

Annex VI
Referred to in Chapter 6

Financial Services

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Article I
Scope and Definitions

1. This Annex shall apply to measures by a Party affecting trade in financial services.

Note: "Trade in financial services" shall be understood in accordance with the definition contained in paragraph (t) of Article 44.

2. (a) For the purposes of this Annex:

(i) "financial service" means any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

(A) Direct insurance (including co-insurance):

(aa) life;

(bb) non-life;

(B) Reinsurance and retrocession;

(C) Insurance intermediation, such as brokerage and agency;

(D) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

- (E) Acceptance of deposits and other repayable funds from the public;
- (F) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (G) Financial leasing;
- (H) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (I) Guarantees and commitments;
- (J) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (aa) money market instruments, including cheques, bills, certificates of deposits;
 - (bb) foreign exchange;
 - (cc) derivative products including, but not limited to, futures and options;
 - (dd) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (ee) transferable securities;
 - (ff) other negotiable instruments and financial assets, including bullion;

- (K) Participation in issues of all kinds of securities, including underwriting and placement as agent, whether publicly or privately, and provision of services related to such issues;
 - (L) Money broking;
 - (M) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
 - (N) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
 - (O) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
 - (P) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (E) to (O), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
- (ii) "financial service supplier" means any natural or juridical person of a Party wishing to supply or supplying financial services but "financial service supplier" does not include a public entity; and
- (iii) "public entity" means:

- (A) a government, the central bank or monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
 - (B) a private entity, performing functions normally performed by the central bank or monetary authority, when exercising those functions.
- (b) For the purposes of paragraph (n) of Article 44, "services supplied in the exercise of governmental authority" means the following:
 - (i) activities conducted by the central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
 - (ii) activities forming part of a statutory system of social security or public retirement plans; and
 - (iii) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.
- (c) For the purposes of paragraph (n) of Article 44, if a Party allows any of the activities referred to in subparagraphs (b) (ii) or (b) (iii) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "services" shall include such activities.
- (d) Paragraph (q) of Article 44 shall not apply to services covered by this Annex.

3. "New financial service" means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, which is not supplied by any financial service supplier in the Area of a Party but which is supplied in the Area of the other Party or in any other member of the World Trade Organization.

Article II Market Access

1. A Party shall permit financial service suppliers of the other Party established in the Area of the former Party to offer in the Area of the former Party any new financial service.

2. Notwithstanding paragraph 3 of Article 43, a Party shall ensure that financial service suppliers of the other Party established in the Area of the former Party are accorded most-favoured-nation treatment and national treatment as regards the purchase or acquisition of financial services by public entities of the former Party in its Area.

Article III National Treatment

1. Under terms and conditions that accord national treatment, a Party shall grant to financial service suppliers of the other Party established in the Area of the former Party access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This paragraph is not intended to confer access to the former Party's lender of last resort facilities.

2. Where :

- (a) membership or participation in, or access to, a self-regulatory body, securities or futures exchange or market, clearing agency, or any other organisation or association, is required by a Party in order for financial service suppliers of the other Party to supply financial services on an equal basis with financial service suppliers of the Party; or
- (b) the Party provides directly or indirectly such entities, privileges or advantages in supplying financial services,

the Party shall ensure that such entities accord national treatment to financial service suppliers of the other Party resident in the Area of the former Party, unless otherwise specified in its List of Reservations referred to in Article 57.

Article IV Transparency

1. Each Party shall promote regulatory transparency in financial services. Accordingly, the Parties undertake to consult, as appropriate, for the purpose of implementing objective and transparent regulatory procedures in each Party, taking into account:

- (a) the work undertaken by the Parties under the GATS and in other fora relating to trade in financial services; and
- (b) the importance of regulatory transparency, identifiable policy objectives and clear and consistently applied regulatory procedures that are communicated or otherwise made publicly available.

2. The competent authorities of each Party shall, to the extent practicable, make available to interested persons, upon request, the requirements and procedures for completing applications relating to the supply of financial services.

