ANNEX I

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 9.11 (Non-Conforming Measures) and 10.7 (Non-Conforming Measures), a Party’s existing measures that are not subject to some or all of the obligations imposed by:

   (a) Article 9.4 (National Treatment) or 10.3 (National Treatment);

   (b) Article 9.5 (Most-Favoured-Nation Treatment) or 10.4 (Most-Favoured-Nation Treatment);

   (c) Article 9.9 (Performance Requirements);

   (d) Article 9.10 (Senior Management and Boards of Directors);

   (e) Article 10.5 (Market Access); or

   (f) Article 10.6 (Local Presence).

2. Each Schedule entry sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

   (c) **Industry Classification**, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

   (d) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 9.11.1(a) (Non-Conforming Measures) and 10.7.1(a) (Non-Conforming Measures), do not apply to the listed measure(s) as indicated in the introductory note for each Party’s schedule;

   (e) **Level of Government** indicates the level of government maintaining the listed measure(s);

   (f) **Measures** identifies the laws, regulations, or other measures for which the entry is made. 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; and
(g) **Description**, as indicated in the introductory note for each Party’s schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.

3. Article 10.6 (Local Presence) and Article 10.3 (National Treatment) are separate disciplines and a measure that is only inconsistent with Article 10.6 (Local Presence) need not be reserved against Article 10.3 (National Treatment).
Annex I
Schedule of Australia

Introductory Note for the Schedule of Australia

1. **Description** sets out the non-conforming measure for which the entry is made.

2. In accordance with Articles 10.7.1 (Cross Border Trade in Services – Non-Conforming Measures) and 9.11.1 (Investment – Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **Description** element of that entry.
Sector: All Sectors

Obligations Concerned:
- National Treatment (CBTS Chapter and Investment Chapter)
- Most-Favoured-Nation Treatment (CBTS Chapter and Investment Chapter)
- Local Presence
- Performance Requirements
- Senior Management and Boards of Directors

Level of Government: Regional

Measure: All existing non-conforming measures at the regional level of government.

Description: Cross-Border Trade in Services and Investment
   All existing non-conforming measures at the regional level of government.
Sector: All Sectors

Obligations Concerned: National Treatment (Investment Chapter)

Level of Government: Central

Measure: Australia’s Foreign Investment Policy, which consists of the Foreign Acquisitions and Takeovers Act 1975 (FATA) (Cth); Foreign Acquisitions and Takeovers Regulations 1989 (Cth); Financial Sector (Shareholdings) Act 1998 (Cth); and Ministerial Statements.
Description: Investment

A. The following investments¹ require notification and approval from the Australian Government:

(a) proposed investments by foreign persons in existing² Australian businesses, or prescribed corporations³, the value of whose assets exceeds $A252 million⁴ in the following sectors:

(i) the telecommunications sector;

(ii) the transport sector, including airports, port facilities, rail infrastructure, international and domestic aviation and shipping services provided either within, or to and from, Australia;

¹ Foreign Acquisitions and Takeovers Act 1975 (Cth) (FATA). “Investments” means activities covered by Part II of FATA or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

² For the purposes of this entry, “existing” means in existence at the time the investment is proposed or made.

³ For the purposes of this entry, “prescribed corporation” means:

(a) a trading corporation;
(b) a financial corporation;
(c) a corporation incorporated in a Territory under the law in force in that Territory relating to companies;
(d) a foreign corporation that, on its last accounting date, held assets the sum of the values of which exceeded $A252 million (for item (a) of the entry) or $A1094 million (for item (b) of the entry), being assets consisting of all or any of the following:
   (i) land situated in Australia (including legal and equitable interests in such land);
   (ii) mineral rights;
   (iii) shares in a corporation incorporated in Australia;
(e) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of the Australian corporation or Australian corporations exceeded $A252 million (for item (a) of the entry) or $A1094 million (for item (b) of the entry);
(f) a corporation that was, on its last accounting date, a holding corporation of a foreign corporation referred to in paragraph (d) or (e) of this footnote;
(g) a foreign corporation that, on its last accounting date, held assets of a kind or kinds referred to in paragraph (d) of this footnote, where the sum of the values on that date of those assets was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation; or
(h) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of that Australian corporation or those Australian corporations was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation.

⁴ This is the figure as at 1 January 2015. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year.
(iii) the supply of training or human resources, or the manufacture or supply of military goods, equipment, or technology, to the Australian or other defence forces;

(iv) the manufacture or supply of goods, equipment or technologies able to be used for a military purpose;

(v) the development, manufacture or supply of, or provision of services relating to, encryption and security technologies and communication systems; and

(vi) the extraction of (or rights to extract) uranium or plutonium, or the operation of nuclear facilities;

(b) proposed investments by foreign persons in existing Australian businesses, or prescribed corporations, in all other sectors, excluding financial sector companies, the value of whose total assets exceeds $A1094 million;

(c) proposed direct investments by foreign government investors, irrespective of size;

(d) proposed investments by foreign persons of 5 per cent or more in the media sector, regardless of the value of the investment;

(e) proposed acquisitions by foreign persons of developed non-residential commercial real estate

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4 A “financial sector company” means, as defined in section 3 of the Financial Sector (Shareholdings) Act 1998:
(a) an authorised deposit-taking institution; or
(b) an authorised insurance company; or
(c) a holding company of a company covered by paragraph (a) or (b) of this footnote.

5 A “foreign person” means, as defined in section 5 of the FATA:
(a) a natural person not ordinarily resident in Australia;
(b) a corporation in which a natural person not ordinarily resident in Australia or a foreign corporation holds a controlling interest;
(c) a corporation in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate controlling interest;
(d) the trustee of a trust estate in which a natural person not ordinarily resident in Australia or a foreign corporation holds a substantial interest; or (e) the trustee of a trust estate in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate substantial interest.
where the property is valued at more than $A1094 million#;

Notified investments may be refused, subject to interim orders, and/or approved subject to compliance with certain conditions. Investments referred to above for which no notification is received may be subject to orders under Sections 18 through 21 and 21A of the FATA.

Separate or additional requirements may apply to measures subject to other Annex I reservations and to sectors, sub-sectors or activities subject to Annex II.

B. The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control⁶ of an existing financial sector company, may be refused, or be subject to certain conditions.⁷

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⁶ “Unacceptable shareholding situation” and “practical control” as defined in the *Financial Sector (Shareholdings) Act 1998.*

Sector: Professional Services

Obligations Concerned: Local Presence

Level of Government: Central

Measure: *Patents Act 1990 (Cth)*  
*Patent Regulations (Cth)*

Description: Cross-Border Trade in Services

In order to register to practise in Australia, patent attorneys must be ordinarily resident in Australia.⁸

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⁸ For the purposes of this entry, a person is taken to be *ordinarily resident* in Australia if: (a) the person has his or her home in Australia; or (b) Australia is the country of his or her permanent abode even though he or she is temporarily absent from Australia. However, the person is taken not to be ordinarily resident in Australia if he or she resides in Australia for a special or temporary purpose only.
Sector: All Sectors

Obligations Concerned: Performance Requirements

Level of Government: Central

Measure: Designs Act 2003 (Cth)

Description: Investment

A design that has been registered or disclosed in a filed design application may be used by an Australian government (or a person authorised by an Australian government) and, if it is used, any agreement or licence fixing the terms on which a person other than that government may use the design may be inoperative with respect to the government use unless the agreement or licence has been approved by that government.

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9 Applies only in relation to Article 9.9(1)(i).
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Professional Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obligations</td>
<td>National Treatment (CBTS Chapter)</td>
</tr>
<tr>
<td>Concerned:</td>
<td>Most Favoured Nation Treatment (CBTS Chapter)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central</td>
</tr>
<tr>
<td>Measure:</td>
<td>Migration Act 1958 (Cth)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

To practise as a migration agent in Australia a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa.
Sector: Professional Services

Obligations Concerned: Local Presence

Level of Government: Central

Measure: 

Description: Cross-Border Trade in Services and Investment

A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator. At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.
Sector: Professional Services

Obligations Concerned: Local Presence

Level of Government: Central

Measure: Customs Act 1901 (Cth)

Description: Cross-Border Trade in Services

To act as a customs broker in Australia, service suppliers must provide the service in and from Australia.
Sector: Fishing and services incidental to fishing

Obligations Concerned: National Treatment (CBTS Chapter and Investment Chapter)

Level of Government: Central

Measure: *Fisheries Management Act 1991* (Cth)
*Foreign Fishing Licences Levy Act 1991* (Cth)

Description: Cross-Border Trade in Services and Investment

Foreign fishing vessels seeking to undertake fishing activity, including any activity in support of or in preparation for any fishing activity or the processing, carrying or transhipment of fish, in the Australian Fishing Zone must be authorised.

Where foreign fishing vessels are authorised they may be subject to a levy.

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10 For the purposes of this reservation, a “foreign fishing vessel” is one that does not meet the definition of an Australian boat under the *Fisheries Management Act 1991* (Cth), that is, an Australian-flagged boat (not owned by a foreign resident) or a boat owned by an Australian resident or corporation and built, and whose operations are based, in Australia.

11 The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991* or any amendments thereto.
Sector: Communication Services

Obligations Concerned: National Treatment (Investment Chapter)  Senior Management and Board of Directors

Level of Government: Central

Measure: Telstra Corporation Act 1991 (Cth)

Description: Investment

Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than 5 per cent of shares.

The Chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia.
**Sector:** Health Services  
**Obligations Concerned:** National Treatment (Investment Chapter)  
**Senior Management and Boards of Directors**  
**Level of Government:** Central  
**Measure:** *Commonwealth Serum Laboratories Act 1961* (Cth)  
**Description:** Investment

The votes attached to significant foreign shareholdings\(^{12}\) may not be counted in respect of the appointment, replacement or removal of more than one third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.

\(^{12}\) For the purposes of this entry, ‘significant foreign shareholding’ means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least 5 per cent of the voting shares in CSL.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (CBTS Chapter and Investment Chapter)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central</td>
</tr>
<tr>
<td>Measure:</td>
<td>Competition and Consumer Act 2010 (Cth)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services and Investment</td>
</tr>
</tbody>
</table>

Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia.

Only a person\textsuperscript{13} affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of ‘reasonable’ include Australia’s national interest and the interests of Australian shippers.

\textsuperscript{13} For the purposes of this entry, section 10.48 and 10.58 of Part X of the Competition and Consumer Act 2010 list the categories of persons to whom this reservation will apply.
Sector: Maritime Transport
Obligations Concerned: National Treatment (CBTS Chapter and Investment Chapter)
Local Presence
Level of Government: Central
Measure: Shipping Registration Act 1981 (Cth), Shipping Registration Regulations 1981 (Cth)
Description: Cross-Border Trade in Services and Investment

For a ship to be registered on the Australian Shipping Register it must be majority Australian-owned or on demise charter to Australian-based operators. In the case of small craft, a ship must be wholly owned by or solely operated by Australian residents and/or Australian nationals.

For a trading ship to be registered on the International Shipping Register it must be wholly or majority Australian-owned, on demise charter to Australian-based operators or operated solely by Australian residents, Australian nationals or both. The master or chief mate, and chief engineer or first engineer of the ship must be an Australian national or Australian resident.

A ship on demise charter to an Australian-based operator is a ship on demise charter to:

. an Australian national or Australian nationals; or
. in circumstances where there are 2 or more persons who include an Australian national/s, where the Australian national/s are in a position to control the exercise of the rights and powers of the charterers under the charter party.

For the purposes of this entry, an Australian national is an Australian citizen who is ordinarily resident in Australia; or a body corporate that has its principal place of business in Australia.
Sector: Transport Services

Obligations Concerned:
National Treatment (Investment Chapter)
Senior Management and Boards of Directors

Level of Government:
Central

Measure:
Air Navigation Act 1920 (Cth)
Ministerial Statements

Description: Investment

Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent.

Furthermore, it is required that:
  • at least two-thirds of the Board members must be Australian citizens;
  • the Chairperson of the Board must be an Australian citizen;
  • the airline’s head office must be in Australia; and
  • the airline’s operational base must be in Australia.
Sector: Transport Services

Obligations Concerned: National Treatment (Investment Chapter)

Senior Management and Boards of Directors

Level of Government: Central

Measure: Qantas Sale Act 1992 (Cth)

Description: Investment

Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent. In addition:

- the head office of Qantas must always be located in Australia;
- the majority of Qantas’ operational facilities must be located in Australia;
- at all times, at least two thirds of the directors of Qantas must be Australian citizens;
- at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and
- Qantas is prohibited from taking any action to become incorporated outside Australia.
ANNEX I
SCHEDULE OF BRUNEI DARUSSALAM

Introductory Note for the Schedule of Brunei Darussalam

1. In the interpretation of a reservation in the Schedule of Brunei Darussalam, all elements of the reservation shall be considered, where the **Description** sets out the non-conforming measure for which the entry is made.

2. In accordance with Articles 10.7(1) (Cross Border Trade in Services – Non-Conforming Measures) and 9.11(1) (Investment – Non-Conforming Measures), the articles of Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the Description element of that entry.
1. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Board of Directors (Article 9.10)

Measures: Companies Act (Chapter 39)
Business Names Act (Chapter 92)
Miscellaneous Licenses Act (Chapter 127)
Co-operative Societies Act (Chapter 84)
Employment Agencies Order 2004
Administrative Measures and Guidelines

Description: Investment

1. Sole Proprietors and Cooperative Societies

Foreign nationals may not establish sole proprietorships or cooperative societies.

2. Partnerships

Foreign nationals may not establish a partnership, except with the written approval of the Registrar of Business Names.

3. Company Directorship

A foreign national may not sit on the board of directors of an enterprise established in Brunei Darussalam unless one (1) of the two (2) directors or, where there are more than two (2) directors, at least two (2) of them shall be ordinarily resident in Brunei Darussalam. For the purposes of this reservation, a foreign national shall apply to the Ministry of Finance in order to be considered as being “ordinarily resident in Brunei Darussalam”.

I – BN – 1
2.

**Sector:** Manufacturing and Services Incidental to Manufacturing

**Obligations Concerned:** Performance Requirements (Article 9.9)

**Measures:** Brunei Darussalam Long-Term Development Plan Administrative Measures and Guidelines

**Description:** Investment

Foreign investors may not utilise sites under the control of the Ministry of Primary Resources and Tourism and the Brunei Economic Development Board for all manufacturing and services incidental to manufacturing activities unless they comply with these requirements:

1. to purchase, use, or accord a preference to goods produced in Brunei Darussalam, to purchase goods from local suppliers; and/or

2. to transfer technology or proprietary knowledge to persons in Brunei Darussalam, as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party.
3. **Sector:** Agriculture and Services Incidental to Agriculture  

**Obligations Concerned:** Performance Requirements (Article 9.9)  

**Measures:** Brunei Darussalam Long-Term Development Plan  
Administrative Measures and Guidelines  

**Description:** Investment  

Foreign investors may not utilise sites under the control of the Department of Agriculture, Ministry of Primary Resources and Tourism, for all agriculture and services incidental to agriculture activities unless they comply with these requirements:

1. to purchase, use, or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers;

2. to achieve a given level or percentage of domestic content; and/or

3. to transfer technology or proprietary knowledge to persons in Brunei Darussalam, as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party.
4.  
Sector: Fisheries and Services Incidental to Fisheries  
Obligations Concerned: Performance Requirements (Article 9.9)  
Measures: Brunei Darussalam Long-Term Development Plan  
Administrative Measures and Guidelines  
Description: Investment  

Foreign investors may not utilise sites under the control of the Department of Fisheries, Ministry of Primary Resources and Tourism, for all fisheries and services incidental to fisheries activities unless they comply with requirements to purchase, use, or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers, as long as any requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party.
5.

**Sector:** Forestry and Services Incidental to Forestry

**Obligations Concerned:**
- National Treatment (Article 9.4)
- Performance Requirements (Article 9.9)
- Market Access (Article 10.5)

**Measures:**
- National Forestry Policy (1990)
- Brunei Darussalam Long Term-Development Plan
- Administrative Measures and Guidelines (Strategic Plan 2004 – 2023)

**Description:** Cross-Border Trade in Services and Investment

1. Foreign nationals or enterprises may not establish an enterprise to undertake activities related to forestry or services incidental to forestry:

   (a) except through a joint venture with a Bruneian national or enterprise, and not own more than 70 percent equity shareholding in such an enterprise; and

   (b) unless they comply with any performance requirements imposed, as long as any requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party.

