

**Canada's Preliminary List of Reservations for
Cross-Border Services and Investment**

INTRODUCTION

This document describes the preliminary investment and cross-border trade in services reservations list that Canada will require subject to final agreement on the provisions of any chapter of this Agreement and a satisfactory overall balance of rights and obligations.

Canada's draft reservations are tabled in accordance with the assumptions set out, respectively, in attachment A, respecting Annex I, and attachment B, respecting Annex II.

Canada reserves the right to make any amendment, modification or addition to this document at any time during the course of the negotiations. Without limiting the generality of the foregoing, this includes the right for Canada to modify or add to this reservation list depending on the final text of the Agreement and Canada's ongoing assessment of Canadian legislation and measures.

This document is premised on the non-application of the investment and cross-border trade in services provisions of the Agreement to measures of sub-national entities. This document is also premised on the inclusion of any general exception that Canada may deem necessary.

This list is also presented without prejudice to Canada's position in these negotiations in respect of financial services. Canada anticipates that satisfactory specific rules on financial services will be developed and form part of the final text of the Agreement based on Chapter Fourteen of the *North American Free Trade Agreement* and the relevant annexes to that Agreement.

ATTACHMENT A

Annex I

1. The Schedule of a Party sets out, pursuant to the Articles on Reservations and Exceptions in the proposed Chapters on Investment and Cross-Border Trade in Services, the reservations taken by that Party with respect to existing measures that do not conform with obligations imposed by articles on:

- (a) National Treatment;
- (b) Most-Favoured-Nation Treatment;
- (c) Local Presence;
- (d) Performance Requirements; or
- (e) Senior Management and Boards of Directors,

and, in certain cases, sets out commitments for immediate or future liberalization.

2. Each reservation 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) **Industry Classification** refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;
- (d) **Type of Reservation** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- (e) **Level of Government** indicates the level of government maintaining the measure for which a reservation is taken;
- (f) **Measures** identifies the laws, regulations or other measures, as qualified, where indicated, 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;
- (g) **Description** sets out commitments, if any, for liberalization on the date of entry into force of this Agreement, and the remaining non-conforming aspects of the existing measures for which the reservation is taken; and
- (h) **Phase-Out** sets out commitments, if any, for liberalization after the date of entry into force of this Agreement.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapters against

which the reservation is taken. To the extent that:

- (a) the **Phase-Out** element provides for the phasing out of non-conforming aspects of measures, the **Phase-Out** element shall prevail over all other elements;
- (b) the **Measures** element is qualified by a liberalization commitment from 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.

4. Where a Party maintains a measure that requires that a service provider be a citizen, permanent resident or resident of its territory as a condition to the provision of a service in its territory, a reservation for that measure taken with respect to the Articles on National Treatment, Most-Favoured-Nation Treatment or Local Presence in the Cross-Border Trade in Services Chapter, or with respect to Articles on Cross-Border Trade, National Treatment or Most-Favoured-Nation Treatment in the Financial Services Chapter, shall operate as a reservation with respect to the Articles on National Treatment, Most-Favoured-Nation Treatment or Performance Requirements in the Investment Chapter to the extent of that measure.

5. The listing of a measure in this Annex is without prejudice to a future claim that Annex II may apply to the measure or some application of the measure.

6. For purposes of this Annex:

CPC means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, *Provisional Central Product Classification*, 1991; and

SIC means with respect to Canada, Standard Industrial Classification (SIC) numbers as set out in Statistics Canada, *Standard Industrial Classification*, fourth edition, 1980.

ATTACHMENT B

Annex II

1. The Schedule of a Party sets out, pursuant to the articles on Reservations and Exceptions in the proposed Chapters on Investment and Cross-Border Trade in Services, the reservations taken by that Party with respect to specific sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by articles on:

- (a) National Treatment;
- (b) Most-Favoured-Nation Treatment;
- (c) Local Presence;
- (d) Performance Requirements; or
- (e) Senior Management and Boards of Directors.

2. Each reservation 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) **Industry Classification** refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;
- (d) **Type of Reservation** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- (e) **Description** sets out the scope of the sector, sub-sector or activities covered by the reservation; and
- (f) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the reservation.

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

4. For purposes of this Annex:

CPC means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, *Provisional Central Product Classification*, 1991; and

SIC means with respect to Canada, Standard Industrial Classification (SIC) numbers as set out in Statistics Canada, *Standard Industrial Classification*, fourth edition, 1980.