

2. Articles 128, 129, 130, 131 and 132 do not apply to a measure of a Party which is consistent with the reservations, conditions or qualifications specified with respect to a sector, subsector or activity listed in Annex 20.

3. Articles 129 and 130 of this Agreement do not apply to any measure that constitutes an exception to, or a derogation from, Article 3 or 4 of the TRIPS Agreement, as specifically provided for in Articles 3 to 5 of that Agreement.

4. For greater certainty, Articles 129 and 130 shall not be construed as preventing a Party from prescribing information requirements, including for statistical purposes, in connection with the establishment or operation of investors of the other Party or of covered enterprises, provided that it does not constitute a means to circumvent that Party's obligations under those Articles.

CHAPTER 3

CROSS-BORDER TRADE IN SERVICES

ARTICLE 134

Scope

This Chapter applies to measures of a Party affecting the cross-border trade in services by service suppliers of the other Party.

ARTICLE 135

Market access

A Party shall not adopt or maintain, either on the basis of its entire territory or on the basis of a territorial sub-division, measures that:

- (a) impose limitations on:
 - (i) the number of service suppliers that may supply a specific service, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
 - (ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test; or
 - (iii) the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test¹; or
- (b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

¹ Point (a) (iii) of Article 135 does not cover measures by a Party which limit inputs for the supply of services.

ARTICLE 136

Local presence

A Party shall not require a service supplier of the other Party to establish or maintain an enterprise or to be resident in its territory as a condition for the cross-border supply of a service.

ARTICLE 137

National treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like situations, to its own services and service suppliers.
2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that it accords to its own services and service suppliers.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to services or service suppliers of the other Party.

4. Nothing in this Article shall be construed as requiring either Party to compensate for inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

ARTICLE 138

Most-favoured-nation treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like situations, to services and service suppliers of a third country.
2. Paragraph 1 shall not be construed as obliging a Party to extend to services and service suppliers of the other Party the benefit of any treatment resulting from:
 - (a) an international agreement for the avoidance of double taxation or other international agreement or arrangement relating wholly or mainly to taxation; or
 - (b) measures providing for recognition, including of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures as referred to in paragraph 3 of the GATS Annex on Financial Services.

3. For greater certainty, the existence of substantive provisions in other international agreements concluded by a Party with a third country, or mere formal transposition of those provisions into domestic law to the extent that it is necessary in order to incorporate them into the domestic legal order, do not in themselves constitute the "treatment" referred to in paragraph 1. Measures of a Party pursuant to those provisions may constitute such treatment and thus give rise to a breach of this Article.

ARTICLE 139

Non-conforming measures

1. Articles 135, 136, 137 and 138 do not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as set out in the Schedule of the Union in Annex 19;

(B) the central government of a Member State, as set out in the Schedule of the Union in Annex 19;

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex 19; or

(D) a local government, other than that referred to in point (C); and

(ii) for the United Kingdom:

(A) the central government, as set out in the Schedule of the United Kingdom in Annex 19;

(B) a regional government, as set out in the Schedule of the United Kingdom in Annex 19; or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in point (a) of this paragraph; or

(c) a modification to any non-conforming measure referred to in points (a) and (b) of this paragraph to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with Articles 135, 136, 137 and 138.

2. Articles 135, 136, 137 and 138 do not apply to any measure of a Party which is consistent with the reservations, conditions or qualifications specified with respect to a sector, subsector or activity listed in Annex 20.