



## EU – UK Trade and Cooperation agreement 24.12.20

Unofficial ETOA abridged version related to provision of guiding services

(Subject to change)

### Notes:

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4. Text should be read in conjunction with ETOA summary available [here](#). At time of writing, its focus is on impact on UK citizens resident in UK wishing to provide services in the EU as they are the group most affected by the agreement.
5. Footnotes' original numbering is given in text and footnote.
6. The agreement does not apply to third country professionals, i.e. citizens of countries other than the UK or the EU27.
7. No responsibility can be accepted by ETOA for reliance on the text or on our interpretation.
8. It is intended as support material for its tour operator members who contract tour guides and other professionals to deliver services throughout Europe.

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## *PART TWO, HEADING ONE, TITLE II: SERVICES AND INVESTMENT (p74)*

### 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. [not reproduced as defines other activities to which article does not apply]

#### Article SERVIN.1.2: Definitions

For the purposes of this Title:

- (a) -
- (b) -
- (c) -
- (d) -
- (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 the activities performed in the exercise of governmental authority;
- (g) -
- (h) -

- (i) –
- (j) –
- (k) –
- (l) –
  
- (m) "professional qualifications" means qualifications attested by evidence of formal qualification, professional experience, or other attestation of competence;
  
- (n) –
  
- (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;
  
- (r) "service supplier of a Party" means a natural or legal person of a Party that seeks to supply or supplies a service.

[Chapter 2: Investment liberalisation]

## 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 [13]<sup>1</sup>; 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.
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

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<sup>1</sup> Note 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.

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 [not reproduced]

## 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 [14]<sup>2</sup>; 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 [15]<sup>3</sup>;
- (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;

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<sup>2</sup> Note 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.

<sup>3</sup> Note 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.

[NB: footnotes 14 and 15 are identical in original]



- (ii) at the time of application reside outside the territory of the other Party;
  - (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 [16]<sup>4</sup>; and
  - (iv) belong to one of the following categories:
    - (A) managers [17]<sup>5</sup>;
    - (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. [18]<sup>6</sup>

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<sup>4</sup> Note 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.

<sup>5</sup> Note 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.

<sup>6</sup> Note 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.

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.

#### 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;
  - (h) available review or appeal procedures; and
  - (i) 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,<sup>[19]</sup><sup>7</sup> within a reasonable period of time after the submission of the application ensure that:
  - (i) the processing of the application is completed; and

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<sup>7</sup> Note 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".

- (ii) the applicant is informed of the decision concerning the application, to the extent possible, in writing; [20]<sup>8</sup>
- (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; [21]<sup>9</sup>

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

- (a) 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. [22]<sup>10</sup>

## 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.

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<sup>8</sup> Note 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.

<sup>9</sup> Note 21: Such "opportunity" does not require a competent authority to provide extensions of deadlines.

<sup>10</sup> Note 22: Competent authorities are not responsible for delays due to reasons outside their competence.



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) [Scope and definitions] 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 concerned [23]<sup>11</sup>.
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

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<sup>11</sup> Note 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.

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]<sup>12</sup>

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*  
[not reproduced]

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<sup>12</sup> Note 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.

## ANNEX SERVIN-3: BUSINESS VISITORS FOR ESTABLISHMENT PURPOSES, INTRA-CORPORATE TRANSFEREES AND SHORT-TERM BUSINESS VISITORS

