

**PROTOCOL TO FURTHER UPGRADE THE
FREE TRADE AGREEMENT BETWEEN
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC
OF CHINA AND THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE**

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The Government of the People's Republic of China and the Government of the Republic of Singapore (the "Parties"),

REAFFIRMING the Joint Announcement between the People's Republic of China and the Republic of Singapore on the establishment of an All-Round High-Quality Future-Oriented Partnership on 1 April 2023;

RECALLING the *Free Trade Agreement between the Government of the People's Republic of China and the Government of the Republic of Singapore*, done at Beijing on 23 October 2008 as amended by the *Protocol to Amend the Free Trade Agreement between the Government of the People's Republic of China and the Government of the Republic of Singapore* ("2011 Protocol") done at Singapore on 27 July 2011 and the *Protocol to Upgrade the Free Trade Agreement Between the Government of the People's Republic of China and the Government of the Republic of Singapore* ("2018 Protocol") done at Singapore on 12 November 2018 (hereinafter referred to as the "China-Singapore FTA" or the "Agreement");

AFFIRMING the key role of the Agreement in promoting bilateral economic and trade relations, and improving the well-being of local enterprises and people;

RECALLING that Article 111 of the Agreement provides for the FTA Joint Committee established by the Parties to, *inter alia*, review the Agreement, consider further concessions, and consider any amendments to the Agreement and its modifications;

RECALLING that Article 22 (Work Programme for Subsequent Negotiations on Investment) of Chapter 10 (Investment) of the Agreement provides for the Parties to conduct subsequent negotiations on investment, addressing investment liberalisation based on a negative listing approach covering all kinds of investment including the supply of services through commercial presence;

NOTING that Article 114 of the Agreement provides that the Agreement may be amended by agreement in writing by the Parties;

DESIRING to further liberalise bilateral trade and investment through a negative list approach, pursue new areas of cooperation such as digital economy and unlock new growth opportunities geared to the future development, with a view to broadening and deepening the “High-Quality” and “Future-Oriented” cooperation between the Parties;

REAFFIRMING their commitment to uphold the rules-based multilateral trading system as embodied in the World Trade Organization, and ensure the stable and smooth operation of global supply chains, so as to meet global challenges and make economic globalisation more open, inclusive, balanced and beneficial to all;

SEEKING to incorporate into the China-Singapore FTA, through this instrument, the agreements reached between the Parties relating to the expansion or amendment of the Agreement,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Amendment of Chapter 2 (General Definitions) of the Agreement

Chapter 2 (General Definitions) of the Agreement shall be amended to add the following new definition at paragraph 1(a)*bis* of Article 3 (General Definitions):

“(a)*bis* **2023 Protocol** means the *Protocol to Further Upgrade the Free Trade Agreement between the Government of the People’s Republic of China and the Government of the Republic of Singapore.*”

SECTION A: CROSS-BORDER TRADE IN SERVICES

ARTICLE 2

Amendment of Chapter 8 (Trade in Services) of the Agreement

Chapter 8 (Trade in Services) of the Agreement shall be replaced by a new Chapter 8 (Cross-Border Trade in Services), as set out in **Appendix 1** to this Protocol.

SECTION B: INVESTMENT

ARTICLE 3

Amendment of Article 2 (Relation to Other Chapters) of Chapter 10 (Investment) of the Agreement

Article 2 (Relation to Other Chapters) of Chapter 10 (Investment) of the Agreement shall be replaced by a new Article 2 (Relation to Other Chapters), as follows:

“Article 2

Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.”

ARTICLE 4

Amendment of Article 3 (National Treatment) of Chapter 10 (Investment) of the Agreement

Article 3 (National Treatment) of Chapter 10 (Investment) of the Agreement shall be replaced by a new Article 3 (National Treatment), as follows:

“Article 3
National Treatment³

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

³ For greater certainty, whether treatment is accorded in “like circumstances” under Article 3 (National Treatment) or Article 4 (Most-Favoured-Nation Treatment) depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.”

ARTICLE 5
Amendment of Article 4 (Most-Favoured-Nation Treatment) of Chapter 10 (Investment) of the Agreement

Article 4 (Most-Favoured-Nation Treatment) of Chapter 10 (Investment) of the Agreement shall be replaced by a new Article 4 (Most-Favoured-Nation Treatment), as follows:

“Article 4
Most-Favoured-Nation Treatment⁴

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investors of any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. For greater certainty, the treatment referred to in this Article does not encompass dispute resolution mechanisms or procedures, such as those included in Section B (Investor-State Dispute Settlement), that are provided for in international investment or trade agreements.

⁴ For the purposes of this Article, the term “non-Party” shall not include the following WTO Members within the meaning of the WTO Agreement: (1) Hong Kong, China; (2) Macao, China; and (3) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).”

ARTICLE 6

Amendment of Article 6 (Non-Conforming Measures) of Chapter 10 (Investment) of the Agreement

Article 6 (Non-Conforming Measures) of Chapter 10 (Investment) of the Agreement shall be replaced with a new Article 6 (Prohibition of Performance Requirements), a new Article *6bis* (Senior Management and Boards of Directors), and a new Article *6ter* (Reservations and Non-Conforming Measures), as follows:

“Article 6

Prohibition of Performance Requirements

1. Neither Party shall, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of the other Party in its territory, impose or enforce any requirement, or enforce any commitment or undertaking:^{*6bis*}

- (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 in its territory, or to purchase goods from persons in its territory;
- (d) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with investments of that investor;
- (e) to restrict sales of goods or services in its territory that such investment produces or supplies by relating such sales to the volume or value of its exports or foreign exchange earnings;
- (f) to transfer a particular technology, a production process, or other proprietary knowledge to a person in its territory;
- (g) to supply exclusively from the territory of the Party the goods that such investment produces or the services that such investment supplies to a specific regional market or to the world market; or
- (h) to adopt a given rate or amount of royalty under a licence contract or a given duration of the term of a licence contract, in regard to any licence contract in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or any future licence contract freely entered into between the investor and a person in its territory, provided that the requirement is imposed or the commitment or undertaking is enforced in a manner that constitutes direct interference with that licence contract by an exercise of non-

judicial governmental authority of a Party.^{6ter} For greater certainty, this sub-paragraph does not apply when the licence contract is concluded between the investor and a Party.

2. Neither Party shall condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of the other Party on compliance with any of the following requirements:

- (a) to achieve a given level or percentage of domestic content;
- (b) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from persons in its territory;
- (c) 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; or
- (d) to restrict sales of goods or services in its territory that such investment produces or supplies by relating such sales to the volume or value of its exports or foreign exchange earnings.

