another Member State and have a branch in Italy.

Management enterprises of investment funds not harmonised under Union legislation are also required to be incorporated in Italy (no branches).

Only banks, insurance enterprises, investment firms and enterprises managing UCITS harmonised under Union legislation having their legal head office in the Union, as well as UCITS incorporated in Italy, may carry out the activity of pension fund resource management.

In providing the activity of door-to-door selling, intermediaries must utilise authorised financial sales persons resident within the territory of a Member State.

Representative offices of non-Union intermediaries may not carry out activities aimed at providing investment services, including trading for own account and for the account of customers, placement and underwriting financial instruments (branch required).

In PT: Pension fund management may be provided only by specialised companies incorporated in Portugal for that purpose, and by insurance companies established in Portugal and authorised to take up life insurance business, or by entities authorised to provide pension fund management in other Member States. Direct branching from non-Union countries is not permitted.

Measures:

BG: Law of Credit Institutions, article 2, paragraph 5, article 3a and article 17;

Code Of Social Insurance, articles 121, 121b, 121f; and

Currency Law, article 3.

IT: Legislative Decree 58/1998, articles 1, 19, 28, 30-33, 38, 69 and 80;

Joint Regulation of Bank of Italy and Consob 22.2.1998, articles 3 and 41;

Regulation of Bank of Italy 25.1.2005;

Title V, Chapter VII, Section II, Consob Regulation 16190 of 29.10.2007, articles 17-21, 78-81, 91-111; and subject to:

Regulation (EU) No 909/2014 of the European Parliament and of the Council[1].

PT: Decree-Law 12/2006, as amended by Decree-Law 180/2007 Decree-Law 357-A/2007, Regulation 7/2007-R, as amended by Regulation 2/2008-R, Regulation 19/2008-R, Regulation 8/2009. Article 3 of the legal regime governing the establishment and functioning of pension funds and their management entities approved by Law 27/2020, of July 23rd.

[1] Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ EU L 257, 28.8.2014, p. 1).

With respect to Investment liberalisation – Market access, National treatment:

In HU: Branches of non-EEA investment fund management companies may not engage in the management of European investment funds and may not provide asset management services to private pension funds.

Measures:

HU: Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises; and Act CXX of 2001 on the Capital Market.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – Market access:

In BG: A bank shall be managed and represented jointly by at least two persons. The persons who manage and represent the bank shall be personally present at its management address. Juridical persons may not be elected members of the managing board or the board of directors of a bank.

In SE: A founder of a savings bank shall be a natural person.

Measures:

BG: Law on Credit Institutions, article 10; Code Of Social Insurance, Articles 121, 121b, 121f; and Article 3, Currency Law.

SE: Sparbankslagen (Savings Bank Act) (1987:619), Chapter 2, § 1.

With respect to Investment liberalisation – National treatment:

In HU: The board of directors of a credit institution is required to have at least two members recognised as resident according to foreign exchange regulations and having had prior permanent residence in Hungary for at least one year.

Measures:

HU: Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises; and

Act CXX of 2001 on the Capital Market.

With respect to Investment liberalisation – Market access:

In RO: Market operators are juridical persons set up as joint stock companies according to provisions of the Company law. Alternative trading systems (multilateral trading facility pursuant to the MiFID II Directive) may be managed by a system operator set up under the conditions described above or by an investment firm authorised by ASF (Autoritatea de Supraveghere Financiară – Financial Supervisory Authority).

In SI: A pension scheme may be provided by a mutual pension fund (which is not a legal entity and is therefore managed by an insurance company, a bank or a pension company), a pension company or an insurance company. Additionally, a pension scheme can also be offered by pension scheme providers established in accordance with the regulations applicable in a Member State.

Measures:

RO: Law No. 126 of 11 June 2018 regarding financial instruments and Regulation No. 1/2017 for the amendment and supplement of Regulation No. 2/2006 on regulated markets and alternative trading systems, approved by Order of NSC No. 15/2006 – ASF – Autoritatea de Supraveghere Financiară – Financial Supervisory Authority.

SI: Pension and Disability Insurance Act, (Official Gazette No. 102/2015 (as last amended No 28/19).

With respect to Cross-border trade in services – Local presence:

In HU: Non-EEA companies may provide financial services or engage in activities auxiliary to financial services solely through a branch in HU.

Measures:

HU: Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises; and Act CXX of 2001 on the Capital Market.

Reservation No. 13 – Health services and social services

Sector – sub-sector:	Health services and social services
Industry classification:	CPC 931, 933
Obligations concerned:	Market access
	National treatment
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

With respect to Investment liberalisation – Market access:

In DE (applies also to the regional level of government): Rescue services and "qualified ambulance services" are organised and regulated by the Länder. Most Länder delegate competences in the field of rescue services to municipalities. Municipalities are allowed to give priority to not-for-profit operators. This applies equally to foreign as well as domestic service suppliers (CPC 931, 933). Ambulance services are subject to planning, permission and accreditation. Regarding telemedicine, the number of ICT (information and communications technology) service suppliers may be limited to guarantee interoperability, compatibility and necessary safety standards. This is applied in a non-discriminatory way.

In HR: Establishment of some privately funded social care facilities may be subject to needs-based limits in particular geographical areas (CPC 9311, 93192, 93193, 933).

In SI: a state monopoly is reserved for the following services: supply of blood; blood preparations; removal and preservation of human organs for transplant; socio-medical; hygiene; epidemiological and health-ecological services; patho-anatomical services; and biomedically assisted procreation (CPC 931).

Measures:

DE: Bundesärzteordnung (BÄO; Federal Medical Regulation):

Gesetz über die Ausübung der Zahnheilkunde (ZHG);

Gesetz über den Beruf der Psychotherapeutin und des Psychotherapeuten (PsychThG; Act on the Provision of Psychotherapy Services);

Gesetz über die berufsmäßige Ausübung der Heilkunde ohne Bestallung (Heilpraktikergesetz);

Gesetz über das Studium und den Beruf der Hebammen (HebG);

Gesetz über den Beruf der Notfallsanitäterin und des Notfallsanitäters (NotSanG);

Gesetz über die Pflegeberufe (PflBG);

Gesetz über die Berufe in der Physiotherapie (MPhG);

Gesetz über den Beruf des Logopäden (LogopG);

Gesetz über den Beruf des Orthoptisten und der Orthoptistin (OrthoptG);

Gesetz über den Beruf der Podologin und des Podologen (PodG);

Gesetz über den Beruf der Diätassistentin und des Diätassistenten (DiätAssG);

Gesetz über den Beruf der Ergotherapeutin und des Ergotherapeuten (ErgThg);
Bundesapothekerordnung (BapO);

Gesetz über den Beruf des pharmazeutisch-technischen Assistenten (PTAG);

Gesetz über technische Assistenten in der Medizin (MTAG);

Gesetz zur wirtschaftlichen Sicherung der Krankenhäuser und zur Regelung der Krankenhauspflegesätze (Krankenhausfinanzierungsgesetz – KHG);

Gewerbeordnung (German Trade, Commerce and Industry Regulation Act);

Sozialgesetzbuch Fünftes Buch (SGB V; Social Code, Book Five) – Statutory Health Insurance;

Sozialgesetzbuch Sechstes Buch (SGB VI; Social Code, Book Six) – Statutory Pension Insurance;

Sozialgesetzbuch Siebtes Buch (SGB VII; Social Code, Book Seven) – Statutory Accident Insurance;

Sozialgesetzbuch Neuntes Buch (SGB IX; Social Code, Book Nine) – Rehabilitation and Participation of Persons with Disabilities;

Sozialgesetzbuch Elftes Buch (SGB XI; Social Code, Book Eleven) – long-term care insurance;

Personenbeförderungsgesetz (PBefG; Act on Public Transport).

Regional level:

Gesetz über den Rettungsdienst (Rettungsdienstgesetz – RDG) in Baden-Württemberg;

Bayerisches Rettungsdienstgesetz (BayRDG);

Gesetz über den Rettungsdienst für das Land Berlin (Rettungsdienstgesetz);

Gesetz über den Rettungsdienst im Land Brandenburg (BbgRettG);

Bremisches Hilfeleistungsgesetz (BremHilfeG);

Hamburgisches Rettungsdienstgesetz (HmbRDG);

Gesetz über den Rettungsdienst für das Land Mecklenburg-Vorpommern (RDGM-V);

Niedersächsisches Rettungsdienstgesetz (NRettDG);

Gesetz über den Rettungsdienst sowie die Notfallrettung und den Krankentransport durch Unternehmer (RettG NRW);

Landesgesetz über den Rettungsdienst sowie den Notfall- und Krankentransport (RettDG);

Saarländisches Rettungsdienstgesetz (SRettG);

Sächsisches Gesetz über den Brandschutz, Rettungsdienst und Katastrophenschutz (SächsBRKG);

Rettungsdienstgesetz des Landes Sachsen-Anhalt (RettDG LSA);

Schleswig-Holsteinisches Rettungsdienstgesetz (SHRDG);

Thüringer Rettungsdienstgesetz (ThüRettG).

Landespflegegesetze:

Gesetz zur Umsetzung der Pflegeversicherung in Baden-Württemberg (Landespflegegesetz – LPflG);

Gesetz zur Ausführung der Sozialgesetze (AGSG);

Gesetz zur Planung und Finanzierung von Pflegeeinrichtungen (Landespflegeeinrichtungsgesetz – LPflegEG);

Gesetz über die pflegerische Versorgung im Land Brandenburg (Landespflegegesetz – LPflegeG);

Gesetz zur Ausführung des Pflege-Versicherungsgesetzes im Lande Bremen und zur Änderung des Bremischen Ausführungsgesetzes zum Bundessozialhilfegesetz (BremAGPflegeVG);

Hamburgisches Landespflegegesetz (HmbLPG);

Hessisches Ausführungsgesetz zum Pflege-Versicherungsgesetz;

Landespflegegesetz (LPflegeG M-V);

Gesetz zur Planung und Förderung von Pflegeeinrichtungen nach dem Elften Buch Sozialgesetzbuch (Niedersächsisches Pflegegesetz – NPflegeG);

Gesetz zur Weiterentwicklung des Landespflegerechts und Sicherung einer unterstützenden Infrastruktur für ältere Menschen, pflegebedürftige Menschen und deren Angehörige (Alten- und Pflegegesetz Nordrhein-Westfalen – APG NRW);

Landesgesetz zur Sicherstellung und Weiterentwicklung der pflegerischen Angebotsstruktur (LPflegeASG) (Rheinland-Pfalz);

Gesetz Nr. 1694 zur Planung und Förderung von Angeboten für hilfe-, betreuungs- oder pflegebedürftige Menschen im Saarland (Saarländisches Pflegegesetz);

Sächsisches Pflegegesetz (SächsPflegeG);

Schleswig-Holstein: Ausführungsgesetz zum Pflege-Versicherungsgesetz (Landespflegegesetz – LPflegeG);

Thüringer Gesetz zur Ausführung des Pflege-Versicherungsgesetzes (ThürAGPflegeVG);

Landeskrankenhausgesetz Baden-Württemberg;

Bayerisches Krankenhausgesetz (BayKrG);

Berliner Gesetz zur Neuregelung des Krankenhausrechts;

Krankenhausentwicklungsgesetz Brandenburg (BbgKHEG);

Bremisches Krankenhausgesetz (BrmKrHG);

Hamburgisches Krankenhausgesetz (HmbKHG);

Hessisches Krankenhausgesetz 2011 (HKHG 2011);

Krankenhausgesetz für das Land Mecklenburg-Vorpommern (LKHG M-V);

Niedersächsisches Krankenhausgesetz (NKHG);

Krankenhausgestaltungsgesetz des Landes Nordrhein-Westfalen (KHGG NRW);

Landeskrankenhausgesetz Rheinland-Pfalz (LKG Rh-Pf);

Saarländisches Krankenhausgesetz (SKHG);

Gesetz zur Neuordnung des Krankenhauswesens (Sächsisches Krankenhausgesetz – SächsKHG);

Krankenhausgesetz Sachsen-Anhalt (KHG LSA);

Gesetz zur Ausführung des Krankenhausfinanzierungsgesetzes (AG-KHG) in Schleswig-Holstein;

Thüringisches Krankenhausgesetz (Thür KHG).

HR: Health Care Act (OG 150/08, 71/10, 139/10, 22/11, 84/11, 12/12, 70/12, 144/12).

SI: Law of Health Services, Official Gazette of the RS, No. 23/2005, Articles 1, 3 and 62-64; Infertility Treatment and Procedures of the Biomedically-Assisted Procreation Act, Official Gazette of the RS, No. 70/00, Articles 15 and 16; and Supply of Blood Act (ZPKrv-1), Official Gazette of RS, No. 104/06, Articles 5 and 8.

With respect to Investment liberalisation – Market access, National treatment:

In FR: For hospital and ambulance services, residential health facilities (other than hospital services) and social services, an authorisation is necessary in order to exercise management functions. The authorisation process takes into account the availability of local managers.

Companies may take any legal form, except those reserved to liberal professions.

Measures:

FR: Loi 90-1258 relative à l'exercice sous forme de société des professions libérales;

Loi n°2011-940 du 10 août 2011 modifiant certaines dipositions de la loi n°2009-879 dite HPST;

Loi n°47-1775 portant statut de la coopération; and

Code de la santé publique.

Reservation No. 14 – Tourism and travel-related services

Sector – sub-sector:	Tourism and travel-related services – hotels, restaurants and catering; travel agencies and tour operator services (including tour managers); tourist guides services
Industry classification:	CPC 641, 642, 643, 7471, 7472
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

With respect to Investment liberalisation – Market access, National treatment, Senior management and Boards of directors and Cross-border trade in services – Market access, National treatment:

In BG: Incorporation (no branches) is required. Tour operation or travel agency services may be provided by a person established in the EEA if, upon establishment in the territory of Bulgaria, the person presents a copy of a document certifying their right to practice that activity, and a certificate or another document issued by a credit institution or an insurer certifying the existence of insurance covering the liability of the person for damage which may ensue as a result of a culpable non-fulfilment of professional duties. The number of foreign managers may not exceed the number of managers who are Bulgarian nationals, in cases where the public (state or municipal) share in the equity capital of a Bulgarian company exceeds the 50 %. EEA nationality requirement for tourist guides (CPC 641, 642, 643, 7471, 7472).

Measures:

BG: Law for Tourism, Articles 61, 113 and 146.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment, Local presence:

In CY: A licence to establish and operate a tourism and travel company or agency, as well as the renewal of an operating licence of an existing company or agency, may be granted only to persons of the Union. No non-resident company except those established in another Member State, may provide in the Republic of Cyprus, on an organised or permanent basis, the activities referred to under Article 3 of the abovementioned law, unless represented by a resident company. The provision of tourist guide services and travel agencies and tour operators services requires nationality of a Member State (CPC 7471, 7472).

Measures:

CY: The Tourism and Travel Offices and Tourist Guides Law 1995 (Law 41(I)/1995) as amended.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment and Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment:

In EL: Third-country nationals are required to obtain a diploma from the Tourist Guide Schools of the Greek Ministry of Tourism, in order to be entitled to the right of practicing the profession. By exception, the right of practicing the profession may be temporarily (up to one year) accorded to third-country nationals under certain explicitly defined conditions, by way of derogation from the above mentioned provisions, in the event of the confirmed absence of a tourist guide for a specific language.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In ES (for ES applies also to the regional level of government): Nationality of a Member State is required for the provision of tourist guide services (CPC 7472).

In HR: EEA or Swiss nationality is required for the provision of hospitality and catering services in households and rural homesteads (CPC 641, 642, 643, 7471, 7472).

Measures:

EL: Presidential Decree 38/2010;

Ministerial Decision 165261/IA/2010 (Gov. Gazette 2157/B);

Article 50 of the law 4403/2016; and

Article 47 of the law 4582/2018 (Gov. Gazette 208/A).

ES: Andalucía: Decreto 8/2015, de 20 de enero, Regulador de guías de turismo de Andalucía;

Aragón: Decreto 21/2015, de 24 de febrero, Reglamento de Guías de turismo de Aragón;

Cantabria: Decreto 51/2001, de 24 de julio, Article 4, por el que se modifica el Decreto 32/1997, de 25 de abril, por el que se aprueba el reglamento para el ejercicio de actividades turísticoinformativas privadas;

Castilla y León: Decreto 25/2000, de 10 de febrero, por el que se modifica el Decreto 101/1995, de 25 de mayo, por el que se regula la profesión de guía de turismo de la Comunidad Autónoma de Castilla y León;

Castilla la Mancha: Decreto 86/2006, de 17 de julio, de Ordenación de las Profesiones Turísticas;

Cataluña: Decreto Legislativo 3/2010, de 5 de octubre, para la adecuación de normas con rango de ley a la Directiva 2006/123/CE, del Parlamento y del Consejo, de 12 de diciembre de 2006, relativa a los servicios en el mercado interior, Article 88;

Comunidad de Madrid: Decreto 84/2006, de 26 de octubre del Consejo de Gobierno, por el que se modifica el Decreto 47/1996, de 28 de marzo;

Comunidad Valenciana: Decreto 90/2010, de 21 de mayo, del Consell, por el que se modifica el reglamento regulador de la profesión de guía de turismo en el ámbito territorial de la Comunitat Valenciana, aprobado por el Decreto 62/1996, de 25 de marzo, del Consell;

Extremadura: Decreto 37/2015, de 17 de marzo;

Galicia: Decreto 42/2001, de 1 de febrero, de Refundición en materia de agencias de viajes, guias de turismo y turismo activo;

Illes Balears: Decreto 136/2000, de 22 de septiembre, por el cual se modifica el Decreto 112/1996, de 21 de junio, por el que se regula la habilitación de guía turístico en las Islas Baleares; Islas Canarias: Decreto 13/2010, de 11 de febrero, por el que se regula el acceso y ejercicio de la profesión de guía de turismo en la Comunidad Autónoma de Canarias, Article 5;

La Rioja: Decreto 14/2001, de 4 de marzo, Reglamento de desarrollo de la Ley de Turismo de La Rioja;

Navarra: Decreto Foral 288/2004, de 23 de agosto. Reglamento para actividad de empresas de turismo activo y cultural de Navarra;

Principado de Asturias: Decreto 59/2007, de 24 de mayo, por el que se aprueba el Reglamento regulador de la profesión de Guía de Turismo en el Principado de Asturias; and

Región de Murcia: Decreto n.º 37/2011, de 8 de abril, por el que se modifican diversos decretos en materia de turismo para su adaptación a la ley 11/1997, de 12 de diciembre, de turismo de la Región de Murcia tras su modificación por la ley 12/2009, de 11 de diciembre, por la que se modifican diversas leyes para su adaptación a la directiva 2006/123/CE, del Parlamento Europeo y del Consejo de 12 de diciembre de 2006, relativa a los servicios en el mercado interior.

HR: Hospitality and Catering Industry Act (OG 85/15, 121/16, 99/18, 25/19, 98/19, 32/20 and 42/20); and Act on Provision of Tourism Services (OG No. 130/17, 25/19, 98/19 and 42/20).

With respect to Investment liberalisation – National treatment and Cross-border trade in services – Market access, National treatment:

In HU: The supply of travel agent and tour operator services, and tourist guide services on a cross-border basis is subject to a licence issued by the Hungarian Trade Licensing Office. Licences are reserved to EEA nationals and juridical persons having their seat in the Member States of the EEA (CPC 7471, 7472).

In IT (applies also to the regional level of government): tourist guides from non-Union Member States are required to obtain a specific licence from the region in order to act as a professional tourist guide. Tourist guides from Member States may work freely without the requirement for such a licence. A licence is granted to tourist guides demonstrating adequate competence and knowledge (CPC 7472).

Measures:

HU: Act CLXIV of 2005 on Trade, Government Decree No. 213/1996 (XII.23.) on Travel Organisation and Agency Activities.

IT: Law 135/2001 Articles 7.5 and 6; and Law 40/2007 (DL 7/2007).

Reservation No. 15 – Recreational, cultural and sporting services

Sector – sub-sector:	Recreational services; news agency services, other sporting services
Industry classification:	CPC 962, part of 96419
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

(a) News and press agencies (CPC 962)

With respect to Investment liberalisation – National treatment, Senior management and boards of directors:

In CY: Establishment and operation of press agencies or sub-agencies in the Republic of Cyprus is granted only to citizens of the Republic of Cyprus or Union citizens or to legal entities governed by citizens of the Republic of Cyprus or Union citizens.

Measures:

CY: Press Law (N.145/89) as amended.

(b) Other sporting services (CPC 96419)

With respect to Investment liberalisation – National treatment, Senior management and boards of directors and Cross-border trade in services – National treatment:

In AT (applies to the regional level of government): The operation of ski schools and mountain guide services is governed by the laws of the Bundesländer. The provision of these services may require nationality of a Member State of the EEA. Enterprises may be required to appoint a managing director who is a national of a Member State of the EEA.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment:

In CY: Nationality requirement for establishment of a dance school and nationality requirement for physical instructors.

Measures:

AT: Kärntner Schischulgesetz, LGBl. Nr. 53/97;

Kärntner Berg- und Schiführergesetz, LGBl. Nr. 25/98;

NÖ- Sportgesetz, LGBl. Nr. 5710;

OÖ- Sportgesetz, LGBl. Nr. 93/1997;

Salzburger Schischul- und Snowboardschulgesetz, LGBl. Nr. 83/89;

Salzburger Bergführergesetz, LGBl. Nr. 76/81;

Steiermärkisches Schischulgesetz, LGBl. Nr. 58/97;

Steiermärkisches Berg- und Schiführergesetz, LGBl. Nr. 53/76;

Tiroler Schischulgesetz. LGBl. Nr. 15/95;

Tiroler Bergsportführergesetz, LGBl. Nr. 7/98;

Vorarlberger Schischulgesetz, LGBl. Nr. 55/02 §4 (2)a;

Vorarlberger Bergführergesetz, LGBl. Nr. 54/02; and

Wien: Gesetz über die Unterweisung in Wintersportarten, LGBl. Nr. 37/02.

CY: Law 65(I)/1997 as amended;

Law 17(I) /1995 as amended; and

the 1995/2012 Gymnastics Private Schools Regulations, as amended.

Reservation No. 16 – Transport services and services auxiliary to transport services

Sector – sub-sector:	Transport services – fishing and water transportation – any other commercial activity undertaken from a ship; water transportation and auxiliary services for water transport; rail transport and auxiliary services to rail transport; road transport and services auxiliary to road transport; services auxiliary to air transport services; provision of combined transport services
Industry classification:	ISIC Rev. 3.1 0501, 0502; CPC 5133, 5223, 711, 712, 721, 741, 742, 743, 744, 745, 748, 749, 7461, 7469, 83103, 86751, 86754, 8730, 882
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

Maritime transport and auxiliary services for maritime transport. Any commercial activity undertaken from a ship (ISIC Rev. 3.1 0501, 0502; CPC 5133, 5223, 721, Part of 742, 745, 74540, 74520, 74590, 882)

With respect to Investment liberalisation – Market access, and Cross-border trade in services – Market access:

In the EU: For port services, the managing body of a port, or the competent authority, may limit the number of suppliers of port services for a given port service.

Measures:

EU: Article 6 of Regulation (EU) 2017/352 of the European Parliament and of the Council[1].

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Cross-border trade in services – Market access, National treatment:

[1] Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ EU L 57, 3.3.2017, p. 1).

In BG: The carriage and any activities related to hydraulic-engineering and underwater technical works, prospecting and extraction of mineral and other inorganic resources, pilotage, bunkering, receipt of waste, water-and-oil mixtures and other such, performed by vessels in the internal waters, and the territorial sea of Bulgaria, may only be performed by vessels flying the Bulgarian flag or vessels flying the flag of another Member State.

The number of service suppliers at ports may be limited depending on the objective capacity of the port, which is decided by an expert commission, set up by the Minister of Transport, Information Technology and Communications.

Nationality requirement for supporting services. The master and the chief engineer of the vessel are required to be nationals of a Member State of the EEA, or of the Swiss Confederation
(ISIC Rev. 3.1 0501, 0502, CPC 5133, 5223, 721, 74520, 74540, 74590, 882).

Measures:

BG: Merchant Shipping Code;

Law For the Sea Water, Inland Waterways and Ports of the Republic of Bulgaria;

Ordinance for the condition and order for selection of Bulgarian carriers for carriage of passengers and cargoes under international treaties; and

Ordinance 3 for servicing of unmanned vessels.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In BG: Regarding supporting services for public transport carried out in Bulgarian ports, in ports having national significance, the right to perform supporting activities is granted through a concession contract. In ports having regional significance, this right is granted by a contract with the owner of the port (CPC 74520, 74540, 74590).