1. A measure listed in this Annex may be maintained, continued, promptly renewed, or amended, provided that the amendment does not decrease the conformity of the measure with Articles SERVIN.4.2 [Intra-corporate Transferees and Business Visitors for Establishment Purposes] and SERVIN.4.3 [Short-term business visitors], as it existed immediately before the amendment.
2. Articles SERVIN.4.2 [Intra-corporate Transferees and Business Visitors for Establishment Purposes] and SERVIN.4.3 [Short-term business visitors] do not apply to any existing non-conforming measure listed in this Annex, to the extent of the non-conformity.
3. The schedules in paragraphs 6, 7 and 8 apply only to the territories of the United Kingdom and the European Union in accordance with Article FINPROV.1 [Territorial Scope] and Article OTH.9.2 [Geographical Scope] and are only relevant in the context of trade relations between the European Union and its Member States with the United Kingdom. They do not affect the rights and obligations of the Member States under Union law.
4. For greater certainty, for the European Union, the obligation to grant national treatment does not entail the requirement to extend to natural or legal persons of the United Kingdom the treatment granted in a Member State, in application of the Treaty on the Functioning of the European Union, or of any measure adopted pursuant to that Treaty, including their implementation in the Member States, to:
  - (i) natural persons or residents of another Member State; or
  - (ii) legal persons constituted or organised under the law of another Member State or of the European Union and having their registered office, central administration or principal place of business in the European Union.
5. The following abbreviations are used in the paragraphs below:

AT Austria  
BE Belgium  
BG Bulgaria  
CY Cyprus  
CZ Czech Republic  
DE Germany  
DK Denmark  
EE Estonia  
EL Greece  
ES Spain  
EU European Union, including all its Member States  
FI Finland  
FR France  
HR Croatia

HU Hungary  
IE Ireland  
IT Italy  
LT Lithuania  
LU Luxembourg  
LV Latvia  
MT Malta  
NL The Netherlands  
PL Poland  
PT Portugal  
RO Romania  
SE Sweden  
SI Slovenia  
SK Slovak Republic

**6. The European Union's non-conforming measures are:**

Business visitors for establishment purposes

Intra-corporate transferees

**Short-term business visitors**

**All activities referred to in paragraph 8** [includes 8(j): tourism personnel: tour and travel agents, tour guides or tour operators attending or participating in conventions or accompanying a tour that has begun in the territory of the Party of which the Short-term business visitor is a natural person]

CY, DK, HR: Work permit, including economic needs test, required in case the short-term business visitor supplies a service.

LV: Work permit required for operations/activities to be performed on the basis of a contract.

MT: Work permit required. No economic needs tests performed.

SI: A single residency and work permit is required for the supply of services exceeding 14 days at a time and for certain activities (research and design; training seminars; purchasing; commercial transactions; translation and interpretation). An economic needs test is not required.

SK: In case of supplying a service in the territory of Slovakia, a work permit, including economic needs test, is required beyond seven days in a month or 30 days in calendar year.

**Research and design**

AT: Work permit, including economic needs test, required, except for research activities of scientific and statistical researchers.

**Marketing research**

AT: Work permit required, including economic needs test. Economic needs test is waived for research and analysis activities for up to seven days in a month or 30 days in a calendar year. University degree required.

CY: Work permit required, including economic needs test.

Trade fairs and exhibitions

AT, CY: Work permit, including economic needs test, required for activities beyond seven days in a month or 30 days in a calendar year.

After-sales or after-lease service

AT: Work permit required, including economic needs test. Economic needs test is waived for natural persons training workers to supply services and possessing specialised knowledge.

CY, CZ : Work permit is required beyond seven days in a month or 30 days in calendar year.

ES: Installers, repair and maintainers should be employed as such by the legal person supplying the good or service or by an enterprise which is a member of the same group as the originating legal person for at least three months immediately preceding the date of submission of an application for entry and they should possess at least 3 years of relevant professional experience, where applicable, obtained after the age of majority.

FI: Depending on the activity, a residence permit may be required.

SE: Work permit required, except for (i) natural persons who participate in training, testing, preparation or completion of deliveries, or similar activities within the framework of a business transaction, or (ii) fitters or technical instructors in connection with urgent installation or repair of machinery for up to two months, in the context of an emergency. No economic needs test required.

#### **Commercial transactions**

AT, CY: Work permit, including economic needs test, required for activities beyond seven days in a month or 30 days in a calendar year.

