Disclaimer: *In view of the European Commission's transparency policy, the Commission is publishing the texts of its Comprehensive Economic Partnership Agreement with Indonesia following the Ministerial announcement on 23 September 2025. These texts are published for information purposes only and may undergo further modifications including as a result of the process of legal revision. These texts are without prejudice to the outcome of the Agreement between the EU and Indonesia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement.*

CHAPTER 8

LIBERALISATION OF INVESTMENT AND TRADE IN SERVICES

SECTION A

GENERAL PROVISIONS

ARTICLE 8.1

Objectives

The Parties, reaffirming their respective commitments under the WTO Agreement and 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 liberalisation of investment and trade in services.

ARTICLE 8.2

Right to regulate

The Parties reaffirm the right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, safety, environment including climate change, public morals, social or consumer protection, privacy and data protection, sustainable development or promotion and protection of cultural diversity.

ARTICLE 8.3

Coverage

1. This Chapter applies to measures adopted or maintained by[1]:

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

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

2. This Agreement shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits[2] accruing to any Party under the terms of a specific commitment in this Chapter and its Annexes.

3. This Chapter shall not apply to:

(a) government procurement of goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale; and

(b) without prejudice to Article 8.11(2) (Performance Requirements) of this Section subsidies or grants provided by authorities of a Party, including government-supported loans, guarantees, and insurance.

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1 For greater certainty, the entities listed under subparagraphs 1 (a) and 1 (b) can adopt or maintain a measure by instructing or directing other entities with regard to the measure.

2 The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

ARTICLE 8.4

Definitions

For purposes of this Chapter:

(a) "natural person of a Party" means

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

(ii) for Indonesia means a national of Indonesia according to its legislation;

for greater certainty, if a person possesses dual nationality of both Parties, she or he shall be deemed to be exclusively a national of the country of her or his dominant and effective nationality.

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

(c) "juridical person of a Party" means:

(i) for the European Union, a juridical person set up in accordance with the laws of the European Union or of at least one Member State of the European Union and engaged in substantive business operations[4] in the territory of the European Union; and

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3 In the case of the European Union, the definition of natural person also includes natural 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 laws and regulations of the Republic of Latvia, to receive a non-citizen's passport.

4 In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the European Union understands that the concept of "effective and continuous link" with the economy of a Member State of the European Union enshrined in Article 54 of the TFEU is equivalent to the concept of "substantive business operations".

(ii) for Indonesia, a juridical person set up in accordance with the laws of Indonesia and engaged in substantive business operations in the territory of Indonesia;

Notwithstanding subparagraph (c) of this Article, shipping companies established outside the European Union or Indonesia and controlled by natural persons of a Member State of the European Union or of Indonesia, respectively, shall also be beneficiaries of the provisions of this Title if their vessels are registered in accordance with their respective legislation, in that Member State or in Indonesia and fly the flag of a Member State or of Indonesia;

(d) "enterprise" means a juridical person, branch or representative office set up through establishment, as defined under this Article;

(e) "establishment" means the setting up or the acquisition of an enterprise in Indonesia or in the EU respectively with a view to establishing or maintaining lasting economic links;

(f) "economic activities" mean activities of an industrial, commercial or professional character and activities of craftsmen, including the supply of services, except for activities performed or services supplied in the exercise of governmental authority;

(g) "operation" includes the conduct, management, maintenance, use, enjoyment, sale or other disposal of an enterprise by an investor of one Party in the territory of the other Party;

(h) "service" includes any service in any sector but not services supplied in the exercise of governmental authority;

(i) "activities performed or services supplied in the exercise of governmental authority" means activities performed or services supplied neither on a commercial basis nor in competition with one or more economic operators;

(j) "cross-border supply of services" means the supply of a service:

(i) from the territory of a Party into the territory of the other Party; and

(ii) in the territory of a Party to the service consumer of the other Party;

(k) "service supplier" of a Party means any natural or juridical person of a Party that seeks to supply or supplies a service;

(l) "measure" includes any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(m) "investor" means a natural person or a juridical person of a Party that seeks to establish [5], is establishing or has already established an enterprise in the territory of the other Party;

(n) "covered enterprise" means an enterprise which is owned, directly or indirectly, or controlled, directly or indirectly[6], by investors of one Party in the territory of the other Party made in accordance with applicable laws[7], whether established before or after the entry into force of this Agreement;

(o) "freely convertible currency" means a currency which can be freely exchanged against currencies that are widely traded in international foreign exchange markets and widely used in international transactions;[8]

[5] For greater certainty, the Parties understand that, for the purposes of the definition of "investor", an investor that "seeks to establish" an enterprise refers to an investor that has taken concrete steps to establish an enterprise. Where a notification or approval process is required for establishing an enterprise, an investor that "seeks to establish" an enterprise refers to an investor that has initiated such notification or approval process.

[6] A juridical person is:

a) "owned" by a natural or juridical person of a Party if more than 50% of the equity interest is beneficially owned by natural or juridical person of that Party;

b) "controlled" by a natural or juridical person of a Party if that natural or juridical person has the power to appoint a majority of its directors or otherwise to legally direct its actions.

[7] In the case of investments made in Indonesia, 'in accordance with applicable laws' may include specific approval in writing if applicable.

[8] For greater certainty, currencies that are widely traded in international foreign exchange market and widely used in international transactions include freely usable currencies as designated by the International Monetary Fund (IMF) in accordance with the Articles of Agreement of the IMF.

(p) "aircraft repair and maintenance services" mean such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance;

(q) "selling and marketing of air transport services" mean 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. These activities do not include the pricing of air transport services nor the applicable conditions;

(r) "computer reservation system (CRS) services" mean 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; and

(s) "ground handling services" mean the supply at an airport of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering; air cargo and mail handling; fuelling of an aircraft, aircraft servicing and cleaning; surface transport; flight operation, crew administration and flight planning.

Ground handling services do not include 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.

ARTICLE 8.5

Denial of benefits

A Party may deny the benefits of this Chapter to an investor or a service supplier 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 measures to address serious human rights violations and abuses, which:

(a) prohibit transactions with that investor, service supplier or covered enterprise, or

(b) would be violated or circumvented if the benefits of this Chapter were accorded to that investor, service supplier or covered enterprise, including where the measures prohibit transactions with a natural or juridical person who owns or controls any of them.

SECTION B

LIBERALISATION OF INVESTMENTS

ARTICLE 8.6

Scope

1. This Section applies to measures adopted or maintained by a Party affecting the establishment of an enterprise or the operation of a covered enterprise for the pursuit of economic activities by an investor of the other Party in its territory.

2. The provisions of this Section do not apply to:

(a) audio-visual services;

(b) national maritime cabotage[9]; and

(c) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services;

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9 Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Chapter covers transportation of passengers or goods between a port or point located in Indonesia or in a Member State of the European Union and another port or point located also in Indonesia including its continental shelf, archipelagic waters and EEZ or also in that same Member State of the European Union, including on its continental shelf, as provided in the UN Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in Indonesia or in a Member State of the European Union.

(ii) the selling and marketing of air transport services;

(iii) computer reservation system (CRS) services; and

(1) groundhandling services.

ARTICLE 8.7

Market access

1. With respect to market access through establishment or operation in its territory, each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in the Schedule of specific commitments contained in Annexes […] (lists of commitments on liberalisation of investments).

