

Understanding on the Provision of Public Services and Procurement

The following understanding was reached between the delegations of Canada and the European Union during the course of negotiations regarding specific commitments on public services and procurement in the Comprehensive Economic and Trade Agreement (CETA):

1. The Parties agree that nothing in this treaty shall be construed to restrict the provision, regulation or funding of public services by a Party or its subnational entities. Public services are activities which are subject to special regulatory regimes or special obligations imposed on services or service suppliers by the competent national, regional or local authority in the general interest. Special regulatory regimes or special obligations include, but are not limited to, universal service or universal access obligations, mandatory contracting schemes, fixed prices or price caps, the limitation of the number of services or service suppliers through monopolies, exclusive service suppliers including concessions, quotas, economic needs tests or other quantitative or qualitative restrictions and regulations aiming at high levels of quality, safety and affordability as well as universal access and equal treatment of users.
2. The parties, the EU-Member States and the entities on the sub-national level reserve the right to adopt or maintain any measure with regard to the remunicipalisation of services regardless of whether the service concerned is mentioned in the Annex I or Annex II reservations or not.
3. No measure of a Party or its subnational entities may be considered to be in violation of the 'fair and equitable treatment' or the 'full protection and security' standards if it is covered by the right to regulate, by an exception, reservation or other derogation within this treaty.
4. Nothing in this Agreement shall be construed to prevent a Party or its subnational entities from adopting or maintaining a measure that prescribes formal or substantive 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.
5. With regards to public procurement, nothing in the agreement limits contracting authorities on central and sub-central level in laying down special conditions relating to the performance of a contract, provided the conditions are linked to the subject matter of the contract and indicated in the call for competition or in the procurement documents. Those conditions may include economic, innovation-related, environmental, social or employment-related considerations and the obligation to comply with and adhere to collective agreements.

6. Nothing in this Agreement shall be construed to oblige non-profit, non-commercial, and charitable organisations and companies to act in accordance with commercial considerations as laid out in Article 18.5 (Commercial Considerations).

7. This Understanding constitutes an integral part of the Agreement.