FI: The natural person needs to be supplying services as an employee of a legal person of the other Party.

#### **Tourism personnel**

CY, ES, PL: Unbound.

FI: The natural person needs to be supplying services as an employee of a legal person of the other Party.

SE: Work permit required, except for drivers and staff of tourist buses. No economic needs test required.

#### **Translation and interpretation**

AT: Work permit required, including economic needs test.

CY, PL: Unbound.

### **7. The United Kingdom's non-conforming measures are:**

Business visitors for establishment purposes

Intra-corporate transferees

#### **Short-term business visitors**

**All activities referred to in paragraph 8** [includes 8(j): tourism personnel: tour and travel agents, tour guides or tour operators attending or participating in conventions

or accompanying a tour that has begun in the territory of the Party of which the Short-term business visitor is a natural person]

None. [i.e.UK has no non-conforming measures.]

**8. The activities Short-term business visitors are permitted to engage in are:**

- (a) meetings and consultations: natural persons attending meetings or conferences, or engaged in consultations with business associates;
- (b) research and design: technical, scientific and statistical researchers conducting independent research or research for a legal person of the Party of which the Short-term business visitor is a natural person;
- (c) marketing research: market researchers and analysts conducting research or analysis for a legal person of the Party of which the Short-term business visitor is a natural person;
- (d) training seminars: personnel of an enterprise who enter the territory being visited by the Short-term business visitor to receive training in techniques and work practices which are utilised by companies or organisations in the territory being visited by the Short-term business visitor, provided that the training received is confined to observation, familiarisation and classroom instruction only;
- (e) trade fairs and exhibitions: personnel attending a trade fair for the purpose of promoting their company or its products or services;
- (f) sales: representatives of a supplier of services or goods taking orders or negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier, but not delivering goods or supplying services themselves. Short-term business visitors shall not engage in making direct sales to the general public;
- (g) purchasing: buyers purchasing goods or services for an enterprise, or management and supervisory personnel, engaging in a commercial transaction carried out in the territory of the Party of which the Short-term business visitor is a natural person;
- (h) after-sales or after-lease service: installers, repair and maintenance personnel and supervisors, possessing specialised knowledge essential to a seller's contractual obligation, supplying services or training workers to supply services pursuant to a warranty or other service contract incidental to the sale or lease of commercial or industrial equipment or machinery, including computer software, purchased or leased from a legal person of the Party of which the Short-term business visitor is a natural person throughout the duration of the warranty or service contract;
- (i) commercial transactions: management and supervisory personnel and financial services personnel (including insurers, bankers and investment brokers) engaging in a commercial transaction for a legal person of the Party of which the Short-term business visitor is a natural person;



- (j) tourism personnel: tour and travel agents, tour guides or tour operators attending or participating in conventions or accompanying a tour that has begun in the territory of the Party of which the Short-term business visitor is a natural person;  
and
- (k) translation and interpretation: translators or interpreters supplying services as employees of a legal person of the Party of which the Short-term business visitor is a natural person.