3. Where a licence is required for the supply of a financial service, the competent authorities of a Party shall make the requirements and procedures for such a licence publicly available. The period of time normally required to reach a decision concerning an application considered complete under the Party's laws and regulations for a licence shall:

- (a) be made available to any applicant upon request;
- (b) be made publicly available; or
- (c) be made available by a combination of (a) and (b).

Article V Expeditious Application Procedures

1. The competent authorities of each Party shall process, without undue delay, applications related to the supply of financial services submitted by service suppliers of the other Party.

2. If the competent authorities of a Party require additional information from the applicant in order to process its application, they shall notify the applicant of the requirement to be fulfilled for the processing of the application without undue delay.

3. Upon request by the applicant, the competent authorities of a Party shall provide, without undue delay, information concerning the status of its application.

4. The competent authorities of each Party shall notify the applicant of the outcome of its application promptly after a decision has been taken. In case a decision is taken to deny an application, the reason for the denial shall be made known to the applicant upon request.

5. Where a licence is required for the supply of a financial service, and if the applicable requirements for the granting of a licence are fulfilled, the competent authorities of a Party shall grant the applicant a licence, as a rule within six months after the submission of its application is considered complete under the laws and regulations of that Party.

Article VI Domestic Regulation

1. Notwithstanding any other provisions of Chapter 6, including any of its Annexes, a Party shall not be prevented from adopting or maintaining measures for prudential reasons, including for:

- (a) the protection of investors, depositors, policyholders or persons to whom a fiduciary duty is owed by a financial service supplier; or
- (b) ensuring the integrity and stability of the Party's financial system.

Where such measures do not conform with the provisions of Chapter 6, they shall not be used as a means of avoiding the Party's obligations under that Chapter. The Parties confirm that they are required under the Organization for Economic Co-operation and Development to implement the Code of Liberalisation of Current Invisible Operations.

2. Each Party shall make its best endeavours to ensure that the Basel Committee's "Core Principles for Effective Banking Supervision", the standards and principles of the International Association of Insurance Supervisors and the International Organisation of Securities Commissions' "Objectives and Principles of Securities Regulation" are implemented and applied in its Area.

3. Nothing in Chapter 6, including any of its Annexes, shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

Article VII Recognition of Prudential Measures

Where a Party recognises, by an agreement or arrangement, prudential measures of a non-Party or of any international regulatory body in determining how the Party's measures relating to financial services shall be applied, that Party shall afford adequate opportunity for the other Party to negotiate its accession to such an agreement or arrangement, or to negotiate a comparable agreement or arrangement with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement. Where a Party accords such recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances exist.

Article VIII Transfers of Information and Processing of Information

Neither Party shall take measures that prevent transfers of information into or out of its Area or the processing of financial information, including transfers of data by electronic means, or that, subject to importation rules consistent with international agreements, prevent transfers of equipment, where such transfers of information, processing of financial information or transfers of equipment are necessary for the conduct of the ordinary business of a financial service supplier of the other Party. Nothing in this Article restricts the right of a Party to protect personal data, personal privacy and the confidentiality of individual records and accounts so long as such right is not used to circumvent the provisions of Chapter 6.

Article IX
Sub-Committee on Financial Services

1. For the purposes of the effective implementation and operation of Chapter 6 with respect to financial services, the Sub-Committee on Financial Services (hereinafter referred to in this Article as "the Sub-Committee") is hereby established. The functions of the Sub-committee shall be:

- (a) reviewing and monitoring the implementation and operation of Chapter 6 with respect to financial services;
- (b) discussing any issues related to financial services, including prudential policies and supervision of financial institutions, with a view to enhancing trade relations between the Parties and to promoting efficient and transparent administration of their financial systems;
- (c) reporting its findings and the outcome of its discussions to the Joint Committee; and
- (d) carrying out other tasks as may be assigned by the Joint Committee.

2. The Sub-Committee shall meet in conjunction with the Joint Committee meetings, or as otherwise agreed upon between the Parties.

3. The Sub-Committee shall be:

- (a) composed of representatives of the Governments of the Parties with the necessary expertise relevant to the issues to be discussed; and
- (b) co-chaired by officials of the Governments of the Parties.

4. The activities of the Sub-Committee are without prejudice to existing or future relations between supervisory authorities of the Parties within the scope of their competence.