Measures:

BG: Merchant Shipping Code; and

Law For the Sea Water, Inland Waterways and Ports of the Republic of Bulgaria.

With respect to Cross-border trade in services – Local presence:

In DK: Pilotage-providers may only conduct pilotage service in Denmark, if they are domiciled in the EEA and registered and approved by the Danish Authorities in accordance with the Danish Act on Pilotage (CPC 74520).

Measures:

DK: Danish Pilotage Act, §18.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment and Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment:

In DE (applies also to the regional level of government): A vessel that does not belong to a national of a Member State may only be used for activities other than transport and auxiliary services in German federal waterways after specific authorisation. Waivers for non-Union vessels may only be granted if no Union vessels are available or if they are available under very unfavourable conditions, or on the basis of reciprocity. Waivers for vessels flying under the New Zealand flag may be granted on the basis of reciprocity (§ 2 paragraph 3 of Verordnung über die Küstenschifffahrt, KüSchV). All activities falling within the scope of the pilot law are regulated and accreditation is restricted to nationals of the EEA or the Swiss Confederation. Provision and operation of facilities for pilotage is restricted to public authorities or companies that are designated by the public authorities.

For rental or leasing of seagoing vessels with or without operators, and for rental or leasing without operator of non-seagoing vessels, the conclusion of contracts for freight transport by ships flying a foreign flag or the chartering of such vessels may be restricted, depending on the availability of ships flying under the German flag or the flag of another Member State.

Transactions between residents and non-residents within the economic area may be restricted (Water transport, Supporting services for water transport, rental of ships, leasing services of ships without operators (CPC 721, 745, 83103, 86751, 86754, 8730)), when such transactions concern:

(i) rental of inland waterway transport vessels which are not registered in the economic area;

(ii) transport of freight with such inland waterway transport vessels; or

(iii) towing services by such inland waterway transport vessels.

Measures:

DE: Gesetz über das Flaggenrecht der Seeschiffe und die Flaggenführung der Binnenschiffe (Flaggenrechtsgesetz; Flag Protection Act);

Verordnung über die Küstenschifffahrt (KüSchV);

Gesetz über die Aufgaben des Bundes auf dem Gebiet der Binnenschiffahrt (Binnenschiffahrtsaufgabengesetz – BinSchAufgG);

Verordnung über Befähigungszeugnisse in der Binnenschiffahrt (Binnenschifferpatentverordnung – BinSchPatentV);

Gesetz über das Seelotswesen (Seelotsgesetz – SeeLG);

Gesetz über die Aufgaben des Bundes auf dem Gebiet der Seeschiffahrt (Seeaufgabengesetz – SeeAufgG); and

Verordnung zur Eigensicherung von Seeschiffen zur Abwehr äußerer Gefahren (See-Eigensicherungsverordnung – SeeEigensichV).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In FI: Supporting services for maritime transport when provided in Finnish maritime waters are reserved to fleets operating under the national, Union or Norwegian flag (CPC 745).

Measures:

FI: Merilaki (Maritime Act) (674/1994); and

Laki elinkeinon harjoittamisen oikeudesta (Act on the Right to Carry on a Trade) (122/1919), s. 4.

With respect to Investment liberalisation – Market access:

In EL: A public monopoly is imposed in port areas for cargo handling services (CPC 741).

In IT: An economic needs test is applied for maritime cargo-handling services. Main criteria: number of and impact on existing establishments; population density; geographic spread and creation of new employment (CPC 741).

Measures:

EL: Code of Public Maritime Law (Legislative Decree 187/1973).

IT: Shipping Code;

Law 84/1994;

Ministerial decree 585/1995; and

Rail transport and auxiliary services to rail transport (CPC 711, 743).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In BG: Only nationals of a Member State may provide rail transport or supporting services for rail transport in Bulgaria. A licence to carry out passenger or freight transportation by rail is issued by the Minister of Transport to railway operators registered as traders (CPC 711, 743).

Measures:

BG: Law for Railway Transport, Articles. 37 and 48.

With respect to Investment liberalisation – Market access:

In LT: Exclusive rights for the provision of transit services are granted to railway undertakings which are owned, or whose stock is 100 % owned, by the state (CPC 711).

Measures:

LT: Railway transport Code of the Republic of Lithuania of 22 April 2004 No. IX-2152 as amended by 8 June 2006 No. X-653; and

Road transport and services auxiliary to road transport (CPC 712, 7121, 7122, 71222, 7123).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In AT: (with respect also to Most-favoured-nation treatment): For passenger and freight transportation, exclusive rights or authorisation may only be granted to nationals of the Contracting Parties of the EEA and to juridical persons of the Union having their headquarters in Austria. Licences are granted on non– discriminatory terms, on condition of reciprocity (CPC 712).

Measures:

AT: Güterbeförderungsgesetz (Goods Transportation Act), BGBl. Nr. 593/1995; § 5;

Gelegenheitsverkehrsgesetz (Occasional Traffic Act), BGBl. Nr. 112/1996; § 6; and

Kraftfahrliniengesetz (Law on Scheduled Transport), BGBl. I Nr. 203/1999 as amended, §§ 7 and 8.

With respect to Investment liberalisation – National treatment, Most-favoured-nation treatment and Cross-border trade in services – National treatment, Most-favoured-nation treatment:

In EL: For operators of road freight transport services: in order to engage in the occupation of road freight transport operator, a Hellenic licence is needed. Licences are granted on non-discriminatory terms, on condition of reciprocity (CPC 7123).

Measures:

EL: Licensing of road freight transport operators: Greek law 3887/2010 (Government Gazette A' 174), as amended by Article 5 of law 4038/2012 (Government Gazette A' 14).

With respect to Investment liberalisation – Market access:

In IE: Economic needs test for intercity bussing services. Main criteria: number of and impact on existing establishments; population density; geographical spread; impact on traffic conditions and creation of new employment (CPC 7121, CPC 7122).

In MT: Taxis: Numerical restrictions on the number of licences apply.

Karrozzini (horse drawn carriages): Numerical Restrictions on the number of licences apply (CPC 712).

In PT: Economic needs test for limousine services. Main criteria: number of and impact on existing establishments; population density; geographic spread; impact on traffic conditions and creation of new employment (CPC 71222).

Measures:

IE: Public Transport Regulation Act 2009.

MT: Taxi Services Regulations (SL499.59).

PT: Decree-Law 41/80, August 21.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In CZ: Incorporation in the Czechia is required (no branches).

Measures:

CZ: Act No. 111/1994 Coll., on Road Transport.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment and Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment:

In SE: In order to engage in the occupation of road transport operator, a Swedish licence is needed. Criteria for receiving a taxi licence include that the company has appointed a natural person to act as the transport manager (a de facto residency requirement – see the Swedish reservation on types of establishment).

Criteria for receiving a licence for other road transport operators require that the company be established in the Union, have an establishment situated in Sweden and have appointed a natural person to act as the transport manager, who must be resident in the Union.

Measures:

SE: Yrkestrafiklag (2012:210) (Act on professional traffic);

Yrkestrafikförordning (2012:237) (Government regulation on professional traffic);

Taxitrafiklag (2012:211) (Act on Taxis); and

Taxitrafikförordning (2012:238) (Government regulation on taxis).

With respect to Cross-border trade in services – Local presence:

In SK: Provision of road transport services requires incorporation or residency in a Member State.

Measures:

SK: Act 56/2012 Coll. on Road Transport; and

Services auxiliary to air transport services.

With respect to Investment liberalisation – Market access, National treatment:

In PL: For storage services of frozen or refrigerated goods and bulk storage services of liquids or gases at airports, the possibility to supply certain categories of services will depend on the size of the airport. The number of suppliers in each airport may be limited due to available space constraints, and to not less than two suppliers for other reasons.

Measures:

PL: Polish Aviation Law of 3 July 2002, Articles 174.2 and 174.3.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment and Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment:

In the EU: For ground-handling services, establishment within the Union territory may be required. The level of openness of ground-handling services depends on the size of the airport. The number of suppliers in each airport may be limited. For "big airports", this limit may not be less than two suppliers. Reciprocity is required.

Measures:

EU: Council Directive 96/67/EC[1].

In BE (applies also to the regional level of government): For ground-handling services, reciprocity is required.

Measures:

BE: Arrêté Royal du 6 novembre 2010 réglementant l'accès au marché de l'assistance en escale à l'aéroport de Bruxelles-National (Article 18);

[1] Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports (OJ EU L 272, 25.10.1996, p. 36).

Besluit van de Vlaamse Regering betreffende de toegang tot de grondafhandelingsmarkt op de Vlaamse regionale luchthavens (Article 14);

Arrêté du Gouvernement wallon réglementant l'accès au marché de l'assistance en escale aux aéroports relevant de la Région wallonne (Article14); and

Supporting services for all modes of transport (part of CPC 748).

With respect to Cross-border trade in services – Local presence:

The EU (applies also to the regional level of government): Customs clearance services may only be provided by Union residents or juridical persons established in the Union.

Measures:

EU: Regulation (EU) No 952/2013 of the European Parliament and of the Council[1]; and

Provision of combined transport services (CPC 711, 712, 7212, 741, 742, 743, 744, 745, 748, 749).

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ EU L 269, 10.10.2013, p. 1).

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

The EU (applies also to the regional level of government): With the exception of FI: only hauliers established in a Member State who meet the conditions of access to the occupation and access to the market for transport of goods between Member States may, in the context of a combined transport operation between Member States, carry out initial or final road haulage legs which form an integral part of the combined transport operation and which may or may not include the crossing of a frontier. Limitations affecting any given modes of transport apply.

Necessary measures may be taken to ensure that the motor vehicle taxes applicable to road vehicles routed in combined transport are reduced or reimbursed.

Measures:

EU: Council Directive 92/106/EEC[1].

[1] Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States (OJ EU L 368, 17.12.1992, p. 38).

Reservation No. 17 – Mining and energy-related activities

Sector – sub-sector:	Mining and quarrying – energy producing materials; mining and quarrying – metal ores and other mining; energy-related activities – production, transmission and distribution on own account of electricity, gas, steam and hot water; pipeline transportation of fuels; storage and warehouse of fuels transported through pipelines; and services incidental to energy distribution
Industry classification:	ISIC Rev. 3.1 10, 11, 12, 13, 14, 40, CPC 5115, 63297, 713, part of 742, 8675, 883, 887
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

a) Mining and quarrying (ISIC Rev. 3.1 10, 11, 12, Mining of energy producing materials; 13, 14: Mining of metal ores and other mining; CPC 5115, 7131, 8675, 883)

With respect to Investment liberalisation – Market access:

In NL: The exploration for and exploitation of hydrocarbons in the Netherlands is always performed jointly by a private company and the public (limited) company designated by the Minister of Economic Affairs. Articles 81 and 82 of the Mining Act stipulate that all shares in a designated company must be directly or indirectly held by the Dutch State (ISIC Rev. 3.1 10, 3.1 11, 3.1 12, 3.1 13, 3.1 14).

In BE: The exploration for and exploitation of mineral resources and other non-living resources in territorial waters and the continental shelf are subject to concession. The concessionaire must have an address for service in Belgium (ISIC Rev. 3.1:14).

In IT (applies also to the regional level of government for exploration): Mines belonging to the State are subject to specific exploration and mining rules. Prior to any exploitation activity, a permit for exploration is required (permesso di ricerca, Article 4 Royal Decree 1447/1927). This permit has a duration and defines exactly the borders of the ground under exploration. More than one exploration permit may be granted for the same area to different persons or companies (this type of licence is not necessarily exclusive). In order to cultivate and exploit minerals, an authorisation (concessione, Article 14) from the regional authority is required (ISIC Rev. 3.1 10, 3.1 11, 3.1 12, 3.1 13, 3.1 14, CPC 8675, 883).

Measures

BE: Arrêté Royal du 1er septembre 2004 relatif aux conditions, à la délimitation géographique et à la procédure d'octroi des concessions d'exploration et d'exploitation des ressources minérales et autres ressources non vivantes de la mer territoriale et du plateau continental.

IT: Exploration services: Royal Decree 1447/1927; and Legislative Decree 112/1998, Article 34.

NL: Mijnbouwwet (Mining Act).

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment:

In BG: The activities of prospecting or exploration of underground natural resources in the territory of the Republic of Bulgaria, in the continental shelf and in the exclusive economic zone in the Black Sea are subject to permission, while the activities of extraction and exploitation are subject to concession granted under the Underground Natural Resources Act.

It is forbidden for companies registered in preferential tax treatment jurisdictions (that is, offshore zones) or related, directly or indirectly, to such companies to participate in open procedures for granting permits or concessions for prospecting, exploration or extraction of natural resources, including uranium and thorium ores, as well as to operate an existing permit or concession which has been granted, as such operations are precluded, including the possibility to register the geological or commercial discovery of a deposit as a result of exploration.

The mining of uranium ore is closed by Decree of the Council of Ministers No. 163 of 20.08.1992.

With regard to exploration and mining of thorium ore, the general regime of permits and concessions applies. Decisions to allow the exploration or mining of thorium ore are taken on a non-discriminatory individual case-by-case basis.

According to the Decision of the National Assembly of the Republic of Bulgaria of 18 Jan 2012 (ch. 14 June 2012) any usage of hydraulic fracturing technology (that is, fracking) for activities of prospecting, exploration or extraction of oil and gas is forbidden.

Exploration and extraction of shale gas is forbidden (ISIC Rev. 3.1 10, 3.1 11, 3.112, 3.1 13, 3.1 14).

Measures:

BG: Underground Natural Resources Act;

Concessions Act;

Law on Privatisation and Post-Privatisation Control;

Safe Use of Nuclear Energy Act;

Decision of the National Assembly of the Republic of Bulgaria of 18 Jan 2012;

Economic and Financial Relations with Companies Registered in Preferential Tax Treatment Jurisdictions, the Persons Controlled Thereby and Their Beneficial Owners Act; and

Subsurface Resources Act.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment:

In CY: The Council of Ministers may refuse to allow the activities of prospecting, exploration and exploitation of hydrocarbons to be carried out by any entity which is effectively controlled by New Zealand or by nationals of New Zealand. After the granting of an authorisation, no entity may come under the direct or indirect control of New Zealand or a national of New Zealand without the prior approval of the Council of Ministers. The Council of Ministers may refuse to grant an authorisation to an entity which is effectively controlled by New Zealand or by a national of New Zealand if New Zealand does not grant entities of the Republic of Cyprus or entities of Member States as regards access to and exercise of the activities of prospecting, exploring for and exploiting hydrocarbons, treatment comparable to that which the Republic of Cyprus or Member State grants entities of New Zealand (ISIC Rev 3.1 1110).

Measures:

CY: The Hydrocarbons (Prospection, Exploration and Exploitation Law) of 2007, (Law 4(I)/2007) as amended.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Local presence:

In SK: For mining, activities related to mining and geological activity, incorporation in the EEA is required (no branching). Mining and prospecting activities covered by the Act of the Slovak Republic 44/1988 on protection and exploitation of natural resources are regulated on a non-discriminatory basis, including through public policy measures seeking to ensure the conservation and protection of natural resources and the environment such as the authorisation or prohibition of certain mining technologies. For greater certainty, such measures include the prohibition of the use of cyanide leaching in the treatment or refining of minerals, the requirement of a specific authorisation in the case of fracking for activities of prospecting, exploration or extraction of oil and gas, as well as prior approval by local referendum in the case of nuclear or radioactive mineral resources. This does not increase the non-conforming aspects of the existing measure for which the reservation is taken. (ISIC 10, 11, 12, 13, 14, CPC 5115, 7131, 8675 and 883).

Measures

SK: Act 51/1988 on Mining, Explosives and State Mining Administration; and Act 569/2007 on Geological Activity, Act 44/1988 on protection and exploitation of natural resources.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In FI: The exploration for and exploitation of mineral resources are subject to a licensing requirement, which is granted by the Government in relation to the mining of nuclear material. A permit of redemption for a mining area is required from the Government. Permission may be granted to a natural person resident in the EEA or a juridical person established in the EEA. An economic needs test may apply (ISIC Rev. 3.1 120, CPC 5115, 883, 8675).

In IE: Exploration and mining companies operating in Ireland are required to have a presence there. In the case of minerals exploration, there is a requirement that companies (Irish and foreign) employ either the services of an agent or a resident exploration manager in Ireland while work is being undertaken. In the case of mining, it is a requirement that a State Mining Lease or Licence be held by a company incorporated in Ireland. There are no restrictions as to ownership of such a company (ISIC Rev. 3.1 10, 3.1 13, 3.1 14, CPC 883).

In LT: All subsurface mineral resources (energy, metals, industrial and construction minerals) in Lithuania are of exclusive state-ownership. Licences of geological exploration or exploitation of mineral resources may be granted to a natural person resident in the Union and in the EEA or a juridical person established in the Union and in the EEA.

Measures

FI: Kaivoslaki (Mining Act) (621/2011); and

Ydinenergialaki (Nuclear Energy Act) (990/1987).

IE: Minerals Development Acts 1940 – 2017; and Planning Acts and Environmental Regulations.

LT: The Constitution of the Republic of Lithuania, 1992. Last amendment 21 of March 2019 No. XIII-2004; and

The Underground Law No. I-1034, 1995, new redaction from 10 of April 2001 No. IX-243, last amendment 14 of April 2016 No XII-2308.

With respect only to Investment – Market access, National treatment and Most-favoured-nation treatment and Cross-border trade in services – Local presence:

In SI: The exploration for and exploitation of mineral resources, including regulated mining services, are subject to establishment in or citizenship of the EEA, the Swiss Confederation or an OECD Member country, or of a third country on condition of material reciprocity. Compliance with the condition of reciprocity is verified by the Ministry responsible for mining (ISIC Rev. 3.1 10, ISIC Rev. 3.1 11, ISIC Rev. 3.1 12, ISIC Rev. 3.1 13, ISIC Rev. 3.1 14, CPC 883, CPC 8675).

Measures:

SI: Mining Act 2014.

(b) Production, transmission and distribution on own account of electricity, gas, steam and hot water; pipeline transportation of fuels; storage and warehouse of fuels transported through pipelines; services incidental to energy distribution (ISIC Rev. 3.1 40, 3.1 401, CPC 63297, 713, part of 742, 74220, 887)

With respect to Investment liberalisation – Market access:

In DK: An owner or user intending to establish gas infrastructure or a pipeline for the transport of crude or refined petroleum and petroleum products, or of natural gas, must obtain a permit from the local authority before commencing work. The number of such permits which are issued may be limited (CPC 7131).

In MT: EneMalta plc has a monopoly for the provision of electricity (ISIC Rev. 3.1 401; CPC 887).

In NL: The ownership of the electricity network and the gas pipeline network are exclusively granted to the Dutch government (transmission systems) and other public authorities (distribution systems) (ISIC Rev. 3.1 040, CPC 71310).

Measures:

DK: Lov om naturgasforsyning, LBK 1127 05/09/2018, lov om varmeforsyning, LBK 64 21/01/2019, lov om Energinet, LBK 997 27/06/2018. Bekendtgørelse nr. 1257 af 27. november 2019 om indretning, etablering og drift af olietanke, rørsystemer og pipelines (Order No. 1257 of November 27th, 2019, on the arrangement, establishment and operation of oil tanks, piping systems and pipelines)

MT: EneMalta Act Cap. 272 and EneMalta (Transfer of Assets, Rights, Liabilities & Obligations) Act Cap. 536.

NL: Elektriciteitswet 1998; Gaswet.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – National treatment, Local presence:

In AT: With regard to the transportation of gas, authorisation is only granted to nationals of a Member State of the EEA domiciled in the EEA. Enterprises and partnerships must have their seat in the EEA. The operator of the network must appoint a Managing Director and a Technical Director who is responsible for the technical control of the operation of the network, both of whom must be nationals of a Member State of the EEA. With regard to the activities performed by a balance responsible party (a market participant or its chosen representative responsible for its imbalance), authorisation is only granted to Austrian citizens or citizens of another Member State or the EEA.

The competent authority may waive the nationality and domiciliation requirements if operation of the gas transportation network is considered to be in the public interest.

For the transportation of goods other than gas and water, the following applies:

(i) with regard to natural persons, authorisation is only granted to nationals of a Member State of the EEA who must have a seat in Austria; and

(ii) enterprises and partnerships must have their seat in Austria. An economic needs test or interest test is applied. Cross border pipelines must not jeopardise Austria's security interests and its status as a neutral country. Enterprises and partnerships are required to appoint a managing director who must be a national of a Member State of the EEA. The competent authority may waive the nationality and seat requirements if the operation of the pipeline is considered to be in the national economic interest (CPC 713).

Measures:

AT: Rohrleitungsgesetz (Law on Pipeline Transport), BGBl. Nr. 411/1975 as amended, §§ 5, 15; and

Gaswirtschaftsgesetz 2011 (Gas Act), BGBl. I Nr. 107/2011 as amended, §§ 43, 44, 90, 93.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – National treatment, Local presence (applies only to the regional level of government):

In AT: With regard to transmission and distribution of electricity, authorisation is only granted to nationals of a Member State of the EEA domiciled in the EEA. If the operator appoints a managing director or a leaseholder, the domicile requirement is waived.

Juridical persons (enterprises) and partnerships must have their seat in the EEA. They must appoint a managing director or a leaseholder, both of whom must be nationals of a Member State of the EEA domiciled in the EEA.

The competent authority may waive the domicile and nationality requirements where the operation of the network is considered to be in the public interest (ISIC Rev. 3.1 40, CPC 887).

Measures:

AT: Burgenländisches Elektrizitätswesengesetz 2006, LGBl. Nr. 59/2006 as amended;

Niederösterreichisches Elektrizitätswesengesetz, LGBl. Nr. 7800/2005 as amended;

Oberösterreichisches Elektrizitätswirtschafts- und Organisationsgesetz 2006, LGBl. Nr. 1/2006 as amended;

Salzburger Landeselektrizitätsgesetz 1999 (LEG), LGBl. Nr. 75/1999 as amended;

Tiroler Elektrizitätsgesetz 2012 – TEG 2012, LGBl. Nr. 134/2011 as amended;

Vorarlberger Elektrizitätswirtschaftsgesetz, LGBl. Nr. 59/2003 as amended;

Wiener Elektrizitätswirtschaftsgesetz 2005 – WElWG 2005, LGBl. Nr. 46/2005 as amended;

Steiermärkisches Elektrizitätswirtschafts- und Organisationsgesetz (ELWOG), LGBl. Nr. 70/2005 as amended; and

Kärntner Elektrizitätswirtschafts- und Organisationsgesetz (ELWOG), LGBl. Nr. 24/2006 as amended.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In CZ: Authorisation is required for electricity generation, transmission, distribution, trading, and other electricity market operator activities, as well as gas generation, transmission, distribution, storage and trading, heat generation and distribution. Such authorisation may only be granted to a natural person with a residence permit or a juridical person established in the European Union. Exclusive rights exist with regard to electricity and gas transmission and market operator licences (ISIC Rev. 3.1 40, CPC 7131, 63297, 742, 887).

In LT: Licences for transmission, distribution, public supply and organising of trade of electricity may only be issued to juridical persons established in the Republic of Lithuania or branches of foreign juridical persons or other organisations of another Member State established in the Republic of Lithuania. Permits to generate electricity, develop electricity generation capacities and build a direct line may be issued to individuals with residency in the Republic of Lithuania or to juridical persons established in the Republic of Lithuania, or to branches of juridical persons or other organisations of other Member States established in the Republic of Lithuania. This reservation does not apply to consultancy services related to the transmission and distribution on a fee or contract basis of electricity (ISIC Rev. 3.1 401, CPC 887).

In the case of fuels, establishment is required. Licences for transmission and distribution, storage of fuels and liquefaction of natural gas may only be issued to juridical persons established in the Republic of Lithuania or branches of juridical persons or other organisations (subsidiaries) of another Member State established in the Republic of Lithuania.

This reservation does not apply to consultancy services related to the transmission and distribution of fuels on a fee or contract basis (CPC 713, CPC 887).

