

CHAPTER 4 TRADE IN SERVICES

Article 4.1 Scope and Coverage

This Chapter applies to measures by a Party affecting trade in services between the Parties.

Article 4.2 Market Access

1. With respect to market access through the modes of supply identified in Article I:2(a)-(d) of the GATS, each Party shall accord services and service suppliers of the other Party treatment no less favorable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of specific commitments³.
2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule of specific commitments, are those measures set out in Article XVI:2 (a)-(f) of the GATS.

Article 4.3 National Treatment

1. In the sectors inscribed in its Schedule of specific commitments, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favorable than that it accords to its own like services and service suppliers⁴.

³ If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in sub-paragraph 2(a) of Article I of the GATS and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in sub-paragraph 2(c) of Article 1 of the GATS, it is thereby committed to allow related transfers of capital into its territory.

⁴ Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

2. A Party may meet the requirement of Article 4.3.1 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 like services and service suppliers.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of a Party compared to like services or service suppliers of the other Party.

Article 4.4 **Incorporation of Provisions from the GATS⁵**

1. The following provisions of the GATS shall be incorporated into this Chapter, *mutatis mutandis*, as if those provisions were fully set out herein.
 - a. Articles I:2-3; IX; and XIV:(a)-(d);
 - b. Paragraphs 1, 2 and 4 of the Annex on Movement of Natural Persons Supplying Services under the Agreement; the Annex on Financial Services; paragraphs 1, 2, 3, 4 and 6 of the Annex on Air Transport Services; and paragraphs 1-5 of the Annex on Telecommunications.
2. Article XXVIII of the GATS is incorporated into this Chapter, *mutatis mutandis*, as if those provisions were fully set out herein, except sub-paragraph (k) of Article XXVIII of the GATS which the Parties agree to incorporate as modified below:

“natural person of a Party means a natural person who resides in the territory of the Party or elsewhere and who under the law of that Party:

 - a. is a national of that Party; or
 - b. has the right of permanent residence in that Party.”
3. For the purposes of incorporation of the GATS under Article 4.4.1 and Article 4.4.2, any reference in the GATS to:
 - a. “Member” refers to “Party”;
 - b. “Members” or “Countries” refers to “Parties”;

⁵ - Nothing in this Chapter shall constitute an obligation on a Party towards Article II of the GATS.
- Nothing in this Chapter shall require a Party to take any action with regard to the WTO or a Council, Committee, Body or the Ministerial Conference of the WTO.

- c. “Article III” refers to Article 4.14 of this Agreement;
 - d. “Article VIII” refers to Article 4.10 of this Agreement;
 - e. “Article XVI” refers to Article 4.2 of this Agreement; and
 - f. “Article XVII” refers to Article 4.3 of this Agreement.
- 4. The Parties shall review the treatment of safeguard measures, subsidies and domestic regulation in the context of developments at the WTO including the results of the negotiations on disciplines on domestic regulation measures pursuant to Article VI:4 of the GATS. Pursuant to such developments, the Parties shall enter into consultations to consider any amendment to this Agreement as appropriate.
 - 5. Unless they are specifically defined in the Parties’ Schedules of specific commitments, terms used in such Schedules that are also used in the Parties’ GATS Schedules of specific commitments shall be construed, *mutatis mutandis*, in accordance with their meaning in the GATS.
 - 6. Any reference in this Chapter to a provision of the GATS includes any footnote to that provision.
 - 7. All references in this Chapter to the GATS are to the GATS in effect on the date of entry into force of this Agreement.

Article 4.5

Schedule of Specific Commitments

- 1. Each Member shall set out in a schedule the specific commitments it undertakes under Articles 4.2, 4.3 and 4.6. With respect to sectors where such commitments are undertaken, each Schedule shall specify:
 - (a) terms, limitations and conditions on market access;
 - (b) conditions and qualifications on national treatment;
 - (c) undertakings relating to additional commitments;
 - (d) where appropriate the time-frame for implementation of such commitments; and

- (e) the date of entry into force of such commitments.
- 2. Measures inconsistent with both Articles 4.2 and 4.3 shall be inscribed in the column relating to Article 4.2. In this case the inscription will be considered to provide a condition or qualification to Article 4.3 as well.
- 3.
 - a. Jordan's Schedule of specific commitments is set out in Annex 4A.
 - b. Singapore's Schedule of specific commitments is set out in Annex 4B.
- 4. Neither Party may amend or otherwise modify its Schedule of specific commitments unless in accordance with Article 4.5.5.
- 5. The Parties shall, on request in writing by either Party, hold consultations within three months from the date of such request to consider any modification or withdrawal of a commitment in the Schedule of specific commitments. In such consultations, the Parties shall aim to ensure that a general level of mutually advantageous commitments not less favourable to trade than that provided for the in the Schedule of specific commitments prior to such consultations is maintained. Such modifications shall take effect on such dates as may be agreed by the Parties.

Article 4.6 **Additional Commitments**

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 4.2 or 4.3, including those regarding qualifications, standards or licensing matters. Such commitments shall be inscribed in a Party's Schedule of specific commitments.

Article 4.7 **New Services**

At the meetings of the Joint Committee pursuant to Article 8.1, the Parties shall consider possible ways of improving commitments in the context of new services, taking into account the level of development of such services in each Party.

