

## PROVISIONS FOR THE TITLE ON SERVICES AND ESTABLISHMENT

***New Article on Authorisation for exploration and production of crude oil, natural gas and electricity.******Authorisation for exploration and production of crude oil, natural gas and electricity***

1. If a Party requires an authorisation to explore for or produce crude oil, natural gas or electricity, that Party shall grant such an authorisation in accordance with the conditions and procedures set out in Articles [X] and [X] of Section [A] [Domestic Regulation].
2. That Party shall publish, *inter alia*, the type of authorisation, the relevant area or part thereof, and the proposed date or time limit for granting the authorisation, in such a manner as to enable potentially interested applicants to submit applications.
3. The Parties may grant authorisations without complying with paragraph 1 in any of the following cases:
  - a) the area has been subject to a previous procedure complying with Articles [X] and [X] which has not resulted in an authorisation being granted;
  - b) the area is available on a permanent basis for the exploration for or production of crude oil or natural gas; or
  - c) the authorisation granted has been relinquished before its date of expiry.
4. When granting an authorization in accordance with paragraph 3 a Party shall, without undue delay, make public a notice in such a manner as to inform potentially interested applicants indicating the areas within its territory which are available under paragraph 3 and where detailed information in this regard can be obtained. Any significant change in this information shall be the subject of an additional notice. No application for an authorization under this paragraph can be considered until after the publication of the relevant notice.
5. Each Party may require an entity which has been granted an authorisation to pay a financial contribution or a contribution in kind. The contribution shall be fixed in such a manner so as not to interfere with the management and the decision-making process of the entity which has been granted an authorisation.
6. Each Party shall ensure that the applicant is provided with the reasons for the rejection of its application so as to enable such a person to have recourse to procedures for appeal or review where necessary. The procedures for appeal or review shall be made public in advance.

***New Article on Third-party access to energy transport infrastructure.******Third-party access to energy transport infrastructure***

1. Each Party shall ensure that owners or operators of transmission networks in its territory grant access to the energy infrastructure for the transport of natural gas and electricity of any entity of the Parties. Access to the energy infrastructure shall be granted within a reasonable period of time from the date of the request for access by that entity.
2. Notwithstanding paragraph 1 of this Article, a Party may introduce or maintain a limited list of derogations from the right to third party access based on objective criteria set out in legislation, provided that they are necessary to fulfil a legitimate policy objective.
3. Each Party shall ensure that entities of the Parties are accorded access to and use of energy transport infrastructure for the transport of gas and electricity on reasonable and non-discriminatory terms and conditions, including non-discrimination between types of energy, and at cost-reflective tariffs. Each party shall publish the terms, conditions and tariffs for the access to and use of energy transport infrastructure.
4. Each Party shall maintain or establish a regulatory body or any other independent body that is separate from, and not accountable to, operators providing or entities having access to energy transport infrastructure, and which shall be entrusted to resolve disputes regarding appropriate terms, conditions and tariffs for access and use within a reasonable period of time.

***New Article on Performance Requirements***

1. For the purposes of this article, the following stipulations shall be considered as performance requirements:
  - (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 persons or enterprises 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 investment;
  - (e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
  - (f) to provide access to or transfer technology, a production process or other proprietary knowledge to a natural person or an enterprise in its territory;
  - (g) to supply exclusively from the territory of the Party a good produced or a service provided by the investment to a specific regional or world market;

- (h) to locate the headquarters of that investor for a specific region or the world market in its territory;
- (i) to hire a given number or percentage of its nationals;
- (j) to achieve a given level or value of research and development in its territory;
- (k) to restrict the exportation or sale for export.

2. Neither Party shall impose or enforce a performance requirement in connection with the establishment, acquisition, expansion, conduct, operation, and management of a juridical person in its territory, or as a condition for the receipt or continued receipt of an advantage, that is inconsistent with the obligation to accord national treatment in paragraph X of Article Y (National Treatment) or with the obligation to eliminate quantitative restrictions in paragraph X of Article Y (Prohibition of Quantitative Restrictions) of the Chapter on Trade in Goods.

3. Neither Party shall impose or enforce, in the sectors for which commitments have been undertaken, a performance requirement in connection with the establishment, acquisition, expansion, conduct, operation, and management of a juridical person in its territory, or as a condition for the receipt or continued receipt of an advantage, that is inconsistent with the obligation to accord national treatment in paragraph X of Article Y (National Treatment) or with the obligation to eliminate quantitative restrictions in paragraph Z of Article A (Market Access) of the Chapter on Trade in Services and Establishment, subject to any conditions and qualifications set out in Annex (List of Commitments on Establishment by MCS/EU).

4. With respect to the operation of a juridical person of one Party established in the territory of the other Party, the latter shall not impose or enforce any new or additional performance requirement that did not exist at the time that the juridical person was established and which causes loss or damage to that juridical person. This provision includes new or additional performance requirements imposed or enforced as a condition for the receipt or continued receipt of an existing advantage that did not exist at the time that the juridical person was established or the advantage was initially accorded.