(c) on any issues relating to the implementation of the Annex CUSTMS-1 [Authorised Economic Operators]; and

(d) on the procedures for the consultation established in Article ORIG.26 [Denial of preferential tariff treatment] on any technical or administrative matters relating to the implementation of Chapter 2 [Rules of Origin] of this Title, including on interpretative notes aimed at ensuring the uniform administration of the rules of origin.

Article CUSTMS.21: Amendments

1. The Partnership Council may amend:

(a) Annex CUSTMS-1 [Authorised Economic Operators], the Protocol on mutual administrative assistance in customs matters and the list of goods set out in paragraph 2 of CUSTMS.16 [Temporary admission]; and

(b) the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties.

2. The Trade Specialised Committee on Administrative Cooperation in VAT and recovery of taxes and duties may amend the value referred to in Article 33(4) of the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties.

TITLE II: SERVICES AND INVESTMENT

Chapter 1: General provisions

Article SERVIN.1.1: Objective and scope

1. The Parties affirm their commitment to establish a favourable climate for the development of trade and investment between them.

2. The Parties reaffirm the right to regulate within their territories to achieve legitimate policy objectives, such as: the protection of public health; social services; public education; safety; the environment, including climate change; public morals; social or consumer protection; privacy and data protection or the promotion and protection of cultural diversity.

3. This Title does not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party or to measures regarding nationality, citizenship, residence or employment on a permanent basis.

4. This Title shall not prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of its borders and to ensure the orderly movement of natural persons across them, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Title. The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under this Title.

5. This Title does not apply to:
(a) air services or related services in support of air services, other than:

(i) aircraft repair and maintenance services;

(ii) computer reservation system services;

(iii) ground handling services;

(iv) the following services provided using a manned aircraft, subject to compliance with the Parties respective laws and regulations governing the admission of aircrafts to, departure from and operation within, their territory: aerial fire-fighting; flight training; spraying; surveying; mapping; photography; and other airborne agricultural, industrial and inspection services; and

(v) the selling and marketing of air transport services;

(b) audio-visual services;

(c) national maritime cabotage; and

(d) inland waterways transport.

6. This Title does not apply to any measure of a Party with respect to public procurement of a good or service purchased for governmental purposes, and not with a view to commercial resale or with a view to use in the supply of a good or service for commercial sale, whether or not that procurement is 'covered procurement' within the meaning of Article PPROC.2 [Incorporation of certain provisions of the GPA and covered procurement].

7. Except for Article SERVIN.2.6 [Performance requirements], this Title does not apply to subsidies or grants provided by the Parties, including government-supported loans, guarantees and insurance.

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6 Air services or related services in support of air services include, but are not limited to, the following services: air transportation; services provided by using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services; the rental of aircraft with crew; and airport operation services.

7 National maritime cabotage covers: for the Union, without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, transportation of passengers or goods between a port or point located in a Member State and another port or point located in that same Member State, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea, done in Montego Bay, Jamaica, on 10 December 1982, and traffic originating and terminating in the same port or point located in a Member State; for the United Kingdom, transportation of passengers or goods between a port or point located in the United Kingdom and another port or point located in the United Kingdom, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea, done in Montego Bay, Jamaica, on 10 December 1982, and traffic originating and terminating in the same port or point located in the United Kingdom.
Article SERVIN.1.2: Definitions

For the purposes of this Title:

(a) "activities performed in the exercise of governmental authority" means activities which are performed, including services which are supplied, neither on a commercial basis nor in competition with one or more economic operators;

(b) "aircraft repair and maintenance services" means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance;

(c) "computer reservation system services" means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

(d) "covered enterprise" means an enterprise in the territory of a Party established in accordance with point (h) by an investor of the other Party, in accordance with the applicable law, existing on the date of entry into force of this Agreement or established thereafter;

(e) "cross-border trade in services" means the supply of a service:
   (i) from the territory of a Party into the territory of the other Party; or
   (ii) in the territory of a Party to the service consumer of the other Party;

(f) "economic activity" means any activity of an industrial, commercial or professional character or activities of craftsmen, including the supply of services, except for activities performed in the exercise of governmental authority;

(g) "enterprise" means a legal person or a branch or a representative office of a legal person;

(h) "establishment" means the setting up or the acquisition of a legal person, including through capital participation, or the creation of a branch or representative office in the territory of a Party, with a view to creating or maintaining lasting economic links;

(i) "ground handling services" means the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering; air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning; ground handling services do not include: self-handling; security; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra airport transport systems;

(j) "investor of a Party" means a natural or legal person of a Party that seeks to establish, is establishing or has established an enterprise in accordance with point (h) in the territory of the other Party;

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For greater certainty, the term "activities performed in the exercise of governmental authority" when used in relation to measures of a Party affecting the supply of services, includes "services supplied in the exercise of governmental authority" as defined in point (p) of Article SERVIN.1.2 [Definitions].
(k) "legal person of a Party" means:

(i) for the Union:

(A) a legal person constituted or organised under the law of the Union or at least one of its Member States and engaged, in the territory of the Union, in substantive business operations, understood by the Union, in line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), as equivalent to the concept of "effective and continuous link" with the economy of a Member State enshrined in Article 54 of the Treaty on the Functioning of the European Union (TFEU); and

(B) shipping companies established outside the Union, and controlled by natural persons of a Member State, whose vessels are registered in, and fly the flag of, a Member State;

(ii) for the United Kingdom:

(A) a legal person constituted or organised under the law of the United Kingdom and engaged in substantive business operations in the territory of the United Kingdom; and

(B) shipping companies established outside the United Kingdom and controlled by natural persons of the United Kingdom, whose vessels are registered in, and fly the flag of, the United Kingdom;

(l) "operation" means the conduct, management, maintenance, use, enjoyment, or sale or other form of disposal of an enterprise;

(m) "professional qualifications" means qualifications attested by evidence of formal qualification, professional experience, or other attestation of competence;

(n) "selling and marketing of air transport services" means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution, but not including the pricing of air transport services nor the applicable conditions;

(o) "service" means any service in any sector except services supplied in the exercise of governmental authority;

(p) "services supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers;

(q) "service supplier" means any natural or legal person that seeks to supply or supplies a service;

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9 For greater certainty, the shipping companies referred to in this point are only considered as legal persons of a Party with respect to their activities relating to the supply of maritime transport services.
“service supplier of a Party” means a natural or legal person of a Party that seeks to supply or supplies a service.

Article SERVIN.1.3: Denial of benefits

1. A Party may deny the benefits of this Title and Title IV [Capital movements, payments, transfers and temporary safeguard measures] of this Heading to an investor or service supplier of the other Party, or to a covered enterprise, if the denying Party adopts or maintains measures related to the maintenance of international peace and security, including the protection of human rights, which:

(a) prohibit transactions with that investor, service supplier or covered enterprise; or

(b) would be violated or circumvented if the benefits of this Title and Title IV [Capital movements, payments, transfers and temporary safeguard measures] of this Heading were accorded to that investor, service supplier or covered enterprise, including where the measures prohibit transactions with a natural or legal person which owns or controls any of them.

2. For greater certainty, paragraph 1 is applicable to Title IV [Capital movements, payments, transfers and temporary safeguard measures] of this Heading to the extent that it relates to services or investment with respect to which a Party has denied the benefits of this Title.

Article SERVIN.1.4: Review

1. With a view to introducing possible improvements to the provisions of this Title, and consistent with their commitments under international agreements, the Parties shall review their legal framework relating to trade in services and investment, including this Agreement, in accordance with Article FINPROV.3 [Review].

2. The Parties shall endeavour, where appropriate, to review the non-conforming measures and reservations set out in Annex SERVIN-1 [Existing measures], Annex SERVIN-2 [Future measures], Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors] and Annex SERVIN-4 [Contractual service suppliers and independent professionals] and the activities for short term business visitors set out in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors], with a view to agreeing to possible improvements in their mutual interest.

3. This Article shall not apply with respect to financial services.

Chapter 2: Investment liberalisation

Article SERVIN.2.1: Scope

This Chapter applies to measures of a Party affecting the establishment of an enterprise to perform economic activities and the operation of such an enterprise by:

(a) investors of the other Party;

(b) covered enterprises; and

(c) for the purposes of Article SERVIN.2.6 [Performance requirements], any enterprise in the territory of the Party which adopts or maintains the measure.
Article SERVIN.2.2: Market access

A Party shall not adopt or maintain, with regard to establishment of an enterprise by an investor of the other Party or by a covered enterprise, or operation of a covered enterprise, 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 enterprises that may carry out a specific economic activity, whether in the form of numerical quotas, monopolies, exclusive rights or the requirement of an economic needs test;

   (ii) the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

   (iii) the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;\(^{10}\)\(^{11}\)

   (iv) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; or

   (v) the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of an economic activity, in the form of numerical quotas or the requirement of an economic needs test; or

(b) restrict or require specific types of legal entity or joint venture through which an investor of the other Party may perform an economic activity.

Article SERVIN.2.3: National treatment

1. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to its own investors and to their enterprises, with respect to their establishment and operation in its territory.