Article 4.8

Recognition

1. For the purposes of the fulfillment of its standards or criteria for the authorization, licensing or certification of services suppliers, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in the other Party.
2. The Parties shall encourage their relevant competent bodies to enter into negotiations on recognition of professional qualifications and/or registration procedures with a view to the achievement of early outcomes.

Article 4.9

Domestic Regulation

1. Paragraphs 1, 2, 3 and 6 of Article VI of the GATS are incorporated into this Chapter, *mutatis mutandis*, as if those provisions were fully set out herein.
2. Pending the incorporation of disciplines pursuant to Article VI:4 of the GATS, for sectors where a Party has undertaken specific commitments in its Schedule of specific commitments and subject to any terms, limitations, conditions or qualifications set out therein, a Party shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which:
 - a. does not comply with the following criteria:
 - i. Requirements and standards referred to in Article 4.9.2 shall be based on objective and transparent criteria, such as competence and the ability to supply the service;
 - ii. Requirements and standards referred to in Article 4.9.2 shall not be more burdensome than necessary to ensure the quality of the service;
 - iii. In the case of licensing procedures, such licensing procedures referred to in Article 4.9.2 shall not be in themselves a restriction on the supply of the service;
 - b. and could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

3. In determining whether a Party is in conformity with the obligation under Article 4.9.2, account shall be taken of international standards of relevant international organisations⁶ applied by that Party.

Article 4.10

Monopolies and Exclusive Service Suppliers

1. Paragraphs 1, 2 and 5 of Article VIII of the GATS are incorporated into this Chapter, *mutatis mutandis*, as if those provisions were fully set out herein.
2. If a Party has reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraphs 1 or 2 of Article VIII of the GATS, it may request the other Party establishing, maintaining or authorizing such supplier to provide specific information concerning the relevant operations.

Article 4.11

Government Procurement

Articles 4.2 and 4.3 shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale.

Article 4.12

Payments and Transfers

1. Except under the circumstances envisaged in Article 4.13, a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.
2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund under the Articles of Agreement of the International Monetary Fund, including the use of exchange actions which are in conformity with the said Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions in a manner inconsistent with its specific commitments regarding such transactions, except as otherwise provided under Article 4.13 or at the request of the International Monetary Fund.

⁶ The term "relevant international organizations" refers to international bodies whose membership is open to the relevant bodies of both Parties.

Article 4.13

Restrictions to Safeguard Balance of Payments

1. In the event of serious balance of payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions relating to such commitments. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development.
2. The restrictions referred to in Article 4.13.1 shall:
 - a. be consistent with the Articles of Agreement of the International Monetary Fund;
 - b. avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
 - c. not exceed those necessary to deal with the circumstances described in Article 4.13.1;
 - d. be temporary and be phased out progressively as the situation specified in Article 4.13.1 improves; and
 - e. be applied on a basis such that the other Party is treated no less favorably than any non-Party.
3. In determining the incidence of such restrictions, Parties may give priority to the supply of services which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.
4. Any restrictions adopted or maintained under Article 4.13.1, or any changes therein, shall be promptly notified to the other Party.
5. The Party adopting any restrictions under Article 4.13.1 shall commence consultations with the other Party in order to review the restrictions adopted by it.

Article 4.14

Transparency

1. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Chapter. International agreements pertaining to or affecting trade in services to which a Party is a signatory shall also be published.
2. Where publication as referred to in 4.14.1 is not practicable, such information shall be made otherwise publicly available.
3. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements within the meaning of Article 4.14.1. Any request for specific information shall be made to the Contact Point designated by a Party pursuant to Article 8.2.

Article 4.15

Denial of Benefits

A Party may deny the benefits of this Chapter:

- a. to the supply of a service, if it establishes that the service is supplied from or in the territory of a non-Party;
- b. in the case of the supply of a maritime transport service, if it establishes that the service is supplied:
 - i. by a vessel registered under the laws of a non-Party, and
 - ii. by a person which operates and/or uses the vessel in whole or in part but which is of a non-Party;
- c. to a service supplier that is a juridical person, if it establishes that it is not a service supplier of the other Party.

Article 4.16

Telecommunications

After 4 years of the entry into force of this Agreement and at subsequent meetings of the Joint Committee pursuant to Article 8.1, the Parties shall review their commitments in telecommunications services under this Agreement with a view to making improved commitments to each other in the area of telecommunications regulation, taking into account developments in the telecommunications environment in both Parties. If, at the first and second meetings of the Joint Committee, there is mutual interest by both Parties, they will review their commitments in the telecommunications services.

Article 4.17

Financial Services Cooperation

The Parties recognize the growing importance of financial services, including capital markets⁷, treasury⁸ and commodities. In their efforts to promote financial services, including Islamic financial services and facilitate the development of financial markets, the Parties agree to develop a framework for mutual understanding and cooperation between the regulators of both Parties.

Article 4.18

Transport Cooperation

The Parties shall encourage, as appropriate, cooperation between their enterprises, associations and authorities operating in the field of land, maritime and aviation transport in order to facilitate the transportation of passengers and flow of goods between the Parties.

⁷ Covers fund raising, distribution and trading activities in debt, loan syndication, equity markets, clearance and settlements.

⁸ Covers foreign exchange and derivatives.