

Chapter 9
Cross-Border Trade in Services

Article 9.1: Definitions

For the purposes of this Chapter:

- (a) **aircraft repair and maintenance services** means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance (part of CPC 8868);
- (b) **airport operation services** means passenger air terminal services and ground services on air fields, including runway operating services, on a fee or contract basis (excluding cargo handling) (as covered under CPC 7461);
- (c) **computer reservation system services** means services provided by computerised systems that contain information about air carrier’s schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued (part of CPC 7523);
- (d) **cross-border trade in services or cross-border supply of services** means the supply of a service:
 - (i) from the territory of one Party into the territory of the other Party;
 - (ii) in the territory of one Party by a person of that Party to a person of the other Party; or
 - (iii) by a national of a Party in the territory of the other Party;but does not include the supply of a service in the territory of a Party by an investor of the other Party or a covered investment;
- (e) **enterprise** means an enterprise as defined in Article 2.1(f) (Definitions of General Application – General Definitions Chapter), and a branch of an enterprise;
- (f) **enterprise of a Party** means an enterprise organised or constituted under the laws of a Party, and a branch located in the territory of a Party and carrying out business activities there;
- (g) **ground handling services** means container handling services for air transport services only (part of CPC 7411); other cargo handling services for air transport services only, including baggage handling (part of CPC 7419); and other supporting services for air transport (CPC 7469);

第九章 跨境服务贸易

第九条第一款 定义

本章所称：

- (a) 飞机维修保养服务是指当飞机或其一部分在停用时进行的此类活动，不包括所谓的航线维护（属于CPC 8868的一部分）；
- (b) 机场运营服务是指旅客航空终端服务和机场地面服务，包括按费用或合同进行的跑道运营服务（不包括货物处理）（如CPC 7461所述）；
- (c) 计算机预订系统服务是指由包含关于航空公司时刻表、可用性、票价和票价规则的计算机化系统提供的服务，通过这些系统可以进行预订或发行机票（部分属于CPC 7523）；
- (d) 跨境服务贸易或跨境服务供应是指服务的供应：
 - (i) 从一方领土供应到另一方领土； (ii) 在一方领土内由该方人员向另一方人员提供服务；或 (iii) 由一方国民在另一方领土内提供服务；但不包括由另一方投资者或受涵盖投资在一方领土内提供服务；
- (e) 企业是指第2.1(f)条（通用定义——通用定义章节）中定义的企业，以及企业的分支机构；
- (f) 一方企业是指根据一方法律组织或设立的企业，以及位于一方领土内并在当地开展业务活动的分支机构；
- (g) 地面处理服务是指仅指航空运输集装箱处理服务（属于CPC 7411的一部分）；仅指航空运输货物处理服务，包括行李处理（属于CPC 7419）；以及航空运输其他支持服务（CPC 7469）；

- (h) **measures adopted or maintained by a Party** means measures adopted or maintained by:
 - (i) central, regional, or local governments and authorities; and
 - (ii) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.
- (i) **selling and marketing of air transport services** has the same meaning as defined in paragraph 6(b) of the GATS Annex on Air Transport Services, except that “marketing” shall be limited to market research, advertising and distribution;
- (j) **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;
- (k) **service supplier of a Party** means a person of that Party who seeks to supply or supplies a service; and
- (l) **specialty air services** means any non-transportation air services, such as aerial fire-fighting, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services.

Article 9.2: Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of the other Party. Such measures include measures affecting:
- (a) the production, distribution, marketing, sale, and delivery of a service;
 - (b) the purchase or use of, or payment for, a service;
 - (c) the access to and use of distribution, transport, or telecommunications networks and services in connection with the supply of a service;
 - (d) the presence in its territory of a service supplier of the other Party; and
 - (e) the provision of a bond or other form of financial security as a condition for the supply of a service.