2. For greater certainty, this reservation does not apply to logging activities.
6. Sector: Construction Services

Obligations Concerned: National Treatment (Article 9.4)
Performance Requirements (Article 9.9)
Local Presence (Article 10.6)

Measures: Architects, Professional Engineers and Quantity Surveyors Order 2011
Building Control Order 2011 (Final Draft)
Building Control Regulations (Draft)
Procedures of Contractors and Suppliers Registration, Ministry of Development (Edition 2009)
Administrative Measures and Guidelines

Description: Cross-Border Trade in Services and Investment

1. Foreign nationals and enterprises are not allowed to provide construction services such as: general construction work for building services, general construction work for civil engineering, installation and assembly work services, building completion and finishing work services, except mining, and mechanical engineering services, unless:

   (a) through an enterprise established in Brunei Darussalam;

   (b) they first register for either Certificate A or Certificate B, as a contractor or supplier; and/or

   (c) they comply with requirements to transfer technology or proprietary knowledge to persons in Brunei Darussalam as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party.
2. In the case of Certificate A, a foreign national or enterprise may not own equity shareholding other than what is prescribed in the table below, in any enterprise that applies to be registered as a contractor or supplier:

Table

<table>
<thead>
<tr>
<th>Class</th>
<th>Project Threshold</th>
<th>Level of Foreign Equity Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Up to BND 50,000</td>
<td>None</td>
</tr>
<tr>
<td>II</td>
<td>Exceeding BND 50,000 but not more than BND 250,000</td>
<td>None</td>
</tr>
<tr>
<td>III</td>
<td>Exceeding BND 250,000 but not more than BND 500,000</td>
<td>twenty percent</td>
</tr>
<tr>
<td>IV</td>
<td>Exceeding BND 500,000 but not more than BND 1.5 million</td>
<td>fifty percent</td>
</tr>
<tr>
<td>V</td>
<td>Exceeding BND 1.5 million but not more than BND 5 million</td>
<td>seventy percent</td>
</tr>
<tr>
<td>VI</td>
<td>Exceeding BND 5 million</td>
<td>ninety percent</td>
</tr>
<tr>
<td>Building Specialist and Supplier</td>
<td>No threshold</td>
<td>ninety percent</td>
</tr>
<tr>
<td>Mechanical and Electrical Specialist and Supplier</td>
<td>No threshold</td>
<td>ninety percent</td>
</tr>
</tbody>
</table>

3. For greater certainty, Certificate A refers to certificates which are required for participating in government and private projects, whilst Certificate B refers to certificates which are required for participating in private projects only.
7. 
Sector: Environmental Services

Obligations Concerned: National Treatment (Article 9.4) Performance Requirements (Article 9.9) Local Presence (Article 10.6)


Description: Cross-Border Trade in Services and Investment

1. Foreign nationals and enterprises are not allowed to provide consultancy services on environmental protection and management; waste management services; landscape design management and maintenance services and janitorial services, roadside and cleaning works services unless:

(a) they are established as an enterprise in Brunei Darussalam;

(b) they first register for either Certificate A or Certificate B, as a contractor or supplier; or

(c) they comply with requirements to transfer technology or proprietary knowledge to persons in Brunei Darussalam as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of the technology or proprietary knowledge
and is not for the purposes of commercial exploitation by the Party.

2. In the case of Certificate A, a foreign national or enterprise may not own equity shareholding other than what is prescribed in the table below, in any enterprise that applies to be registered as a contractor or supplier:

Table

<table>
<thead>
<tr>
<th>Class</th>
<th>Project Threshold</th>
<th>Level of Foreign Equity Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Up to BND 50,000</td>
<td>None</td>
</tr>
<tr>
<td>II</td>
<td>Exceeding BND 50,000 but not more than BND 250,000</td>
<td>None</td>
</tr>
<tr>
<td>III</td>
<td>Exceeding BND 250,000 but not more than BND 500,000</td>
<td>twenty percent</td>
</tr>
<tr>
<td>IV</td>
<td>Exceeding BND 500,000 but not more than BND 1.5 million</td>
<td>fifty percent</td>
</tr>
<tr>
<td>V</td>
<td>Exceeding BND 1.5 million but not more than BND 5 million</td>
<td>seventy percent</td>
</tr>
<tr>
<td>VI</td>
<td>Exceeding BND 5 million</td>
<td>ninety percent</td>
</tr>
<tr>
<td></td>
<td>Building Specialist and Supplier</td>
<td>No threshold</td>
</tr>
<tr>
<td></td>
<td>Mechanical and Electrical Specialist and Supplier</td>
<td>No threshold</td>
</tr>
</tbody>
</table>
3. For greater certainty, Certificate A refers to certificates which are required for participating in government and private projects, whilst Certificate B refers to certificates which are required for participating in private projects only.
8.

Sector: Business Services
     – Public Auditing Services

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
                        Senior Management and Board of Directors (Article 9.10)
                        Market Access (Article 10.5)

Measures: Companies Act (Chapter 39)
          Accountants Order 2010
          Administrative Measures and Guidelines

Description: Cross-Border Trade in Services and Investment

1. Foreign nationals and enterprises may not establish financial auditing enterprises in Brunei Darussalam, except through a partnership or joint venture with at least one (1) authorised Bruneian auditor.

2. If they are not established in Brunei Darussalam, foreign nationals and enterprises may not provide financial auditing services in Brunei Darussalam, unless:
   
   (a) authorised by the Ministry of Finance; or

   (b) through a locally established auditor or enterprise, provided that they are authorised by the Ministry of Finance.

3. For greater certainty, the term “authorised” refers to a qualified person who has been authorised by the Ministry of Finance to provide financial auditing services.
9. Sector: Telecommunication Services

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Performance Requirements (Article 9.9)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Measures: Telecommunications Order 2001
AiTi Operational Framework

Description: Cross-Border Trade in Services and Investment

1. Foreign nationals and enterprises may not provide telecommunication services for which Brunei Darussalam requires a license¹ in the territory of Brunei Darussalam, unless:

(a) they maintain a physical business presence in Brunei Darussalam; and

(b) they provide such services through a commercial arrangement with a licensed operator in Brunei Darussalam; and

(c) where so required, they locate their transmission equipment used for the provision of public telecommunications networks and/or supply of public telecommunications services within Brunei Darussalam.

2. Except where specifically approved by the Ministry of Communications, foreign nationals and enterprises may not own more than 51 percent equity shareholding in all telecommunication enterprises. The approval process for exceeding this 51 percent threshold shall be based on objective criteria and be implemented in an impartial manner.

¹ Software application-based services provided over the Internet (Over-the-Top services) do not currently require a license in Brunei Darussalam.
3. Foreign nationals and enterprises may not undertake activities related to telecommunication services unless they comply with any performance requirements that may be imposed. Such performance requirements shall not include a requirement to purchase domestic telecommunications equipment.

4. For greater certainty, telecommunication services means any services for telecommunications which means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception; but excludes any broadcasting service.
10.

**Sector:**
- Business Services
  - Architectural Services
  - Engineering Services
  - Integrated Engineering Services
  - Quantity Surveying Services
  - Related Scientific and technical consulting services
  - Surveying Services
  - Urban Planning and Landscape Services

**Obligations Concerned:**
- National Treatment (Article 9.4 and Article 10.3)
- Senior Management and Board of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

**Measures:**
- Architects, Professional Engineers and Quantity Surveyors
  Order 2011
- Licensed Land Surveyors Act (Chapter 100)
- Licensed Land Surveyors (Amendment) Order (draft)
- Licensed Land Surveyors Regulations (draft)
- Town Planners Registration Order (draft)
- Town Planners (Forms and Fees) Rules (draft)
- Administrative Measures and Guidelines

**Description:**

**Cross-Border Trade in Services and Investment**

1. Foreign nationals and enterprises may not provide architectural services, engineering services, integrated engineering services, quantity surveying services, unless:

   (a) they are resident in Brunei Darussalam for at least ninety days (90) days per calendar year and are registered as an “architect, professional engineer or quantity surveyor” in that sector with the Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors; or

   (b) if they are not resident in Brunei Darussalam, through a local enterprise where the services suppliers are registered as an “architect, professional engineer or quantity surveyor and hold a practising certificate” in that sector with the Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors; or
(c) through an enterprise established in Brunei Darussalam that is a partnership or joint venture with at least one (1) Bruneian national who is registered as an “architect, professional engineer or quantity surveyor” and holds a practising certificate in that sector with Brunei Darussalam Board of Architects, Professional Engineers and Quantity Surveyors.

2. Foreign nationals and enterprises may not provide urban planning and landscape services, related scientific and technical consulting services, and surveying services, unless:

(a) they are resident in Brunei Darussalam for at least ninety days (90) days per calendar year and are registered as a “planner or surveyor” in that sector with the Ministry of Development; or

(b) if they are not resident in Brunei Darussalam, through a local enterprise where the services suppliers are registered as “planner or surveyor” in that sector with the Ministry of Development; or

(c) through an enterprise established in Brunei Darussalam that is a partnership or joint venture with at least one (1) Bruneian national who is registered as a “planner or surveyor” in that sector with the Ministry of Development.
11. Sector: Business Services
   − Unarmed Guard Services

Obligations Concerned: Local Presence (Article 10.6)

Measures: Security Agencies Act (Chapter 187)
          Administrative Measures and Guidelines

Description: Cross-Border Trade in Services

Foreign nationals and enterprises may not provide unarmed guard services unless they establish an enterprise in Brunei Darussalam.
12.

**Sector:** Business Services
- Placement and supply services of personnel
- Employment Agencies

**Obligations Concerned:**
National Treatment (Article 9.4)
Local Presence (Article 10.6)

**Measures:**
Employment Agencies Order 2004
Administrative Measures and Guidelines

**Description:** Cross-Border Trade in Services and Investment

A foreign national or enterprise may not provide, or establish an enterprise to provide services to place or supply personnel, or an employment agency, except through a local agent or enterprise registered with the Department of Labour, Ministry of Home Affairs.
13. 
Sector: Miscellaneous Licenses

Obligations Concerned: National Treatment (Article 9.4)

Measures: Miscellaneous Licenses Act (Chapter 127)  
Municipal Board Act (Chapter 57)  
Municipal Board Enactment 1920  
Road Traffic Act (Chapter 68)  
Public Entertainment Act (Chapter 181)  
Administrative Measures and Guidelines

Description: Investment

1. A “Business License” may only be granted to a Bruneian national.

2. For greater certainty this reservation is only limited to the issuance of “Business Licenses” for the operation of commercial properties identified in the listed measures. Business Licenses are required for the enforcement of health and safety regulations, and do not restrict the participation of foreign nationals in any activity where such a Business License is required, unless otherwise provided for in this Schedule.
14.

**Sector:** Private Health and Social Services
- General Medical practitioners
- Specialised Medical practitioners
- Dental practitioners

**Obligations Concerned:** National Treatment (Article 10.3)
Local Presence (Article 10.6)

**Measures:** Medical Practitioners and Dentists Act (Chapter 112)

**Description:** Cross-Border Trade in Services

A foreign national may not establish a private practise for the provision of general medical, specialised medical or dental services unless the foreign national has worked in Brunei Darussalam for at least six (6) cumulative years as a General Medical, Specialised Medical or Dental Practitioner, which shall include three (3) years of clinical service in a public hospital, health centre or clinic under the Ministry of Health.
15.  
**Sector:**  
Tourism and Travel Related Services  
- Travel Agents  
- Tour Operator Services

**Obligations Concerned:**  
National Treatment (Article 9.4)

**Measures:**  
Travel Agents Act (Chapter 103)  
Administrative Measures and Guidelines

**Description:**  
Investment

1. Foreign nationals and enterprises may not establish a travel agency in Brunei Darussalam.

2. Foreign nationals and enterprises may not own more than 70 percent equity shareholding in any enterprise established in Brunei Darussalam providing tour operator services.
16.

Sector: Tourism
- Hotels /Boarding House /Lodging

Obligations Concerned:
- National Treatment (Article 9.4)
- Performance Requirements (Article 9.9)
- Senior Management and Board of Directors (Article 9.10)
- Market Access (Article 10.5)

Measures:
- Miscellaneous License Act (Chapter 127)
- Administrative Measures and Guidelines

Description: Cross-Border Trade in Services and Investment

Foreign nationals and enterprises may not establish hotels/boarding houses/lodging in Brunei Darussalam except:

1. through a joint venture with a Bruneian national or enterprise;

2. where the majority of senior managers are Bruneian nationals, and

3. where there is a preference to purchase, use, or accord a preference to goods produced in Brunei Darussalam, or to purchase goods from local suppliers.
17. Sector: Mining and Quarrying of sand (apart from silica sand) and gravel, and Services incidental to Mining and Quarrying of sand and gravel

Obligations Concerned: National Treatment (Article 9.4)

Measures: Mining Act (Chapter 42)
Administrative Measures and Guidelines

Description: **Investment**

1. Unless authorised to do so by the Ministry of Development, a foreign national may not establish an enterprise to mine or quarry for sand (apart from silica sand) or gravel, or provide any services incidental to such mining and quarrying of sand or gravel.

2. Any sand (apart from silica sand) or gravel mined or quarried in Brunei Darussalam is only allowed to be used within Brunei Darussalam and is not allowed to be exported.
18.
Sector: Trade Fair and Exhibition Organising Services

Obligations Concerned: National Treatment (Article 10.3)

Measures: Public Entertainment Act (Chapter 181)

Description: Cross-Border Trade in Services

A foreign national may not provide trade fair and exhibition organising services in Brunei Darussalam except with the written approval of the Ministry of Home Affairs and/or Ministry of Primary Resources and Tourism, which includes the requirement of supporting document(s) from the relevant government agencies or diplomatic representative office of that respective foreign national, depending on the sector involved.
19.

Sector: Transport Services
   – Rail Transport Services

Obligations Concerned:
   National Treatment (Article 9.4)
   Performance Requirements (Article 9.9)
   Senior Management and Board of Directors (Article 9.10)
   Market Access (Article 10.5)
   Local Presence (Article 10.6)

Measures: Administrative Measures and Guidelines

Description: Cross-Border Trade in Services and Investment

Foreign nationals and enterprises may not provide rail transport services in Brunei Darussalam, unless:

1. through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than 49 percent equity shareholding in any such enterprise providing rail transport services;

2. they comply with any performance requirements imposed, including requirements to transfer a particular technology or proprietary knowledge as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party; and

3. a majority of the senior managers in any such enterprises established are Bruneian nationals.
20. 

**Sector:** Transport Services 
– Maritime Passenger Transport Services 
– Maritime Freight Transport Services 
– Services auxiliary to maritime transport

**Obligations Concerned:** National Treatment (Article 9.4) 
Performance Requirements (Article 9.9) 
Senior Management and Board of Directors (Article 9.10) 
Market Access (Article 10.5) 
Local Presence (Article 10.6) 

**Measures:** 
– Administrative Measures and Guidelines

**Description:** Cross-Border Trade in Services and Investment 

1. Foreign nationals and enterprises may not provide maritime passenger and freight transport services as Brunei Darussalam-flagged vessels in Brunei Darussalam, unless:

   (a) they are seeking to register ships under the Brunei Darussalam flag through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than forty percent equity shareholding in any such enterprise providing maritime transport services;

   (b) they comply with any performance requirements imposed, including requirements to transfer a particular technology or proprietary knowledge as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party; and

   (c) a majority of the senior managers in any such enterprises established are Bruneian nationals.
2. Foreign nationals and enterprises may not provide services auxiliary to maritime transport services at Muara Port unless:

(a) through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than fifty-one percent equity shareholding in any such enterprise providing services auxiliary to maritime transport services.

(b) a majority of the senior managers in any such enterprise established are Bruneian nationals.

3. The number of enterprises in Brunei Darussalam providing maritime passenger and freight transport services and services auxiliary to maritime transport at Muara Port may be subject to needs-based quantitative limits.
21.

Sector: Transport Services
- Specialty Air Services (Flight Training Organisation)

Obligations Concerned: National Treatment (Article 9.4)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)

Measures: Administrative Measures and Guidelines

Description Cross-Border Trade in Services and Investment

1. Foreign nationals and enterprises may not provide specialty air transport services (flight training) in Brunei Darussalam, unless:

   (a) through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than forty-nine percent equity shareholding in any such enterprise providing specialty air services (flight training);

   (b) they comply with any performance requirements imposed, including requirements to transfer a particular technology or proprietary knowledge as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology and is not for the purpose of commercial exploitation by the Party; and

   (c) a majority of the senior managers in any such enterprises established are Bruneian nationals.

2. The number of enterprises in Brunei Darussalam providing specialty air services (flight training) may be subject to needs-based quantitative limits.
22.

Sector: Communication Services
– Courier Services, including Express Delivery Services

Obligations Concerned: National Treatment (Article 9.4)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Measures: Administrative Measures and Guidelines

Description: Cross-Border Trade in Services and Investment

Foreign nationals and enterprises may not provide courier services including express delivery services in Brunei Darussalam, unless through an enterprise established in Brunei Darussalam that is a joint venture, to provide such services.
23.  
**Sector:**  
- Business Services  
  - Professional Services  
  - Legal Services  

**Obligations Concerned:**  
- National Treatment (Article 9.4 and Article 10.3)  
- Senior Management and Board of Directors (Article 9.10)  
- Market Access (Article 10.5)  

**Measures:**  
- Legal Profession Act (Chapter 132)  

**Description:**  
Cross-Border Trade in Services and Investment  

1. A foreign national or service supplier may not provide legal services in Brunei Darussalam except in relation to international law or home country law.  

