

- (d) to restrict sales of goods or services in its territory that the investment produces or supplies by relating those sales to the volume or value of its exports or foreign exchange earnings.
4. Paragraph 3 is not to be construed to prevent a Party from making the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-party, conditional on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.⁵
5. Paragraph 1(f) does not apply:
- (a) if a Party authorises use of an intellectual property right pursuant to Article 31 of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or
 - (b) if the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anti-competitive under the Party's competition laws.⁶
6. The provisions of:
- (a) paragraphs 1(b), (c), (f) and (g), and 3(a) and (b) do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs;
 - (b) paragraphs 1(b), (c), (f) and (g), and 3(a) and (b) do not apply to procurement by a Party or a state enterprise; and
 - (c) paragraphs 3(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.
7. Paragraphs 1 and 3 do not apply to a commitment, undertaking, or requirement other than those set out in those paragraphs.

⁵ For greater certainty, paragraph 1 is not to be construed to prevent a Party, in connection with the establishment, acquisition, expansion, management, conduct, or operation of an investment of an investor of a Party or of a non-party in its territory, from imposing or enforcing a requirement or enforcing a commitment or undertaking to locate production, train or employ workers, or construct or expand particular facilities, in its territory, provided that such activity is consistent with paragraph 1(f).

⁶ The Parties recognise that a patent does not necessarily confer market power.