3. (a) For greater certainty, nothing in paragraph 1 shall be construed to prevent a Party from, in connection with the establishment, acquisition, expansion, management, conduct, operation or sale or other disposition of an investment of an investor of the other Party in its territory, imposing or enforcing a requirement or enforcing a commitment or undertaking to employ or train workers in its territory, provided that such employment or training does not require the transfer of a particular technology, production process, or other proprietary knowledge to a person in its territory.

- (b) Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of the other Party, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

- (c) Paragraphs 1(f) and 1(h) shall not apply:
 - (i) if a Party authorises use of an intellectual property right in accordance with Article 31 or Article 31*bis* of the *Agreement on Trade-Related Aspects of Intellectual Property Rights* in Annex 1C to the WTO Agreement (hereinafter referred to as the “TRIPS Agreement”),^{6quater} or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

 - (ii) if the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anti-competitive under the Party’s competition laws and regulations.^{6quinquies}

- (d) Paragraph 1(h) shall not apply if the requirement is imposed or the commitment or undertaking is enforced by a tribunal or competent authority as equitable remuneration under the Party’s copyright laws and regulations.

- (e) Paragraphs 1(a) to 1(c), 2(a), and 2(b) shall not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs.

- (f) Paragraphs 2(a) and 2(b) shall not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.
- (g) Paragraph 1(h) shall not be construed to prevent a Party from adopting or maintaining measures to protect legitimate public welfare objectives, provided that such measures are not applied in an arbitrary or unjustifiable manner, or in a manner that constitutes a disguised restriction on international trade or investment.

4. For greater certainty, paragraphs 1 and 2 shall not apply to any commitment or undertaking, or requirement other than those set out in those paragraphs.

5. This Article does not preclude enforcement of any commitment, undertaking, or requirement between private parties, where a Party did not impose or require the commitment, undertaking, or requirement.

^{6bis} For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a “requirement” or a “commitment or undertaking” for the purposes of paragraph 1.

^{6ter} For the purposes of sub-paragraph (h), a “licence contract” means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

^{6quater} This includes any amendment to the TRIPS Agreement implementing paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) adopted at Doha on 14 November 2001.

^{6quinquies} The Parties note that a patent does not necessarily confer market power.

Article 6bis

Senior Management and Board of Directors

1. Neither Party shall require that an enterprise of that Party that is a covered investment appoint to a senior management position a natural person of any particular nationality.

2. A Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Party that is a covered investment, be of a particular nationality, or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Article 6ter

Reservations and Non-Conforming Measures

1. Articles 3 (National Treatment), 4 (Most-Favoured-Nation Treatment), 6 (Prohibition of Performance Requirements) and 6bis (Senior Management and Board of Directors) shall not apply to:

- (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level of government, as set out by that Party in List I of its Schedule in Annex 5 (Schedules of Reservations and Non-Conforming Measures);
 - (ii) a regional level of government,^{6sexies} as set out by that Party in List I of its Schedule in Annex 5 (Schedules of Reservations and Non-Conforming Measures); or
 - (iii) a local level of government;
- (b) the continuation or prompt renewal of any non-conforming measure referred to in sub-paragraph (a); and
- (c) an amendment to any non-conforming measure referred to in sub-paragraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed

immediately before the amendment, with Articles 3 (National Treatment), 4 (Most-Favoured-Nation Treatment), 6 (Prohibition of Performance Requirements) and 6*bis* (Senior Management and Board of Directors).

2. Articles 3 (National Treatment), 4 (Most-Favoured-Nation Treatment), 6 (Prohibition of Performance Requirements) and 6*bis* (Senior Management and Board of Directors) shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out in List II of its Schedule in Annex 5 (Schedules of Reservations and Non-Conforming Measures).

3. Neither Party shall, under any measure adopted after the date of entry into force of the 2023 Protocol and covered by List II of its Schedule in Annex 5 (Schedules of Reservations and Non-Conforming Measures), require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment that exists at the time the measure becomes effective, unless otherwise specified in the initial approval by the relevant authorities.

4. Articles 3 (National Treatment) and 4 (Most-Favoured-Nation Treatment) shall not apply to any measure that falls within Article 5 of the TRIPS Agreement and any measure that is covered by an exception to, or derogation from, the obligations imposed by Articles 3 or 4 of the TRIPS Agreement.

5. Articles 3 (National Treatment), 4 (Most-Favoured-Nation Treatment), 6 (Prohibition of Performance Requirements) and 6*bis* (Senior Management and Board of Directors) do not apply to government procurement.

6. The Parties will endeavour to progressively remove the non-conforming measures.

^{6sexies} The Parties understand that for China, the regional level of government means the provincial level of government.”

ARTICLE 7
Amendment of Article 21 (Facilitation of Investment) of Chapter
10 (Investment) of the Agreement

Article 21 (Facilitation of Investment) of Chapter 10 (Investment) of the Agreement shall be replaced by a new Article 21 (Facilitation of Investment), as follows:

“Article 21
Facilitation of Investment

1. Subject to their laws and regulations, the Parties shall cooperate to facilitate investment between the Parties through, amongst others:
 - (a) creating the necessary environment for all forms of investment;
 - (b) simplifying procedures for investment applications and approvals;
 - (c) promoting business matching events;
 - (d) promoting dissemination of investment information, including investment laws, regulations, policies and procedures; and
 - (e) establishing or maintaining either contact points, one-stop investment centres or similar mechanisms in the respective host Parties to provide assistance and advisory services to the business sectors including facilitation of operating licences and permits.

2. Subject to its laws and regulations, a Party's activities under Paragraph 1(e) may include, to the extent possible, assisting investors of the other Party and covered investments to amicably resolve complaints or grievances with government bodies which have arisen during their investment activities by, among other things:

- (a) receiving and, where appropriate, considering referring or giving due consideration to complaints raised by investors of the other Party relating to government activities impacting their covered investments; and
- (b) providing assistance, to the extent possible, in resolving difficulties experienced by the investors of the other Party in relation to their covered investments.

3. Nothing in this Article shall be subject to, or otherwise affect, any dispute resolution proceedings under this Chapter.”

ARTICLE 8

Deletion of Article 22 (Work Programme for Subsequent Negotiations on Investment) of Chapter 10 (Investment) of the Agreement

Article 22 (Work Programme for Subsequent Negotiations on Investment) of Chapter 10 (Investment) of the Agreement shall be deleted.

ARTICLE 9

Amendment of Article 24 (Scope) of Chapter 10 (Investment) of the Agreement

Article 24 (Scope) of Chapter 10 (Investment) of the Agreement shall be replaced by a new Article 24 (Scope), as follows:

“Article 24

Scope

1. This Section shall apply to disputes between a Party and an investor of the other Party concerning an alleged breach of an obligation of the former under Article 3 (National Treatment), Article 4 (Most-Favoured-Nation Treatment), Article 5 (Minimum Standard of Treatment), Article 7 (Expropriation and Compensation), Article 8 (Compensation for Losses), and Article 9 (Transfers), which causes loss or damage to the investor or its investment with respect to the management, conduct, operation or sale or other disposition of such investment.