## ANNEX SERVIN-4: CONTRACTUAL SERVICE SUPPLIERS AND INDEPENDENT PROFESSIONALS

1. Each Party shall allow the supply of services in its territory by contractual service suppliers or independent professionals of the other Party through the presence of natural persons, in accordance with Article SERVIN.4.4 [Contractual Service Suppliers and Independent Professionals], for the sectors listed in this Annex and subject to the relevant limitations.
2. The list below is composed of the following elements:
  - (a) the first column indicating the sector or sub-sector for which the category of contractual service suppliers and independent professionals is liberalised; and
  - (b) the second column describing the applicable limitations.
3. In addition to the list of reservations in this Annex, each Party may adopt or maintain a measure relating to qualification requirements, qualification procedures, technical standards, licensing requirements or licensing procedures that does not constitute a limitation within the meaning of Article SERVIN.4.4 [Contractual Service Suppliers and Independent Professionals]. These measures, which include requirements to obtain a licence, obtain recognition of qualifications in regulated sectors or to pass specific examinations, such as language examinations, even if not listed in this Annex, apply in any case to contractual service suppliers or independent professionals of the Parties.
4. The Parties do not undertake any commitment for contractual service suppliers and independent professionals in economic activities which are not listed.
5. In identifying individual sectors and sub-sectors: CPC means the Central Products Classification as set out in Statistical Office of the United Nations, Statistical Papers, Series M, N° 77, CPC prov., 1991.
6. In the sectors where economic needs tests are applied, their main criteria will be the assessment of:
  - (a) for the United Kingdom, the relevant market situation in the United Kingdom; and
  - (b) for the Union, the relevant market situation in the Member State of the European Union or the region where the service is to be provided, including with respect to the number of, and the impact on, services suppliers who are already supplying a service when the assessment is made.
7. The schedules in paragraphs 10 to 13 apply only to the territories of the United Kingdom and the European Union in accordance with Article FINPROV.1 [Territorial Scope] and Article OTH.9.2 [Geographical Scope] and are only relevant in the context of trade relations between the European Union and its Member States with the United Kingdom. They do not affect the rights and obligations of the Member States under Union law.

8. For greater certainty, for the European Union, the obligation to grant national treatment does not entail the requirement to extend to natural or legal persons of the United Kingdom the treatment granted in a Member State, in application of the Treaty on the Functioning of the European Union, or of any measure adopted pursuant to that Treaty, including their implementation in the Member States, to:
  - (i) natural persons or residents of another Member State; or This document has been agreed between the European Union and the United Kingdom and is provided for information only. No rights may be derived from it until the date of application. The numbering of the articles is provisional.
  - (ii) legal persons constituted or organised under the law of another Member State or of the European Union and having their registered office, central administration or principal place of business in the European Union.
9. List of national/EU abbreviations plus:
  - CSS Contractual Service Suppliers
  - IP Independent Professionals

### Contractual Service Suppliers

10. Subject to the list of reservations in paragraphs 12 and 13, the Parties takes commitments in accordance with Article SERVIN.4.4 [Contractual Service Suppliers and Independent Professionals] with respect to the mode 4 category of Contractual Service Suppliers in the following sectors or sub-sectors:
  - (a) Legal advisory services in respect of public international law and home jurisdiction law;
  - (b) Accounting and bookkeeping services;
  - (c) Taxation advisory services;
  - (d) Architectural services and urban planning and landscape architectural services;
  - (e) Engineering services and integrated engineering services;
  - (f) Medical and dental services;
  - (g) Veterinary services;
  - (h) Midwives services;
  - (i) Services provided by nurses, physiotherapists and paramedical personnel;
  - (j) Computer and related services;
  - (k) Research and development services;
  - (l) Advertising services;
  - (m) Market research and opinion polling;
  - (n) Management consulting services;
  - (o) Services related to management consulting;
  - (p) Technical testing and analysis services;
  - (q) Related scientific and technical consulting services;
  - (r) Mining;
  - (s) Maintenance and repair of vessels;
  - (t) Maintenance and repair of rail transport equipment;

- (u) Maintenance and repair of motor vehicles, motorcycles, snowmobiles and road transport equipment;
- (v) Maintenance and repair of aircrafts and parts thereof;
- (w) Maintenance and repair of metal products, of (non office) machinery, of (non transport and non office) equipment and of personal and household goods;
- (x) Translation and interpretation services;
- (y) Telecommunication services;
- (z) Postal and courier services;
- (aa) Construction and related engineering services;
- (bb) Site investigation work;
- (cc) Higher education services;
- (dd) Services relating to agriculture, hunting and forestry;
- (ee) Environmental services;
- (ff) Insurance and insurance related services advisory and consulting services;
- (gg) Other financial services advisory and consulting services;
- (hh) Transport advisory and consulting services;
- (ii) Travel agencies and tour operators' services;
- (jj) Tourist guides services;
- (kk) Manufacturing advisory and consulting services.