In PL: the following activities are subject to licensing under the Energy Law Act:

(i) generation of fuels or energy, except for: generation of solid or gaseous fuels; generation of electricity using electricity sources of a total capacity of not more than 50 MW other than renewable energy sources; cogeneration of electricity and heat using sources of total capacity of not more than 5 MW other than renewable energy sources; and generation of heat using sources of total capacity of not more than 5 MW;

(ii) storage of gaseous fuels in storage installations, liquefaction of natural gas and regasification of liquefied natural gas (LNG) at LNG installations, as well as the storage of liquid fuels, except for: the local storage of liquid gas at installations of capacity of less than 1 MJ/s capacity and the storage of liquid fuels in retail trade;

(iii) transmission or distribution of fuels or energy, except for: the distribution of gaseous fuels in grids of less than 1 MJ/s capacity and the transmission or distribution of heat if the total capacity ordered by customers does not exceed 5 MW; and

(iv) trade in fuels or energy, except for: trade in solid fuels; trade in electricity using installations of voltage lower than 1 kV owned by the customer; trade in gaseous fuels if their annual turnover value does not exceed the equivalent of EUR 100 000; trade in liquid gas, if the annual turnover value does not exceed EUR 10 000; and trade in gaseous fuels and electricity performed on commodity exchanges by brokerage houses which conduct the brokerage activity on the exchange commodities on the basis of the Act of 26 October 2000 on commodity exchanges, as well as trade in heat if the capacity ordered by customers does not exceed 5 MW. The limits on turnover do not apply to wholesale trade services in gaseous fuels or liquid gas or to retail services of bottled gas.

A licence may only be granted by the competent authority to an applicant that has registered their principal place of business or residence in the territory of a Member State of the EEA or the Swiss Confederation (ISIC Rev. 3.1 040, CPC 63297, 74220, CPC 887).

Measures:

CZ: Act No. 458/2000 Coll on Business conditions and public administration in the energy sectors (The Energy Act).

LT: Law on Natural Gas of the Republic of Lithuania of 10 October 2000 No VIII-1973, new redaction from 1 August 2011 No XI-1564, last amendment 25 June 2020 No. XIII-3140;

Law on Electricity of the Republic of Lithuania of 20 July 2000 No VIII-1881, new redaction from 7 February 2012, last amendment 20 of October 2020 No. XIII-3336;

Republic of Lithuania Law on Necessary Measures of Protection against the Threats Posed by Unsafe Nuclear Power Plants in Third Countries of 20 April 2017 No XIII-306, last amendment on 19 December 2019 No. XIII-2705; and

Law on Renewable energy sources of the Republic of Lithuania of 12 May 2011 No. XI-1375.

PL: Energy Law Act of 10 April 1997, Articles 32 and 33.

With respect to Cross-border trade in services – Local presence:

In SI: The production, trading, supply to final customers, transmission and distribution of electricity and natural gas is subject to establishment in the Union (ISIC Rev. 3.1 4010, 4020, CPC 7131, CPC 887).

Measures:

SI: Energetski zakon (Energy Act) 2014, Official Gazette RS, nr. 17/2014; and

Mining Act 2014.

Reservation No. 18 – Agriculture, fishing and manufacturing

Sector – sub-sector:	Agriculture, hunting, forestry; animal and reindeer husbandry, fishing and aquaculture; publishing, printing and reproduction of recorded media
Industry classification:	ISIC Rev. 3.1 011, 012, 013, 014, 015, 1531, 050, 0501, 0502, 221, 222, 323, 324, CPC 881, 882, 88442
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment
Level of government:	EU / Member State (unless otherwise specified)

Description:

a) Agriculture, hunting and forestry (ISIC Rev. 3.1 011, 012, 013, 014, 015, 1531, CPC 881)

With respect to Investment liberalisation – Performance requirements:

The EU: Intervention agencies designated by the Member States are required to buy cereals which have been harvested in the Union. No export refund will be granted on rice imported from and re-exported to any third country. Only Union rice producers may claim compensatory payments.

Measures:

EU: Regulation (EU) No 1308/2013 of the European Parliament and of the Council[1] (Single CMO Regulation).

With respect to Investment liberalisation – National treatment:

In IE: Establishment by foreign residents in flour milling activities is subject to authorisation (ISIC Rev. 3.1 1531).

[1] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ EU L 347, 20.12.2013, p. 671).

Measures:

IE: Agriculture Produce (Cereals) Act, 1933.

With respect to Investment liberalisation – Market access, National treatment:

In FI: Only nationals of a Member State of the EEA resident in the reindeer herding area may own reindeer and practice reindeer husbandry. Exclusive rights may be granted.

In FR: Prior authorisation is required in order to become a member or act as a director of an agricultural cooperative (ISIC Rev. 3.1 011, 012, 013, 014, 015).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In SE: Only Sami people may own and practice reindeer husbandry.

Measures:

FI: Poronhoitolaki (Reindeer Husbandry Act) (848/1990), Chapter 1, s. 4, Protocol 3 to the Accession Treaty of Finland.

FR: Code rural et de la pêche maritime.

SE: Reindeer Husbandry Act (1971:437), section 1.

b) Fishing and aquaculture (ISIC Rev. 3.1 050, 0501, 0502, CPC 882)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In BG: Only vessels flying the flag of Bulgaria may take marine or river-living biological resources in the internal marine waters and the territorial sea of Bulgaria. A foreign ship (third-country vessel) may not engage in commercial fishing in the exclusive economic zone of Bulgaria except on the basis of an agreement between Bulgaria and the flag state. While passing through the exclusive economic zone, foreign fishing ships may not maintain their fishing gear in operational mode.

In FR: A French vessel flying the French flag may be issued a fishing authorisation or may be allowed to fish on the basis of national quotas only when a real economic link with the territory of France is established and the vessel is directed and controlled from a permanent establishment located in the territory of France (ISIC Rev. 3.1 050, CPC 882).

Measures:

BG: Article 49, Law on the maritime spaces, inland waterways and ports of the Republic of Bulgaria.

FR: Code rural et de la pêche maritime.

c) Manufacturing – Publishing, printing and reproduction of recorded media (ISIC Rev. 3.1 221, 222, 323, 324, CPC 88442)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment, Local presence:

In LV: Only juridical persons incorporated in Latvia, and natural persons of Latvia, have the right to found and publish mass media. Branches are not allowed (CPC 88442).

Measures:

LV: Law on the Press and Other Mass Media, s. 8.

With respect to Investment liberalisation – National treatment, Most-favoured-nation treatment and Cross-border trade in services – Most-favoured nation treatment, Local presence:

In DE (applies also to the regional level of government): Each publicly distributed or printed newspaper, journal or periodical must clearly indicate a "responsible editor" (the full name and address of a natural person). The responsible editor may be required to be a permanent resident of Germany, the Union or a Member State of the EEA. Exceptions may be allowed by the competent authority of the regional level of government (ISIC Rev. 3.1 22).

Measures:

DE:

Regional level:

Gesetz über die Presse Baden-Württemberg (LPG BW);

Bayerisches Pressegesetz (BayPrG);

Berliner Pressegesetz (BlnPrG);

Brandenburgisches Landespressegesetz (BbgPG);

Gesetz über die Presse Bremen (BrPrG);

Hamburgisches Pressegesetz;

Hessisches Pressegesetz (HPresseG);

Landespressegesetz für das Land Mecklenburg-Vorpommern (LPrG M-V);

Niedersächsisches Pressegesetz (NPresseG);

Pressegesetz für das Land Nordrhein-Westfalen (Landespressegesetz NRW);

Landesmediengesetz (LMG) Rheinland-Pfalz;

Saarländisches Mediengesetz (SMG);

Sächsisches Gesetz über die Presse (SächsPresseG);

Pressegesetz für das Land Sachsen-Anhalt (Landespressegesetz);

Gesetz über die Presse Schleswig-Holstein (PressG SH); and

Thüringer Pressegesetz (TPG).

With respect to Investment liberalisation – Market Access, National Treatment, Most-favoured nation treatment:

In IT: In so far as New Zealand allows Italian investors to own more than 49 % of the capital and voting rights in a publishing company of New Zealand, then Italy will allow investors of New Zealand to own more than 49 % of the capital and voting rights in an Italian publishing company under the same conditions (ISIC Rev. 3.1 221, 222).

Measures:

IT: Law 416/1981, Article 1 (and subsequent amendments).

With respect to Investment liberalisation – Senior management and boards of directors:

In PL: Polish nationality is required for the editor-in-chief of newspapers and journals (ISIC Rev. 3.1 221, 222).

Measures:

PL: Act of 26 January 1984 on Press law, Journal of Laws, No. 5, item 24, with subsequent amendments.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment, Local presence:

In SE: Natural persons who are owners of periodicals that are printed and published in Sweden must reside in Sweden or be nationals of a Member State of the EEA. Owners of such periodicals who are juridical persons must be established in the EEA. Periodicals that are printed and published in Sweden and technical recordings must have a responsible editor, who must be domiciled in Sweden (ISIC Rev. 3.1 22, CPC 88442).

Measures:

SE: Freedom of the press act (1949:105);

Fundamental law on Freedom of Expression (1991:1469); and

Act on ordinances for the Freedom of the Press Act and the Fundamental law on Freedom of Expression (1991:1559).

Schedule of New Zealand

Explanatory notes

For greater certainty, the measures that New Zealand may take in accordance with Article 10.64 (Prudential carve-out), provided they meet the requirements of that Article, include those governing:

(a) licensing, registration or authorisation as a financial institution or Cross-border financial service supplier, and corresponding requirements;

(b) juridical form, including legal incorporation requirements for systemically important financial institutions and limitations on deposit-taking activities of branches of overseas banks, and corresponding requirements; and requirements pertaining to directors and senior management of a financial institution or Cross-border financial service supplier;

(c) capital, related party exposures, liquidity, disclosure and other risk management requirements;

(d) payment, clearance and settlement systems (including securities systems);

(e) anti-money laundering and countering financing of terrorism; and

(f) distress or failure of a financial institution or Cross-border financial service supplier.

Sector	All sectors
Obligations concerned	National treatment (Article 10.6) Market access (Article 10.5)
Measure	Companies Act 1993 Financial Reporting Act 2013
Description	Investment 1. Consistent with New Zealand's financial reporting regime established under the Companies Act 1993 and Financial Reporting Act 2013, the following types of entities are required to prepare financial statements that comply with generally accepted accounting practice, and have those statements audited and registered with the Registrar of Companies (unless exceptions to any of those requirements apply): a) any body corporate that is incorporated outside New Zealand (an "overseas company") that carries on business in New Zealand within the meaning of the Companies Act 1993 and which is "large"[1];

[1] An overseas company or subsidiary of an overseas company is "large" in respect of an accounting period if at least one of the following applies:
(i) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ$ 20 million; or
(ii) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ$ 10 million.
An audit report is required unless the New Zealand business of that overseas company is not "large" and the law in the jurisdiction where the company is incorporated does not require an audit.

b) any "large" New Zealand company in which shares that in aggregate carry the right to exercise or control the exercise of 25 % or more of the voting power at a meeting of the company are held by[1]:

(i) a subsidiary of a body corporate incorporated outside New Zealand;

(ii) a body corporate incorporated outside New Zealand; or

(iii) a person not ordinarily resident in New Zealand;

c) any "large" company incorporated in New Zealand which is a subsidiary of an overseas company.

2. If a company is required to prepare financial statements and if it has one or more subsidiaries, it must, instead of preparing financial statements in respect of itself, prepare group financial statements that comply with generally accepted accounting practice in relation to that group. This obligation does not apply if:

a) the company (A) is itself a subsidiary of a body corporate (B), where body corporate (B) is:

(i) incorporated in New Zealand; or

(ii) registered or deemed to be registered under Part 18 of the Companies Act 1993; and

b) group financial statements in relation to a group comprising B, A, and all other subsidiaries of B that comply with generally accepted accounting practice are completed; and

[1] A New Zealand company is "large" in respect of an accounting period if at least one of the following paragraphs applies:

(i) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ$ 60 million; or

(ii) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ$ 30 million.

	c) a copy of the group financial statements referred to in paragraph (b) and a copy of the auditor's report on those statements are delivered for registration under the Companies Act 1993 or for lodgement under another Act. 2. If an overseas company is required to prepare: a) financial statements under the Companies Act 1993 it must also, if its New Zealand business meets the asset and revenue thresholds that apply in respect of "large" overseas companies, prepare, in addition to the financial statements of the large overseas company itself, financial statements for its New Zealand business prepared as if that business were conducted by a company formed and registered in New Zealand; and b) group financial statements under the Companies Act 1993, and if the group's New Zealand business meets the asset and revenue thresholds that apply in respect of "large" overseas companies, the group financial statements that are prepared must include, in addition to the financial statements of the group, financial statements for the group's New Zealand business prepared as if the members of the group were companies formed and registered in New Zealand.

Sector	Agriculture, including services incidental to agriculture
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Measure	Dairy Industry Restructuring Act 2001
Description	Cross-border trade in services and investment The Dairy Industry Restructuring Act 2001 (DIRA) and regulations provide for the management of a national database for herd testing data. The DIRA: (a) provides for the New Zealand Government to determine arrangements for the database to be managed by another dairy industry entity. In doing so the New Zealand Government may: (i) take into account the nationality and residency of the entity, persons that own or control the entity, and the senior management and Board of Directors of the entity; and (ii) restrict who may hold shares in the entity, including on the basis of nationality; (b) requires the transfer of data by those engaged in herd testing of dairy cattle to the Livestock Improvement Corporation (LIC) or successor entity; (c) establishes rules regarding access to the database and may deny that access on the basis that the database's intended use could be "harmful to the New Zealand dairy industry", which denial may take into account the nationality or residency of the person seeking access.

Sector	Communication services Telecommunications
Obligations concerned	National treatment (Article 10.6) Senior management and boards of directors (Article 10.8)
Measure	Constitution of Chorus Limited
Description	Investment The Constitution of Chorus Limited requires New Zealand Government approval for the shareholding of any single overseas entity to exceed 49.9 %. At least half of the board directors are required to be New Zealand citizens.

Sector	Agriculture, including services incidental to agriculture
Obligations concerned	Market access (Article 10.5) Senior management and boards of directors (Article 10.8)
Measure	Primary Products Marketing Act 1953
Description	Investment Under the Primary Products Marketing Act 1953, the New Zealand Government may impose regulations to enable the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers) for "primary products", being products derived from beekeeping, fruit growing, hop growing, deer farming or game deer, or goats, being the fur bristles or fibres grown by the goat. Regulations may be issued under the Primary Products Marketing Act 1953 concerning a broad range of the marketing authority's functions, powers and activities. In particular, regulations may require that board members or personnel be nationals of or resident in New Zealand.

Sector	Air transportation
Obligations concerned	National treatment (Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Measure	Constitution of Air New Zealand Limited
Description	Investment No one foreign national may hold more than 10 % of shares that confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder.[1] In addition: (a) at least three members of the Board of Directors must be ordinarily resident in New Zealand; (b) more than half of the Board of Directors must be New Zealand citizens; (c) the Chairperson of the Board of Directors must be a New Zealand citizen; and (d) the location of the Head Office of Air New Zealand, and its principal place of business, shall be in New Zealand.

[1] 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 His Majesty the King in Right of New Zealand.

Sector	All sectors
Obligations concerned	Market access (Article 10.5) National treatment (Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Measure	Overseas Investment Act 2005 Fisheries Act 1996 Overseas Investment Regulations 2005
Description	Investment Consistent with New Zealand's overseas investment regime as set out in the relevant provisions of the Overseas Investment Act 2005, the Fisheries Act 1996 and the Overseas Investment Regulations 2005, the following investment activities require prior approval from the New Zealand Government: (a) acquisition or control by non-government sources of 25 % or more of any class of shares[1] or voting power[2] in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$ 200 million; (b) commencement of business operations or acquisition of an existing business by non-government sources, 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$ 200 million; (c) acquisition or control by government sources of 25 % or more of any class of shares[3] or voting power[4] in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$ 200 million;

[1] For greater certainty, the term "shares" includes shares and other types of securities.

[2] For greater certainty, the term "voting power" includes the power to control the composition of 25 % or more of the governing body of the New Zealand entity.

[3] For greater certainty, the term "shares" includes shares and other types of securities.

[4] For greater certainty, the term "voting power" includes the power to control the composition of 25 % or more of the governing body of the New Zealand entity.

	(d) commencement of business operations or acquisition of an existing business by government sources, 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$ 200 million; (e) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's overseas investment legislation; and (f) any transaction, regardless of dollar value, that would result in an overseas investment in fishing quota. Overseas investors must comply with the criteria set out in the overseas investment regime and any conditions specified by the regulator and the relevant Minister or Ministers. This entry should be read in conjunction with Annex II – New Zealand – 11.

Sector	All sectors
Obligations concerned	Performance requirements (Article 10.9)
Measure	Income Tax Act 2007 Goods and Services Tax Act 1985 Estate and Gift Duties Act 1968 Stamp and Cheque Duties Act 1971 Gaming Duties Act 1971 Tax Administration Act 1994
Description	Investment Any existing non-conforming taxation measures.

Sector	Financial services Insurance and insurance-related services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Market access (Article 10.14 and Article 10.5)
Measure	Commodity Levies Act 1990 Commodity Levies Amendment Act 1995 Kiwifruit Industry Restructuring Act 1999 and Regulations
Description	Cross-border trade in services and investment The provision of crop insurance for wheat can be restricted in accordance with the Commodity Levies Amendment Act 1995 (CLA). Section 4 of the CLA provides for the use of funds derived under a mandatory commodity levy on wheat growers to be used for the purpose of funding a scheme insuring wheat crops against damage or loss. The provision of insurance intermediation services related to the export of kiwifruit can be restricted in accordance with the Kiwifruit Industry Restructuring Act 1999 and regulations relating to the export marketing of kiwifruit.

Sector	Financial services Banking and other financial services (excluding insurance)
Obligations concerned	Senior management and boards of directors (Article 10.8)
Measure	KiwiSaver Act 2006 Financial Markets Conduct Act 2013
Description	Investment The fund manager of a registered KiwiSaver scheme and the corporate trustee of a registered KiwiSaver scheme that is a restricted scheme must both have at least one director that is a New Zealand resident for tax purposes.

ANNEX 10-B

FUTURE MEASURES

Headnotes

1. The schedules of New Zealand and the Union set out, under Article 10.10 (Non-conforming measures) or Article 10.18 (Non-conforming measures), the entries made by New Zealand and the Union with respect to existing, or more restrictive or new measures that do not conform with obligations imposed by:

(a) Article 10.5 (Market access) or 10.14 (Market access);

(b) Article 10.6 (National treatment) or 10.16 (National treatment);

(c) Article 10.7 (Most-favoured-nation treatment) or 10.17 (Most-favoured-nation treatment);

(d) Article 10.8 (Senior management and boards of directors);

(e) Article 10.9 (Performance requirements); or

(f) Article 10.15 (Local presence).

2. The reservations of a Party are without prejudice to the rights and obligations of the Parties under GATS.

3. Each entry sets out the following elements:

(a) "sector" refers to the general sector in which the entry is made;

(b) "sub-sector" refers to the specific sector in which the entry is made;

(c) "industry classification" refers, where applicable, to the activity covered by the entry according to the CPC, ISIC Rev. 3.1, or as otherwise expressly described in that entry;

(d) "obligations concerned" specifies the obligation referred to in paragraph 1 for which an entry is made;

(e) "description" sets out the scope of the sector, sub-sector or activities covered by the entry; and

(f) "existing measures" identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the entry.

4. In the interpretation of an entry, all elements of the entry shall be considered. Where an inconsistency arises in relation to the interpretation of an entry, the "description" element of the entry shall prevail.

5. For the purposes of the schedules of New Zealand and the Union:

(a) "ISIC Rev. 3.1" means the International Standard Industrial Classification of All Economic Activities as set out in Statistical Office of the United Nations, Statistical Papers, Series M No. 4, ISIC Rev. 3.1, 2002; and

(b) "CPC" means the Provisional Central Product Classification (Statistical Papers, Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

6. For the purposes of the schedules of New Zealand and the Union, an entry for a requirement to have a local presence in the territory of the Union or New Zealand is made against Article 10.15 (Local presence), and not against Article 10.14 (Market access) or 10.16 (National treatment). Furthermore, such a requirement is not made as a reservation against Article 10.6 (National treatment).

7. An entry made at the level of the Union applies to a measure of the Union, to a measure of a Member State at the central level or to a measure of a government within a Member State, unless the entry excludes a Member State. An entry for a Member State applies to a measure of a government at the central, regional or local level within that Member State. For the purposes of the entries of Belgium, the central level of government covers the federal government and the governments of the regions and the communities as each of them holds equipollent legislative powers. For the purposes of the entries of the Union and the Member States, a regional level of government in Finland means the Åland Islands. An entry made at the level of New Zealand applies to a measure of the central government or a local government.

8. The list of entries in this Annex does not include measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures where they do not constitute a limitation within the meaning of Article 10.5 (Market access), 10.6 (National treatment), 10.14 (Market access), Article 10.15 (Local presence) or 10.16 (National treatment). Such measures may include the need to obtain a licence, to satisfy a universal service obligation, to have a recognised qualification in a regulated sector, to pass a specific examination, including a language examination, to fulfil a membership requirement of a particular profession, such as membership of a professional organisation, to have a local agent for service, or to maintain a local address, or any other non-discriminatory requirements that certain activities may not be carried out in protected zones or areas. While not listed, such measures continue to apply.

9. For greater certainty, for the Union, the obligation to grant national treatment does not entail the requirement to extend to persons of New Zealand the treatment granted in a Member State, in the application of the TFEU, or any measure adopted pursuant to TFEU, including its implementation in the Member States, to:

(a) natural persons or residents of another Member State; or

(b) juridical persons constituted or organised under the law of another Member State or of the Union and having their registered office, central administration or principal place of business in the Union.

10. Treatment granted to juridical persons established by investors of a Party in accordance with the law of the other Party (including, in the case of the Union, the law of a Member State) and having their registered office, central administration or principal place of business within that other Party, is without prejudice to any condition or obligation, consistent with Section B (Investment liberalisation) of Chapter 10 (Trade in services and investment), which may have been imposed on such juridical person when it was established in that other Party, and which shall continue to apply.

11. The schedules of New Zealand and the Union apply only to the territories of New Zealand and the Union in accordance with Article 1.4 (Territorial application) and are only relevant in the context of trade relations between the Union, the Member States and New Zealand. They do not affect the rights and obligations of the Member States under Union law.

12. For greater certainty, non-discriminatory measures do not constitute a limitation within the meaning of Article 10.5 (Market access) or Article 10.14 (Market access) for any measure:

(a) requiring the separation of the ownership of infrastructure from the ownership of the goods or services provided through that infrastructure to ensure fair competition, for example in the fields of energy, transportation and telecommunications;

(b) restricting the concentration of ownership to ensure fair competition;

(c) seeking to ensure the conservation and protection of natural resources and the environment, including a limitation on the availability, number and scope of concessions granted, and the imposition of a moratorium or ban;

(d) limiting the number of authorisations granted because of technical or physical constraints, for example telecommunications spectra and frequencies; or

(e) requiring that a certain percentage of the shareholders, owners, partners, or directors of an enterprise be qualified or practice a certain profession such as lawyers or accountants.

13. With respect to computer services, any of the following services shall be considered as computer and related services, regardless of whether they are delivered via a network, including the internet:

(a) consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance or management of or for computers or computer systems;

(b) computer programmes defined as the sets of instructions required to make computers work and communicate (in and of themselves), as well as consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programmes;

(c) data processing, data storage, data hosting or database services;

(d) maintenance and repair services for office machinery and equipment, including computers; and

(e) training services for staff of clients, related to computer programmes, computers or computer systems, and not elsewhere classified.

For greater certainty, services enabled by computer and related services, other than those listed in points (a) to (e), shall not be regarded as computer and related services in themselves.

14. With respect to financial services, unlike foreign subsidiaries, branches established directly in a Member State by a non-Union financial institution are not, with certain limited exceptions, subject to prudential regulations harmonised at Union level which enable such subsidiaries to benefit from enhanced facilities to set up new establishments and to provide cross-border services throughout the Union. Therefore, such branches receive an authorisation to operate in the territory of a Member State under conditions equivalent to those applied to domestic financial institutions of that Member State, and may be required to satisfy a number of specific prudential requirements such as, in the case of banking and securities, separate capitalisation and other solvency requirements, and reporting and publication of accounts requirements or, in the case of insurance, specific guarantee and deposit requirements, a separate capitalisation, and the localisation in the Member State concerned of the assets representing the technical reserves and at least one third of the solvency margin.

