

(d) to establish a framework of transparent rules to govern trade in services between the Member States;

(e) to facilitate competition in trade in services.

Article 2

Scope of Protocol

1. This Protocol shall apply to the provision of services in the Free Trade Area referred to in Article 2 of the Agreement.

2. The provisions of this Protocol shall apply subject to the foreign investment policies of the Member States.

3. This Protocol shall apply to any measure, in existence or proposed, of a Member State that relates to or affects the provision of a service by or on behalf of a person of the other Member State within or into the territory of the first Member State.

4. Except as otherwise provided in particular Articles, this Protocol shall not apply to the provision within or into the territory of one Member State of the services inscribed by that Member State in the Annex until such time as such services inscribed by it have been removed from the Annex in accordance with Article 10 of this Protocol.

Article 3

Definitions

Provision of services includes:

(a) the production, distribution, marketing, sale and delivery of a service; and

(b) for the purpose of the activities referred to in the previous sub-paragraph of this paragraph:

- (i) access to and use of domestic distribution systems; and
- (ii) rights of establishment.

Measure includes any law, regulation, or administrative practice.

Person of a Member State means:

- (a) a natural person who is a citizen of, or ordinarily resident in, that State;
- (b) a body corporate established under the law of that State;
- (c) an association comprising or controlled by:
 - (i) persons described in one or both of sub-paragraphs (a) or (b); or
 - (ii) persons described in one or both of sub-paragraphs (a) or (b) and persons so described in relation to the other Member State.

Article 4

Market access

Each Member State shall grant to persons of the other Member State and services provided by them access rights in its market no less favourable than those allowed to its own persons and services provided by them.

Article 5

National treatment

1. Each Member State shall accord to persons of the other Member State and services provided by them treatment no less favourable than that accorded in like circumstances to its persons and services provided by them.
2. Notwithstanding paragraph 1 of this Article, the treatment a Member State accords to persons of the other Member State may be different from the treatment the Member State accords to its persons, provided that:
 - (a) the difference in treatment is no greater than that necessary for prudential, fiduciary, health and safety or consumer protection reasons; and
 - (b) such different treatment is equivalent in effect to the treatment accorded by the Member State to its ordinary residents for such reasons.
3. The Member State proposing or according different treatment under paragraph 2 of this Article shall have the burden of establishing that such treatment is consistent with that paragraph.
4. No provision of this Article shall be construed as imposing obligations or conferring rights upon either Member State with respect to Government procurement or subsidies.

Article 6

Most favoured nation treatment