2. The treatment accorded by a Party under paragraph 1 means:

   (a) with respect to a regional or local level of government of the United Kingdom, treatment no less favourable than the most favourable treatment accorded, in like situations, by that level of government to investors of the United Kingdom and to their enterprises in its territory; and

   (b) with respect to a government of, or in, a Member State, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to investors of that Member State and to their enterprises in its territory.

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\(^{10}\) Points (a) (i) to (iii) of Article SERVIN.2.2 [Market access] do not cover measures taken in order to limit the production of an agricultural or fishery product.

\(^{11}\) Point (a)(iii) of Article SERVIN.2.2 [Market access] does not cover measures by a Party which limit inputs for the supply of services.
Article SERVIN.2.4: Most favoured nation treatment

1. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to investors of a third country and to their enterprises, with respect to establishment in its territory.

2. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to investors of a third country and to their enterprises, with respect to operation in its territory.

3. Paragraphs 1 and 2 shall not be construed as obliging a Party to extend to investors of the other Party or to covered enterprises 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 the recognition of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or the recognition of prudential measures as referred to in paragraph 3 of the GATS Annex on Financial Services.

4. For greater certainty, the “treatment” referred to in paragraphs 1 and 2 does not include investor-to-state dispute settlement procedures provided for in other international agreements.

5. For greater certainty, the existence of substantive provisions in other international agreements concluded by a Party with a third country, or the 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 paragraphs 1 and 2. Measures of a Party pursuant to those provisions may constitute such treatment and thus give rise to a breach of this Article.

Article SERVIN.2.5: Senior management and boards of directors

A Party shall not require a covered enterprise to appoint individuals of any particular nationality as executives, managers or members of boards of directors.

Article SERVIN.2.6: Performance requirements

1. A Party shall not impose or enforce any requirement, or enforce any commitment or undertaking, in connection with the establishment or operation of any enterprise in its territory:

   (a) to export a given level or percentage of goods or services;

   (b) to achieve a given level or percentage of domestic content;

   (c) to purchase, use or accord a preference to goods produced or services provided in its territory or to purchase goods or services from natural or legal persons or any other entities in its territory;

   (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such enterprise;
(e) to restrict sales of goods or services in its territory that such enterprise produces or supplies, by relating those sales in any way to the volume or value of its exports or foreign exchange inflows;

(f) to transfer technology, a production process or other proprietary knowledge to a natural or legal person or any other entity in its territory;

(g) to supply exclusively from the territory of that Party a good produced or a service supplied by the enterprise to a specific regional or world market;

(h) to locate the headquarters for a specific region of the World which is broader than the territory of the Party or the world market in its territory;

(i) to employ a given number or percentage of natural persons of that Party;

(j) to achieve a given level or value of research and development in its territory;

(k) to restrict the exportation or sale for export; or

(l) with regard to any licence contract in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or with regard to any future licence contract freely entered into between the enterprise and a natural or legal person or any other entity in its territory, if the requirement is imposed or enforced or the commitment or undertaking is enforced, in a manner that constitutes direct interference with that licence contract by an exercise of non-judicial governmental authority of a Party, to adopt:

(i) a rate or amount of royalty below a certain level; or

(ii) a given duration of the term of a licence contract.

This point does not apply where the licence contract is concluded between the enterprise and the Party. For the purposes of this point, a "licence contract" means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

2. A Party shall not condition the receipt or continued receipt of an advantage, in connection with the establishment or operation of an enterprise in its territory, on compliance with any of the following requirements:

(a) achieving a given level or percentage of domestic content;

(b) purchasing, using or according a preference to goods produced or services supplied in its territory, or to purchase goods or services from natural or legal persons or any other entity in its territory;

(c) relating in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that enterprise;

12 For greater certainty, point (f) of Article SERVIN.2.6(1) [Performance requirements] is without prejudice to the provisions of Article DIGIT.12 [Transfer of or access to source code].
(d) restricting the sales of goods or services in its territory that that enterprise produces or supplies by relating those sales in any way to the volume or value of its exports or foreign exchange inflows; or

(e) restricting the exportation or sale for export.

3. Paragraph 2 shall not be construed as preventing a Party from conditioning the receipt or continued receipt of an advantage, in connection with the establishment or operation of any enterprise in its territory, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

4. Points (f) and (l) of paragraph 1 do not apply where:

(a) the requirement is imposed or enforced, or the commitment or undertaking is enforced, by a court or administrative tribunal, or by a competition authority pursuant to a Party's competition law to prevent or remedy a restriction or a distortion of competition; or

(b) a Party authorises the use of an intellectual property right in accordance with Article 31 or Article 31bis of the TRIPS Agreement, or adopts or maintains measures requiring the disclosure of data or proprietary information that fall within the scope of, and are consistent with, paragraph 3 of Article 39 of the TRIPS Agreement.

5. Points (a) to (c) of paragraph 1 and points (a) and (b) of paragraph 2 do not apply to qualification requirements for goods or services with respect to participation in export promotion and foreign aid programmes.

6. For greater certainty, this Article does not preclude the enforcement by the competent authorities of a Party of any commitment or undertaking given between persons other than a Party which was not directly or indirectly imposed or required by that Party.

7. For greater certainty, points (a) and (b) of paragraph 2 do not apply to requirements imposed by an importing Party in relation to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

8. Point (l) of paragraph 1 does not apply if the requirement is imposed or enforced, or the commitment or undertaking is enforced, by a tribunal as equitable remuneration under the Party's copyright laws.

9. A Party shall neither impose nor enforce any measure inconsistent with its obligations under the Agreement on Trade-Related Investment Measures (TRIMs), even where such measure has been listed by that Party in ANNEX SERVIN-1 [Existing measures] or ANNEX SERVIN-2 [Future measures].

10. For greater certainty, this Article shall not be construed as requiring a Party to permit a particular service to be supplied on a cross-border basis where that Party adopts or maintains restrictions or prohibitions on such provision of services which are consistent with the reservations, conditions or qualifications specified with respect to a sector, subsector or activity listed in ANNEX SERVIN-1 [Existing measures] or ANNEX SERVIN-2 [Future measures].

11. A condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a requirement or a commitment or undertaking for the purposes of paragraph 1.
Article SERVIN.2.7: Non-conforming measures and exceptions

1. Articles SERVIN.2.2 [Market access], SERVIN.2.3 [National treatment], SERVIN.2.4 [Most favoured nation treatment], SERVIN.2.5 [Senior management and boards of directors] and SERVIN.2.6 [Performance requirements], 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 SERVIN.1 [Existing measures];

(B) The central government of a Member State, as set out in the Schedule of the Union in Annex SERVIN.1 [Existing measures];

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex SERVIN.1 [Existing measures]; 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 SERVIN.1 [Existing measures];

(B) a [regional government], as set out in the Schedule of the United Kingdom in Annex SERVIN.1 [Existing measures];

or

(C) a local government;

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

(c) a modification to any non-conforming measure referred to in points (a) and (b) of this paragraph, provided that it does not decrease the conformity of the measure, as it existed immediately before the modification, with Articles SERVIN.2.2 [Market access], Article SERVIN.2.3 [National treatment], Articles SERVIN.2.4 [Most favoured nation treatment], SERVIN.2.5 [Senior management and boards of directors] or SERVIN.2.6 [Performance requirements].

2. Articles SERVIN.2.2 [Market access], SERVIN.2.3 [National treatment], SERVIN.2.4 [Most favoured nation treatment], SERVIN.2.5 [Senior management and boards of directors] and SERVIN.2.6 [Performance requirements] 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 SERVIN.2 [Future measures].

3. Articles SERVIN.2.3 [National treatment] and SERVIN.2.4 [Most favoured nation treatment] do not apply to any measure that constitutes an exception to, or a derogation from, Articles 3 or 4 of the TRIPS Agreement, as specifically provided for in Articles 3 to 5 of that Agreement.
4. For greater certainty, Articles SERVIN.2.3 [National treatment] and SERVIN.2.4 [Most favoured nation treatment] 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 SERVIN.3.1: Scope

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

Article SERVIN.3.2: 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 services 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 test\(^\text{13}\); or

(b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

Article SERVIN.3.3: 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 SERVIN.3.4: 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 services 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.

\(^{13}\) Point (a) (iii) of Article SERVIN.3.2 [Market access] does not cover measures by a Party which limit inputs for the supply of services.
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 services suppliers.

Article SERVIN.3.5: 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 SERVIN.3.6: Non-conforming measures

1. Articles SERVIN.3.2 [Market access], SERVIN.3.3 [Local presence], SERVIN.3.4 [National treatment] and SERVIN.3.5 [Most favoured nation treatment] 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 SERVIN-1 [Existing measures];

(B) the central government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures];

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures]; 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 SERVIN-1 [Existing measures];

(B) a regional government, as set out in the Schedule of the United Kingdom in Annex SERVIN-1 [Existing measures]; or

(C) a local government;

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

(c) a modification of 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 SERVIN.3.2 [Market access], SERVIN.3.3 [Local presence], SERVIN.3.4 [National treatment] and SERVIN.3.5 [Most favoured nation treatment].

2. Articles 3.2 [Market access], SERVIN.3.3 [Local presence], SERVIN.3.4 [National treatment] and SERVIN.3.5 [Most favoured nation treatment] 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 SERVIN-2 [Future measures].

