
CETA and public services



IN-DEPTH ANALYSIS

EU-Canada negotiations for a Comprehensive Economic and Trade Agreement (CETA) started in May 2009 and were declared concluded in September 2014. Subsequently signed in October 2016, the agreement's overall aim is to increase flows of goods, services and investment between the two partners. This in-depth analysis looks at the way and extent to which public services are protected by the agreement.

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EXECUTIVE SUMMARY

EU-Canada negotiations for a Comprehensive Economic and Trade Agreement (CETA) started in May 2009 and were declared concluded in September 2014. One of the main debates surrounding CETA was the protection of public services. Activists, on both sides of the Atlantic, claimed that CETA limits governments' ability to create and regulate public services, as well as to renationalise in case of failed liberalisation or privatisation. Public services have therefore been insulated to some extent from CETA's liberalisation effects with respect to cross-border trade (CBT) and investment flows (INV).

CETA liberalises CBT and INV, except in cases where reservations have been scheduled in the various annexes to the agreement (negative list approach). Moreover, some sectors were completely carved out, i.e. excluded from the scope of the agreement.

CETA has a public sector carve-out, which exempts 'services supplied in the exercise of governmental authority' from the application of the chapter on trade in services, and certain elements of the investment chapter. This carve-out is formulated along the lines of that in the WTO's General Agreement on Trade in Services (GATS) and 'is usually understood in a narrow sense', meaning that the carve-out is applicable to services under governmental authority only (including the police and justice-related services, such as judges, public attorneys, etc.).

The limits (and intrinsic rigidity) of the public sector carve-out have led the EU, along with individual Member States, to introduce additional reservations for specific public services so that these are protected even when they are offered in a competitive way and do not fall under the public sector carve-out. In particular, the EU has entered a general public utility reservation which allows the introduction of monopolies or exclusive rights in sectors regarded as 'public utilities' (*services d'intérêt général*), such as related scientific and technical consulting services, research and development (R&D) services on social sciences and humanities, technical testing and analysis services, environmental services, health services, transport services and services auxiliary to all modes of transport. This reservation does not apply to telecommunications or to computer and related services. Another reservation, targeting health, education and social services, is aimed at introducing restrictions to the selling of equity and assets of an existing public entity so as to ensure that the public sector in this field cannot be bought back by the private sector if the Member State does not wish it. Several other reservations were introduced, either limiting or allowing for future limitations to cross-border trade and investment flows. Some of these reservations preserve certain monopolies or exclusive rights currently granted, others (e.g. those under CETA's Annex II) enable Member States to further regulate these services in the future. Such reservations have been entered for, among other sectors, health services, education services, social services, and environmental, energy and transport services.

In order to understand how a specific Member State has protected its public services, it is necessary to look at the combination of reservations introduced by the EU and those introduced by the Member State itself. As the extent of liberalisation of certain sectors differs among Member States, some chose to introduce reservations in addition to those introduced by the EU, whereas another Member State might have regarded a similar service as falling under the public utilities carve-out (for example the management of cemeteries). The annexes to this publication give a detailed overview of specific reservations introduced by the EU and individual Member States in the area of public services.

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List of main acronyms used

CBT:	Cross border trade in services
CETA:	Comprehensive Economic and Trade Agreement
GATS:	General Agreement on Trade in Services
INV:	Investments
NAFTA:	North American Free Trade Agreement
WTO:	World Trade Organization

1. Background

EU-Canada negotiations for a Comprehensive Economic and Trade Agreement (CETA)¹ began in May 2009 and were concluded in September 2014. The agreement's overall aim is to increase flows of goods, services and investment to the benefit of both partners. For the European Union, CETA represents the first comprehensive economic agreement with a highly industrialised Western economy that shares a similar set of values and a similar tradition regarding the role of government in the economy. For Canada, once ratified, CETA will be the most important agreement in terms of trade and investment volumes after the North American Free Trade Agreement (NAFTA)² and promises to lower its dependency on the US business cycle. CETA regulates trade in goods and services as well as investment relations between the EU and Canada. It further deals with topics such as rules of origin, sanitary and phytosanitary rules, technical barriers to trade, customs and trade facilitation, intellectual property rights, regulatory cooperation, trade and sustainable development and government procurement.³ CETA also establishes a number of joint committees to accompany the implementation and further development of rules initiated by CETA.

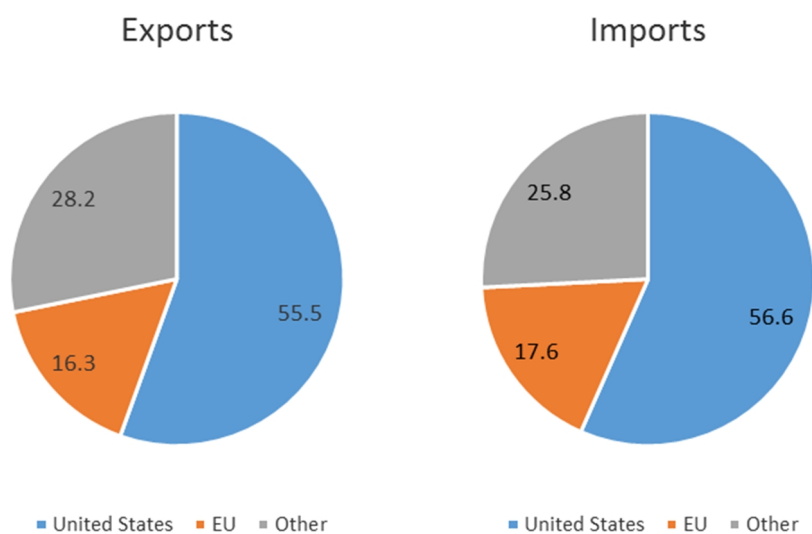
The EU and Canada are even more important to each other when it comes to trade in services than they are for trade in goods. Here, the EU is Canada second major trading partner (see Figures 1 and 2). In 2015, Canada was the sixth partner for EU exports in services. In that year, the EU exported almost €16 billion and imported a little more than €12 billion in trade in services (see Figure 3). Inward investment stocks (the total amount Canadian companies invested in the EU in the past) amounted to €165.9 billion, while outward investment stocks (EU investment stocks in Canada) reached €274.7 billion (these figures include investments both in services and in goods).⁴

¹ [CETA](#)

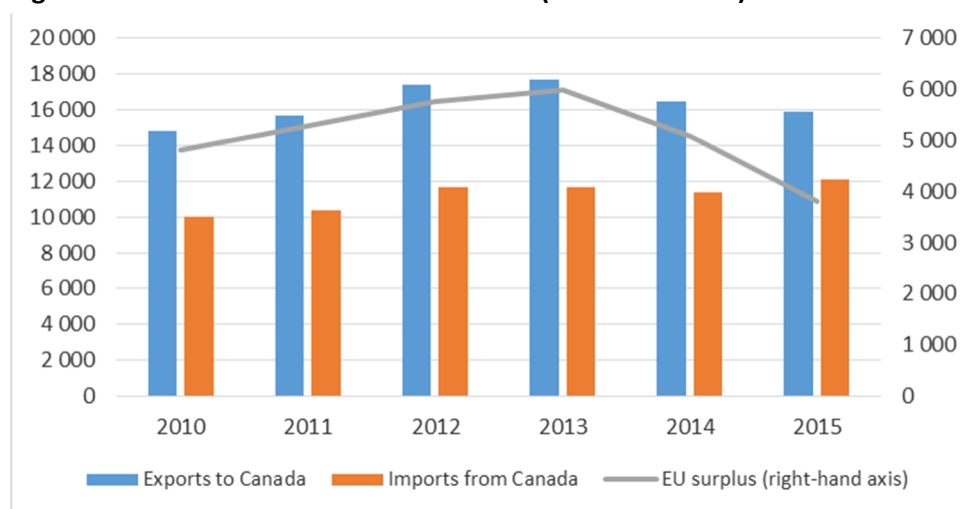
² [NAFTA](#)

³ European Commission, [CETA – Summary of the final negotiating results](#); W. Schöllmann, [International Agreements in Progress: Comprehensive Economic and Trade Agreement \(CETA\) with Canada](#), EPRS, 20 January 2017

⁴ Data source: [DG Trade](#)

Figure 1 – Canada's main export and import partners in commercial services (in percentages)

Data source: WTO.

Figure 2 – EU trade in services with Canada (in million euros)

Source: Eurostat.

Several non-governmental organisations and activists have raised concerns regarding the protection of public services from the liberalisation commitments taken up by CETA. Activists, on both sides of the Atlantic, have claimed that CETA limits governments' ability to create and regulate public services, as well as to renationalise in case of failed liberalisation or privatisation. The objective of this study is to shed some light on how and to what extent public sector concerns are taken up in CETA.

2. An introduction to trade and investment commitments in CETA

To cover all relevant aspects, the General Agreement on Trade in Services (GATS), in force since 1995, provides a rather broad definition of what constitutes trade in services. According to the GATS, there are four ways in which services can be traded, known as 'modes of supply':

- Mode 1: cross-border provision;
- Mode 2: consumption abroad;
- Mode 3: commercial presence abroad;
- Mode 4: temporary movement of natural persons.

Box 1 – GATS modes for trade in services:

- **Mode 1** refers to pure cross-border trade in services, in which the producer and consumer do not meet in person. It is very similar to trade in goods. Examples are the downloading of software products, the provision of online-banking or of book-keeping services delivered via the internet by a foreign provider.
- Under **Mode 2** the customer moves to the producer's location in order to consume the service. Typical examples are tourism and participation in training activities or healthcare abroad.
- **Mode 3** includes a direct investment by a foreign service-provider in the consumer's country. Sales by that subsidiary are counted as exports by the service-provider's home country to the consumer's country. An example is the establishment of a local branch by a foreign bank, restaurant chain or business consultancy.
- In services trade under **Mode 4**, the supplier temporarily moves to the consumer's country in order to provide the service, as with information technology specialists who are sent temporarily from their home to the consumer's country in order to install a new computer network.⁵

CETA contains separate chapters for cross-border trade in services – Mode 1 (Chapter 9), investment – Mode 3 (Chapter 8) and temporary stay of professionals – Mode 4 (Chapter 10). The agreement also contains special rules for specific services, in particular: financial services (Chapter 13), international maritime transport services (Chapter 14) and telecommunications (Chapter 15).

To liberalise cross-border trade in services and investments, the EU and Canada opted for the 'negative list' approach.⁶ This means that unless a reservation is explicitly taken up, trade in services and investment are liberalised so that Canada and the EU give market access, national treatment and most-favoured nation (MFN) status to enterprises and investors from the partner area.