2. A foreign national or service supplier may not establish an enterprise for the provision of legal services in Brunei Darussalam in relation to international law or home country law, except through a partnership with at least one registered Bruneian advocate and solicitor.
24. **Sector:**

Education Services  
– Higher Education Services  
– International Schools

**Obligations Concerned:**

National Treatment (Article 9.4)  
Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10)  
Market Access (Article 10.5)

**Measures:**

Education Order (Chapter 210)

**Description:**

Cross-Border Trade in Services and Investment

1. Foreign nationals and enterprises may not provide higher education services through a commercial presence in Brunei Darussalam, unless:

   (a) through an enterprise established in Brunei Darussalam that is a joint venture, where the foreign national or enterprise does not own more than fifty-one percent equity shareholding in any such enterprise providing higher education services,

   (b) they comply with any performance requirements imposed, including requirements to transfer a particular technology or proprietary knowledge as long as such requirement to transfer technology or proprietary knowledge does not unreasonably prejudice the legitimate interests of the owner of technology or proprietary knowledge and is not for the purposes of commercial exploitation by the Party, and

   (c) a majority of the senior managers in any such enterprises established are Bruneian nationals.

2. Foreign enterprises are not allowed to be set up as branches or associate institutions unless authorised by the Minister.
3. Foreign nationals and enterprises may not establish international schools in Brunei Darussalam unless authorised by the Minister.
25.

**Sector:** Land

**Obligations Concerned:** National Treatment (Article 9.4)

**Measures:**
- Land Code (Chapter 40)
- Land Acquisition (Chapter 41)
- Land Code (Strata) Act (Chapter 189)

**Description:**

Subject to review and approval by the relevant committee (Komiti bagi Mempertimbangkan Permohonan Pindahmilik Strata) chaired by the Minister of Development, or his authorised representative, a foreign national or enterprise:

1. may own or lease non-landed property (strata title) for up to a maximum of:
   
   (a) ninety-nine (99) years where the property is situated on land which is held in perpetuity (freehold), or,

   (b) one (1) day less than the term of the lease where the land held is leasehold land; and

2. may not own or lease more than seventy percent of the individual strata titles in a single property.
26. 

**Sector:** Petroleum

**Obligations Concerned:** National Treatment (Article 9.4)

**Measures:**

- Petroleum Mining Act (Chapter 44, Rev. Ed. 2002) (as amended from time to time) (the “Act”)
- Brunei National Petroleum Company Sendirian Berhad Order, 2002 (as amended from time to time)
- Petroleum (Pipe-Lines) Act (Chapter 45, Rev. Ed. 1984) (as amended from time to time)
- Administrative Measures and Guidelines

**Description:** Investment

1. Under the Act, the State Party has exclusive ownership of and rights over petroleum in the territory of Brunei Darussalam. The State Party presently includes Brunei National Petroleum Company Sdn. Bhd (“PetroleumBRUNEI”). Private companies may obtain exploration, exploitation, development, and production rights for petroleum through petroleum mining Agreements with the State Party.

2. The State Party may require that investment in Brunei Darussalam by an investor of another Party take the form of a joint venture or a similar arrangement with a Bruneian enterprise, which may include PetroleumBRUNEI or any of its subsidiaries.

3. The State Party may require as a contractual term that, during the exploration or development period, all relevant costs with respect to the maximum participating interest of the Bruneian enterprise be borne by the partner that is an investor of another Party. Consequently, on the expiration of the carry interest period, the Bruneian enterprise will bear the costs of future operations in proportion to its participating interests in the petroleum mining Agreement.
4. The State Party may require as a contractual term that a Bruneian enterprise may acquire a participating interest, or increase its participating interest, in the joint venture or similar arrangement upon the occurrence of a stipulated event.

5. The terms “State Party”, “petroleum mining Agreement” and “petroleum” used herein shall have the meanings ascribed to them under the Act.
27. 
Sector: Petroleum

Obligations Concerned: Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10)

Measures: Administration Measures and Guidelines

Description: Investment

Foreign enterprises acting as operators in the upstream, midstream and downstream oil and gas industry may be:

1. contractually required to provide a portion of natural gas or manufactured petrochemical products and their derivatives in Brunei Darussalam for domestic use; or

2. required to appoint a certain percentage of Bruneian nationals or permanent residents to management positions.
28. 

**Sector:** Services supporting the petroleum industry

**Obligations Concerned:** National Treatment (Article 9.4 and Article 10.3)

**Measures:** Local Business Development Directive No.2 of the Energy Department, Prime Minister’s Office

**Description:** Cross-Border Trade in Services and Investment

1. A foreign national or enterprise may not provide, or establish an enterprise to provide services in the upstream, midstream and downstream petroleum industry in the services listed in Appendix I – A, unless as may otherwise be authorised by the Government of Brunei Darussalam.

2. Where a foreign national or enterprise has a contract for the provision of services listed in Appendix I – A, it may only provide such services through a Bruneian national or enterprise.
29.  
Sector: Services supporting the petroleum industry

Obligations Concerned: Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10)  
Local Presence (Article 10.6)

Measures: Local Business Development Directive No.2 of the Energy Department, Prime Minister’s Office

Description: Cross-Border Trade in Services and Investment

1. A foreign national or enterprise may provide, or establish an enterprise to provide services in the upstream, midstream and downstream petroleum industry other than those listed in Appendix I – A.

2. Where the total approved contract value for the provision of services in paragraph 1 is more than BND 10 million, the foreign national or enterprise must comply with the following requirements to:

   (a) appoint at least forty percent or more, Bruneian nationals or permanent residents to the enterprise’s management positions in Brunei Darussalam within the duration of the contract period;

   (b) accord a preference to goods and services produced in Brunei Darussalam such that at least forty percent, or more, of goods and services are produced or purchased in Brunei Darussalam within the duration of the contract period; and

   (c) establish or maintain a representative office or any form of enterprise, or to be resident in Brunei Darussalam,

unless as may otherwise be authorised by the Government of Brunei Darussalam.
30. Sector: Services supporting the petroleum industry
– Operation of Marine Supply Base and Shipyard

Obligations Concerned: National Treatment (Article 9.4)
Market Access (Article 10.5)

Measures: Administrative Measures and Guidelines

Description: Cross-Border Trade in Services and Investment

1. Foreign nationals or enterprises may not establish a marine supply base or shipyard providing services to the oil and gas industry except through a joint venture with a Bruneian national or enterprise, and may not own more than forty-nine percent equity shareholding in any such enterprise.

2. The number of marine supply bases or shipyards in Brunei Darussalam may be subject to needs-based quantitative limits.
Appendix I – A

Note: All activities listed herein are with respect to contracts with petroleum upstream, midstream and downstream operators in Brunei Darussalam and are therefore applicable only to Brunei Darussalam’s Non-Conforming Measures for Petroleum in Annex I

Work Categories

Corporate Services

1. Provision of environmental health services, including pest prevention services. This does not include advisory and consultancy services.
2. Provision of media publication services
3. Provision of event management services
4. Provision of travel arrangements for staff (other than those booked online)

Engineering Design

1. Provision of quantity surveying services

Facility Management

1. Provision of supply, rental, installation and maintenance of air-conditioners for onshore and offshore areas
2. Provision of catering, cleaning, laundry and recreational services at offshore facilities
3. Provision of housekeeping and catering services for onshore oil and gas facilities including lodging
4. Provision of building and maintenance services for staff housing
5. Provision of electrical maintenance services for staff housing
6. Provision of landscape maintenance services
7. Provision of packing and transportation services for staff
8. Provision of office support services
9. Provision of security services
10. Provision of warehousing services for storage
11. Provision of maintenance services for industrial buildings
12. Provision of civil infrastructure services including maintenance, construction, renovation and demolition
13. Provision of courier services to worldwide locations and within Brunei
Inspection Services

1. Provision of specialist inspection and non-destructing testing services

Instrumentation – Aftermarket

1. Provision of after-sales maintenance services for instrumentation equipment and spare parts

Land

1. Provision of spot or term hire of light vehicles
2. Provision of spot or term hire of medium/heavy vehicles. This does not include specialised or special-purpose vehicles.
3. Provision of material handling and manpower services
4. Provision of material clearing and forwarding services for air and sea freight
5. Provision of road fuel tankers and maintenance services for transport of petroleum products domestically

Marine Vessels

1. Provision of chartered anchor handling tugs
2. Provision of chartered barges for accommodation and working deck space
3. Provision of chartered LNG tugs to support berthing of LNG vessels
4. Provision of chartered contingencies utility craft to support safety coverage
5. Provision of chartered fast crew boats for passenger transfer and light cargo
6. Provision of chartered vessels for general purpose launches, area launches, standby launches
7. Provision of chartered supply vessels

Offshore Maintenance Services

1. Provision of offshore construction and maintenance services including work pack preparation, project preparation, installation, repair and maintenance work
2. Provision of blasting and painting services for offshore facilities
3. Provision of scaffolding equipment and maintenance activities for offshore platforms

Onshore Fabrication

1. Provision of onshore fabrication services to support onshore brownfield projects and minor maintenance activities
2. Provision of onshore fabrication services to support offshore structures
3. Provision of onshore construction services
Onshore Maintenance Services

1. Provision of fabrication, installation and maintenance of onshore production support facilities including landfield maintenance and construction, tank maintenance and construction, project support for brownfield/greenfield projects and other associated services
2. Provision of scaffolding for onshore work
3. Provision of well tie-in services for onshore wells
4. Provision of workshop services including maintenance, repair, testing of equipment

Rotating equipment – aftermarket

1. Provision of after-sales maintenance services for rotating equipment and spare parts

Static equipment – aftermarket

1. Provision of after-sales maintenance services for static equipment and spare parts

Training

1. Provision of basic management, supervisory and development training. Training activities are either non-technical (such as soft skills) or minimal technical training. This does not include higher or tertiary education services, such as specialised technical training and engineering expertise.

Well Construction Services

1. Provision of chemicals and brine mixing services to support drilling activities
2. Provision of low-end drilling tools and equipment
3. Provision of post-drilling platform and tank cleaning services

Well Intervention

1. Provision of coil tubing services and equipment for onshore activities
2. Provision of hoist services for in support of onshore wells workover operations and related activities
3. Provision of equipment and personnel for well abandonment services
4. Provision of well integrity and maintenance services
Product Categories

1. Supply of **materials and equipment for civil works** including building material and hardware, small tools, textiles and clothing
2. Supply of **flat-rack containers** for storage and transportation
3. Supply of **material handling accessories** including wire ropes, cordage chains and tackles
4. Supply of **non-office materials and equipment** including furniture and household requisites
5. Supply of **office materials and equipment** including office machines, stationery and consumables
6. Supply of **vehicles and vehicles accessories** including bicycles. This does not include specialised/special-purpose vehicles.
7. Supply of **abrasives, polishes and compounds**
8. Supply of **lubricants** including oil products, greases and fuel additives
9. Supply of **workshop tools and accessories** including machine and pneumatic tools and accessories, welding and spraying equipment
Annex I
Schedule of Canada

Introductory Note

1. Description provides a general non-binding description of the measure for which the entry is made.

2. Obligations Concerned specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 10.7.1 (Cross Border Trade in Services – Non-Conforming Measures) and 9.11.1 (Investment – Non-Conforming Measures), do not apply to the listed measure(s).

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 Measures element is qualified by a liberalisation commitment from the Description element, the Measures element as so qualified shall prevail over all other elements; and

   b. the Measures element is not so qualified, the Measure element prevails over other elements, unless a discrepancy between the Measure element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measure element prevails, in which case the other elements prevail to the extent of that discrepancy.
1

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central

Measures: Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)
Investment Canada Regulations, SOR/85-611, as qualified by
paragraphs 8 through 12 of the Description element

Description: Investment

1. Except as set out in paragraphs 3 and 7, the Director of
Investments will review a direct “acquisition of control”, as
defined in the Investment Canada Act, of a Canadian business by
an investor of an original signatory for which the Agreement has
entered into force pursuant to Article 30.5 (Entry into Force) if the
value of the Canadian business is not less than C$1.5 billion,
adjusted in accordance with the applicable methodology in January
of each subsequent year as set out in the Investment Canada Act.

2. Notwithstanding the definition of “investor of a Party” in
Article 9.1 (Definitions), only investors who are nationals of an
original signatory for which the Agreement has entered into force
pursuant to Article 30.5 (Entry into Force), or entities controlled by
nationals of those TPP Parties, as provided for in the Investment
Canada Act may benefit from the higher review threshold.

3. The higher threshold in paragraph 1 does not apply to a
direct “acquisition of control” by a state owned enterprise of a
Canadian business. Such acquisitions are subject to review by the
Director of Investments if the value of the Canadian business is not
less than C$369 million, adjusted in accordance with the applicable
methodology in January of each subsequent year as set out in the
Investment Canada Act.

4. An investment subject to review under the Investment
Canada Act may not be implemented unless the Minister responsible for the Investment Canada Act advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with six factors described in the Act, summarized as follows:

(a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the use of parts, components and services produced in Canada and on exports from Canada;

(b) the degree and significance of participation by Canadians in the investment;

(c) the effect of the investment on productivity, industrial efficiency, technological development and product innovation in Canada;

(d) the effect of the investment on competition within an industry or industries in Canada;

(e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic and cultural policy objectives enunciated by the government or legislature of any province likely to be significantly affected by the investment; and

(f) the contribution of the investment to Canada's ability to compete in world markets.

5. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit undertakings to the Minister in connection with a proposed acquisition that is the subject of review. In the event of noncompliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorized under the Investment Canada Act.

6. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review as described above, must notify the Director of Investments.
7. The review thresholds set out in paragraphs 1 and 2 do not apply to an acquisition of a cultural business.

8. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada’s cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor-in-Council authorizes a review in the public interest.

9. An indirect "acquisition of control" of a Canadian business by an investor of a TPP Party in a sector other than a cultural business is not reviewable.

10. Notwithstanding Article 9.9 (Performance Requirements), Canada may impose requirements, or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct or operation of an investment of an investor of a TPP Party or of a non-Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of an acquisition of an investment under the Investment Canada Act.

11. Except for requirements, commitments or undertakings relating to technology transfer as set out in paragraph 10 of this reservation, Article 9.9 (Performance Requirements) applies to requirements, commitments or undertakings imposed or enforced under the Investment Canada Act.

12. For the purposes of this reservation: a “non-Canadian” means an individual, government or agency thereof or an entity that is not Canadian; and “Canadian” means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the Investment Canada Act.
Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central

Measures: Canada Business Corporations Act, R.S.C. 1985, c. C-44
Canada Business Corporations Act Regulations, SOR/2001-512
Canada Cooperatives Act, S.C.1998, c1
Canada Cooperatives Regulations, SOR/99-256

Description: Investment

1. A corporation or distributing cooperative may place constraints on the issue, transfer and ownership of shares in a federally incorporated corporation or cooperative. The object of those constraints is to permit a corporation or cooperative to meet Canadian ownership or control requirements, under certain laws set out in the Canada Business Corporations Act Regulations and Canada Cooperative Regulations, in sectors where ownership or control is required as a condition to operate or to receive licenses, permits, grants, payments or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.

2. The Canada Cooperatives Act provides that constraints may be placed on the issue or transfer of investment shares of a cooperative to persons not resident in Canada to permit cooperatives to meet Canadian ownership requirements to obtain a license to carry on a business, to become a publisher of a Canadian newspaper or periodicals or to acquire shares of a financial intermediary and in sectors where ownership or control is a required condition to receive licenses, permits, grants, payments and other benefits. Where the ownership or control of investment of shares would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the Canada Cooperatives Act provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.

3. For the purposes of this reservation Canadian means “Canadian” as defined in the Canada Business Corporations
Regulations, or in the Canada Cooperatives Regulations.
3

Sector: All Sectors

Sub-Sector: 

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central

Measures: 
1. The *Foreign Ownership of Land Regulations* are made pursuant to the *Citizenship Act* and the Alberta *Agricultural and Recreational Land Ownership Act, RSA 1980, c. A-9*. In Alberta, an ineligible person or foreign-owned or -controlled corporation may only hold an interest in controlled land consisting of maximum of 2 parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purpose of this reservation:

   **ineligible person** means:

   (a) a natural person who is not a Canadian citizen or permanent resident;

   (b) a foreign government or agency thereof; or

   (c) a corporation incorporated in a country other than Canada.