2. In sectors where market access commitments are undertaken, the measures which a Party shall not adopt or maintain on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule of specific commitments contained in Annexes […] (lists of commitments on liberalisation of investments) are defined as:

(a) limitations on the number of enterprises, whether in the form of numerical quotas, monopolies, exclusive rights or other requirement relating to establishment such as economic needs tests;

(b) limitations on the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on 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;[10]

10 Subparagraphs 2 (a), (b), and (c) do not cover measures taken in order to limit the production of an agricultural or fishing product.

(d) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment;

(e) measures which restrict or require specific types of legal entity or joint venture through which an investor of the other Party may carry out an economic activity; and

(f) limitations on 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 economic activity in the form of numerical quotas or the requirement of an economic needs test.

ARTICLE 8.8

National treatment

1. In the sectors inscribed in the Schedule of specific commitments in Annexes […] (lists of commitments on liberalisation of investments) and subject to any conditions and qualifications set out therein, each Party shall accord to investors of the other Party and to covered enterprises, as regards their establishment in its territory, treatment no less favourable than the treatment it accords, in like situations, to its own investors and their enterprises.

2. Each Party shall accord to investors of the other Party and to covered enterprises, as regards their operation in its territory, treatment no less favourable than the treatment it accords, in like situations, to its own investors and their enterprises.

3. The treatment to be accorded by a Party under paragraphs 1 and 2 of this Article means, with respect to a government of a subnational region of Indonesia, treatment no less favourable than the most favourable treatment accorded in like situations, by that government to investors, and to enterprises of investors, of that subnational region.

4. The treatment to be accorded by a Party under paragraphs 1 and 2 of this Article means, with respect to a government of or in a Member State of the European Union, treatment no less favourable

than the most favourable treatment accorded in like situations, by that government to investors of that Member State and to their enterprises in its territory.

ARTICLE 8.9

Most favoured nation treatment

1. Each Party shall accord to investors of the other Party and to covered enterprises, as regards their establishment in its territory, treatment no less favourable than the treatment it accords, in like situations, to investors and enterprises of any third country.

2. Each Party shall accord to investors of the other Party and to covered enterprises, as regards their operation in its territory, treatment no less favourable than the treatment it accords, in like situations, to investors and enterprises of any third country.

3. Notwithstanding Paragraphs 1 and 2, a Party shall not be obliged to extend to investors of the other Party or to their covered enterprises the benefits of any treatment accorded to investors and enterprises of any third country pursuant to any international investment treaty or other trade agreement in force or signed prior to the date of entry into force of this Agreement.

4. Paragraphs 1 and 2 shall not be construed to oblige a Party to extend to the investors of the other Party the benefit of any treatment resulting from:

(a) an international agreement for the avoidance of double taxation or other international agreements or arrangements relating wholly or mainly to taxation; or

(b) measures providing for the recognition of qualifications, licences or prudential measures as provided for in Article VII of the General Agreement on Trade in Services or its Annex on Financial Services.

5. For greater certainty the "treatment" referred to in paragraphs 1 and 2 does not include investor-to-state dispute settlement procedures provided for in other international investment treaties and other trade agreements.

6. The substantive provisions in other international investment or trade agreements do not in themselves constitute "treatment" as referred to in paragraphs 1 and 2, and thus cannot give rise to a breach of this Article. However, measures applied pursuant to such provisions can constitute "treatment" as referred to in paragraphs 1 and 2, and thus give rise to a breach of this Article.

ARTICLE 8.10

Schedule of specific commitments

1. The sectors liberalised by each of the Parties pursuant to this Section and the terms, limitations, conditions and qualifications referred to in Articles 8.7 (Market Access), 8.8 (National Treatment), 8.9 (Most Favoured Nation Treatment), and 8.11 (Performance Requirements) are set out in the schedules of commitments included in Annexes […] (lists of commitments on liberalisation of investments).

2. Each Party shall identify in its schedules of commitments the sectors or subsectors that it commits for future liberalisation.

3. If a Party amends a measure relevant for a commitment in a sector or subsector referred to in paragraph 2, in a manner that reduces or eliminates the inconsistency of that measure with Articles 8.7, 8.8 or 8.11, as it existed immediately before the amendment, that Party shall not subsequently amend that measure in a manner that increases the measure's inconsistency with Articles 8.7, 8.8 or 8.11.

4. Party may adopt a measure or series of measures that is consistent with the schedules of commitments included in Annexes […], provided that such measure or series of measures does not require, directly or indirectly an investor of the other Party, to sell, or otherwise dispose of, a covered investment that exists at the time the measure or series of measures becomes effective.

ARTICLE 8.11

Performance requirements

1. In the sectors set out in its schedule of specific commitments in Annexes […] (lists of commitments on liberalisation of investments of both Parties) and subject to any conditions and qualifications set out therein, a Party shall not impose, or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment of all enterprises or the operation of all enterprises in its territory to11:

(a) export a given level or percentage of goods or services;

(b) achieve a given level or percentage of domestic content;

(c) purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from natural persons or enterprises in its territory;

(d) 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 such enterprise;

(e) restrict sales of goods or services in its territory that such enterprise produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;

(f) transfer technology, a production process or other proprietary knowledge to a natural person or an enterprise in its territory;

(g) supply exclusively from the territory of the Party a good produced or a service provided by the enterprise to a specific regional or world market;

(h) to adopt:

(i) a rate or amount of royalty below a certain level, or

(ii) a given duration of the term of a licence contract[12],

[11] For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a requirement or a commitment or undertaking for the purpose of paragraph 1.

[12] A licence contract referred to in this subparagraph means any contract concerning the licencing of technology, a production process or other proprietary knowledge.

with regard to any licence contract 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 the 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 that license contract by the exercise of non judicial governmental authority of a Party.[13]

2. In the sectors set out in its schedule of specific commitments in Annexes […] (lists of commitments on liberalisation of investments of both Parties) and subject to any conditions and qualifications set out therein, a Party shall not condition the receipt or continued receipt of an advantage, in connection with the establishment of all enterprises or the operation of all enterprises 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 provided in its territory, or to purchase goods or services from natural persons or enterprises in its territory;

(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 such enterprise; or

(d) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings.

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 of all enterprises or the operation of all enterprises in its territory, in compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development in its territory.

[13] For greater certainty subparagraph (h) does not apply when the licence contract is concluded between the enterprise and the Party.

4. Subparagraphs 1 (f) and (h) do not apply when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy a restriction of competition or if a Party authorises use of an intellectual property right in accordance with Article 31 [and 31 bis] of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement.

5. The provisions of:

(a) Subparagraphs 1 (a), (b) and (c), and 2 (a) and (b) do not apply to qualification requirements for goods or services with respect to participation in export promotion and foreign aid programmes; and

(b) this Article does not apply to procurement by a procuring entity for goods and services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of goods and services for commercial sale.

For greater certainty, subparagraphs 2 (a) and (b) 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.

6. Subparagraph 1 (h) 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.

7. This Article is without prejudice to the obligations of a Party under the WTO Agreement.

8. For greater certainty, paragraphs 1 and 2 of this Article shall not apply to any commitment, undertaking or requirement other than those set out in those paragraphs.14

[14] 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 where that Party adopts or maintains restrictions or prohibitions on such provision of services which are consistent with its schedules of commitments referred to in Article 2.5 Schedule of Specific Commitments.