- **Market access** excludes imposing quantitative measures limiting the number of foreign enterprises, an investment's value, the quantity of output, the extent of foreign capital participation, or the number of employees. Conceding market

⁵ See for instance Schöllmann (2015) for further information on economic concepts surrounding trade in services.

⁶ European Commission, [Services and investment in EU trade deals](#): using 'positive' and 'negative' lists, April 2016

access bans quotas, monopolies, exclusive rights, and economic needs tests (where a foreign competitor is only permitted if there is a proven economic need for a new competitor entering the home market). It also forbids prescribing a certain legal form for a foreign enterprise.

- **National treatment** assures that foreign enterprises are treated by governments no less favourably than domestic ones.
- **Most-favoured nation (MFN)** status stipulates that an enterprise from the partner country is treated no less favourably than an enterprise from any third country in like situations (i.e. enterprises from the EU and Canada always get the best available treatment in the partner area).
- The parties also agree not to impose **performance requirements**, such as a mandatory level of exports or domestic content (Article 8.5) and not to require that **senior management or board of director** positions are taken up by people of any particular nationality (Article 8.8).

The negative list approach means that if the EU or Canada do not intend to open a specific service to competition from the partner area or want to reserve the right to introduce specific regulatory measures in violation of one of the above-mentioned principles, such as market access and national treatment, a reservation must be placed on that specific service, unless the service is completely carved-out from the application of CETA rules on services and investments.

Box 2 – Carve-outs in CETA

Complete carve-out (i.e. carve-out from the scope of any of the trade in services and investment chapters) is granted to:

- services supplied in the exercise of governmental authority (public service carve-out);
- audio-visual services for the EU;
- cultural industries for Canada;
- public procurement;
- subsidies or other government support provided for services and investments;
- 'air services, related services in support of air services and other services supplied by means of air transport' (with some exceptions).

Reservations are contained in CETA Annexes I and II.⁷ Reservations introduced in CETA Annex I, unless expressly mentioned otherwise, are subject to standstill and ratchet effects. Standstill means that no restrictions other than those contained in the reservation can be applied in the future (i.e. the current status of liberalisation is locked in). Ratchet means that any future liberalisation measure cannot be taken back. Reservations taken up in CETA Annex II are subject to the standstill, but not to the ratchet effect, enabling a 'policy space'⁸ for possible future changes, in liberalisation policy for instance. Standstill and ratchet provisions are not explicitly mentioned in the annexes (as is, for example, the standstill for trade in goods in Article 2.7) but are effective on account of the specific formulations in the chapters on investment (Article 8.15) and cross-border trade in services (Article 9.7).

⁷ Annex III contains Canadian reservations for financial services, while the EU covers financial services in Annexes I and II).

⁸ Cecilia Malmström, [CETA: An Effective and Progressive Deal for Belgium and Europe](#), 20 September 2016

3. The public sector and services commitments in CETA

3.1. The limits of the public sector carve-out in trade agreements

There is no separate chapter on public services. CETA introduces a public sector carve-out (Articles 8.2 and 9.2) that exempts activities or services 'supplied in the exercise of governmental authority' from the application of the chapter on trade in services and certain elements of the investment chapter. These are defined as services or activities 'carried out neither on a commercial basis nor in competition with one or more economic operators' (Articles 8.1 and 9.1).

The wording used for that carve-out is exactly the same as the one found in the GATS, GATS Article I (3) (b) and (c).⁹ In order to understand what is meant by 'activities in the exercise of governmental authority', it is therefore necessary to refer to interpretations of the GATS provisions.¹⁰

In this way, a public service falling under the carve-out must comply with three main conditions:

- **It must be supplied in the exercise of governmental authority:** The first interpretation problem is whether the service must be exercised directly by governmental authorities or whether it can imply a looser governmental connection (delegated by governmental powers). An even broader interpretation suggested focusing on the public function nature of the service.
- **It should not be delivered on a commercial basis:** The main interpretation problem here is to define whether a service delivered on a non-commercial basis entails any activity not provided upon the condition of a direct payment (narrow definition) or includes also activities that are not remunerated on a commercial basis, i.e. in a non-profit-seeking manner (broader definition).
- **It should not be in competition with one or more economic operators:** On this last point, what the term 'in competition with' means, is open to discussion; i.e. does it include firms providing exactly the same product/service (strict likeness definition) or does it also include firms whose services can be substituted for the those of the monopoly holder (substitutability definition)? Some scholars have argued for the latter definition including suppliers of services or of goods that can be substituted for each other.¹¹ Moreover while scholars have debated the definition of the term 'in competition with', they have not given attention to the term 'economic operators'. What is an 'economic operator'? If a non-governmental organisation is providing the same service as the public monopoly, should it then be called an 'economic operator'?

If the narrow definition applies for all the above conditions, then the carve-out is applicable only to services under governmental authority such as the police or justice-related services (judges, public attorney). If a broader definition could be applicable, then

⁹ [GATS text](#)

¹⁰ There is a lack of WTO practice on this matter. The clause has been cited twice in dispute settlement cases but without in-depth analysis of its meaning. See: Rüdiger Wolfrum, Peter-Tobias Stoll and Clemens Feinäugle, WTO Trade in Services, Max Planck Commentary on World Trade Law, 2008.

¹¹ B. Natens and J. Wouters, [The scope of GATS and of its Obligations](#), working paper of the Leuven Centre for Global Governance Studies, 2013

a monopoly with exclusive rights, which would sell the services to citizens on a not-for-profit basis, would be covered.

Table 1 – Differing interpretations of GATS public sector carve-out, formulated by Krajewski

Interpretation approaches	Main interpretation features/ instruments/ rules	Conclusions on the carve-out interpretation
Interpretation rules in the Vienna Convention on the Law of Treaties	Textual and contextual interpretation (using the provisions text, the agreement text, including annexes, to subsequent practices and preparatory work)	This approach does not clarify the scope of the public sector carve-out. It can give a narrow or a broad meaning to Article I:3 (b) and (c) of GATS, depending on how you define a service provided on a commercial basis.
The <i>in dubio mitius</i> approach	In the case of doubts the interpretation chosen is the one less restrictive for the sovereignty of the state.	This approach leads to a broad interpretation of the carve-out, therefore including any activity that provides the service at a rate below costs.
Restrictive interpretation of exceptions	In the case of doubts the interpretation is the one that adopts a narrow definition to the exception to preserve a larger scope of commitments taken under the agreement.	This approach points to a narrow interpretation of the carve-out, therefore including only activities rendered without a direct payment.
'Purposive' or teleological interpretation	The interpretation chosen depends on the main objective of the agreement.	<p>If the interpretation of the GATS provisions gives greater weight to the objective of liberalisation, then the carve-out would be interpreted narrowly.</p> <p>If the objective of ensuring regulatory flexibility in GATS is considered a more important objective then the carve-out is interpreted broadly.</p>

Source: M. Krajewski, [Public services and the scope of the General Agreement on Trade in Services](#) (GATS), COIEL, 2001.

3.2. The introduction of reservations for preserving public services and utilities

Because of the uncertainty regarding the scope of the public carve-out, the EU introduced additional reservations for specific public services in order to be able to further regulate these services even when they are offered in a competitive way (and thus do not fall under the public sector carve-out) or to provide, for the reservations placed in CETA Annex II, for the possibility to re-nationalise services at some point in the future (see below). Articles 8.15 provides for parties to be able to place reservations

regarding their commitments on market access, performance requirements, national treatment, MFN and senior management and boards of directors with respect to investment from the partner area. For trade in services, Article 9.7 likewise provides for possibilities regarding commitments on national treatment, MFN and market access. Therefore, the reservations in the annexes contain exceptions to the obligations the parties agreed on in the main chapters on trade in services and investment. In particular, CETA Annex I contains reservations for existing measures and liberalisation commitments, and CETA Annex II, reservations for future measures.¹² The EU introduces reservations that are applied to the EU as a whole (unless otherwise specified) and each Member State of the EU was given the possibility to introduce individual reservations to complement the EU reservations or to cover additional sectors. Each entry in the schedule of reservations is specific. It names one or more aspect it is valid for (market access, national treatment, MFN, performance requirements, senior management and boards of directors). It also states if it relates to investment, cross-border trade in services (CBT) or both, and what specific measures or series of measures the EU, Canada want to have the liberty of taking, and at what level (EU/Canadian federal level, or Member State/province/territory level).

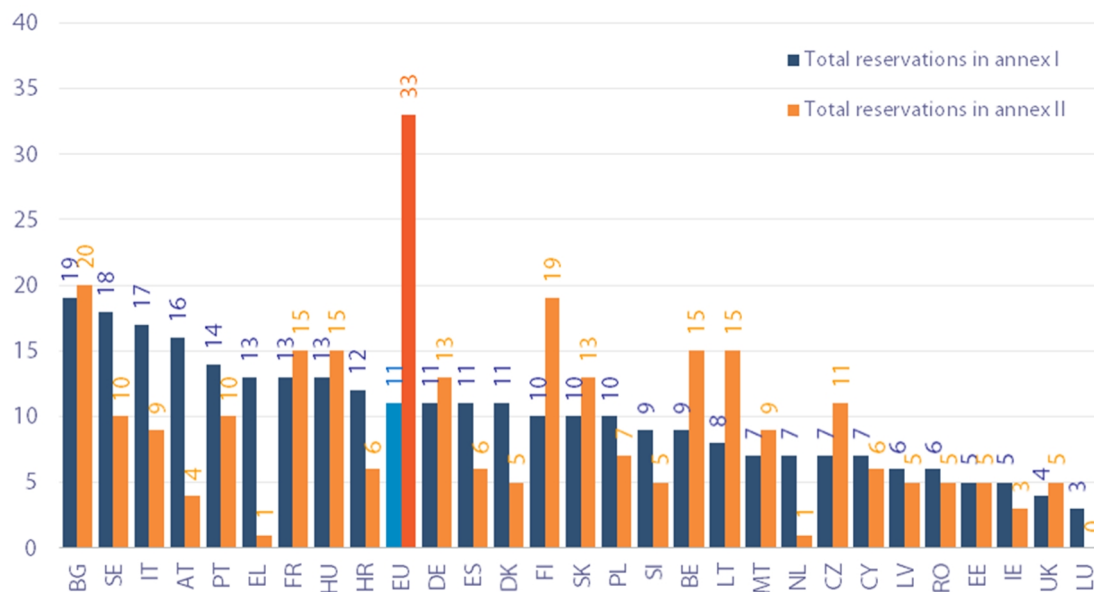
Box 3 – Examples of reservations:

Reservations can:

- limit the number of enterprises that may carry out a specific economic activity (infringement of commitments concerning market access);
- demand that an investor achieve a given level of local content (infringement of commitments concerning performance requirements);
- treat investors from the partner area less favourably than domestic enterprises (infringement of commitments concerning national treatment);
- decide not to accord the best available international treatment in like situations to enterprises from the partner area (infringement of MFN commitment); or
- demand that members of senior management or the board of directors are of a particular nationality (infringement of the commitment regarding senior management and boards of directors).