2. This Section shall not apply to any dispute concerning any measure adopted or maintained or any treatment accorded to investors or investments by a Party in respect of tobacco or tobacco-related products¹⁴.

¹⁴ For the purpose of this Chapter, “tobacco or tobacco-related products” means products under Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes) and tobacco-related products falling outside Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes) of the *Harmonized Commodity Description and Coding System* of the World Customs Organization.”

ARTICLE 10

Amendment of Section C (Definitions) of Chapter 10 (Investment) of the Agreement

The definition of “existing” at Section C (Definitions) of Chapter 10 (Investment) of the Agreement shall be replaced by a new definition of and “existing”, as follows:

“existing” means in effect on the date of entry into force of the 2023 Protocol.”

SECTION C: TELECOMMUNICATIONS SERVICES

ARTICLE 11

Additional Chapter 18 (Telecommunications Services)

The Agreement shall be amended by inserting a new Chapter 18 (Telecommunications Services), as set out in Appendix 2 to this Protocol, after Chapter 17 (Environment and Trade) of the Agreement.

SECTION D: STRENGTHEN COOPERATION IN DIGITAL ECONOMY

ARTICLE 12

Cooperation on Digital Economy

1. The Parties recognise the importance of the digital economy in promoting inclusive and sustainable growth, and acknowledge that the Parties share extensive common interests in digital economy cooperation in relevant international, regional and bilateral fora, such as the World Trade Organization, Asia-Pacific Economic Cooperation, Regional Comprehensive Economic Partnership and the China-Singapore FTA. The Parties shall build on existing areas of cooperation and deepen collaboration in the digital economy, including in new and emerging areas.

2. The Parties acknowledge that pragmatic cooperation in the digital economy under existing bilateral arrangements and regional and local economic cooperation frameworks greatly benefits both sides. The Parties recognise that the closer cooperation between both sides can further contribute to economic and social development. The Parties shall encourage exchanges and dialogue and endeavour to undertake further cooperation in areas of the digital economy, including but not limited to, electronic payment, digital identity, data, single window and smart city.

SECTION E: AMENDMENTS TO OTHER PROVISIONS OF THE AGREEMENT

ARTICLE 13

Amendment of Annex 5 (Schedules of Specific Commitments on Services) to the Agreement

The Agreement shall be amended by replacing Annex 5 (Schedules of Specific Commitments on Services) of the Agreement with a new Annex 5 (Schedules of Reservations and Non-Conforming Measures) as set out in Appendix 3 to this Protocol.

ARTICLE 14

Amendments to Chapter 9 (Movement of Natural Persons)

1. Paragraph (a)(ii)(B) of Article 77 (Definitions) of the Agreement shall be replaced with the following:

“(B) a duly authorised representative of an investor of a Party (including an enterprise of a Party that is making or has made an investment in the territory of the other Party),”

2. Paragraph (b)(ii) of Article 77 (Definitions) of the Agreement shall be replaced with the following:

“(ii) is employed by a company, partnership or firm of the Party, which is not established in the territory of the other Party where the service is to be provided;”

3. Paragraph (f) of Article 77 (Definitions) of the Agreement shall be replaced with the following:

“(f) **intra-corporate transferee** means an executive, a manager, or a specialist as defined respectively in paragraphs (c), (g) and (h), who is an employee of a service supplier or investor of a Party established in the territory of the other Party;”

4. Paragraph (i) of Article 77 (Definitions) of the Agreement shall be

replaced with the following:

“(i) **temporary entry** means entry by a business visitor, an intra-corporate transferee, or a contractual service supplier, as the case may be, without the intent to establish permanent residence and for the purpose of engaging in activities which are clearly related to their respective business purposes. Additionally, in the case of a business visitor, the salaries of and any related payments to such a visitor should be paid entirely by the service supplier or enterprise which employs that visitor in the visitor’s home country.”

5. Paragraphs 2 and 3 of Article 79 (Scope) of the Agreement shall be replaced with the following:

“2. Nothing in this Chapter, Chapter 8 (Cross-Border Trade in Services) or Chapter 10 (Investment) shall apply to measures pertaining to citizenship, nationality, residence or employment on a permanent basis.

3. Nothing contained in this Chapter, Chapter 8 (Cross-Border Trade in Services) or Chapter 10 (Investment) shall prevent a Party from applying measures to regulate the entry or temporary stay of natural persons of the other Party in its territory, including measures necessary to protect the integrity of its territory and to ensure the orderly movement of natural persons across its borders, provided such measures are not applied in a manner so as to nullify or impair the benefits accruing to the other Party under this Agreement.¹⁵

¹⁵ The sole fact of requiring a visa for natural persons of a Party and not for those of non-Parties shall not be regarded as nullifying or impairing trade in goods or services or conduct of investment activities under this Agreement.”

ARTICLE 15

Amendments to Chapter 13 (Exceptions)

1. The chapeau of paragraph 2 of Article 105 (General Exceptions) of the Agreement shall be replaced with the following:

“2. For the purposes of Chapter 8 (Cross-Border Trade in Services), subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on cross-border trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by either Party of measures.”

2. Paragraph 2(d) of Article 105 (General Exceptions) of the Agreement shall be replaced with the following:

“(d) inconsistent with Article 4 (National Treatment) of Chapter 8 (Cross-Border Trade in Services), provided that the difference in treatment is aimed at ensuring the equitable or effective¹⁷ imposition or collection of direct taxes in respect of services or service suppliers of the other Party.”

3. A new paragraph 2(e) of Article 105 (General Exceptions) of the Agreement shall be inserted:

“(e) inconsistent with Article 5 (Most-Favoured-Nation Treatment) of Chapter 8 (Cross-Border Trade in Services), provided that the difference in treatment is the result of any tax convention.”

4. Paragraph 1(b) of Article 107 (Restrictions to Safeguard the Balance-of-Payments) of the Agreement shall be replaced with the following:

“(b) in the case of trade in services, adopt or maintain restrictions on which it has undertaken commitments, including on payments or transfers for transactions related to such commitments. It is recognised that particular pressures on the balance-of-payments of a Party in the process of economic development or economic transition 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 or economic transition.”

¹⁷ Measures that are aimed at ensuring the equitable or effective imposition or collection of

direct taxes include measures taken by a Party under its taxation system which:

- (i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory; or
- (ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; or
- (iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or
- (iv) apply to consumers of services supplied in or from the territory of the other Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; or
- (v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or
- (vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base.