9. This Article does not preclude enforcement of any commitment, undertaking or requirement between private parties other than a Party, if a Party did not impose or require the commitment, undertaking or requirement.

SECTION C

CROSS-BORDER SUPPLY OF SERVICES

ARTICLE 8.12

Scope and definitions

1. This Section applies to measures of the Parties affecting the cross-border supply of all services sectors with the exception of:

(a) audio-visual services;

(b) national maritime cabotage[15]; and

(c) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

15 Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Section covers transportation of passengers or goods between a port or point located in Indonesia or in a Member State of the European Union and another port or point located also in Indonesia including its continental shelf, archipelagic waters and EEZ or also in that same Member State of the European Union, including on its continental shelf, as provided in the UN Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in Indonesia or in a Member State of the European Union.

(ii) the selling and marketing of air transport services;

(iii) computer reservation system (CRS) services; and

(iv) groundhandling services.

ARTICLE 8.13

Market access

1. With respect to market access through the cross-border supply of services, each Party shall accord services and service suppliers of the other Party treatment not less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of specific commitments.

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in the Schedule of Specific Commitments in Annexes […] (lists of commitments on cross border supply of services), are defined as:

(a) limitations on the number of services suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test[16];

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test; and

(c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test.

[16] Subparagraph 2(a) includes measures which require a service supplier of the other Party to have an enterprise within the meaning of paragraph (d) of Article 1.3 (Definitions) or to be resident in a Party's territory as a condition for the cross-border supply of a service.

ARTICLE 8.14

National treatment

1. In the sectors inscribed in its Schedule of Specific Commitments in Annexes […] (lists of commitments on cross border supply of services) and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the cross-border supply of services, treatment no less favourable than that it accords to its own like services and services suppliers.

2. A Party may meet the requirement of paragraph 1 of this Article by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that it accords to its own like 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 like services or service suppliers of the other Party.

4. Specific commitments assumed under this Article shall not be construed to require any Party to compensate for inherent competitive disadvantages which result from the foreign character of the relevant services or services suppliers.

ARTICLE 8.15

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 any third country.

2. Notwithstanding Paragraph 1, a Party shall not be obliged to extend to services and service suppliers of the other Party the benefits of any treatment accorded to services and service suppliers

of any third country pursuant to any international investment treaty or other trade agreement signed or in force prior to the date of entry into force of this Agreement.

3. Paragraphs 1 and 2 shall not be construed to oblige a Party to extend to the investors of the other Party the benefit of any treatment resulting from:

(a) an international agreement for the avoidance of double taxation or other international agreements or arrangements relating wholly or mainly to taxation; or

(b) measures providing for the recognition of qualifications, licences or prudential measures as provided for in Article VII of the General Agreement on Trade in Services or its Annex on Financial Services.

4. The substantive provisions in other international investment or trade agreements do not in themselves constitute "treatment" as referred to in paragraphs 1 and 2, and thus cannot give rise to a breach of this Article. However, measures applied pursuant to such provisions can constitute "treatment" as referred to in paragraphs 1 and 2, and thus give rise to a breach of this Article.

ARTICLE 8.16

Schedule of specific commitments

The sectors liberalised by each of the Parties pursuant to this Section and the terms, limitations, conditions and qualifications referred to in Articles 8.13 (Market Access), 8.14 (National Treatment), and Article 8.15 (Most Favoured Nation Treatment) are set out in the schedules of commitments included in Annexes (…) [lists of commitments on cross-border supply of services [and list of MFN exemptions]].

SECTION D

TEMPORARY PRESENCE OF NATURAL PERSONS FOR BUSINESS PURPOSES

ARTICLE 8.17

Scope and definitions

1. This Section applies to measures of the Parties concerning the entry and temporary stay in their territories of natural persons for business purposes of the other party as provided in paragraph 2 of this Article, subject to each Party's reservation as specified in Annex(es) (...) in accordance with paragraph 2 of Article 8.3 (Coverage).

2. For the purpose of this Section:

(a) "business visitors for establishment purposes" mean natural persons working in a senior position within a juridical person of a Party who are responsible for setting up an enterprise of such juridical person in the territory of the other Party. They do not offer or provide services or engage in any other economic activity than required for establishment purposes. They do not receive remuneration from a source located within the territory of that other Party;

(b) "intra-corporate transferees"[17] mean natural persons who have been employed by a juridical person of a party or its branch or have been partners in it for at least one year and who are temporarily transferred to an enterprise of the juridical person in the territory of the other Party. The natural person concerned must belong to one of the following categories:

(i) directors/managers/executives[18]: Persons working in a senior position within a juridical person of a Party, who primarily direct the management of the enterprise in the territory of the other Party, receiving general supervision or direction principally from the board of directors or from stockholders of the business or their equivalent, including at least:

(A) directing the enterprise or a department or subdivision thereof;

(B) supervising and controlling the work of other supervisory, professional or managerial employees; and

[17] For greater certainty, managers, executives and specialists may be required to demonstrate they possess the professional qualification and length of working experience needed in the juridical person to which they are transferred
[18] For greater certainty, in Indonesia, managers and executives are not allowed to receive direction directly from stockholders.

(C) having the personal authority to recruit and dismiss or to recommend recruitment, dismissal or other personnel-related actions;

(ii) specialists: persons working within a juridical person possessing specialised knowledge essential to the enterprise's areas of activity, techniques or management. In assessing such knowledge, account shall be taken not only of knowledge specific to the enterprise, but also of 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;

(iii) trainee employees: Persons who have been employed by a juridical person or its branch for at least one year, and, possess a university degree and are temporarily transferred to obtain training in business techniques or methods[19] for career development purposes;

(c) "short term business visitors" means natural persons of a Party who are seeking entry and temporary stay in the territory of the other Party, and who are allowed to engage in:

(i) meetings and consultations, as natural persons attending meetings or conferences, giving lectures or engaged in consultations with business associates;

(ii) sales, as 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. They are not commission agents and shall not engage in making direct sales to the general public;

(d) "installers and maintainers" means natural persons of a Party who are seeking entry and temporary stay in the territory of the other Party, possessing specialised knowledge essential to a contractual obligation of a seller or a lessor of a Party, supplying relevant services which may include training workers to perform relevant services, pursuant to a warranty or other service contract incidental to the sale or lease of commercial or industrial equipment or machinery, including computer software, purchased or leased from an enterprise of the Party of which the

[19] The recipient enterprise may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For AT, CZ, DE, FR, ES and HU, training must be linked to the university degree which has been obtained.

installers and maintainers are natural persons, within the duration of the warranty or service contract;

(e) "contractual services suppliers" mean natural persons employed by a juridical person of a Party which itself is not an agency for placement and supply services of personnel nor acting through such an agency, which has not established in the territory of the other Party and which has concluded a bona fide contract to supply services with a final consumer in the other Party, requiring the presence on a temporary basis of its employees in that Party, in order to fulfil the contract to provide services[20];

(f) "independent professionals" mean natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who have not established in the territory of the other Party and who have concluded a bona fide contract (other than through an agency for placement and supply services of personnel) to supply services with a final consumer in the latter Party, requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services[21]; and

(g) "qualifications" mean diplomas, certificates and other evidence (of formal qualification) issued by an authority designated pursuant to legislative, regulatory or administrative provisions and certifying successful completion of professional training.

