

CHAPTER 6 TRADE IN SERVICES

Article 6.1 Scope and Coverage

This Chapter shall apply to measures by the Parties affecting trade in services.

Article 6.2 Incorporation of Provisions from the GATS

1. With regard to the rights and obligations of the Parties under this Chapter, the provisions of the GATS and its annexes, including the definitions set out therein, are hereby incorporated into and made part of this Chapter, *mutatis mutandis*, except as provided under this Chapter.³
2. Chapter 13 shall substitute Part V of the GATS. Article 6.3 shall apply with regard to the Parties' most-favoured nation obligations under this Chapter.⁴ Article 6.5 shall substitute paragraph (m) of Article XXVIII of the GATS.
3. Schedules of specific commitments and lists of most-favoured-nation exemptions under the GATS are substituted by the Parties' Schedules of Specific Commitments and Lists of MFN Exemptions which are set out respectively in Annexes 6.F and 6.G, and form an integral part of this Chapter. The terms "schedule" and "specific commitments" contained in GATS provisions shall be understood as referring to the Schedules of Specific Commitments annexed to this Chapter and to the specific commitments inscribed therein, respectively.
4. For the purposes of this Chapter "**Member**" contained in provisions of the GATS that are incorporated into and made part of this Chapter means "Party". However, under Article XII:2(a) of the GATS "**Members**" means "Members of the WTO".
5. The provisions incorporated from the GATS and its annexes are complemented by the provisions of the following Annexes, which form an integral part of this Chapter:
 - (a) Annex 6.A (Financial Services);

³ The Parties understand that they are not required to negotiate bilaterally the specific provisions for which multilateral negotiations have been mandated under the GATS in relation to emergency safeguard measures, government procurement and subsidies or hold consultations as provided in respect of balance of payments. The Parties also understand that provisions of the GATS requiring notification or any other communication to the Council for Trade in Services shall not apply bilaterally. The Parties are not required to bilaterally implement similar provisions contained in Annexes to the GATS, such as Air Transport review, most-favoured-nation review or Maritime Transport.

⁴ The Parties understand that with respect to provisions of the GATS that are incorporated into and made part of this Chapter *mutatis mutandis*, reference to Article II of the GATS shall be understood as referring to Article 6.3 of this Chapter.

- (b) Annex 6.B (Telecommunications Services);
- (c) Annex 6.C (Movement of Natural Persons Supplying Services);
- (d) Annex 6.D (Recognition of Qualifications of Service Suppliers); and
- (e) Annex 6.E (Maritime Personnel).

Article 6.3
Most-Favoured Nation Treatment⁵

1. Without prejudice to measures taken in accordance with Article VII and Article II.3 of the GATS, and except as provided for in its list of most-favoured-nation exemptions contained in Annex 6.G, each Party shall accord immediately and unconditionally in respect of all measures affecting the supply of services, to services and service suppliers of another Party, treatment no less favourable than the treatment it accords to like services and services suppliers of any non-Party.
2. Treatment granted under other existing or future agreements concluded by a Party and notified under Article V or Article *Vbis* of the GATS shall not be subject to paragraph 1.
3. If a Party concludes or amends an agreement of the type referred to in paragraph 2, it shall, upon request of another Party give consideration for negotiating the incorporation into this Agreement of a treatment no less favourable than that provided under the former agreement. Such incorporation, if agreed, should maintain the mutual balance of commitments undertaken by each Party under this Agreement.

Article 6.4
Schedules of Specific Commitments

1. The specific commitments each Party undertakes in line with Part III of the GATS are set out in Annex 6.F.
2. With respect to sectors where such commitments are undertaken, each schedule shall specify:
 - (a) terms, limitations, and conditions on market access;
 - (b) conditions and qualifications on national treatment;
 - (c) undertakings relating to additional commitments referred to in Article XVIII of the GATS;

⁵ This Article shall not apply to Financial Services.

- (d) where appropriate, the time-frame for implementation of such commitments; and
 - (e) the date of entry into force of such commitments.
3. Article XX:2 of the GATS shall apply to measures inconsistent with both Articles XVI and XVII of the GATS.

Article 6.5
Natural Persons of a Party

For the purposes of this Chapter, “**natural person of another Party**” means a natural person who resides in the territory of that other Party or any other Party and who, under the domestic law of that other Party, is:

- (a) a national or citizen of that other Party; or
- (b) a permanent resident of that other Party provided that the Party accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting trade in services, provided further that no Party is obligated to accord to such permanent residents treatment more favourable than would be accorded by that other Party to such permanent residents.

Article 6.6
Payments and Transfers

1. Except under the circumstances envisaged in Article XII of the GATS, no Party shall apply restrictions on international transfers and payments for current transactions relating to its specific commitments.
2. Nothing in this Chapter shall affect the rights and obligations of the Parties under the *Articles of Agreement of the International Monetary Fund* adopted at Bretton Woods on 22 July 1944 (hereinafter referred to as “IMF Articles of Agreement”), including the use of exchange actions which are in conformity with the IMF Articles of Agreement, provided that no Party shall impose restrictions on capital transactions inconsistently with its specific commitments regarding such transactions, except under Article XII of the GATS or at the request of the International Monetary Fund.

Article 6.7
Denial of Benefits

In addition to Article XXVII of the GATS, a Party may, subject to prior notification and consultation, deny the benefits of this Chapter to the supply of a service from or in the territory of another Party, if the Party establishes that the service is

supplied by a service supplier that is owned or controlled by a person of a non-Party and the denying Party adopts or maintains measures with respect to the non-Party that prohibit transactions with the service supplier or that would be violated or circumvented, if the benefits of this Chapter were accorded to the service supplier.