Chapter 4: Entry and temporary stay of natural persons for business purposes

Article SERVIN.4.1: Scope and definitions

1. This Chapter applies to measures of a Party affecting the performance of economic activities through the entry and temporary stay in its territory of natural persons of the other Party, who are business visitors for establishment purposes, contractual service suppliers, independent professionals, intra-corporate transferees and short-term business visitors.

2. To the extent that commitments are not undertaken in this Chapter, all requirements provided for in the law of a Party regarding the entry and temporary stay of natural persons shall continue to apply, including laws and regulations concerning the period of stay.

3. Notwithstanding the provisions of this Chapter, all requirements provided for in the law of a Party regarding work and social security measures shall continue to apply, including laws and regulations concerning minimum wages and collective wage agreements.

4. Commitments on the entry and temporary stay of natural persons for business purposes do not apply in cases where the intent or effect of the entry and temporary stay is to interfere with or otherwise affect the outcome of any labour or management dispute or negotiation, or the employment of any natural person who is involved in that dispute.

5. For the purposes of this Chapter:

(a) "business visitors for establishment purposes" means natural persons working in a senior position within a legal person of a Party, who:

   (i) are responsible for setting up an enterprise of such legal person in the territory of the other Party;
(ii) do not offer or provide services or engage in any economic activity other than that which is required for the purposes of the establishment of that enterprise; and

(iii) do not receive remuneration from a source located within the other Party;

(b) "contractual service suppliers" means natural persons employed by a legal person of a Party (other than through an agency for placement and supply services of personnel), which is not established in the territory of the other Party and has concluded a bona fide contract, not exceeding 12 months, to supply services to a final consumer in the other Party requiring the temporary presence of its employees who:

(i) have offered the same type of services as employees of the legal person for a period of not less than one year immediately preceding the date of their application for entry and temporary stay;

(ii) possess, on that date, at least three years professional experience, obtained after having reached the age of majority, in the sector of activity that is the object of the contract, a university degree or a qualification demonstrating knowledge of an equivalent level and the professional qualifications legally required to exercise that activity in the other Party; and

(iii) do not receive remuneration from a source located within the other Party;

(c) "independent professionals" means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who:

(i) have not established in the territory of the other Party;

(ii) have concluded a bona fide contract (other than through an agency for placement and supply services of personnel) for a period not exceeding 12 months to supply services to a final consumer in the other Party, requiring their presence on a temporary basis; and

(iii) possess, on the date of their application for entry and temporary stay, at least six years professional experience in the relevant activity, a university degree or a qualification demonstrating knowledge of an equivalent level and the professional qualifications legally required to exercise that activity in the other Party;

(d) "intra-corporate transferees" means natural persons, who:

(i) have been employed by a legal person of a Party, or have been partners in it, for a period, immediately preceding the date of the intra-corporate transfer, of not less than one year in the case of managers and specialists and of not less than six months in the case of trainee employees;

(ii) at the time of application reside outside the territory of the other Party;

14 Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

15 Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.
(iii) are temporarily transferred to an enterprise of the legal person in the territory of the other Party which is a member of the same group as the originating legal person, including its representative office, subsidiary, branch or head company; and

(iv) belong to one of the following categories:

- (A) managers;
- (B) specialists; or
- (C) trainee employees;

(e) “manager” means a natural person working in a senior position, who primarily directs the management of the enterprise in the other Party, receiving general supervision or direction principally from the board of directors or from shareholders of the business or their equivalent and whose responsibilities include:

- (i) directing the enterprise or a department or subdivision thereof;
- (ii) supervising and controlling the work of other supervisory, professional or managerial employees; and
- (iii) having the authority to recommend hiring, dismissing or other personnel-related actions;

(f) “specialist” means a natural person possessing specialised knowledge, essential to the enterprise’s areas of activity, techniques or management, which is to be assessed taking into account not only knowledge specific to the enterprise, but also whether the person has a high level of qualification, including adequate professional experience of a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession; and

(g) “trainee employee” means a natural person possessing a university degree who is temporarily transferred for career development purposes or to obtain training in business techniques or methods and is paid during the period of the transfer.

6. The service contract referred to under points (b) and (c) of paragraph 5 shall comply with the requirements of the law of the Party where the contract is executed.

16 Managers and specialists may be required to demonstrate they possess the professional qualifications and experience needed in the legal person to which they are transferred.

17 While managers do not directly perform tasks concerning the actual supply of the services, this does not prevent them, in the course of executing their duties as described above, from performing such tasks as may be necessary for the provision of the services.

18 The recipient enterprise may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For AT, CZ, DE, FR, ES, HU and LT, training must be linked to the university degree which has been obtained.
Article SERVIN.4.2: Intra-corporate transferees and business visitors for establishment purposes

1. Subject to the relevant conditions and qualifications specified in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees, and short-term business visitors]:

(a) each Party shall allow:

(i) the entry and temporary stay of intra-corporate transferees;

(ii) the entry and temporary stay of business visitors for establishment purposes without requiring a work permit or other prior approval procedure of similar intent; and

(iii) the employment in its territory of intra-corporate transferees of the other Party;

(b) a Party shall not maintain or adopt limitations in the form of numerical quotas or economic needs tests regarding the total number of natural persons that, in a specific sector, are allowed entry as business visitors for establishment purposes or that an investor of the other Party may employ as intra-corporate transferees, either on the basis of a territorial subdivision or on the basis of its entire territory; and

(c) each Party shall accord to intra-corporate transferees and business visitors for establishment purposes of the other Party, during their temporary stay in its territory, treatment no less favourable than that it accords, in like situations, to its own natural persons.

2. The permissible length of stay shall be for a period of up to three years for managers and specialists, up to one year for trainee employees and up to 90 days within any six-month period for business visitors for establishment purposes.

Article SERVIN.4.3: Short-term business visitors

1. Subject to the relevant conditions and qualifications specified in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], each Party shall allow the entry and temporary stay of short-term business visitors of the other Party for the purposes of carrying out the activities listed in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], subject to the following conditions:

(a) the short-term business visitors are not engaged in selling their goods or supplying services to the general public;

(b) the short-term business visitors do not, on their own behalf, receive remuneration from within the Party where they are staying temporarily; and

(c) the short-term business visitors are not engaged in the supply of a service in the framework of a contract concluded between a legal person that has not established in the territory of the Party where they are staying temporarily, and a consumer there, except as provided for in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors].

2. Unless otherwise specified in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], a Party shall allow entry of short-term
business visitors without the requirement of a work permit, economic needs test or other prior approval procedures of similar intent.

3. If short-term business visitors of a Party are engaged in the supply of a service to a consumer in the territory of the Party where they are staying temporarily in accordance with Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short term business visitors], that Party shall accord to them, with regard to the supply of that service, treatment no less favourable than that it accords, in like situations, to its own service suppliers.

4. The permissible length of stay shall be for a period of up to 90 days in any six-month period.

Article SERVIN.4.4: Contractual service suppliers and independent professionals

1. In the sectors, subsectors and activities specified in Annex SERVIN-4 [Contractual service suppliers and independent professionals] and subject to the relevant conditions and qualifications specified therein:

(a) a Party shall allow the entry and temporary stay of contractual service suppliers and independent professionals in its territory;

(b) a Party shall not adopt or maintain limitations on the total number of contractual service suppliers and independent professionals of the other Party allowed entry and temporary stay, in the form of numerical quotas or an economic needs test; and

(c) each Party shall accord to contractual service suppliers and independent professionals of the other Party, with regard to the supply of their services in its territory, treatment no less favourable than that it accords, in like situations, to its own service suppliers.

2. Access accorded under this Article relates only to the service which is the subject of the contract and does not confer entitlement to use the professional title of the Party where the service is provided.

3. The number of persons covered by the service contract shall not be greater than necessary to fulfil the contract, as it may be required by the law of the Party where the service is supplied.

4. The permissible length of stay shall be for a cumulative period of 12 months, or for the duration of the contract, whichever is less.

Article SERVIN.4.5: Non-conforming measures

To the extent that the relevant measure affects the temporary stay of natural persons for business purposes, points (b) and (c) of Article SERVIN.4.2(1) [Intra-corporate transferees and business visitors for establishment purposes], Article SERVIN.4.3(3) [Short-term business visitors] and points (b) and (c) of Article SERVIN.4.4(1) [Contractual service suppliers and independent professionals] 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 SERVIN-1 [Existing measures];
(B) the central government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures];

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures]; 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 SERVIN-1 [Existing measures];

(B) a [regional subdivision], as set out in the Schedule of the United Kingdom in Annex SERVIN-1 [Existing measures]; or

(C) a local government;

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

(c) a modification of any non-conforming measure referred to in points (a) and (b) of this Article to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with points (b) and (c) of Article SERVIN.4.2(1) [Intra-corporate transferees and business visitors for establishment purposes], Article SERVIN.4.3(3) [Short-term business visitors] and points (b) and (c) of Article SERVIN.4.4(1) [Contractual service suppliers and independent professionals]; or

(d) any measure of a Party consistent with a condition or qualification specified in Annex SERVIN-2 [Future measures].

Article SERVIN.4.6: Transparency

1. Each Party shall make publicly available information on relevant measures that pertain to the entry and temporary stay of natural persons of the other Party, referred to in Article SERVIN.4.1(1) [Scope and definitions].