ARTICLE 8.18

Intra-corporate transferees and business visitors for establishment purposes

1. For every sector committed in accordance with Article 8.10 and subject to the relevant conditions and qualifications specified in Annex [reservations for ICTs and BVEPs][22],

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20 The service contract referred to under (d) and (e) shall comply with the requirements of the laws, and regulations and requirements of the Party where the contract is executed.

21 The service contract referred to under (d) and (e) shall comply with the requirements of the laws, and regulations and requirements of the Party where the contract is executed.

22 For greater certainty, if a Party set out a reservation in Annex [cross-border] or Annex [investment liberalisation], the reservation also constitutes a reservation to this article to the extent that the measure set out in or permitted by the reservation affects the treatment of a natural person for business purposes entering and temporary staying in the territory of the other Party.

(a) each Party shall allow:

(i) the entry and temporary stay of business visitors for establishment purposes and Intra-Corporate Transferees as defined in Article 8.17 (Scope and Definitions), 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 granted 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.

(c) each Party shall accord to Intra-corporate Transferees and Business Visitors for Establishment Purposes of the other Party, with regard to their temporary stay in its territory, treatment no less favourable than that it accords, in like situations, to its own natural persons.

2. The entry and temporary stay shall be for a period of up to three years for directors/managers/executives and specialists, one year for trainee employees and, for Indonesia, sixty days, extendable to 120, and for the European Union, ninety days, in any 12-month period for business visitors for establishment purposes.

ARTICLE 8.19

Short term business visitors, and installers and maintainers

1. For every sector committed in accordance with this Agreement subject to the relevant conditions and qualifications specified in Annex IV [reservations for ICTs, BVEP, Short term Business Visitors and I&M], a Party shall grant entry and temporary stay to Short term Business Visitors and Installers and Maintainers of the other Party, subject to the following conditions and relevant qualifications:

(a) the Short term Business Visitors and Installers and Maintainers are not engaged in selling their goods or supplying services to the general public; and

(b) the Short term Business Visitors and Installers and Maintainers do not, on their own behalf, receive remuneration from within the Party where they are staying temporarily;

2. Unless otherwise specified in Annex IV [reservations for ICTs, BVEP, BS and I&M], a Party shall grant entry of Short term Business Visitors and Installers and Maintainers without the requirement of a work permit, 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 ninety days in any twelve-month period.

ARTICLE 8.20

Contractual service suppliers

1. The Parties reaffirm their respective obligations arising from their commitments under the General Agreement on Trade in Services with respect to the entry and temporary stay of contractual services suppliers.

2. For every sector listed below, each Party shall allow the supply of services into their territory by contractual services suppliers of the other Party, subject to the conditions specified in paragraph 3 and any reservations listed in Annex (…) [reservations on contractual services sellers.

3. The commitments undertaken by the Parties are subject to the following conditions:

(a) the natural persons must be engaged in the supply of a service on a temporary basis as employees of a juridical person, which has obtained a service contract not exceeding twelve months;

(b) the natural persons entering the other Party must possess, at the date of submission of an application for entry into the other Party, at least five years professional experience23 in the sector of activity which is the subject of the contract. Natural persons should be offering such

[23] Obtained after having reached the age of majority

services as employees of the juridical person supplying the services for at least two years immediately preceding the date of submission of an application for entry into the other Party;

(c) the natural persons entering the other Party must possess:

(i) a degree or a qualification demonstrating knowledge of an equivalent level[24]; and

(ii) professional qualifications where this is required to exercise an activity pursuant to the laws, regulations or legal requirements of the Party where the service is supplied;

(d) the natural person shall not receive remuneration for the provision of services in the territory of the other Party other than the remuneration paid by the juridical person employing the natural person.

(e) the entry and temporary stay of natural persons within the Party concerned shall be for a period as set out in each schedule;

(f) access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract and does not confer entitlement to exercise the professional title of the Party where the service is provided;

(g) the number of persons covered by the service contract shall not be larger than necessary to fulfil the contract pursuant to relevant laws and regulations of the Party where the service is supplied; and

(h) other discriminatory limitations, including on the number of natural persons in the form of economic needs tests, specified in Annex (…) [reservations on contractual services sellers].]

ARTICLE 8.21

[24] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory. In evaluating the qualification, that Party shall endeavour to take into account relevant information that may be provided by relevant authority of the other Party.

Independent professionals

1. For every sector listed below, the Parties shall allow the supply of services into their territory by independent professionals of the other Party, subject to the conditions specified in paragraph 3 of this Article and any reservations listed in Annex (…) [reservations on independent professionals.

2. The commitments undertaken by the Parties are subject to the following conditions:

(a) the natural persons must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party and must have obtained a service contract for a period not exceeding twelve months;

(b) the natural persons entering the other Party must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract;

(c) the natural persons entering the other Party must possess:

(i) a degree or a qualification demonstrating knowledge of an equivalent level[25] and

(ii) professional qualifications where this is required to exercise an activity pursuant to the law, regulations or other legal requirements of the Party where the service is supplied;

(d) the entry and temporary stay of natural persons within the Party concerned shall be for a period as set out in each schedule;

(e) access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract; it does not confer entitlement to exercise the professional title of the Party where the service is provided; and

[25] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory. In evaluating the qualification, that Party shall endeavour to take into account relevant information that may be provided by relevant authority of the other Party.

(f) other discriminatory limitations, including on the number of natural persons in the form of economic needs tests, which are specified in Annex (…) [reservations on independent professionals].

ARTICLE 8.22

Transparency

1. Each Party shall make publicly available information on relevant measures that pertain to the entry and temporary stay of natural persons with respect to whom commitments are undertaken in accordance with this Section.

2. The information referred to in paragraph 1 shall, to the extent possible, include inter alia the following information relevant to the entry and temporary stay of natural persons:

(a) entry conditions;

(b) an indicative list of documentation that may be required in order to verify the fulfilment of the conditions;

(c) indicative processing time;

(d) applicable fees; and

(e) appeal procedures.

3. For greater certainty, paragraph 2 shall not be construed as to require any Party to provide an appeal procedure that is inconsistent with its legal system.

ARTICLE 8.23

Dispute settlement

No Party shall have recourse to Chapter 22 (Dispute Settlement) regarding a refusal to grant temporary entry, unless the matter involves a pattern of practice.

SECTION E

REGULATORY FRAMEWORK

SUB-SECTION 1

DOMESTIC REGULATION

ARTICLE 8.24

Scope and definitions

1. This Sub-Section applies to measures by the Parties relating to licencing requirements and procedures, qualification requirements and procedures that affect:

(a) the cross-border supply of services;

(b) the supply of a service or pursuit of any other economic activity through the establishment of an enterprise and operation of a covered enterprise;

(c) the supply of a service through temporary stay in their territory of categories of natural persons as defined in Article 8.17 (Scope and Definitions).

2. This Sub-Section only applies to sectors for which the Party has undertaken specific commitments and to the extent that these specific commitments apply.

3. This section does not apply to measures to the extent that they constitute limitations subject to scheduling of commitments under Articles 8.7 or 8.13 (Market Access) and/or Article 8.8 or 8.14

(National Treatment) where applicable or Article 8.11 (Performance Requirements) or Article 8.18, 8.19, 8.20, 8.21.