Figure 3 below shows the number of reservations introduced at EU and Member State level in CETA Annex I and in CETA Annex II.

¹² Annex II may cover areas where legislation exists and is in violation of the treaty but it also allows for future more restrictive measures, whereas Annex I, with a few exceptions, applies only to current measures and protects only the current level of restrictiveness in the prescribed sector.

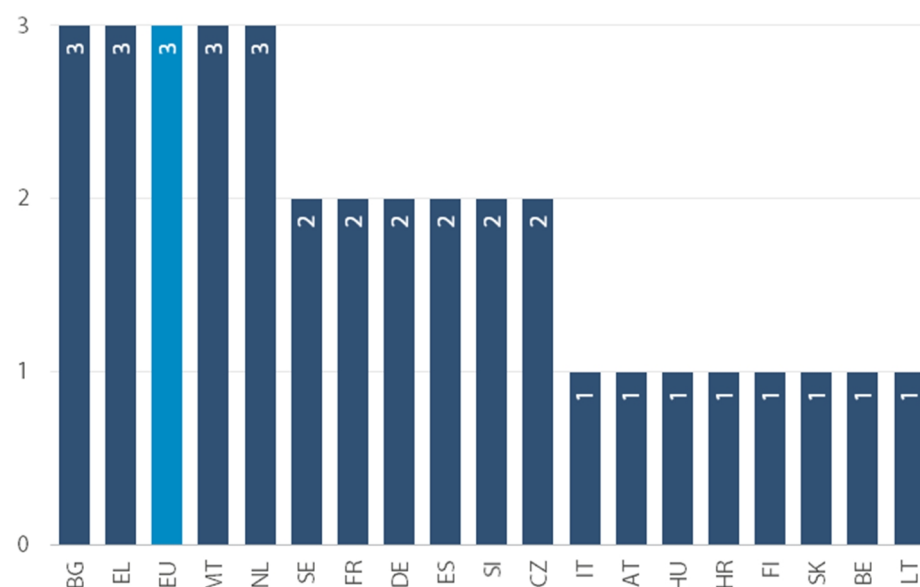
Figure 3 – Total number of EU and Member State reservations in CETA Annexes I and II

Source: EPRS.

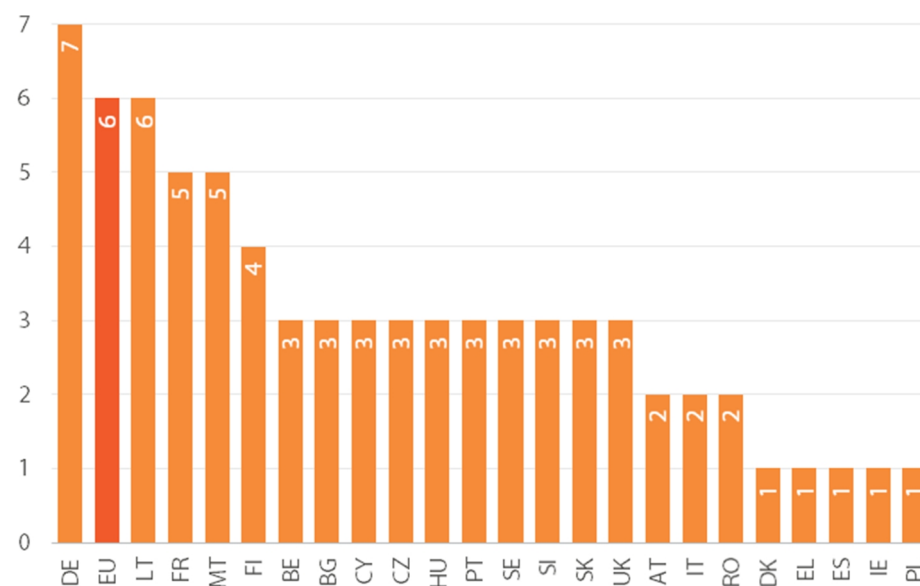
In a dataset established to analyse the various reservations on services in CETA, EPRS constructed a dummy variable equal to one, every time the reservation introduced in CETA Annex I or II refers clearly to a public or private concern.¹³ Figures 4 and 5 below show the total number of reservations that refer at EU and Member States level to this public or private concern respectively for CETA Annexes I and 2. Annexes 6.2 and 6.3 of this study provide a detailed analysis of these reservations, looking at whether they cover both cross-border trade and investments or only one of the two chapters and whether they cover national treatment, market access, performance requirements and the senior and management board rule.¹⁴ Beyond these reservations, in CETA Annex II there are a certain number of reservations that allow for the introduction of 'any regulatory measures' for specific sectors, thus allowing also for measures with a public or private aim if necessary. Annex 6.4 of this study covers in detail those reservations that refer to the right to introduce 'any measures' with respect to foreign investments.

¹³ By public or private concern, we mean a reservation that reserves the right to introduce any measure with respect to privately or publicly funded services, specifically protects an existing monopoly or exclusive rights, or otherwise reserves the right to introduce monopolies or exclusive rights.

¹⁴ Some of these reservations also introduced reservations on MFN or on other obligations applicable to international maritime transport services.

Figure 4 – Number of public or private EU or Member State reservations in CETA Annex I

Source: EPRS.

Figure 5 – Number of public or private EU or Member State reservations in CETA Annex II

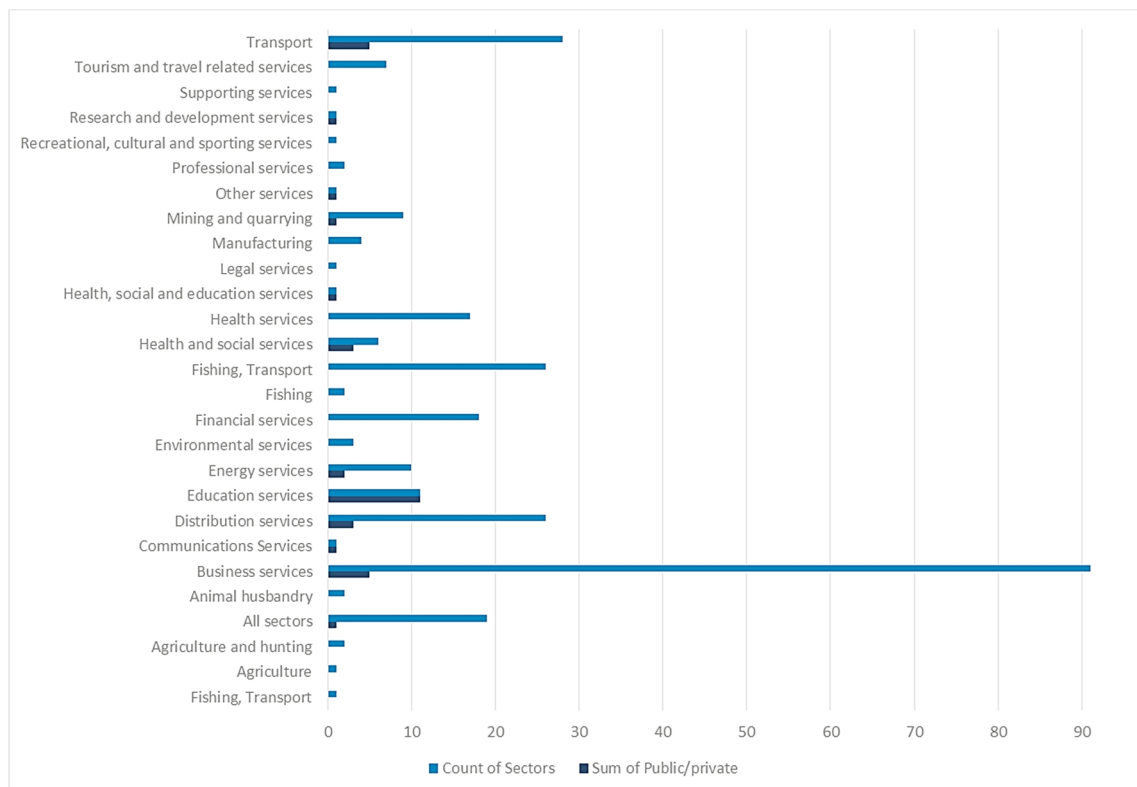
Source: EPRS.

Figures 4 and 5 show that while the EU has introduced a number of reservations directly targeting public and private issues, a certain number of reservations are also introduced at Member State level. It is therefore important to look at both levels of protection to understand the level of protection possible for each Member State regarding its public services. For the EU and for the Member States most reservations with a public or private dimension are found in CETA Annex II, which is not subject to the ratchet clause and allows for the introduction of future restrictions. Luxembourg and Latvia do not have any individual reservations with a public or private dimension beyond those introduced by the EU.

Most of the public or private reservations concern education, health, and social services (see Figures 6 and 7), but other public utilities such as energy and environmental services (soil management, services for the collection and purification of water, waste