(h) 缔约方采取或维持的措施是指缔约方采取或维持的措施：

- (i) 中央、区域或地方政府和当局；以及
- (ii) 行使委托权力的非政府机构
中央、区域或地方政府或当局。

(i) 航空运输服务的销售和营销与《GATS航空运输服务附件》第6(b)段中定义的含义相同，但“营销”应限于市场调研、广告和分销； (j) 行使政府权力而提供的服务是指既非以商业为基础提供，也非与一个或多个服务供应商竞争的任何服务； (k) 缔约方服务供应商是指该方寻求或提供服务的人员；以及 (l) 特种航空服务是指任何非运输类航空服务，例如航空灭火、观光、喷洒、测量、制图、摄影、跳伞、滑翔机牵引以及用于伐木和建筑施工的直升机吊装，以及其他航空农业、工业和检验服务。

航空灭火、观光、喷洒、测量、制图、摄影、跳伞、滑翔机牵引，以及用于伐木和建筑施工的直升机吊装，以及其他航空农业、工业和检验服务。

Article 9.2: 范围和覆盖范围

1. 本章适用于缔约方采取或维持的措施，这些措施影响另一方的服务供应商进行的跨境服务贸易。此类措施包括影响：
- (a) 服务的生产、分销、营销、销售和交付； (b) 购买、使用或支付服务； (c) 与服务供应相关的分销、运输或电信网络和服务的接入和使用； (d) 另一方服务供应商在其领土内的存在；以及 (e) 作为服务供应条件的保证金或其他形式财务担保的提供。

2. Articles 9.5 and 9.8 shall also apply to measures adopted and maintained by a Party affecting the supply of a service in its territory by an investor of the other Party or a covered investment.⁹⁻¹

3. This Chapter does not apply to:

- (a) financial services as defined in Article 12.1(e) (Definitions – Financial Services Chapter);
- (b) government procurement;
- (c) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance;
- (d) services supplied in the exercise of governmental authority within the territory of each respective Party; or
- (e) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:
 - (i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;
 - (ii) the selling and marketing of air transport services;
 - (iii) computer reservation system services;
 - (iv) airport operation services (excluding cargo handling);
 - (v) ground handling services; and
 - (vi) specialty air services.

4. This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

Article 9.3: National Treatment

Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to its own services and service suppliers.

⁹⁻¹ For greater certainty, the Parties understand that nothing in this Chapter, including this paragraph, is subject to Investor-State Dispute Settlement pursuant to Section B of Chapter 10 (Investment).

2. 第9.5条和第9.8条也适用于一方为影响另一方投资者或受涵盖投资在其领土内提供服务而采取和维持的措施。⁹⁻¹

3. 本章不适用于：

- (a) 第12.1(e)条定义的金融服务；(b) 政府采购；(c) 一方提供的补贴或拨款，包括政府支持贷款、担保和保险；(d) 各方在其各自领土内行使政府权力时提供的服务；或(e) 航空服务，包括国内和国际航空运输服务，无论定期或不定期，以及支持航空服务的相关服务，但不包括：
 - (i) 飞机维修保养服务期间飞机退出服务；(ii) 航空运输服务的销售和营销；(iii) 计算机预订系统服务；(iv) 机场运营服务（不包括货物处理）；(v) 地面处理服务；以及(vi) 特种航空服务。

4. 本章对一方关于另一方国民寻求进入其就业市场或在其领土上永久就业的义务不作任何规定，并且不授予该国民关于该进入或就业的任何权利。

第9.3条：国民待遇

每一方应给予另一方的服务和服务供应商不低于其自身服务和服务供应商在类似情况下所给予的待遇。

⁹⁻¹ 为进一步明确，缔约方理解本章，包括本段，均不适用第10章第B节（投资）项下的投资者-国家争端解决。

Article 9.4: Most-Favoured-Nation Treatment

Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to the services and service suppliers of a non-Party.