4. For the purpose of this Sub-Section:

(a) "licencing requirements" means substantive requirements, other than qualification requirements, with which a natural or a juridical person is required to comply in order to obtain, amend or renew authorisation to carry out the activities as defined in paragraph 1 (a) to (c);

(b) "licencing procedures" means administrative or procedural rules that a natural or a juridical person, seeking authorisation to carry out the activities as referred to in paragraph 1 (a) to (c), including the amendment or renewal of a licence, must adhere to in order to demonstrate compliance with licencing requirements;

(c) "qualification requirements" means substantive requirements relating to the competence of a natural person to supply a service, and which are required to be demonstrated for the purpose of obtaining authorisation to supply a service;

(d) "qualification procedures" means administrative or procedural rules that a natural person must adhere to in order to demonstrate compliance with qualification requirements, for the purpose of obtaining authorisation to supply a service; and

(e) "competent authority" means any central, regional or local government and authority or non-governmental body in the exercise of powers delegated by central or regional or local governments or authorities, which takes a decision concerning the authorisation to supply a service, including through establishment or concerning the authorisation to establish in an economic activity other than services.

ARTICLE 8.25

Conditions for licencing and qualification

1. Each Party shall ensure that measures relating to licencing requirements, licencing procedures, qualification requirements and qualification procedures are based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary manner.

2. The criteria referred to in paragraph 1 shall be:

(a) clear;

(b) objective and transparent; and

(c) pre-established and accessible to the public.

3. An authorisation or a licence shall, subject to availability, be granted as soon as it is established, in the light of an appropriate examination, that the conditions for obtaining an authorisation or licence have been met.

4. (a) Each Party shall maintain or institute judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected investor or service supplier, for a prompt review of, and where justified, appropriate remedies for, administrative decisions affecting establishment, cross border supply of services or temporary presence of natural persons for business purposes. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, each Party shall ensure that the procedures in fact provide for an objective and impartial review.

(b) The provisions of subparagraph (a) shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with the nature of its legal system.

5. Where the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, each Party shall apply a selection procedure to potential candidates which provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure.

6. Subject to the provisions specified by paragraph 5, in establishing the rules for the selection procedure, each Party may take into account legitimate policy objectives, including considerations of health, safety, the protection of the environment and the preservation of cultural heritage.

ARTICLE 8.26

Licencing and qualification procedures

1. Licencing and qualification procedures and formalities shall be clear, pre-established and made publicly available, and shall not in themselves constitute a restriction on the supply of a service or the pursuit of any other economic activity. Each Party shall endeavour to make such procedures and formalities as simple as possible and shall not unduly complicate or delay the provision of the service. Any licencing fees[26], except for financial services, which the applicants may incur from their application should be reasonable and shall not, in themselves, restrict the supply of the relevant service or the pursuit of the relevant economic activity.

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.

3. Each Party shall ensure that the procedures used by, and the decisions of, the competent authority in the licencing or authorisation process are impartial with respect to all applicants. The competent authority should reach its decision in an independent manner and not be accountable to any person supplying the services or carrying out the economic activities for which the licence or authorisation is required.

4. In case specific time periods for applications exist, an applicant shall be allowed a reasonable period for the submission of an application. The competent authority shall initiate the processing of an application without undue delay. If possible, applications should be accepted in electronic format under the same conditions of authenticity as paper submissions.

5. Each Party shall ensure that the processing of an application, including reaching a final decision, is completed within a reasonable timeframe after the date of submission of a complete application. Each Party shall endeavour to establish the normal timeframe for processing of an application.

[26] Licencing fees do not include payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

6. The competent authority shall, within a reasonable period of time after the receipt of an application which it considers incomplete, inform the applicant, identify to the extent feasible the additional information required to complete the application, and provide the opportunity to correct deficiencies.

7. Copies that are authenticated in accordance with the Party's domestic law should be accepted, whenever possible, in place of original documents.

8. If an application is rejected by the competent authority, the applicant shall be informed in writing and without undue delay. In principle and in line with each Party´s laws and regulations, the applicant shall, upon formal request, also be informed of the reasons for rejection of the application and of the timeframe for an appeal against this decision. An applicant should be permitted, within reasonable time limits, to resubmit an application.

9. Each Party shall ensure that a licence or an authorisation, once granted, enters into effect without undue delay in accordance with the terms and conditions specified therein.

SUB-SECTION 2

PROVISIONS OF GENERAL APPLICATION

ARTICLE 8.27

Mutual recognition of professional qualifications

1. Nothing in this Article shall prevent a Party from requiring that natural persons possess the necessary qualifications and/or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

1a. Where appropriate, the Parties shall encourage the establishment of dialogue between their relevant experts, regulators and/or industry bodies to share and facilitate understanding of the respective qualifications, registration requirements and processes.

2. The Parties shall encourage the relevant professional bodies or respective authorities as appropriate, in their respective territories to develop and provide a joint recommendation on mutual recognition of professional qualifications to the Specialised Committee on Services, Investment, Digital Trade, Government Procurement, Intellectual Property established pursuant to Article 24.4 (Specialised Committees). Such a joint recommendation shall be supported by evidence of:

(a) the economic value of an envisaged arrangement on mutual recognition of professional qualifications (hereinafter referred to as "Mutual Recognition Arrangement"); and

(b) the compatibility of the respective regimes, i.e., the extent to which the criteria applied by each Party for the authorisation, licensing, operation and certification of entrepreneurs and service suppliers are compatible.

3. On receipt of a joint recommendation, the [Committee] shall review its consistency with this Title, within a reasonable period of time. The [Committee] may, following such review, develop and adopt a mutual recognition arrangement by decision. [27] The Decision to adopt a mutual recognition arrangement shall be without prejudice to the entry into force of the arrangement as may be provided in the mutual recognition arrangement or in this decision.[28]

4. The Guidelines for arrangements on the recognition of professional qualifications set out in Annex XX shall be taken into account in the development of the joint recommendations referred to in paragraph 2 and by the Specialised Committee on Services, Investment, Digital Trade, Government Procurement, Intellectual Property when assessing whether to adopt such an Arrangement, as referred to in paragraph 3.

5. The Specialised Committee on Services, Investment, Digital Trade, Government Procurement, Intellectual Property may consider:

(a) issues of mutual interest relating to the supply of professional services; and

[27] For greater certainty, this paragraph shall be without prejudice to the right of [the Committee] to delegate the review and development of a mutual recognition arrangement to the Specialised Committee. [The Committee] retains the right to adopt a mutual recognition arrangement.

[28] For greater certainty, nothing in this Article shall be construed to require the Parties to establish automatic recognition of qualifications, and in the mutual interest of both Parties such arrangements shall set the conditions for the competent authorities granting recognition.

(b) the possibility of developing a comparison of European and Indonesian Qualifications Frameworks to improve understanding of the Parties respective qualification frameworks.

SUB-SECTION 3

DELIVERY SERVICES

ARTICLE 8.28

Scope and definitions

1. This Sub-Section sets out the principles of the regulatory framework for all delivery services.

2. For the purpose of this Sub-Section:

(a) "delivery services" mean postal and courier/express services, which include the following activities: the collection, sorting, transport, and delivery of postal items;

(b) "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 delivery service provider, whether public or private, and may include items such as a letter, parcel, newspaper, catalogue, and others;

(c) "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;

(d) "express mail services" means international express delivery services supplied through the EMS Cooperative, the voluntary association of designated postal operators under Universal Postal Union (UPU);

(e) "postal monopoly" means the exclusive right to supply specified delivery services within a Party's territory pursuant to a legislative measure by the Party;

(f) "universal service" means the permanent provision of a service of a specified quality at all points in the territory of a Party at affordable prices for all users; and

(g) "licence" means an authorisation, granted to a service supplier by a regulatory authority, setting out procedures, obligations and requirements specific to the delivery services sector pursuant to laws and regulations of each Party.