   **Controlled land** means land in Alberta but does not include:

   (a) land of the Crown in right of Alberta;

   (b) land within a city, town, new town, village or summer village; and

   (c) mines or minerals.
4

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central

Measures: 

- *Air Canada Public Participation Act*, R.S.C. 1985, c. 35 (4th Supp.)
- *Eldorado Nuclear Limited Reorganization and Divestiture Act*, S.C. 1988, c. 41

Description: Investment

1. A "non-resident" or “non-residents” may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. The restrictions are as follows:

   - Air Canada: 25% in the aggregate;
   - Cameco Limited (formerly Eldorado Nuclear Limited): 15% per non-resident natural person, 25% in the aggregate;
   - Nordion International Inc.: 25% in the aggregate;
   - Theratronics International Limited: 49% in the aggregate; and
   - Canadian Arsenals Limited: 25% in the aggregate.

2. For the purposes of this reservation, "non-resident" includes:

   a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;

   b) a corporation incorporated, formed or otherwise organized outside Canada;
c) the government of a foreign State or a political subdivision thereof, or a person empowered to perform a function or duty on behalf of such a government;

d) a corporation that is controlled directly or indirectly by an entity referred to in subparagraphs (a) through (c);

e) a trust:

(i) established by an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada, or

(ii) in which an entity referred to in subparagraphs (a) through (d) has more than 50% of the beneficial interest; and

(f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).
Sector: All Sectors

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Central

Measures: {'Export and Import Permits Act, R.S.C. 1985, c. E-19

Description: Cross-Border Trade in Services

Only individuals ordinarily resident in Canada, enterprises having their head offices in Canada or branch offices in Canada of foreign enterprises may apply for and be issued import or export permits or transit authorization certificates for goods and related services subject to controls under the Export and Import Permits Act.
Sector: Business Service Industries

Sub-Sector: 

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Local Presence (Article 10.6)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central

Measures: 
*Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.)
*Customs Brokers Licensing Regulations*, SOR/86-1067

Description: Cross-Border Trade in Services and Investment

To be a licensed customs broker in Canada:

(a) a natural person must be a Canadian national;

(b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and

(c) a partnership must be composed of persons who are Canadian nationals, or corporations incorporated in Canada with a majority of their directors being Canadian nationals.
7

Sector: Business Service Industries

Sub-Sector: Duty Free Shops

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Local Presence (Article 10.6)

Level of Government: Central

Measures: Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)
Duty Free Shop Regulations, SOR/86-1072

Description: Cross-Border Trade in Services and Investment

1. To be a licensed duty free shop operator at a land border crossing in Canada, a natural person must:
   (a) be a Canadian national;
   (b) be of good character;
   (c) be principally resident in Canada; and
   (d) have resided in Canada for at least 183 days of the year preceding the year of application for the license.

2. To be a licensed duty free shop operator at a land border crossing in Canada, a corporation must:
   (a) be incorporated in Canada; and
   (b) have all of its shares beneficially owned by Canadian nationals who meet the requirements of paragraph 1.
<table>
<thead>
<tr>
<th><strong>Sector:</strong></th>
<th>Business Service Industries</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-Sector:</strong></td>
<td>Examination Services relating to the Export and Import of Cultural Property</td>
</tr>
<tr>
<td><strong>Obligations Concerned:</strong></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td><strong>Level of Government:</strong></td>
<td>Central</td>
</tr>
<tr>
<td><strong>Measures:</strong></td>
<td><em>Cultural Property Export and Import Act</em>, R.S.C. 1985, c. C-51</td>
</tr>
<tr>
<td><strong>Description:</strong></td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

Only a "resident of Canada" or an "institution" in Canada may be designated as an "expert examiner" of cultural property for purposes of the *Cultural Property Export and Import Act*. A "resident" of Canada is an individual who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains one or more establishments in Canada to which employees employed in connection with the business of the corporation ordinarily report for work. An "institution" is an institution that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes and that conserves objects and exhibits them.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

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Sector: Professional services
Sub-Sector: Patent Agents, Patent agents providing legal advisory and representation services
Obligations Concerned: Local Presence (Article 10.6)
Level of Government: Central
Patent Rules, SOR/96-423
Description: Cross-Border Trade in Services

To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the Patent Office.
Sector: Professional services

Sub-Sector: Trade-mark Agents, trade mark agents providing legal advisory and representation services in statutory procedures

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Central

Trade-marks Regulations, SOR/96-195

Description: Cross-Border Trade in Services

To represent a person in the prosecution of an application for a trade-mark or in other business before the Trade-marks Office, a trade-mark agent must be resident in Canada and registered by the Trade-marks Office.
Sector: Energy
Sub-Sector: Oil and Gas
Obligations Concerned: National Treatment (Article 9.4)
Level of Government: Central
Measures: 

Description: Investment

1. This reservation applies to production licenses issued for "frontier lands" and "offshore areas" (areas not under provincial jurisdiction) as defined in the applicable measures.

2. A person who holds an oil and gas production license or shares therein must be a corporation incorporated in Canada.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

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Sector: Energy

Sub-Sector: Oil and Gas

Obligations Concerned: Performance Requirements (Article 9.9)
Local Presence (Article 10.6)

Level of Government: Central

Canada - Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3

Measures implementing the Canada-Yukon Oil and Gas Accord, including the Canada-Yukon Oil and Gas Accord Implementation Act, 1998, c.5, s.20 and the Oil and Gas Act, RSY 2002, c.162

Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or are adopted by Nunavut as the successor territories to the former Northwest Territories.

Measures implementing the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord

Description: Cross-Border Trade in Services and Investment

1. Under the Canada Oil and Gas Operations Act, a "benefits plan" must be approved by the Minister in order to proceed with an oil and gas development project.

2. A “benefits plan” is a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in proposed work or activity referred to in the benefits plan.

3. The benefits plan contemplated by the Canada Oil and Gas Operations Act permits the Minister to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or
can participate in the supply of goods and services used in proposed work activity referred to in the benefits plan.

4. Provisions continuing those set out in the Canada Oil and Gas Operations Act are included in laws which implement the Canada-Yukon Oil and Gas Accord.

5. Provisions continuing those set out in the Canada Oil and Gas Operations Act will be included in laws or regulations to implement the Northwest Territories Oil and Gas Accord and the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord. For the purposes of this reservation these accords shall be deemed, once concluded, to be existing measures.

6. The Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada - Newfoundland Atlantic Accord Implementation Act have the same requirement for a benefits plan but also require that the benefits plan ensures that:

(a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out any work or activity in the offshore area;

(b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and

(c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality and delivery.

7. The Boards administering the benefits plan under these Acts may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a person of Canada in connection with the approval of development projects
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Subject to Authentication of English, Spanish and French Versions

under the applicable Acts.
13

Sector: Energy

Sub-Sector: Oil and Gas

Obligations Concerned: Performance Requirements (Article 9.9)

Level of Government: Central

Measures: 

Canada - Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3

Hibernia Development Project Act, S.C. 1990, c. 41

Description: Investment

1. Under the Hibernia Development Project Act, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and to use their best efforts to achieve specific Canadian and Newfoundland target levels in relation to the provisions of a "benefits plan" required under the Canada-Newfoundland Atlantic Accord Implementation Act. "Benefits plans" are further described in Schedule of Canada, Annex I-12.

2. In addition, Canada may impose in connection with the Hibernia project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a national or enterprise in Canada.
Sector: Energy
Sub-Sector: Uranium
Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Level of Government: Central
*Investment Canada Regulations*, SOR/85-611
*Policy on Non-Resident Ownership in the Uranium Mining Sector*, 1987

Description: Investment

1. Ownership by “non-Canadians”, as defined in the *Investment Canada Act*, of a uranium mining property is limited to 49 percent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact "Canadian-controlled" as defined in the *Investment Canada Act*.

2. Exemptions from the Policy on Non-Resident Ownership in the Uranium Mining Sector are permitted, subject to approval of the Governor-in-Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by non-Canadians, made prior to December 23, 1987 and that are beyond the permitted ownership level, may remain in place. No increase in non-Canadian ownership is permitted.

3. In considering a request for an exemption from the Policy from an investor of an original signatory for which the Agreement has entered into force pursuant to Article 30.5 (Entry into Force), Canada will not require that it be demonstrated that a Canadian partner cannot be found.
Sector: Transportation

Sub-Sector: Air Transportation

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)
Most-Favoured-Nation Treatment (Article 9.5)

Level of Government: Central

Measures:

- Canada Transportation Act, S.C. 1996, c. 10
- Canadian Aviation Regulations, SOR/96-433:
  - Part II “Aircraft Markings & Registration”;
  - Part IV “Personnel Licensing & Training”; and
  - Part VII “Commercial Air Services”.

Description: Investment

1. The Canada Transportation Act, in Section 55, defines “Canadian” in the following manner:

"... ‘Canadian’ means a Canadian citizen or a permanent resident within the meaning of the Immigration and Refugee Protection Act, a government in Canada or an agent of such a government or a corporation or other entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least seventy-five per cent, or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned and controlled by Canadians..."

2. Regulations made under the Aeronautics Act incorporate by reference the definition of “Canadian” found in the Canada Transportation Act. These Regulations require that a Canadian operator of commercial air services operate Canadian-registered aircraft. These regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as “Canadian”.

3. Only “Canadians” may provide the following commercial air transportation services:
(a) “domestic services” (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);

(b) “scheduled international services” (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;

(c) “non-scheduled international services” (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the Canada Transportation Act.

(d) “specialty air services” (include, but are not limited to: aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing and aerial crop spraying).

3. No foreign individual is qualified to be the registered owner of a Canadian-registered aircraft.

4. Further to the Canadian Aviation Regulations, a corporation incorporated in Canada, but that does not meet the Canadian ownership and control requirements, may only register an aircraft for private use where a significant majority of use of the aircraft (at least 60 percent) is in Canada.

5. The Canadian Aviation Regulations also have the effect of limiting foreign-registered private aircraft registered to “non-Canadian” corporations to be present in Canada for a maximum of 90 days per twelve-month period. Such foreign-registered private aircraft would be limited to private use, as would be the case for Canadian-registered aircraft requiring a private operating certificate.
Sector: Transportation

Sub-Sector: Air Transportation

Obligations Concerned: Local Presence (Article 10.6)
National Treatment (Article 10.3)

Level of Government: Central

Canadian Aviation Regulations, SOR/96-433
Part IV “Personnel Licensing & Training”;
Part V: “Airworthiness”; 
Part VI “General Operating & Flight Rules”; and
Part VII “Commercial Air Services”

Description: Cross-Border Trade in Services

Aircraft and other aeronautical product repair, overhaul or
maintenance activities required to maintain the airworthiness of
Canadian-registered aircraft and other aeronautical products must
be performed by persons meeting Canadian aviation regulatory
requirements (i.e., approved maintenance organizations and
aircraft maintenance engineers). Certifications are not provided for
persons located outside Canada, except sub-organizations of
approved maintenance organizations that are themselves located in
Canada.
Sector: Transportation

Sub-Sector: Land Transportation

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Level of Government: Central

*Canada Transportation Act*, S.C. 1996, c.10
*Customs Tariff*, 1997, C.36

Description: Cross-Border Trade in Services

Only persons of Canada, using Canadian-registered and either Canadian-built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of Canada.
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Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned:
- National Treatment (Article 9.4)
- National Treatment (Article 10.3)
- Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services and Investment

1. To register a ship in Canada, the owner of that ship or the person who has exclusive possession of that ship must be:

   (a) a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*;

   (b) a corporation incorporated under the domestic laws of Canada, or a province or territory; or

   (c) when the ship is not already registered in another country, a corporation incorporated under the domestic laws of a country other than Canada if one of the following is acting with respect to all matters relating to the ship, namely:

      (i) a subsidiary of the corporation that is incorporated under the domestic laws of Canada or a province or territory,

      (ii) an employee or director in Canada of any branch office of the corporation that is carrying on business in Canada, or

      (iii) a ship management company incorporated under the laws of Canada or a province or territory.

2. A ship registered in a foreign country which has been bareboat chartered may be listed in Canada for the duration of the charter while the ship’s registration is suspended in its country of
registry, if the charterer is:

(a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*; or
(b) a corporation incorporated under the domestic laws of Canada or a province or territory.
Sector: Transportation
Sub-Sector: Water Transportation
Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)
Level of Government: Central
Marine Personnel Regulations SOR/2007-115
Description: Cross-Border Trade in Services

Masters, mates, engineers and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian registered ships. Such certificates may be granted only to Canadian citizens or permanent residents.
Sector: Transportation
Sub-Sector: Water Transportation
Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)
Level of Government: Central

Measures:
- Pilotage Act, R.S.C. 1985, c. P-14
- General Pilotage Regulations, SOR/2000-132
- Atlantic Pilotage Authority Regulations, C.R.C., c. 1264
- Laurentian Pilotage Authority Regulations, C.R.C., c. 1268
- Great Lakes Pilotage Regulations, C.R.C., c. 1266
- Pacific Pilotage Regulations, C.R.C., c. 1270

Description:
Subject to the Schedule of Canada, Annex II-10, a license or a pilotage certificate issued by the relevant regional Pilotage Authority is required to provide pilotage services in the compulsory pilotage waters of territory of Canada. Only Canadian citizens or permanent residents may obtain such a license or a pilotage certificate. A permanent resident of Canada who has been issued a pilot's license or pilotage certificate must become a Canadian citizen within five years of receipt of the license in order to retain it.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Transportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Water Transportation</td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central</td>
</tr>
<tr>
<td>Measures:</td>
<td><em>Shipping Conferences Exemption Act, 1987, R.S.C. 1985, c. 17 (3rd Supp.)</em></td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.
Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned: Most-Favoured-Nation Treatment (Article 10.4)

Level of Government: Central

Measures: Coasting Trade Act, S.C. 1992, c. 31

Description: Cross-Border Trade in Services

The prohibitions under the Coasting Trade Act, set out in Schedule of Canada, Annex II-9, do not apply to any vessel that is owned by the U.S. Government when used solely for the purpose of transporting goods owned by the U.S. Government from the territory of Canada to supply Distant Early Warning sites.
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Sector: All sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
                    National Treatment (Article 10.3)
                    Most-Favoured-Nation Treatment (Article 9.5)
                    Most-Favoured-Nation Treatment (Article 10.4)
                    Local Presence (Article 10.6)
                    Performance Requirements (Article 9.9)
                    Senior Management and Boards of Directors (Article 9.10)

Level of Government: Regional

Measures: All existing non-conforming measures of all provinces and territories.

Description: Cross-Border Trade in Services and Investment

For purposes of transparency, Appendix I-A sets out an illustrative, non-binding list of non-conforming measures maintained at the sub-national level of government.
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

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Sector: Air Transportation

Sub-Sector: Specialty Air Services as defined in the Cross-Border Trade in Services Chapter

Obligations Concerned: National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article.4)

Level of Government: Central

Measures:
Canada Transportation Act
Air Transportation Regulations
Canadian Aviation Regulations

Description: Cross-Border Trade in Services

Authorization from Transport Canada is required to provide specialty air services in the territory of Canada. In determining whether to grant a particular authorization, Transport Canada will consider among other factors, whether the country in which the applicant, if an individual, is resident or, if an enterprise is constituted or organized, provides Canadian specialty air service operators reciprocal access to provide specialty air services in that country’s territory. Any foreign service supplier authorized to provide specialty air services is required to comply with Canadian safety requirements while providing such services in Canada.

For investment, see Schedule of Canada, Annex I-15.
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Sector: Communications

Sub-Sector: Telecommunications Transport Networks and Services
Radiocommunications

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central

*Canadian Telecommunications Common Carrier Ownership and Control Regulations*, SOR/94-667
*Radiocommunication Regulations*, SOR/96-484

Description: Investment

Foreign investment in facilities-based telecommunications service suppliers is restricted to a maximum, cumulative total of 46.7 percent voting interest, based on 20 percent direct investment and 33.3 percent indirect investment.

Facilities-based telecommunications service suppliers must be controlled in fact by Canadians.

At least 80 percent of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadians.

