

ANNEX 28**NON-APPLICATION OF THIRD-PARTY ACCESS
AND OWNERSHIP UNBUNDLING TO INFRASTRUCTURE**

A Party may decide not to apply Articles 306 and 307 of this Agreement to new infrastructure or to a significant expansion of existing infrastructure where:

- (a) the risk attached to the investment in the infrastructure is such that the investment would not take place unless an exemption is granted;
 - (b) the investment enhances competition or security of supply;
 - (c) the infrastructure is owned by a natural or legal person separate, at least in terms of its legal form, from the system operators in whose systems it was or is to be built;
 - (d) before granting the exemption, the Party has decided on the rules and mechanisms for management and allocation of capacity.
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