

ANNEX 9A

PROFESSIONAL SERVICES AND RECOGNITION OF PROFESSIONAL QUALIFICATIONS

Article 9A.1 Definitions

For the purposes of this Annex:

“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.

Article 9A.2 Scope

This Annex applies to measures of a Party affecting the supply of professional services, including by a covered investment.

Article 9A.3 Recognition of Professional Qualifications

1. If access to or pursuit of a regulated profession² in the jurisdiction of the other Party is contingent upon 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

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 “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.

- (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, agreements that relate to professional services in the development of systems for the recognition of professional qualifications.

Article 9A.4 Temporary or Project-Specific Licensing

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. Those procedures should not operate to prevent a professional service supplier from gaining a local licence once that supplier satisfies the applicable local licensing requirements.

Article 9A.5 Dialogues on Professional Qualifications or Facilitation of Licensing Procedures

1. Each Party shall endeavour to identify professional services in respect of which a mutual interest exists in establishing dialogues on professional qualifications or facilitation of licensing procedures. To this end, a Party may consult any of its relevant bodies that it deems appropriate.
2. Where mutual interest is identified, each Party shall encourage its relevant bodies that it deems appropriate and that are responsible for the respective areas of mutual interest, to establish dialogues with the relevant bodies of the other Party on professional qualifications or facilitation of licensing procedures.
3. These dialogues may consider any appropriate means for achieving progress, including mutual recognition arrangements or other mechanisms.

Article 9A.6 Architectural Services

If, pursuant to paragraphs 1 and 2 of Article 9A.5 (Dialogues on Professional Qualifications or Facilitation of Licensing Procedures), a dialogue is established between the relevant bodies of the Parties responsible for regulating the architecture profession, each Party shall encourage those bodies to discuss the potential inclusion of sustainability skills³ as a requirement for recognition.

³ Sustainability skills may include, among others, the study of sustainable design or energy efficiency in the initial training or continuous professional development of architects.

Article 9A.7
Legal Services

1. Nothing in paragraphs 2 to 4 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 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, 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. Paragraph 3 shall not include the supply of:
 - (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; or
 - (c) services supplied by patent or trademark attorneys.

Article 9A.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 (“Dialogue”) composed of representatives from the legal professions of each Party, including from the relevant bodies in each Party.
3. The objectives of the Dialogue are to:
 - (a) consider any matters affecting the requalification of lawyers of one Party seeking admission to practise in the other Party. Issues in scope for consideration include:
 - (i) academic pre-requisites and additional practical legal training, particularly for experienced lawyers;
 - (ii) requirements for post-qualification supervision;
 - (iii) the feasibility of recognising legal professional qualifications obtained in one Party without the requirement for an aptitude examination or adaptation period to be undertaken in the other Party; and
 - (iv) 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; and
 - (c) share information and knowledge on other regulatory matters affecting the legal profession, including on licensing and standards, joint partnerships, and on wider issues affecting the trade in legal services between the Parties.
4. The Parties shall encourage the Dialogue to meet within two years of 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 (“Working Group”) with a report on the progress of objectives set out in paragraph 3 and subsequently provide, if requested, updates on any discussions within the Dialogue.

Article 9A.9
Professional Services Working Group

1. The Working Group, established under Article 30.10 (Working Groups – Institutional Provisions), shall be composed of representatives of each Party.
2. The Working Group may invite, as appropriate, relevant experts, including representatives of relevant bodies, to attend meetings.
3. The Working Group may:
 - (a) review and monitor the implementation and operation of this Annex, including with regard to the measures adopted by a Party pursuant to it, and with a view to identifying areas for improvement;
 - (b) exchange information, and facilitate the exchange of information between relevant bodies, on any matters relating to this Annex, including sharing best practices;
 - (c) make recommendations on best practices to the Services and Investment Sub-Committee (“Sub-Committee”); and
 - (d) consider any other issues relating to this Annex including those referred to it by the Sub-Committee or by the Joint Committee, and refer matters to the Sub-Committee, as appropriate.
4. The Working Group shall report to the Sub-Committee.
5. The Working Group shall meet two years after the date of entry into force of this Agreement, and thereafter as agreed by the Parties.