1. Notwithstanding the restrictions described above:

(a) foreign investment is allowed up to 100 percent for suppliers conducting operations under an international submarine cable licence;

(b) mobile satellite systems of a foreign service supplier may be used by a Canadian service supplier to provide services in Canada;

(c) fixed satellite systems of a foreign service supplier may be used to provide services between points in Canada and all
points outside Canada;

(d) foreign investment is allowed up to 100 percent for suppliers conducting operations under a satellite authorization; and

(e) foreign investment is allowed up to 100 percent for facilities-based telecommunications service suppliers that have revenues, including those of its affiliates, from the provision of telecommunications services in Canada representing less than 10 percent of the total telecommunications services annual revenues in Canada. Facilities-based telecommunications service suppliers that previously had annual revenues, including those of their affiliates, from the provision of telecommunications services in Canada representing less than 10 percent of the total telecommunications services annual revenues in Canada may increase to 10 percent or beyond as long as the increase in such revenues did not result from the acquisition of control of, or the acquisition of assets used to provide telecommunications services by, another facilities-based telecommunications service supplier that is subject to the legislative authority of the Parliament of Canada.
### Appendix I-A: Illustrative List of Canada’s Sub-National Non-conforming Measures

<table>
<thead>
<tr>
<th>Sector</th>
<th>Non-conforming measure by jurisdiction</th>
</tr>
</thead>
</table>
| Accounting, auditing and bookkeeping services | Residency: Saskatchewan, British Columbia, Ontario, Nova Scotia, Quebec, Prince Edward Island, Newfoundland & Labrador, Manitoba, Alberta.  
Local Presence: Saskatchewan, Newfoundland & Labrador, Manitoba, Ontario. |
Corporate Form: Prince Edward Island requires non-resident firms to maintain a higher percentage of practitioners in a partnership. |
| Engineering services and integrated engineering services | Residency: Saskatchewan, British Columbia, Ontario, New Brunswick, Alberta. |
| Urban planning and landscape architecture services | Residency: Newfoundland & Labrador, Saskatchewan. |
| Real estate services                | Residency: Alberta, Quebec, Yukon, Manitoba, British Columbia, Nova Scotia, Prince Edward Island, Newfoundland & Labrador. |

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1 This document is provided for transparency purposes only, and is neither exhaustive nor binding. The information contained in this document is drawn from Canada’s GATS May 2005 Revised Conditional Offer on Services (TN/S/O/CAN/Rev.1, 12 May 2005).
## Appendix I-A: Illustrative List of Canada’s Sub-National Non-conforming Measures

<table>
<thead>
<tr>
<th>Sector</th>
<th>Non-conforming measure by jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management consulting services</td>
<td><strong>Local Presence:</strong> Saskatchewan, Ontario, Nova Scotia, Prince Edward Island, Newfoundland &amp; Labrador, Alberta.</td>
</tr>
<tr>
<td>Residency</td>
<td><strong>Residency:</strong> Newfoundland &amp; Labrador.</td>
</tr>
<tr>
<td>Toll refining</td>
<td><strong>Performance Requirement:</strong> Ontario requires treatment or refinement of base metals in Canada.</td>
</tr>
<tr>
<td>Placement and supply services of personnel</td>
<td><strong>Local Presence:</strong> Ontario.</td>
</tr>
<tr>
<td>Investigation and security services</td>
<td><strong>Senior Managers and Board of Directors:</strong> Newfoundland &amp; Labrador.</td>
</tr>
<tr>
<td></td>
<td><strong>Local Presence:</strong> Ontario.</td>
</tr>
<tr>
<td>Related scientific and technical consulting</td>
<td><strong>Residency:</strong> Ontario, British Columbia, Newfoundland &amp; Labrador.</td>
</tr>
<tr>
<td>services</td>
<td><strong>Citizenship:</strong> British Columbia, Manitoba.</td>
</tr>
<tr>
<td></td>
<td><strong>Local Presence:</strong> Saskatchewan.</td>
</tr>
<tr>
<td></td>
<td><strong>Training Requirement:</strong> Ontario requires training to</td>
</tr>
</tbody>
</table>

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37
Appendix I-A: Illustrative List of Canada’s Sub-National Non-conforming Measures

<table>
<thead>
<tr>
<th>Sector</th>
<th>Non-conforming measure by jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>be completed in province for accreditation in respect of land surveyors.</td>
</tr>
<tr>
<td>Other business services</td>
<td>Residency: Saskatchewan, Ontario, Nova Scotia.</td>
</tr>
<tr>
<td></td>
<td>Local Presence: Saskatchewan, Newfoundland &amp; Labrador, Nova Scotia, Prince Edward Island.</td>
</tr>
<tr>
<td>Distribution services</td>
<td>Citizenship: Quebec.</td>
</tr>
<tr>
<td></td>
<td>Economic Needs Test: Prince Edward Island.</td>
</tr>
<tr>
<td>Tourism and travel related services</td>
<td>Residency: Alberta, British Columbia, Ontario.</td>
</tr>
<tr>
<td></td>
<td>Residency/Citizenship: Alberta, Saskatchewan, Nova Scotia, Newfoundland &amp; Labrador, Quebec.</td>
</tr>
<tr>
<td></td>
<td>Local Presence: Ontario, Quebec.</td>
</tr>
<tr>
<td></td>
<td>Taxation: Ontario requires non-residents to pay 20 percent land transfer tax.</td>
</tr>
</tbody>
</table>
Appendix I-A: Illustrative List of Canada’s Sub-National Non-conforming Measures

<table>
<thead>
<tr>
<th>Sector</th>
<th>Non-conforming measure by jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road transport services (Passenger transportation)</td>
<td>Economic Need Test: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland &amp; Labrador, Nunavut, Northwest Territories.</td>
</tr>
<tr>
<td>Road transport services (Freight transportation)</td>
<td>Local Presence: Quebec.</td>
</tr>
<tr>
<td></td>
<td>Economic Need Test: Saskatchewan, Newfoundland &amp; Labrador.</td>
</tr>
</tbody>
</table>
ANNEX I
SCHEDULE OF CHILE

Introductory Note for the Schedule of Chile

1. Description provides a general non-binding description of the measure for which the entry is made.

2. In accordance with Articles 10.7.1 (Cross Border Trade in Services – Non-Conforming Measures) and 9.11.1 (Investment - Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the Measures element of that entry.
Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central

Measures: Decree Law 1939, Official Gazette, November 10, 1977, Rules for acquisition, administration and disposal of State owned assets, Title I (Decreto Ley 1939, Diario Oficial, noviembre 10, 1977, Normas sobre adquisición, administración y disposición de bienes del Estado, Título I)


Description: Investment

Chile may only dispose of the ownership or other rights over “State land” to Chilean natural or juridical persons, unless the applicable legal exceptions, such as in Decree Law 1939 (Decreto Ley 1939), apply. “State land” for these purposes refers to State owned land up to a distance of 10 kilometers from the border and up to a distance of five kilometers from the coastline, measured from the high-tide line.

Immovable property situated in areas declared “the borderland zone” by virtue of D.F.L 4 of the Ministry of Foreign Affairs, 1967 (D.F.L. 4 del Ministerio de Relaciones Exteriores, 1967) may not be acquired, either as property or in any other title, by (1) natural persons with nationality of a neighbouring country; (2) juridical persons with their principal seat in a neighbouring country; (3) juridical persons with 40 per cent or more of capital owned by natural persons with nationality of a neighbouring country; or (4) juridical persons effectively controlled by such natural persons. Notwithstanding the foregoing, this limitation may not apply if an exemption is granted by a Supreme Decree (Decreto Supremo) based on considerations of national interest.
Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3) Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services

A minimum of 85 per cent of employees who work for the same employer shall be Chilean natural persons or foreigners with more than five years of residence in Chile. This rule applies to employers with more than 25 employees under a contract of employment (contrato de trabajo\(^1\)). Expert technical personnel shall not be subject to this provision, as determined by the Directorate of Labour (Dirección del Trabajo).

An employee shall be understood to mean any natural person who supplies intellectual or material services, under dependency or subordination, pursuant to a contract of employment.

\(^1\) For greater certainty, a contrato de trabajo is not mandatory for the supply of cross-border trade in services.
Sector: Communications

Sub-Sector:

Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Central

Measures:


Description: Cross-Border Trade in Services and Investment

The owner of a social communication medium, such as those that transmit on a regular basis sounds, texts or images, or a national news agency shall, in the case of a natural person, have a duly established domicile in Chile, and in the case of a juridical person, shall be constituted with domicile in Chile or have an agency authorized to operate within the national territory.

Only Chilean nationals may be presidents, administrators or legal representatives of the juridical person.

The owner of a concession to provide (a) public telecommunication services; (b) intermediate telecommunication services provided to telecommunications...
services through facilities and networks established for that purpose; and (c) sound broadcasting, shall be juridical persons constituted and domiciled in Chile.

Only Chilean nationals may be presidents, managers, administrators or legal representatives of the juridical person.

In the case of public radio broadcasting services, the board of directors may include foreigners, only if they do not represent the majority.

In the case of a social communication medium, the legally responsible director and the person who subrogates him or her must be Chilean, with domicile and residence in Chile, unless the social communication medium uses a language other than Spanish.

Requests for public radio broadcasting concessions submitted by juridical persons in which foreigners hold an interest exceeding 10 per cent of the capital shall be granted only if proof is previously provided verifying that similar rights and obligations as those that the applicants will enjoy in Chile are granted to Chilean nationals in their country of origin.

The National Television Council may establish, as a general requirement that, programs broadcasted through public (open) television channels include up to 40 per cent of Chilean production.
Sector: Energy  
Sub-Sector: 
Obligations Concerned: National Treatment (Article 9.4)  
Performance Requirements (Article 9.9)  
Level of Government: Central  
Measures: Political Constitution of the Republic of Chile, Chapter III (Constitución Política de la República de Chile, Capítulo III)  
Description: Investment  
The exploration, exploitation, and treatment (beneficio) of liquid or gaseous hydrocarbons, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined in each case by a Supreme Decree. For greater certainty, it is understood that the term “treatment” (beneficio) shall not include the storage, transportation or refining of the energy material referred to in this paragraph.  
The production of nuclear energy for peaceful purposes may only be carried out by the Chilean Nuclear Energy
Commission (Comisión Chilena de Energía Nuclear) or, with its authorization, jointly with third persons. Should the Commission grant such an authorization, it may determine the terms and conditions thereof.
Sector: Mining

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Performance Requirements (Article 9.9)

Level of Government: Central

Measures:
Political Constitution of the Republic of Chile, Chapter III (Constitución Política de la República de Chile, Capítulo III)


Description: Investment

The exploration, exploitation, and treatment (beneficio) of lithium, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined, in each case by a Supreme Decree.

Chile has the right of first offer at market prices and terms for the purchase of mineral products when thorium and uranium are contained in significant quantities.
For greater certainty, Chile may require that producers separate from mining products the portion of:

1. liquid or gaseous hydrocarbons;
2. lithium;
3. deposits of any kind existing in sea waters subject to national jurisdiction; and
4. deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, that exists, in significant amounts, in such mining products and that can be economically and technically separated, for delivery to or for sale on behalf of the State. For these purposes, “economically and technically separated” means that the costs incurred to recover the four types of substances referred to above through a sound technical procedure and to commercialize and deliver those substances shall be lower than their commercial value.

Furthermore, only the Chilean Nuclear Energy Commission (Comisión Chilena de Energía Nuclear), or parties authorized by the said Commission, may execute or enter into juridical acts regarding extracted natural atomic materials and lithium, as well as their concentrates, derivatives and compounds.
Sector: Fisheries

Sub-Sector: Aquaculture

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central


Description: Investment

Only Chilean natural or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may hold an authorization or concession to carry out aquaculture activities.
Sector: Fisheries and Fishing - Related Activities

Sub-Sector:

Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services and Investment

Only Chilean natural persons or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may hold permits to harvest and catch hydrobiological species.

Only Chilean vessels are permitted to fish in internal waters, in the territorial sea and in the exclusive economic zone. “Chilean vessels” are those defined in the Navigation Law (Ley de Navegación). Access to industrial extractive fishing activities shall be subject to prior registration of the vessel in Chile.

Only a Chilean natural or juridical person may register a vessel in Chile. Such juridical person must be constituted in Chile with principal domicile and real and effective seat in Chile. The president, manager and the majority of the directors or administrators must be Chilean natural persons. In addition, more than 50 per cent of its equity capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person with ownership participation in another juridical person that owns a vessel has to comply with all the requirements mentioned above.
A joint ownership (comunidad) may register a vessel if (1) the majority of the joint ownership is Chilean with domicile and residency in Chile; (2) the administrators are Chilean natural persons; and (3) the majority of the rights of the joint ownership (comunidad) belong to a Chilean natural or juridical person. For these purposes, a juridical person with ownership participation in a joint ownership (comunidad) that owns a vessel has to comply with all the requirements mentioned above.

An owner (natural or juridical person) of a fishing vessel registered in Chile prior to June 30, 1991 shall not be subject to the nationality requirement mentioned above.

In cases of reciprocity granted to Chilean vessels by any other country, fishing vessels specifically authorized by the maritime authorities pursuant to powers conferred by law may be exempted from the requirements mentioned above on equivalent terms provided to Chilean vessels by that country.

Access to artisanal fishing (pesca artesanal) activities shall be subject to registration in the registry for artisanal fishing (Registro de Pesca Artesanal). Registration for artisanal fishing (pesca artesanal) is only granted to Chilean natural persons and foreign natural persons with permanent residency, or a Chilean juridical person constituted by the aforementioned persons.
Sector: Sports, Hunting, and Recreational Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Central

Measures:

Law 17.798, Official Gazette, October 21, 1972, Title I (Ley 17.798, Diario Oficial, octubre 21, 1972, Título I)


Description: Cross-Border Trade in Services

Any person who owns guns, explosives or similar substances must register with the appropriate authority in its domicile, for which purpose a request shall be submitted to the General Directorate for National Mobilization of the Ministry of National Defense (Dirección General de Movilización Nacional del Ministerio de Defensa Nacional).

Any natural or juridical person registered as an importer of fireworks may request authorization for importation and entrance thereof into Chile from the General Directorate for National Mobilization (Dirección General de Movilización Nacional) and may keep stocks of the said elements for sale to persons holding authorization to stage pyrotechnical shows. The Supervisory Authority (Autoridad Fiscalizadora) shall only authorize pyrotechnical shows if a report is available with regard to the installation, development, and security measures for the show, which must be signed and approved by a fireworks programmer registered in the national registries of the General Directorate for National Mobilization (Dirección General de Movilización Nacional) or by a professional certified by the said General Directorate.

For the production and execution of pyrotechnical shows, the presence of at least a fireworks expert handler registered with the General Directorate shall be required.
Sector: Specialized Services

Sub-Sector: Customs Agents (Agentes de Aduana) and Brokers (Despachadores de Aduana)

Obligations Concerned: National Treatment (Article 10.3) Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services

Only Chilean natural persons with residency in Chile may act as customs brokers (Despachadores de Aduana) or agents (Agentes de Aduana).
Sector: Investigation and Security Services
Sub-Sector: Guard Services
Obligations Concerned: National Treatment (Article 10.3)
Level of Government: Central
Description: Cross-Border Trade in Services

Only Chilean nationals may provide services as private security guards.
Sector: Business Services

Sub-Sector: Research Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Foreign natural and juridical persons intending to conduct research in the Chilean 200-mile maritime zone shall be required to submit a request six months in advance to the Chilean Army Hydrographic Institute (Instituto Hidrográfico de la Armada de Chile) and shall comply with the requirements established in the corresponding regulation. Chilean natural and juridical persons shall be required to submit a request three months in advance to the Chilean Army Hydrographic Institute (Instituto Hidrográfico de la Armada de Chile) and shall comply with the requirements established in the corresponding regulation.
Sector: Business Services

Sub-Sector: Research Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures:
- Decree 559 of the Ministry of Foreign Affairs, Official Gazette, January 24, 1968 (Decreto 559 del Ministerio de Relaciones Exteriores, Diario Oficial, enero 24, 1968)

Description: Cross-Border Trade in Services

Natural persons representing foreign juridical persons, or natural persons residing abroad, intending to perform explorations for work of a scientific or technical nature, or mountain climbing, in areas that are adjacent to Chilean borders shall apply for the appropriate authorization through a Chilean consul in the country of domicile of the natural person. The Chilean consul shall then send such application directly to the National Directorate of Borders and Frontiers of the State (Dirección Nacional de Fronteras y Límites del Estado). The Directorate may order that one or more Chilean natural persons working in the appropriate related activities shall join the explorations in order to become acquainted with the studies to be undertaken.

The Operations Department of the National Directorate of Borders and Frontiers of the State (Departamento de Operaciones de la Dirección Nacional de Fronteras y Límites del Estado) shall decide and announce whether it authorizes or rejects geographic or scientific explorations to be carried out by foreign juridical or natural persons in Chile. The National Directorate of Borders and Frontiers of the
State shall authorize and will supervise all explorations involving work of a scientific or technical nature, or mountain climbing, that foreign juridical persons or natural persons residing abroad intend to carry out in areas adjacent to Chilean borders.
Sector: Business Services

Sub-Sector: Research in Social Sciences

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Foreign juridical or foreign natural persons intending to perform excavations, surveys, probing and/or collect anthropological, archeological or paleontological material must apply for a permit from the National Monuments Council (Consejo de Monumentos Nacionales). In order to obtain the permit, the person in charge of the research must be engaged by a reliable foreign scientific institution and must be working in collaboration with a Chilean governmental scientific institution or a Chilean university.

