

(e) training services for staff of clients, related to computer programmes, computers or computer systems, and not elsewhere classified.

2. 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.

#### TITLE IV

### CAPITAL MOVEMENTS, PAYMENTS, TRANSFERS AND TEMPORARY SAFEGUARD MEASURES

#### ARTICLE 213

##### Objectives

The objective of this Title is to enable the free movement of capital and payments related to transactions liberalised under this Agreement.

## ARTICLE 214

### Current account

Each Party shall allow, in freely convertible currency and in accordance with the Articles of Agreement of the International Monetary Fund, any payments and transfers with respect to transactions on the current account of the balance of payments that fall within the scope of this Agreement.

## ARTICLE 215

### Capital movements

1. Each Party shall allow, with regard to transactions on the capital and financial account of the balance of payments, the free movement of capital for the purpose of liberalisation of investment and other transactions as provided for in Title II of this Heading.
2. The Parties shall consult each other in the Trade Specialised Committee on Services, Investment and Digital Trade to facilitate the movement of capital between them in order to promote trade and investment.

## ARTICLE 216

### Measures affecting capital movements, payments or transfers

1. Articles 214 and 215 shall not be construed as preventing a Party from applying its laws and regulations relating to:

- (a) bankruptcy, insolvency, or the protection of the rights of creditors;
- (b) issuing, trading or dealing in securities, or futures, options and other financial instruments;
- (c) financial reporting or record keeping of capital movements, payments or transfers where necessary to assist law enforcement or financial regulatory authorities;
- (d) criminal or penal offences, deceptive or fraudulent practices;
- (e) ensuring compliance with orders or judgments in judicial or administrative proceedings; or
- (f) social security, public retirement or compulsory savings schemes.

2. The laws and regulations referred to in paragraph 1 shall not be applied in an arbitrary or discriminatory manner, or otherwise constitute a disguised restriction on capital movements, payments or transfers.

## ARTICLE 217

### Temporary safeguard measures

1. In exceptional circumstances of serious difficulties for the operation of the Union's economic and monetary union, or threat thereof, the Union may adopt or maintain safeguard measures with regard to capital movements, payments or transfers for a period not exceeding six months.
2. The measures referred to in paragraph 1 shall be limited to the extent that is strictly necessary.

## ARTICLE 218

### Restrictions in case of balance of payments and external financial difficulties

1. If a Party experiences serious balance of payments or external financial difficulties, or threat thereof, it may adopt or maintain restrictive measures with regard to capital movements, payments or transfers<sup>1</sup>.
2. The measures referred to in paragraph 1 shall:
  - (a) be consistent with the Articles of Agreement of the International Monetary Fund;

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<sup>1</sup> For greater certainty, serious balance of payments or external financial difficulties, or threat thereof, may be caused among other factors by serious difficulties related to monetary or exchange rate policies, or threat thereof.

- (b) not exceed those necessary to deal with the circumstances described in paragraph 1;
- (c) be temporary and be phased out progressively as the situation specified in paragraph 1 improves;
- (d) avoid unnecessary damage to the commercial, economic and financial interests of the other Party; and
- (e) be non-discriminatory as compared with third countries in like situations.

3. In the case of trade in goods, each Party may adopt or maintain restrictive measures in order to safeguard its external financial position or balance of payments. Those measures shall be in accordance with GATT 1994 and the Understanding on the Balance of Payments provisions of the General Agreement on Tariffs and Trade 1994.

4. In the case of trade in services, each Party may adopt or maintain restrictive measures in order to safeguard its external financial position or balance of payments. Those measures shall be in accordance with Article XII of GATS.

5. A Party maintaining or having adopted measures referred to in paragraphs 1 and 2 shall promptly notify them to the other Party.

6. If a Party adopts or maintains restrictions under this Article, the Parties shall promptly hold consultations in the Trade Specialised Committee on Services, Investment and Digital Trade unless consultations are held in other fora. That Committee shall assess the balance of payments or external financial difficulties that led to the respective measures, taking into account factors such as:

- (a) the nature and extent of the difficulties;
- (b) the external economic and trading environment; and
- (c) alternative corrective measures which may be available.

7. The consultations under paragraph 6 shall address the compliance of any restrictive measures with paragraphs 1 and 2. All relevant findings of a statistical or factual nature presented by the International Monetary Fund, where available, shall be accepted and conclusions shall take into account the assessment by the International Monetary Fund of the balance of payments and the external financial situation of the Party concerned.