2. The information referred to in paragraph 1 shall, to the extent possible, include the following information relevant to the entry and temporary stay of natural persons:

(a) categories of visa, permits or any similar type of authorisation regarding the entry and temporary stay;

(b) documentation required and conditions to be met;

(c) method of filing an application and options on where to file, such as consular offices or online;

(d) application fees and an indicative timeframe of the processing of an application;

(e) the maximum length of stay under each type of authorisation described in point (a);

(f) conditions for any available extension or renewal;

(g) rules regarding accompanying dependants;
available review or appeal procedures; and

relevant laws of general application pertaining to the entry and temporary stay of natural persons for business purposes.

3. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavour to promptly inform the other Party of the introduction of any new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry into, temporary stay in and, where applicable, permission to work in the former Party.

Chapter 5: Regulatory framework

Section 1: Domestic regulation

Article SERVIN.5.1: Scope and definitions

1. This Section applies to measures by the Parties relating to licensing requirements and procedures, qualification requirements and procedures, formalities and technical standards that affect:

(a) cross-border trade in services;

(b) establishment or operation; or

(c) the supply of a service through the presence of a natural person of a Party in the territory of the other Party as set out in Article SERVIN.4.1 [Scope and definitions].

As far as measures relating to technical standards are concerned, this Section only applies to measures that affect trade in services. For the purposes of this Section, the term ‘technical standards’ does not include regulatory or implementing technical standards for financial services.

2. This Section does not apply to licensing requirements and procedures, qualification requirements and procedures, formalities and technical standards pursuant to a measure:

(a) that does not conform with Article SERVIN.2.2 [Market access] or 2.3 [National treatment] and is referred to in points (a) to (c) of Article SERVIN.2.7(1) [Non-conforming measures and exceptions] or with Article SERVIN.3.2 [Market access], Article SERVIN.3.3 [Local presence] or Article SERVIN.3.4 [National treatment] and is referred to in points (a) to (c) of Article SERVIN.3.6(1) [Non-conforming measures] or with points (b) and (c) of Article SERVIN 4.2(1) [Intra-corporate transferees and business visitors for establishment purposes], or Article SERVIN 4.3(3) [Short-term business visitors]] or with points (b) and (c) of Article SERVIN 4.4(1) [Contractual service suppliers and independent professionals] and is referred to in Article SERVIN 4.5(1) [Non-conforming measures]; or

(b) referred to in Article SERVIN.2.7(2) [Non-conforming measures and exceptions] or Article SERVIN.3.6(2) [Non-conforming measures].

3. For the purposes of this Section:

(a) "authorisation" means the permission to carry out any of the activities referred to in points (a) to (c) of paragraph 1 resulting from a procedure a natural or legal person must adhere to in
order to demonstrate compliance with licensing requirements, qualification requirements, technical standards or formalities for the purposes of obtaining, maintaining or renewing that permission; and

(b) "competent authority" means a central, regional or local government or authority or non-governmental body in the exercise of powers delegated by central, regional or local governments or authorities, which is entitled to take a decision concerning the authorisation referred to in point (a).

Article SERVIN.5.2: Submission of applications

Each Party shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation. If an activity for which authorisation is requested is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required.

Article SERVIN.5.3: Application timeframes

If a Party requires authorisation, it shall ensure that its competent authorities, to the extent practicable, permit the submission of an application at any time throughout the year. If a specific time period for applying for authorisation exists, the Party shall ensure that the competent authorities allow a reasonable period of time for the submission of an application.

Article SERVIN.5.4: Electronic applications and acceptance of copies

If a Party requires authorisation, it shall ensure that its competent authorities:

(a) to the extent possible provide for applications to be completed by electronic means, including from within the territory of the other Party; and

(b) accept copies of documents, that are authenticated in accordance with the Party’s domestic law, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorisation process.

Article SERVIN.5.5: Processing of applications

1. If a Party requires authorisation, it shall ensure that its competent authorities:

(a) process applications throughout the year. Where that is not possible, this information should be made public in advance, to the extent feasible;

(b) to the extent practicable, provide an indicative timeframe for the processing of an application. That timeframe shall be reasonable to the extent practicable;

(c) at the request of the applicant, provide without undue delay information concerning the status of the application;

(d) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party’s domestic laws and regulations;
(e) if they consider an application complete for the purposes of processing under the Party’s domestic laws and regulations, within a reasonable period of time after the submission of the application ensure that:

(i) the processing of the application is completed; and

(ii) the applicant is informed of the decision concerning the application, to the extent possible, in writing;

(f) if they consider an application incomplete for the purposes of processing under the Party’s domestic laws and regulations, within a reasonable period of time, to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and

(iii) provide the applicant with the opportunity to provide the additional information that is required to complete the application;

however, if none of the above is practicable, and the application is rejected due to incompleteness, competent authorities shall ensure that they inform the applicant within a reasonable period of time; and

(g) if an application is rejected, either upon their own initiative or upon request of the applicant, inform the applicant of the reasons for rejection and of the timeframe for an appeal against that decision and, if applicable, the procedures for resubmission of an application; an applicant shall not be prevented from submitting another application solely on the basis of a previously rejected application.

2. The Parties shall ensure that their competent authorities grant an authorisation as soon as it is established, on the basis of an appropriate examination, that the applicant meets the conditions for obtaining it.

3. The Parties shall ensure that, once granted, an authorisation enters into effect without undue delay, subject to the applicable terms and conditions.

19 Balancing resource constraints against the potential burden on businesses, in cases where it is reasonable to do so, competent authorities may require that all information is submitted in a specified format to consider it "complete for the purposes of processing".

20 Competent authorities may meet the requirement set out in point (ii) by informing an applicant in advance in writing, including through a published measure, that a lack of response after a specified period of time from the date of submission of the application indicates acceptance of the application. The reference to “in writing” should be understood as including electronic format.

21 Such “opportunity” does not require a competent authority to provide extensions of deadlines.

22 Competent authorities are not responsible for delays due to reasons outside their competence.
Article SERVIN.5.6: Fees

1. For all economic activities other than financial services, each Party shall ensure that the authorisation fees charged by its competent authorities are reasonable and transparent and do not in themselves restrict the supply of the relevant service or the pursuit of any other economic activity. Having regard to the cost and administrative burden, each Party is encouraged to accept payment of authorisation fees by electronic means.

2. With regard to financial services, each Party shall ensure that its competent authorities, with respect to authorisation fees that they charge, provide applicants with a schedule of fees or information on how fee amounts are determined, and do not use the fees as a means of avoiding the Party’s commitments or obligations.

3. Authorisation fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions or mandated contributions to universal service provision.

Article SERVIN.5.7: Assessment of qualifications

If a Party requires an examination to assess the qualifications of an applicant for authorisation, it shall ensure that its competent authorities schedule such an examination at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. To the extent practicable, each Party shall accept requests in electronic format to take such examinations and shall consider the use of electronic means in other aspects of examination processes.

Article SERVIN.5.8: Publication and information available

1. If a Party requires authorisation, the Party shall promptly publish the information necessary for persons carrying out or seeking to carry out the activities referred to in Article SERVIN.5.1(1) for which the authorisation is required to comply with the requirements, formalities, technical standards and procedures for obtaining, maintaining, amending and renewing such authorisation. Such information shall include, to the extent it exists:

   (a) the licensing and qualification requirements and procedures and formalities;
   (b) contact information of relevant competent authorities;
   (c) authorisation fees;
   (d) applicable technical standards;
   (e) procedures for appeal or review of decisions concerning applications;
   (f) procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications;
   (g) opportunities for public involvement, such as through hearings or comments; and
   (h) indicative timeframes for the processing of an application.
For the purposes of this Section, "publish" means to include in an official publication, such as an official journal, or on an official website. Parties shall consolidate electronic publications into a single online portal or otherwise ensure that competent authorities make them easily accessible through alternative electronic means.

2. Each Party shall require each of its competent authorities to respond to any request for information or assistance, to the extent practicable.

Article SERVIN.5.9: Technical standards

Each Party shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body, including relevant international organisations, designated to develop technical standards to do so through open and transparent processes.

Article SERVIN.5.10: Conditions for authorisation

1. Each Party shall ensure that measures relating to authorisation are based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary manner and may include, inter alia, competence and the ability to supply a service or any other economic activity, including to do so in compliance with a Party’s regulatory requirements such as health and environmental requirements. For the avoidance of doubt, the Parties understand that in reaching decisions a competent authority may balance criteria.

2. The criteria referred to in paragraph 1 shall be:

(a) clear and unambiguous;

(b) objective and transparent;

(c) pre-established;

(d) made public in advance;

(e) impartial; and

(f) easily accessible.

3. If a Party adopts or maintains a measure relating to authorisation, it shall ensure that:

(a) the competent authority concerned processes applications, and reaches and administers its decisions objectively and impartially and in a manner independent of the undue influence of any person carrying out the economic activity for which authorisation is required; and

(b) the procedures themselves do not prevent fulfilment of the requirements.

Article SERVIN.5.11: Limited numbers of licences

If the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, a Party shall apply a selection procedure to potential candidates which provides full guarantees of impartiality, objectivity and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure. In
establishing the rules for the selection procedure, a Party may take into account legitimate policy objectives, including considerations of health, safety, the protection of the environment and the preservation of cultural heritage.