### Independent Professionals

11. Subject to the list of reservations in paragraphs 12 and 13, the Parties takes commitments in accordance with Article SERVIN.4.4 [Contractual Service Suppliers and Independent Professionals] with respect to the mode 4 category of Independent Professionals in the following sectors or sub-sectors:

- (a) Legal advisory services in respect of public international law and home jurisdiction law;
- (b) Architectural services and urban planning and landscape architectural services;
- (c) Engineering services and integrated engineering services;
- (d) Computer and related services;
- (e) Research and development services;
- (f) Market research and opinion polling;
- (g) Management consulting services;
- (h) Services related to management consulting;
- (i) Mining;
- (j) Translation and interpretation services;
- (k) Telecommunication services;
- (l) Postal and courier services;
- (m) Higher education services;
- (n) Insurance related services advisory and consulting services;
- (o) Other financial services advisory and consulting services;
- (p) Transport advisory and consulting services;
- (q) Manufacturing advisory and consulting services.

12. The European Union's reservations are [include]:

Sector or sub-sector	Description of reservations
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## All sectors

CSS and IP:

In **AT**: Maximum stay shall be for a cumulative period of not more than six months in any 12 month period or for the duration of the contract, whichever is less.

In **CZ**: Maximum stay shall be for a period of not more than 12 consecutive months or for the duration of the contract, whichever is less.

## Travel agencies and tour operators services (including tour managers<sup>[127]<sup>13</sup></sup>) (CPC 7471)

CSS:

In **AT, CY, CZ, DE, EE, ES, FR, HR, IT, LU, NL, PL, SI, SE**: None.

In **BG, EL, FI, HU, LT, LV, MT, PT, RO, SK**: Economic needs test.

In **DK**: Economic needs test, except for CSS stays of up to three months.

In **BE, IE**: Unbound, except for tour managers, where: None.

IP:

**EU: Unbound.**

## Tourist guides services (CPC 7472)

CSS:

In **NL, PT, SE**: None.

In **AT, BE, BG, CY, CZ, DE, DK, EE, FI, FR, EL, HU, IE, IT, LV, LU, MT, RO, SK, SI**: Economic needs test.

In **ES, HR, LT, PL**: Unbound.

IP:

**EU: Unbound.**

13. The United Kingdom's reservations are [include]:

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<sup>13</sup> Note 127: Services suppliers whose function is to accompany a tour group of a minimum of 10 natural persons, without acting as guides in specific locations.

Sector or sub-sector	Description of reservations
<b>Travel agencies and tour operators services</b> (including tour managers [131] <sup>14</sup> ) (CPC 7471)	CSS: None. IP: Unbound.
<b>Tourist guides services</b> (CPC 7472)	CSS: None. IP: Unbound.

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<sup>14</sup> Note 131: Services suppliers whose function is to accompany a tour group of a minimum of 10 natural persons, without acting as guides in specific locations.

## ANNEX SERVIN-6: GUIDELINES FOR ARRANGEMENTS ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS

### SECTION A: General Provisions

#### Introduction

1. This Annex contains guidelines for arrangements on the conditions for the recognition of professional qualifications (“arrangements”), as foreseen by Article SERVIN.5.13 [Professional qualifications].
2. Pursuant to that Article, these guidelines shall be taken into account in the development of joint recommendations by professional bodies or authorities of the Parties (“joint recommendations”).
3. The guidelines are non-binding, non-exhaustive and do not modify or affect the rights and obligations of the Parties under this Agreement. They set out the typical content of arrangements, and provide general indications as to the economic value of an arrangement and the compatibility of the respective professional qualifications regimes.
4. Not all elements of these guidelines may be relevant in all cases and professional bodies and authorities are free to include in their joint recommendations any other element that they consider pertinent for the arrangements of the profession and the professional activities concerned, consistent with this Agreement.
5. The guidelines should be taken into account by the Partnership Council when deciding whether to develop and adopt arrangements. They are without prejudice to its review of the consistency of joint recommendations with Title II [Services and Investment] of Heading One [Trade] of Part Two [Trade, transport and fisheries] and its discretion to take into account the elements it deems relevant, including those contained in joint recommendations.