The aforementioned permit can be granted to (1) Chilean researchers having the pertinent scientific background in archeology, anthropology or paleontology, duly certified as appropriate, and also having a research project and due institutional sponsorship; and (2) foreign researchers, provided that they are engaged by a reliable scientific institution and that they work in collaboration with a Chilean governmental scientific institution or a Chilean university. Museum directors or curators acknowledged by the National Monuments Council (Consejo de Monumentos Nacionales), professional archeologists, anthropologists or paleontologists, as appropriate, and the members of the Chilean Society of Archeology (Sociedad Chilena de Arqueología) shall be authorised to perform salvage-related works. Salvage-related works involve the urgent recovery of data or archeological, anthropological or paleontological artifacts or species threatened by imminent loss.
Sector: Business Services

Sub-Sector: Printing, Publishing and Other Related Industries

Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services and Investment

The owner of a social communication medium such as newspapers, magazines or regularly published texts whose publishing address is located in Chile, or a national news agency, shall, in the case of a natural person, have a duly established domicile in Chile and, in the case of a juridical person, shall be constituted with domicile in Chile or have an agency authorized to operate within the national territory.

Only Chilean nationals may be president, administrators or legal representatives of the juridical person.

The director legally responsible and the person who replaces him or her must be Chilean with domicile and residence in Chile. Chilean nationality will not be required in case a social communication medium uses a language different from Spanish.
Sector: Professional Services
Sub-Sector: Accounting, Auditing, Book-keeping and Taxation Services
Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)
Level of Government: Central
Measures:
Description: Cross-Border Trade in Services

External auditors of financial institutions must be registered in the Registry of External Auditors kept by the Superintendency of Banks and Financial Institutions (Superintendencia de Bancos e Instituciones Financieras)
and the Superintendency of Securities and Insurance (Superintendencia de Valores y Seguros). Only Chilean juridical persons legally incorporated as partnerships (sociedades de personas) or associations (asociaciones) and whose main line of business is auditing services may be inscribed in the Registry.
Sector: Professional Services

Sub-Sector: Legal Services

Obligations Concerned: National Treatment (Article 10.3)
                      Local Presence (Article 10.6)

Level of Government: Central

Measures:
- Tribunals Organic Code, Title XV, Official Gazette, July 9, 1943 (Código Orgánico de Tribunales, Título XV, Diario Oficial, julio 9, 1943)
- Decree 110 of the Ministry of Justice, Official Gazette, March 20, 1979 (Decreto 110 del Ministerio de Justicia, Diario Oficial, marzo 20, 1979)
- Law 18.120, Official Gazette, May 18, 1982 (Ley 18.120, Diario Oficial, mayo 18, 1982)

Description: Cross-Border Trade in Services

Only Chilean and foreign nationals with residence in Chile, who have completed the totality of their legal studies in the country, shall be authorized to practice as lawyers (abogados).

Only lawyers (abogados) duly qualified to practice law shall be authorized to plead a case in Chilean courts and to file the first legal action or claim of each party.

The following documents, among others, shall be drawn up solely by lawyers (abogados): drafting of articles of incorporation and amendments thereto; mutual termination of obligations or liquidation of corporations; liquidation of community property between spouses (sociedad conyugal); distribution of property; articles of incorporation of juridical persons, associations, water canal members (asociaciones de canalistas), and cooperative associations (cooperativas); agreements governing financial transactions; corporate bond issuance agreements; and sponsoring applications for legal representation made by corporations and foundations.
None of these measures apply to foreign legal consultants who practice or advise on international law or on other TPP member’s law.
Sector: Professional, Technical and Specialized Services

Sub-Sector: Auxiliary Services in the Administration of Justice

Obligations Concerned: National Treatment (Article 10.3)

Local Presence (Article 10.6)

Level of Government: Central

Measures:

Tribunals Organic Code, Titles XI and XII, Official Gazette, July 9, 1943, (Código Orgánico de Tribunales, Títulos XI y XII, Diario Oficial, julio 9, 1943)

Real State Custodian Registry Act, Titles I, II and III, Official Gazette, June 21, 1857 (Reglamento del Registro Conservador de Bienes Raíces, Títulos I, II y III, Diario Oficial, junio 24, 1857)


Decree 197 of the Ministry of Economic Affairs, Development and Reconstruction, Official Gazette, August 8, 1985 (Decreto 197 del Ministerio de Economía, Fomento y Reconstrucción, Diario Oficial, agosto 8, 1985)

Law 18.175, Official Gazette, October 28, 1982, Title III (Ley 18.175, Diario Oficial, octubre 28, 1982, Título III)

Description: Cross-Border Trade in Services

Justice ancillaries (auxiliares de la administración de justicia) must have their residence in the same city or place where the court house for which they render services is domiciled.

Public defenders (defensores públicos), public notaries (notarios públicos), and custodians (conservadores) shall be Chilean natural persons and fulfill the same requirements needed to become a judge.

Archivists (archiveros) Public Defenders (Defensores Publicos) and arbitrators at law (árbitros de derecho) must be lawyers (abogados) and, therefore, must be Chilean or
foreign nationals with residence in Chile who have completed the totality of their legal studies in the country. TPP members’ lawyers may assist in arbitration when dealing with TPP members’ law and international law and the private parties request it.

Only Chilean natural persons with the right to vote, and foreign natural persons with permanent residence and the right to vote, can act as process servers (receptores judiciales) and superior court attorneys (procuradores del número).

Only Chilean natural persons, foreign natural persons with permanent residence in Chile or Chilean juridical persons may be auctioneers (martilleros públicos).

Receivers in bankruptcy (síndicos de quiebra) must have a professional or technical degree granted by a university or a professional or technical institute recognised by Chile. Receivers in bankruptcy must have at least three years of experience in the commercial, economic or juridical field.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Transportation

Sub-Sector: Air Transportation

Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Central

Measures:

Law 18.916, Official Gazette, February 8, 1990, Code of Aeronautics, Preliminary Title and Titles II and III
(Ley 18.916, Diario Oficial, febrero 8, 1990, Código Aeronáutico, Títulos Preliminar, II y III)

Decree Law 2.564, Official Gazette, June 22, 1979, Commercial Aviation Norms (Decreto Ley 2.564, Diario Oficial, junio 22, 1979, Normas sobre Aviación Comercial)


Law 16.752, Official Gazette, February 17, 1968, Title II
(Ley 16.752, Diario Oficial, febrero 17, 1968, Título II)


CL-I-27
Description: Cross-Border Trade in Services and Investment

Only a Chilean natural or juridical person may register an aircraft in Chile. Such juridical person must be constituted in Chile with principal domicile and real and effective seat in Chile. In addition, a majority of its ownership must be held by Chilean natural or juridical persons, which in turn must comply with the aforementioned requisites. The aviation authority may allow the registration of aircrafts owned by foreign natural or juridical persons, provided they are employed in Chile or exercise a permanent professional activity or industry in Chile.

The president, manager, majority of directors and/or administrators of the juridical person must be Chilean natural persons.

A foreign registered private aircraft engaged in non-commercial activities may not remain in Chile more than 30 days from its date of entry into Chile, unless authorised by the General Directorate for Civil Aeronautics (Dirección General de Aeronáutica Civil). For greater certainty, this measure shall not apply to specialty air services as defined in Article JJ.1 (Definitions, Cross-Border Trade in Services Chapter), except for glider towing and parachute jumping.

Foreign aviation personnel that does not hold a license granted by Chilean civil aviation authorities, shall be allowed to work in that capacity in Chile, provided that Chilean civil aviation authorities validate the license or authorization granted by a foreign country. In the absence of an international agreement regulating such validation, the license or authorization shall be granted under conditions of reciprocity. In that case, proof shall be submitted showing that the licenses or authorizations were issued or validated by the pertinent authorities in the country where the aircraft is registered, that the documents are in force, and that the requirements for issuing or validating such licenses and authorizations meet or exceed the standards required in Chile for analogous cases.

Air services may be provided by Chilean or foreign companies subject to the condition that foreigners grant similar rights to Chilean aviation companies when so requested. The Civil Aviation Board (Junta de Aeronáutica Civil), by means of a substantiated resolution (resolución fundada), may terminate, suspend or limit any class of commercial aviation services carried out solely in Chilean territory by foreign companies or aircraft, if in their country of origin the right to equal treatment for Chilean companies and aircraft is denied.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Transportation
Sub-Sector: Water Transport Services and Shipping
Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Level of Government: Central
Measures: Decree Law 3059, Official Gazette, December 22, 1979, Merchant Fleet Promotion Law, Titles I and II
(Decreto Ley 3.059, Diario Oficial, 22 de diciembre de 1979, Ley de Fomento a la Marina Mercante, Títulos I y II)
Code of Commerce, Book III, Titles I, IV and V
(Código de Comercio, Libro III, Títulos I, IV y V)
Description: Cross-Border Trade in Services and Investment

Cabotage shall be reserved for Chilean vessels. Cabotage shall include the ocean, river or lake shipping of passengers and cargo between different points of the national territory and between such points and naval artifacts installed in territorial waters or in the exclusive economic zone.

Foreign merchant vessels may be able to participate in cabotage when cargo volumes exceed 900 tons, following a public tender called by the user with due anticipation. When the cargo volumes involved are equal to or less than 900 tons, and no vessels flying the Chilean flag are available, the Maritime Authority may authorize embarking such cargo on foreign merchant vessels.

International maritime transport of cargo to or from Chile is subject to the principle of reciprocity.

In the event that Chile should adopt, for reasons of reciprocity, a cargo reservation measure applicable to international cargo transportation between Chile and a non-Party, the reserved cargo shall be transported in Chilean-flag vessels or in vessels considered as such.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Transportation

Sub-Sector: Water Transport Services and Shipping

Obligations Concerned:
- National Treatment (Articles 10.3 and 9.4)
- Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
- Senior Management and Boards of Directors (Article 9.10)
- Local Presence (Article 10.6)

Level of Government: Central

Measures:
- Code of Commerce, Book III, Titles I, IV and V (Código de Comercio, Libro III, Títulos I, IV y V)

Description: Cross-Border Trade in Services and Investment

Only a Chilean natural or juridical person may register a vessel in Chile. Such juridical person must be constituted with principal domicile and real and effective seat in Chile. In addition, more than 50 per cent of its capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person with ownership participation in another juridical person that owns a vessel has to comply with all the aforementioned requisites. The president, manager and majority of the directors or administrators must be Chilean natural persons.

A joint ownership (comunidad) may register a vessel if (1) the majority of the joint ownership is Chilean with domicile and residency in Chile; (2) the administrators are Chileans; and (3) the majority of the rights of the joint ownership belong to a Chilean natural or juridical person. For these purposes, a juridical person with ownership participation in a joint ownership (comunidad) that owns a vessel has to comply with all the aforementioned requisites to be considered Chilean.

Special vessels owned by foreign natural or juridical persons may be registered in Chile, if those persons meet the following conditions: (1) domicile in Chile; (2) principal head office in Chile; or (3) undertaking a profession or commercial activity in a permanent way in Chile.

Special vessels are those used in services, operations or for specific purposes, with special features for the functions they perform, such as tugboats, dredgers, scientific or recreational...
vessels, among others. For purposes of this paragraph, a special vessel does not include a fishing vessel.

The maritime authority may provide better treatment based on the principle of reciprocity.
Sector: Transportation

Sub-Sector: Water Transport Services and Shipping

Obligations Concerned: National Treatment (Articles 10.3)
Most-Favoured-Nation Treatment (Articles 10.4)
Local Presence (Article 10.6)

Level of Government: Central

Measures: Decree Law 2222, Official Gazette, May 31, 1978,
Navigation Law, Titles I, II, III, IV and V (Decreto Ley 2.222,
Diario Oficial, 31 mayo de 1978, Ley de Navegación, Títulos I, II, III, IV y V)

Supreme Decree 153, Official Gazette, March 11, 1966,
Approves the Sea People, Fluvial and Lacustrine Personnel Registration General Act (Decreto Supremo 153, Diario Oficial, 11 marzo de 1966, Aprueba el Reglamento General de Matrícula del Personal de Gente de Mar, Fluvial y Lacustre)

Code of Commerce, Book III, Titles I, IV and V
(Código de Comercio, Libro III, Títulos I, IV y V)

Description: Cross-Border Trade in Services and Investment

Foreign vessels shall be required to use pilotage, anchoring and harbour pilotage services when the maritime authorities so require. In tugging activities or other manoeuvres performed in Chilean ports, only tugboats flying the Chilean flag shall be used.

Captains shall be required to be Chilean nationals and to be acknowledged as such by the pertinent authorities. Officers on Chilean vessels must be Chilean natural persons registered in the Officers’ Registry (Registro de oficiales). Crewmembers of a Chilean vessel must be Chilean, have the permit granted by the Maritime Authority (Autoridad Marítima) and be registered in the respective Registry. Professional titles and licenses granted by a foreign country may be considered valid for the discharge of officers' duties on national vessels pursuant to a substantiated resolution (resolución fundada) issued by the Director of the Maritime Authority.

Ship captains (patrón de nave) shall be Chilean nationals. A ship captain is a natural person who, pursuant to the corresponding title awarded by the Director of the Maritime Authority.
Authority, is empowered to exercise command on smaller vessels and on certain special larger vessels.

Fishing boat captains (*patrones de pesca*), machinists (*mecánicos-motoristas*), machine operators (*motoristas*), seafaring fishermen (*marineros pescadores*), small-scale fishermen (*pescadores*), industrial or maritime trade technical employees or workers, and industrial and general ship service crews on fishing factories or fishing boats shall be required to be Chilean nationals. Foreigners with domicile in Chile shall also be authorized to perform those activities when so requested by ship operators (*armadores*) for being indispensable to initiate those activities.

In order to fly the Chilean flag, the ship captain (*patrón de nave*), officers and crew must be Chilean nationals. Nevertheless, if indispensable, the General Directorate for the Maritime Territory and Merchant Fleet (Dirección General del Territorio Marítimo y de Marina Mercante), on the basis of a substantiated resolution (*resolución fundada*) and on a temporary basis, may authorize the hiring of foreign personnel, with the exception of the captain, who must always be a Chilean national.

Only Chilean natural or juridical persons shall be authorized to act in Chile as multimodal operators.
Sector: Transportation
Sub-Sector: Water Transport Services and Shipping
Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)
Level of Government: Central
Labour Code, Book I, Title II, Chapter III, paragraph 2 (Código del Trabajo, Libro I, Título II, Capítulo III, párrafo 2º)
Description: Cross-Border Trade in Services and Investment
Shipping agents or representatives of ship operators, owners or captains, whether they are natural or juridical persons, shall be required to be Chilean.
Work of stowage and dockage performed by natural persons is reserved to Chileans who are duly accredited by the corresponding authority to carry out such work and have an office established in Chile.
Whenever these activities are carried out by juridical persons, they must be legally constituted in Chile and have their principal domicile in Chile. The chairman, administrators, managers or directors must be Chilean. At least 50 per cent of the corporate capital must be held by Chilean natural or juridical persons. Such enterprises shall designate one or more empowered agents, who will act in their representation and who shall be Chilean nationals.
Anyone unloading, transshipping and, generally, using continental or insular Chilean ports, particularly for landing fish catches or processing fish catches on board, shall also be required to be a Chilean natural or juridical person.
Sector: Transportation
Sub-Sector: Land Transportation
Obligations Concerned: National Treatment (Article 10.3)
                     Most-Favoured-Nation Treatment (Article 10.4)
                     Local Presence (Article 10.6)
Level of Government: Central
Measures:
Supreme Decree 212 of the Ministry of Transport and Telecommunications, Official Gazette, November 21, 1992
(Decreto Supremo 212 del Ministerio de Transportes y Telecomunicaciones, Diario Oficial, noviembre 21, 1992)

Decree 163 of the Ministry of Transport and Telecommunications, Official Gazette, January 4, 1985
(Decreto 163 del Ministerio de Transportes y Telecomunicaciones, Diario Oficial, enero 4, 1985)

Supreme Decree 257 of the Ministry of Foreign Affairs, Official Gazette, October 17, 1991
(Decreto Supremo 257 del Ministerio de Relaciones Exteriores, Diario Oficial, octubre 17, 1991)
Description: Cross-Border Trade in Services

Land transportation service providers shall register in the National Registry by submitting an application to the
Regional Secretary of Transport and Telecommunications (Secretaría Regional Ministerial del Ministerio de
Transportes y Telecomunicaciones). In the case of urban services, applicants shall submit the application to the
Regional Secretary responsible for the area in which the service is to be provided and, in the case of rural and
interurban services, in the region where the applicant is domiciled. The application shall provide the detailed
information required by law, attaching thereto, among other documents, a properly certified photocopy of the National
Identity Card and, in the case of juridical persons, the public instruments accrediting its constitution and name and
the domicile of its legal representative and documents evidencing such capacity.

