

TISA – Energy Related Services

Proposal by Iceland and Norway

Article I – Scope

This Chapter shall apply to measures affecting trade in energy related services, irrespective of the energy source dealt with, technology used, whether the energy source is renewable or non-renewable, and whether the service is supplied onshore or offshore.

Article II – Definitions

For the purpose of this Chapter:

- a) «energy related services» means services incidental to exploration, exploitation, development, production or distribution of energy or energy resources to the extent such services are supplied to energy companies, directly or indirectly through their contractors or sub-contractors;
- b) “energy companies” means persons holding the right to undertake exploration, exploitation, development, production or distribution of energy or energy resources.

Article III – Cross-border Trade

1. Each Party shall undertake commitments without limitations to permit cross-border supply as described in Article I-1, 2 (a) and (b) of energy related services to the extent they belong under the following CPC categories:

- architectural services [CPC 8671],
- engineering services [CPC 8672],
- integrated engineering services [CPC 8673],
- management consulting services [CPC 865],
- services related to management consulting services [CPC 866],
- site formation and clearance services [CPC 5113] (including geothermal drilling services),
- maintenance and repair of equipment [CPC 633 + 8861 – 8866] and
- construction and related engineering services [CPC 51].

2. Subject to any terms, limitations, conditions, and qualifications set out in its Schedule, each Party shall permit cross-border supply of energy related services to the extent they belong under the following CPC categories:

- rental/leasing services without operator related to ships [CPC 83103],
- rental/leasing services without operator related to other transport equipment [CPC 83101+83102],
- rental/leasing services without operator related to other machinery and equipment [CPC 83106+83109],
- technical testing and analysis services [CPC 8676],

- services incidental to mining [CPC 883, 5115],
- related scientific and technical consulting services [CPC 8675],
- environmental services [CPC 94],
- other lodging services n.e.c. [CPC 64199] (lodging offshore),
- maritime domestic transport services [CPC 7212],
- maritime towing and pushing services [CPC 7214] and
- bulk storage services of liquids or gases [CPC 7422].

Article IV –Commercial presence

1. Each Party shall undertake commitments without limitations to permit supply through commercial presence of energy related services to the extent they belong under the following CPC categories:

- architectural services [CPC 8671],
- engineering services [CPC 8672],
- integrated engineering services [CPC 8673],
- management consulting services [CPC 865],
- services related to management consulting services [CPC 866],
- technical testing and analysis services [CPC 8676],
- services incidental to mining [CPC 883, 5115],
- related scientific and technical consulting services [CPC 8675],
- site formation and clearance services [CPC 5113] (including geothermal drilling services),
- maintenance and repair of equipment [CPC 633 + 8861 – 8866]
- construction and related engineering services [CPC 51],
- environmental services [CPC 94],
- other lodging services n.e.c. [CPC 64199] (lodging offshore) and
- bulk storage services of liquids or gases [CPC 7422].

2. Subject to any terms, limitations, conditions and qualifications set out in its Schedule, each Party shall permit supply through commercial presence of energy related services to the extent they belong under the following CPC categories:

- rental/leasing services without operator related to ships [CPC 83103],
- rental/leasing services without operator related to other transport equipment [CPC 83101+83102],
- rental/leasing services without operator related to other machinery and equipment [CPC 83106+83109],
- maritime domestic transport services [CPC 7212] and
- maritime towing and pushing services [CPC 7214].

Article V – Sovereignty over Energy Resources

1. The Parties recognise state sovereignty and sovereign rights over energy resources. They reaffirm that such rights must be exercised in accordance with, and subject to, the rules of international law.

2. Without affecting the objective of promoting trade in energy related services, the Agreement shall in no way prejudice the rules in the respective Parties governing the system of property ownership of energy resources.

3. Each Party continues to hold, in particular, the rights to decide the geographical areas to be made available for exploration, development and exploitation of its energy resources, the optimisation of their recovery and the rate at which they may be depleted or otherwise exploited, to specify and enjoy any taxes, royalties or other financial payments payable by virtue of such exploration and exploitation, and to regulate the environmental and safety aspects of such exploration, development and exploitation, and to participate in such exploration and exploitation, inter alia, through direct participation by the government or through state enterprises.

Article VI – Right to Regulate

1. Consistent with the provisions of this Agreement, each Party retains the right to regulate and to introduce or maintain measures affecting trade in energy related services in order to meet legitimate national policy objectives. All such measures shall be clearly defined, transparent and objective.

2. Measures by Parties relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in energy related services shall be pre-established and published, based on objective and transparent criteria and relevant to the supply of the services to which they apply.

3. Parties shall work to ensure maximum transparency of relevant processes relating to the development and application of domestic and international standards by non-governmental bodies.

4. Where technical standards are required and relevant international standards exist or their completion is imminent, each Party shall take them or the relevant parts of them into account in formulating their technical standards, except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of national policy objectives.

Article VII – Competition

1. Each Party shall work to alleviate market distortions and barriers to competition in the supply of energy related services, including the distortions originating from the dominant position of [national] energy companies.

2. Each Party shall ensure that it has and enforces such laws and regulations as are necessary and appropriate to address anti-competitive conduct in the energy related services markets.

3. Each Party shall ensure that their respective competition law and policy are enforced in a transparent, timely, objective and non-discriminatory manner.

[Article VIII – Procurement of energy related services]