### SECTION B: Form and Content of an Arrangement

6. This section sets out the typical content of an arrangement, some of which is not within the remit of the professional bodies or authorities preparing joint recommendations. These aspects constitute, nonetheless, useful information to be taken into account in the preparation of joint recommendations, so that they are better adapted to the possible scope of an arrangement.
7. Matters addressed specifically in this Agreement which apply to arrangements (such as the geographical scope of an arrangement, its interaction with scheduled non-conforming measures, the system of dispute resolution, appeal mechanisms, monitoring and review mechanisms of the arrangement) should not be addressed by joint recommendations.
8. An arrangement may specify different mechanisms for the recognition of professional qualifications within a Party. It may also be limited, but not necessarily so, to setting

the scope of the arrangement, the procedural provisions, the effects of recognition and additional requirements, and the administrative arrangements.

9. An arrangement which is adopted by the Partnership Council should reflect the degree of discretion that is intended to be preserved for competent authorities deciding on recognition.

### **Scope of an Arrangement**

10. The arrangement should set out:
  - (a) the specific regulated profession(s), relevant professional title(s) and the activity or group of activities covered by the scope of practice of the regulated profession in both Parties (“scope of practice”); and
  - (b) whether it covers the recognition of professional qualifications for the purpose of access to professional activities on a fixed-term or an indefinite basis.

### **Conditions for recognition**

11. The arrangement may specify in particular:
  - (a) the professional qualifications necessary for recognition under the arrangement (for example, evidence of formal qualification, professional experience, or other attestation of competence);
  - (b) the degree of discretion preserved by recognition authorities when assessing requests for recognition of these qualifications; and
  - (c) the procedures to deal with variations and gaps between professional qualifications and means to bridge the differences, including the possibility for imposing any compensatory measures or any other relevant conditions and limitations.

### **Procedural provisions**

12. The arrangement may set out:
  - (a) the documents required and the form in which they should be presented (for example, by electronic or other means, whether they should be supported by translations or certifications of authenticity, etc.);
  - (b) the steps and procedures in the recognition process, including those relating to possible compensatory measures, corresponding obligations and timelines; and
  - (c) the availability of information relevant to all aspects of the recognition processes and requirements.

### **Effects of recognition and additional requirements**



13. The arrangement may set out provisions on the effects of recognition (if relevant, also in respect of different modes of supply);
14. The arrangement may describe any additional requirements for the effective exercise of the regulated profession in the host Party. Such requirements may include:
  - (a) registration requirements with local authorities;
  - (b) appropriate language skills;
  - (c) proof of good character;
  - (d) compliance with the requirements of the host Party for use of trade or firm names;
  - (e) compliance with the rules of ethics, independence and professional conduct requirements of the host Party;
  - (f) need to obtain professional indemnity insurance;
  - (g) rules on disciplinary action, financial responsibility and professional liability; and
  - (h) requirements for continuous professional development.

#### **Administration of the arrangement**

15. The arrangement should set out the terms under which it can be reviewed or revoked, and the effects of any revision or revocation. Consideration may also be given to the inclusion of provisions concerning the effects of any recognition previously accorded.

#### **SECTION C: Economic value of an envisaged arrangement**

16. Pursuant to Article SERVIN 5.13(2) [Professional qualifications], joint recommendations shall be supported by an evidence-based assessment of the economic value of an envisaged arrangement. This may consist of an evaluation of the economic benefits that an arrangement is expected to bring to the economies of both Parties. Such an assessment may assist the Partnership Council when developing and adopting an arrangement.
17. Aspects such as the existing level of market openness, industry needs, market trends and developments, client expectations and requirements and business opportunities would constitute useful elements.
18. The evaluation is not required to be a full and detailed economic analysis, but should provide an explanation of the interest of the profession in, and the expected benefits for the Parties ensuing from, the adoption of an arrangement.