Tax terms or concepts in sub-paragraph (d) and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Party taking the measure.”

SECTION F: GENERAL PROVISIONS

ARTICLE 16 General Provisions

1. This Protocol shall enter into force on the first day of the month after the Parties have exchanged through diplomatic channels written notifications confirming the completion of their respective domestic procedures for the entry into force of this Protocol, or on such other date as the Parties may agree in writing.
2. This Protocol and its Appendices shall form an integral part of the China-Singapore FTA.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Protocol.

Done at Beijing, China, this 4th day of December 2023, in duplicate in both the English and Chinese languages, all texts being equally authentic.

**FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE**

WANG WENTAO

GAN KIMYONG

APPENDIX 1

NEW CHAPTER 8 CROSS-BORDER TRADE IN SERVICES

Article 1 Definitions

For the purposes of this Chapter:

- (a) **cross-border trade in services or cross-border supply of services** is defined as the supply of a service:
 - (i) from the territory of a Party into the territory of the other Party;
 - (ii) in the territory of a Party by a person of that Party to a service consumer of the other Party; or
 - (iii) by a service supplier of a Party, through presence of natural persons of a Party in the territory of the other Party,

but does not include the supply of a service in the territory of a Party by a covered investment as defined in Section C (Definitions) of Chapter 10 (Investment);

- (b) **enterprise** means an entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation; and a branch of an enterprise;
- (c) **enterprise of a Party** means an enterprise organised or constituted under the laws of a Party, or a branch located in the territory of a Party and carrying out business activities there;

- (d) **existing** means in effect on the date of entry into force of 2023 Protocol;
- (e) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;
- (f) **measures by Parties** means measures taken by:
 - (i) central, regional or local governments and authorities; and
 - (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;
- (g) **monopoly supplier of a service** means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;
- (h) **natural person of a Party** means a national or a permanent resident of a Party under its laws. Until such time as China enacts its law on treatment of permanent residents of foreign countries, the obligations of each Party with respect to the permanent residents of the other Party shall be limited to the extent of its obligations under the GATS;
- (i) **person** means either a natural person or an enterprise;
- (j) **qualification procedures** means administrative procedures relating to the administration of qualification requirements;
- (k) **qualification requirements** means substantive requirements which a service supplier is required to fulfil in order to obtain certification or a licence;
- (l) **services** includes any service in any sector except services supplied in the exercise of governmental authority;

- (m) **service consumer** means any person that receives or uses a service;

- (n) **service of the other Party** means a service which is supplied:
 - (i) from or in the territory of the other Party, or in the case of maritime transport, by a vessel registered under the laws of the other Party, or by a person of the other Party which supplies the service through the operation of a vessel or its use in whole or in part; or

 - (ii) in the case of the supply of a service through the presence of natural persons, by a service supplier of the other Party;

- (o) **service 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;

- (p) **service supplier** means any person that seeks to supply or supplies a service; and

- (q) **supply of a service** includes the production, distribution, marketing, sale and delivery of a service.

Article 2

Scope and Coverage

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

- (a) the purchase, payment or use of a service;
- (b) the access to and use of, in connection with the supply of a service, services which are required by the Parties to be offered to the public generally;
- (c) the presence in its territory of a service supplier of the other Party;
- (d) the provision of a bond or other form of financial security as a condition for the supply of a service.

2. Notwithstanding paragraph 1,¹ Articles 3 (Market Access) and 8 (Domestic Regulation) shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment as defined in Section C (Definitions) of Chapter 10 (Investment).

3. This Agreement shall not apply to:

- (a) services supplied in the exercise of governmental authority within the territory of each Party; and
- (b) 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.

4. This Chapter shall not apply to subsidies or grants provided by a Party, or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services,

¹ For greater certainty, nothing in this Chapter is subject to investor-state dispute settlement under Section B (Investor-State Dispute Settlement) of Chapter 10 (Investment).

service consumers or service suppliers except:

- (a) as otherwise specified in this Agreement; or
- (b) disciplines that may be developed under Article XV of the GATS as may be reviewed with a view to their incorporation into this Agreement.

5. This Chapter shall not apply to air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services; other than measures affecting:

- (a) aircraft repair and maintenance services;
- (b) the selling and marketing of air transport services; and
- (c) computer reservation system ("CRS") services.

Article 3 Market Access

A Party shall not maintain or adopt, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

- (a) impose limitations on:
 - (i) the number of service suppliers, 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;
 - (iii) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;²
 - (iv) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and

² Paragraph (a)(iii) does not cover measures by a Party which limit inputs for the supply of services.

who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; and

- (b) restrict or require specific types of legal entities or joint ventures through which a service supplier may supply a service.

Article 4 National Treatment³

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances,⁴ to its own service suppliers.
2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that regional level of government to service suppliers of the Party of which it forms a part.

Article 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 circumstances, to service suppliers of a non-Party.
2. The provisions of this Chapter shall not be construed as to prevent a Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

Article 6 Local Presence

³ Nothing in this Article shall 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.

⁴ For greater certainty, whether treatment is accorded in “like circumstances” under Article 4 (National Treatment) or Article 5 (Most-Favoured-Nation Treatment) depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services and service suppliers on the basis of legitimate public welfare objectives.

A Party shall not require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 7 Reservations and Non-Conforming Measures

1. Article 3 (Market Access), Article 4 (National Treatment), Article 5 (Most-Favoured-Nation Treatment) and Article 6 (Local Presence) shall not apply to:

- (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level of government, as set out by that Party in List I of its Schedule in Annex 5 (Schedules of Reservations and Non-Conforming Measures);
 - (ii) a regional level of government, as set out by that Party in List I of its Schedule in Annex 5 (Schedules of Reservations and Non-Conforming Measures); or
 - (iii) a local level of government;
- (b) the continuation or prompt renewal of any non-conforming measure referred to in sub-paragraph (a); or
- (c) an amendment to any non-conforming measure referred to in sub-paragraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 3 (Market Access), Article 4 (National Treatment), Article 5 (Most-Favoured-Nation Treatment) and Article 6 (Local Presence).

2. Article 3 (Market Access), Article 4 (National Treatment), Article 5 (Most-Favoured-Nation Treatment) and Article 6 (Local Presence) shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out by that Party in List II of its Schedule in Annex 5 (Schedules of Reservations and Non-Conforming Measures).

