

ANNEX XIII

REFERRED TO IN ARTICLE 5.21

ENERGY RELATED SERVICES

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ENERGY RELATED SERVICES¹

Article 1

Scope

This Annex applies 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 2

Definitions

For the purposes of this Annex, “energy related services” means services incidental to exploration, 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.

Article 3

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.

¹ This Annex does not apply to Switzerland.

Article 4

Right to Regulate

1. Consistent with the provisions of the 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 the 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. The Parties shall work to ensure maximum transparency of relevant processes relating to the development and application of domestic and international standards.
 4. Where technical standards are required and relevant international standards exist or their completion is imminent, each Party will make its best endeavour to take the relevant parts of them into account in formulating their technical standards, except where such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of national policy objectives.
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