#### **SECTION D: Compatibility of respective professional qualification regimes**

19. Pursuant to Article SERVIN 5.13(2) [Professional qualifications], joint recommendations shall be supported by an evidence-based assessment of the

compatibility of the respective professional qualification regimes. This assessment may assist the Partnership Council when developing and adopting an arrangement.

20. The following process aims at guiding professional bodies and authorities when assessing the compatibility of the respective professional qualifications and activities with a view to simplifying and facilitating the recognition of professional qualifications.

Step One: Assessment of the scope of practice and the professional qualifications required to practise the regulated profession in each Party.

21. The assessment of the scope of practice and of the professional qualifications required to practise a regulated profession in each of the Parties should be based on all relevant information.

22. The following elements should be identified:

- (a) activities or groups of activities covered by the scope of practice of the regulated profession in each Party; and
- (b) the professional qualifications required in each Party to practise the regulated profession, which may include any of the following elements:
  - (i) the minimum education required, for example, entry requirements, level of education, length of study and contents of study;
  - (ii) the minimum professional experience required, for example, location, length and conditions of practical training or supervised professional practice prior to registration, licensing or equivalent;
  - (iii) examinations passed, especially examinations of professional competency; and
  - (iv) obtention/*sic*/the acquisition of a licence, or equivalent, certifying, inter alia, the fulfilment of the necessary professional qualification requirements for the pursuit of the profession.

Step Two: Evaluation of the divergence between the scope of practice of, or the professional qualifications required to practise, the regulated profession in each Party.

23. The evaluation of the divergence in the scope of practice of, or in the professional qualifications required to practise, the regulated profession, in each Party, should in particular identify divergence that is substantial.

24. Substantial divergence in the scope of practice may exist if all of the following conditions are met:

- (a) one or more activities covered by a regulated profession in the host Party are not covered by the corresponding profession in the Party of origin;
- (b) such activities are subject to specific training in the host Party;
- (c) the training for such activities in the host Party covers matters substantially diverging from those covered by the applicant's qualification.

25. Substantial divergence in the professional qualifications required to practise a regulated profession may exist if there are divergences in the Parties' requirements with regard to the level, duration or content of the training that is required for the pursuit of activities covered by the regulated profession.

Step Three: Recognition mechanisms

26. There may be different mechanisms for the recognition of professional qualifications, depending on the circumstances. There may be different mechanisms within a Party.
27. If there is no substantial divergence in the scope of practice and in the professional qualifications required to practise a regulated profession, an arrangement may provide for a simpler, more streamlined recognition process than would be the case where substantial divergence exists.
28. If there is substantial divergence, the arrangement may provide for compensatory measures which are sufficient to remedy such divergence.
29. Where compensatory measures are used to reduce substantial divergence, they should be proportionate to the divergence that they seek to address. Any practical professional experience or formally validated training could be taken into account to assess the extent of the compensatory measures needed.
30. Whether or not the divergence is substantial, the arrangement may take account of the degree of discretion that is intended to be preserved for competent authorities deciding on recognition requests.
31. Compensatory measures may take different forms, including:
  - (a) a period of supervised practice of a regulated profession in the host Party, possibly accompanied
  - (b) by further training, under the responsibility of a qualified person and subject to a regulated assessment;
  - (c) a test made or recognised by the relevant authorities of the host Party to assess the applicant's ability to practice a regulated profession in that Party; or
  - (d) a temporary limitation of the scope of practice; or a combination of those.
32. The arrangement could envisage that a choice be given to applicants between different compensatory measures where this could limit the administrative burden for applicants and such measures are equivalent.

END