Article 8 Domestic Regulation

1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. (a) Each Party shall maintain or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.
- (b) The provisions of sub-paragraph (a) shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.
3. Where a Party requires authorisation for the supply of a service, it shall ensure that its competent authorities:
 - (a) in the case of an incomplete application and at the request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;
 - (b) at the request of the applicant, provide, without undue delay, information concerning the status of the application; and
 - (c) if an application is terminated or denied, to the maximum extent possible, inform the applicant in writing and without delay the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application.
4. With the objective of ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the negotiations on disciplines on these measures, pursuant to paragraph 4 of Article VI of the GATS, with a view to their incorporation into this Agreement. The Parties note that such disciplines aim to ensure that such requirements are, *inter alia*:
 - (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
 - (b) not more burdensome than necessary to ensure the quality of the service; and
 - (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

5. (a) Pending the incorporation of the disciplines referred to in paragraph 4, a Party shall not apply licensing and qualification requirements and technical standards that nullify or impair its obligations under this Agreement in a manner which:
- (i) does not comply with the criteria outlined in paragraphs 4(a), (b) or (c); and
 - (ii) could not reasonably have been expected of that Party at the time the obligations were undertaken.
- (b) In determining whether a Party is in conformity with the obligation under paragraph 5(a), account shall be taken of international standards of relevant international organisations⁵ applied by that Party.
6. In sectors where obligations regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of the other Party.
7. Paragraphs 1 to 6 shall not apply to a sector or measure to the extent that such sector or measure is not subject to Article 3 (Market Access), Article 4 (National Treatment), Article 5 (Most-Favoured-Nation Treatment) or Article 6 (Local Presence) by reason of a Party's commitments made in accordance with Article 7 (Reservations and Non-Conforming Measures).

Article 9

Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognise, or encourage its relevant competent bodies to recognise, the education or experience obtained, requirements met or licences or certifications granted in the other Party. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an

⁵ Relevant international organisations refers to international bodies whose membership is open to the relevant bodies of both Parties to this Agreement.

agreement or arrangement between the Parties or their relevant competent bodies, or may be accorded autonomously.

2. Nothing in Article 5 (Most-Favoured-Nation Treatment) shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met or licences or certifications granted in the territory of the other Party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licences or certifications obtained or requirements met in that other Party's territory should be recognised.

4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction on trade in services.

Article 10

Recognition Cooperation

1. The Parties shall ensure that their relevant competent authorities commence negotiations on areas for mutual recognition of the equivalence of each Party's:

- (a) accounting work experience and qualifications;
- (b) auditing work experience and qualifications; and
- (c) accounting and auditing standards,

as soon as possible.

2. The Parties shall commence negotiations on a Mutual Recognition Arrangement ("MRA") for qualifications or experience obtained, requirements met, or licenses or certifications for architects following the entry into force of this Agreement, with a view to reaching such an MRA as soon as possible, and exploring the possibilities for expanding the MRA to other architectural and engineering areas.

Article 11

Joint Committee on Recognition Cooperation

1. For the purposes of effective implementation of Article 10 (Recognition Cooperation), a Joint Committee on Recognition Co-operation (the "Committee"), including a working group on accounting and auditing, shall be established. The functions of the Committee shall be:

- (a) reviewing and discussing the issues concerning the effective implementation of Article 10 (Recognition Cooperation);
- (b) identifying and recommending areas for and ways of furthering cooperation between the Parties; and
- (c) discussing other issues relating to the implementation of Article 10 (Recognition Cooperation).

2. The Committee, including the working group on accounting and auditing, shall meet on the request of either Party or the FTA Joint Committee established under Article 111 (Implementation and Review) at a mutually acceptable time and venue.

Article 12

Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Article 3 (Market Access) and Article 4 (National Treatment).

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's obligations, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such obligations.

3. 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, it may request the

other Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.

4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

- (a) authorises or establishes a small number of service suppliers; and
- (b) substantially prevents competition among those suppliers in its territory.

Article 13

Business Practices

1. The Parties recognise that certain business practices of service suppliers, other than those falling under Article 12 (Monopolies and Exclusive Service Suppliers), may restrain competition and thereby restrict trade in services.

2. A Party shall, at the request of the other Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The requested Party shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The requested Party shall also provide other information available to the requesting Party, subject to its domestic laws and to the conclusion of a satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Party.

Article 14

Safeguard Measures

The Parties note the multilateral negotiations pursuant to Article X of the GATS on the question of emergency safeguard measures based on the principle of non-discrimination. Upon the conclusion of such multilateral negotiations, the Parties shall conduct a review for the purpose of discussing appropriate amendments to this Agreement so as to incorporate the results of such multilateral negotiations.

Article 15

Payments and Transfers

1. Except under the circumstances envisaged in Article 107 (Restrictions to Safeguard the Balance-of-Payments), a Party shall not apply restrictions on international transfers and payments for current transactions relating to its commitments.

2. Nothing in this Agreement 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* (the “Articles of Agreement”), including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its obligations regarding such transactions, except under Article 107 (Restrictions to Safeguard the Balance-of-Payments) or at the request of the International Monetary Fund.

Article 16

Transparency

Article III of the GATS is incorporated, *mutatis mutandis*, into and shall form an integral part of this Agreement.

Article 17

Disclosure of Confidential Information

Nothing in this Chapter shall require any Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Article 18

Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party, and the denying Party adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

2. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party or by persons of the denying Party that has no substantial business activities in the territory of the other Party.

Article 19

Miscellaneous Provisions

The following GATS Annexes shall be incorporated, *mutatis mutandis*, into and form an integral part of this Agreement:

- (a) *Annex on Movement of Natural Persons Supplying Services;*
- (b) *Annex on Air Transport Services;* and
- (c) *Annex on Financial Services.*

APPENDIX 2

NEW CHAPTER 18 TELECOMMUNICATIONS SERVICES

Article 1

Definitions

For the purposes of this Chapter:

- (a) **cost-oriented** means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;
- (b) **end user** means a subscriber to or a final consumer of public telecommunications networks or services, including a service supplier other than a supplier of public telecommunications networks or services;
- (c) **essential facilities** means facilities of a public telecommunications network or service that:
 - (i) are exclusively or predominantly provided by a single or limited number of suppliers; and
 - (ii) cannot feasibly be economically or technically substituted in order to provide a service;
- (d) **interconnection** means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;
- (e) **international mobile roaming service** means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications networks or services that enables end users to use their home mobile handset or other device for voice, data, or

messaging services while outside the territory in which the end user's home public telecommunications network is located;