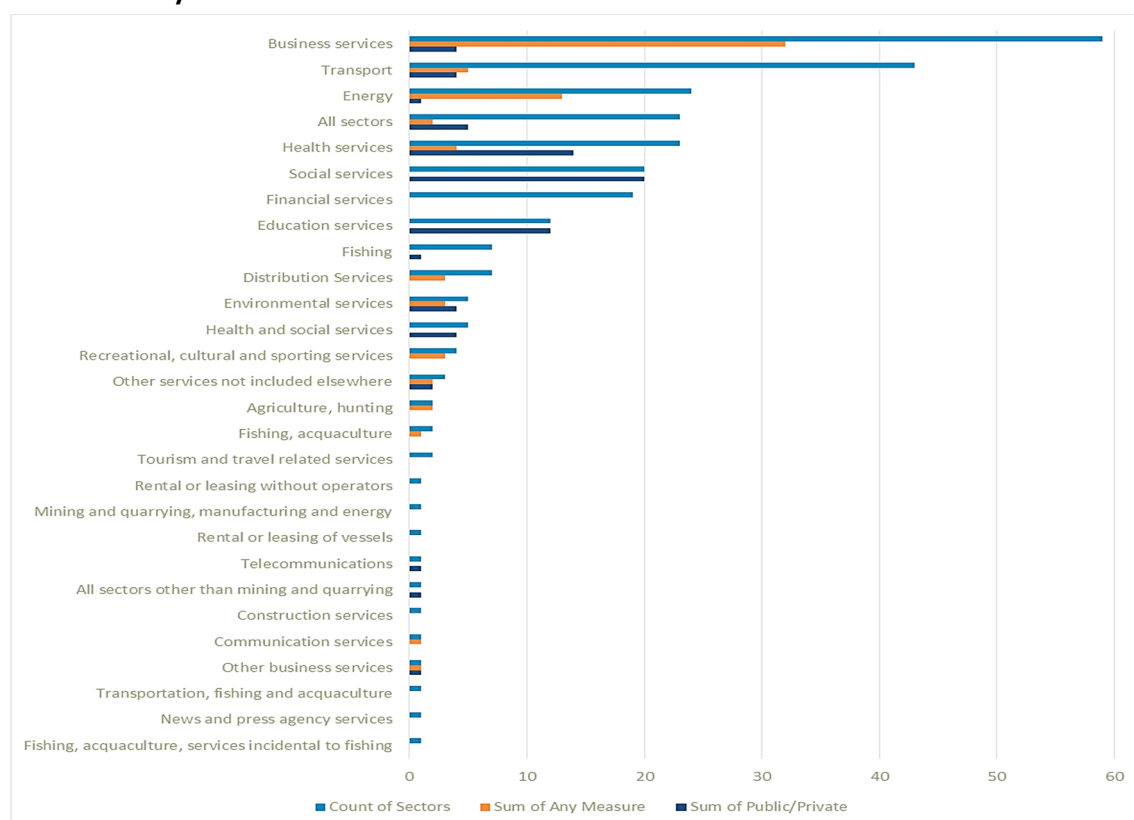
management, recycling) are also covered by reservations. Some reservations were also applied to preserve exclusive rights in certain transport services (in particular certain water transportation services). Finally, reservations were introduced to preserve some areas where public funds are provided (such as research and development) or distribution services that are subject to monopolies in certain Member States because of public concerns (alcohol or tobacco retailers).

Figure 6 – Total number of EU and Member State reservations in Annex I of CETA by sector and total number of reservations by sector covering a public or private concern



Source: EPRS.

Figure 7 – Total EU and Member State reservations in Annex II of CETA by sector and the total number of reservations by sector covering a public or private concern or granting the right to introduce 'any measure'



Source: EPRS.

3.3. Detailing CETA reservations applying to major public service sectors

The tables in Annexes 6.2 and 6.3 of this analysis provide for a detailed analysis of those reservations that refer clearly to a public or private concern, showing which obligations and chapter they cover (cross-border trade or investment). By public or private concern is meant a reservation that either reserves the right to introduce any measure with respect to privately or publicly funded services, specifically protects a monopoly or exclusive rights that have been granted, reserves the right to introduce monopolies or exclusive rights, reserves the service in question to a governmental agency, or makes it subject to governmental appointment. The table in Annex 6.4 concerns sectors in which the EU and its Member States have retained the right to introduce any measure with respect at least to investment flows¹⁵ thus also allowing the introduction of public or private considerations.

3.3.1. The main public utilities covered by an EU reservation

At the very beginning of CETA Annex II, the EU reserves the right to restrict market access for investments in 'services considered as public utilities at a national or local level'. This reservation therefore covers public utilities for all sectors even though it specifically mentions: scientific and technical consulting services, research and development (R&D) services on social sciences and humanities, technical testing and analysis services, environmental services, health services, transport services and services auxiliary to all modes of transport. This list is non-exhaustive. The fact of not giving an exact definition allows a broader scope for the exception. Only telecommunications, computer, and

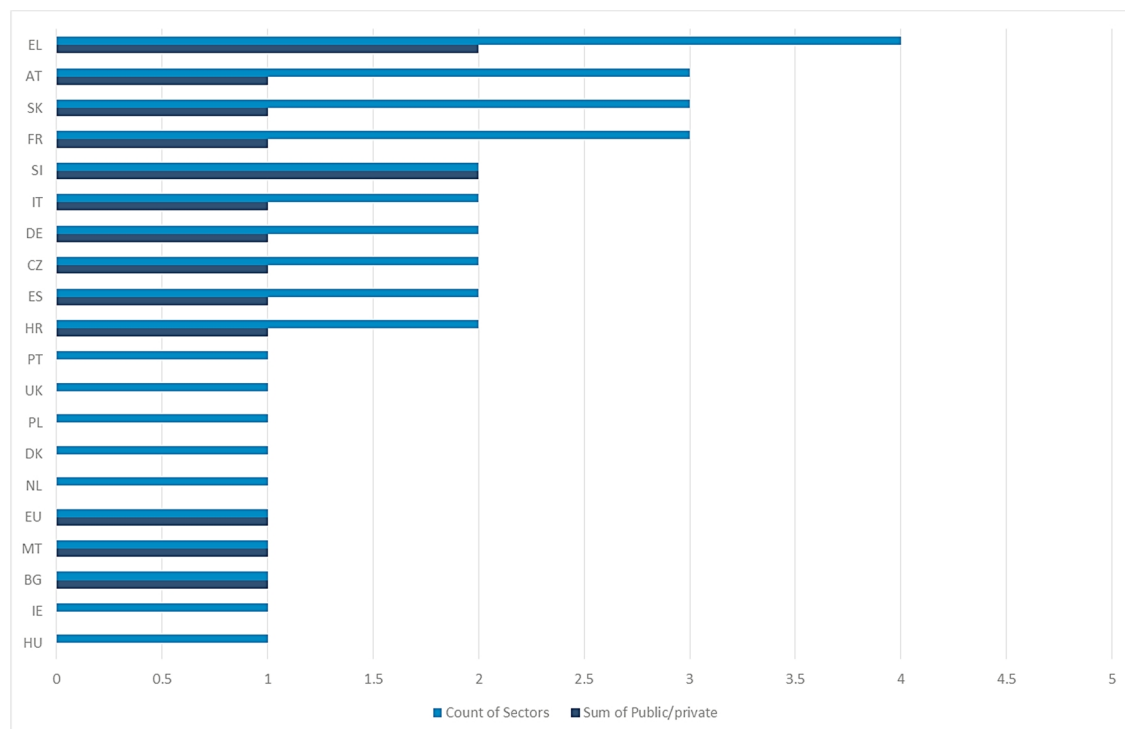
¹⁵ The reservations can also cover cross-border trade.

related services are explicitly excluded from the scope of the reservation. The reservation allows the introduction of public monopolies or exclusive rights granted to private operators. This reservation is applicable only for investment. It does not limit the cross-border trade in those services, for which additional reservations may have been introduced on a sector-specific basis.

3.3.2. Health, social or education services

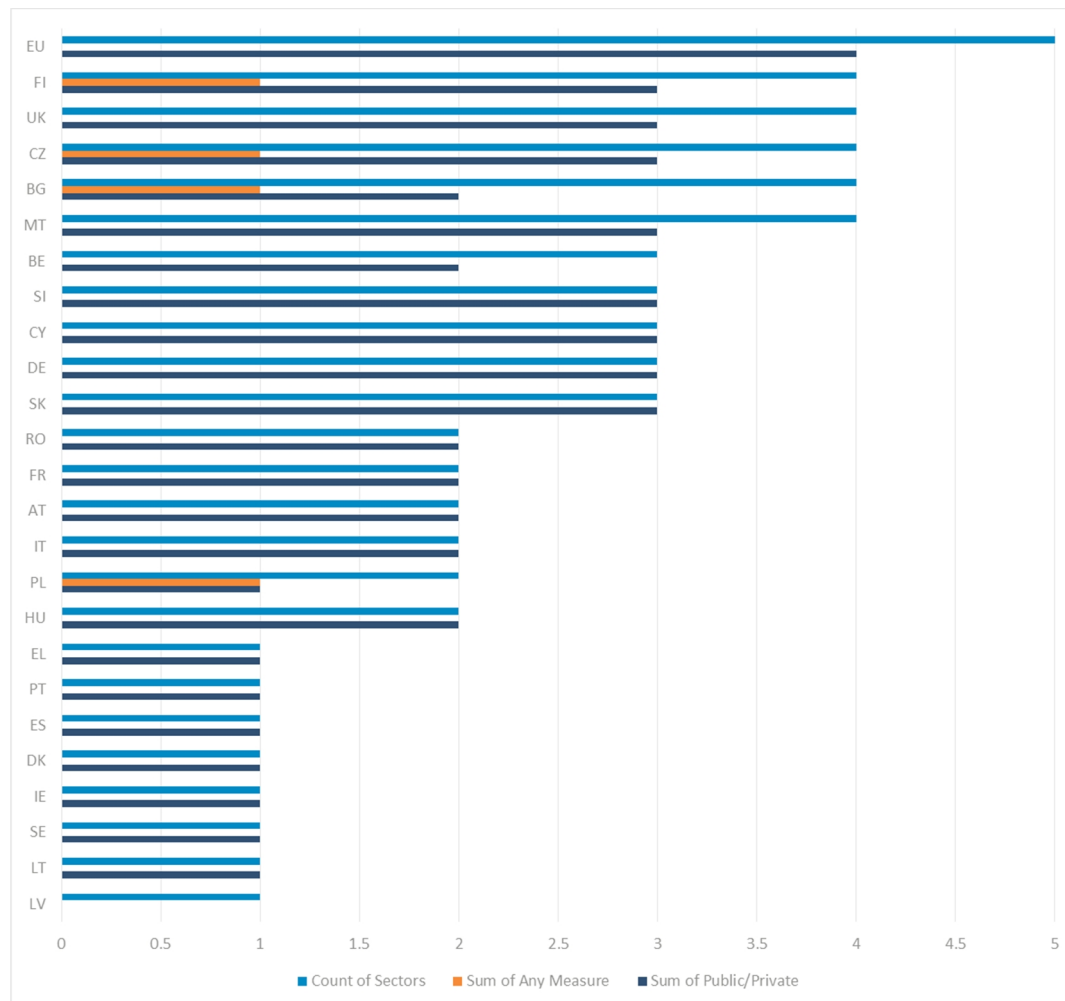
There are several EU and Member State reservations covering health, social or education services in CETA Annex I and CETA Annex II as shown in Figures 8 and 9. Many of these reservations have a public/private dimension as shown by Figures 8 and 9.

Figure 8 – Total EU and Member State reservations for health-related, education and social services in Annex I of CETA by sector and total number of reservations covering a public or private concern



Source: EPRS.

Figure 9 – Total EU and Member State reservations for health-related, education and social services in Annex II of CETA and total number of reservations covering a public or private concern or granting the right to introduce 'any measure'



Source: EPRS.