Article 9.5: Market Access

Neither Party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

- (a) impose limitations on:
 - (i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;
 - (ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (iii) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test⁹⁻²; or
 - (iv) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or
- (b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

Article 9.6: Local Presence

Neither Party may require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 9.7: Non-Conforming Measures

1. Articles 9.3, 9.4, 9.5 and 9.6 do not apply to:

⁹⁻² Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of services.

第9.4条：最惠国待遇

每一方应给予另一方的服务和服务供应商不低于其给予非一方服务和服务供应商在类似情况下所给予的待遇。

第9.5条：市场准入

任何一方不得在其全部领土或任何区域部分领土上采取或维持下列措施：

- (a) 对下列事项施加限制：
 - (i) 服务供应商的数量，无论以数量配额、垄断、独家服务供应商的形式，还是以经济需要测试的要求形式；(ii) 服务交易总额或资产总额，无论以数量配额的形式还是以经济需要测试的要求形式；(iii) 服务运营总数或以指定数量单位表示的服务产出总量，无论以配额形式还是以经济需要测试的要求形式⁹⁻²
 - ；或 (iv) 在特定服务部门中可能被雇用的自然人的总数，或服务供应方可雇用的、对于供应特定形式的服务是必要且直接相关的自然人数，以数量配额的形式或经济需要测试的要求为准；或
- (b) 限制或要求服务供应者通过特定类型的法律实体或合资企业来供应服务。

第9.6条：本地存在

任何一方均不得要求另一方服务供应者在其领土内设立或维持代表处或任何形式的企业，或作为跨境供应服务的条件而成为居民。

第9.7条：不符合措施

1. 第9.3、9.4、9.5和9.6条不适用于：

⁹⁻² 第(a)(iii)款不涵盖一方为限制服务供应的投入而采取的措施。

- (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level of government, as set out by that Party in its Schedule to Annex I;
 - (ii) a regional level of government, as set out by that Party in its Schedule to Annex I; or
 - (iii) a local level of government;
- (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
- (c) an amendment to any 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, 9.4, 9.5 or 9.6.

2. Articles 9.3, 9.4, 9.5 and 9.6 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule to Annex II.

Article 9.8: Domestic Regulation

- 1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.
- 2. Each Party shall ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, including by ensuring that such measures are, *inter alia*:
 - (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
 - (b) not more burdensome than necessary to ensure the quality of the service; and
 - (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.
- 3. Where a Party maintains measures relating to qualification requirements and procedures, technical standards and licensing requirements, the Party shall:
 - (a) make publicly available:
 - (i) information on requirements and procedures to obtain, renew or retain any licences or professional qualifications; and

(a) 任何一方在以下情况下维持的非符合性措施：

(i) 中央政府层面， 由该缔约方在其附件I的附件表中规定； (ii) 区域政府层面， 由该缔约方在其附件I的附件表中规定； 或(iii) 地方政府层面； (b) 继续实施或及时更新第(a)款所述的非符合性措施； 或(c) 对第(a)款所述的非符合性措施进行修订， 但修订不得降低该措施在修订前与第9.3、 9.4、 9.5或9.6条的一致性。

2. 第9.3、 9.4、 9.5和9.6条不适用于任何缔约方就其附件II的附件表中规定的服务部门、 子部门或活动所采纳或维持的措施。

第9.8条： 国内法规

- 1. 每一方应确保所有影响服务贸易的一般性措施均以合理、 客观和公正的方式实施。
- 2. 每一方应确保与服务资格要求与程序、 技术标准及许可要求相关的措施不构成服务贸易的不必要壁垒， 包括确保此类措施， 例如：
 - (a) 基于客观透明的标准， 如能力和服务提供能力； (b) 不比确保服务质量所必需的更负担重； 以及在许可程序的情况下， 本身不限制服务供应。
- 3. 如果一方维持与服务资格要求与程序、 技术标准及许可要求相关的措施， 该方应：
 - (a) 向公众提供： (i) 获取、 续期或保留任何许可证或专业资格的要求和程序信息； 以及