- (f) **leased circuits** means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, particular users, regardless of the technology used to establish the said telecommunications facilities;
- (g) **licence** means any authorisation that a Party may require of a person, in accordance with its laws and regulations, in order for such a person to offer a telecommunications network or service, including concessions, permits, or registrations;
- (h) **major supplier** means a supplier of public telecommunications networks or services that has the ability to materially affect the terms of participation, having regard to price and supply, in the relevant market for public telecommunications networks or services as a result of:
 - (i) control over essential facilities; or
 - (ii) use of its position in the market;
- (i) **non-discriminatory** means treatment no less favourable than that accorded to any other user of like public telecommunications networks or services in like circumstances;
- (j) **number portability** means the ability of an end user of public telecommunications services to retain the same telephone numbers when switching between the same category of suppliers of public telecommunications services;
- (k) **physical co-location** means access to space in order to install, maintain, or repair equipment at premises owned or controlled and used by a major supplier to supply public telecommunications services;
- (l) **public telecommunications network** means public telecommunications infrastructure used to provide public telecommunications services between and among defined network termination points;
- (m) **public telecommunications service** means any telecommunications service required, explicitly or in effect, by a Party to be offered to the public generally. Such services may include telegraph, telephone, telex, and data transmission typically involving the real-time transmission of customer-

supplied information between two or more defined points without any end-to-end change in the form or content of the customer's information;

- (n) **reference interconnection offer** means an interconnection offer extended by a major supplier and filed with, approved by or determined by a telecommunications regulatory body that sufficiently details the terms, rates and conditions for interconnection so that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis, without having to engage in negotiations with the major supplier concerned;
- (o) **telecommunications** means the transmission and reception of signals by any electromagnetic means;
- (p) **telecommunications regulatory body** means any body or bodies responsible under the laws and regulations of a Party for the regulation of telecommunications;
- (q) **user** means an end user or a supplier of public telecommunications networks or services; and
- (r) **virtual co-location** means an arrangement whereby a requesting supplier that seeks co-location may specify equipment to be used in the premises of a major supplier but does not obtain physical access to those premises and allows the major supplier to install, maintain and repair that equipment.

Article 2

Scope

1. This Chapter shall apply to measures by a Party affecting trade in public telecommunications services, including:

- (a) measures relating to access to and use of public telecommunications networks or services; and
- (b) measures relating to obligations regarding suppliers of public telecommunications networks or services.

2. This Chapter shall not apply to any measure affecting broadcast or cable distribution of radio or television programming, except that paragraph 1 of Article 4 (Access and Use) shall apply with respect to a cable or broadcast service supplier's access to and use of public telecommunications services.

3. Nothing in this Chapter shall be construed to:

- (a) require a Party to authorise a service supplier of another Party to establish, construct, acquire, lease, operate, or supply telecommunications networks or services, other than the former Party's commitments under Chapter 8 (Cross-Border Trade in Services); or
- (b) require a Party, or require a Party to oblige a service supplier under its jurisdiction, to establish, construct, acquire, lease, operate, or supply telecommunications networks or services not offered to the public generally.

Article 3

Approaches to Regulation

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications services and to enhance consumer welfare, and that regulation may not be needed if there is effective competition or if a service is new to a market. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that each Party may determine how to implement its obligations under this Chapter.

2. In this respect, the Parties recognise that a Party may:

- (a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market; or
- (b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by suppliers of telecommunications services that do not own network facilities.

3. For greater certainty, a Party that refrains from engaging in regulation in accordance with this Article remains subject to the obligations under this Chapter.

Article 4
Access and Use¹

1. Each Party shall ensure that any service supplier of the other Party has access to and use of any public telecommunications networks and services, including leased circuits, offered in its territory or across its borders on a timely basis, and on terms and conditions that are reasonable, non-discriminatory and transparent, *inter alia*, through paragraphs 2 through 6.

2. Subject to paragraphs 5 and 6, each Party shall ensure that service suppliers of the other Party are permitted to:

- (a) purchase or lease and attach terminal or other equipment which interfaces with a public telecommunications network and which is necessary to supply their services;
- (b) connect leased or owned circuits with public telecommunications networks and services or with circuits leased or owned by another service supplier; and
- (c) use operating protocols of their choice.

3. Each Party shall ensure that service suppliers of the other Party may use public telecommunications networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications of such service suppliers, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of any Party.

4. Notwithstanding paragraph 3, a Party may take measures that are necessary to ensure the security and confidentiality of messages and to protect the personal information of end users of public telecommunications networks or services, provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

¹ For greater certainty, this Article does not prohibit any Party from requiring a service supplier to obtain a licence to supply a public telecommunications network or service in its territory.

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

- (a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services available to the public generally; or
- (b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

- (a) a requirement to use specified technical interfaces, including interface protocols, for connection with public telecommunications networks and services;
- (b) a requirement, where necessary, for the inter-operability of public telecommunications networks and services and to encourage the achievement of the goals set out in Article 17 (Relation to International Organisations);
- (c) type approval of terminal or other equipment which interfaces with public telecommunications networks and technical requirements relating to the attachment of such equipment to public telecommunications networks;
- (d) a restriction on connection of leased or owned circuits with public telecommunications networks or services or with circuits leased or owned by other service suppliers; or
- (e) a requirement for notification and licensing.

Article 5

Number Portability

Each Party shall ensure that a supplier of public telecommunications services in its territory provides number portability for mobile services, to the extent technically and economically feasible, on a timely basis, and on terms and conditions that are reasonable and non-discriminatory.

Article 6

Competitive Safeguards

1. Each Party shall adopt or maintain appropriate measures for the purpose of preventing suppliers who, alone or together, are a major supplier, from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 shall include, in particular:
 - (a) engaging in anti-competitive cross-subsidisation;
 - (b) using information obtained from competitors with anti-competitive results; and
 - (c) not making available to other suppliers of public telecommunications networks or services, on a timely basis, technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

Article 7

Treatment by Major Suppliers

Each Party shall ensure that a major supplier in its territory accords to suppliers of public telecommunications networks or services of the other Party treatment no less favourable than that such major supplier accords in like circumstances to its subsidiaries and affiliates, or non-affiliated service suppliers, regarding:

- (a) the availability, provisioning, rates or quality of like public telecommunications services; and
- (b) the availability of technical interfaces necessary for interconnection.

Article 8

Resale

1. Neither Party shall prohibit the resale of public telecommunications services.
2. Each Party shall ensure that a major supplier in its territory:
 - (a) offers for resale, at reasonable rates,² to suppliers of public telecommunications services of another Party, public telecommunications services that the major supplier provides at retail to end users; and
 - (b) does not impose unreasonable or discriminatory conditions or limitations on the resale of those services.³
3. Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by a major supplier pursuant to paragraph 2, based on the need to promote competition or to benefit the long-term interests of end users.
4. If a Party does not require that a major supplier offer a specific public telecommunications service for resale, it nonetheless shall allow service suppliers to request that the service be offered for resale consistent with paragraph 2, without prejudice to the Party's decision on the request.