Foreign natural and juridical persons qualified to provide international transportation services in Chilean territory
cannot provide local transportation services or participate in any manner whatsoever in the said activities in the national
territory.
Only companies with actual and effective domicile in Chile and organized under the laws of Chile, Argentina, Bolivia, Brazil, Peru, Uruguay or Paraguay shall be authorized to provide international land transportation services between Chile and Argentina, Bolivia, Brazil, Peru, Uruguay or Paraguay. Furthermore, to obtain an international land transport permit, in the case of foreign juridical persons, more than 50 per cent of its corporate capital and effective control shall be held by nationals of Chile, Argentina, Bolivia, Brazil, Peru, Uruguay or Paraguay.
Sector: Transportation

Sub-Sector: Land Transportation

Obligations Concerned: National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 10.4)

Level of Government: Central

Measures:
- Law 18,290, Official Gazette, February 7, 1984, Title IV (Ley 18.290, Diario Oficial, febrero 7, 1984, Título IV)

Description: Cross-Border Trade in Services

Motor vehicles bearing foreign license plates that enter Chile on a temporary basis, pursuant to provisions set forth in the 1949 Geneva Convention on Road Traffic, shall circulate freely throughout the national territory for the period established therein, provided that they comply with the requirements established by Chilean law.

Holders of valid international driving licenses or certificates issued in a foreign country in accordance with the Geneva Convention may drive anywhere within the national territory. The driver of a vehicle bearing foreign license plates who holds an international driver’s license shall present, upon request by the authorities, the documents certifying both the roadworthiness of the vehicle and the use and validity of his or her personal documents.
Introductory Note for the ANNEX I of Japan

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, and the “Measures” element shall prevail over all the other elements.
ANNEX I
Schedule of Japan

1 Sector: Agriculture, Forestry and Fisheries (Plant Breeder’s Right)

Sub-Sector:

Industry Classification:

Obligations Concerned:
National Treatment (Article 9.4)

Most-Favoured-Nation Treatment (Article 9.5)

Level of Government: Central Government

Measures: Seeds and Seedlings Law (Law No. 83 of 1998), Article 10

Description: Investment

A foreign person who has neither a domicile nor residence (nor the place of business, in the case of a legal person) in Japan cannot enjoy a plant breeder’s right or related rights except in any of the following cases:

(a) where the country of which the person is a national or the country in which the person has a domicile or residence (or its place of business, in the case of a legal person) is a party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991;

(b) where the country of which the person is a national or the country in which the person has a domicile or residence (or its place of business, in the case of a legal person) is a party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, and on October 23, 1978 (hereinafter referred to in this Annex as “the 1978 UPOV Convention”), or a country in relation with which Japan shall apply the 1978 UPOV Convention in accordance with paragraph (2) of Article 34 of the 1978 UPOV Convention, and further provides the protection for plant genus and species to which the person’s applied variety belongs; or
(c) where the country of which the person is a national provides Japanese nationals with the protection of varieties under the same condition as its own nationals (including a country which provides such protection for Japanese nationals under the condition that Japan allows enjoyment of the plant breeder’s right or related rights for the nationals of that country), and further provides the protection for plant genus and species to which the person’s applied variety belongs.
2 Sector: Agriculture, Forestry and Fisheries, and Related Services (except fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf provided for in the reservation No. 9 in the Schedule of Japan in Annex II)

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:

- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment Description:

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in agriculture, forestry and fisheries, and related services (except fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf provided for in the reservation No. 9 in the Schedule of Japan in Annex II) in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which significant adverse effect is brought to the smooth operation of the Japanese economy.

Note: For greater certainty, absence of reference in this description to “national security”, which is referred to in No. 10,12,14,36,45,46,54 and 56 of this Annex, does not mean that Article 29.2 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 29.2 (Security Exceptions) to justify the screening.
3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.
3  Sector: Automobile Maintenance Business  
Sub-Sector: Motor Vehicle Disassembling Repair Business  
Industry Classification:  
Obligations Concerned: Market Access (Article 10.5)  
Local Presence (Article 10.6)  
Level of Government: Central Government  
Measures: Road Vehicle Law (Law No. 185 of 1951), Chapter 6  
Description: Cross-Border Trade in Services  

A person who intends to conduct motor vehicle disassembling repair businesses is required to establish a workplace in Japan and to obtain an approval of the Director-General of the District Transport Bureau having jurisdiction over the district where the workplace is located.
4 Sector: Business Services

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)

Local Presence (Article 10.6)

Level of Government: Central Government

Measures:

Employment Security Law (Law No. 141 of 1947), Chapters 3 and 3-3

Law Concerning Securing the Proper Operation of Worker Dispatching Undertakings and Protecting Dispatched Workers (Law No. 88 of 1985), Chapter 2

Port Labour Law (Law No. 40 of 1988), Chapter 4

Mariner’s Employment Security Law (Law No. 130 of 1948), Chapter 3

Law Concerning the Improvement of Employment of Construction Workers (Law No. 33 of 1976), Chapters 5 and 6

Description: Cross-Border Trade in Services

A person who intends to supply the following services for enterprises in Japan is required to have an establishment in Japan and to obtain permission from, or to submit notification to, the competent authority, as applicable:

(a) private job placement services including fee-charging job placement services for construction workers; or

(b) worker dispatching service including stevedore dispatching services, mariner dispatching services and work opportunities securing services for construction workers.

Labor supply services may be supplied only by a labor union which has obtained permission from the competent authority.
pursuant to the Employment Security law or Mariner’s Employment Security Law.
5 Sector: Collection Agency Services

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)  
Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Special Measures Law Concerning Credit Management and Collection Business (Law No. 126 of 1998), Articles 3 and 4  
Attorney Law (Law No. 205 of 1949), Articles 72 and 73

Description: Cross-Border Trade in Services

A person who intends to supply collection agency services which constitute the practice of law in respect of legal cases is required to be qualified as an attorney at law under the laws and regulations of Japan (“Bengoshi”), a legal professional corporation under the laws and regulations of Japan (“Bengoshi-hojin”) or an enterprise established under the Special Measures Law Concerning Credit Management and Collection Business and to establish an office in Japan.

No person may take over and recover other person’s credits as business except an enterprise established under the Special Measures Law Concerning Credit Management and Collection Business that handles credits pursuant to provisions of that Law.
6 Sector: Construction

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)
Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Construction Business Law (Law No. 100 of 1949), Chapter 2
Law Concerning Recycling of Construction Materials (Law No. 104 of 2000), Chapter 5

Cross-Border Trade in Services

Description: 1. A person who intends to conduct construction business is required to establish a place of business in Japan and to obtain permission from the Minister of Land, Infrastructure, Transport and Tourism or from the prefectural governor having jurisdiction over the district where the place of business is located.

2. A person who intends to conduct demolition work business is required to establish a place of business in Japan and to be registered with the prefectural governor having jurisdiction over the district where the place of business is located.
7 | Sector: Distribution Services  
| Sub-Sector: Wholesale Trade Services, Retailing Services, Commission Agents' Services, Related to Alcoholic Beverages  
| Industry Classification:  
| Obligations Concerned: Market Access (Article 10.5)  
| Level of Government: Central Government  
| Measures: Liquor Tax Law (Law No. 6 of 1953), Articles 9, 10 and 11  
| Description: Cross-Border Trade in Services  

The number of licences conferred to service suppliers in those sub-sectors may be limited, where it is necessary to maintain a supply-demand balance of liquors in order to secure liquor tax revenue (paragraph 11 of Article 10 of the Liquor Tax Law).
8 Sector: Distribution Services

Sub-Sector: Wholesale Trade Services supplied at Public Wholesale Market

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)

Level of Government: Central Government

Measures: Wholesale Market Law (Law No. 35 of 1971), Articles 9, 10, 15, 17 and 33

Description: Cross-Border Trade in Services

The number of licences conferred to wholesale trade service suppliers at public wholesale markets may be limited, in cases where the public wholesale markets set the maximum number of the suppliers in order to secure the proper and sound operation of the public wholesale markets.
<table>
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<tr>
<th>Sector:</th>
<th>Education, Learning Support</th>
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<td>Sub-Sector:</td>
<td>Higher Educational Services</td>
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<td>Industry Classification:</td>
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<td>Obligations Concerned:</td>
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<td>Level of Government:</td>
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<td>Measures:</td>
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<td>Private School Law (Law No. 270 of 1949), Article 3</td>
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<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
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</table>

Higher educational services supplied as formal education in Japan must be supplied by formal education institutions. Formal education institutions must be established by school juridical persons.

“Formal education institutions” means elementary schools, lower secondary schools, secondary schools, compulsory education school, upper secondary schools, universities, junior colleges, colleges of technology, special support schools, kindergartens and integrated centers for early childhood education and care.

“School juridical person” means a non-profit juridical person established for the purposes of supplying educational services under the law of Japan.
10 Sector: Heat Supply

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:

- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purpose of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in the heat supply industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.
11 Sector: Information and Communications
Sub-Sector: Telecommunications

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central Government

Measures: Law Concerning Nippon Telegraph and Telephone Corporation, etc. (Law No. 85 of 1984), Articles 6 and 10

Description: Investment

1. Nippon Telegraph and Telephone Corporation may not enter the name and address in its register of shareholders if the aggregate of the ratio of the voting rights directly and/or indirectly held by the persons set forth in subparagraphs (a) through (c) reaches or exceeds one third:

   (a) a natural person who does not have Japanese nationality;

   (b) a foreign government or its representative; and

   (c) a foreign legal person or a foreign entity.

2. Any natural person who does not have Japanese nationality may not assume the office of director or auditor of Nippon Telegraph and Telephone Corporation, Nippon Telegraph and Telephone East Corporation and Nippon Telegraph and Telephone West Corporation.
12 Sector: Information and Communications

Sub-Sector: Telecommunications and Internet Based Services

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:

Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in telecommunications business and internet based services in Japan.

Description:

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.
13  Sector: Manufacturing

Sub-Sector: Shipbuilding and Repairing, and Marine Engines

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)

Level of Government: Central Government

Measures: Shipbuilding Law (Law No. 129 of 1950), Articles 2, 3 and 3-2

Description: Cross-Border Trade in Services

A person who intends to establish or extend docks, which can be used to manufacture or repair vessels of 500 gross tonnage or more and/or 50 metres in length or more, is required to obtain permission from the Minister of Land, Infrastructure, Transport and Tourism. The issuance of a licence is subject to the requirements of an economic needs test.
14  Sector: Manufacturing

Sub-Sector: Drugs and Medicines Manufacturing

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:

Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment Description:

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in biological preparations manufacturing industry in Japan. For greater certainty, “biological preparations manufacturing industry” deals with economic activities in establishment which produces vaccine, serum, toxoid, antitoxin and some preparations similar to the aforementioned products, or blood products.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.
15 Sector: Manufacturing
Sub-Sector: Leather and Leather Products Manufacturing
Industry Classification:
Obligations Concerned: National Treatment (Article 9.4)
Level of Government: Central Government
Measures:
Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment
1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in leather and leather products manufacturing industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which significant adverse effect is brought to the smooth operation of the Japanese economy.

Note: For greater certainty, absence of reference in this description to “national security”, which is referred to in No. 10,12,14,36,45,46,54 and 56 of this Annex, does not mean that Article 29.2 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 29.2 (Security Exceptions) to justify the screening.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.

16 Sector: Matters Related to the Nationality of a Ship
Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.10)
Market Access (Article 10.5)

Level of Government:

Central Government

Measures:

Ship Law (Law No.46 of 1899), Article 1

Description:

Cross-Border Trade in Services and Investment

Nationality requirement applies to the supply of international maritime transport services (including services of passenger transportation and freight transportation) through establishment of a registered company operating a fleet flying the flag of Japan.

“Nationality requirement” means that the ship must be owned by a Japanese national, or a company established under the laws and regulations of Japan, of which all the representatives and not less than two-thirds of the executives administering the affairs are Japanese nationals.
17 Sector: Measuring Services

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)
Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Measurement Law (Law No. 51 of 1992), Chapters 3, 5, 6 and 8

Regulations on Measurement Law (Ministerial Ordinance of the Ministry of International Trade and Industry No. 69 of 1993)

Ministerial Ordinance for Designated Inspection Body, Designated Verification Body, Designated Measurement Certification Inspection Body and Specified Measurement Certification Accreditation Body (Ministerial Ordinance of the Ministry of International Trade and Industry No. 72 of 1993)

Description: Cross-Border Trade in Services

1. A person who intends to supply services of conducting the periodic inspection of specified measuring instruments is required to establish a legal person in Japan and to be designated by the prefectural governor having jurisdiction over the district where the person intends to conduct such inspection, or by the mayor of a designated city or the chief of a designated ward or village in case the place where the person intends to conduct such inspection is located within the district of such designated city, ward or village.

2. A person who intends to supply services of conducting the verification of specified measuring instruments is required to establish a legal person in Japan and to be designated by the Minister of Economy, Trade and Industry.

3. A person who intends to conduct measurement certification business, including specified measurement certification business, is required to have an establishment in Japan and to be registered with the prefectural governor having jurisdiction over the district where the establishment is located.
4. A person who intends to supply services of conducting the inspection of specified measuring instruments used for the measurement certification is required to establish a legal person in Japan and to be designated by the prefectural governor having jurisdiction over the district where the person intends to conduct such inspection.

5. A person who intends to supply services of conducting the accreditation for a person engaged in specified measurement certification business is required to establish a legal person in Japan, and to be designated by the Minister of Economy, Trade and Industry.

6. A person who intends to supply services of conducting the calibration of measuring instruments is required to establish a legal person in Japan and to be designated by the Minister of Economy, Trade and Industry.

Note: For the purposes of this reservation,

(a) “measuring instruments” means appliances, machines or equipment used for measurement.

(b) “specified measuring instruments” means measuring instruments used in transactions or certifications, or measuring instruments principally for use in the life of general consumers, and those specified by a Cabinet Order as necessary to establish standards relating to their structure and instrumental error in order to ensure proper execution of measurements.

(c) “measurement certification businesses” under the requirement described in paragraph 3 are listed in the following and the registration shall be in accordance with the business classification specified by the Ordinance of the Ministry of Economy, Trade and Industry:

   (i) the business of measurement certifications of length, weight, area, volume or heat concerning goods to be loaded/unloaded or entered/dispatched for transportation, deposit or sale or purchase (excluding the measurement certifications of mass or volume of goods to be loaded on or unloaded from ship); and

   (ii) the business of measurement certifications of concentration, sound pressure level or the quantity of other physical phenomena specified by a Cabinet Order (excluding what is listed in...
however, this requirement shall not apply to the case where a person engaged in the measurement certification business is a national government, a local government, or an incorporated administrative agency prescribed by Article 2, paragraph 1 of the Law on General Rules for Incorporated Administrative Agency (Law No. 103 of 1999) who is designated by a Cabinet Order as competent to appropriately perform the measurement certification business, or where the measurement certification business is performed by a person who has been registered or designated or received to conduct that business pursuant to the provision of the law specified by that Cabinet Order:

(d) “specified measurement certification business” means the business specified by a Cabinet Order as these requiring high levels of technology to certify measurement of considerably tiny quantities of physical phenomena prescribed in (c)(ii).
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<td>Obligations Concerned:</td>
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<td>Measures:</td>
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<td>Enforcement Regulations for the Law Concerning Collection of Labour Insurance Premium (Ministerial Ordinance of the Ministry of Labour No. 8 of 1972)</td>
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<td>Description:</td>
<td>Cross-Border Trade in Services</td>
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<td>Only an association of business proprietors or a federation of such associations approved by the Minister of Health, Labour and Welfare under the laws and regulations of Japan may conduct labour insurance businesses entrusted by business proprietors. An association which intends to conduct such labour insurance businesses under the laws and regulations of Japan is required to establish an office in Japan, and to obtain the approval of the Minister of Health, Labour and Welfare.</td>
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<td>Sector:</td>
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<td></td>
<td>Local Presence (Article 10.6)</td>
<td></td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central Government</td>
<td></td>
</tr>
<tr>
<td>Measures:</td>
<td>Mining Law (Law No. 289 of 1950), Chapters 2 and 3</td>
<td></td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services and Investment</td>
<td></td>
</tr>
</tbody>
</table>

Only a Japanese national or an enterprise of Japan may have mining rights or mining lease rights.

Note: Services requiring mining rights or mining lease rights must be supplied by a Japanese national or an enterprise established under Japanese law, in accordance with the Chapters 2 and 3 of the Mining Law.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Oil Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td></td>
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<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central Government</td>
</tr>
<tr>
<td>Measures:</td>
<td>Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27</td>
</tr>
<tr>
<td></td>
<td>Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3</td>
</tr>
</tbody>
</table>

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

**Investment Description:**

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in oil industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which significant adverse effect is brought to the smooth operation of the Japanese economy.

Note: For greater certainty, absence of reference in this description to “national security”, which is referred to in No. 10, 12, 14, 36, 45, 46, 54 and 56 of this Annex, does not mean that Article 29.2 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 29.2 (Security Exceptions) to justify the screening.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.

4. All organic chemicals such as ethylene, ethylene glycol and polycarbonates are outside the scope of the oil industry. Therefore, prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law do not apply to the investments in the...
manufacture of these products.
<table>
<thead>
<tr>
<th>21</th>
<th>Sector:</th>
<th>Professional Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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<td></td>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Obligations Concerned:</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td></td>
<td>Level of Government:</td>
<td>Central Government</td>
</tr>
<tr>
<td></td>
<td>Measures:</td>
<td>Attorney Law (Law No. 205 of 1949), Chapters 3, 4, 4-2, 5 and 9</td>
</tr>
<tr>
<td></td>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

A natural person who intends to supply legal services is required to be qualified as an attorney at law under the laws and regulations of Japan (“Bengoshi”) and to establish an office within the district of the local bar association to which the natural person belongs.