A first important reservation covers all three sectors: health, social and education. This first reservation, contained in CETA Annex I, allows the EU or any Member State to impose limitations on the ownership of equity interests or assets of state enterprises or an existing governmental entity providing health, social or education services when selling or disposing of equity interests. Limitations may also be imposed on the ownership of such interests or assets, and on the possibility for owners of such interests and assets to control any resulting enterprise. In other words, this first reservation allows the state to prohibit the privatisation of public institutions when opening the public institution to private funding. The importance of this reservation is also highlighted by the fact that, even though the measure is contained in CETA Annex I, it does allow for the future introduction of limitations on the selling of ownership of equity assets and interest in such services, and on the number of suppliers, while also imposing nationality requirements. Measures adopted in the future will be considered as existing measures.

3.3.3. Specific reservation for health services

There are noticeable EU-level reservations in CETA Annex II with respect to health services and one on human health services and social services.

A reservation with respect to health services allows the introduction of any measure with regard to the supply of health services receiving public funding and preserves the right to adopt or maintain any measure with regard to all privately funded health services,

other than privately funded hospital, ambulance, and residential health facility services other than hospital services. It also makes it possible to impose the requirement of concessions to private participation in the health-related network and to apply an economic needs test. The reservation allows any measure with respect to investments, restricting commitments made for market access, national treatment, performance requirements, senior management and boards of directors. It does not cover cross-border trade in services, which is covered by a separate EU reservation covering human health and social services. National complementary reservations are found for Austria (AT), Belgium (BE), Bulgaria (BG), Cyprus (CY), Czech Republic (CZ), Finland (FI), France (FR), Malta (MT), Poland (PL), Slovenia (SI), Slovakia (SK) and the United Kingdom (UK). As shown in the table, those reservations are aimed at covering some or all services excluded from the EU reservation, such as ambulances, residential health services and hospitals. AT and SI introduce the reservation only for ambulance services; Germany (DE) introduces it for hospitals; BE and the UK introduce it for ambulances and residential services other than hospitals; MT, SK, FI, UK, CZ, CY and BG for hospital services, ambulance and residential services. SI further introduced a reservation under CETA Annex I to preserve a state monopoly with respect to specific medical services and FR introduced an additional reservation under CETA Annex II to be able to introduce any measures with respect to laboratory testing.

In a reservation on human health and social services, the EU restricts market access and national treatment for cross-border trade in services for human health services. The EU reserved the right to adopt or maintain any measure requiring the establishment and physical presence in their territory of suppliers and restricting the cross-border supply of social services, including services and activities related to a public retirement plan or statutory system of social security. For health services, the EU, with the exception of Hungary (HU), (which introduced a separate reservation), reserves the right to adopt or maintain any measure requiring the establishment or physical presence of suppliers in their territory and restricting the cross-border supply of health services from outside their territory. HU and the UK introduced a national reservation for cross-border services.

The two reservations above do not cover health-related practices such as doctors or dentists, which are covered by other reservations. The EU (with the exception of BE, FI, the Netherlands (NL) and Sweden (SE)) has not opened up the cross-border supply of all health-related professional services. These, including services provided by medical doctors, dentists, midwives, nurses, physiotherapists, paramedics and psychologists, require residency. These services may be provided only by natural persons physically present in the territory of the EU. Complementary national reservations have been introduced by AT, BE, BG, FI, FR, MT, SK and the UK. While the NL and SE did not introduce any national reservation on human health-related services, FI did introduce a reservation allowing it to introduce any measure in the future restricting investments or cross-border trade of such services. Similarly BE introduced a specific reservations in order to reserve the right to introduce any measure restricting cross-border trade of medical services. Moreover, those EU Member States for whom the EU reservation applies also introduced complementary reservations. Some of these national complementary reservations extend the EU reservation on investments by adding further restrictions to market access in investments; this is the case of the AT reservation, which also requires nationality, and the UK reservation, which makes establishment of doctors under the National Health

Service subject to planning. FR and MT add further requirements¹⁶ and also impose restrictions on cross-border movements. The UK, like BE, introduces a reservation allowing restriction to cross-border movements. SK simply imposes a restriction allowing cross-border movement only to natural persons (i.e. no firms). Greece (EL) introduces a similar reservation with respect to dental technicians only. Finally, CZ and BG introduce, like as FI, a reservation allowing for the adoption of any measure restricting both foreign investments and cross-border movements of economic actors for health-related services.

3.3.4. Education services

The EU also reserved the right to introduce any measure with respect to market access for investment and cross-border trade with regard to the supply of all educational services that receive public funding or state support. This reservation further allows, where privately funded education has been permitted, private operators to be subject to the requirement of holding a concession. Furthermore the EU (with the exception of CZ, NL, SE and SK) reserves the right to adopt any measure with respect to the supply of privately funded education services other than those classified as primary, secondary, higher or adult education. Again these national reservations are there to allow further protection for those EU Member States that wished for particular restrictions with respect to primary, secondary and/or higher private education. Such complementary national reservations can be found for AT, BG, CY, CZ, FI, FR, Italy (IT), MT, Romania (RO), SE, SI and SK. CZ imposes both an establishment obligation for higher education services (in CETA Annex I) and the requirement that the majority of the executive board be Czech nationals (CETA Annex II). SK has similar reservations in CETA Annex I and II but also requires EEA residency for private education providers other than post-secondary technical and vocational education. Nationality restrictions on board members are also introduced by EL and SI; SI further retains the right to limit cross-border trade (CBT). MT introduces a licensing obligation for CBT and further retains any measure with respect to all education services that are privately owned; CY, FI and RO also retain any measure with respect to all education services that are privately owned, while SE introduces a similar all-encompassing reservation but only for education services that are privately owned and which are entitled to public funds. IT requires establishment and retains the right to limit cross-border trade for primary, secondary and higher education in addition to introducing an economic needs test for investment in higher education. Spain (ES) requires an authorisation for investment in universities issuing recognised diplomas, while AT requires an authorisation for CBT and investment flows (INV) only for applied sciences in higher education and retains the right to introduce any measure for all higher education and adult education services. FR introduces a reservation under CETA Annex I introducing a nationality requirement to teach in private funded institutions only.

¹⁶ FR introduces a quota for foreign practice of some medical services and imposes a specific certain legal form for the practice of such services. MT has a requirement both of nationality and of authorisation to practice.

Table 2 – Reservations for education services

Private education services	Primary education		Secondary education		Higher education		Other	
Type of flow	CB	INV	CB	INV	CB	INV	CB	INV
EU	Concession	Concession	Concession	Concession	Concession	Concession	Any measure	Any measure
Austria	EU reservation only	EU reservation only	EU reservation only	EU reservation only	Any measure and authorisation needed for applied sciences higher education services	Any measure and authorisation needed for applied sciences higher education services	EU reservation only	EU reservation only
Bulgaria	Any measure	Commercial presence and cooperation with Bulgarian schools	Any measure	Commercial presence and cooperation with Bulgarian schools	Any measure	Any measure	EU reservation only	EU reservation only
Cyprus	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure
Czech Republic	EU reservation only	Majority of board from CZ	EU reservation only	Majority of board from CZ	EU reservation only	Establishment requirement + majority of board from CZ	EU reservation only	Majority of board from CZ
Greece	EU reservation only	Majority of board from EU	EU reservation only	Majority of board from EU	EU reservation only	Only provided by public law governmental entities	EU reservation only	EU reservation only
Spain	EU reservation only	EU reservation only	EU reservation only	EU reservation only	EU reservation only	Authorisation required for universities issuing recognised diplomas	EU reservation only	EU reservation only
France	Nationality to teach	EU reservation only	Nationality to teach	EU reservation only	Nationality to teach	EU reservation only	EU reservation only	EU reservation only
Italy	Any measure	Establishment requirement	Any measure	Establishment requirement	Any measure	Establishment + economic test	EU reservation only	EU reservation only
Malta	Any measure	Any measure	Any measure	Any measure	Licensing obligation + any measure	Any measure	Any measure	Any measure
Romania	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure
Slovakia	EU reservation only	EEA residency + majority of board must Slovak	EU reservation only	EEA residency + majority of board must Slovak	EU reservation only	Establishment + majority of board must Slovak	EU reservation only	EU reservation only
Slovenia	Any measure	Nationality requirement + right to request establishment	Any measure	Right to request establishment + majority of board must be Slovenian	Any measure	Right to request establishment + majority of board must be Slovenian	Any measure	Any measure
Finland	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure
Sweden	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure	Any measure

For all other Member States, no national reservations apply on top of the EU reservations.

Source: EPRS.

3.3.5. Social services

The reservation on the investment dimension of social services in turn restricts commitments made for market access, national treatment, performance requirements and senior management and boards of directors. Here, the EU reserved the right to adopt or maintain any measure with regard to social services receiving public funding including public retirement plans or statutory social security. The reservation allows the participation of private operators based on concessions, on a non-discriminatory basis, for which an economic needs test may apply. The combination of this reservation with the one covering health, education and services (discussed above on page 16) means that through public concessions private (including foreign) operators can deal with social security schemes, but that physical presence and establishment can be required and cross-border trade can be restricted. At the same time, the EU has reserved the right to introduce any measure with respect to both cross-border trade and investment in social security and public retirement schemes so that the participation of private operators is only a possibility not an obligation. Complimentary national reservations are applicable for BE, CY, CZ, DE, Denmark (DK), EL, ES, FI, FR, HU, Ireland (IE), IT, Lithuania (LT), MT, PL,

Portugal (PT), RO, SI, SK, and the UK. CZ, FI, HU, MT, PL, RO, SK and SI retain the right to adopt or maintain any measure with respect to the supply of privately funded social services, while BE, CY, DK, FR, DE, EL, IE, IT, ES and UK retain the right to adopt or maintain any measure with respect to the supply of privately funded social services other than services relating to convalescent and rest houses and old people's homes. LT restricts cross-border trade of social services receiving public funding only. DE also introduced a reservation to protect its social security system.