Article 9

Interconnection⁴

Obligations relating to suppliers of public telecommunications networks or

² For the purposes of this Article, each Party may determine reasonable rates through any methodology it considers appropriate.

³ Where provided in its laws or regulations, a Party may prohibit a reseller that obtains, at wholesale rates, a public telecommunications service available at retail to only a limited category of subscribers from offering the service to a different category of subscribers.

⁴ For greater certainty, the term "interconnection", as used in this Chapter, does not include access to unbundled network elements.

services

1. Each Party shall ensure that a supplier of public telecommunications networks or services in its territory provides interconnection with the suppliers of public telecommunications networks or services of the other Party.

2. Each Party shall ensure that a supplier of public telecommunications networks or services in its territory take reasonable steps to protect the confidentiality of commercially sensitive or confidential information of, or relating to, users acquired as a result of interconnection arrangements and that those suppliers only use that information for the purpose of providing these services.

Obligations relating to major suppliers

3. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications networks and services of the other Party at any technically feasible point in the major supplier's network. Such interconnection shall be provided:

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates;⁵
- (b) of a quality no less favourable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;
- (c) on a timely basis, and on terms and conditions (including technical standards and specifications) and at cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier of public telecommunications networks or services of the other Party need not pay for network components or facilities that it does not require for the services to be provided; and

⁵ For greater certainty, interconnection rates may be commercially negotiated between suppliers of public telecommunications networks or services.

- (d) upon request, at points in addition to the network termination points offered to the majority of suppliers of public telecommunications networks and services, subject to charges that reflect the cost of construction of necessary additional facilities.
4. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of the other Party with the opportunity to interconnect their facilities and equipment with those of the major supplier through at least one of the following options:
- (a) a reference interconnection offer or any other interconnection offer containing the rates, terms and conditions that the major supplier offers generally to suppliers of public telecommunications services;
 - (b) the terms and conditions of an interconnection agreement that is in effect;
or
 - (c) a new interconnection agreement through commercial negotiation.
5. Each Party shall ensure that the procedures applicable for interconnection to a major supplier are made publicly available.
6. Each Party shall ensure that a major supplier in its territory makes publicly available either its interconnection agreements or reference interconnection offer or any interconnection offer.

Article 10

Provisioning and Pricing of Leased Circuit Services

Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications networks or services of the other Party with leased circuit services that are public telecommunications services, on a timely basis, and on terms and conditions and at rates that are reasonable, non-discriminatory and transparent.

Article 11

Co-location

1. Each Party shall ensure that a major supplier which has control over essential facilities in its territory provides suppliers of public telecommunications networks or services of the other Party physical co-location of their equipment necessary for interconnection on a timely basis, and on terms and conditions (including technical feasibility and space availability where applicable) and at rates that are reasonable, non-discriminatory and transparent.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall endeavour to ensure that a major supplier in its territory provides an alternative solution such as facilitating virtual co-location, based on a generally available offer, on a timely basis, and on terms and conditions and at rates that are reasonable, non-discriminatory and transparent.

3. A Party may determine, in accordance with its laws and regulations, which premises owned or controlled by major suppliers in its territory are subject to paragraphs 1 and 2, having regard to factors such as the state of competition in the market where co-location is required, and whether such premises can feasibly be economically or technically substituted in order to provide a competing service.

4. If a Party does not require that a major supplier offer co-location at certain premises, it nonetheless shall allow service suppliers to request that those premises be offered for co-location consistent with paragraph 1, without prejudice to the Party's decision on such a request.

Article 12

Independent Telecommunications Regulatory Body

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services.

2. Each Party shall ensure that the regulatory decisions of, and the procedures used by, its telecommunications regulatory body are impartial with respect to all market participants.

3. No Party shall accord more favourable treatment to a supplier of telecommunications services in its territory than that accorded to a like service supplier of the other Party on the basis that the supplier receiving more favourable treatment is owned by the national government of the Party.

Article 13

Universal Service

Each Party has the right to define the kind of universal service obligations it wishes to maintain. Such obligations shall not be regarded as anti-competitive *per se*, provided that they are administered in a transparent, non-discriminatory, and competitively neutral manner, and are not more burdensome than necessary for the kind of universal service defined by the Party.

Article 14

Licensing

1. Where a licence is required for the supply of public telecommunications networks or services, the Party shall ensure the public availability of:

- (a) all the licensing criteria and procedures that it applies;⁶
- (b) the period of time normally required to reach a decision concerning an application for a licence; and
- (c) the general terms and conditions of a licence.

2. The Party shall notify an applicant of the outcome of its application without undue delay after a decision has been taken.

3. The Party shall ensure that, upon request, an applicant or a licensee is provided with the reasons for the:

⁶ For greater certainty, this sub-paragraph includes any fee for applying for or obtaining a licence.

- (a) denial of a licence;
- (b) imposition of supplier-specific conditions on a licence;
- (c) refusal to renew a licence; or
- (d) revocation of a licence.

Article 15

Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce resources related to telecommunications, including frequencies and numbers, in an objective, timely, transparent and non-discriminatory manner.

Spectrum

2. Each Party shall make publicly available the current state of allocated frequency bands, but shall not be required to provide detailed identification of frequencies allocated for specific government uses.

3. For greater certainty, a Party's measures allocating and assigning spectrum and managing frequency are not measures that are *per se* inconsistent with Article 3 (Market Access) of Chapter 8 (Cross-Border Trade in Services). Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications networks or services, provided that the Party does so in a manner consistent with other provisions of this Agreement. Such right includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services, if appropriate. In this regard, each Party

may use mechanisms such as auctions, administrative incentive pricing, or unlicensed use, if appropriate, to assign spectrum for commercial use.

Numbers

5. Each Party shall ensure that a supplier of public telecommunications networks or services of the other Party established in the territory of the former Party is afforded access to telephone numbers in a non-discriminatory manner.

Article 16

Transparency

1. Each Party shall endeavour to ensure that when its telecommunications regulatory body seeks input⁷ on a proposal for a law or regulation, that body will:

- (a) make the proposal public or otherwise available to any interested persons;
- (b) include an explanation of the purpose of and reasons for the proposal;
- (c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for such comment; and
- (d) to the extent practicable, make publicly available all relevant comments filed with it.

2. Each Party shall ensure that its measures relating to public telecommunications services are made publicly available, including:

- (a) tariffs and other terms and conditions of service;
- (b) specifications of technical interfaces with such networks and services;
- (c) information on bodies responsible for the preparation, amendment, and adoption of standards affecting such access and use;

⁷ For greater certainty, seeking input does not include internal governmental deliberations.

- (d) conditions for attaching terminal or other equipment to the public telecommunications network;
- (e) requirements for notification or licensing if any; and
- (f) general procedures relating to resolution of telecommunications disputes provided for in Article 24 (Resolution of Telecommunications Disputes).

