

CHAPTER 10

PROFESSIONAL SERVICES AND RECOGNITION OF PROFESSIONAL QUALIFICATIONS

Article 10.1 Definitions

1. For the purposes of this Chapter:

“legal arbitration, conciliation, and mediation services” means the preparation of documents to be submitted to, the preparation for and appearance before, an arbitrator, conciliator, or mediator in any dispute involving the application and interpretation of law.¹ It does not include arbitration, conciliation, and mediation services in disputes not involving the application and interpretation of law which fall under services incidental to management consulting. It also does not include acting as an arbitrator, conciliator, or mediator; and

“professional qualifications” means qualifications attested by evidence of formal qualifications or professional experience and can include post-academic training² or experience required for the right to practise.

2. Definitions, included in Article 8.1 (Definitions - Cross-Border Trade in Services), are incorporated into and made a part of this Chapter to the extent that the relevant terms are used in this Chapter.

Article 10.2 Scope

1. This Chapter applies to measures of a Party affecting the supply of professional services, including by a covered investment.³
2. Professional services include accountancy and auditing services, architectural services, engineering services, legal services, and other types of professional services.
3. This Chapter does not apply to the services or measures of a Party listed in

¹ As a sub-category, international legal arbitration conciliation or mediation services refers to the same services when the dispute involves parties from two or more countries.

² Training means training resulting in a record, issued by a body whose ordinary activities include the issuing of those records, of having attained a particular standard.

³ For greater certainty, nothing in this Chapter affects the rights, obligations or reservations of each Party under other Chapters of this Agreement, including Chapter 8 (Cross-Border Trade in Services), Chapter 9 (Financial Services), Chapter 11 (Temporary Entry for Business Persons) and Chapter 13 (Investment).

paragraphs 3 through 5 of Article 8.2 (Scope - Cross-Border Trade in Services).

Article 10.3 Objectives

The objectives of this Chapter are:

- (a) to encourage the development of systems for the recognition of professional qualifications and to better facilitate the international trade in professional services between the Parties;
- (b) to facilitate the sharing of knowledge and expertise on professional services, accreditation, standards, and regulation between relevant bodies of the Parties in the development of best practice; and
- (c) to encourage each Party to be at the forefront of the liberalisation of international trade in professional services.

Article 10.4 General Principles for Professional Services

1. The Parties recognise that professional services play an essential role in facilitating trade and investment across both goods and services sectors and in promoting economic growth and business confidence.
2. Each Party shall consider, or encourage its relevant bodies to consider, subject to its laws and regulations, whether or in what manner to:
 - (a) apply ethical, conduct and disciplinary standards to professionals of the other Party in a manner that is no more burdensome than the application of those standards on professionals of the Party in that professional services sub-sector;
 - (b) accommodate the provision of professional services, in the following ways:
 - (i) on a temporary fly-in, fly-out basis;
 - (ii) on a cross-border basis through the use of telecommunications technology;
 - (iii) by establishing a commercial presence; and
 - (iv) through a combination of fly-in, fly-out and one or both of the other modes listed in subparagraphs (ii) and (iii);

- (c) permit service suppliers of each Party to work together;
 - (d) permit enterprises of the other Party to use a firm name of their choice in line with the conventions of the Party; and
 - (e) establish dialogues with the relevant bodies of the other Party, with a view to the development of mutual recognition arrangements.
3. A Party may consider, if feasible, taking steps to encourage its relevant bodies to consider implementing procedures for the temporary, or project-specific licensing of professional service suppliers of the other Party. That regime should not operate to prevent a professional service supplier gaining a local licence once that supplier satisfies the applicable local licensing requirements.

Article 10.5

Recognition of Professional Qualifications

1. If access to or pursuit of a regulated profession⁴ in the jurisdiction of the other Party is contingent on possession of specific professional qualifications, that Party shall encourage, as appropriate, its relevant bodies to establish and operate systems for recognition of professional qualifications obtained in the other Party's jurisdiction.
2. Nothing in paragraph 1 shall prevent a Party, or a relevant body of a Party, from:
- (a) negotiating mutual recognition arrangements; or
 - (b) requiring that natural persons meet additional conditions that apply to the practice of a particular profession in that Party.
3. Each Party shall encourage its relevant bodies to take into account, as appropriate, plurilateral or multilateral agreements that relate to professional services in the development of systems for the recognition of professional qualifications.

⁴ "Regulated profession" means a profession, the practice of which, including the use of a title or designation, is subject to the possession of specific professional qualifications by virtue of a measure of a Party.