- (ii) information on technical standards;
- (b) where any form of authorisation is required for the supply of a service, ensure that it will:
 - (i) within a reasonable period of time after the submission of an application deemed complete under its domestic laws and regulations, consider the application and make a decision as to whether or not to grant the relevant authorisation;
 - (ii) promptly inform the applicant of the decision whether or not to grant the relevant authorisation;
 - (iii) upon the request of the applicant, provide without undue delay, information concerning the status of the application; and
 - (iv) where practicable, upon the written request of an unsuccessful applicant, provide written reasons for a decision not to grant the relevant authorisation;
- (c) provide for adequate procedures to verify the competency of professionals of the other Party;
- (d) in appropriate professional and other service sectors consider, and where feasible, take steps to implement a temporary or project-specific licensing or registration regime, based on the foreign supplier's home licence or recognised professional body membership (without the need for further written or oral examination) with a view to facilitating temporary access for foreign service suppliers to provide services in relation to specific projects or for limited periods in circumstances where specific expertise is required. Such a temporary or limited licence regime should not operate to prevent a foreign supplier from gaining a local licence subsequent to satisfying the necessary local licensing requirements;
- (e) in each sector where an examination must be passed as a pre-requisite to the provision of a service in the territory of the Party:
 - (i) in the case of examinations administered by government authorities, take reasonable steps to schedule examinations no less frequently than once in every calendar year; or
 - (ii) in the case of examinations solely administered by non-governmental bodies or professional associations, use best efforts to encourage such bodies or associations to schedule examinations no less frequently than once in every calendar year; and

in each case, the Party shall ensure that such examinations are open to applicants of the other Party. The possibility of using electronic means

- (ii) 技术标准信息;

(b) 如果提供服务需要任何形式的授权, 确保其:

- (i) 在其国内法律法规认定申请完整后的合理期限内, 考虑该申请并决定是否授予相关授权; (ii) 及时通知申请人是否授予相关授权的决定; (iii) 应申请人的要求, 无不当延误地提供有关申请状态的信息; 以及 (iv) 在切实可行的情况下, 应未获成功的申请人的书面要求, 提供不授予相关授权决定的书面理由;

(c) 为核实缔约方法律法规中专业人士的能力提供充分的程序;

(d) 在适当的专业和其他服务部门考虑, 并在可行的情况下采取措施实施临时或特定项目的许可或注册制度, 基于外国供应商的本地许可证或认可的专业机构成员资格(无需进一步书面或口头考试), 以促进外国服务供应商为特定项目或有限时期提供服务的临时准入, 在需要特定专业知识的情况下。此类临时或有限许可证制度不应阻止外国供应商在满足必要的本地许可要求后获得本地许可证;

(e) 在每个必须通过考试作为在缔约方领土提供服务的前提条件的行业:

- (i) 在政府机构管理的考试情况下, 采取合理措施安排考试, 频率不低于每年一次; 或 (ii) 在非政府机构或专业协会单独管理的考试情况下, 尽最大努力鼓励此类机构或协会安排考试, 频率不低于每年一次; 以及

在每种情况下, 缔约方应确保此类考试向另一方的申请人开放。应探索使用电子方式进行此类考试的可能性、进行此类考试口头进行的可能性以及在另一方领土内参加此类考试的机会。

for conducting such examinations, of conducting such examinations orally, and of providing opportunities for taking such exams in the territory of the other Party should be explored.

4. Notwithstanding Article 9.1(h), paragraphs 1 to 3 above shall not apply where the relevant measures are the responsibility of non-governmental bodies. However, each Party shall encourage such non-governmental bodies to comply with the requirements of paragraphs 1 to 3 above.

5. If the results of the negotiations related to Article VI:4 of GATS enter into effect, the Parties shall jointly review those results with a view to their incorporation into this Agreement, as considered appropriate by the Parties.