Article 17

Relation to International Organisations

The Parties recognise the importance of international standards for global compatibility and inter-operability of telecommunications networks and services and undertake to promote such standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.

Article 18

International Submarine Cable Systems

Where a Party has authorised a supplier of public telecommunications networks or services in its territory to operate an international submarine cable system as a public telecommunications network or service, that Party shall ensure that such supplier accords the suppliers of public telecommunications networks or services of the other Party reasonable and non-discriminatory treatment for access to the international submarine cable system.^{8, 9}

⁸ For greater certainty, a Party may determine the point at which access to the international submarine cable system is to be provided.

⁹ For greater certainty, this Article does not prohibit a Party from requiring a supplier of public telecommunications networks or services to comply with relevant measures including licensing

Article 19

Unbundling of Network Elements

Each Party shall endeavour to ensure that a major supplier in its territory offers access to network elements on an unbundled basis on terms and conditions that are reasonable, non-discriminatory and transparent for the supply of public telecommunications services. Each Party may determine the network elements required to be made available in its territory, and the suppliers that may obtain those elements, in accordance with its laws and regulations.¹⁰

Article 20

Access to Poles, Ducts, and Conduits

1. Each Party shall endeavour to ensure that a major supplier in its territory provides access to poles, ducts, conduits, or any other structures as determined by the Party, owned or controlled by the major supplier, to suppliers of public telecommunications services of the other Party in the Party's territory, on a timely basis, and on terms and conditions and at rates that are reasonable, non-discriminatory and transparent, subject to technical feasibility.

2. A Party may determine, in accordance with its laws and regulations, the poles, ducts, conduits, or any other structures to which it requires major suppliers in its territory to provide access in accordance with paragraph 1. When the Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such structures can be substituted in an economically or technically feasible manner in order to provide a competitive service, or other specified public interest factors.

requirements, provided that such measures are not used as a means of avoiding the Party's obligations under this Article.

¹⁰ For greater certainty, consistent with Article 3 (Approaches to Regulation), a Party may determine the manner in which it implements its obligations under this Article.

Article 21

Flexibility in the Choice of Technology

1. A Party shall not prevent suppliers of public telecommunications networks or services from having the flexibility to choose the technologies that they use to supply their services.
2. Notwithstanding paragraph 1, a Party may apply a measure that limits the technologies that a supplier of public telecommunications networks or services may use to supply its services, provided that the measure is designed to achieve a legitimate public policy objective and is not prepared, adopted, or applied in a manner that creates unnecessary obstacles to trade.

Article 22

International Mobile Roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade among the Parties and enhance consumer welfare.
2. A Party may take steps to enhance transparency and competition with respect to international mobile roaming services, such as:
 - (a) ensuring that information regarding retail rates is easily accessible to consumers; and
 - (b) minimising impediments to roaming, whereby consumers when visiting the territory of a Party from the territory of the other Party can access telecommunications services using the device of their choice.
3. The Parties recognise that a Party, where it has the authority to do so, may choose to promote competition with respect to international mobile roaming rates including through commercial arrangements, or to adopt or maintain measures affecting rates for wholesale or retail international roaming services with a view to ensuring that the rates are reasonable. If a Party considers it appropriate, it may cooperate on and implement mechanisms with other Parties to facilitate the implementation of those measures, including by entering into arrangements with those Parties.

4. If a Party (hereinafter referred to as “the first Party” in this paragraph) chooses to regulate rates or conditions for wholesale or retail international mobile roaming services, it shall ensure that a supplier of public telecommunications services of the other Party (hereinafter referred to as “the second Party” in this paragraph) has access to the regulated rates or conditions for wholesale or retail international mobile roaming services for its customers roaming in the territory of the first Party if the second Party has entered into an arrangement with the first Party to reciprocally regulate rates or conditions for wholesale or retail international mobile roaming services for suppliers of the two Parties.¹¹ The first Party may require suppliers of the second Party to fully utilise commercial negotiations to reach agreement on the terms for accessing such rates or conditions.

5. A Party that ensures access to regulated rates or conditions for wholesale or retail international mobile roaming services in accordance with paragraph 4, shall be deemed to be in compliance with Article 5 (Most-Favoured-Nation Treatment) of Chapter 8 (Cross-Border Trade in Services), Article 4 (Access and Use), and Article 7 (Treatment by Major Suppliers), with respect to international mobile roaming services.

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

¹¹ For greater certainty:

(a) no Party shall, solely on the basis of any obligations owed to it by the first Party under a most-favoured-nation provision, or under a telecommunications-specific non-discrimination provision, in any international trade agreement, seek or obtain for its suppliers the access to regulated rates or conditions for wholesale or retail international mobile roaming services that is provided under this Article.

(b) access to the rates or conditions regulated by the first Party shall be available to a supplier of the second Party only if the regulated rates or conditions are reasonably comparable to those reciprocally regulated under the arrangement. The telecommunications regulatory body of the first Party shall, in the case of a disagreement, determine whether the rates or conditions are reasonably comparable. For the purposes of this footnote, “rates or conditions that are reasonably comparable” means rates or conditions agreed to be such by the relevant suppliers or, in the case of a disagreement, determined to be such by the telecommunications regulatory body of the first Party.

Article 23
Cooperation

1. The Parties may agree to cooperate by:
 - (a) sharing information, experiences, and best practices on addressing challenges relating to the development of the telecommunications industry, taking into account, among other things, key advancements in emerging technologies and industry trends; and
 - (b) promoting collaboration between a Party and companies and businesses of the other Party, including their small and medium enterprises, as well as among the Parties' respective companies and businesses, including their small and medium enterprises, to support innovation and the development of their respective telecommunications industries.

2. The Parties will endeavour to cooperate in ways that build on, but do not duplicate, existing cooperation initiatives already being pursued by the Parties bilaterally or in international fora. Such cooperation may include, in particular, measures to facilitate industry participation by enterprises of one Party in pilot projects initiated by the other Party, with the objective of driving digital transformation and innovation in the telecommunications sector.

Article 24
Resolution of Telecommunications Disputes

1. Each Party shall ensure that a supplier of public telecommunications networks or services of the other Party may have timely recourse to its telecommunications regulatory body or dispute resolution body to resolve disputes arising under this Chapter in accordance with its laws and regulations.

2. Each Party shall ensure that any supplier of public telecommunications networks or services aggrieved by a final determination or decision of its relevant telecommunications regulatory body may obtain a review of such determination or decision in accordance with its laws and regulations.

3. No Party shall permit the making of an application for review to constitute grounds for non-compliance with the determination or decision of its telecommunications regulatory body, unless its relevant body determines otherwise.