15. With respect to Article 10.5 (Market access), juridical persons supplying financial services and constituted under the law of New Zealand or the law of the Union or of at least one of the Member States, are subject to non-discriminatory limitations on legal form.[1]

[1] For example, partnerships and sole proprietorships are generally not acceptable legal forms for financial institutions in New Zealand and the Union. This headnote is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

16. The following abbreviations are used in the list of reservations below:

EU Union, including the Member States

AT Austria

BE Belgium

BG Bulgaria

CY Cyprus

CZ Czechia

DE Germany

DK Denmark

EE Estonia

EL Greece

ES Spain

FI Finland

FR France

HR Croatia

HU Hungary

IE Ireland

IT Italy

LT Lithuania

LU Luxembourg

LV Latvia

MT Malta

NL The Netherlands

PL Poland

PT Portugal

RO Romania

SE Sweden

SI Slovenia

SK Slovak Republic

Schedule of the Union

Reservation No. 1 – All sectors

Reservation No. 2 – Professional services – other than health-related services

Reservation No. 3 – Professional services – health-related and retail of pharmaceuticals

Reservation No. 4 – Business services – Research and development services

Reservation No. 5 – Business services – Real estate services

Reservation No. 6 – Business services – Rental or leasing services

Reservation No. 7 – Business services – Collection agency services and credit reporting services

Reservation No. 8 – Business services – Placement services

Reservation No. 9 – Business services – Security and investigation services

Reservation No. 10 – Business services – Other business services

Reservation No. 11 – Telecommunication

Reservation No. 12 – Construction

Reservation No. 13 – Distribution services

Reservation No. 14 – Education services

Reservation No. 15 – Environmental services

Reservation No. 16 – Financial services

Reservation No. 17 – Health and social services

Reservation No. 18 – Tourism and travel-related services

Reservation No. 19 – Recreational, cultural and sporting services

Reservation No. 20 – Transport services and auxiliary transport services

Reservation No. 21 – Agriculture, fishing and water

Reservation No. 22 – Mining and energy-related activities

Reservation No. 23 – Other services not included elsewhere

Reservation No. 1 – All sectors

Sector:	All sectors
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Senior management and boards of directors
	Performance requirements
	Local presence
Chapter:	Trade in services and investment

Description:

The Union reserves the right to adopt or maintain any measure with respect to the following:

(a) Establishment

With respect to Investment liberalisation – Market access:

The EU: Services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators.

Public utilities exist in sectors such as related scientific and technical consulting services, R&D services on social sciences and humanities, technical testing and analysis services, environmental services, health services, transport services and services auxiliary to all modes of transport. Exclusive rights with respect to such services are often granted to private operators, for instance operators with concessions from public authorities, subject to specific service obligations. Given that public utilities often also exist at the sub-central level, detailed and exhaustive sector-specific scheduling is not practical. This reservation does not apply to telecommunications and to computer and related services.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In FI: Restrictions on the right for natural persons, who do not enjoy regional citizenship in Åland, and for juridical persons, to acquire and hold real property on the Åland Islands without obtaining permission from the competent authorities of the Åland Islands. Restrictions on the right of establishment and right to carry out economic activities by natural persons, who do not enjoy regional citizenship in Åland, or by any enterprise, without obtaining permission from the competent authorities of the Åland Islands.

Existing measures:

FI: Ahvenanmaan maanhankintalaki (Act on land acquisition in Åland) (3/1975), s. 2; and Ahvenanmaan itsehallintolaki (Act on the Autonomy of Åland) (1144/1991), s. 11.

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors:

In FR: Pursuant to articles L151-1 and 153-1 sec of the financial and monetary code, foreign investments in France in sectors listed in article R.151-3 of the financial and monetary code are subject to prior approval from the Minister for the Economy.

Existing measures:

FR: As set out in the description element as indicated above.

With respect to Investment liberalisation – National treatment, Senior management and boards of directors:

In FR: Limiting foreign participation in newly privatised companies to a variable amount, determined by the government of France on a case-by-case basis, of the equity offered to the public. For establishing in certain commercial, industrial or artisanal activities, a specific authorisation is required if the managing director is not a holder of a permanent residence permit.

With respect to Investment liberalisation – Market access:

In HU: Establishment should take a form of a limited liability company, joint-stock company or representative office. Initial entry as a branch is not permitted except for financial services.

With respect to Investment liberalisation – Market access, National treatment:

In BG: Certain economic activities related to the exploitation or use of State or public property are subject to concessions granted under the provisions of the Concessions Act.

In commercial corporations in which the State or a municipality holds a share in the capital exceeding 50 %, any transactions for disposition of fixed assets of the corporation, to conclude any contracts for acquisition of participating interest, lease, joint activity, credit, securing of receivables, as well as incurring any obligations arising under bills of exchange, are subject to authorisation or permission by the Public Enterprises and Control Agency or other state or regional bodies, whichever is the competent authority. This reservation does not apply to mining and quarrying, which are subject to a separate reservation in the schedule of the Union in Annex 10-A (Existing measures).

In IT: The Government may exercise certain special powers in enterprises operating in the areas of defence and national security, and in certain activities of strategic importance in the areas of energy, transport and communications. This applies to all juridical persons carrying out activities considered of strategic importance in the areas of defence and national security, not only to privatised companies.

If there is a threat of serious injury to the essential interests of defence and national security, the Government has the following special powers to:

(a) impose specific conditions on the purchase of shares;

(b) veto the adoption of resolutions relating to special operations such as transfers, mergers, splitting up and changes of activity; or

(c) reject the acquisition of shares, where the buyer seeks to hold a level of participation in the capital that is likely to prejudice the interests of defence and national security.

Any resolution, act or transaction (such as transfers, mergers, splitting up, change of activity or termination) relating to strategic assets in the areas of energy, transport and communications shall be notified by the concerned company to the Prime Minister's office. In particular, acquisitions by any person outside the Union that give this person control over the company shall be notified.

The Prime Minister may exercise the following special powers to:

(a) veto any resolution, act or transaction that constitutes an exceptional threat of serious injury to the public interest in the security and operation of networks and supplies;

(b) impose specific conditions in order to guarantee the public interest; or

(c) reject an acquisition in exceptional cases of risk to the essential interests of the State.

The criteria on which to evaluate the real or exceptional threat and conditions and procedures for the exercise of the special powers are laid down in the law.

Existing measures:

IT: Law 56/2012 on special powers in companies operating in the field of defence and national security, energy, transport and communications; and

Decree of the Prime Minister DPCM 253 of 30.11.2012 defining the activities of strategic importance in the field of defence and national security.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment, Performance requirements, Senior management and boards of directors:

In LT: Enterprises, sectors, zones, assets and facilities of strategic importance to national security.

Existing measures:

LT: Law on the Protection of Objects of Importance to Ensuring National Security of the Republic of Lithuania of 10 October 2002 No. IX-1132 (as last amended on 17 September 2020, No XIII-3284).

With respect to Investment liberalisation – National treatment, Senior management and boards of directors:

In SE: Discriminatory requirements for founders, senior management and boards of directors when new forms of legal association are incorporated into Swedish law.

(b) Acquisition of real estate

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors:

In HU: The acquisition of state-owned properties.

With respect to Investment liberalisation – Market access, National treatment:

In HU: The acquisition of arable land by foreign juridical persons and non-resident natural persons.

Existing measures:

HU: Act CXXII of 2013 on the circulation of agricultural and forestry land (Chapter II (Paragraph 6-36) and Chapter IV (Paragraph 38-59)); and

Act CCXII of 2013 on the transitional measures and certain provisions related to Act CXXII of 2013 on the circulation of agricultural and forestry land (Chapter IV (Paragraph 8-20)).

In LV: The acquisition of rural land by nationals of New Zealand or of a third country.

Existing measures:

LV: Law on land privatisation in rural areas, ss. 28, 29, 30.

In SK: Foreign companies or natural persons may not acquire agricultural and forest land outside the borders of the built-up area of a municipality and some other land (e.g. natural resources, lakes, rivers, public roads, etc.).

Existing measures:

SK: Act No 44/1988 on protection and exploitation of natural resources;

Act No 229/1991 on regulation of the ownership of land and other agricultural property;

Act No 460/1992 Constitution of the Slovak Republic;

Act No 180/1995 on some measures for land ownership arrangements;

Act No 202/1995 on Foreign Exchange;

Act No 503/2003 on restitution of ownership to land;

Act No 326/2005 on Forests; and

Act No 140/2014 on the acquisition of ownership of agricultural land.

With respect to Investment liberalisation – National treatment and Cross-border trade in services – Local presence:

In BG: Natural or juridical persons resident or established in Bulgaria for more than five years may acquire ownership of agricultural land. Juridical persons established for less than five years may also acquire ownership of agricultural land if the partners in the company, the members of the association or the founders of the joint-stock company meet the five-year residency requirements. Foreign nationals, as well as foreign juridical persons established in compliance with the legislation of a third state, may acquire the right to own land on the basis of an international agreement, in accordance with Art. 22 of the Constitution of the Republic of Bulgaria, as well as through inheritance under the law. Foreign nationals, as well as foreign juridical persons established in compliance with the legislation of a third state, may acquire the right to own forest territories on the basis of an international agreement, in accordance with Art. 22, Para. 2 of the Constitution of the Republic of Bulgaria, as well as through inheritance under the law (Law on Forests, Art. 23, para 5).

Existing measures:

BG: Constitution of the Republic of Bulgaria, article 22, paragraph 2 and article 23 paragraph 5; and

Law on Forests, article 10.

In EE: Persons not from the EEA or OECD Member country may acquire an immovable asset which contains agricultural or forest land only with the authorisation of the county governor and municipal council, and must prove as prescribed by law that the immovable asset will, according to its intended purpose, be used efficiently, sustainably and purposefully.

Existing measures:

EE: Kinnisasja omandamise kitsendamise seadus (Restrictions on Acquisition of Immovables Act) Chapters 2 and 3.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In LT: Any measure which is consistent with the commitments taken by the Union and which are applicable in Lithuania in GATS with respect to land acquisition. The land plot acquisition procedure, terms and conditions, as well as restrictions shall be established by the Constitutional Law, the Law on Land and the Law on the Acquisition of Agricultural Land.

However, local governments (municipalities) and other national entities of OECD Member countries and North Atlantic Treaty Organization conducting economic activities in Lithuania, which are specified by the constitutional law in compliance with the criteria of the Union and other integration which Lithuania has embarked on, are permitted to acquire non-agricultural land plots required for the construction and operation of buildings and facilities necessary for their direct activities.

Existing measures:

LT: Constitution of the Republic of Lithuania;

The Constitutional Law of the Republic of Lithuania on the Implementation of Paragraph 3 of Article 47 of the Constitution of the Republic of Lithuania of 20 June 1996 No. I-1392, new redaction 20 March 2003 No IX-1381, last amendment 12 January 2018 No XIII-981;

Law on land 26 April 1994 No I-446, new redaction 27 January 2004 No. IX-1983, last amendment 26 June 2020 No XIII-3165;

Law on acquisition of agricultural land of 28 January 2003 No IX-1314, new redaction from 1 January 2018 No XIII-801, last amendment 14 May 2020 No XIII-2935; and

Forest Law of 22 November 1994 No I-671, new redaction 10 April 2001 No IX-240, last amendment 25 June 2020 No XIII-3115.

(c) Recognition

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment:

In the EU: The Union directives on mutual recognition of diplomas and other professional qualification only apply to citizens of the Union. The right to practise a regulated professional service in one Member State does not grant the right to practise that professional service in another Member State.

(d) Most-favoured-nation treatment

With respect to Investment liberalisation – Most-favoured-nation treatment and Cross-border trade in services – Most-favoured-nation treatment:

In the EU: According differential treatment to a third country pursuant to any international investment treaties or other trade agreement in force or signed prior to the date of entry into force of this Agreement.

In the EU: According differential treatment to a third country pursuant to any existing or future bilateral or multilateral agreement which:

(a) creates an internal market in services and investment;

(b) grants the right of establishment; or

(c) requires the approximation of legislation in one or more economic sectors.

An internal market in services and investment means an area without internal frontiers in which the free movement of services, capital and persons is ensured.

The right of establishment means an obligation to abolish in substance all barriers to establishment among the parties to the bilateral or multilateral agreement by the entry into force of that agreement. The right of establishment shall include the right of nationals of the parties to the bilateral or multilateral agreement to set up and operate enterprises under the same conditions provided for nationals under the law of the party where such establishment takes place.

The approximation of legislation means:

(a) alignment of the legislation of one or more of the parties to the bilateral or multilateral agreement with the legislation of the other Party or parties to that agreement; or

(b) incorporation of common legislation into the law of the parties to the bilateral or multilateral agreement.

Such alignment or incorporation shall take place, and shall be deemed to have taken place, only at such time that it has been enacted in the law of the party or parties to the bilateral or multilateral agreement.

Existing measures:

EU: Agreement on the European Economic Area;

Stabilisation Agreements;

EU-Swiss Confederation bilateral agreements; and

Deep and Comprehensive Free Trade Agreements.

In the EU: According differential treatment relating to the right of establishment to nationals or enterprises through existing or future bilateral agreements between the following Member States: BE, DE, DK, EL, ES, FR, IE, IT, LU, NL, PT and any of the following countries or principalities: Andorra, Monaco, San Marino and the Vatican City State.

In DK, FI, SE: Measures taken by Denmark, Sweden and Finland aimed at promoting Nordic cooperation, such as:

(a) financial support to R&D projects (the Nordic Industrial Fund);

(b) funding of feasibility studies for international projects (the Nordic Fund for Project Exports); and

(c) financial assistance to companies utilising environmental technology (the Nordic Environment Finance Corporation (NEFCO)). The purpose of NEFCO is to promote investments of Nordic environmental interest, with a focus on Eastern Europe.

In PL: Preferential conditions for establishment or the Cross-border supply of services, which may include the elimination or amendment of certain restrictions embodied in the list of reservations applicable in Poland, may be extended through commerce and navigation treaties.

In PT: Waiving nationality requirements for the exercise of certain activities and professions by natural persons supplying services for countries in which Portuguese is the official language (Angola, Brazil, Cape Verde, Guinea-Bissau, Equatorial Guinea, Mozambique, São Tomé & Principe and East Timor).

(e) Arms, munition and war material

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment, Most-favoured-nation treatment, Local presence:

In the EU: Production or distribution of, or trade in, arms, munitions and war material. War material is limited to any product which is solely intended and made for military use in connection with the conduct of war or defence activities.

Reservation No. 2 – Professional services – other than health-related services

Sector:	Professional services – legal services: services of notaries and bailiffs; accounting and bookkeeping services; auditing services, taxation advisory services; architecture and urban planning services; engineering services; and integrated engineering services
Industry classification:	Part of CPC 861, part of 87902, 862, 863, 8671, 8672, 8673, 8674, part of 879
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Most-favoured-nation treatment
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Legal services

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment:

In the EU, with the exception of SE: The supply of legal advisory and legal authorisation, documentation, and certification services provided by legal professionals entrusted with public functions, such as notaries, "huissiers de justice" or other "officiers publics et ministériels", and with respect to services provided by bailiffs who are appointed by an official act of government (part of CPC 861, part of 87902).

With respect to Investment liberalisation – Most-favoured-nation treatment and Cross-border trade in services – Most-favoured-nation treatment:

In BG: Full national treatment with respect to the establishment and operation of companies, as well as the supply of services, may be extended only to companies established in, and citizens of, countries with which preferential arrangements have been or will be concluded (part of CPC 861).

In LT: Attorneys from foreign countries may participate as advocates in court only in accordance with international agreements (part of CPC 861), including specific provisions regarding representation before courts.

(b) Accounting and bookkeeping services (CPC 8621 other than auditing services, 86213, 86219, 86220)

With respect to Cross-border trade in services – Market access:

In HU: Cross-border activities for accounting and bookkeeping.

Existing measures:

HU: Act C of 2000; and Act LXXV of 2007.

(c) Auditing services (CPC – 86211, 86212 other than accounting and bookkeeping services)

With respect to Cross-border trade in services – National treatment:

In BG: In order to perform an independent financial audit, auditor (individual or audit company) must be entered in the register administered by the Commission for Public Oversight of Registered Auditors (CPOSA). An auditor who has acquired legal capacity in a third country may be registered under the following conditions and subject to reciprocity:

(a) an individual auditor must pass examinations in Bulgarian commercial, tax and social security law in Bulgarian (equivalent to the requirements for Bulgarian citizens);

(b) a foreign audit company seeking to be registered as a statutory auditor in Bulgaria must ensure that three quarters of the members of the management bodies and the registered auditors carrying out statutory financial audits on behalf of the company meet requirements equivalent to those of statutory auditors who are Bulgarian citizens, including passing the relevant examinations, as provided in the Independent Financial Audit Act (IFAA).

Existing measures:

BG: Independent Financial Audit Act.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors:

In CZ: Only a juridical person in which at least 60 % of capital interests or voting rights are reserved to nationals of the Czechia or of the Member States is authorised to carry out audits in the Czechia.

Existing Measures:

CZ: Law of 14 April 2009 No. 93/2009 Coll., on Auditors, as amended.

With respect to Cross-border trade in services – Market access:

In HU: Cross-border supply of auditing services.

Existing measures:

Act C of 2000; and Act LXXV of 2007.

In PT: Cross-border supply of auditing services.

(d) Architecture and urban planning services (CPC 8674)

With respect to Cross-border trade in services – Market access, National treatment:

In HR: Cross-border supply of urban planning.

Reservation No. 3 – Professional services – health-related and retail of pharmaceuticals

Sector:	Health-related professional services and retail sales of pharmaceutical, medical and orthopaedic goods, other services provided by pharmacists
Industry classification:	CPC 63211, 85201, 9312, 9319, 93121
Obligations concerned:	Market access
	National treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Medical and dental services; services provided by midwives, nurses, physiotherapists, psychologists and paramedical personnel (CPC 63211, 85201, 9312, 9319, 932)

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access and National treatment:

In FI: The supply of all health-related professional services, whether publicly or privately funded, including medical and dental services, services provided by midwives, physiotherapists and paramedical personnel and services provided by psychologists, excluding services provided by nurses (CPC 9312, 93191).

Existing measures:

FI: Laki yksityisestä terveydenhuollosta (Act on Private Health Care) (152/1990).

In BG: The supply of all health-related professional services, whether publicly or privately funded, including medical and dental services, services provided by nurses, midwives, physiotherapists and paramedical personnel and services provided by psychologists (CPC 9312, part of 9319).

Existing measures:

BG: Law for Medical Establishment, Professional Organisation of Medical Nurses, Midwives and Associated Medical Specialists Guild Act.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access and National treatment:

In CZ, MT: The supply of all health-related professional services, whether publicly or privately funded, including services provided by professionals such as medical doctors, dentists, midwives, nurses, physiotherapists, paramedics, psychologists, as well as other related services (CPC 9312, part of 9319).

Existing measures:

CZ: Act No 296/2008 Coll. on Safeguarding the Quality and Safety of Human Tissues and Cells Intended for Use in Man (Act on Human Tissues and Cells);

Act No 378/2007 Coll. on Pharmaceuticals and on Amendments to Some Related Acts (Act on Pharmaceuticals);

Act No. 268/2014 Coll. on medical devices and amending Act No 634/2004 Coll. on administrative fees, as subsequently amended;

Act No. 285/2002 Coll. on the Donating, Taking and Transplanting of Tissues and Organs and on Amendment to Certain Acts (Transplantation Act);

Act No. 372/2011 Coll. on health services and on conditions of their provision; and

Act No. 373/2011 Coll. on specific health services).

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In the EU, with the exception of NL and SE: The supply of all health-related professional services, whether publicly or privately funded, including services provided by professionals such as medical doctors, dentists, midwives, nurses, physiotherapists, paramedics, and psychologists, requires residency. These services may only be provided by natural persons physically present in the territory of the Union. (CPC 9312, part of 93191).

In BE: The Cross-border supply, whether publicly or privately funded, of all health-related professional services, including medical, dental and midwives' services and services provided by nurses, physiotherapists, psychologists and paramedical personnel. (part of CPC 85201, 9312, part of 93191).

In PT (also with respect to most-favoured-nation treatment): Concerning the professions of physiotherapists, paramedical personnel and podiatrists, foreign professionals may be allowed to practice based on reciprocity.

(b) Veterinary services (CPC 932)

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In BG: A veterinary medical establishment may be established by a natural or a juridical person.

The practice of veterinary medicine is only allowed for nationals of the EEA and for permanent residents (physical presence is required for permanent residents).

With respect to Cross-border trade in services – Market access, National treatment:

In BE, LV: Cross-border supply of veterinary services.

(c) Retail sales of pharmaceutical, medical and orthopaedic goods, other services provided by pharmacists (CPC 63211)

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In the EU, with the exception of EL, IE, LU, LT and NL: The number of suppliers entitled to provide a particular service in a specific local zone or area may be restricted on a non-discriminatory basis. An economic needs test may therefore be applied, taking into account such factors as the number of and impact on existing establishments, transport infrastructure, population density or geographic spread.

In the EU, with the exception of BE, BG, EE, ES, IE and IT: Mail order is only possible from Member States of the EEA, thus establishment in any of those countries is required for the retail of pharmaceuticals and specific medical goods to the general public in the Union.

In BE: The retail sales of pharmaceuticals and specific medical goods are only possible from a pharmacy established in Belgium.

In BG, EE, ES, IT and LT: Cross-border retail sales of pharmaceuticals.

In CZ: Retail sales are only possible from the Member States.

In IE and LT: Cross-border retail of pharmaceuticals requiring a prescription.

In PL: Intermediaries in the trade of medicinal products must be registered and have a place of residence or a registered office in the territory of the Republic of Poland.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment:

In FI: Retail sales of pharmaceutical products and of medical and orthopaedic goods.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment:

In SE: Retail sales of pharmaceutical goods and the supply of pharmaceutical goods to the general public.

Existing measures:

AT: Arzneimittelgesetz (Medication Act), BGBl. Nr. 185/1983 as amended, §§ 57, 59, 59a; and

Medizinproduktegesetz (Medical Products Law), BGBl. Nr. 657/1996 as amended, § 99.

BE: Arrêté royal du 21 janvier 2009 portant instructions pour les pharmaciens; and

Arrêté royal du 10 novembre 1967 relatif à l'exercice des professions des soins de santé.

CZ: Act No. 378/2007 Coll. on Pharmaceuticals, as amended; and

Act No. 372/2011 Coll. on Health services, as amended.

FI: Lääkelaki (Medicine Act) (395/1987).

PL: Pharmaceutical Law, art. 73a (Journal of Laws of 2020, item 944, 1493).

SE: Law on trade with pharmaceuticals (2009:336);

Regulation on trade with pharmaceuticals (2009:659);

Act concerning the Trade of Certain Non-prescription Medicinal Products (2009:730); and

The Swedish Medical Products Agency has adopted further regulations, the details can be found at (LVFS 2009:9).

Reservation No. 4 – Business services – Research and development services

Sector:	Research and development services
Industry classification:	CPC 851, 852, 853
Obligations concerned:	Market access
	National treatment
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

In RO: Cross-border supply of research and development services.

Existing measures:

RO: Governmental Ordinance No. 6 / 2011; and

Order of Minister of Education and Research No. 3548 / 2006; and Governmental Decision No. 134/2011.

Reservation No. 5 – Business services – Real estate services

Sector:	Real estate services
Industry classification:	CPC 821, 822
Obligations concerned:	Market access
	National treatment
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

In CZ and HU: Cross-border supply of real estate services.

Reservation No. 6 – Business services – Rental or leasing services

Sector:	Rental or leasing services without operators
Industry classification:	CPC 832
Obligations concerned:	Market access
	National treatment
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

In BE and FR: Cross-border supply of leasing or rental services without operator concerning personal and household goods.

Reservation No. 7 – Business services – Collection agency services and credit reporting services

Sector:	Collection agency services, credit reporting services
Industry classification:	CPC 87901, 87902
Obligations concerned:	Market access
	National treatment
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

In the EU, with the exception of ES, LV and SE, with regard to the supply of collection agency services and credit reporting services.

Reservation No. 8 – Business services – Placement services

Sector:	Business services – placement services
Industry classification:	CPC 87201, 87202, 87203, 87204, 87205, 87206, 87209
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

In the EU, with the exception of HU and SE: Supply services of domestic help personnel, other commercial or industrial workers, nursing and other personnel (CPC 87204, 87205, 87206, 87209).

In BG, CY, CZ, DE, EE, FI, LT, LV, MT, PL, PT, RO, SI and SK: Executive search services (CPC 87201).

In AT, BG, CY, CZ, EE, FI, LT, LV MT, PL, PT, RO, SI and SK: The establishment of placement services of office support personnel and other workers (CPC 87202).

In AT, BG, CY, CZ, DE, EE, FI, LT, LV, MT, PL, PT, RO, SI and SK: Supply services of office support personnel (CPC 87203).

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In the EU with the exception of BE, HU and SE: The Cross-border supply of placement services of office support personnel and other workers (CPC 87202).

In IE: The Cross-border supply of executive search services (CPC 87201).

In FR, IE, IT and NL: The Cross-border supply of services of office personnel (CPC 87203).

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In DE: To restrict the number of suppliers of placement services.

In ES: To restrict the number of suppliers of executive search services and placement services (CPC 87201, 87202).

In FR: These services may be subject to a state monopoly (CPC 87202).

In IT: To restrict the number of suppliers of supply services of office personnel (CPC 87203).

