2. This Chapter shall not apply to:

(a) government procurement;

(b) subsidies or grants provided by a Party;

(c) services supplied in the exercise of governmental authority by the relevant body or authority of a Party. For the purposes of this Chapter, "service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

(d) measures adopted or maintained by a Party to the extent that they are covered by Chapter 8 (Trade in Services); and

(e) measures adopted or maintained by a Party to the extent that they are covered by Chapter 9 (Temporary Movement of Natural Persons).

For greater certainty, this Chapter does not bind any Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.

3. Notwithstanding subparagraph 2(d), Article 10.5 (Treatment of Investment), Article 10.7 (Senior Management and Board of Directors),[16] Article 10.9 (Transfers), Article 10.11 (Compensation for Losses), Article 10.12 (Subrogation), and Article 10.13 (Expropriation) shall apply, *mutatis mutandis*, to any measure affecting the supply of a service by a service supplier of a Party through commercial presence in the territory of any other Party within the meaning of Chapter 8 (Trade in Services), but only to the extent that any such measure relates to a covered investment and an obligation under this Chapter.

[16] Article 10.7 (Senior Management and Board of Directors) shall apply to measures affecting the supply of a service only for a Party making commitments in accordance with Article 8.8 (Schedules of Non-Conforming Measures).

**Article 10.3: National Treatment[17]**

1. Each Party shall accord to investors of another Party, and to covered investments, treatment no less favourable than that it accords, in like circumstances, to its own investors and their investments with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that government to investors, and to the investments of investors, of the Party of which it forms a part.

**Article 10.4: Most-Favoured-Nation Treatment[18, 19]**

1. Each Party shall accord to investors of another Party treatment no less favourable than that it accords, in like circumstances, to investors of any other Party or non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any other Party or non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

[17] For greater certainty, whether the treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

[18] This Article shall not apply to Cambodia, Lao PDR, Myanmar, and Viet Nam. The treatment under this Article shall not be accorded to investors of Cambodia, Lao PDR, Myanmar, and Viet Nam, and to covered investments of such investors.

[19] For greater certainty, whether the treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.