Article 9.9: Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing, or certification of service suppliers, and subject to the requirements of paragraph 3, a Party may recognise the education or experience obtained, requirements met, or licences or certifications granted in a particular country. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. Where a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met or licences or certifications granted in the territory of a non-Party:

- (a) nothing in Article 9.4 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met or licences or certifications granted in the territory of the other Party; and
- (b) the Party shall accord the other Party an adequate opportunity to demonstrate that the education or experience obtained, requirements met or licences or certifications granted in the other Party should also be recognised.

3. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing, or certification of services suppliers, or a disguised restriction on trade in services.

Article 9.10: Denial of Benefits

Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise:

应探索使用电子方式进行此类考试的可能性、进行此类考试口头进行的可能性以及在另一方领土内参加此类考试的机会。

4. 不论第9.1(h)条如何规定，若相关措施由非政府机构负责，则上述第1至第3段不适用。然而，每一缔约方应鼓励此类非政府机构遵守上述第1至第3段的要求。

5. 若与GATS第六条第四款相关的谈判结果生效，缔约方应共同审查这些结果，以视其是否应被缔约方认为适当而纳入本协定。

第9.9条：承认

1. 为履行其授权、许可或认证服务供应商的标准或标准，全部或部分地，并遵守第3段的要求，缔约方可承认在特定国家获得的教育或经验、满足的要求或授予的许可证或认证。此类承认，可通过协调或其他方式实现，可基于与有关国家的协议或安排，或自主给予。

2. 当一方自主地或通过协定或安排承认非一方领土内获得的、满足的要求或授予的许可证或认证的教育或经验时：

- (a) 第9.4条中的任何内容均不得解释为要求一方承认另一方领土内获得的、满足的要求或授予的许可证或认证的教育或经验；以及 (b) 一方应给予另一方充分机会，以证明另一方领土内获得的、满足的要求或授予的许可证或认证也应得到承认。

3. 一方不得以歧视各国在服务供应商的授权、许可或认证的标准或标准的方式承认，或对服务贸易的隐蔽限制构成手段的方式承认。

第9.10条：拒绝利益

经事先通知和磋商，若服务供应商是另一方企业，一方可以拒绝其享受本章规定的利益：

- (a) owned or controlled either by persons of a non-Party or of the denying Party; and
- (b) has no substantive business operations in the territory of the other Party.

(a) 由非一方人员或否认方人员拥有或控制；以及 (b) 在另一方领土内没有实质性的业务经营。

Annex 9-A
Professional Services

1. Further to Article 9.9, the Parties agree to support, to the extent that their resources permit, profession-led initiatives that seek to facilitate recognition of the qualifications and or registration/licensing of professionals of the other Party.
2. To that end, the Parties agree to establish contact points and, on the request of either Party, to consult and exchange information on professional qualifications and registration/licensing. Such information may include:
 - (a) relevant professional and regulatory bodies, including contact details;
 - (b) laws, regulations and/or rules relating to professional qualifications, registration/licensing;
 - (c) procedures for recognition of qualifications; and
 - (d) procedures for recognition of registration/licensing.
3. The Parties agree to support profession-led mutual recognition initiatives, if and when required and to the extent to which their resources permit, in ways that are indicated by professional bodies and/or a regulator that may be of assistance to the negotiation of a mutual recognition agreement.

附件9-A 专业服务

1. 根据第9.9条，缔约方同意在其资源允许的范围内，支持旨在促进承认另一缔约方专业人士的资格和/或注册/许可的行业主导的倡议。
2. 为此，缔约方同意建立联系点，并在任何一方的要求下，就专业资格和注册/许可进行磋商和信息交换。此类信息可能包括：
 - (a) 相关行业协会和监管机构，包括联系方式；
 - (b) 与专业资格、注册/许可相关的法律、法规和/或规则；
 - (c) 资格承认程序；以及
 - (d) 注册/许可承认程序。
3. 缔约方同意在其资源允许的范围内，支持行业主导的相互承认倡议，如果需要且符合条件，以行业协会和/或监管机构所指示的方式进行，这些机构可能有助于相互承认协议的谈判。