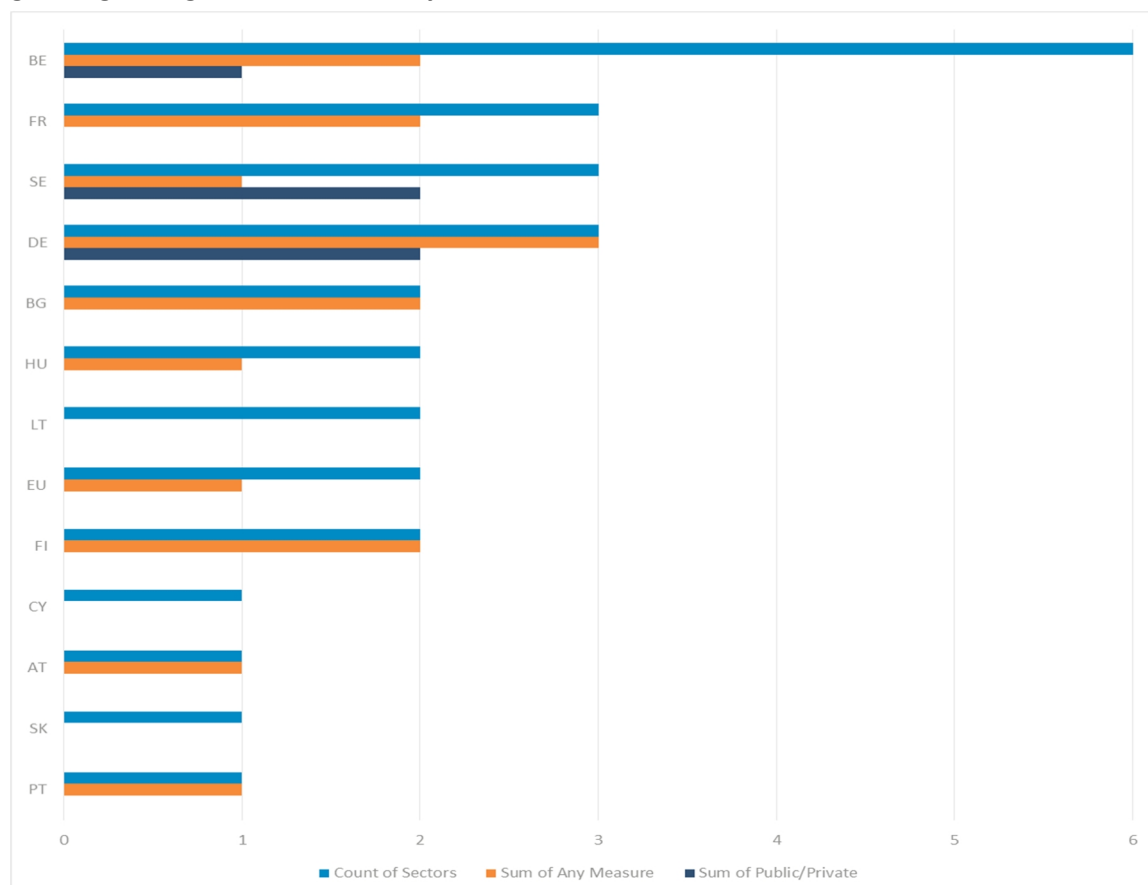
3.3.6. Research and development services

CETA Annex I also has a reservation for investment and trade in services in research and development services, protecting publicly-funded research and development (R&D) services. For publicly funded R&D, services benefitting from funding provided by the EU at EU level, exclusive rights or authorisations may be granted only to nationals of the Member States or to legal persons of the EU having their registered office, central administration or principal place of business in the EU. For publicly funded R&D services benefitting from funding provided by a Member State, exclusive rights or authorisations may be granted only to nationals or to legal persons of the Member State concerned. Legal persons must have their headquarters in that Member State.

3.3.7. Environmental services and energy services:

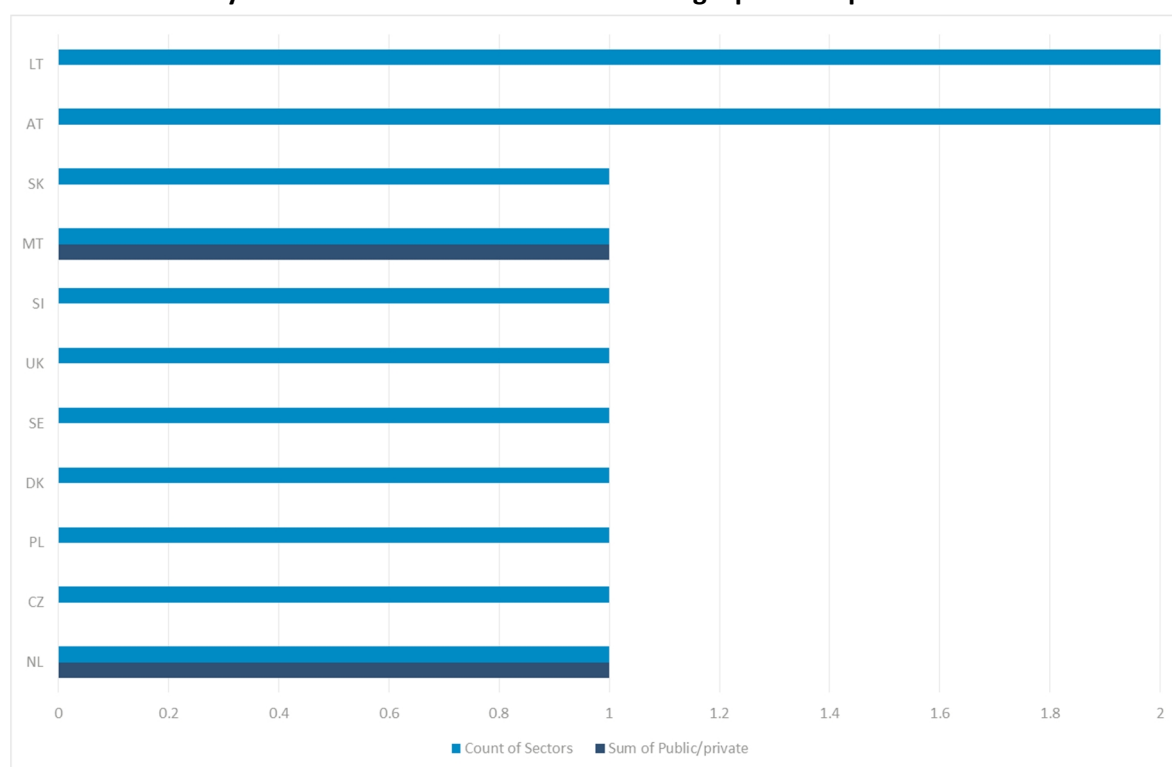
Several EU countries introduced reservations with respect to the energy sector as shown in Figures 10 and 11 below. A few cover a public or private dimension, while several allow for the introduction of any measures with respect to investment flows.

Figure 10 – Total EU and Member State reservations for energy and environmental services in Annex II of CETA and total number of reservations covering a public or private concern or granting the right to introduce 'any measure'



Source: EPRS.

Figure 11 – Total EU and Member State reservations for environmental and energy services in Annex I of CETA by sector and total reservations covering a public or private concern



Source: EPRS.

- Environmental services:** The EU has included a reservation allowing the introduction of any measure limiting market access and national treatment obligations for services relating to the collection and purification of water including purification, distribution to household, industrial and other users as well as the supply of drinking water and water management. DE has introduced a reservation for two main environmental services: waste management and soil management. The measures allow DE to introduce any measures prohibiting cross border trade and measures allowing the introduction of monopolies or exclusive supplier's rights. SE also reserved the management of waste and recycling allowing the state to introduce a limit on private suppliers in these sectors. Other reservations that restrict the provision of environmental services by Canadian providers (through, for example, establishment requirements or the obligation to use a specific type of legal form) were introduced in CETA Annex I by CZ, SK and SE.
- Energy services:** Some restrictions target the protection of certain national monopolies. This is the case for example of the reservation introduced by MT to preserve the EneMalta monopoly, and the Dutch reservation preserving public ownership of electricity and gas pipeline networks. Several Member States have reservations on the introduction of any measure:¹⁷ (i) with respect to electricity generation and/or processing and/or transportation of nuclear material (BE, BG, DE, HU, AT, FI, SE); and (ii) with respect to certain services related to electricity generation and/or gas and/or oil (BE, FR, HU, PT, FI). Most of the above-mentioned reservations involve CBT and INV.¹⁸

¹⁷ Please also refer to the tables in Annex 6.4.

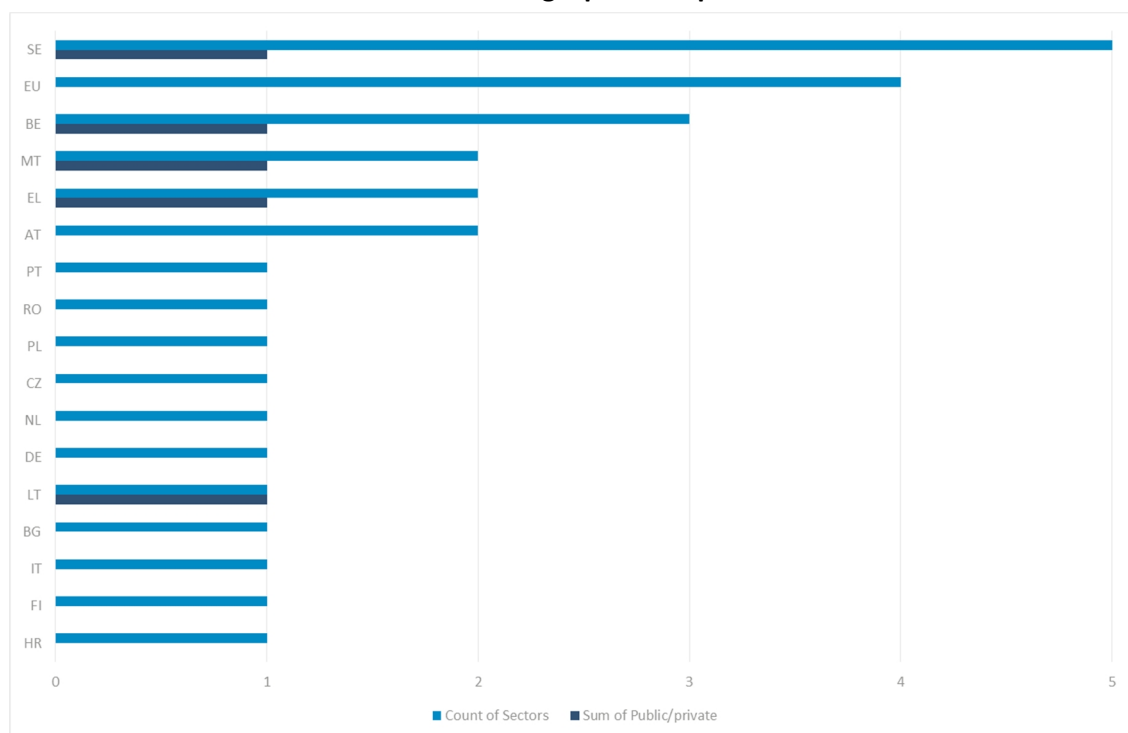
¹⁸ See Annexes for more detail.

The EU introduced a general reservation with respect to electricity and gas transmission systems, as well as oil and gas pipeline transport, in CETA Annex II. The objective of this EU reservation is not so much to preserve public utilities as to ensure the security of the EU supply of energy. The reservation envisages that where a Member State allows foreign ownership of gas and electricity transmission systems, the EU reserves the right to adopt any measure with respect to enterprises controlled by Canada or by a third country that accounts for more than 5 % of the EU's oil and natural gas or electricity imports.