Section 2: Provisions of general application

Article SERVIN.5.12: Review procedures for administrative decisions

A Party shall maintain judicial, arbitral or administrative tribunals or procedures which provide, on request of an affected investor or service supplier of the other Party, for the prompt review of, and if justified appropriate remedies for, administrative decisions that affect establishment or operation, cross-border trade in services or the supply of a service through the presence of a natural person of a Party in the territory of the other Party. For the purposes of this Section, "administrative decisions" means a decision or action with a legal effect that applies to a specific person, good or service in an individual case and covers the failure to take an administrative decision or take such action when that is so required by a Party’s law. If such procedures are not independent of the competent authority entrusted with the administrative decision concerned, a Party shall ensure that the procedures in fact provide for an objective and impartial review.

Article SERVIN.5.13: Professional qualifications

1. Nothing in this Article shall prevent a Party from requiring that natural persons possess the necessary professional qualifications specified in the territory where the activity is performed, for the sector of activity concerned23.

2. The professional bodies or authorities, which are relevant for the sector of activity concerned in their respective territories, may develop and provide joint recommendations on the recognition of professional qualifications to the Partnership Council. Such joint recommendations shall be supported by an evidence-based assessment of:

(a) the economic value of an envisaged arrangement on the recognition of professional qualifications; and

(b) the compatibility of the respective regimes, that is, the extent to which the requirements applied by each Party for the authorisation, licensing, operation and certification are compatible.

3. On receipt of a joint recommendation, the Partnership Council shall review its consistency with this Title within a reasonable period of time. The Partnership Council may, following such review, develop and adopt an arrangement on the conditions for the recognition of professional qualifications by decision as an annex to this Agreement, which shall be considered to form an integral part of this Title.24

23 For greater certainty, this Article shall not be construed to prevent the negotiation and conclusion of one or more agreements between the Parties on the recognition of professional qualifications on conditions and requirements different from those provided for in this Article.

24 For greater certainty, such arrangements shall not lead to the automatic recognition of qualifications but shall set, in the mutual interest of both Parties, the conditions for the competent authorities granting recognition.
4. An arrangement referred to under paragraph 3 shall provide for the conditions for recognition of professional qualifications acquired in the Union and professional qualifications acquired in the United Kingdom relating to an activity covered by this Title and Title III [Digital Trade] of Heading One.

5. The Guidelines for arrangements on the recognition of professional qualifications set out in Annex SERVIN-6 [Guidelines for arrangements on the recognition of professional qualifications] shall be taken into account in the development of the joint recommendations referred to in paragraph 2 of this Article and by the Partnership Council when assessing whether to adopt such an Arrangement, as referred to in paragraph 3 of this Article.

Section 3: Delivery services

Article SERVIN.5.14: Scope and definitions

1. This Section applies to measures of a Party affecting the supply of delivery services in addition to Chapters 1, 2, 3 and 4 of this Title, and to Sections 1 and 2 of this Chapter.

2. For the purposes of this Section:

(a) "delivery services" means postal services, courier services, express delivery services or express mail services, which include the following activities: the collection, sorting, transport, and delivery of postal items;

(b) "express delivery services" means the collection, sorting, transport and delivery of postal items at accelerated speed and reliability and may include value added elements such as collection from point of origin, personal delivery to the addressee, tracing, possibility of changing the destination and addressee in transit or confirmation of receipt;

(c) "express mail services" means international express delivery services supplied through the EMS Cooperative, which is the voluntary association of designated postal operators under Universal Postal Union (UPU);

(d) "licence" means an authorisation that a regulatory authority of a Party may require of an individual supplier in order for that supplier to offer postal or courier services;

(e) "postal item" means an item up to 31.5kg addressed in the final form in which it is to be carried by any type of supplier of delivery services, whether public or private and may include items such as a letter, parcel, newspaper or catalogue;

(f) "postal monopoly" means the exclusive right to supply specified delivery services within a Party’s territory or a subdivision thereof pursuant to the law of that Party; and

(g) "universal service" means the permanent supply of a delivery service of specified quality at all points in the territory of a Party or a subdivision thereof at affordable prices for all users.

Article SERVIN.5.15: Universal service

1. Each Party has the right to define the kind of universal service obligation it wishes to maintain and to decide on its scope and implementation. Any universal service obligation shall be administered in a transparent, non-discriminatory and neutral manner with regard to all suppliers subject to the obligation.
2. If a Party requires inbound express mail services to be supplied on a universal service basis, it shall not accord preferential treatment to those services over other international express delivery services.

Article SERVIN.5.16: Universal service funding

A party shall not impose fees or other charges on the supply of a delivery service that is not a universal service for the purposes of funding the supply of a universal service. This Article does not apply to generally applicable taxation measures or administrative fees.

Article SERVIN.5.17: Prevention of market distortive practices

Each party shall ensure that suppliers of delivery services subject to a universal service obligation or postal monopolies do not engage in market distortive practices such as:

(a) using revenues derived from the supply of the service subject to a universal service obligation or from a postal monopoly to cross-subsidise the supply of an express delivery service or any delivery service which is not subject to a universal service obligation; or

(b) unjustifiably differentiating between consumers with respect to tariffs or other terms and conditions for the supply of a service subject to a universal service or a postal monopoly.

Article SERVIN.5.18: Licences

1. If a Party requires a licence for the provision of delivery services, it shall make publicly available:

(a) all the licensing requirements and the period of time normally required to reach a decision concerning an application for a licence; and

(b) the terms and conditions of licences.

2. The procedures, obligations and requirements of a licence shall be transparent, non-discriminatory and based on objective criteria.

3. If a licence application is rejected by the competent authority, it shall inform the applicant of the reasons for the rejection in writing. Each Party shall establish an appeal procedure through an independent body available to applicants whose licence has been rejected. That body may be a court.

Article SERVIN.5.19: Independence of the regulatory body

1. Each Party shall establish or maintain a regulatory body which shall be legally distinct from and functionally independent from any supplier of delivery services. If a Party owns or controls a supplier of delivery services, it shall ensure the effective structural separation of the regulatory function from activities associated with ownership or control.

2. The regulatory bodies shall perform their tasks in a transparent and timely manner and have adequate financial and human resources to carry out the task assigned to them. Their decisions shall be impartial with respect to all market participants.
Article SERVIN.5.20: Scope

This Section applies to measures of a Party affecting the supply of telecommunications services in addition to Chapters 1, 2, 3 and 4 of this Title, and to Sections 1 and 2 of this Chapter.

Article SERVIN.5.21: Definitions

For the purposes of this Section:

(a) "associated facilities" means associated services, physical infrastructure and other facilities or elements associated with a telecommunications network or telecommunications service which enable or support the supply of services via that network or service or have the potential to do so;

(b) "end user" means a final consumer of, or subscriber to, a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

(c) "essential facilities" means facilities of a public telecommunications network or a public telecommunications service that:

   (i) are exclusively or predominantly provided by a single or limited number of suppliers; and

   (ii) cannot feasibly be economically or technically substituted in order to provide a service;

(d) "interconnection" means the linking of public telecommunications networks used by the same or different suppliers of telecommunications networks or telecommunications services in order to allow the users of one supplier to communicate with users of the same or another supplier or to access services provided by another supplier, irrespective of whether those services are provided by the suppliers involved or any other supplier who has access to the network;

(e) "international mobile roaming service" means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications services that enables an end user to use its home mobile handset or other device for voice, data or messaging services while outside the territory in which the end user's home public telecommunications network is located;

(f) "Internet access service" means a public telecommunications service that provides access to the Internet and thereby connectivity to virtually all end points of the Internet, irrespective of the network technology and terminal equipment used;

(g) "leased circuit" means telecommunications services or facilities, including those of a virtual nature, that set aside capacity for the dedicated use by, or availability to, a user between two or more designated points;

(h) "major supplier" means a supplier of telecommunications networks or telecommunications services which has the ability to materially affect the terms of participation, having regard to price and supply, in a relevant market for telecommunications networks or telecommunications services as a result of control over essential facilities or the use of its position in that market;
(i) "network element" means a facility or equipment used in supplying a telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;

(j) "number portability" means the ability of subscribers who so request to retain the same telephone numbers, at the same location in the case of a fixed line, without impairment of quality, reliability or convenience when switching between the same category of suppliers of public telecommunications services;

(k) "public telecommunications network" means any telecommunications network used wholly or mainly for the provision of public telecommunications services which supports the transfer of information between network termination points;

(l) "public telecommunications service" means any telecommunications service that is offered to the public generally;

(m) "subscriber" means any natural or legal person which is party to a contract with a supplier of public telecommunications services for the supply of such services;

(n) "telecommunications" means the transmission and reception of signals by any electromagnetic means;

(o) "telecommunications network" means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the transmission and reception of signals by wire, radio, optical, or other electromagnetic means;

(p) "telecommunications regulatory authority" means the body or bodies charged by a Party with the regulation of telecommunications networks and telecommunications services covered by this Section;

(q) "telecommunications service" means a service which consists wholly or mainly in the transmission and reception of signals, including broadcasting signals, over telecommunications networks, including those used for broadcasting, but not a service providing, or exercising editorial control over, content transmitted using telecommunications networks and telecommunications services;

(r) "universal service" means the minimum set of services of specified quality that must be made available to all users, or to a set of users, in the territory of a Party, or in a subdivision thereof, regardless of their geographical location and at an affordable price; and

(s) "user" means any natural or legal person using a public telecommunications service.