With respect to Investment liberalisation –Market access, National treatment:

In DE: The Federal Ministry of Labour and Social Affairs may issue regulations concerning the placement and recruitment of non-Union and non-EEA personnel for specified professions (CPC 87201, 87202, 87203, 87204, 87205, 87206, 87209).

Existing measures:

AT: §§97 and 135 of the Austrian Trade Act (Gewerbeordnung), Federal Law Gazette Nr. 194/1994 as amended; and

Temporary Employment Act (Arbeitskräfteüberlassungsgesetz/AÜG), Federal Law Gazette Nr. 196/1988 as amended.

BG: Employment Promotion Act, articles 26, 27, 27a and 28.

CY: Private Employment Agency Law N. 126(I)/2012 as amended, Law N. 174(I)/2012.

CZ: Act on Employment (435/2004).

DE: Gesetz zur Regelung der Arbeitnehmerüberlassung (AÜG);

Sozialgesetzbuch Drittes Buch (SGB III; Social Code, Book Three) – Employment Promotion; and

Verordnung über die Beschäftigung von Ausländerinnen und Ausländern (BeschV; Ordinance on the Employment of Foreigners).

DK: §§ 8a – 8f in law decree No. 73 of 17th of January 2014 and specified in decree No. 228 of 7th of March 2013 (employment of seafarers); and Employment Permits Act 2006. S1(2) and (3).

EL: Law 4052/2012 (Official Government Gazette 41 A) as amended to some of its provision by the law N. 4093/2012 (Official Government Gazette 222 A).

ES: Real Decreto-ley 8/2014, de 4 de julio, de aprobación de medidas urgentes para el crecimiento, la competitividad y la eficiencia, artículo 117 (tramitado como Ley 18/2014, de 15 de octubre).

FI: Laki julkisesta työvoima-ja yrityspalvelusta (Act on Public Employment and Enterprise Service) (916/2012).

HR: Labour Market Act (OG 118/18, 32/20);

Labour Act (OG 93/14, 127/17, 98/19); and

Aliens Act (OG 130/11m 74/13, 67/17, 46/18, 53/20).

IE: Employment Permits Act 2006. S1(2) and (3).

IT: Legislative Decree 276/2003 articles 4, 5.

LT: Lithuanian Labour Code of the Republic of Lithuania approved by Law No XII-2603 of 14 September 2016 of the Republic of Lithuania, last amendment 15 October 2020 No XIII-3334; and

The Law on the Legal Status of Aliens of the Republic of Lithuania of 29 April 2004 No. IX-2206, last amendment 10 November 2020 No XIII-3412.

LU: Loi du 18 janvier 2012 portant création de l'Agence pour le développement de l'emploi (Law of 18 January 2012 concerning the creation of an agency for employment development – ADEM).

MT: Employment and Training Services Act, (Cap 343) (Articles 23 to 25); and Employment Agencies Regulations (S.L. 343.24).

PL: Article 18 of the Act of 20 April 2004 on the promotion of employment and labour market institutions (Dz. U. of 2015, Item. 149, as amended).

PT: Decree-Law No 260/2009 of 25 September, as amended by Law No. 5/2014 of 12 February;

Law No. 28/2016 of the 23 August, and

Law No. 146/2015 of 9 September (access and provision of services by placement agencies).

RO: Law No. 156/2000 on the protection of Romanian citizens working abroad, republished;

Government Decision No. 384/2001 for approving the methodological norms for applying the Law No. 156/2000, with subsequent amendments;

Ordinance of the Government No. 277/2002, as modified by Government Ordinance No. 790/2004 and Government Ordinance No. 1122/2010; and

Law no. 53/2003 – Labour Code, republished, with subsequent amendments and supplement and the Government Decision no 1256/2011 on the operating conditions and authorisation procedure for temporary work agency.

SI: Labour market regulation act (Official Gazette of RS, No. 80/2010, 21/2013, 63/2013, 55/2017); and

Employment, Self-employment and Work of Aliens Act – ZZSDT (Official Gazette of RS, No. 47/2015), ZZSDT-UPB2 (Official Gazette of RS, No. 1 /2018).

SK: Act No 5/2004 on Employment Services; and

Act No 455/1991 on Trade Licensing.

Reservation No. 9 – Business services – Security and investigation services

Sector:	Business services – security and investigation services
Industry classification:	CPC 87301, 87302, 87303, 87304, 87305, 87309
Obligations concerned:	Market access
	National treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Security services (CPC 87302, 87303, 87304, 87305, 87309)

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment, Local presence:

In BG, CY, CZ, EE, LT, LV, MT, PL, RO, SI and SK: The supply of security services.

In DK, HR and HU: The supply of the following sub-sectors: guard services (87305) in HR and HU, security consultation services (87302) in HR, airport guard services (part of 87305) in DK and armoured car services (87304) in HU.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – National treatment, Local presence:

In BE: Nationality of a Member State is required for boards of directors of juridical persons supplying guard and security services (87305) as well as consultancy and training relating to security services (87302). The senior management of companies providing guard and security consultancy services are required to be resident nationals of a Member State.

In ES: The Cross-border supply of security services. Nationality requirements exist for private security personnel.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In FI: Licences to supply security services may be granted only to natural persons resident in the EEA or juridical persons established in the EEA.

In FR and PT: Nationality requirements exist for specialised personnel in PT, and for managing directors and directors in FR.

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In BE, FI, FR and PT: The supply of security services by a foreign provider on a Cross-border basis is not allowed.

Existing measures:

BE: Loi réglementant la sécurité privée et particulière, 2 Octobre 2017.

BG: Private Security Business Act.

CZ: Trade Licensing Act.

DK: Regulation on aviation security.

FI: Laki yksityisistä turvallisuuspalveluista 282/2002 (Private Security Services Act).

LT: Law on security of Persons and Assets 8 July 2004 No. IX-2327.

LV: Security Guard Activities Law (Sections 6, 7, 14).

PL: Act of 22 August 1997 on the protection of persons and property (Journal of Laws of 2016, item 1432 as amended).

PT: Law 34/2013 alterada p/ Lei 46/2019, 16 maio; and

Ordinance 273/2013. alterada p/ Portaria 106/2015, 13 abril.

SI: Zakon o zasebnem varovanju (Law on private security).

(b) Investigation services (CPC 87301)

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment, Local presence:

In the EU, with the exception of AT and SE: The supply of investigation services.

Reservation No. 10 – Business services – Other business services

Sector, sub-sector:	Business services – other business services (translation and interpretation services, duplicating services, services incidental to energy distribution and services incidental to manufacturing)
Industry classification:	CPC 87905, 87904, 884, 887
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Performance requirements
	Local presence
	Most-favoured-nation treatment
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Translation and interpretation services (CPC 87905)

With respect to Cross-border trade in services – Local presence:

In HR: Cross-border supply of translation and interpretation of official documents.

(b) Duplicating services (CPC 87904)

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In HU: Cross-border supply of duplicating services.

(c) Services incidental to energy distribution and services incidental to manufacturing part of CPC 884, 887 other than advisory and consulting services)

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

In HU: Services incidental to energy distribution, and Cross-border supply of services incidental to manufacturing, with the exception of advisory and consulting services relating to these sectors.

(d) Maintenance and repair of vessels, rail transport equipment and aircraft and parts thereof (part of CPC 86764, CPC 86769, CPC 8868)

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In the EU, with the exception of DE, EE and HU: Cross-border supply of maintenance and repair services of rail transport equipment.

In the EU, with the exception of CZ, EE, HU, LU and SK: Cross-border supply of maintenance and repair services of inland waterway transport vessels.

In the EU, with the exception of EE, HU and LV: Cross-border supply of maintenance and repair services of maritime vessels.

In the EU, with the exception of AT, EE, HU, LV, and PL: Cross-border supply of maintenance and repair services of aircraft and parts thereof (part of CPC 86764, CPC 86769, CPC 8868).

In the EU: Cross-border supply of services of statutory surveys and certification of ships.

Existing measures:

EU: Regulation (EC) No 391/2009 of the European Parliament and of the Council[1].

(e) Other business services related to aviation

With respect to Investment liberalisation – Most-favoured-nation treatment and Cross-border trade in services – Most-favoured-nation treatment:

In the EU: According differential treatment to a third country pursuant to an existing or future bilateral agreement relating to:

(a) the selling and marketing of air transport services;

[1] Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ EU L 131, 28.5.2009, p. 11).

(b) computer reservation system (CRS) services;

(c) maintenance and repair of aircraft and parts; or

(d) rental or leasing of aircraft without crew.

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

In DE, FR: Aerial fire-fighting, flight training, spraying, surveying, mapping, photography, and other airborne agricultural, industrial and inspection services.

In FI, SE: Aerial fire-fighting.

Reservation No. 11 – Telecommunication

Sector:	Satellite broadcast transmission services
Obligations concerned:	Market access
	National treatment
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

In BE: Satellite broadcast transmission services.

Reservation No. 12 – Construction

Sector:	Construction services
Industry classification:	CPC 51
Obligations concerned:	Market access
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

In LT: The right to prepare design documentation for construction works of exceptional significance is only given to a design enterprise registered in Lithuania or a foreign design enterprise which has been approved by an institution authorised by the Government for those activities. The right to perform technical activities in the main areas of construction may be granted to a non-Lithuanian person who has been approved by an institution authorised by the Government of Lithuania.

Reservation No. 13 – Distribution services

Sector:	Distribution services
Industry classification:	CPC 62117, 62251, 8929, part of 62112, 62226, part of 631
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Performance requirements
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Distribution of pharmaceuticals

With respect to Cross-border trade in services – Local presence:

In BG: Cross-border wholesale distribution of pharmaceuticals (CPC 62251).

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

In FI: Distribution of pharmaceutical products (CPC 62117, 62251, 8929).

Existing measures:

BG: Law on Medicinal Products in Human Medicine; Law on Medical Devices.

FI: Lääkelaki (Medicine Act) (395/1987).

(b) Distribution of alcoholic beverages

In FI: Distribution of alcoholic beverages (part of CPC 62112, 62226, 63107, 8929).

Existing measures:

FI: Alkoholilaki (Alcohol Act) (1102/2017).

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In SE: Imposing a monopoly on retail sales of liquor, wine and beer (except non-alcoholic beer). Currently Systembolaget AB has such a governmental monopoly for retail sales of liquor, wine and beer (except non-alcoholic beer). Alcoholic beverages are beverages with an alcohol content over 2.25 % per volume. For beer, the limit is an alcohol content over 3.5 % per volume (part of CPC 631).

Existing measures:

SE: The Alcohol Act (2010:1622).

(c) Other distribution (part of CPC 621, CPC 62228, CPC 62251, CPC 62271, part of CPC 62272, CPC 62276, CPC 63108, part of CPC 6329)

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In BG: Wholesale distribution of chemical products, precious metals and stones, medical substances and products and objects for medical use; tobacco and tobacco products and alcoholic beverages.

Bulgaria reserves the right to adopt or maintain any measure with respect to services provided by commodity brokers.

Existing measures:

BG: Law on Medicinal Products in Human Medicine;

Law on Medical Devices;

Law of Veterinary Activity;

Law for Prohibition of Chemical Weapons and for Control over Toxic Chemical Substances and Their Precursors; and

Law for Tobacco and Tobacco Products. Law on excise duties and tax warehouses and Law on wine and spirits.

Reservation No. 14 – Education services

Sector:	Education services
Industry classification:	CPC 92
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Performance requirements
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors, and Cross-border trade in services – Market access, National treatment, Local presence:

In the EU: Educational services which receive public funding or State support in any form. Where the supply of privately funded education services by a foreign provider is permitted, participation of private operators in the education system may be subject to a concession allocated on a non-discriminatory basis.

In AT, BE, BG, CY, EL, ES and SI: With respect to the supply of privately funded other education services, which means other than those classified as being primary, secondary, higher and adult education services (CPC 929).

In CY, FI, MT and RO: The supply of privately funded primary, secondary, and adult education services (CPC 921, 922).

In AT, BG, CY, FI, MT and RO: The supply of privately funded higher education services (CPC 923).

In CY: The supply of adult education services (CPC 924).

In FI: The supply of adult education services and other education services, other than privately funded English language tuition services (part of CPC 924 and 929).

In CZ and SK: The majority of the members of the board of directors of an establishment providing privately funded education services must be nationals of that country (CPC 921, 922, 923 for SK other than 92310, 924).

In SI: Privately funded elementary schools may be founded by Slovenian persons only. The service supplier must establish a registered office or a branch. The majority of the members of the board of directors of an establishment providing privately funded secondary or higher education services must be Slovenian nationals (CPC 922, 923).

In SE: Educational services suppliers that are approved by public authorities to provide education. This reservation applies to privately funded educational services suppliers with some form of State support, including educational service suppliers recognised by the State, educational services suppliers under State supervision or education which entitles to study support (CPC 92).

In SK: EEA residency is required for suppliers of all privately funded education services other than post-secondary technical and vocational education services. An economic needs test may apply and the number of schools being established may be limited by local authorities (CPC 921, 922, 923 other than 92310, 924).

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In BG, IT and SI: To restrict the Cross-border supply of privately funded primary education services (CPC 921).

In BG and IT: To restrict the Cross-border supply of privately funded secondary education services (CPC 922).

In AT: To restrict the Cross-border supply of privately funded adult education services by means of radio or television broadcasting (CPC 924).

Existing measures:

BG: Pre-school and School Education Act;

The Higher Education Act, Paragraph 4 of the additional provisions; and

Article 22, Vocational Education and Training Act.

FI: Perusopetuslaki (Basic Education Act) (628/1998);

Lukiolaki (General Upper Secondary Schools Act) (629/1998);

Laki ammatillisesta koulutuksesta (Vocational Training and Education Act) (630/1998);

Laki ammatillisesta aikuiskoulutuksesta (Vocational Adult Education Act) (631/1998); and

Ammattikorkeakoululaki (Polytechnics Act) (351/2003); and Yliopistolaki (Universities Act) (558/2009).

IT: Royal Decree 1592/1933 (Law on secondary education);

Law 243/1991 (Occasional public contribution for private universities);

Resolution 20/2003 of CNVSU (Comitato nazionale per la valutazione del sistema universitario); and

Decree of the President of the Republic (DPR) 25/1998.

SK: Act 245/2008 on education;

Act 131/2002 on Universities; and

Act 596/2003 on State Administration in Education and School Self-Administration.

Reservation No. 15 – Environmental services

Sector:	Environmental services: waste and soil management
Industry classification:	CPC 9401, 9402, 9403, 94060
Obligations concerned:	Market access
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

In DE: The supply of waste management services other than advisory services, and with respect to services relating to the protection of soil and the management of contaminated soils, other than advisory services.

Reservation No. 16 – Financial services

Sector:	Financial services
Industry classification:	Not applicable
Obligations concerned:	Market access
	National treatment
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) All financial services

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In the EU: the right to adopt or maintain any measure with respect to the Cross-border supply of all financial services other than:

In the EU (except for BE, CY, EE, LT, LV, MT, PL, RO and SI):

(a) direct insurance services (including co-insurance) and direct insurance intermediation for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance;

(d) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(e) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In BE:

(a) direct insurance services (including co-insurance) and direct insurance intermediation for insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance; and

(d) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

In CY:

(a) direct insurance services (including co-insurance) for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) insurance intermediation;

(c) reinsurance and retrocession;

(d) services auxiliary to insurance;

(e) the trading for own account or for the account of customers, whether on an exchange or an over-the-counter market or otherwise of transferrable securities;

(f) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(g) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In EE:

(a) direct insurance (including co-insurance);

(b) reinsurance and retrocession;

(c) insurance intermediation;

(d) services auxiliary to insurance

(e) acceptance of deposits;

(f) lending of all types;

(g) financial leasing;

(h) all payment and money transmission services; guarantees and commitments;

(i) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market;

(j) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(k) money broking;

(l) asset management, such as cash or portfolio management, all forms of collective investment management, custodial, depository and trust services;

(m) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(n) provision and transfer of financial information, and financial data processing and related software; and

(o) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In LT:

(a) direct insurance services (including co-insurance) for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance;

(d) acceptance of deposits;

(e) lending of all types;

(f) financial leasing;

(g) all payment and money transmission services; guarantees and commitments;

(h) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market;

(i) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(j) money broking;

(k) asset management, such as cash or portfolio management, all forms of collective investment management, custodial, depository and trust services;

(l) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(m) provision and transfer of financial information, and financial data processing and related software; and

(n) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In LV:

(a) direct insurance services (including co-insurance) for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance;

(d) participation in issues of all kinds of securities, including underwriting and placement as an agent (whether publicly or privately) and provision of services related to such issues;

(e) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(f) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In MT:

(a) direct insurance services (including co-insurance) for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance;

(d) the acceptance of deposits;

(e) lending of all types;

(f) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(g) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In PL:

(a) direct insurance services (including co-insurance) for the insurance of risks relating to goods in international trade;

(b) reinsurance and retrocession of risks relating to goods in international trade;

(c) direct insurance services (including co-insurance and retrocession) and direct insurance intermediation for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(d) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(e) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In RO:

(a) direct insurance services (including co-insurance) and direct insurance intermediation for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance;

(d) acceptance of deposits;

(e) lending of all types;

(f) guarantees and commitments;

(g) money broking;

(h) the provision and transfer of financial information, and financial data processing and related software; and

(i) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

In SI:

(a) direct insurance services (including co-insurance) and direct insurance intermediation for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance;

(d) lending of all types;

(e) the acceptance of guarantees and commitments from foreign credit institutions by domestic legal entities and sole proprietors;

(f) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(g) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

(b) Insurance and insurance-related services

With respect to Cross-border trade in services – Market access, National treatment:

In BG: Transport insurance, covering goods, insurance of vehicles as such and liability insurance regarding risks located in Bulgaria may not be underwritten by foreign insurance companies directly.

In DE: If a foreign insurance company has established a branch in Germany, it may conclude insurance contracts in Germany relating to international transport only through the branch established in Germany.

Existing measures:

DE: Luftverkehrsgesetz (LuftVG); and

Luftverkehrszulassungsordnung (LuftVZO).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In ES: Residence is required, or alternatively to have two years of experience, for the actuarial profession.

With respect to Cross-border trade in services – Local presence:

In FI: The supply of insurance broker services is subject to having a permanent place of business in the Union.

Only insurers having their head office in the Union or having a branch in Finland may offer direct insurance services, including co-insurance.

Existing measures:

FI: Laki ulkomaisista vakuutusyhtiöistä (Act on Foreign Insurance Companies) (398/1995);

Vakuutusyhtiölaki (Insurance Companies Act) (521/2008); and

Laki vakuutusten tarjoamisesta (Act on Insurance Distribution) (234/2018).

In FR: Insurance of risks relating to ground transport may be underwritten only by insurance firms established in the Union.

Existing measures:

FR: Code des assurances.

In HU: Only juridical persons of the Union and branches registered in Hungary may supply direct insurance services.

Existing measures:

HU: Act LX of 2003.

In IT: Transport insurance of goods, insurance of vehicles and liability insurance regarding risks located in Italy may be underwritten only by insurance companies established in the European Union, except for international transport involving imports into Italy. Cross-border supply of actuarial services.

Existing measures:

IT: Article 29 of the code of private insurance (Legislative decree No. 209 of 7 September 2005), Law 194/1942 on the actuarial profession.

In PT: Air and maritime transport insurance, covering goods, aircraft, hull and liability may be underwritten only by enterprises of the Union. Only natural persons of, or enterprises established in, the Union may act as intermediaries for such insurance businesses in Portugal.

Existing measures:

PT: Article 3 of Law 147/2015, Article 8 of Law 7/2019.

With respect to Investment liberalisation – Market access, National treatment:

In SK: Foreign nationals may establish an insurance company in the form of a joint stock company or may conduct insurance business through their branches having a registered office in the Slovak Republic. Authorisation in both cases is subject to evaluation of the supervisory authority.

Existing measures:

SK: Act 39/2015 on Insurance.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access:

In FI: At least one half of the members of the board of directors and the supervisory board, and the managing director of an insurance company providing statutory pension insurance shall have their place of residence in the EEA, unless the competent authorities have granted an exemption. Foreign insurers may not obtain a licence in Finland as a branch to carry out statutory pension insurance. At least one auditor shall have his permanent residence in the EEA.

For other insurance companies, residency in the EEA is required for at least one member of the board of directors, the supervisory board and the managing director. At least one auditor shall have his permanent residence in the EEA. A general agent of an insurance company of New Zealand must have their place of residence in Finland, unless the company has its head office in the Union.

Existing measures:

FI: Laki ulkomaisista vakuutusyhtiöistä (Act on Foreign Insurance Companies) (398/1995); Vakuutusyhtiölaki (Insurance Companies Act) (521/2008);

Laki vakuutusedustuksesta (Act on Insurance Mediation) (570/2005);

Laki vakuutusten tarjoamisesta (Act on Insurance Distribution) (234/2018); and

Laki työeläkevakuutusyhtiöistä (Act on Companies providing statutory pension insurance) (354/1997).

(c) Banking and other financial services

With respect to Investment liberalisation – Market access and Cross-border trade in services – Local presence:

In the EU: Only juridical persons having their registered office in the Union can act as depositories of the assets of investment funds. The establishment of a specialised management company, having its head office and registered office in the same Member State, is required to perform the activities of management of common funds, including unit trusts, and, where allowed under national law, investment companies.

Existing measures:

EU:

Directive 2009/65/EC of the European Parliament and of the Council[1]; and

Directive 2011/61/EU of the European Parliament and of the Council[2].

[1] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ EU L 302, 17.11.2009, p. 32).

[2] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ EU L 174, 1.7.2011, p. 1).

In EE: For acceptance of deposits, requirement of authorisation by the Estonian Financial Supervision Authority and registration under Estonian law as a joint-stock company, a subsidiary or a branch.

Existing measures:

EE: Krediidiasutuste seadus (Credit Institutions Act) § 206 and §21.

In SK: Investment services may only be provided by management companies which have the legal form of a joint-stock company with equity capital according to the law.

Existing measures:

SK: Act 566/2001 on Securities and Investment Services; and

Act 483/2001 on Banks.

With respect to Investment liberalisation – National treatment, Senior management and boards of directors

In FI: At least one of the founders, the members of the board of directors, the supervisory board, the managing director of banking services providers and the person entitled to sign the name of the credit institution shall have their permanent residence in the EEA. At least one auditor shall have his permanent residence in the EEA.

Existing measures:

FI: Laki liikepankeista ja muista osakeyhtiömuotoisista luottolaitoksista (Act on Commercial Banks and Other Credit Institutions in the Form of a Limited Company) (1501/2001);

Säästöpankkilaki (1502/2001) (Savings Bank Act);

Laki osuuspankeista ja muista osuuskuntamuotoisista luottolaitoksista (1504/2001) (Act on Cooperative Banks and Other Credit Institutions in the Form of a Cooperative Bank);

Laki hypoteekkiyhdistyksistä (936/1978) (Act on Mortgage Societies);

Maksulaitoslaki (297/2010) (Act on Payment Institutions);

Laki ulkomaisen maksulaitoksen toiminnasta Suomessa (298/2010) (Act on the Operation of Foreign Payment Institution in Finland); and

Laki luottolaitostoiminnasta (Act on Credit Institutions) (121/2007).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Local presence:

In IT: Services of "consulenti finanziari" (financial consultant). In providing the activity of door-to-door selling, intermediaries must utilise authorised financial sales persons resident within the territory of a Member State.

Existing measures:

IT: Articles 91-111 of Consob Regulation on Intermediaries (No. 16190 of 29 October 2007).

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Local presence:

In LT: Only banks having a registered office or branch in Lithuania and authorised to provide investment services in the EEA may act as a depository of the assets of a pension fund. At least one head of a bank's administration must speak the Lithuanian language.

Existing measures:

LT: Law on Banks of the Republic of Lithuania of 30 March 2004 No IX-2085, as amended by the Law No XIII-729 of 16 November 2017;

Law on Collective Investment Undertakings of the Republic of Lithuania of 4 July 2003 No IX-1709, as amended by the Law No XIII-1872 of 20 December 2018;

Law on Supplementary Voluntary Pension Accumulation of the Republic of Lithuania of 3 June 1999 No VIII-1212 (as revised in Law No XII-70 of 20 December 2012);

Law on Payments of the Republic of Lithuania of 5 June 2003 No. IX-1596, last amendment 17 of October 2019 Nr. XIII-2488; and

Law on Payment Institutions of the Republic of Lithuania of 10 December 2009 No. XI-549 (new version of the Law: No XIII-1093 of 17 April 2018).

With respect to Cross-border trade in services – Market access:

In FI: For payment services, residency or domicile in Finland may be required.