3.3.8. Other services

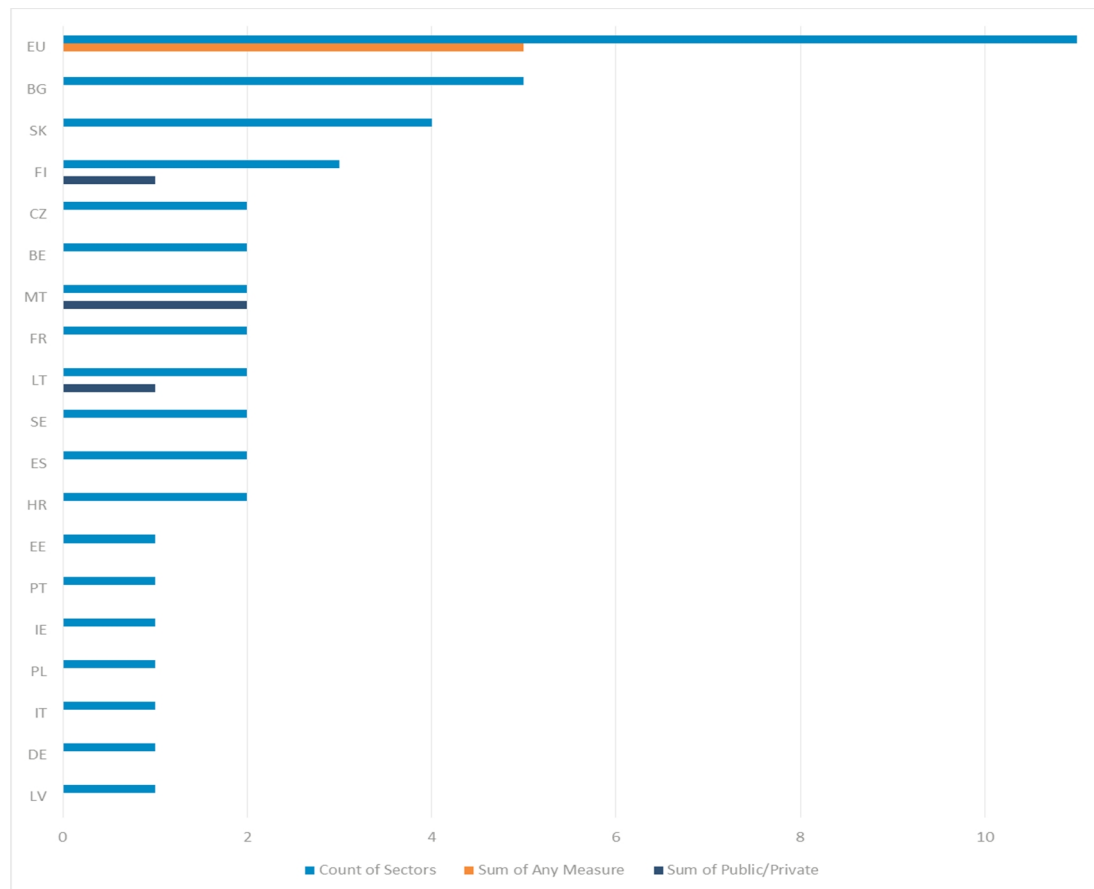
- **Postal services:** CETA Annex I contains a reservation with regard to postal services that includes the possibility to subject to a licensing system those services for which general universal service obligations exist. Moreover it permits the restriction of market access for investment and cross-border trade of services with respect to the organisation of the siting of letter boxes, the issuing of postage stamps and the provision of registered mail services in accordance with national legislation.
- **Transport services:** There are several reservations connected to transport services (requiring licensing, economic tests or reciprocity for market access), however very few of these explicitly introduce a private or public dimension (the right to introduce monopolies or exclusive rights was already preserved in the EU's public utility reservation) as shown in Figures 12 and 13. Nevertheless, some Member States have introduced reservations to protect some already existing exclusive rights or monopolies or public service obligations (EL, LT, MT and FI) or limiting the possibility for foreigners to obtain exclusive rights (AT).

Figure 12 – Total EU and Member State transport-related reservations in Annex I of CETA by sector and total number of reservations covering a public or private concern



Source: EPRS.

Figure 13 – Total EU and Member State transport-related reservations in Annex II of CETA and total number of reservations covering a public or private concern or granting the right to introduce 'any measure'



Source: EPRS.

- Distribution services:** Some distribution services were reserved to preserve a Member State monopoly on the distribution of certain products (tobacco, alcohol), e.g. SE, ES and FR. Other Member States have retained the possibility to introduce any measure in certain distribution sectors (again for tobacco, pharmaceutical or alcoholic beverages), such as SE and FI.
- Other governmental services:** Finally, some other sectors were subject to reservations by some Member States in view of their social function. For example, placement services were reserved by the EU and by several Member States preserving the right to introduce 'any measure' (EU, AT, BG, CZ, DE, EE, CY, LT, LV, MT, PL, PT, RO, SI, SK, FI, IT). DE also retained the right to introduce and maintain a monopoly over the Federal Labour Agency. FR preserved its state monopoly in placement services under a reservation in CETA Annex II. Similarly three Member States (DE, PT and SE) reserved the right to introduce any measure with respect to funeral, cremation and undertaking services. FI introduced a reservation clarifying that cremation services and the operation of cemeteries can be performed only by public bodies, parishes, religious communities or non-profit organisations. FI introduced that reservation because it felt that, owing to their specific national context, these services did not fit properly within the definition of the EU-wide public sector carve-out. In other Member States where these services (such as management of cemeteries) are clearly covered by the carve-

out as governmental services, there was no need to introduce a further reservation.

4. Further rules applicable to public services

4.1. Introduction to public monopolies, the granting of exclusive rights and to the obligations connected with expropriation

As seen above, the EU entered a reservation allowing the introduction of public monopolies or the granting of exclusive rights to private operators for the provision of public services and public utilities. Re-introducing public monopolies or granting exclusive rights can involve expropriating enterprises, be they domestic or foreign. In addition to provisions in national law, CETA provisions on expropriations are valid for the EU and Canada when dealing with investors from the partner area.¹⁹

As expropriation conflicts with the property rights of the individual, CETA provides only for legal expropriation, i.e. expropriation is allowed only if it complies with specific requirements. Therefore CETA stipulates, just like any other investment agreement,²⁰ that parties 'shall not nationalise or expropriate a covered²¹ investment either directly, or indirectly' unless they respect the conditions specified in Article 8.12. These rules stipulate that expropriation needs to be conducted for a public purpose, under due process of law, in a non-discriminatory manner and against payment of prompt, adequate and effective compensation. The compensation is equal to the fair market value of the investment at the time immediately before expropriation. Annex 8-A (p. 331) further specifies the parties' understanding of what direct and indirect expropriation means and the most common factors that need to be taken into account when assessing whether a measure constitutes an indirect expropriation.²²

4.2. Rules on state-owned enterprises

State-owned enterprises need to respect, among others, the rules contained in Chapter 18 on 'State enterprises, monopolies and enterprises granted special rights or privileges'. Chapter 18 emphasises that 'nothing in this chapter prevents a party from designating or maintaining a state enterprise or a monopoly or from granting an enterprise special rights or privileges' (Article 18.3). Nevertheless, the latter should act in a way consistent with CETA and must treat an investment, a good or a service supplier from the other party in a non-discriminatory manner (Article 18.4). Furthermore, it should, as a rule, follow commercial considerations when buying or selling goods and services (Article 18.5). There is no reference anywhere in Chapter 18 to public procurement, while Articles 18.4 and 18.5 do not apply to 'activities carried out in the exercise of

¹⁹ For Western democracies, such as the EU Member States and Canada, national provisions as a rule already provide for expropriations to be lawful, non-discriminatory and subject to adequate compensation.

²⁰ See for instance L. Puccio, [Investment Rules in trade agreements](#), EPRS, European Parliament, September 2015; L. Puccio, CETA: Investment and the right to regulate, EPRS, European Parliament, February 2017.

²¹ Covered investment means an investment as defined in Article 8.1.

²² Article 8.9 reaffirms the right to regulate and clarifies 'that the mere fact that a party regulates, including through a modification of its laws, in a manner which negatively affects an investment or interferes with an investor's expectations, including its expectations of profit, **does not amount** to a breach of an obligation' of CETA's provisions on investment protection.

governmental authority, air services and related and audio-visual services.²³ Chapter 18 incorporates certain articles from GATS into the agreement in order to underline that a monopoly supplier should not abuse its monopoly position to deviate from the MFN or national treatment principles. If a partner wishes to do so,²⁴ a reservation in CETA Annex I or II is necessary.

²³ As set out in Article 8.2.

²⁴ In an area that is not exempted from the application of Chapter 18, see above.

5. Main references

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6. Annex

6.1. Key to the annexes

The tables below present the CETA rules that are limited by EU and Member State services' reservations that either protect the public sector directly, allow the private sector restrictions (Annexes 6.2 and 6.3) or introduce the right to introduce any measure limiting investment flows at least (Annex 6.4). The following abbreviations are used for the CETA rules that are restricted by EU and Member State reservations:

NT-INV: national treatment for investment flows; **NT-CS**: national treatment for cross-border trade flows; **MA - Mode 1**: market access for cross-border trade; **MA - Mode 3**: market access for investment flows; **SMB**: senior management and board of directors obligations; **PERF REQ**: performance requirements

EU: European Union; **AT**: Austria; **BE**: Belgium; **BG**: Bulgaria; **CY**: Cyprus; **CZ**: Czech Republic; **DE**: Germany; **DK**: Denmark; **ES**: Spain; **EE**: Estonia; **FI**: Finland; **FR**: France; **EL**: Greece; **HR**: Croatia; **HU**: Hungary; **IE**: Ireland; **IT**: Italy; **LV**: Latvia; **LT**: Lithuania; **LU**: Luxembourg; **MT**: Malta; **NL**: Netherlands; **PL**: Poland; **PT**: Portugal; **RO**: Romania; **SK**: Slovakia; **SI**: Slovenia; **SE**: Sweden; **UK**: United Kingdom