ARTICLE 8. 29

Universal service

1. Each Party has the right to define the kind of universal service obligation it wishes to maintain. Each Party that maintains a universal service obligation shall administer it in a transparent, non-discriminatory and neutral manner with regard to all suppliers subject to the 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 this service over other international express delivery services.

ARTICLE 8.30

Universal service funding

The Parties shall not impose discriminatory fees or other charges on the supply of a non-universal delivery service for the purpose of funding the supply of a universal service.[29]

ARTICLE 8.31

[29] This paragraph does not apply to generally applicable taxation measures or administrative fees.

Prevention of market distortive practices

Each Party shall ensure that a supplier of delivery services subject to a universal service obligation or a postal monopoly does not engage in the following market distortive practices:

(a) using revenues derived from the supply of such service to cross-subsidize the supply of an express delivery service or any non-universal delivery service[30],

(b) unjustifiably differentiating among customers such as businesses, large volume mailers or consolidators with respect to, for example, tariffs for the supply of a service subject to a universal service obligation or a postal monopoly, and

(c) any other market distortive practice stipulated by the laws and regulations of the Party in which the service is supplied.

ARTICLE 8.32

Licences

1. When a Party requires a licence for the provision of delivery services, it shall make publicly available:

(a) all 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. The procedures, obligations and requirements of a license shall be transparent, non-discriminatory and based on objective criteria.

[30] Measures to demonstrate that revenues derived from the supply of delivery services subject to universal service obligation or postal monopoly are not used to cross-subsidize the supply of non-monopoly or non-universal delivery service may include, among others, maintaining separate accounts.

3. Each Party shall inform the applicant of the reasons for denial of the licence in writing. Each party shall ensure that it institutes or maintains an appeal procedure through a body that is independent from the parties involved. This body may be a court.

ARTICLE 8.33

Independence of the regulatory body

1. Each Party shall create or maintain a regulatory body which shall be legally distinct from and functionally independent from any supplier of delivery services. Parties that retain ownership or control of undertakings providing delivery services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control. The body may be a government institution.

2. Each Party shall ensure that regulatory bodies perform their tasks in a transparent and timely manner. They shall ensure that regulatory bodies have adequate financial and human resources to carry out the task assigned to them.

3. The decisions of and the procedures used by the regulatory body shall be impartial with respect to all market participants.

SUB-SECTION 4

TELECOMMUNICATIONS SERVICES

ARTICLE 8.34

Scope

1. This Sub-Section sets out the principles of the regulatory framework for the provision of public telecommunications networks and services, liberalised pursuant to Sections B, [Liberalisation of Investment,] and C [Cross-Border Supply of Services] of this Chapter.

2. This Sub-Section does not apply to any measure adopted or maintained by a Party relating to cable or broadcast distribution of radio or television programming.

ARTICLE 8.35

Definitions

For the purpose of this Sub-Section:

(a) "associated facilities" means those services, physical infrastructures and other facilities associated with a telecommunications network and/or service which enable and/or support the provision of services via that network and/or service or have the potential to do so;

(b) "essential facilities" mean facilities of a public telecommunications network or 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 linking of public telecommunications networks providing public telecommunications networks or services in order to allow the users of one supplier to communicate with users of another supplier or to access services provided by another supplier;

(d) "leased circuits" means telecommunications services or facilities 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 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 services as a result of control over essential facilities or the use of its position in that market;

(f) "network element" means a facility or equipment used in supplying a public telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;

(g) "non-discriminatory" means treatment no less favourable than those accorded to any other user of like public telecommunications networks or services in like situations;

(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) "telecommunications" means the transmission and reception of signals by any electromagnetic means;

(k) "telecommunications network" means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the transmission and reception of signals by wire, radio, optical, or other electromagnetic means;

(l) "telecommunications regulatory authority" means the body or bodies charged by a Party with the regulation of telecommunications networks and services covered by this Sub-Section;

(m) "telecommunications service" means a service which consists wholly or mainly in the transmission and reception of signals, including of broadcasting signals, over telecommunications networks, including over networks used for broadcasting. Telecommunications services exclude services providing, or exercising, editorial control over content transmitted using telecommunications networks and services;

(n) "universal service" means the minimum set of services of specified quality that must be made available to all users in the territory of a Party regardless of their geographical location and at an affordable price; and

(o) "user" means any legal entity or natural person using a public telecommunications network or service.

ARTICLE 8.36

Telecommunications regulatory authority

1. Each Party shall ensure that its telecommunications regulatory authority is legally distinct and functionally independent from any supplier of telecommunications networks, telecommunications services or telecommunications equipment, and that the decisions of and the procedures used by the telecommunications regulatory authority are impartial with respect to all market participants. A Party that retains ownership or control of suppliers of telecommunications networks or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.

2. The telecommunications regulatory authority shall act independently and shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to it under national law to enforce the obligations set out in Articles 8.38 (Interconnection), 8.39 (Access and Use), 8.40 (Resolution of Telecommunications Disputes), 8.42 (Interconnection with Major Suppliers) and 8.43 (Access to Major Suppliers' Essential Facilities).

3. Each Party shall ensure that the telecommunications regulatory authority has the regulatory power, as well as adequate financial and human resources, to carry out the tasks assigned to it to enforce the obligations set out in this Sub-Section. Such power shall be exercised transparently and in a timely manner. The tasks to be undertaken by a regulatory authority shall be made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

4. Each Party shall provide its telecommunications regulatory authority with the power to ensure that suppliers of telecommunications networks or services provide it, promptly upon request, with all the information, including financial information, which is necessary to enable the telecommunications regulatory authority to carry out its tasks in accordance with this Sub-Section. Information requested shall be treated in accordance with the requirements of confidentiality.

5. Each Party shall ensure that a user or supplier of telecommunications networks or services affected by a decision of the telecommunications regulatory authority has the right to appeal against that decision to an appeal body that is independent of the telecommunications regulatory authority and of the parties affected by the decision. Pending the outcome of the appeal, the decision of the telecommunications regulatory authority shall stand, unless interim measures are granted in accordance with national law.

ARTICLE 8.37

Authorisation to provide telecommunications services

1. Where a Party requires an authorisation for the provision of telecommunications networks or services, the Party shall make publicly available the types of services requiring authorisation, all authorisation criteria, any terms and conditions generally associated with the authorisation, and the applicable procedures.

2. Where a Party requires a formal authorisation decision, it shall state a reasonable period of time normally required to obtain such a decision, communicate this in a transparent manner and shall endeavour to ensure that the decision is taken within the stated period of time.

3. Any authorisation criteria and applicable procedures shall be as simple as possible, objective, transparent, non-discriminatory and proportionate. Any obligations and conditions imposed on or associated with an authorisation shall be non-discriminatory, transparent, proportionate and related to the services provided.

4. Each Party shall ensure that an applicant receives in writing the reasons for the denial or the revocation of an authorisation, or the imposition of supplier-specific conditions. In such cases, an applicant shall be able to seek recourse before an appeal body.