Reservation No. 17 – Health and social services

Sector:	Health and social services
Industry classification:	CPC 93, 931, other than 9312, part of 93191, 9311, 93192, 93193, 93199
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Senior management and boards of directors
	Performance requirements
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Health services – hospital, ambulance, residential health services (CPC 93, 931, other than 9312, part of 93191, 9311, 93192, 93193, 93199)

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors:

The EU: For the supply of all health services which receive public funding or State support in any form.

The EU: For all privately funded health services, other than privately funded hospital, ambulance, and residential health facilities services other than hospital services. The participation of private operators in the privately funded health network may be subject to concession on a non-discriminatory basis. An economic needs test may apply. Main criteria: number of and impact on existing establishments, transport infrastructure, population density, geographic spread, and creation of new employment.

This reservation does not relate to the supply of all health-related professional services, including services supplied by professionals such as medical doctors, dentists, midwives, nurses, physiotherapists, paramedics, and psychologists, which are covered by other reservations (CPC 931 other than 9312, part of 93191).

In AT, PL and SI: The supply of privately funded ambulance services (CPC 93192).

In BE: The establishment of privately funded ambulance and residential health facilities services other than hospital services (CPC 93192, 93193).

In BG, CY, CZ, FI, MT and SK: The supply of privately funded hospital, ambulance, and residential health services other than hospital services (CPC 9311, 93192, 93193).

In FI: The supply of other human health services (CPC 93199).

Existing measures:

CZ: Act No. 372/2011 Coll. on Health Care Services and Conditions of Their Provision.

FI: Laki yksityisestä terveydenhuollosta (Act on Private Health Care) (152/1990).

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment, Senior management and boards of directors, Performance requirements:

In DE: The supply of the Social Security System of Germany, where services may be provided by different companies or entities involving competitive elements which are thus not "Services carried out exclusively in the exercise of governmental authority". To accord better treatment in the context of a bilateral trade agreement with regard to the supply of health and social services (CPC 93).

With respect to Investment liberalisation – Market access, National treatment:

In DE: The ownership of hospitals run by the German Forces.

To nationalise other key privately funded hospitals (CPC 93110).

In FR: To the supply of privately funded laboratory analysis and testing services.

With respect to Cross-border trade in services – Market access, National treatment:

In FR: The supply of privately funded laboratory analysis and testing services (part of CPC 9311).

Existing measures:

FR: Code de la Santé Publique.

(b) Health and social services, including pension insurance

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In the EU, with the exception of HU: The Cross-border supply of health services, social services, and activities or services forming part of a public retirement plan or statutory system of social security. This reservation does not relate to the supply of all health-related professional services, including the services provided by professionals such as medical doctors, dentists, midwives, nurses, physiotherapists, paramedics, and psychologists, which are covered by other reservations (CPC 931 other than 9312, part of 93191).

In HU: The Cross-border supply of all hospital, ambulance, and residential health services other than hospital services, which receive public funding (CPC 9311, 93192, 93193).

(c) Social services, including pension insurance

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements:

In the EU: The supply of all social services which receive public funding or State support in any form, and activities or services forming part of a public retirement plan or statutory system of social security. The participation of private operators in the privately funded social network may be subject to obtaining a concession on a non-discriminatory basis. An economic needs test may apply. Main criteria: number of and impact on existing establishments, transport infrastructure, population density, geographic spread, and creation of new employment.

In BE, CY, DE, DK, EL, ES, FR, IE, IT and PT: The supply of privately funded social services other than services relating to convalescent and rest houses and old people's homes.

In CZ, FI, HU, MT, PL, RO, SK, and SI: The supply of privately funded social services.

In DE: The Social Security System of Germany, where services are provided by different companies or entities involving competitive elements and might therefore not fall under the definition of the "Services carried out exclusively in the exercise of governmental authority".

Existing measures:

FI: Laki yksityisistä sosiaalipalveluista (Private Social Services Act) (922/2011).

IE: Health Act 2004 (S. 39); and

Health Act 1970 (as amended –S.61A).

IT: Law 833/1978 Institution of the public health system; and

Legislative Decree 502/1992 Organisation and discipline of the health field; and Law 328/2000 Reform of social services.

Reservation No. 18 – Tourism and travel-related services

Sector:	Tourist guides services, health and social services
Industry classification:	CPC 7472
Obligations concerned:	National treatment
	Most-favoured-nation treatment
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

With respect to Investment liberalisation – National treatment and Cross-border trade in services – National treatment:

In FR: To require nationality of a Member State for the supply of tourist guide services.

With respect to Investment liberalisation – Most-favoured-nation treatment and Cross-border trade in services – Most-favoured-nation treatment:

In LT: In so far as New Zealand allows nationals of Lithuania to provide tourist guide services, Lithuania will allow nationals of New Zealand to provide tourist guide services under the same conditions.

Reservation No. 19 – Recreational, cultural and sporting services

Sector:	Recreational, cultural and sporting services
Industry classification:	CPC 962, 963, 9619, 964
	Obligations concerned: Market access
	National treatment
	Senior management and boards of directors
	Performance requirements
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Libraries, archives, museums and other cultural services (CPC963)

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors, and Cross-border trade in services – Market access, National treatment, Local presence:

In the EU, with the exception of AT and, for investment liberalisation, in LT: The supply of library, archive, museum and other cultural services.

In AT and LT: A licence or concession may be required for establishment.
Entertainment services, theatre, live bands and circus services (CPC 9619, 964 other than 96492).

(b) With respect to Cross-border trade in services – Market access, National treatment:

In the EU, with the exception of AT and SE: The Cross-border supply of entertainment services, including theatre, live bands, circus and discotheque services.

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of director, and Cross-border trade in services – Market access, National treatment, Local presence:

In CY, CZ, FI, MT, PL, RO, SI and SK: With respect to the supply of entertainment services, including theatre, live bands, circus and discotheque services.

In BG: The supply of the following entertainment services: circus, amusement park and similar attraction services, ballroom, discotheque and dance instructor services, and other entertainment services.

In EE: The supply of other entertainment services except for cinema theatre services.

In LT and LV: The supply of all entertainment services other than cinema theatre operation services.

In CY, CZ, LV, PL, RO and SK: The Cross-border supply of sporting and other recreational services.

(c) News and press agencies (CPC 962)

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment:

In FR: Foreign participation in existing companies publishing publications in the French language may not exceed 20 % of the capital or of voting rights in the company. The establishment of press agencies of New Zealand is subject to conditions set out in domestic regulation. The establishment of press agencies by foreign investors is subject to reciprocity.

Existing measures:

FR: Ordonnance n° 45-2646 du 2 novembre 1945 portant règlementation provisoire des agences de presse; and Loi n° 86-897 du 1 août 1986 portant réforme du régime juridique de la presse.

With respect to Cross-border trade in services – Market access:

In HU: The supply of news and press agencies services.

(d) Gambling and betting services (CPC 96492)

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors, and Cross-border trade in services – Market access, National treatment, Local presence:

The EU: The supply of gambling activities, which involve wagering a stake with pecuniary value in games of chance, including in particular lotteries, scratch cards, gambling services offered in casinos, gambling arcades or licensed premises, betting services, bingo services and gambling services operated by and for the benefit of charities or non-profit-making organisations.

Reservation No. 20 – Transport services and auxiliary transport services

Sector:	Transport services
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Maritime transport – any other commercial activity undertaken from a ship

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment:

The EU: The nationality of the crew on a seagoing or non-seagoing vessel.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment, Senior management and boards of directors:

In the EU, except LV and MT: Only Union natural or juridical persons may register a vessel and operate a fleet under the national flag of the state of establishment (applies to all commercial marine activity undertaken from a seagoing ship, including fishing, aquaculture, and services incidental to fishing; international passenger and freight transportation (CPC 721); and services auxiliary to maritime transport).

The EU: For feeder services for the part of these services which does not fall under the exclusion of national maritime cabotage.

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In MT: Exclusive rights exist for the maritime link to mainland Europe through Italy with Malta (CPC 7213, 7214, part of 742, 745, part of 749).

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In SK: Foreign investors must have their principal office in the Slovak Republic in order to apply for a licence enabling them to provide a service (CPC 722).

(b) Auxiliary services to maritime transport

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

The EU: The supply of pilotage and berthing services. For greater certainty, regardless of the criteria which may apply to the registration of ships in a Member State, the Union reserves the right to require that only ships registered on the national registers of Member States may provide pilotage and berthing services (CPC 7452).

In the EU, with the exception of LT and LV: Only vessels carrying the flag of a Member State may provide pushing and towing services (CPC 7214).

With respect to Investment liberalisation – Market access and Cross-border trade in services – National treatment, Local presence:

In LT: Only juridical persons of Lithuania or juridical persons of a Member State with branches in Lithuania that have a Certificate issued by the Lithuanian Maritime Safety Administration may provide pilotage and berthing, pushing and towing services (CPC 7214, 7452).

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access, National treatment, Local presence:

In BE: Cargo handling services may only be operated by accredited workers, eligible to work in port areas designated by royal decree (CPC 741).

Existing measures:

BE: Loi du 8 juin 1972 organisant le travail portuaire;

Arrêté royal du 12 janvier 1973 instituant une Commission paritaire des ports et fixant sa dénomination et sa compétence;

Arrêté royal du 4 septembre 1985 portant agrément d'une organisation d'employeur (Anvers);

Arrêté royal du 29 janvier 1986 portant agrément d'une organisation d'employeur (Gand);

Arrêté royal du 10 juillet 1986 portant agrément d'une organisation d'employeur (Zeebrugge);

Arrêté royal du 1er mars 1989 portant agrément d'une organisation d'employeur (Ostende); and

Arrêté royal du 5 juillet 2004 relatif à la reconnaissance des ouvriers portuaires dans les zones portuaires tombant dans le champ d'application de la loi du 8 juin 1972 organisant le travail portuaire, tel que modifié.

(c) Inland waterways transport and auxiliary services to inland waterways transport

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment, Local presence, Most favoured-nation treatment:

The EU: Inland waterways passenger and freight transportation (CPC 722) and services auxiliary to inland waterways transportation.

For greater certainty, this reservation also covers the supply of cabotage transport on inland waterways (CPC 722).

(d) Rail transport and auxiliary services to rail transport

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment, Local presence:

In the EU: Railway passenger and freight transportation (CPC 711).

In LT: Maintenance and repair services of rail transport equipment are subject to a state monopoly (CPC 86764, 86769, part of 8868).

In SE (with respect only to market access): Maintenance and repair services of rail transport equipment are subject to an economic needs test when an investor intends to establish its own terminal infrastructure facilities. Main criteria: space and capacity constraints (CPC 86764, 86769, part of 8868).

Existing measures:

SE: Planning and Building Act (2010:900).

(e) Road transport (passenger transportation, freight transportation, international truck transport services) and services auxiliary to road transport

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

The EU:

(i) to require establishment and to limit the Cross-border supply of road transport services (CPC 712);

(ii) to limit the supply of cabotage within a Member State by foreign investors established in another Member State (CPC 712);

(iii) an economic needs test may apply to taxi services in the Union setting a limit on the number of service suppliers. Main criteria: Local demand as provided in applicable laws (CPC 71221).

Existing measures:

EU: Regulation (EC) No 1071/2009 of the European Parliament and of the Council[1];

Regulation (EC) No 1072/2009 of the European Parliament and of the Council[2]; and

Regulation (EC) No 1073/2009 of the European Parliament and of the Council[3].

With respect to Investment liberalisation – Market access:

In BE: A maximum number of licences can be fixed by law (CPC 71221).

In IT: An economic needs test is applied to limousine services. Main criteria: number of and impact on existing establishments, population density, geographical spread, impact on traffic conditions and creation of new employment.

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1 Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ EU L 300, 14.11.2009, p. 51).

2 Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ EU L 300, 14.11.2009, p. 72).

3 Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ EUL 300, 14.11.2009, p. 88).

An economic needs test is applied to intercity bussing services. Main criteria: number of and impact on existing establishments, population density, geographical spread, impact on traffic conditions and creation of new employment.

An economic needs test is applied to the supply of freight transportation services. Main criteria: local demand (CPC 712).

In PT: For passenger transportation, an economic needs test is applied to the supply of limousine services. Main criteria: number of and impact on existing establishments, population density, geographical spread, impact on traffic conditions and creation of new employment (CPC 712).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment, Local presence:

In BG, DE: For passenger and freight transportation, exclusive rights or authorisations may only be granted to natural persons of the Union and to juridical persons of the Union having their headquarters in the Union. Incorporation is required. Condition of nationality of a Member State for natural persons (CPC 712).

In MT: For public bus services: The entire network is subject to a concession which includes a public service obligation agreement to cater for certain social sectors (such as students and the elderly) (CPC 712).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In FI: Authorisation is required to provide road transport services, which is not extended to foreign registered vehicles (CPC 712).

With respect to Investment liberalisation – Market access, National treatment:

In FR: The supply of intercity bussing services (CPC 712).

With respect to Investment liberalisation – Market access:

In ES: For passenger transportation, an economic needs test applies to services provided under CPC 7122. Main criteria: local demand. An economic needs test applies for intercity bussing services. Main criteria: number of and impact on existing establishments, population density, geographical spread, impact on traffic conditions and creation of new employment.

In SE: Maintenance and repair services of road transport equipment are subject to an economic needs test when a supplier intends to establish its own terminal infrastructure facilities. Main criteria: space and capacity constraints (CPC 6112, 6122, 86764, 86769, part of 8867).

In SK: For freight transportation, an economic needs test is applied. Main criteria: local demand (CPC 712).

With respect to Cross-border trade in services – Market access:

In BG: To require establishment for supporting services to road transport (CPC 744).

Existing measures:

EU: Regulation (EC) No 1071/2009;

Regulation (EC) No 1072/2009; and

Regulation (EC) No 1073/2009.

FI: Laki kaupallisista tavarankuljetuksista tiellä (Act on Commercial Road Transport) 693/2006;

Laki liikenteen palveluista (Act on Transport Services) 320/2017; and

Ajoneuvolaki (Vehicles Act) 1090/2002.

IT: Legislative decree 285/1992 (Road Code and subsequent amendments) article 85;

Legislative Decree 395/2000 article 8 (Road transport of passengers);

Law 21/1992 (Framework law on non-scheduled public road transport of passengers);

Law 218/2003 article 1 (Transport of passenger through rented buses with driver); and

Law 151/1981 (Framework law on public local transport).

SE: Planning and Building Act (2010:900).

(f) Space transport and rental of space craft

With respect to Investment liberalisation – Market access, National treatment, Performance requirements, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

The EU: The supply of space transport services and the supply of rental of space craft services (CPC 733, part of 734).

(g) Most-favoured-nation exemptions

With respect to Investment liberalisation – Most-favoured-nation treatment and Cross-border trade in services – Most-favoured-nation treatment:

(i) Transport (cabotage) other than maritime transport

In FI: According differential treatment to a country pursuant to existing or future bilateral agreements exempting vessels registered under the foreign flag of a specified other country or foreign registered vehicles from the general prohibition from providing cabotage transport (including combined transport, road and rail) in Finland on the basis of reciprocity (part of CPC 711, part of 712, part of 722).

(ii) Supporting services for maritime transport

In BG: In so far as New Zealand allows service suppliers from Bulgaria to supply cargo-handling services and storage and warehouse services in sea and river harbours, including services relating to containers and goods in containers, Bulgaria will allow service suppliers from New Zealand to supply cargo-handling services and storage and warehouse services in sea and river harbours, including services relating to containers and goods in containers under the same conditions (part of CPC 741, part of 742).

(iii) Rental or leasing of vessels

In DE: Chartering-in of foreign ships by consumers resident in Germany may be subject to a condition of reciprocity (CPC 7213, 7223, 83103).

(iv) Road and rail transport

The EU: To accord differential treatment to a country pursuant to an existing or future bilateral agreement relating to international road haulage (including combined transport – road or rail) and passenger transport, concluded between the Union or the Member States and a third country (CPC 7111, 7112, 7121, 7122, 7123). That treatment may:

(A) reserve or limit the supply of the relevant transport services between the contracting Parties or across the territory of the contracting Parties to vehicles registered in each contracting Party[1]; or

(B) provide for tax exemptions for such vehicles.

(v) Road transport

In BG: Measures taken under an existing or future agreement, which reserve or restrict the supply of these kinds of transportation services and specify the terms and conditions of this supply, including transit permits or preferential road taxes, in the territory of Bulgaria or across the borders of Bulgaria (CPC 7121, 7122, 7123).

[1] With regard to Austria the part of the most-favoured-nation treatment exemption regarding traffic rights covers all countries with whom bilateral agreements on road transport or other arrangements relating to road transport exist or may be considered in future.

In CZ: Measures taken under an existing or future agreement, and which reserve or limit the supply of transport services and specify operating conditions, including transit permits or preferential road taxes of transport services into, in, across and out of the Czechia to the contracting parties concerned (CPC 7121, 7122, 7123).

In ES: Authorisation for the establishment of a commercial presence in Spain may be refused to a service supplier whose country of origin does not accord effective market access to service suppliers of Spain (CPC 7123).

Existing measures:

ES: Ley 16/1987, de 30 de julio, de Ordenación de los Transportes Terrestres.

In HR: Measures applied under an existing or future agreement on international road transport and which reserve or limit the supply of transport services and specify operating conditions, including transit permits or preferential road taxes of transport services into, in, across and out of Croatia to the parties concerned (CPC 7121, 7122, 7123).

In LT: Measures taken under a bilateral agreement and which set the provisions for transport services and specify operating conditions, including bilateral transit and other transport permits for transport services into, through and out of the territory of Lithuania to the contracting parties concerned, and road taxes and levies (CPC 7121, 7122, 7123).

In SK: Measures taken under an existing or future agreement, and which reserve or limit the supply of transport services and specify operating conditions, including transit permits or preferential road taxes of transport services into, in, across and out of the Slovak Republic to the contracting parties concerned (CPC 7121, 7122, 7123).

(i) Rail transport

In BG, CZ and SK: For existing or future agreements, and which regulate traffic rights and operating conditions, and the supply of transport services in the territory of Bulgaria, the Czechia and Slovakia and between the countries concerned. (CPC 7111, 7112).

(ii) Air transport – Services auxiliary to air transport

The EU: According differential treatment to a third country pursuant to an existing or future bilateral agreement relating to ground-handling services.

(iii) Road and rail transport

In EE: when according differential treatment to a country pursuant to an existing or future bilateral agreement on international road transport (including combined transport-road or rail), reserving or limiting the supply of a transport services into, in, across and out of Estonia to the contracting Parties to vehicles registered in each contracting Party, and providing for tax exemption for such vehicles (part of CPC 711, part of 712, part of 721).

(iv) All passenger and freight transport services other than maritime and air transport

In PL: In so far as New Zealand allows the supply of transport services into and across the territory of New Zealand by passenger and freight transport suppliers of Poland, Poland will allow the supply of transport services by passenger and freight transport suppliers of New Zealand into and across the territory of Poland under the same conditions.

Reservation No. 21 – Agriculture, fishing and water

Sector:	Agriculture, hunting, forestry; fishing, aquaculture, services incidental to fishing; collection, purification and distribution of water
Industry classification:	ISIC Rev. 3.1 011, ISIC Rev. 3.1 012, ISIC Rev. 3.1 013, ISIC Rev. 3.1 014, ISIC Rev. 3.1 015, CPC 8811, 8812, 8813 other than advisory and consultancy services; ISIC Rev. 3.1 0501, 0502, CPC 882
Obligations concerned:	Market access
	National treatment
	Most-favoured-nation treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Agriculture, hunting and forestry

With respect to Investment liberalisation – Market access, National treatment:

In BG: Business activities pertinent to the stewardship of wooded areas, timber harvesting, inventorying of wooded areas, the development of plans and programmes for management and spatial development of wooded areas, as well as the issuance of the relevant documents, shall be carried out by merchant entities listed in a public register with the Executive Forest Agency and holding a certificate of registration.

Existing measures:

BG: Article 241, Law on Forests; and

Article 25, 36 and 36 (a) of Law on Hunting and Game Protection.

In HR: Agricultural and hunting activities.

In HU: Agricultural activities (ISIC Rev. 3.1 011, 3.1 012, 3.1 013, 3.1 014, 3.1 015, CPC 8811, 8812, 8813 other than advisory and consultancy services).

Existing measures:

HR: Agricultural Land Act (OG 20/18, 115/18, 98/19).

(b) Fishing, aquaculture and services incidental to fishing (ISIC Rev. 3.1 0501, 0502, CPC 882)

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements, Most-favoured-nation treatment and Cross-border trade in services – Market access, National treatment, Local presence, Most-favoured-nation treatment:

The EU:

1. In particular within the framework of the Common Fisheries Policy, and of fishing agreements with a third country, access to and use of the biological resources and fishing grounds situated in maritime waters coming under the sovereignty or the jurisdiction of a Member State or entitlements for fishing under a Member State fishing licence, including:

   (a) regulating the landing of catches by vessels flying the flag of New Zealand or a third country with respect to the quotas allocated to them or, only with respect to vessels flying the flag of a Member State, requiring that a proportion of the total catch is landed in Union ports;

   (b) determining a minimum size for a company in order to preserve both artisanal and coastal fishing vessels;

   (c) according differential treatment pursuant to an existing or future bilateral agreement relating to fisheries; and

   (d) requiring the crew of a vessel flying the flag of a Member State to be nationals of Member States.

2. A fishing vessel is only entitled to fly the flag of a Member State if:

(a) it is wholly owned by:

(i) a company incorporated in the Union; or

(ii) a Member State national;

(b) its day-to-day operations are directed and controlled from within the Union; and

(c) any charterer, manager or operator of the vessel is a company incorporated in the Union or a national of a Member State.

3. A commercial fishing licence granting the right to fish in the territorial waters of a Member State may only be granted to vessels flying the flag of a Member State.

4. The establishment of marine or inland aquaculture facilities.

5. Points (a), (b), (c) (other than with respect to most-favoured-nation treatment) and (d) of paragraph 1; point (a)(i), point (b) and (c) of paragraph 2, and paragraph 3 only apply to measures which are applicable to vessels or to enterprises irrespective of the nationality of their beneficial owners.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured nation treatment and Cross-border trade in services – Market access, National treatment:

In BG: Only vessels flying the flag of Bulgaria may take marine or river-living biological resources in the internal marine waters and the territorial sea of Bulgaria. A foreign ship (third-country vessel) may not engage in commercial fishing in the exclusive economic zone of Bulgaria except on the basis of an agreement between Bulgaria and the flag state. While passing through the exclusive economic zone, foreign fishing ships may not maintain their fishing gear in operational mode.

Existing measures:

BG: Article 49, Law on the maritime spaces, inland waterways and ports of the Republic of Bulgaria.

In FR: Nationals of non-Union countries may not farm fish, shellfish or algae on French maritime State property.

(c) Collection, purification and distribution of water

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment, Local presence:

The EU: For activities, including services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the supply of drinking water and water management.

Reservation No. 22 – Mining and energy-related activities

Sector:	Mining and quarrying – energy producing materials; mining and quarrying – metal ores and other mining; Energy-related activities – production, transmission and distribution on own account of electricity, gas, steam and hot water; pipeline transportation of fuels; storage and warehouse of fuels transported through pipelines; and services incidental to energy distribution
Industry classification:	ISIC Rev. 3.1 10, 1110, 12, 120, 1200, 13, 14, 232, 233, 2330, 40, 401, 4010, 402, 4020, part of 4030, CPC 613, 62271, 63297, 7131, 71310, 742, 7422, part of 88, 887.
Obligations concerned:	Market access
	National treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Mining and Energy activities – general (ISIC Rev. 3.1 10, 1110, 13, 14, 232, 40, 401, 402, part of 403, 41; CPC 613, 62271, 63297, 7131, 742, 7422, 887 (other than advisory and consulting services))

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment, Local presence:

The EU: Where a Member State permits foreign ownership of a gas or electricity transmission system, or an oil and gas pipeline transport system, with respect to enterprises of New Zealand controlled by persons of a third country which accounts for more than 5 % of the Union's oil, natural gas or electricity imports, in order to guarantee the security of the energy supply of the Union as a whole, or of an individual Member State. This reservation does not apply to advisory and consultancy services provided as services incidental to energy distribution.

This reservation does not apply to HR, HU and LT (for LT, only CPC 7131) with regard to the pipeline transport of fuels, nor to LV with regard to services incidental to energy distribution, nor to SI with regard to services incidental to the distribution of gas (ISIC Rev. 3.1 401, 402, CPC 7131, 887 other than advisory and consultancy services).