6.2. Reservations for the protection of public services or potential restrictions to the private sector in CETA Annex I

Sector	Sub-sector	Reserve			
EU	Communications Services	Postal services			● ●
	Health, social and education services	Health, social and education	■	👥	● ●
	Research and development services	Research and experimental development services on natural science and engineering, interdisciplinary research and experimental development services	■	■	● ●
BE	Transport	Supporting services for air transport, rental of aircraft	■	■	
BG	Business services	Technical testing and analyses		■	● ●
		Translation and interpretation services			● ●
	Education services	Primary and secondary education services	■		● ●
CZ	All sectors	Acquisition of real estate	■		
	Education services	Higher education services			● ●
DE	Business services	Medical and dental services, midwives services, services provided by nurses	■	■	● ●
	Health and social services	Human health and social care services, hospitals, ambulance services, rescue services	■	■	● ●
EL	Education services	Higher education	■		● ●
		Primary and secondary education services	■	👥	
	Transport	Supporting services for water transport			● ●
ES	Distribution services	Retail sales of tobacco	■	■	● ●
	Education services	Higher education services			● ●
	Distribution services	Distribution of tobacco	■		● ●
FR	Education services	Privately funded primary, secondary, and higher education		■	● ●
HR	Health and social services	Hospital services; Ambulance services; Residential health facilities other than hospital services			● ●
IT	Education services	Higher education services			● ●
LT	Transport	Rail transport			● ●
HU	Business services	Translation services			● ●
	Education services	Higher education services; Adult education services		■	● ●
MT	Energy services	Electricity			● ●
	Transport	Water transport, Supporting services for water transport	■	■	● ●
NL	Business services	Hallmarking services			● ●
	Energy services	Electricity distribution; transportation of natural gas			● ●
	Mining and quarrying	Extraction of crude petroleum and natural gas			● ●
AT	Education services	Higher education			● ●
SI	Education services	Primary education services	■		● ●
	Health and social services	Human health services			● ●
SK	Education services	Higher education services			● ●
FI	Other services	Funeral, cremation and undertaking services			● ●
SE	Distribution services	Retailing services of alcoholic beverages			● ●
	Transport	Rail transport			● ●

6.3. Reservations for the protection of public services or potential restrictions to the private sectors in CETA Annex II

Sectors	Sub-sector	Reserve				
EU	All sectors	All sectors				
	Business services	Legal, notaries and bailiffs services	■	■	★	●
	Education services	Education services	■	■	★	●
	Health services	Health services	■		★	●
	Health and social services	Human health services, Social services		■		●
		Social services	■		★	●
BE	Energy	Energy transmission services and bulk storage services of gas	■	■		●
	Health services	Ambulance services; Residential health services other than hospital services	■		★	●
	Social services	Social services	■		★	●
BG	All sectors	All sectors other than mining and quarrying	■			●
	Education services	Education services	■	■		●
	Health services	Health services	■		★	●
CZ	Education services	Education services			★	
	Health services	Hospital services, ambulances services, residential health services other than hospital services	■		★	●
	Social services	Social services	■		★	●
DK	Social services	Social services	■		★	●
DE	Environmental services	Soil management				●
		Waste management: sewage, refuse disposal and sanitation services				●
	Health and social services	Health and social services	■		★	●
	Health services	Hospital services	■			●
	Other business services	Placement and supply of personnel	■	■		●
	Other services	Funeral, cremation and undertaking services	■	■	★	●
	Social services	Social services	■		★	●
IE	Social services	Social services	■		★	●
EL	Social services	Social services	■		★	●
ES	Social services	Social services	■		★	●
FR	All sectors	All sectors	■		★	
	Business services	Placement services, supply services of office support personnel	■	■	★	●
	Fishing	Fishing, aquaculture, services incidental to fishing	■			●
	Health services	Laboratory analysis and testing		■		●
	Social services	Social services	■		★	●
IT	Education services	Primary, secondary and higher education services		■		●
	Social services	Social services	■		★	●
	Education services	Education services	■	■	★	●
CY	Health services	Hospital, ambulance and residential health services other than hospital services	■		★	●
	Social services	Social services	■		★	●

■ NT - INV ■ NT - CS ★ PERF REQ ★ SMB ● MA - Mode 1 ● MA - Mode 3

Sectors	Sub-sector	Reserve				
LT	All sectors	Entreprises linked to national security concerns	■	★	🌱	●
		Purchase of land	■	■		●
	Business services	Investigation services				●
	Social services	Social services				●
	Telecommunications	Telecommunication services	■	■		●
	Transport	Auxiliary services to maritime, internal waterways, rail and air transport; Maintenance and repair of vessels, rail transport equipment and aircraft and parts thereof				●
HU	All sectors	Acquisition of State-owned properties	■		🌱	●
	Health services	Hospital, ambulance and residential health services other than hospital services		■		●
	Social services	Social services	■	★	🌱	●
	Education services	Education services	■	■	★	●
MT	Health services	Hospital, ambulance and residential health services other than hospital services	■	★	🌱	●
	Social services	Social services	■	★	🌱	●
	Transport	Road services	■	■		●
		Water transport and supporting services				●
AT	Education services	Higher education, adult education	■	■		●
	Health services	Ambulance services	■	★	🌱	●
PL	Social services	Social services	■	★	🌱	●
	Business services	Investigation services				●
PT	Other services	Funeral, cremation and undertaking services				●
	Social services	Social services	■	★	🌱	●
	Education services	Education services	■	■		●
RO	Social services	Social services	■	★	🌱	●
	Education services	Primary, secondary and higher education services	■	■	🌱	●
	Health services	Ambulance services	■	★	🌱	●
SI	Social services	Social services	■	★	🌱	●
	Education services	Education services	■	■	🌱	●
SK	Health services	Hospital, ambulance and residential health services other than hospital services	■	★	🌱	●
	Social services	Social services	■	★	🌱	●
	Education services	Education services	■	■	★	●
FI	Health services	Hospital, ambulance and residential health services other than hospital services; other human health services	■	★	🌱	●
	Social services	Social services	■	★	🌱	●
	Transport	Passenger or freight transport by rail	■	■		●
	Education services	Education services	■	■	🌱	●
SE		Recycling				●
	Environmental services	Management of waste from households and waste related to producer responsibilities				●
UK	Health services	Ambulance and residential health services other than hospital services	■	★	🌱	●
		Medical services				●
	Social services	Social services	■	★	🌱	●

■ NT - INV

■ NT - CS

★ PERF REQ

🌱 SMB

● MA - Mode 1

● MA - Mode 3

6.4. Reservations preserving the right to introduce 'any measure' regarding investment in CETA Annex II²⁵

Sectors	Sub-sector	Reserve				
EU	Investigation services	■	■	☑	●	●
	Business services		■		●	
	Placement services	■	■	☑	●	●
	Environmental services	■	■		●	●
	Communication services	■	■		●	●
	Fishing, aquaculture	■	■	★	●	●
	Recreational services	■	■	★	☑	●
	Gambling and betting services	■	■	★	☑	●
	Recreational, cultural and sporting services	■	■	★	☑	●
	Air transport	■		★	☑	●
	Space transport; rental of space craft	■	■	★	☑	●
	Water transport	■		☑		●
BE	Energy	■	■	☑	●	●
	Nuclear energy	■	■		●	●
BG	Business services	■	■	☑	●	●
	Security services	■	■	☑	●	●
CZ	Energy	■	■		●	●
	Electricity generation, processing and transportation of nuclear material	■		☑		●
DK	Health services	■		★	☑	●
	Placement and executive search services	■	■	☑	●	●
DE	Business services	■	■	☑	●	●
	Security services	■	■	☑	●	●
EE	Health services	■	■		●	●
	Health-related professions	■		★	☑	●
FR	Business services	■	■	☑	●	●
	Security services	■	■	☑	●	●
HR	Energy	■	■	★	☑	●
	Electricity and gas transmission systems; oil and gas pipeline transport	■	■			●
CY	Production of electricity					●
	Agriculture, hunting	■				●
CY	Business services	■	■	★	☑	●
	Security services	■	■	☑	●	●

■ NT - INV ■ NT - CS ★ PERF REQ ☑ SMB ● MA - Mode 1 ● MA - Mode 3

²⁵ NB A reservation by Italy is missing in this table.

Sectors		Sub-sector	Reserve				
LV	Business services	Placement and executive search services	■	■	★	☺	●
		Security services	■	■		☺	●
LT	All sectors	Enterprises linked to national security concerns	■		★	☺	●
	Business services	Placement and executive search services	■	■		☺	●
		Security services	■	■		☺	●
HU	Agriculture, hunting	Agriculture	■				●
	All sectors	Acquisition of arable land	■				●
	Business services	Services incidental to manufacturing and energy distribution	■	■			●
		Electricity generation and processing of nuclear material	■		★	☺	●
MT	Business services	Placement and executive search services	■	■		☺	●
		Security services	■	■		☺	●
	Business services	Placement and executive search services	■	■		☺	●
AT	Energy	Electricity generation, processing and transportation of nuclear material	■	■			●
PL	Business services	Placement and executive search services	■	■		☺	●
		Security services	■	■		☺	●
	Health services	Ambulance services	■			☺	●
PT	Business services	Placement and executive search services	■	■		☺	●
	Energy	Electricity, natural gas, crude oil or petroleum products	■	■			●
	Other services	Funeral, cremation and undertaking services					●
RO	Business services	Placement and executive search services	■	■		☺	●
		Research and Development services		■			●
		Security services	■	■		☺	●
SI	Business services	Placement and executive search services	■	■		☺	●
		Security services	■	■		☺	●
SK	Business services	Placement and executive search services	■	■		☺	●
		Security services	■	■		☺	●
	Business services	Placement and executive search services	■	■		☺	●
FI	Distribution Services	Distribution of alcoholic beverages	■	■	★	☺	●
		Distribution of pharmaceutical products	■	■	★	☺	●
		Electricity generation, processing and transportation of nuclear material	■				●
	Energy	Distribution, importation and retail of electricity; production and distribution of gas, steam and hot water	■	■	★	☺	●
		Health-related professions	■	■	★	☺	●
SE	Distribution Services	Retail sales of pharmaceutical	■	■		☺	●
	Energy	Electricity generation and processing of nuclear material	■		★	☺	●

■ NT - INV ■ NT - CS ★ PERF REQ ☺ SMB ● MA - Mode 1 ● MA - Mode 3

EU-Canada negotiations for a Comprehensive Economic and Trade Agreement (CETA) began in May 2009 and concluded in September 2014. Signed in October 2016, the agreement's overall aim is to increase flows of goods, services and investment. This publication analyses the extent to which public services are protected in CETA.

The trade agreement takes the public sector into account by means of a (general) public sector carve-out and specific reservations introduced by the EU and the Member States in the annexes to the agreement. These reservations apply specifically to health services, education services, social services, and environmental, energy and transport services.

National reservations introduced by the EU Member States to complement EU-wide reservations vary greatly. To a large extent this is the result of the widely varying levels of liberalisation of certain services among Member States, leading some of them to see a greater need to protect particular sectors from foreign competition than others.

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