

Canada-European Union Comprehensive Economic and Trade Agreement (CETA) Negotiations

Financial Services Offer

Canada

INTRODUCTION

Canada makes the financial services offer without prejudice. It is based on Canada's proposed text; changes that affect the scope of the obligations in the text may require changes to the reservations. This offer is made subject to the condition that the Canada obtains a satisfactory offer from the European Union representing an appropriate balance of market openness relative to Canada's offer with respect to the scope of non-conforming measures listed under Annex I and II against the obligations of the financial services chapter, including most favoured nation treatment. It is understood that a variety of matters outside the framework of this offer – for example, market access commitments and obligations relating to Investment and Cross-border Trade in Services – may also affect the overall balance of the negotiations, thus requiring adjustments to this offer.

Annex X

Cross-Border Trade

Canada

Insurance and Insurance-Related Services

1. Article 5(1) applies to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 18, with respect to:

(a) insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit; and

(b) reinsurance and retrocession, services auxiliary to insurance as described in subparagraph (d) of the definition of financial service, and insurance intermediation such as brokerage and agency as described in subparagraph (c) of the definition of financial service.

2. Paragraph 1 applies only if an EU entity is not in itself or through an agent insuring in Canada a risk.

Banking and Other Financial Services (excluding insurance)

3. Article 5(1) applies to the cross-border supply of or trade in financial services, as defined in subparagraphs (a) of the definition of cross-border supply of financial services in Article 18, with respect to:

(a) the provision and transfer of financial information and financial data processing as described in subparagraph (o) of the definition of financial service; and

(b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other financial services as described in subparagraph (p) of the definition of financial service.

4. Paragraph 3 applies only if neither the foreign bank nor one of its affiliates, if subject to the *Bank Act*, 1991, c. 46, maintains a financial establishment in Canada.

Annex XX: Financial Services Non-Conforming Measures¹

1. The Schedule of a Party to this Annex sets out:

(a) headnotes that limit or clarify the commitments of a Party with respect to the obligations described in subparagraphs (b) and (c);

(b) in Section I, the reservations taken by that Party, pursuant to Article 9(1) and (2) (Financial Services, Non-Conforming Measures), with respect to existing measures that do not conform with obligations imposed by articles relating to:

(i) National Treatment (Article 2);

(ii) Most-Favoured-Nation Treatment (Article 3);

(iii) Right of Establishment (Article 4);

(iv) Cross-Border Trade (Article 5); or

(v) Senior Management and Boards of Directors (Article 8).

(c) in Section II, the reservations taken by the Party, pursuant to Article 9(3), for measures the Party may adopt or maintain that do not conform with obligations imposed by Article 2, 3, 4, 5, or 8.

(d) in Section III, the specific commitments to liberalize measures undertaken by that Party pursuant to Article 9(4).

2. Each reservation in Section I sets out the following elements:

(a) **Sector** refers to the general sector in which the reservation is taken;

(b) **Sub-Sector** refers to the specific sector in which the reservation is taken;

(c) **Type of Reservation** specifies the obligation referred to in paragraph 1(b) for which the reservation is taken;

(d) **Level of Government** indicates the level of government maintaining the measure for which the reservation is taken.

¹ Subject to legal review for consistency with Annexes I and II (Services and Investment).

- (e) **Measures** identifies the laws, regulations or other measures, as qualified by the **Description** element, for which the reservation is taken. A measure cited in the **Measures** element
 - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure;
 - (f) **Description** sets out references, if any, for liberalization on the date of entry into force of this Agreement pursuant to other sections of a Party's Schedule to this Annex, and the remaining non-conforming aspects of the existing measures for which the reservation is taken; and
 - (g) **Phase-Out** sets out commitments, if any, for liberalization after the date of entry into force of this Agreement.
3. Each reservation in Section II sets out the following elements:
- (a) **Sector** refers to the general sector in which the reservation is taken;
 - (b) **Sub-Sector** refers to the specific sector in which the reservation is taken;
 - (c) **Type of Reservation** specifies the obligation referred to in paragraph 1(c) for which the reservation is taken;
 - (d) **Level of Government** indicates the level of government maintaining the measure for which the reservation is taken; and
 - (e) **Description** sets out the scope of the sectors, subsectors, or activities covered by the reservation.
4. In the interpretation of a reservation in Section I, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapter against which the reservation is taken. To the extent that:
- (a) the **Phase-Out** element provides for the phasing out of the non-conforming aspects of measures, the **Phase-Out** element shall prevail over all other elements;
 - (b) the **Measures** element is qualified by a specific reference in the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and

- (c) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

5. In the interpretation of a reservation in Section II, all elements of the reservation shall be considered. The **Description** element shall prevail over all other elements.

6. Where a Party maintains a measure that requires that a service supplier be a citizen, permanent resident, or resident of its territory as a condition to the supply of a service in its territory, a Schedule entry for that measure taken with respect to Article 2, 3, 4, or 5 shall operate as a Schedule entry with respect to Article xx (Investment Chapter, NT), xx (Investment Chapter, MFN), or xx (Investment Chapter, Performance Requirements) to the extent of that measure.

Annex XX

Schedule of Canada

Headnotes

1. Commitments under the Agreement, in the subsectors listed in this Schedule, are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
2. To clarify the commitment of Canada with respect to Article 4 (Right of Establishment), juridical persons supplying financial services and constituted under the laws of Canada are subject to non-discriminatory limitations on juridical form. For example, partnerships and sole proprietorships with limited or unlimited liability are generally not acceptable juridical forms for financial institutions in Canada. This headnote does not affect or otherwise limit a choice by an investor of the other Party between branches and subsidiaries.
3. The listing of a measure as a reservation in Section I or II does not mean that it cannot otherwise be justified as a measure adopted or maintained for prudential reasons pursuant to *Article XX - Prudential Carve-Out*.