In CY: For the manufacture of refined petroleum products in so far as the investor is controlled by a person of a third country which accounts for more than 5 % of the Union's oil or natural gas imports, as well as to the manufacture of gas, distribution of gaseous fuels through mains on own account, the production, transmission and distribution of electricity, the pipeline transportation of fuels, services incidental to electricity and natural gas distribution other than advisory and consulting services, wholesale services of electricity, retailing services of motor fuel, electricity and non-bottled gas (ISIC Rev. 3.1 232, 4010, 4020, CPC 613, 62271, 63297, 7131, and 887 other than advisory and consulting services).

In FI: Transmission and distribution networks and systems of energy and of steam and hot water. Quantitative restrictions in the form of monopolies or exclusive rights for the importation of natural gas, and for the production and distribution of steam and hot water. Currently, natural monopolies and exclusive rights exist (ISIC Rev. 3.1 40, CPC 7131, 887 other than advisory and consultancy services).

In FR: Electricity and gas transmission systems and oil and gas pipeline transport (CPC 7131).

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

In BE: Energy distribution services, and services incidental to energy distribution (CPC 887 other than consultancy services).

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – National treatment, Local presence:

In BE: For energy transmission services, regarding the types of legal entities and the treatment of public or private operators to whom Belgium has conferred exclusive rights. Establishment is required within the Union (ISIC Rev. 3.1 4010, CPC 71310).

In BG: For services incidental to energy distribution (part of CPC 88).

In PT: For the production, transmission and distribution of electricity, the manufacturing of gas, the pipeline transportation of fuels, wholesale services of electricity, retailing services of electricity and non-bottled gas, and services incidental to electricity and natural gas distribution. Concessions for electricity and gas sectors are assigned only to limited companies with their headquarters and effective management in Portugal (ISIC Rev. 3.1 232, 4010, 4020, CPC 7131, 7422, 887 other than advisory and consulting services).

In SK: Authorisation is required for the production, transmission and distribution of electricity, manufacture of gas and distribution of gaseous fuels, production and distribution of steam and hot water, pipeline transportation of fuels, wholesale and retail of electricity, steam and hot water, and services incidental to energy distribution, including services in the areas of energy efficiency, energy savings and energy audit. An economic needs test is applied and the application may be denied only if the market is saturated. For all those activities, an authorisation may only be granted to a natural person with permanent residency in the EEA or a juridical person of the EEA.

With respect to Investment liberalisation – Market access, National treatment, Local presence:

In BE: With the exception of the mining of metal ores and other mining and quarrying, enterprises controlled by natural or juridical persons of a third country which accounts for more than 5 % of the Union's oil or natural gas or electricity imports may be prohibited from obtaining control of the activity. Incorporation is required (no branches) (ISIC Rev. 3.1 10, 1110, 13, 14, 232, part of 4010, part of 4020, part of 4030).

Existing measures:

EU: Directive (EU) 2019/944 of the European Parliament and of the Council[1]; and

Directive 2009/73/EC of the European Parliament and of the Council[2].

BG: Energy Act.

CY: The Petroleum (pipelines) Law, Chapter 273 as amended;

The Petroleum Law Chapter 272 as amended;

The Petroleum and Fuel Specifications Laws of 2003, Law 148(I)/2003 as amended; and

The Regulating of the Gas Market Laws of 2004, Law 183(I)/2004 as amended.

FI: Sähkömarkkinalaki (Electricity Market Act) (386/1995);and

Maakaasumarkkinalaki (Natural Gas Market Act) (587/2017).

FR: Code de l'énergie.

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1 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ EU L 158, 14.6.2019, p. 125).

2 Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ EU L 211, 14.8.2009, p. 94).

PT: Decree-Law 230/2012 and Decree-Law 231/2012, 26 October – Natural Gas;

Decree-Law 215-A/2012, and Decree-Law 215-B/2012, 8 October – Electricity; and

Decree-Law 31/2006, 15 February – Crude oil/Petroleum products.

SK: Act 51/1988 on Mining, Explosives and State Mining Administration;

Act 569/2007 on Geological Works;

Act 251/2012 on Energy; and

Act 657/2004 on Thermal Energy.

(b) Electricity (ISIC Rev. 3.1 40, 401; CPC 62271, 887 (other than advisory and consulting services))

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment:

In CY: The generation, transmission, distribution and supply of electricity: persons may apply to Cyprus Energy Regulatory Authority (CERA) for a licence only (a) in the case of a natural person if they are a national of and resident in the Union, or (b) in the case of a juridical person, if it is established in the, constituted under the law of a Member State and has its registered office, central administration or principal place of business within the Union.

In FI: The importation of electricity. With respect to Cross-border trade, the wholesale and retail of electricity.

In FR: Only companies where 100 % of the capital is held by the French State, by another public sector organisation or by Electricité de France (EDF), may own and operate electricity transmission or distribution systems.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In BG: For the production of electricity and the production of heat.

In LT: Wholesale and retail services and trading of electricity that originates from non-safe nuclear sources.

In PT: The activities of electricity transmission and distribution are carried out through exclusive concessions of public service.

With respect to Investment liberalisation – Market access, National treatment, Most-favoured-nation treatment and Cross-border trade in services – Local presence:

In BE: An individual authorisation for the production of electricity of a capacity of 25 MW or above requires establishment in the Union, or in another State which has a regime similar to that enforced by Directive 96/92/EC of the European Parliament and of the Council[1] in place, and where the company has an effective and continuous link with the economy.

The production of electricity within the offshore territory of Belgium is subject to obtaining a concession and a joint venture obligation with a juridical person of the Union, or of a country having a regime similar to that of Directive 2003/54/EC of the European Parliament and of the Council[2], particularly with regard to conditions relating to authorisation and selection.

Additionally, the juridical person should have its central administration or its head office in a Member State or a country meeting the above criteria, where it has an effective and continuous link with the economy.

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1 Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity (OJ EU L 27, 30.1.1997, p. 20).

2 Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC (OJ EU L 176, 15.7.2003, p. 37).

The construction of electrical power lines which link offshore production to the transmission network of Elia requires authorisation and the company must meet the previously specified conditions, except for the joint venture requirement.

With respect to Cross-border trade in services – National treatment, Local presence:

In BE: Authorisation is necessary for the supply of electricity by an intermediary having customers established in Belgium who are connected to the national grid system or to a direct line whose nominal voltage is higher than 70 000 volts. That authorisation may only be granted to a person of the EEA.

With respect to Investment liberalisation – Market access:

In FR: For the production of electricity.

Existing measures:

BE: Arrêté Royal du 11 octobre 2000 fixant les critères et la procédure d'octroi des autorisations individuelles préalables à la construction de lignes directes;

Arrêté Royal du 20 décembre 2000 relatif aux conditions et à la procédure d'octroi des concessions domaniales pour la construction et l'exploitation d'installations de production d'électricité à partir de l'eau, des courants ou des vents, dans les espaces marins sur lesquels la Belgique peut exercer sa juridiction conformément au droit international de la mer;

Arrêté Royal du 12 mars 2002 relatif aux modalités de pose de câbles d'énergie électrique qui pénètrent dans la mer territoriale ou dans le territoire national ou qui sont installés ou utilisés dans le cadre de l'exploration du plateau continental, de l'exploitation des ressources minérales et autres ressources non vivantes ou de l'exploitation d'îles artificielles, d'installations ou d'ouvrages relevant de la juridiction belge;

Arrêté royal relatif aux autorisations de fourniture d'électricité par des intermédiaires et aux règles de conduite applicables à ceux-ci; and

Arrêté royal du 12 juin 2001 relatif aux conditions générales de fourniture de gaz naturel et aux conditions d'octroi des autorisations de fourniture de gaz naturel.

CY: The Regulation of the Electricity Market Law of 2021.

FI: Sähkömarkkinalak (Electricity Market Act) 588/2013.

FR: Code de l'énergie.

LT: Republic of Lithuania Law on Necessary Measures of Protection against the Threats Posed by Unsafe Nuclear Power Plants in Third Countries nuclear electrical threats from third countries of 20 April 2017 No XIII-306 (last amendment 19 December 2019, No XIII-2705).

PT: Decree-Law 215-A/2012; and

Decree-Law 215-B/2012, 8 October – Electricity.

(c) Fuels, gas, crude oil or petroleum products (ISIC Rev. 3.1 232, 40, 402; CPC 613, 62271, 63297, 7131, 71310, 742, 7422, part of 88, 887 (other than advisory and consulting services))

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment:

In CY: For the manufacture of refined petroleum products in so far as the investor is controlled by a natural or juridical person of a third country which accounts for more than 5 % of the Union's oil or natural gas imports, as well as to the manufacture of gas, distribution of gaseous fuels through mains on own account, the pipeline transportation of fuels, services incidental to natural gas distribution other than advisory and consulting services, wholesale services or retailing services of motor fuel and non-bottled gas.

In FI: To prevent control or ownership of a liquefied natural gas (LNG) terminal (including those parts of the LNG terminal used for storage or re-gasification of LNG) by foreign natural or juridical persons for energy security reasons.

In FR: For reasons of national energy security, only companies in which 100 % of the capital is held by the French State, by another public sector organisation or by ENGIE, may own and operate gas transmission or distribution systems.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In BE: For bulk storage services of gas, regarding the types of legal entities and the treatment of public or private operators to whom Belgium has conferred exclusive rights. Establishment is required within the Union for bulk storage services of gas (part of CPC 742).

In BG: For pipeline transportation, storage and warehousing of petroleum and natural gas, including transit transmission (CPC 71310, part of CPC 742).

In PT: For the Cross-border supply of storage and warehousing services of fuels transported through pipelines (natural gas). Also, concessions relating to the transmission, distribution and underground storage of natural gas and the reception, storage and regasification terminal of LNG are awarded through contracts concession, following public calls for tenders (CPC 7131, CPC 7422).

With respect to Cross-border trade in services – Market access, National treatment, Local presence:

In BE: The pipeline transport of natural gas and other fuels is subject to an authorisation requirement. An authorisation may only be granted to a person established in a Member State (in accordance with Article 3 of the AR of 14 May 2002).

Where authorisation is requested by a company:

(a) the company must be established in accordance with Belgian law, or the law of another Member State, or the law of a third country which has undertaken commitments to maintain a regulatory framework similar to the common requirements specified in Directive 98/30/EC of the European Parliament and of the Council[1]; and

(b) the company must hold its administrative seat, its principal establishment or its head office within a Member State, or a third country which has undertaken commitments to maintain a regulatory framework similar to the common requirements specified in Directive 98/30/EC, provided that the activity of this establishment or head office represents an effective and continuous link with the economy of the country concerned (CPC 7131).

[1] Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas (OJ EU L 204, 21.7.1998, p. 1).

In BE: In general, the supply of natural gas to customers (customers being both distribution companies and consumers whose overall combined consumption of gas arising from all points of supply attains a minimum level of one million cubic metres per year) established in Belgium is subject to an individual authorisation provided by the Minister, except where the supplier is a distribution company using its own distribution network. Such an authorisation may only be granted to persons of the Union.

With respect to Cross-border trade in services – Local presence:

In CY: For the Cross-border supply of storage and warehousing services of fuels transported through pipelines, and the retail sales of fuel oil and bottled gas other than by mail order (CPC 613, CPC 62271, CPC 63297, CPC 7131, CPC 742).

With respect to Investment liberalisation – Market access and Cross-border trade in services – Market access:

In HU: The supply of pipeline transport services requires establishment. Services may only be provided through a Contract of Concession granted by the state or the local authority. The supply of this service is regulated by the Hungarian Concession Law (CPC 7131).

With respect to Cross-border trade in services – Market access:

In LT: For pipeline transportation of fuels and services auxiliary to pipeline transport of goods other than fuel.

Existing measures:

BE: Arrêté Royal du 14 mai 2002 relatif à l'autorisation de transport de produits gazeux et autres par canalisations; and

Loi du 12 avril 1965 relative au transport de produits gazeux et autres par canalisations (article 8.2).

BG: Energy Act.

CY: The Regulating of the Gas Market Laws of 2004, Law 183(I)/2004 as amended;

The Petroleum (Pipelines) Law, Chapter 273;

The Petroleum Law Chapter 272 as amended; and

The Petroleum and Fuel Specifications Laws of 2003, Law 148(I)/2003 as amended.

FI: Maakaasumarkkinalaki (Natural Gas Market Act) (587/2017).

FR: Code de l'énergie.

HU: Act XVI of 1991 about Concessions.

LT: Law on Natural Gas of the Republic of Lithuania of 10 October 2000 No VIII-1973.

PT: Decree-Law 230/2012 and Decree-Law 231/2012, 26 October – Natural Gas;

Decree-Law 215-A/2012, and Decree-Law 215-B/2012, 8 October – Electricity; and

Decree-Law 31/2006, 15 February – Crude oil/Petroleum products.

(d) Nuclear (ISIC Rev. 3.1 12, 3.1 23, 120, 1200, 233, 2330, 40, part of 4010, CPC 887))

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment:

In DE: For the production, processing or transportation of nuclear material and generation or distribution of nuclear-based energy.

With respect to Investment liberalisation – Market access, National treatment and Cross-border trade in services – Market access, National treatment:

In AT and FI: for the production, processing, distribution or transportation of nuclear material and generation or distribution of nuclear-based energy.

In BE: For the production, processing or transportation of nuclear material and generation or distribution of nuclear-based energy.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements:

In HU and SE: For the processing of nuclear fuel and nuclear-based electricity generation.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors:

In BG: For the processing of fissionable and fusionable materials or the materials from which they are derived, as well as to the trade therewith, to the maintenance and repair of equipment and systems in nuclear energy production facilities, to the transportation of those materials and the refuse and waste matter of their processing, to the use of ionising radiation, and with respect to all other services relating to the use of nuclear energy for peaceful purposes (including engineering and consulting services and services relating to software, etc.).

With respect to Investment liberalisation – Market access, National treatment:

In FR: The manufacturing, production, processing, generation, distribution or transportation of nuclear material must respect the obligations of the Treaty establishing the European Atomic Energy Community.

Existing measures:

AT: Bundesverfassungsgesetz für ein atomfreies Österreich (Constitutional Act for a Non-nuclear Austria) BGBl. I Nr. 149/1999.

BG: Safe Use of Nuclear Energy Act.

FI: Ydinenergialaki (Nuclear Energy Act) (990/1987).

HU: Act CXVI of 1996 on Nuclear Energy; and

Government Decree Nr. 72/2000 on Nuclear Energy.

SE: The Swedish Environmental Code (1998:808); and

Law on Nuclear Technology Activities (1984:3).

Reservation No. 23 – Other services not included elsewhere

Sector:	Other services not included elsewhere
Industry classification:	CPC 9703, part of CPC 612, part of CPC 621, part of CPC 625, part of 85990
Obligations concerned:	Market access
	National treatment
	Performance requirements
	Senior management and boards of directors
	Local presence
Chapter:	Trade in services and investment

Description:

The EU reserves the right to adopt or maintain any measure with respect to the following:

(a) Funeral, cremation services and undertaking services (CPC 9703)

With respect to Investment liberalisation – Market access:

In FI: Cremation services and operation or maintenance of cemeteries and graveyards may only be performed by the state, municipalities, parishes, religious communities or non-profit foundations or societies.

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors and Cross-border trade in services – Market access, National treatment, Local presence:

In DE: Only juridical persons established under public law may operate a cemetery. The creation and operation of cemeteries and services related to funerals.

In PT: Commercial presence is required to provide funeral and undertaking services. EEA nationality is required in order to become a technical manager for entities providing funeral and undertaking services.

In SE: Church of Sweden or local authority monopoly on cremation and funeral services.

In CY, SI: Funeral, cremation and undertaking services.

Existing measures:

FI: Hautaustoimilaki (Act on Burial Service) (457/2003).

PT: Decree-Law 10/2015, of 16 January, alterado p/ Lei 15/2018, 27 março.

SE: Begravningslag (1990:1144) (Act of Burials); and

Begravningsförordningen (1990:1147) (Ordinance of Burials).

(b) Other business-related services

With respect to Cross-border trade in services – Market access:

In FI: Require establishment in Finland or elsewhere in the EEA in order to provide electronic identification services.

Existing measures:

FI: Laki vahvasta sähköisestä tunnistamisesta ja sähköisistä luottamuspalveluista 617/2009 (Act on Strong Electronic Identification and Electronic Trust Services 617/2009).

(c) New services

With respect to Investment liberalisation – Market access, National treatment, Senior management and boards of directors, Performance requirements and Cross-border trade in services – Market access, National treatment, Local presence:

The EU: For the provision of new services other than those classified in CPC.

Schedule of New Zealand

Explanatory notes

For greater certainty, the measures that New Zealand may take in accordance with Article 10.64 (Prudential carve-out), provided they meet the requirements of that Article, include those governing:

(a) licensing, registration or authorisation as a financial institution or Cross-border financial service supplier, and corresponding requirements;

(b) juridical form, including legal incorporation requirements for systemically important financial institutions, limitations on deposit-taking activities of branches of overseas banks, and corresponding requirements, and requirements pertaining to directors and senior management of a financial institution or Cross-border financial service supplier;

(c) capital, related party exposures, liquidity, disclosure and other risk management requirements;

(d) payment, clearance and settlement systems (including securities systems);

(e) anti-money laundering and countering financing of terrorism; and

(f) distress or failure of a financial institution or Cross-border financial service supplier.

Sector	All sectors
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Most-favoured-nation treatment (Article 10.17) Local presence (Article 10.15) Market access (Article 10.14 and Article 10.5) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to: (a) the provision of public law enforcement and correctional services; and (b) the following, to the extent that they are social services established for a public purpose: (i) childcare; (ii) health; (iii) income security and insurance; (iv) public education; (v) public housing; (vi) public training; (vii) public transport; (viii) public utilities; (ix) refuse disposal; (x) sanitation; (xi) sewage; (xii) waste water management; (xiii) waste management; (xiv) social security and insurance; and (xv) social welfare.

Sector	Financial services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Local presence (Article 10.15) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8) Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to the supply of: (a) compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and (b) disaster insurance for residential property for replacement cover up to a defined statutory maximum.
Existing measures	Accident Compensation Act 2001 Earthquake Commission Act 1993

Sector	Financial services
Obligations concerned	National treatment (Article 10.16) Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services (a) New Zealand reserves the right to adopt or maintain any measures with respect to insurance and insurance-related services, except for: (i) insurance of risk relating to: A. maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported; the vehicle transporting the goods; and any liability deriving therefrom; and B. goods in international transit; C. credit and suretyship; D. land vehicles including motor vehicles; E. fire and natural forces; F. other damage to property; G. general liability; H. miscellaneous financial loss; and I. difference in conditions and difference in limits, where the difference in conditions or difference in limits cover is provided under a master policy issued by an insurer to cover risks across multiple jurisdictions; (ii) reinsurance and retrocession as referred to in point (B) of the definition of "financial service" in Article 10.63 (Definitions); (iii) services auxiliary to insurance, as referred to in point (D) of the definition of "financial service" in Article 10.63 (Definitions); and (iv) insurance intermediation, such as brokerage and agency, as referred to in point (C) of the definition of "financial service" in Article 10.63 (Definitions), of insurance risks relating to services listed in point (i).

	(b) Paragraph (a) does not permit suppliers of the services listed in points (a)(i)(C)-(I) to provide a service to a retail client. (c) In this entry, for New Zealand, "retail client" means: (i) natural person; or (ii) a retail client as defined in clause 3 of schedule 5 of the Financial Markets Conduct Act 2013. (d) New Zealand reserves the right to adopt or maintain any measures with respect to banking and other financial services (excluding insurance), except for: (i) provision and transfer of financial information and financial data processing and related software, as referred to in point (K) of the definition of "financial service" in Article 10.63 (Definitions); (ii) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article; (iii) portfolio management services by a financial services supplier of the Union to: A. a registered scheme; or B. an insurance company. (e) For the purposes of the commitment made in point (d)(iii): (i) a "registered scheme" means a registered scheme as defined under the Financial Markets Conduct Act 2013; (ii) "portfolio management" means managing a portfolio in accordance with a mandate given by a client on a discretionary client-by-client basis and where such portfolio includes one or more financial instruments; and (iii) portfolio management services do not include: A. custodial services; B. trustee services; or C. execution services.

Sector	Financial services Banking and other financial services (excluding insurance)
Obligations concerned	National treatment (Article 10.6) Market access (Article 10.14 and Article 10.5) Senior management and boards of directors (Article 10.8)
Description	Cross border trade in services and investment New Zealand reserves the right to adopt or maintain any measures with respect to the establishment or operation of any unit trust, market or other facility established for the trade in, or allotment or management of, securities in the co-operative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 (or any successor body).

Sector	Financial services Banking and other financial services (excluding insurance)
Obligations concerned	National treatment (Article 10.6) Market access (Article 10.14 and Article 10.5)
Description	Cross border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to the establishment or operation of an exchange, securities market or futures market. For greater certainty, this reservation does not apply to a financial institution participating in, or seeking to participate in, any such exchange, securities market, or futures market.

Sector	Financial services Insurance and insurance-related services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Market access (Article 10.14 and Article 10.5)
Description	Cross border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to insurance and insurance-related services for industry marketing boards established for products under the following CPC codes: a) 01, except 01110 and 01340 (products of agriculture, horticulture and market gardening, except wheat and kiwifruit); b) 02 (live animals and animal products); c) 211, except 21111, 21112, 21115, 21116 and 21119 (meat and meat products, except beef, sheep meat, poultry and offal); d) 213-216 (prepared and preserved vegetables, fruit juices and vegetable juices, prepared and preserved fruit and nuts, animal and vegetable oils and fats); e) 22 (dairy); f) 2399 (other food products); and g) 261, except for 2613, 2614, 2615, 02961, 02962 and 02963 (natural textile fibres prepared for spinning, excluding wool).
Existing measures	Commodity Levies Act 1990

Sector	Financial services Insurance and insurance-related services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Market access (Article 10.14 and Article 10.5)
Description	Cross border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to insurance and insurance-related services for industry marketing boards established for products under the following CPC codes: a) 01, except 01110 and 01340 (products of agriculture, horticulture and market gardening, except wheat and kiwifruit); b) 02 (live animals and animal products); c) 211, except 21111, 21112, 21115, 21116 and 21119 (meat and meat products, except beef, sheep meat, poultry and offal); d) 213-216 (prepared and preserved vegetables, fruit juices and vegetable juices, prepared and preserved fruit and nuts, animal and vegetable oils and fats); e) 22 (dairy); f) 2399 (other food products); and g) 261, except for 2613, 2614, 2615, 02961, 02962 and 02963 (natural textile fibres prepared for spinning, excluding wool).
Existing measures	Commodity Levies Act 1990

Sector	Financial services
Obligations concerned	Local presence (Article 10.15)
Description	Cross-border trade in services New Zealand reserves the right to adopt or maintain any measures with respect to: (a) insurance and insurance-related services, except for: (i) insurance of risk relating to: A. maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported; the vehicle transporting the goods; and any liability deriving therefrom; and B. goods in international transit; (ii) reinsurance and retrocession as referred to in point (B) of the definition of "financial service" in Article 10.63 (Definitions); and (iii) services auxiliary to insurance, as referred to in point (D) of the definition of "financial service" in Article 10.63 (Definitions); (b) banking and other financial services (excluding insurance), except for: (i) provision and transfer of financial information and financial data processing and related software, as referred to in point (K) of the definition of "financial service" in Article 10.63 (Definitions); and (ii) advisory and other auxiliary financial services as referred to in point (a)(ii)(L) of Article 10.63 (Definitions) relating to banking and other financial services, but not intermediation as described in that Article.

Sector	All sectors
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Local presence (Article 10.15) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment 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.

Sector	All sectors
Obligations concerned	Market access (Article 10.14 and Article 10.15) National treatment (Article 10.16 and Article 10.6) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Local presence (Article 10.15) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment 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 date of entry into force of this Agreement. Such measures may include: (a) restricting the number of service suppliers; (b) 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 suppliers; (c) imposing restrictions on the composition of senior management and boards of directors; (d) requiring local presence; and (e) specifying the juridical form of the service supplier.

Sector	All sectors
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment 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.

Sector	All sectors
Obligations concerned	Market access (Article 10.5) National treatment (Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Investment New Zealand reserves the right to adopt or maintain any measure that sets out the approval criteria to be applied to the categories of overseas investment that require approval under New Zealand's overseas investment regime. For transparency purposes those categories, as set out in Annex 10-A (Existing measures) – New Zealand – are: (a) acquisition or control by non-government sources of 25 % or more of any class of shares[1] or voting power[2] in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$ 200 million;

[1] For greater certainty, the term "shares" includes shares and other types of securities.

[2] For greater certainty, the term "voting power" includes the power to control the composition of 25 % or more of the governing body of the New Zealand entity.