Article 10.6
Professional Services Working Group

1. The Parties hereby establish a Professional Services Working Group (Working Group) composed of representatives of each Party⁵ to facilitate:
 - (a) the achievement of the objectives of this Chapter; and
 - (b) the effective implementation and administration of systems for recognition of professional qualifications, as provided in paragraph 1 of Article 10.5 (Recognition of Professional Qualifications).
2. The Working Group shall liaise, as appropriate, to support the relevant bodies of each Party in pursuing the objectives of this Chapter. This support may include providing points of contact, facilitating meetings, and providing information regarding regulation of professional services.
3. The Working Group shall support relevant bodies in the development of systems for recognition of professional qualifications, including having regard to how those relevant bodies establish, and the manner in which they administer, those systems. This support may include:
 - (a) providing information on:
 - (i) systems used by other professions; and
 - (ii) the development of mutual recognition arrangements;
 - (b) identifying possible improvements in the systems; and
 - (c) sharing best practices.
4. The Working Group may consider developing model mutual recognition arrangements and procedures for the temporary or project-specific licensing of professional services suppliers with a view to facilitating the negotiation of those arrangements or the adoption of those procedures by relevant bodies.
5. The Working Group may request updates from the Dialogue established under Article 10.8 (Legal Services Regulatory Dialogue) on the progress of the conclusion of any arrangement which stems from discussions within the Dialogue.
6. The Working Group shall meet annually for three years from the date of entry into force of this Agreement, and thereafter as agreed by the Parties.

⁵ The relevant bodies in each Party's jurisdiction may also be invited to participate in the Working Group.

7. The Working Group shall report to the Committee on Services and Investment on its progress, including with respect to a recommendation for initiatives to promote recognition of professional qualifications, temporary licensing, and on the further direction of its work, no later than two years after the date of entry into force of this Agreement, or as agreed by the Parties.

Article 10.7 Legal Services

1. Nothing in this Article shall affect the right of a Party to regulate and supervise the supply of legal services, referred to in paragraph 2, in a non-discriminatory manner.
2. Paragraph 3 applies to measures of a Party affecting the supply of legal advisory services and legal arbitration, conciliation, and mediation services in relation to:
 - (a) the law of the other Party;
 - (b) other foreign law to the extent the lawyer of the other Party is qualified to practise that law (and not being the law of the host Party); or
 - (c) international law.
3. A Party (host Party) shall:
 - (a) allow a national of the other Party who is professionally qualified and authorised in the other Party to practise as a lawyer to supply services, referred to in paragraph 2, without having to requalify as, or be authorised to practise as, a domestic (host Party) lawyer; and
 - (b) not impose disproportionately complex or burdensome administrative or regulatory conditions on, or for, the supply of these services by persons referred to in subparagraph (a).
4. The obligations in paragraph 3 do not extend to:
 - (a) legal representation services in matters or proceedings before administrative agencies, the courts, or other duly constituted official tribunals of a Party;
 - (b) legal advisory and legal authorisation, documentation, and certification services supplied by legal professionals entrusted with public functions such as notaries, and services supplied by bailiffs; and

- (c) services supplied by patent or trademark attorneys.

Article 10.8
Legal Services Regulatory Dialogue

1. The Parties recognise that legal services play an essential role in facilitating trade and investment and in promoting economic growth and business confidence.
2. The Parties shall establish a Legal Services Regulatory Dialogue (the Dialogue) composed of representatives from the legal professions of each Party.⁶ The Dialogue may establish expert sub-groups to consider matters set out in paragraph 3.
3. The objectives of the Dialogue are to:
 - (a) consider any matters affecting the re-qualification of lawyers of one Party seeking admission to practise in the other Party. Issues in scope for consideration include:
 - (i) the progressive reduction and removal of academic pre-requisites and additional practical legal training, particularly for experienced lawyers;
 - (ii) post-qualification supervision;
 - (iii) the improvement in transparency and availability of existing conditional admission routes;
 - (iv) the feasibility of recognising legal qualifications obtained in one Party without the requirement for an aptitude examination or adaptation period to be undertaken in the other Party; and
 - (v) timeframes for requalification and admission to practise law;
 - (b) share expertise on matters affecting the types of business structures through which lawyers and enterprises of one Party may establish and supply legal services in the other Party, including limited liability partnerships, incorporated legal practices, or multi-disciplinary partnerships; and

⁶ These may include representatives, for Australia, from the Law Council of Australia, the Legal Services Council and Admissions Committee established under the Legal Profession Uniform Law, and the Law Admissions Consultative Committee, and for the United Kingdom, from the Law Society of England and Wales, the Solicitors Regulation Authority, the General Council of the Bar of England and Wales, the Bar Standards Board, the Law Society of Scotland, the Faculty of Advocates, the Law Society of Northern Ireland, and the General Council of the Bar of Northern Ireland.

- (c) share information and knowledge on other regulatory matters, including on licensing and standards, recognition of professional qualifications, and on wider matters affecting the trade in legal services between the Parties.
4. The Parties shall encourage the Dialogue to meet annually, or more frequently as required, for the first three years from the date of entry into force of this Agreement, and thereafter as determined by the Dialogue.
 5. The Parties shall encourage the Dialogue to provide the Professional Services Working Group with a report on the progress of objectives set out in paragraph 3 no later than 20 months after the date of entry into force of this Agreement and subsequently provide, if requested, any updates on facilitating the conclusion of any arrangement which stems from discussions within the Dialogue.