5. Administrative fees imposed on suppliers, if any, shall be 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[31].

[31] Administrative fees do not include payments for rights to use scarce resources and mandated contributions to universal service provision.

ARTICLE 8.38

Interconnection

Each Party shall ensure that a supplier of public telecommunications networks or services has the right and, when requested by another supplier of public telecommunications networks or services, the obligation to negotiate interconnection for the purpose of providing public telecommunications networks or services.

ARTICLE 8.39

Access and use

1. Each Party shall ensure that any service supplier of the other Party is accorded access to and use of public telecommunications networks or services on reasonable and non-discriminatory terms and conditions. This obligation shall be applied, inter alia, through paragraphs 2 through 5 of this Article.

2. Each Party shall ensure that service suppliers of the other Party have access to and use of any public telecommunications service offered within or across the border of that Party, including private leased circuits, and to this end shall ensure, subject to the provisions in paragraph 5 of this Article, that such suppliers are permitted:

(a) to purchase or lease and attach terminal or other equipment which interfaces with the network and which is necessary to supply a supplier's services;

(b) to connect private leased or owned circuits with public telecommunications networks or with circuits leased or owned by another service supplier; and

(c) to use operating protocols of their choice in the supply of any service, other than as necessary to ensure the availability of telecommunications services to the public generally.

3. Each Party shall ensure that service suppliers of the other Party may use public telecommunications networks and services for the movement of information within and across borders, including for intra-corporate communications of such service suppliers, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding the provisions in paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of communications, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications services other than as necessary:

(a) to safeguard the public service responsibilities of suppliers of public telecommunications networks or services, in particular their ability to make their services available to the public generally; and

(b) to protect the technical integrity of public telecommunications networks or services.

ARTICLE 8.40

Resolution of telecommunications disputes

1. Each Party shall ensure that, in the event of a dispute arising between suppliers of telecommunications networks or services in connection with rights and obligations that arise from this Sub-Section, and at the request of either party involved in the dispute, the telecommunications regulatory authority issues a binding decision within a reasonable timeframe to resolve the dispute.

2. The decision issued by the telecommunications regulatory authority shall be made available to the public, having regard to the requirements of business confidentiality. The Parties concerned shall be given a full statement of the reasons on which it is based and shall have the right to appeal this decision, according to paragraph 5 of Article 8.36 (Telecommunications Regulatory Authority).

3. The procedure referred to in paragraphs 1 and 2 of this Article shall not preclude either party concerned from bringing an action before the courts.

ARTICLE 8.41

Competitive safeguards

1. Each Party shall introduce or maintain appropriate measures for the purpose of preventing suppliers of telecommunications networks or services who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. For greater certainty, nothing in this Article shall prevent a Party from maintaining measures for the purpose of preventing anti-competitive practices by suppliers of public telecommunications networks or services who are not major suppliers.

ARTICLE 8.42

Interconnection with major suppliers

1. Each Party shall ensure that major suppliers of public telecommunications networks or 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, technical standards, specifications, quality and maintenance) and of a quality no less favourable than that provided for the 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, technical standards, specifications, quality and maintenance) that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components 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. The procedures applicable for interconnection to a major supplier shall be made publicly available.

3. Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers as appropriate.

ARTICLE 8.43

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 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. The major supplier's essential facilities may include, inter alia, network elements, leased circuits services and associated facilities.

ARTICLE 8.44

Scarce resources

1. Each Party shall ensure that the allocation and granting of rights of use of scarce resources, including radio spectrum, numbers and rights of way, is carried out in an open, objective, timely, transparent, non-discriminatory and proportionate manner and in pursuit of general interest objectives. Procedures, and conditions and obligations attached to rights of use, shall be based on objective, transparent, non-discriminatory and proportionate criteria.

2. The current use of allocated frequency bands shall be made publicly available, but detailed identification of radio spectrum allocated for specific government uses is not required.

3. A Party's measures allocating and assigning spectrum and managing frequency are not measures that are per se inconsistent with Article [X.X] (Market Access) of Chapter [XX] (Title). Accordingly, 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 Title. This includes the ability to allocate frequency bands taking into account current and future needs and spectrum availability.

ARTICLE 8.45

Number portability

Under terms and conditions that accord national treatment [*pursuant to Article 8.8 and 8.14*], each Party shall ensure that suppliers of public telecommunications services provide number portability on reasonable terms and conditions to the extent that this service is already provided in the territory of each Party.

ARTICLE 8.46

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. Universal service obligations will not be regarded per se as anti-competitive, provided they are administered in a proportionate, transparent, objective and non-discriminatory way. The administration of such obligations shall be neutral with respect to competition and not be more burdensome than necessary for the kind of universal service defined by the Party.

3. Each Party shall ensure that procedures for the designation of universal service suppliers are open to all suppliers of public telecommunications networks or services. The designation shall be made through an efficient, transparent and non-discriminatory mechanism.

4. Where a Party decides to compensate the universal service suppliers, it shall ensure that such compensation does not exceed the net cost caused by the universal service obligation.

ARTICLE 8.47

Confidentiality of information

1. Each Party shall ensure that suppliers that acquire information from another supplier in the process of negotiating arrangements pursuant to Articles 8.38 (Interconnection), 8.39 (Access and Use), 8.42 (Interconnection with Major Suppliers) or 8.43 (Access to Major Suppliers' Essential Facilities) use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

2. Each Party shall ensure the confidentiality of telecommunications and related traffic data transmitted in the use of public telecommunications networks or services, subject to the requirement that measures applied to that end do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

SUB-SECTION 5

FINANCIAL SERVICES

ARTICLE 8.48

Scope and definitions

1. This Sub-Section sets out the principles of the regulatory framework for all financial services liberalised pursuant to Sections B, C, and D of this chapter.

2. For the purpose of this Sub-section and of Sections B, C and D of this chapter

(a) "financial service" means any service of a financial nature offered by a financial service supplier of a Party. Financial services comprise the following activities:

(i) insurance and insurance-related services

(A) direct insurance (including co-insurance):

(aa) life;

(bb) non-life;

(B) reinsurance and retrocession;

(C) insurance inter-mediation, 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 transaction;

(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:

(aa) money market instruments (including cheques, bills, certificates of deposits);

(bb) foreign exchange;

(cc) derivative products including, but not limited to, futures and options;

(dd) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(ee) transferable securities;

(ff) 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 by suppliers of other financial services;

(L) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (A) through (K), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) "financial service supplier" means any natural or juridical person of a Party that seeks to provide or provides financial services. The term “financial service supplier” does not include a public entity.

(c) "public entity[32]" means:

(i) a government, a central bank or a 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 financial service 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 which is supplied and regulated in the territory of the other Party.

(e) "self-regulatory organisation" means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organisation or

[32] For greater certainty, a public entity includes a financial regulatory and/or supervisory authority.

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.

3. For the purposes of the application of subparagraph (i) of paragraph 1 of article 8.3 of this chapter to this Sub-Section, "services supplied in the exercise of governmental authority" means the following:

(a) activities conducted by a central bank or a monetary authority or by any public entity in pursuit of monetary or exchange rate policies;

(b) activities forming part of a statutory system or social security or public retirement plans; and

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of a Party or its public entities.

ARTICLE 8.49

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;

(b) ensuring the integrity and stability of a Party’s financial system.