	(b) commencement of business operations or acquisition of an existing business by non-government sources, 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$ 200 million; (c) acquisition or control by government sources of 25 % or more of any class of shares[1] or voting power[2] in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$ 200 million; (d) commencement of business operations or acquisition of an existing business by government sources, 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$ 200 million; (e) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's overseas investment legislation; and (f) any transaction, regardless of dollar value, that would result in an overseas investment in fishing quota.
Existing measures	Overseas Investment Act 2005 Fisheries Act 1996 Overseas Investment Regulations 2005

[1] For greater certainty, the term "shares" includes shares and other types of securities.

[2] For greater certainty, the term "voting power" includes the power to control the composition of 25 % or more of the governing body of the New Zealand entity.

Sector	All sectors
Obligations concerned	Most-favoured-nation treatment (Article 10.17 and Article 10.7)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or a non-Party under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. For greater certainty, this includes, in respect of agreements on the liberalisation of trade in goods, services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements. New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or a non-Party under any international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; and (c) maritime matters.

Sector	All sectors
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Local presence (Article 10.15)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure regarding the control, management or use of: (a) protected areas, being areas established under and subject to the control of legislation, including resources on land and interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation, and scenery preservation; or (b) species owned under an enactment by the Crown or that are protected by or under an enactment.
Existing measures	Conservation Act 1987 and the enactments listed in: Schedule 1 of the Conservation Act 1987 Resource Management Act 1991 Local Government Act 1974

Sector	All sectors
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Senior management and boards of directors (Article 10.8) Market access (Article 10.14 and Article 10.5) Performance requirements (Article 10.9)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any nationality or residency measures in relation to: a) animal welfare; and b) the preservation of plant, animal and human life and health, including in particular: (i) food safety of domestic and exported foods; (ii) animal feeds; (iii) food standards; (iv) biosecurity; (v) biodiversity; and (vi) certification of the plant or animal health status of goods. New Zealand also reserves the right to adopt or maintain any measures requiring the purchase in its territory of compliance, monitoring and similar services to ensure that regulatory requirements relating to the following matters are met: (i) animal welfare; (ii) food safety of domestic and exported foods; (iii) animal feeds; (iv) food standards; (v) biosecurity; (vi) biodiversity;

	(vii) certification of the plant or animal health status of goods; (viii) climate change mitigation; and (ix) sustainability. 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 or the Sanitary Agreement. Nothing in this reservation shall be construed to derogate from the obligations of Chapter 9 (Technical barriers to trade), or the obligations of the TBT Agreement.

Sector	All sectors
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain 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.
Existing measures	Resource Management Act 1991 Marine and Coastal Area (Takutai Moana) Act 2011 Continental Shelf Act 1964 Crown Minerals Act 1991 Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

Sector	Business services Fire services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to the provision of fire prevention and firefighting services, excluding aerial firefighting services. The reservation with respect to market access (Investment) only relates to the supply of services via commercial presence.
Existing measures	Fire and Emergency New Zealand Act 2017

Sector	Business services Research and development
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Performance requirements (Article 10.9)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to: (a) research and development services carried out by State funded tertiary institutions or by Crown Research Institutes when such research is conducted for a public purpose; or (b) 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.

Sector	Business services Technical testing and analysis services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measures in respect of: (a) composition and purity testing and analysis services (CPC 86761); (b) technical inspection services (CPC 86764); (c) other technical testing and analysis services (CPC 86769); (d) geological, geophysical and other scientific prospecting services (CPC 86751); and (e) drug testing services.

Sector	Business services Fisheries and aquaculture Services related to fisheries and aquaculture
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Local presence (Article 10.15) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment 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.
Existing measures	Fisheries Act 1996 Aquaculture Reform Act 2004

Sector	Business services Energy Manufacturing Wholesale trade Retail
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Local presence (Article 10.15) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment 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 persons to do so.

Sector	Agriculture, including services incidental to agriculture
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measures with respect to: (a) the holding of shares in the co-operative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 (or any successor body); and (b) the disposition of assets of that company or its successor bodies.
Existing measures	Dairy Industry Restructuring Act 2001

Sector	Agriculture, including services incidental to agriculture
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment 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.
Existing measures	Kiwifruit Industry Restructuring Act 1999 and Regulations

Sector	Agriculture, including services incidental to agriculture
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to: (a) 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 Agreement on Agriculture to markets where tariff quotas, country-specific preferences or other measures of similar effect are in force; and (b) the allocation of distribution rights to wholesale trade service suppliers pursuant to the establishment or operation of such an allocation scheme. This entry 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 Agreement on Agriculture. The entry applies in respect of investment to the extent that the services sectors specified in this reservation are a subset of agricultural products subject to tariff quotas, country-specific preferences or other measures of similar effect.

Sector	Agriculture, including services incidental to agriculture
Obligations concerned	Market access (Article 10.5) Senior management and boards of directors (Article 10.8)
Description	Investment New Zealand reserves the right to adopt or maintain any measure 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: (a) agriculture; (b) beekeeping; (c) horticulture; (d) arboriculture; (e) arable farming; and (f) the farming of animals, where there is support within the relevant industry that a mandatory collective marketing plan should 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. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.
Existing measures	New Zealand Horticulture Export Authority Act 1987

Sector	Health and social services
Obligations concerned	Most-favoured-nation treatment (Article 10.17 and Article 10.7) Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to all service suppliers and investors for the supply of adoption services. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.
Existing measures:	Adoption Act 1995 Adoption (Inter-country) Act 1997

Sector	Recreation, cultural and sporting
Obligations concerned	Market access (Article 10.14 and Article 10.5) National treatment (Article 10.16 and Article 10.6) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to gambling, betting and prostitution services.
Existing measures	Gambling Act 2003 and Regulations Prostitution Reform Act 2003 Racing Act 2003 Racing (Harm Prevention and Minimisation) Regulations 2004 Racing (New Zealand Greyhound Racing Association Incorporated) Order 2009

Sector	Recreation, cultural and sporting Library, archive, museum and other cultural services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Market access (Article 10.14 and Article 10.5) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Local presence (Article 10.15) Performance requirements (Article 10.9)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measures in respect of: (a) 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; (b) public archives; (c) library and museum services; and (d) services for the preservation of historical or sacred sites or historical buildings.

Sector	Transport Maritime services
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Market access (Article 10.14 and Article 10.5) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to: (a) the carriage by sea of passengers 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), with the exception of the movement of empty containers; (b) feeder services; (c) the establishment of a registered company for the purpose of operating a fleet under the New Zealand flag; and (d) the registration of vessels in New Zealand.

Sector	Distribution services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment 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.

Sector	All sectors
Obligations concerned	National treatment (Article 10.6) Performance requirements (Article 10.9)
Description	Investment New Zealand reserves the right to adopt or maintain any taxation measure with respect to the sale, purchase or transfer of residential property (including interests that arise via leases, financing and profit-sharing arrangements, and acquisition of interests in enterprises that own residential property). For greater certainty, residential property does not include non-residential commercial real estate.

Sector	All sectors
Obligations concerned	Senior management and board of directors (Article 10.8)
Description	Investment New Zealand reserves the right to adopt or maintain any measure to require: (a) one member of a Board of Directors to be a New Zealand national; or (b) a minority of a Board of Directors to be a New Zealand national, where that requirement would not materially impair the ability of the investor to exercise control over its enterprise, provided that the requirement is for the purpose of securing compliance with laws or regulations that are not inconsistent with this Agreement.
Existing measures	Companies Act 1993 Limited Partnerships Act 2008

Sector	All sectors
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Local presence (Article 10.15) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8) Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain measures it deems necessary to protect or promote Māori rights, interests, duties and responsibilities in respect of trade enabled by electronic means, including in fulfilment of its obligations under te Tiriti o Waitangi / the Treaty of Waitangi, provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in services and investment. The Parties agree that the interpretation of te Tiriti o Waitangi / the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement.

Sector	Communication services Postal and courier services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment
	New Zealand reserves the right to adopt or maintain any measure that would impose on postal operators who engage in anti-competitive behaviour, additional conditions for operation in the market or deregistration. New Zealand reserves the right to adopt or maintain any measure that would allow it to restrict the issue of postage stamps bearing the words "New Zealand".[1] The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

[1] The issue of stamps bearing the words "New Zealand" to Universal Postal Union designated operators except where the words "New Zealand" form part of the name of the operator issuing the stamps.

Sector	Distribution services Commission agents' services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in respect of sectors not falling within the following CPC Codes: (a) CPC 62113-62115; (b) CPC 62117-62118; (c) CPC 62111 except for 02961-02963 (ovine wool); (d) CPC 62112 except for CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of bovine and ovine origin) and 02961-02963 (ovine wool); and (e) CPC 62116 except for 2613-2615 (ovine wool). In respect of sectors falling within the following CPC codes: (a) CPC 62111 only in respect of 02961-02963 (ovine wool); (b) CPC 62112 only in respect of CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of bovine and ovine origin) and 02961-02963 (ovine wool); and (c) CPC 62116 only in respect of 2613-2615 (ovine wool). New Zealand reserves the right to adopt or maintain any measure regarding export distribution that relates to: (a) the allocation of distribution rights related to exports of products to export markets where tariff quotas, country specific preferences and other measures of similar effect place limitations on the numbers of services suppliers, total value of services transactions or numbers of services operations; and (b) mandatory export marketing strategies where there is support within the relevant industry. These export marketing strategies do not include measures limiting the number of market participants or limiting the volume of exports. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Distribution services Wholesale trade services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in respect of sectors not falling within the following CPC codes: (a) CPC 6223-6226, and 6228; (b) CPC 6221 except for 02961-02963 (ovine wool); (c) CPC 6222 except for CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of bovine and ovine origin); and (d) CPC 62277 except for 2613-2615 (ovine wool). In respect of sectors falling within the following CPC codes: (a) CPC 6221 only in respect of 02961-02963 (ovine wool); (b) CPC 6222 only in respect of CPC 21111, 21112, 21115; (c) CPC 21116 and 21119 (edible offals of bovine and ovine origin); and (d) CPC 62277 only in respect of 2613-2615 (ovine wool). New Zealand reserves the right to adopt or maintain any measure regarding export distribution that relates to: (a) the allocation of distribution rights related to exports of products to export markets where tariff quotas, country specific preferences and other measures of similar effect place limitations on the numbers of services suppliers, total value of services transactions or numbers of services operations; and (b) mandatory export marketing strategies where there is support within the relevant industry. These export marketing strategies do not include measures limiting the number of market participants or limiting the volume of exports. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Air and maritime transport Selling and marketing of air and maritime transport services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to products covered under CPC 01, 02, 211, 213 to 216, 22, 2399 and 261 (except for marketing and sales relating to CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of bovine and ovine origin), CPC 2613 and 2615 (ovine wool), and CPC 02961 to 02963 (ovine wool)). The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Maritime transport International transport
Obligations concerned	Market access (Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to the establishment of a registered company for the purpose of operating a fleet under the New Zealand flag. This reservation relates to services covered under CPC 7211 (passenger transportation, except cabotage) and 7212 (freight transportation, except cabotage). The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Professional services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors: (a) auctioneering services; (b) insolvency and receivership services; (c) map-making services; (d) franchising services; (e) patent agent services; (f) trademark agent services; (g) quantity surveying and services; (h) scientific and technical consulting services; (i) printing and publishing services; and (j) research and development on social sciences and humanities. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Business services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors: (a) leasing or rental services concerning containers; (b) licensing of intellectual property, including trademarks; (c) licensing of research and development products; (d) licensing of entertainment, literary or artistic originals; (e) mineral exploration and evaluation; (f) security system services; (g) guard services; (h) investigation services; (i) security consulting services; (j) armoured car services; and (k) other security services. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Maintenance and repair services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to maintenance and repair services for: (a) fabricated metal products, machinery and equipment; (b) other machinery and equipment; (c) electrical household appliances; (d) telecommunication equipment and apparatus; (e) medical, precision and optical instruments; (f) consumer electronics; (g) commercial and industrial machinery; (h) elevators and escalators; and (i) other equipment. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Health services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors: (a) private health and social services; and (b) services provided by midwives, nurses, physiotherapists and para-medical personnel. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Recreational, cultural and sporting services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to recreational, cultural and sporting services. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Transport services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors: (a) pilotage and berthing services; (b) rental of vessels with crew for maritime transport services; (c) pushing and towing services (maritime); (d) local water transport services of passengers; (e) rental services of water vessels with operator; (f) cross-border supply of maritime container handling services[1] from the territory of the Union into the territory of New Zealand. This reservation does not apply to (i) transhipment (board to board or via the quay) or (ii) the use of on board cargo handling equipment.

[1] The term "maritime container handling services" means activities exercised by stevedoring companies, including terminal operators, but not including the direct activities of dockers when this workforce is organised independently of the stevedoring or terminal operator companies. The activities include the organisation and supervision of:
(a) the loading and discharging of containers to and from a ship;
(b) the lashing and unlashing of containers; and
(c) the reception and delivery, and safekeeping, of containers before shipment or after discharge.

	(g) maintenance and repair of vessels; (h) vessel salvage and refloating services; (i) internal waterways transport; (j) freight transport for internal waterways transport; (k) passenger transportation (internal waterways); (l) pushing and towing services for internal waterways transport; (m) rental of vessels with crew for internal waterways transport; (n) supporting services for internal waterways transport; (o) control, inspection and surveillance of airport and heliports; (p) space transport services of passengers; (q) space transport services of freight; (r) supporting services for space transport; (s) supporting services for rail transport services; (t) road transport services for mail; (u) maintenance and repair of road transport equipment; (v) parking lot services; (w) supporting services for road transport services; (x) supply of desalinated water to ships berthed at ports or in territorial waters; and (y) shipbuilding and repairing, and marine engine services. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Utilities services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors: (a) energy services; (b) oil and other hydrocarbon services; (c) services supporting the petroleum industry; (d) services related to oil and gas resources; (e) services incidental to energy distribution; and (f) electricity, gas and water distribution (on own account). The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Other services
Obligations concerned	Market access (Article 10.14 and Article 10.5)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors: (a) handicraft industries; (b) market research and public opinion polling services (CPC 8640); (c) packaging services (CPC 8760);

	(d) cemeteries and cremation services (CPC 9703); (e) jewellery design; (f) support services to aquaculture; (g) services provided to extraterritorial organisations and bodies (CPC 9900); (h) domestic services (CPC 87204); (i) cosmetic treatment, manicuring and pedicuring services (CPC 97022); (j) hairdressing and barbers services (CPC 97021); (k) beauty and physical well-being services (CPC 97029); (l) grant giving services; (m) weather forecasting and meteorological services; (n) services furnished by political organisations (CPC 95920); (o) services furnished by other membership organisations (CPC 9599); (p) services furnished by trade unions (CPC 9520); (q) services furnished by human rights organisations; (r) services furnished by business, employers and professional organisations (CPC 951); (s) specialty design services (except interior design services); (t) design originals; and (u) combined office administration services. The reservation with respect to market access (Investment) only relates to the supply of a service via commercial presence.

Sector	Other services not included elsewhere
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Local presence (Article 10.15) Market access (Article 10.14 and Article 10.5) Performance requirements (Article 10.9) Senior management and boards of directors (Article 10.8)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure with respect to the provision of new services other than those classified in the CPC.

Sector	All sectors – movement of natural persons
Obligations concerned	Market access (Article 10.14)
Description	Cross-border trade in services New Zealand reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Section D (Entry and temporary stay of natural persons for business purposes) of Chapter 10 (Trade in services and investment) that is not inconsistent with New Zealand's obligations under GATS.

Sector	All sectors
Obligations concerned	National treatment (Article 10.16 and Article 10.6) Most-favoured-nation treatment (Article 10.17 and Article 10.7) Senior management and boards of directors (Article 10.8) Performance requirements (Article 10.9)
Description	Cross-border trade in services and investment New Zealand reserves the right to adopt or maintain any measure necessary to protect national treasures or specific sites of historical or archaeological value, or measures necessary to support creative arts[1] of national value.

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[1] The term "creative arts" includes ngā toi Māori (Māori arts), the performing arts – including theatre, dance, and music, haka (traditional Māori posture dance), waiata (song or chant) – visual arts and craft – such as painting, sculpture, whakairo (carving), raranga (weaving), and tā moko (traditional Māori tattoo) – literature, language arts, creative online content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term "creative arts" encompasses those activities involved in the presentation, execution and interpretation of the arts; and the study and technical development of these art forms and activities.

ANNEX 10-C

BUSINESS VISITORS FOR ESTABLISHMENT PURPOSES, INTRA-CORPORATE TRANSFEREES AND SHORT-TERM BUSINESS VISITORS

1. Articles 10.21 (Business visitors for establishment purposes and intra-corporate transferees) and 10.22 (Short-term business visitors) do not apply to any existing non-conforming measure listed in this Annex, to the extent of the non-conformity.

2. A Party may maintain, continue, promptly renew, modify or amend a measure listed in this Annex, provided that the modification or amendment does not decrease the conformity of the measure with Article 10.21 (Business visitors for establishment purposes and intra-corporate transferees), as it existed immediately before the modification or amendment.

3. In addition to the list of commitments in this Annex, each Party may adopt or maintain a measure relating to qualification requirements, qualification procedures, technical standards, licensing requirements or licensing procedures that does not constitute a limitation within the meaning of Article 10.21 (Business visitors for establishment purposes and intra-corporate transferees) or 10.22 (Short-term business visitors). Such a measure may include the need to obtain a licence, obtain recognition of qualifications in a regulated sector, pass a specific examination such as a language examination, fulfil a membership requirement of a particular profession such as membership in a professional organisation, or any other non-discriminatory requirement that certain activities may not be carried out in protected zones or areas. While not listed in this Annex, such measures continue to apply.

4. The schedules of New Zealand and the Union in paragraphs 9 and 10 apply only to the territories of New Zealand and the Union in accordance with Article 1.4 (Territorial application) and are only relevant in the context of trade relations between the Union, the Member States and New Zealand. They do not affect the rights and obligations of the Member States under Union law.

5. For greater certainty, for the Union, the obligation to grant national treatment does not entail the requirement to extend to persons of New Zealand the treatment granted in a Member State, in the application of the TFEU, or of any measure adopted pursuant to TFEU, including its implementation in the Member States, to:

(a) natural persons or residents of another Member State; or

(b) juridical persons constituted or organised under the law of another Member State or of the Union and having their registered office, central administration or principal place of business in the Union.

6. Commitments for business visitors for establishment purposes, intra-corporate transferees and short-term business visitors do not apply in cases where the intent or effect of their temporary presence is to interfere with, or otherwise affect the outcome of, any labour or management dispute or negotiation.

7. All other requirements of the laws and regulations of the Union and the Member States regarding entry, stay, work and social security measures shall continue to apply, including regulations concerning period of stay, minimum wages as well as collective wage agreements, even if not listed in this Annex.

8. The following abbreviations are used in the list of commitments provided in paragraph 10:

AT Austria

BE Belgium

BG Bulgaria

CY Cyprus

CZ Czechia

DE Germany

DK Denmark

EE Estonia

EL Greece

ES Spain

EU Union, including the Member States

FI Finland

FR France

HR Croatia

HU Hungary

IE Ireland

IT Italy

LT Lithuania

LU Luxembourg

LV Latvia

MT Malta

NL The Netherlands

PL Poland

PT Portugal

RO Romania

SE Sweden

SI Slovenia

SK Slovak Republic

9. New Zealand's commitments are[1]:

Business visitors for establishment purposes

All sectors	Permissible length of stay: up to 90 days in any 12-month period.

Intra-corporate transferees

All sectors	Permissible length of stay: entry for a period of up to a maximum of three years.

Short-term business visitors

All sectors All activities referred to in Annex 10-D (List of activities of short-term business visitors)	Permissible length of stay: up to 90 days in any 12-month period.

[1] Notwithstanding the commitments set out in this paragraph, New Zealand reserves the right to adopt or maintain any measure with respect to ships' crews.

10. The Union's commitments are:

Business visitors for establishment purposes

All sectors	AT, CZ: A business visitor for establishment purposes needs to work for an enterprise other than a non-profit organisation, otherwise: Unbound. SK: A business visitor for establishment purposes needs to work for an enterprise other than a non-profit organisation, otherwise: Unbound. Work permit required, including economic needs test. CY: Permissible length of stay: up to 90 days in any 12-month period. A business visitor for establishment purposes needs to work for an enterprise other than a non-profit organisation, otherwise: Unbound.

Intra-corporate transferees

All sectors	AT, CZ, SK: Intra-corporate transferees need to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound. FI: Senior personnel need to be employed by an enterprise other than a non-profit organisation. HU: Natural persons who have been a partner in an enterprise do not qualify to be transferred as intra-corporate transferees.

Short-term business visitors

All activities referred to in Annex 10-D (List of activities of short-term business visitors)	CY, DK, HR: Work permit, including economic needs test, required in case the short-term business visitor supplies a service. LV: Work permit required for operations/activities to be performed on the basis of a contract. MT: Work permit required. No economic needs tests performed. SI: A single residency and work permit is required for the supply of services exceeding 14 days at a time and for certain activities (research and design; training seminars; purchasing; commercial transactions; translation and interpretation). An economic needs test is not required. SK: In case of supplying a service in the territory of Slovakia, a work permit, including economic needs test, is required beyond seven days in a month or 30 days in calendar year.
Research and design	AT: Work permit, including economic needs test, required, except for research activities of scientific and statistical researchers.
Marketing research	AT: Work permit required, including economic needs test. Economic needs test is waived for research and analysis activities for up to seven days in a month or 30 days in a calendar year. University degree required. CY: Work permit required, including economic needs test.
Trade fairs and exhibitions	AT, CY: Work permit, including economic needs test, required for activities beyond seven days in a month or 30 days in a calendar year.
After-sales or after-lease service	AT: Work permit required, including economic needs test. Economic needs test is waived for natural persons training workers to supply services and possessing specialised knowledge. CY: Work permit is required beyond seven days in a month or 30 days in a calendar year.

	CZ: Work permit is required if work exceeds seven consecutive calendar days or a total of 30 days in a calendar year. ES: Work permit required. Installers, repairers and maintainers should be employed as such by the legal person supplying the good or service or by an enterprise which is a member of the same group as the originating legal person for at least three months immediately preceding the date of submission of an application for entry and they should possess at least 3 years of relevant professional experience, where applicable, obtained after the age of majority. FI: Depending on the activity, a residence permit may be required. SE: Work permit required, except for (i) natural persons who participate in training, testing, preparation or completion of deliveries, or similar activities within the framework of a business transaction, or (ii) fitters or technical instructors in connection with urgent installation or repair of machinery for up to two months, in the context of an emergency. No economic needs test required.
Commercial transactions	AT, CY: Work permit, including economic needs test, required for activities beyond seven days in a month or 30 days in a calendar year. FI: The natural person needs to be supplying services as an employee of a legal person of the other Party.
Tourism personnel	CY, ES, PL: Unbound. FI: The natural person needs to be supplying services as an employee of a legal person of the other Party. SE: Work permit required, except for drivers and staff of tourist buses. No economic needs test required.
Translation and interpretation	AT: Work permit required, including economic needs test. CY, PL: Unbound.

ANNEX 10-D

LIST OF ACTIVITIES OF SHORT-TERM BUSINESS VISITORS

For the purposes of Chapter 10 (Trade in services and investment), activities of short-term business visitors are:

(a) meetings and consultations: natural persons attending meetings or conferences, or engaged in consultations with business associates;

(b) training seminars: personnel of an enterprise who enter the territory of a Party to receive informal training in techniques and work practices that are relevant to the operation of the enterprise, provided that the training received is confined to theoretical instruction, observation and familiarisation only, and does not lead to the award of a formal qualification;

(c) trade fairs and exhibitions: personnel attending a trade fair for the purpose of promoting their company or its products or services;

(d) sales: representatives of a supplier of services or goods taking orders or negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier, but not delivering goods or supplying services themselves. Short-term business visitors do not engage in making direct sales to the general public;

(e) purchasing: buyers purchasing goods or services for an enterprise, or management and supervisory personnel engaging in a commercial transaction carried out in the territory of the other Party;

(f) after-sales or after-lease service: installers, repair and maintenance personnel, and supervisors, who possess specialised knowledge essential to a contractual obligation of a seller or a lessor of a Party, and perform services or train workers to perform services, pursuant to a warranty or other service contract associated with the sale or lease of commercial or industrial equipment or machinery, including computer and related services, purchased or leased from an enterprise located outside the territory of the other Party, throughout the duration of the warranty or service contract;

(g) commercial transactions: management and supervisory personnel and financial services personnel (including insurers, bankers and investment brokers) engaging in a commercial transaction for an enterprise located in the territory of the other Party; and

(h) tourism personnel: tour and travel agents, tour guides or tour operators attending or participating in conventions.