

CHAPTER ON NON-TARIFF BARRIERS TO TRADE AND INVESTMENT IN RENEWABLE ENERGY GENERATION

ARTICLE 1: OBJECTIVES

In line with global efforts to reduce greenhouse gas emissions, the Parties share the objective of promoting, developing and increasing the generation of energy from renewable and sustainable sources, particularly through facilitating trade and investment. To this effect, the Parties shall cooperate towards removing or reducing non-tariff barriers and fostering cooperation, taking into account, where appropriate, regional and international standards.

ARTICLE 2: DEFINITIONS

For the purposes of this Annex/Chapter:

- (a) local content requirement means –
 - with respect to goods, a requirement for an enterprise to purchase or use goods of domestic origin or from a domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production;
 - with respect to services, a requirement which restricts the choice of the service supplier or the service supplied to the detriment of services or service suppliers from the other Party;
- (b) offset means any undertakings that require use of local content, local suppliers, technology transfer, investment, counter-trade or similar actions to encourage local development;
- (c) partnerships means any legal entity such as a joint venture, a 100% foreign-owned enterprise or a partnership according to domestic law;
- (d) service suppliers shall be defined as in the Chapter on Services, Establishment, and E-Commerce; and
- (f) renewable and sustainable sources consist of wind, solar, geothermal, hydrothermal and ocean energy, hydropower with capacity of 50 MW or less, biomass, landfill gas, sewage treatment plant gas and biogases but

not the products from which energy is generated.

ARTICLE 3: SCOPE

1. This Annex shall apply to measures which affect trade and investment between the Parties related to the generation of energy from renewable and sustainable sources.
2. This Annex shall not apply to research and development projects, nor demonstration projects carried out on a non-commercial scale.
3. Subject to paragraph 4 of this Article, this Annex is without prejudice to the application of any other relevant provisions of this Agreement, including any exceptions, reservations or restrictions thereto, to the measures mentioned in Paragraph 1, mutatis mutandis. For greater certainty, in the event of an inconsistency between this Annex and other provisions of this Agreement, those provisions shall prevail to the extent of the inconsistency.
4. Notwithstanding the provisions of the Chapter on [Investment] of the Title on Trade in Services, Investment and E-Commerce, including reservations thereto, the Parties shall apply the provisions of Article 4(1)a and Article 4(1)b of this Annex/Chapter starting from the date of five (5) years after the entry into force of this agreement.
5. This Annex shall not apply to projects funded and governed by an agreement with an international organisation or foreign government to which procedures or conditions of the international organizations or donors apply.

ARTICLE 4: PRINCIPLES

(1) A Party shall:

- (a) refrain from adopting measures providing for local content requirements or any other offset affecting the other Party's products, service suppliers, investors or investments;
- (b) refrain from adopting measures requiring to form partnerships with local companies, unless such partnerships are deemed necessary for technical reasons and the Party can demonstrate these upon request by the other

Party;

- (c) ensure that any measures concerning the authorisation, certification and licensing procedures that are applied, in particular, to equipment, plants and associated transmission network infrastructures, are objective, transparent, non-arbitrary and do not discriminate between applicants from the Parties;
- (d) ensure that administrative charges imposed on or in connection with the —
 - i. importation and use of products originating in the other Party, by the other Party's suppliers are subject to the provisions of Art [XTiG Chapter]; and
 - ii. provision of services by the other Party's suppliers are subject to the provisions of Art X [subsection on Domestic Regulation in the Chapter on Services, Establishment and E-Commerce]; and
- (e) ensure that the terms, conditions and procedures for the connection and access to electricity transmission grids are transparent and do not discriminate against suppliers of the other Party.

ARTICLE 5: STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT

1. This Article applies to the products that are listed in the List of Products attached to this Annex. Upon mutual agreement by the Parties, this List of Products may be extended to include other products by a simple exchange of letters.
2. Where relevant international standards established by the International Organization for Standards (ISO) or the International Electrotechnical Commission (IEC) exist the Parties shall use these international standards, or their relevant parts, as a basis for any standard, technical regulation or conformity assessment procedure, except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. In those cases, a Party shall, upon request from the other Party, identify the part of the respective standard, technical regulation or conformity assessment procedure which substantially deviate from the relevant international standard and provide justification as to the reasons for the deviation.
3. Where appropriate, the Parties shall specify technical regulations based on product requirements in terms of performance, including safety and environmental performance, rather than design or descriptive characteristics.

4. Where a Party accepts supplier's declaration of conformity as a positive assurance of conformity, it shall endeavour to do so without requiring the submission of test results.
5. If a Party requires test reports (alone, as the basis of, or in conjunction with other assurances of conformity) as positive assurance that a product conforms with its relevant standard or technical regulations, it shall endeavour to accept test reports in form of the International Electrotechnical Commission System for Conformity Testing and Certification of Electrical Equipment (IECEE CB Scheme) Test Reports without requiring any further testing.
6. Where a Party requires third party certification for product, this Party shall endeavour to accept a valid CB Test Certificate under the CB Scheme of the Worldwide System for Conformity Testing and Certification of Electrotechnical Equipment and Components (IECEE) as sufficient positive assurance of conformity without requiring any further conformity assessment or administrative procedures or approvals.
7. For greater certainty, this paragraph is without prejudice to the Parties applying requirements not related to the products in question, such as zoning laws or building codes.

ARTICLE 6: Exceptions

1. The provisions of this Annex are subject to Articles [general exception clauses, applicable horizontally or specifically to goods, services, procurement or - if included - investment].
2. For greater certainty, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties' products, service suppliers or investors under like circumstances, or a disguised restriction on trade and investment between the Parties, nothing in this Annex shall be construed to prevent the adoption or enforcement by any of the Parties of measures necessary for the safe operation of the energy networks concerned, or the safety of energy supply.

ARTICLE 7: IMPLEMENTATION AND COOPERATION

1. In the [Committee] established pursuant to Article [...], the Parties shall cooperate and exchange information on any issues relevant for the implementation of

this Annex, and may in that [committee] decide to adopt appropriate implementing measures to this effect.

2. Cooperation may include

- (a) exchanging information, regulatory experiences and best practices in areas such as:
 - the design and non-discriminatory implementation of measures promoting the uptake of energy from renewable sources;
 - technical regulations, standards and conformity assessment procedures, such as those relating to grid code requirements;
- (b) promoting cooperation, also in relevant regional fora, with respect to their domestic or regional technical regulations, regulatory concepts, standards, requirements and conformity assessment procedures with international standards.

List of Products (by HS code)

840212	841869	848340
840219	841899	848360
840410	841950	848410
840490	842119	848420
840510	842121	848610
840681	842191	848690
840682	842199	850153
840991	842220	850161
840999	842290	850162
841011	842833	850163
841090	842839	850422
841320	842890	850440
841350	843680	850590
841360	846291	850720
841370	846694	851440
841381	847410	853620
841391	847439	853630
841410	847490	853650
841430	848110	853690
841440	848120	853710
841459	848130	853720
841480	848140	853890
841490	848180	854110
841581	848190	854121
841620	848210	854129
841630	848280	854130
841690	848230	
841861	848310	