

- (d) recommend to the CETA Joint Committee the adoption of any further elements of the fair and equitable treatment obligation pursuant to Article 8.10.3; and
- (e) make recommendations to the CETA Joint Committee on the functioning of the Appellate Tribunal pursuant to Article 8.28.8.

Article 8.45

Exclusion

The dispute settlement provisions of this Section and of Chapter Twenty-Nine (Dispute Settlement) do not apply to the matters referred to in Annex 8-C.

CHAPTER NINE

Cross-border trade in services

Article 9.1

Definitions

For the purposes of this Chapter:

aircraft repair and maintenance services means activities undertaken on an aircraft or a part of an aircraft while it is withdrawn from service and do not include so-called line maintenance;

airport operation services means the operation or management, on a fee or contract basis, of airport infrastructure, including terminals, runways, taxiways and aprons, parking facilities, and intra-airport transportation systems. For greater certainty, airport operation services do not include the ownership of, or investment in, airports or airport lands, or any of the functions carried out by a board of directors. Airport operation services do not include air navigation services;

computer reservation system services means the supply of a service by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

cross-border trade in services or **cross-border supply of services** means the supply of a service:

- (a) from the territory of a Party into the territory of the other Party; or
- (b) in the territory of a Party to the service consumer of the other Party,

but does not include the supply of a service in the territory of a Party by a person of the other Party;

ground handling services means the supply of a service on a fee or contract basis for: ground administration and supervision, including load control and communications; passenger handling; baggage handling; cargo and mail handling; ramp handling and aircraft services; fuel and oil handling; aircraft line maintenance, flight operations and crew administration; surface transport; or catering services. Ground handling services do not include security services or the operation or management of centralised airport infrastructure, such as baggage handling systems, de-icing facilities, fuel distribution systems, or intra-airport transport systems;

selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution, but do not include the pricing of air transport services or the applicable conditions; and

services supplied in the exercise of governmental authority means any service that is not supplied on a commercial basis, or in competition with one or more service suppliers.

Article 9.2

Scope

1. This Chapter applies to a measure adopted or maintained by a Party affecting cross-border trade in services by a service supplier of the other Party, including a measure affecting:
 - (a) the production, distribution, marketing, sale, and delivery of a service;
 - (b) the purchase of, use of, or payment for, a service; and
 - (c) the access to and use of, in connection with the supply of a service, services which are required to be offered to the public generally.
2. This Chapter does not apply to a measure affecting:
 - (a) services supplied in the exercise of governmental authority;
 - (b) for the European Union, audio-visual services;
 - (c) for Canada, cultural industries;
 - (d) financial services as defined in Article 13.1 (Definitions);
 - (e) air services, related services in support of air services and other services supplied by means of air transport ⁽¹⁾, other than:
 - (i) aircraft repair and maintenance services;
 - (ii) the selling and marketing of air transport services;
 - (iii) computer reservation system (CRS) services;
 - (iv) ground handling services;
 - (v) airport operation services;
 - (f) procurement by a Party of a good or service purchased for governmental purposes, and not with a view to commercial resale or with a view to use in the supply of a good or service for commercial sale, whether or not that procurement is 'covered procurement' within the meaning of Article 19.2.2 (Scope and coverage); or
 - (g) a subsidy, or other government support relating to cross-border trade in services, provided by a Party.
3. This Chapter does not affect the rights and obligations of the Parties under the *Agreement on Air Transport between Canada and the European Community and its Member States*, done at Brussels on 17 December 2009 and Ottawa on 18 December 2009.
4. This Chapter does not impose an obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employment on a permanent basis in its territory, or confer any right on that national with respect to that access or employment.

Article 9.3

National treatment

1. Each Party shall accord to service suppliers and services of the other Party treatment no less favourable than that it accords, in like situations, to its own service suppliers and services.
2. For greater certainty, the treatment accorded by a Party pursuant to paragraph 1 means, with respect to a government in Canada other than at the federal level, or, with respect to a government of or in a Member State of the European Union, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to its own service suppliers and services.