Article SERVIN.5.22: Telecommunications regulatory authority

1. Each Party shall establish or maintain a telecommunications regulatory authority that:

(a) is legally distinct and functionally independent from any supplier of telecommunications networks, telecommunications services or telecommunications equipment;

(b) uses procedures and issues decisions that are impartial with respect to all market participants;
acts independently and does not seek or take instructions from any other body in relation to the exercise of the tasks assigned to it by law to enforce the obligations set out in Articles SERVIN.5.24 [Interconnection], SERVIN.5.25 [Access and use], SERVIN.5.26 [Resolution of telecommunications disputes], SERVIN.5.28 [Interconnection with major supplies] and SERVIN.5.29 [Access to major suppliers’ essential facilities];

(d) has the regulatory power, as well as adequate financial and human resources, to carry out the tasks mentioned in point (c);

(e) has the power to ensure that suppliers of telecommunications networks or telecommunications services provide it, promptly upon request, with all the information, including financial information, which is necessary to enable it to carry out the tasks mentioned in point (c); and

(f) exercises its powers transparently and in a timely manner.

2. Each Party shall ensure that the tasks assigned to the telecommunications regulatory authority are made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

3. A Party that retains ownership or control of suppliers of telecommunications networks or telecommunications services shall ensure the effective structural separation of the regulatory function from activities associated with ownership or control.

4. Each Party shall ensure that a user or supplier of telecommunications networks or telecommunications services affected by a decision of the telecommunications regulatory authority has a right of appeal before an appeal body which is independent of the regulatory authority and other affected parties. Pending the outcome of the appeal, the decision shall stand, unless interim measures are granted in accordance with the Party’s law.

Article SERVIN.5.23: Authorisation to provide telecommunications networks or services

1. Each Party shall permit the provision of telecommunications networks or telecommunications services without a prior formal authorisation.

2. Each Party shall make publicly available all the criteria, applicable procedures and terms and conditions under which suppliers are permitted to provide telecommunications networks or telecommunications services.

3. Any authorisation criteria and applicable procedures shall be as simple as possible, objective, transparent, non-discriminatory and proportionate. Any obligations and conditions imposed on or associated with an authorisation shall be non-discriminatory, transparent and proportionate, and shall be related to the services or networks provided.

4. Each Party shall ensure that an applicant for an authorisation receives in writing the reasons for any denial or revocation of an authorisation or the imposition of supplier-specific conditions. In such cases, the applicant shall have a right of appeal before an appeal body.

25 Information requested shall be treated in accordance with the requirements of confidentiality.
5. Administrative fees imposed on suppliers shall be objective, transparent, non-discriminatory and commensurate with the administrative costs reasonably incurred in the management, control and enforcement of the obligations set out in this Section\(^26\).

**ARTICLE SERVIN.5.24: Interconnection**

Each Party shall ensure that a supplier of public telecommunications networks or public telecommunications services has the right and, when so requested by another supplier of public telecommunications networks or public telecommunications services, the obligation to negotiate interconnection for the purposes of providing public telecommunications networks or public telecommunications services.

**Article SERVIN.5.25: Access and use**

1. Each Party shall ensure that any covered enterprise or service supplier of the other Party is accorded access to and use of public telecommunications networks or public telecommunications services on reasonable and non-discriminatory\(^27\) terms and conditions. This obligation shall be applied, *inter alia*, to paragraphs 2 to 5.

2. Each Party shall ensure that covered enterprises or service suppliers of the other Party have access to and use of any public telecommunications network or public telecommunications service offered within or across its border, including private leased circuits, and to this end shall ensure, subject to paragraph 5, that such enterprises and suppliers are permitted:

   (a) to purchase or lease and attach terminal or other equipment which interfaces with the network and which is necessary to conduct their operations;

   (b) to interconnect private leased or owned circuits with public telecommunications networks or with circuits leased or owned by another covered enterprise or service supplier; and

   (c) to use the operating protocols of their choice in their operations, other than as necessary to ensure the availability of telecommunications services to the public generally.

3. Each Party shall ensure that covered enterprises or service suppliers of the other Party may use public telecommunications networks and public telecommunications services for the movement of information within and across borders, including for their intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of communications, subject to the requirement that such measures are not applied in a manner which would constitute either a disguised restriction on trade in services

\(^{26}\) Administrative fees do not include payments for rights to use scarce resources and mandated contributions to universal service provision.

\(^{27}\) For the purposes of this Article, “non-discriminatory” means most-favoured-nation and national treatment as defined in Articles SERVIN.2.3 [National treatment], SERVIN.3.3 [Local presence], SERVIN.2.4 [Most favoured nation treatment] and SERVIN.3.4 [National treatment], as well as under terms and conditions no less favourable than those accorded to any other user of like public telecommunications networks or services in like situations.
or a means of arbitrary or unjustifiable discrimination or of nullification or impairment of benefits under this Title.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks or services other than as necessary:

(a) to safeguard the public service responsibilities of suppliers of public telecommunications networks or public telecommunications services, in particular their ability to make their services available to the public generally; or

(b) to protect the technical integrity of public telecommunications networks or services.

Article SERVIN.5.26: Resolution of telecommunications disputes

1. Each Party shall ensure that, in the event of a dispute arising between suppliers of telecommunications networks or telecommunications services in connection with rights and obligations that arise from this Section, and upon request of either party involved in the dispute, the telecommunications regulatory authority issues a binding decision within a reasonable timeframe to resolve the dispute.

2. The decision by the telecommunications regulatory authority shall be made available to the public, having regard to the requirements of business confidentiality. The parties concerned shall be given a full statement of the reasons on which it is based and shall have the right of appeal referred to in Article SERVIN.5.22(4) [Telecommunications regulatory authority].

3. The procedure referred to in paragraphs 1 and 2 shall not preclude either party concerned from bringing an action before a judicial authority.

Article SERVIN.5.27: Competitive safeguards on major suppliers

Each Party shall introduce or maintain appropriate measures for the purpose of preventing suppliers of telecommunications networks or telecommunications services who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

Article SERVIN.5.28: Interconnection with major suppliers

1. Each Party shall ensure that major suppliers of public telecommunications networks or public telecommunications services provide interconnection at any technically feasible point in the network. Such interconnection shall be provided:

(a) under non-discriminatory terms and conditions (including as regards rates, technical standards, specifications, quality and maintenance) and of a quality no less favourable than
that provided for the own like services of such major supplier, or for like services of its subsidiaries or other affiliates;

(b) in a timely fashion, on terms and conditions (including as regards rates, technical standards, specifications, quality and maintenance) that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network elements or facilities that it does not require for the service to be provided; and

c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2. The procedures applicable for interconnection to a major supplier shall be made publicly available.

3. Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers as appropriate.

Article SERVIN.5.29: Access to major suppliers’ essential facilities

Each Party shall ensure that major suppliers in its territory make their essential facilities available to suppliers of telecommunications networks or telecommunications services on reasonable, transparent and non-discriminatory terms and conditions for the purpose of providing public telecommunications services, except where this is not necessary to achieve effective competition on the basis of the facts collected and the assessment of the market conducted by the telecommunications regulatory authority. The major supplier’s essential facilities may include network elements, leased circuits services and associated facilities.

Article SERVIN.5.30: Scarce resources

1. Each Party shall ensure that the allocation and granting of rights of use of scarce resources, including radio spectrum, numbers and rights of way, is carried out in an open, objective, timely, transparent, non-discriminatory and proportionate manner and by taking into account general interest objectives. Procedures, and conditions and obligations attached to rights of use, shall be based on objective, transparent, non-discriminatory and proportionate criteria.

2. The current use of allocated frequency bands shall be made publicly available, but detailed identification of radio spectrum allocated for specific government uses is not required.

3. Parties may rely on market-based approaches, such as bidding procedures, to assign spectrum for commercial use.

4. The Parties understand that measures of a Party allocating and assigning spectrum and managing frequency are not in and of themselves inconsistent with Articles SERVIN.2.2 [Market access] and SERVIN.3.2 [Market access]. Each Party retains the right to establish and apply spectrum and frequency management measures that may have the effect of limiting the number of suppliers of telecommunications services, provided that it does so in a manner consistent with this Agreement. This includes the ability to allocate frequency bands taking into account current and future needs and spectrum availability.

Article SERVIN.5.31: Universal service
1. Each Party has the right to define the kind of universal service obligations it wishes to maintain and to decide on their scope and implementation.

2. Each Party shall administer the universal service obligations in a proportionate, transparent, objective and non-discriminatory way, which is neutral with respect to competition and not more burdensome than necessary for the kind of universal service defined by the Party.

3. Each Party shall ensure that procedures for the designation of universal service suppliers are open to all suppliers of public telecommunications networks or public telecommunications services. Such designation shall be made through an efficient, transparent and non-discriminatory mechanism.

