

1. Where a Member State maintains a monopoly for the provision of a service inscribed by it in the Annex, the services of such monopoly shall be made available to persons of the other Member State for normal business activities in respect of price, quality and quantity under transparent and non-discriminatory conditions.

2. Member States shall endeavour to prevent monopoly service providers under their direct control from using revenues deriving from their monopoly activities for the purpose of subsidising services they may provide in competition with persons of the Member States.

Article 13

Transparency

1. Each Member State shall make public promptly all laws, regulations, judicial decisions and administrative rulings pertaining to trade in services.

2. Each Member State shall, to the extent possible, provide maximum possible opportunity for comment by interested parties on proposed laws, regulations, procedures and administrative rulings affecting trade in services.

3. The provisions of paragraphs 1 and 2 of this Article are to be interpreted as widely as possible consistent with not requiring a Member State to disclose confidential information contrary to national security, the public interest or prejudice legitimate commercial interests.

Article 14

Denial of benefits

Subject to prior notification and consultation in accordance with Articles 16 and 19 of this Protocol, a Member State may deny the benefits of this Protocol to persons of the other Member State providing a service if the Member State establishes that the service is indirectly provided by a person, not being a person of either Member State.

Article 15

Taxation

The provisions of this Protocol shall not apply to any taxation measure.

Article 16

Notification

1. A Member State shall provide written notice to the other of any proposed or actual measure that it considers might materially affect the operation of this Protocol. The notice shall include the reasons for the measure.

2. The written notice shall be given as far in advance as possible of implementation of the measure. If prior notice is not possible, the Member State implementing the measure shall provide written notice to the other Member State as soon as possible after implementation.

3. Upon request of the other Member State, information and response to questions pertaining to any actual or proposed measure, whether or not previously notified, shall be promptly provided.

4. The provision of written advice shall be without prejudice as to whether the measure is consistent with this Protocol.

Article 17

Inclusions in the Annex until 31 March 1989

A Member State may inscribe a service in the Annex until 31 March 1989. Before doing so, it shall provide written reasons for the proposed inscription to the other Member State and undertake consultations with a view to establishing whether any problems arising from the non-inscription of a service could be resolved by other means.

Article 18

Exceptions

Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Member State or as a disguised restriction on trade in services, nothing in this Protocol shall preclude the adoption by either Member State of measures necessary:

- (a) to protect its essential security interests;
- (b) to protect public morals and to prevent disorder or crime;
- (c) to protect human, animal or plant life or health;
- (d) to prevent unfair, deceptive, or misleading practices;
- (e) in pursuance of obligations under international agreements; or
- (f) to secure compliance with laws and regulations relating to customs enforcement, to tax avoidance or evasion, or to foreign exchange control.

Article 19

Consultation

1. The Member States shall, at the written request of either, promptly enter into consultations with a view to seeking an early, equitable and mutually satisfactory solution, if the Member State which requested the consultations considers that:

- (a) an obligation under this Protocol has not been, is not being, or may not be fulfilled;
or
- (b) the achievement of any objective of this Protocol is being or may be frustrated.

2. For the purpose of this Protocol, consultations between the Member States shall be considered to have commenced on the day on which written notice requesting the consultations is given.

Article 20

Review

The Member States agree to meet before 31 December 1990, and regularly thereafter, to review the operation of this Protocol.