⁽¹⁾ These services include services when an aircraft is being used to carry out specialised activities in sectors including agriculture, construction, photography, surveying, mapping, forestry, observation and patrol, or advertising, if the specialised activity is provided by the person that is responsible for the operation of the aircraft.

*Article 9.4***Formal requirements**

Article 9.3 does not prevent a Party from adopting or maintaining a measure that prescribes formal requirements in connection with the supply of a service, provided that such requirements are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination. These measures include requirements:

- (a) to obtain a licence, registration, certification, or authorisation in order to supply a service or as a membership requirement of a particular profession, such as requiring membership in a professional organisation or participation in collective compensation funds for members of professional organisations;
- (b) for a service supplier to have a local agent for service or maintain a local address;
- (c) to speak a national language or hold a driver's licence; or
- (d) that a service supplier:
 - (i) post a bond or other form of financial security;
 - (ii) establish or contribute to a trust account;
 - (iii) maintain a particular type and amount of insurance;
 - (iv) provide other similar guarantees; or
 - (v) provide access to records.

*Article 9.5***Most-favoured-nation treatment**

1. Each Party shall accord to service suppliers and services of the other Party treatment no less favourable than that it accords, in like situations, to service suppliers and services of a third country.
2. For greater certainty, the treatment accorded by a Party pursuant to paragraph 1 means, with respect to a government in Canada other than at the federal level, or, with respect to a government of or in a Member State of the European Union, the treatment accorded, in like situations, by that government in its territory to services or service suppliers of a third country.
3. Paragraph 1 does not apply to treatment accorded by a Party under an existing or future measure providing for recognition, including through an arrangement or agreement with a third country that recognises the accreditation of testing and analysis services and service suppliers, the accreditation of repair and maintenance services and service suppliers, as well as the certification of the qualifications of, or the results of, or work done by, those accredited services and service suppliers.

*Article 9.6***Market access**

A Party shall not adopt or maintain, on the basis of its entire territory or on the basis of the territory of a national, provincial, territorial, regional or local level of government, a measure that imposes limitations on:

- (a) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
- (b) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test; or
- (c) the total number of service operations or the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test.

*Article 9.7***Reservations**

1. Articles 9.3, 9.5 and 9.6 do not apply to:
 - (a) an existing non-conforming measure that is maintained by a Party at the level of:
 - (i) the European Union, as set out in its Schedule to Annex I;
 - (ii) a national government, as set out by that Party in its Schedule to Annex I;
 - (iii) a provincial, territorial, or regional government, as set out by that Party in its Schedule to Annex I; or
 - (iv) a local government.
 - (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 9.3, 9.5, and 9.6.
2. Articles 9.3, 9.5, and 9.6 do not apply to a measure that a Party adopts or maintains with respect to a sector, subsector or activity, as set out in its Schedule to Annex II.

*Article 9.8***Denial of benefits**

A Party may deny the benefits of this Chapter to a service supplier of the other Party that is an enterprise of that Party and to services of that service supplier if:

- (a) a service supplier of a third country owns or controls the enterprise; and
- (b) the denying Party adopts or maintains a measure with respect to the third country that:
 - (i) relates to maintenance of international peace and security; and
 - (ii) prohibits transactions with the enterprise or would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

CHAPTER TEN

Temporary entry and stay of natural persons for business purposes*Article 10.1***Definitions**

For the purposes of this Chapter:

contractual services suppliers means natural persons employed by an enterprise of one Party that has no establishment in the territory of the other Party and that has concluded a *bona fide* contract (other than through an agency as defined by CPC 872) to supply a service to a consumer of the other Party that requires the presence on a temporary basis of its employees in the territory of the other Party in order to fulfil the contract to supply a service;

enterprise means an 'enterprise' as defined in Article 8.1 (Definitions);

independent professionals means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who have no establishment in the territory of the other Party and who have concluded a *bona fide* contract (other than through an agency as defined by CPC 872) to supply a service to a consumer of the other Party that requires the presence of the natural person on a temporary basis in the territory of the other Party in order to fulfil the contract to supply a service;