2. Where the measures referred to in paragraph 1 do not conform to the other provisions of this Agreement, they shall not be used as a means of avoiding each Party’s commitments or obligations under such provisions.

3. 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 8.50

Effective and transparent regulation

1. Each Party shall make available to financial services suppliers its requirements for completing applications relating to the supply of financial services.
On the request of an applicant, the concerned Party shall inform the applicant of the status of its application. If the concerned Party requires additional information from the applicant, it shall notify the applicant without undue delay.
2. Each Party shall make its best endeavours to ensure that internationally agreed standards for regulation and supervision in the financial services sector and for the fight against tax evasion and avoidance and against money laundering and terrorist financing are implemented and applied in its territory. Such internationally agreed standards are, inter alia, those adopted by the G20, the Financial Stability Board, the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the International Organisation of Securities Commissions, the Financial Action Task Force and the Global Forum on Transparency and Exchange of Information for Tax Purposes.

ARTICLE 8.51

New financial services

Each Party shall permit a financial service supplier of the other Party established in its territory to provide any new financial service that the former Party would permit its own financial service suppliers to provide in accordance with its domestic laws or regulations in like situations, provided that the introduction of the new financial services does not require a new law or modification of an existing law. A Party may determine the institutional and legal form through which the service may be provided and may require authorisation for the provision of the service. Where such authorisation

is required, a decision shall be made in accordance with Sub-Section 1 to Section E[Domestic Regulation] and the authorisation may only be refused for prudential reasons.

ARTICLE 8.52

Specific exceptions

1. Nothing in this Chapter shall be construed as preventing a Party, including its public entities, from exclusively conducting or providing in its territory activities or services forming part of a public retirement plan or statutory system of social security, except when those activities may be carried out, as provided by the Party's domestic regulation, by financial service suppliers in competition with public entities or private institutions.

2. Nothing in this Agreement applies to activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies.

3. Nothing in this Chapter shall be construed as preventing a Party, including its public entities, from exclusively conducting or providing in its territory activities or services for the account or with the guarantee or using the financial resources of the Party, or its public entities, except when those activities may be carried out, as provided by the Party's domestic regulation, by financial service suppliers in competition with public entities or private institutions.

ARTICLE 8.53

Self-regulatory organisations

When 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 of the obligations under Articles 8.8 (National Treatment) and 8.9 (Most Favored Nation Treatment) as well as 8.14 (National Treatment) and 8.15 (Most Favored Nation Treatment).

ARTICLE 8.54

Clearing and payment systems

Under terms and conditions that accord national treatment, each Party shall, as permitted by each Party's access criteria, 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 paragraph is not intended to confer access to the Party's lender of last resort facilities.

ARTICLE 8.55

Regulatory dialogue in the area of financial services

1. The Parties hereby establish a dialogue on the regulation of the financial services sector with a view to improving mutual knowledge of the Parties' respective regulatory systems and to co-operating in the development of international standards.

2. Issues regarding financial services that a Party refers to the other Party, shall be agreed by the Parties prior to the dialogue.

3. The Parties may meet in person, including in the margins of international fora, or by any other appropriate means of communication, such as videoconference or teleconference, as agreed by the Parties.

4. Participants in the regulatory dialogue shall be financial services experts and representatives of authorities in charge of financial services policy.

SUB-SECTION 6

INTERNATIONAL MARITIME TRANSPORT SERVICES

ARTICLE 8.56

Scope, definitions and principles

1. In addition to Sections B, C and D of this chapter[33], this Sub-Section shall apply to measures of a Party affecting the supply of international maritime transport services.

2. For the purpose of this Sub-Section and sections B, C and D of this chapter:

(a) "international maritime transport services" means the transport of passengers and/or cargo by sea-going vessels between a port of a Party and a port of the other Party or of a third country. This includes the direct contracting with providers of other transport services, with a view to cover door-to-door or multimodal transport operations under a single transport document, but not the right to provide such other transport services.

(b) "door-to-door or multimodal transport operations" means the transport of cargo using more than one mode of transport, involving an international sea-leg, under a single transport document.

(c) "international cargo" means cargo transported between a port of one Party and a port of the other Party or of a third Party, or between a port of one Member State of the European Union and a port of another Member State of the European Union.

(d) "maritime auxiliary services" means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services and maritime freight forwarding services;

(i) "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:

(A) the loading or discharging of cargo to or from a ship;

(B) the lashing or unlashing of cargo;

[33] For greater certainty, reference to sections B, C and D of this chapter includes Annex on Schedule on Specific Commitment.

(C) the reception/delivery and safekeeping of cargoes before shipment or after discharge;

(ii) "customs clearance services" or "customs house brokers' services" means activities consisting in carrying out for and on behalf of another party customs formalities concerning import, export or through movement or storage of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity;

(iii) "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;

(iv) "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:

(A) 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;

(B) acting on behalf of the companies organising the call of the ship or taking over cargoes when required;

(v) "freight forwarding services" means the activity consisting of 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; and

(e) ""feeder services" means, without prejudice to the scope of activities, which might be considered as cabotage under the relevant national legislation, the pre- and onward transportation by sea of international cargo, between ports located in the territory of a Party and provided such international cargo is "en route" i.e. directed to a destination, or coming from a port of shipment, outside the territory of that Party.

3. In view of the existing levels of liberalisation between the Parties in international maritime transport:

(a) the Parties, without prejudice to its Schedule of Specific Commitments, shall apply effectively the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis;

(b) each Party shall grant 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, with regard to, inter alia, access to ports, use of infrastructure and services of ports, and use of maritime auxiliary services, as well as related fees and charges, customs facilities and assignment of berths and facilities for loading and unloading.

4. In applying the principles referred to in subparagraphs 3 (a) and 3 (b), the Parties shall:

(a) not introduce cargo-sharing arrangements in future agreements with third countries concerning maritime transport services, including dry and liquid bulk and liner trade, and where identified, not implement and endeavour to terminate, within a reasonable period of time, such cargo-sharing arrangements in case they exist in previous agreements; and

(b) upon the entry into force of this Agreement, endeavour to abolish, and abstain from introducing any unilateral measures that could constitute a disguised restriction or have discriminatory effects on the free supply of services in international maritime transport.

5. Each Party shall permit international maritime service suppliers of the other Party to have an enterprise established and operating in its territory in accordance with the conditions inscribed in its Schedule of Specific Commitments.

6. Where available, the Parties shall provide access to international maritime transport suppliers of the other Party on reasonable and non-discriminatory terms and conditions the following services at the port: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, shore-based

operational services essential to ship operations, including communications, water and electrical supplies, emergency repair facilities, anchorage, berth and berthing services.

7. Each Party, subject to the authorisation by the competent authority where applicable, shall permit international maritime transport service suppliers of the other Party to provide feeder services.

SUB-SECTION 7

ARTICLE 8.57

Understanding on computer services

1. The Parties subscribe to the understanding that, for the purpose of liberalising trade in services in accordance with Chapter 8 (Investment and Trade in Services), computer and related services, regardless of whether they are delivered via a network, including the Internet, include:

(a) consulting, 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), plus 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 programs;

(c) data processing, data storage, data hosting or database services;

(d) maintenance and repair services for office machinery and equipment, including computers; or

(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 paragraph 1, shall not be regarded as computer and related services in themselves.