4. If a Party decides to compensate the universal service suppliers, it shall ensure that such compensation does not exceed the net cost caused by the universal service obligation.

   Article SERVIN.5.32: Number portability

   Each Party shall ensure that suppliers of public telecommunications services provide number portability on reasonable terms and conditions.

   Article SERVIN.5.33: Open Internet access

   1. Each Party shall ensure that, subject to its laws and regulations, suppliers of Internet access services enable users of those services to:

      (a) access and distribute information and content, use and provide applications and services of their choice, subject to non-discriminatory, reasonable, transparent and proportionate network management; and

      (b) use devices of their choice, provided that such devices do not harm the security of other devices, the network or services provided over the network.

   2. For greater certainty, nothing in this Article shall prevent the Parties from adopting measures with the aim of protecting public safety with regards to users online.

   Article SERVIN.5.34: Confidentiality of information

   1. Each Party shall ensure that suppliers that acquire information from another supplier in the process of negotiating arrangements pursuant to Articles SERVIN.5.24 [Interconnection], SERVIN.5.25 [Access and use], SERVIN.5.28 [Interconnection with major suppliers] and SERVIN.5.29 [Access to major suppliers’ essential facilities] use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

   2. Each Party shall ensure the confidentiality of communications and related traffic data transmitted in the use of public telecommunications networks or public telecommunications services subject to the requirement that measures applied to that end do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

   Article SERVIN.5.35: Foreign shareholding

   With regard to the provision of telecommunications networks or telecommunications services through establishment and notwithstanding Article SERVIN.2.7 [Non-conforming measures and
exceptions], a Party shall not impose joint venture requirements or limit the participation of foreign capital in terms of maximum percentage limits on foreign shareholding or the total value of individual or aggregate foreign investment.

Article SERVIN.5.36: International mobile roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services in ways that can help promote the growth of trade among the Parties and enhance consumer welfare.

2. Parties may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:
   (a) ensuring that information regarding retail rates is easily accessible to end users; and
   (b) minimising impediments to the use of technological alternatives to roaming, whereby end users visiting the territory of a Party from the territories of other Parties can access telecommunications services using the device of their choice.

3. Each Party shall encourage suppliers of public telecommunications services in its territory to make publicly available information on retail rates for international mobile roaming services for voice, data and text messages offered to their end users when visiting the territory of the other Party.

4. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

Section 5: Financial services

Article SERVIN.5.37 Scope

1. This Section applies to measures of a Party affecting the supply of financial services in addition to Chapters 1, 2, 3 and 4 of this Title, and to Sections 1 and 2 of this Chapter.

2. For the purposes of this Section, the term "activities performed in the exercise of governmental authority" referred to in point (f) of Article SERVIN.1.2 [Definitions] means the following:
   (a) activities conducted by a central bank or a monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
   (b) activities forming part of a statutory system of social security or public retirement plans; and

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28 This Article does not apply to intra-European Union roaming services, which are commercial mobile services provided pursuant to a commercial agreement between suppliers of public telecommunications services that enable an end user to use its home mobile handset or other device for voice, data or messaging services in a Member State other than that in which the end user's home public telecommunications network is located.

29 For greater certainty, this modification applies to “services supplied in exercise of governmental authority” in point (o) of Article SERVIN.1.2 [Definitions] as it applies to “activities performed in the exercise of governmental authority” in point (f) of Article SERVIN.1.2 [Definitions].
(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Party or its public entities.

3. For the purposes of the application of point (f) of Article SERVIN.1.2 [Definitions] to this Section, if a Party allows any of the activities referred to in points (b) or (c) of paragraph 2 of this Article to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, “activities performed in the exercise of governmental authority” does not include those activities.

4. Point (a) of Article SERVIN.1.2 [Definitions] does not apply to services covered by this Section.

Article SERVIN.5.38: Definitions

For the purposes of this Title:

(a) "financial service" means any service of a financial nature offered by a financial service supplier of a Party and includes the following activities:

(i) 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; and

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

(ii) banking and other financial services (excluding insurance):

(A) acceptance of deposits and other repayable funds from the public;

(B) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(C) financial leasing;

(D) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(E) guarantees and commitments;

(F) 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; and

(ff) other negotiable instruments and financial assets, including bullion;

(G) 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;

(H) money broking;

(I) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(J) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(K) provision and transfer of financial information, and financial data processing and related software; and

(L) advisory, intermediation and other auxiliary financial services on all the activities listed in points (A) to (K), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) "financial service supplier" means any natural or legal person of a Party that seeks to supply or supplies financial services and does not include a public entity;

(c) "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, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party;

(d) "public entity" means:

(i) a government, a central bank or a 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

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions;
(e) "self-regulatory organisation" means any non-governmental body, including a securities or futures exchange or market, clearing agency, other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers by statute or delegation from central, regional or local governments or authorities, where applicable.

Article SERVIN.5.39: Prudential carve-out

1. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons, such as:

(a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or

(b) ensuring the integrity and stability of a Party’s financial system.

2. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party’s commitments or obligations under the Agreement.

Article SERVIN.5.40: Confidential information

Without prejudice to Part Three [Law enforcement and judicial cooperation in criminal matters], nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.

Article SERVIN.5.41: International standards

The Parties shall make their best endeavours to ensure that internationally agreed standards in the financial services sector for regulation and supervision, for the fight against money laundering and terrorist financing and for the fight against tax evasion and avoidance, are implemented and applied in their territory. Such internationally agreed standards are, inter alia, those adopted by: the G20; the Financial Stability Board; the Basel Committee on Banking Supervision, in particular its “Core Principle for Effective Banking Supervision”; the International Association of Insurance Supervisors, in particular its “Insurance Core Principles”; the International Organisation of Securities Commissions, in particular its “Objectives and Principles of Securities Regulation”; the Financial Action Task Force; and the Global Forum on Transparency and Exchange of Information for Tax Purposes of the Organisation for Economic Cooperation and Development.

Article SERVIN.5.42: Financial services new to the territory of a Party

1. Each Party shall permit a financial service supplier of the other Party established in its territory to supply any new financial service that it would permit its own financial service suppliers to supply in accordance with its law in like situations, provided that the introduction of the new financial service does not require the adoption of a new law or the amendment of an existing law. This does not apply to branches of the other Party established in the territory of a Party.

2. A Party may determine the institutional and legal form through which the service may be supplied and require authorisation for the supply of the service. Where such authorisation is

30 For greater certainty, this shall not prevent a Party from adopting or maintaining measures for prudential reasons in relation to branches established in its territory by legal persons in the other Party.
required, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons.

Article SERVIN.5.43: Self-regulatory organisations

Where a Party requires membership of, participation in, or access to, any self-regulatory organisation in order for financial service suppliers of the other Party to supply financial services in its territory, the Party shall ensure observance by that self-regulatory organisation of the obligations under Articles SERVIN.2.3 [National treatment], SERVIN.2.4 [Most favoured nation treatment], and SERVIN.3.4 [National treatment] and SERVIN.3.5 [Most favoured nation treatment].

Article SERVIN.5.44: Clearing and payment systems

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party established in its territory 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 Article does not confer access to the Party’s lender of last resort facilities.

Section 6: International maritime transport services

Article SERVIN.5.45: Scope and definitions

1. This Section applies to measures of a Party affecting the supply of international maritime transport services in addition to Chapters 1, 2, 3, 4 and Section 1 of this Chapter.

2. For the purposes of this Section and Chapters 1, 2, 3 and 4 of this Title:

(a) "international maritime transport services" means the transport of passengers or cargo by sea-going vessels between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States, including the direct contracting with providers of other transport services, with a view to covering door-to-door or multimodal transport operations under a single transport document, but does not include the right to provide such other transport services;

(b) "door-to-door or multimodal transport operations" means the transport of international cargo using more than one mode of transport, that includes an international sea-leg, under a single transport document;

(c) "international cargo" means cargo transported between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States;

(d) "maritime auxiliary services" means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services and, maritime freight forwarding services and storage and warehousing services;

(e) "maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators but not including the direct activities of dockers if the workforce is organised independently of the stevedoring or terminal operator companies; the activities covered include the organisation and supervision of:

(i) loading or discharging of cargo to or from a ship;
(ii) the lashing or unlashing of cargo; and

(iii) the reception or delivery and safekeeping of cargoes before shipment or after discharge;

(f) "customs clearance services" means activities consisting in carrying out, on behalf of another party, customs formalities concerning import, export or through transport of cargoes, irrespective of whether these services are the main activity of the service supplier or a usual complement of its main activity;

(g) "container station and depot services" means activities that consist of storing, stuffing, stripping or repairing of containers and making containers available for shipment, whether in port areas or inland;

(h) "maritime agency services" means activities that consist of representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

(i) marketing and sales of maritime transport and related services, from quotation to invoicing, issuance of bills of lading on behalf of the lines or companies, acquisition and resale of the necessary related services, preparation of documentation and provision of business information; and

(ii) acting on behalf of the lines or companies organising the call of the ship or taking over cargoes when required;

(i) "feeder services" means, without prejudice to the scope of activities, which might be considered as cabotage under the relevant national legislation, the pre- and onward transportation by sea of international cargo, including containerised, break bulk and dry or liquid bulk cargo, between ports located in the territory of a Party, provided such international cargo is "en route", that is, directed to a destination, or coming from a port of shipment, outside the territory of that Party;

(j) "maritime freight forwarding services" means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the arrangement of transport and related services, preparation of documentation and provision of business information;

(k) "port services" means services provided inside a maritime port area or on the waterway access to such area by the managing body of a port, its subcontractors, or other service providers to support the transport of cargo or passengers; and

(l) "storage and warehousing services" means storage services of frozen or refrigerated goods, bulk storage services of liquids or gases, and other storage or warehousing services.

