

- imposes nationality requirements relating to senior management or members of the board of directors;
  - (b) the continuation or prompt renewal of a non-conforming measure referred to in subparagraph (a); or
  - (c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 4 (National Treatment), 5 (Most-Favoured-Nation Treatment), 8 (Senior Management, Board of Directors and Entry of Personnel) and 9 (Performance Requirements).
2. Articles 4 (National Treatment), 5 (Most-Favoured-Nation Treatment), 8 (Senior Management, Board of Directors and Entry of Personnel) and 9 (Performance Requirements) do not apply to a measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its schedule to Annex I.
3. Article 5 (Most-Favoured-Nation Treatment) does not apply to treatment accorded by a Party under an agreement as set out in Annex II.
4. In respect of intellectual property rights, a Party may derogate from Articles 4 (National Treatment), 5 (Most-Favoured-Nation Treatment) and 9(1)(f) (Performance Requirements) in a manner that is consistent with:
- (a) the TRIPS Agreement;
  - (b) an amendment to the TRIPS Agreement in force for both Parties; and
  - (c) a waiver to the TRIPS Agreement granted pursuant to Article IX of the WTO Agreement.
5. Articles 4 (National Treatment), 5 (Most-Favoured-Nation Treatment) and 8 (Senior Management and Board of Directors and Entry of Personnel) do not apply to:
- (a) a procurement by a Party or a State enterprise; or
  - (b) a subsidy or grant provided by a Party or a state enterprise, including a government-supported loan, a guarantee or insurance.
6. Article 5 (Most-Favoured-Nation Treatment) of this Agreement does not apply to financial services.