Article SERVIN.5.46: Obligations

1. Without prejudice to non-conforming measures or other measures referred to in Articles SERVIN.2.7 [Non-conforming measures and exceptions] and SERVIN.3.6 [Non-conforming measures], each Party shall implement the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis by:
(a) according to ships flying the flag of the other Party, or operated by service suppliers of the other Party, treatment no less favourable than that accorded to its own ships with regard to, inter alia:

(i) access to ports;

(ii) the use of port infrastructure;

(iii) the use of maritime auxiliary services; and

(iv) customs facilities and the assignment of berths and facilities for loading and unloading; including related fees and charges;

(b) making available to international maritime transport service suppliers of the other Party, on terms and conditions which are both reasonable and no less favourable than those applicable to its own suppliers or vessels or to vessels or suppliers of a third country (including fees and charges, specifications and quality of the service to be provided), the following port services: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captain’s services, navigation aids, emergency repair facilities, anchorage, berth, berthing and unberthing services and shore-based operational services essential to ship operations, including communications, water and electrical supplies;

(c) permitting international maritime transport service suppliers of the other Party, subject to the authorisation by the competent authority where applicable, to re-position owned or leased empty containers, which are not being carried as cargo against payment, between ports of the United Kingdom or between ports of a Member State; and

(d) permitting international maritime transport service suppliers of the other Party to provide feeder services between ports of the United Kingdom or between ports of a Member State, subject to the authorisation by the competent authority where applicable.

2. In applying the principle referred to in paragraph 1, a Party shall:

(a) not introduce cargo-sharing arrangements in future agreements with third countries concerning international maritime transport services, including dry and liquid bulk and liner trade, and terminate, within a reasonable period of time, such cargo-sharing arrangements in case they exist in previous agreements;

(b) not adopt or maintain a measure that requires all or part of any international cargo to be transported exclusively by vessels registered in that Party or owned or controlled by natural persons of that Party;

(c) abolish and abstain from introducing any unilateral measures or administrative, technical and other obstacles which could constitute a disguised restriction or have discriminatory effects on the free supply of international maritime transport services; and

(d) not prevent international maritime transport service suppliers of the other Party from directly contracting with other transport service suppliers for door-to-door or multimodal transport operations.

Section 7: Legal services
Article SERVIN.5.47: Scope

1. This Section applies to measures of a Party affecting the supply of designated legal services in addition to Chapters 1, 2, 3, 4 of this Title and to Sections 1 and 2 of this Chapter.

2. Nothing in this Section shall affect the right of a Party to regulate and supervise the supply of designated legal services in its territory in a non-discriminatory manner.

Article SERVIN.5.48: Definitions

For the purposes of this Section:

(a) "designated legal services" means legal services in relation to home jurisdiction law and public international law, excluding Union law;

(b) "home jurisdiction" means the jurisdiction (or a part of the jurisdiction) of the Member State or of the United Kingdom in which a lawyer acquired their home jurisdiction professional title or, in the case of a lawyer who has acquired a home jurisdiction professional title in more than one jurisdiction, any of those jurisdictions;

(c) "home jurisdiction law" means the law of the lawyer’s home jurisdiction;

(d) "home jurisdiction professional title" means:
   (i) for a lawyer of the Union, a professional title acquired in a Member State authorising the supply of legal services in that Member State; or
   (ii) for a lawyer of the United Kingdom, the title of advocate, barrister or solicitor, authorising the supply of legal services in any part of the jurisdiction of the United Kingdom;

(e) "lawyer" means:
   (i) a natural person of the Union who is authorised in a Member State to supply legal services under a home jurisdiction professional title; or
   (ii) a natural person of the United Kingdom who is authorised in any part of the jurisdiction of the United Kingdom to supply legal services under a home jurisdiction professional title;

(f) "lawyer of the other Party" means:
   (i) where "the other Party" is the Union, a lawyer referred to in point (e) (i); or
   (ii) where "the other Party" is the United Kingdom, a lawyer referred to in point (e) (ii); and

(g) "legal services" means the following services:
   (i) legal advisory services; and
   (ii) legal arbitration, conciliation and mediation services (but excluding such services when supplied by natural persons as set out in Article SERVIN 4.1 [Scope and definitions].

31 For greater certainty, for the purposes of this Title, European Union law is part of the home jurisdiction law of the lawyers referred to in point (e) (i) of Article SERVIN 5.48 [Definitions].

32 "Legal arbitration, conciliation and mediation services" means the preparation of documents to be submitted to, the preparation for and appearance before, an arbitrator, conciliator or mediator in any dispute involving the application and interpretation of law. It does not include arbitration, conciliation and mediation services in disputes not involving the application and interpretation of law, which fall under services incidental to management consulting. It also does not include acting as an arbitrator, conciliator or mediator. As a sub-category, international legal arbitration, conciliation or mediation services refers to the same services when the dispute involves parties from two or more countries.
"Legal services" do not include legal representation before administrative agencies, the courts, and other duly constituted official tribunals of a Party, legal advisory and legal authorisation, documentation and certification services supplied by legal professionals entrusted with public functions in the administration of justice such as notaries, "huissiers de justice" or other "officiers publics et ministériels", and services supplied by bailiffs who are appointed by an official act of government.

Article SERVIN.5.49: Obligations

1. A Party shall allow a lawyer of the other Party to supply in its territory designated legal services under that lawyer’s home jurisdiction professional title in accordance with Articles SERVIN 2.2 [Market access], SERVIN 2.3 [National treatment], SERVIN 3.2 [Market access], SERVIN 3.4 [National treatment] and SERVIN 4.4. [Contractual service suppliers and independent professionals].

2. Where a Party (the host jurisdiction) requires registration in its territory as a condition for a lawyer of the other Party to supply designated legal services pursuant to paragraph 1, the requirements and process for such registration shall not:

   (a) be less favourable than those which apply to a natural person of a third country who is supplying legal services in relation to third country law or public international law under that person’s third-country professional title in the territory of the host jurisdiction; and

   (b) amount to or be equivalent to any requirement to requalify into or be admitted to the legal profession of the host jurisdiction.

3. Paragraph 4 applies to the provision of designated legal services pursuant to paragraph 1 through establishment.

4. A Party shall allow a legal person of the other Party to establish a branch in its territory through which designated legal services are supplied pursuant to paragraph 1, in accordance with and subject to the conditions set out in Chapter 2 [Investment Liberalisation] of this Title. This shall be without prejudice to requirements that a certain percentage of the shareholders, owners, partners, or directors of a legal person be qualified or practice a certain profession such as lawyers or accountants.

Article SERVIN.5.50: Non-conforming measures

1. Article 5.49 [Obligations] does not apply to:

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

      (i) for the Union:

         (A) the Union, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures];

         (B) the central government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures];

         (C) a regional government of a Member State, as set out in the Schedule of the Union in Annex SERVIN-1 [Existing measures]; or

33 For greater certainty, for the purposes of this paragraph “designated legal services” means, for services supplied in the Union, legal services in relation to the law of the United Kingdom or any part of it and public international law (excluding Union law), and for services supplied in the United Kingdom, legal services in relation to the law of the Member States (including Union law) and public international law (excluding Union law).
(D) a local government, other than that referred to in point (C); and

(iii) for the United Kingdom:

(A) the central government, as set out in the Schedule of the United Kingdom in Annex SERVIN-1 [Existing measures];
(B) a regional government, as set out in the Schedule of the United Kingdom in Annex SERVIN-1 [Existing measures]; or
(C) a local government;

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

(c) a modification to any non-conforming measure referred to in points (a) and (b) to the extent that it does not decrease the conformity of the measure as it existed immediately before the modification with Article SERVIN 5.49 [Obligations].

2. Article SERVIN 5.49 [Obligations] does 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 SERVIN-2 [Future Measures].

3. This Section applies without prejudice to Annex SERVIN-4 [Contractual service suppliers and independent professionals].

TITLE III: DIGITAL TRADE

Chapter 1: General provisions

Article DIGIT.1 Objective

The objective of this Title is to facilitate digital trade, to address unjustified barriers to trade enabled by electronic means and to ensure an open, secure and trustworthy online environment for businesses and consumers.

Article DIGIT.2 Scope

1. This Title applies to measures of a Party affecting trade enabled by electronic means.

2. This Title does not apply to audio-visual services.

Article DIGIT.3 Right to regulate

The Parties reaffirm the right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, privacy and data protection, or the promotion and protection of cultural diversity.

Article DIGIT.4 Exceptions

For greater certainty, nothing in this Title prevents the Parties from adopting or maintaining measures in accordance with Article EXC.1 [General exceptions], Article EXC.4 [Security exceptions] and Article SERVIN.5.39 [Prudential carve-out] for the public interest reasons set out therein.