An enterprise which intends to supply legal services is required to establish a legal professional corporation under the laws and regulations of Japan (“Bengoshi-Hojin”).
Sector: Professional Services

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)

Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Law on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers (Law No. 66 of 1986), Chapters 2 and 4

Description: Cross-Border Trade in Services

A natural person who intends to supply legal advisory services concerning foreign laws is required to be qualified as a registered foreign lawyer under the laws and regulations of Japan ("Gaikoku-Ho-Jimu-Bengoshi") and to establish an office within the district of the local bar association to which the natural person belongs.

Gaikoku-Ho-Jimu-Bengoshi under the laws and regulations of Japan is required to stay in Japan for not less than 180 days per year.
Sector: Professional Services

Sub-Sector:

Industry Classification:

Obligations Concerned:
Market Access (Article 10.5)
Local Presence (Article 10.6)

Level of Government: Central Government

Measures:
Patent Attorney Law (Law No. 49 of 2000), Chapters 3, 6 and 8

Description: Cross-Border Trade in Services

A natural person who intends to supply patent attorney services is required to be qualified as a patent attorney under the laws and regulations of Japan (“Benrishi”).

An enterprise which intends to supply patent attorney services is required to establish a patent business corporation under the laws and regulations of Japan (“Tokkyo-Gyomu-Hojin”).
<table>
<thead>
<tr>
<th>No</th>
<th>Sector:</th>
<th>Sub-Sector:</th>
<th>Industry Classification:</th>
<th>Obligations Concerned:</th>
<th>Level of Government:</th>
<th>Measures:</th>
<th>Description:</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>Professional Services</td>
<td></td>
<td></td>
<td>National Treatment (Article 10.3)</td>
<td>Central Government</td>
<td>Notary Law (Law No. 53 of 1908), Chapters 2 and 3</td>
<td>Only a Japanese national may be appointed as a notary in Japan. The notary is required to establish an office in the place designated by the Minister of Justice.</td>
</tr>
</tbody>
</table>
Sector: Professional Services

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)
Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Judicial Scrivener Law (Law No. 197 of 1950), Chapters 3, 4, 5, 7 and 10

Description: Cross-Border Trade in Services

A natural person who intends to supply judicial scrivener services is required to be qualified as a judicial scrivener under the laws and regulations of Japan (“Shiho-Shoshi”) and to establish an office within the district of the judicial scrivener association to which the natural person belongs.

An enterprise which intends to supply judicial scrivener services is required to establish a judicial scrivener corporation under the laws and regulations of Japan (“Shiho-Shoshi-Hojin”).
26  Sector:  Professional Services

<table>
<thead>
<tr>
<th>Sub-Sector:</th>
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</thead>
<tbody>
<tr>
<td>Industry Classification:</td>
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<tr>
<td>Obligations Concerned:</td>
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<tr>
<td>Level of Government:</td>
</tr>
<tr>
<td>Measures:</td>
</tr>
<tr>
<td>Description:</td>
</tr>
</tbody>
</table>

- Market Access (Article 10.5)
- Local Presence (Article 10.6)
- Certified Public Accountant Law (Law No. 103 of 1948), Chapters 3, 5-2 and 7
- Cross-Border Trade in Services

A natural person who intends to supply certified public accountants services is required to be qualified as a certified public accountant under the laws and regulations of Japan (“Koninkaikeishi”).

An enterprise which intends to supply certified public accountants services is required to establish an audit corporation under the laws and regulations of Japan (“Kansa-Hojin”).
Sector: Professional Services

Sub-Sector:

Industry Classification:

Obligations Concerned:
Market Access (Article 10.5)
Local Presence (Article 10.6)

Level of Government: Central Government

Measures:
Certified Public Tax Accountant Law (Law No. 237 of 1951), Chapters 3, 4, 5-2, 6 and 7
Enforcement Regulation on Certified Public Tax Accountant Law (Ministerial Ordinance of the Ministry of Finance No. 55 of 1951)

Description: Cross-Border Trade in Services

A natural person who intends to supply certified public tax accountant services is required to be qualified as a certified public tax accountant under the laws and regulations of Japan ("Zeirishi") and to establish an office within the district of certified public tax accountant association to which the natural person belongs.

An enterprise which intends to supply certified public tax accountant services is required to establish a certified public tax accountant corporation under the laws and regulations of Japan ("Zeirishi-Hojin").
<table>
<thead>
<tr>
<th>28</th>
<th>Sector:</th>
<th>Professional Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sub-Sector:</td>
<td></td>
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<td></td>
<td>Industry Classification:</td>
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<tr>
<td></td>
<td>Obligations Concerned:</td>
<td>Market Access (Article 10.5)</td>
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<td></td>
<td></td>
<td>Local Presence (Article 10.6)</td>
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<tr>
<td></td>
<td>Level of Government:</td>
<td>Central Government</td>
</tr>
<tr>
<td></td>
<td>Measures:</td>
<td>Architect and/or Building Engineer Law (Law No. 202 of 1950), Chapters 1, 2 and 6</td>
</tr>
<tr>
<td></td>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

An architect and/or building engineer, qualified as such under the laws and regulations of Japan ("Kenchikushi"), or a person employing such an architect and/or building engineer, who intends to conduct business of design, superintendence of construction work, administrative work related to construction work contracts, supervision of building construction work, survey and evaluation of buildings, and representation in procedure under the laws and regulations concerning construction, upon request from others for remuneration, is required to establish an office in Japan.
29 Sector: Professional Services

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)

Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Certified Social Insurance and Labour Consultant Law (Law No. 89 of 1968), Chapters 2-2, 4-2, 4-3 and 5

Description: Cross-Border Trade in Services

A natural person who intends to supply social insurance and labour consultant services is required to be qualified as a certified social insurance and labour consultant under the laws and regulations of Japan (“Shakai-Hoken-Roumushi”) and to establish an office in Japan.

An enterprise which intends to supply social insurance and labour consultant services is required to establish a certified social insurance and labour consultant corporation under the laws and regulations of Japan (“Shakai-Hoken-Roumushi-Hojin”).
Sector: Professional Services

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)

Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Administrative Scrivener Law (Law No. 4 of 1951), Chapters 3, 4, 5 and 8

Description: Cross-Border Trade in Services

A natural person who intends to supply administrative scrivener services is required to be qualified as an administrative scrivener under the laws and regulations of Japan (“Gyousei-Shoshi”) and to establish an office within the district of the administrative scrivener association to which the natural person belongs.

An enterprise which intends to supply administrative scrivener services is required to establish an administrative scrivener corporation under the laws and regulations of Japan (“Gyousei-Shoshi-Hojin”).
<p>| | |</p>
<table>
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<tbody>
<tr>
<td>31</td>
<td>Sector: Professional Services</td>
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<tr>
<td></td>
<td>Sub-Sector:</td>
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<td></td>
<td>Industry Classification:</td>
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<tr>
<td></td>
<td>Obligations Concerned: Market Access (Article 10.5)</td>
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<tr>
<td></td>
<td>Level of Government: Central Government</td>
</tr>
<tr>
<td></td>
<td>Measures: Maritime Procedure Agents Law (Law No.32 of 1951), Article 17</td>
</tr>
<tr>
<td></td>
<td>Description: Cross-Border Trade in Services</td>
</tr>
<tr>
<td></td>
<td>Maritime procedure agent services must be supplied by a natural person who is qualified as a maritime procedure agent under the laws and regulations of Japan (&quot;Kaijidairishi&quot;).</td>
</tr>
</tbody>
</table>
Sector: Professional Services

Sub-Sector:

Industry Classification:

Obligations Concerned:
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Level of Government: Central Government

Measures:
- Land and House Surveyor Law (Law No. 228 of 1950), Chapters 3, 4, 5, 7 and 10

Description: Cross-Border Trade in Services

A natural person who intends to supply land and house surveyor services is required to be qualified as a land and house surveyor under the laws and regulations of Japan (“Tochi-Kaoku-Chosashi”) and to establish an office within the district of the land and house surveyor association to which the natural person belongs.

An enterprise which intends to supply land and house surveyor services is required to establish a land and house surveyor corporation under the laws and regulations of Japan (“Tochi-Kaoku-Chosashi-Hojin”).
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Real Estate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td></td>
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<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central Government</td>
</tr>
<tr>
<td>Measures:</td>
<td>Building Lots and Buildings Transaction Business Law (Law No. 176 of 1952), Chapter 2</td>
</tr>
<tr>
<td></td>
<td>Real Estate Syndication Law (Law No. 77 of 1994), Chapters 2 and 4-2</td>
</tr>
<tr>
<td></td>
<td>Law Concerning Improving Management of Condominiums (Law No. 149 of 2000), Chapter 3</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

1. A person who intends to conduct building lots and buildings transaction business is required to establish an office in Japan and to obtain a licence from the Minister of Land, Infrastructure, Transport and Tourism or from the prefectural governor having jurisdiction over the district where the office is located.

2. A person who intends to conduct real estate syndication business is required to establish an office in Japan and to obtain permission from the competent Minister or from the prefectural governor having jurisdiction over the district where the office is located or to submit notification to the competent Minister.

3. A person who intends to conduct condominiums management business is required to establish an office in Japan and to be registered in the list maintained by the Ministry of Land, Infrastructure, Transport and Tourism.
Sector: Real Estate Appraisal Services

Sub-Sector:

Industry Classification:

Obligations Concerned:
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Law Concerning the Appraisal of Real Estate (Law No. 152 of 1963), Chapter 3

Description: Cross-Border Trade in Services

A person who intends to supply real estate appraisal services is required to establish an office in Japan and to be registered in the list maintained by the Ministry of Land, Infrastructure, Transport and Tourism or the prefecture having jurisdiction over the district where the office is located.
Sector: Seafarers

Obligations Concerned: National Treatment (Article 10.3)
Markets Access (Article 10.5)

Level of Government: Central Government

Measures: Mariners Law (Law No. 100 of 1947), Chapter 4
Official Notification of the Director General of Seafarers Department, Maritime Technology and Safety Bureau of the Ministry of Transport, No. 115, 1990
Official Notification of the Director General of Seafarers Department, Maritime Technology, and Safety Bureau of the Ministry of Transport, No. 327, 1990

Description: Cross-Border Trade in Services
Foreign nationals employed by Japanese enterprises except for the seafarers referred to in the relevant official notifications may not work on the vessels flying the Japanese flag.
36 Sector: Security Guard Services

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:

Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in security guard services in Japan.

Description:

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.
37 Sector: Services Related to Occupational Safety and Health

Sub-Sector:

Industry Classification:

Obligations Concerned:

Market Access (Article 10.5)

Local Presence (Article 10.6)

Level of Government: Central Government

Measures:

Industrial Safety and Health Law (Law No. 57 of 1972), Chapters 5 and 8

Ministerial Ordinance for Registration and Designation related to Industrial Safety and Health Law, and Orders based on the Law (Ministerial Ordinance of the Ministry of Labour No. 44 of 1972)

Working Environment Measurement Law (Law No. 28 of 1975), Chapters 2 and 3

Enforcement Regulation of the Working Environment Measurement Law (Ministerial Ordinance of the Ministry of Labour No. 20 of 1975)

Description: Cross-Border Trade in Services

A person who intends to supply inspection or verification services for working machines, skill training courses, and other related services in connection with occupational safety and health, or working environment measurement services is required to be resident or to establish an office in Japan, and to be registered with the Minister of Health, Labour and Welfare or Director-General of the Prefectural Labour Bureau.
<table>
<thead>
<tr>
<th>38</th>
<th>Sector:</th>
<th>Surveying Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sub-Sector:</td>
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<td>Industry</td>
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<td>Obligations Concerned:</td>
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<tr>
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<td>Level of Government:</td>
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</tr>
<tr>
<td></td>
<td>Measures:</td>
<td>Survey Law (Law No. 188 of 1949), Chapter 6</td>
</tr>
<tr>
<td></td>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

A person who intends to supply surveying services is required to establish a place of business in Japan and to be registered with the Minister of Land, Infrastructure, Transport and Tourism.
39 Sector: Transport
Sub-Sector: Air Transport

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central Government

Measures:
Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3
Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Description:
1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in air transport business in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which significant adverse effect is brought to the smooth operation of the Japanese economy.

Note: For greater certainty, absence of reference in this description to “national security”, which is referred to in No. 10,12,14,36,45,46, 54 and 56 of this Annex, does not mean that Article 29.2 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 29.2 (Security Exceptions) to justify the screening.

3. The investor may be required to alter the content of the investment or discontinue the investment process.
depending on the screening result.

4. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting air transport businesses as a Japanese air carrier is not granted to the following natural persons or entities applying for the permission:

(a) a natural person who does not have Japanese nationality;

(b) a foreign country, or a foreign public entity or its equivalent;

(c) a legal person or other entity constituted under the laws of any foreign country; and

(d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of voting rights are held by natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event an air carrier falls into a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies such as holding companies, which have substantial control over the air carriers.

5. A Japanese air carrier or a company having substantial control over such air carrier, such as a holding company, may reject the request from a natural person or an entity set forth in subparagraphs 4(a) through (c), who owns equity investments in such air carrier or company, to enter its name and address in the register of shareholders, in the event such air carrier or company falls into a legal person referred to in subparagraph 4(d) by accepting such request.

6. Foreign air carriers are required to obtain permission of the Minister of Land, Infrastructure, Transport and Tourism to conduct international air transport businesses.

7. Permission of the Minister of Land, Infrastructure, Transport and Tourism is required for the use of foreign aircraft for air transportation of passengers or cargoes to and from Japan for remuneration.
8. A foreign aircraft may not be used for a flight between points within Japan.
Sector: Transport

Sub-Sector: Air Transport

Industry Classification:

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Senior Management and Boards of Directors (Article 9.10)
- Market Access (Article 10.5)

Level of Government: Central Government

Measures:
- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3
- Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Description:

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in aerial work business in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which significant adverse effect is brought to the smooth operation of the Japanese economy.

Note: For greater certainty, absence of reference in this description to “national security”, which is referred to in No. 10,12,14,36,45,46,54 and 56 of this Annex, in this description does not mean that Article 29.2 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 29.2 (Security Exceptions) to justify the screening.

3. The investor may be required to alter the content of the
investment or discontinue the investment process, depending on the screening result.

4. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting aerial work business is not granted to the following natural persons or entities applying for the permission:

(a) a natural person who does not have Japanese nationality;

(b) a foreign country, or a foreign public entity or its equivalent;

(c) a legal person or other entity constituted under the laws of any foreign country; and

(d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event a person conducting aerial work business falls into a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the person conducting aerial work business.

5. A foreign aircraft may not be used for a flight between points within Japan.
41  Sector: Transport

Sub-Sector: Air Transport (Registration of Aircraft in the National Register)

Industry Classification:

Obligations Concerned:
National Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.10)
Market Access (Article 10.5)

Level of Government: Central Government

Measures: Civil Aeronautics Law (Law No. 231 of 1952), Chapter 2

Description:

1. An aircraft owned by any of the following natural persons or entities may not be registered in the national register:

   (a) a natural person who does not have Japanese nationality;

   (b) a foreign country, or a foreign public entity or its equivalent;

   (c) a legal person or other entity constituted under the laws of any foreign country; and

   (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. A foreign aircraft may not be registered in the national register.

42  Sector: Transport
Sub-Sector: Customs Brokerage

Industry Classification:

Obligations Concerned:
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Customs Brokerage Law (Law No. 122 of 1967), Chapter 2

Description: Cross-Border Trade in Services

A person who intends to conduct customs brokerage business is required to have a place of business in Japan and to obtain permission of the Director-General of Customs having jurisdiction over the district where the person intends to conduct customs brokerage business.
Sector: Transport
Sub-Sector: Freight Forwarding Business (excluding freight forwarding business using air transportation)

Industry Classification:

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
- Senior Management and Boards of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Level of Government: Central Government

Measures:
- Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2, 3 and 4
- Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport No. 20 of 1990) , Chapters 3 through 5

Description:
1. The following natural persons or entities are required to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism for conducting freight forwarding business using international shipping. Such registration shall be made, or such permission or approval shall be granted, on the basis of reciprocity:

   (a) a natural person who does not have Japanese nationality;

   (b) a foreign country, or a foreign public entity or its equivalent;

   (c) a legal person or other entity constituted under the laws of any foreign country; and

   (d) a legal person represented by the natural persons or entities referred to in subparagraph (a),(b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a),(b) or (c); or a
A legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. A person who intends to conduct freight forwarding business is required to establish an office in Japan, and to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism.
44 Sector: Transport

Sub-Sector: Freight Forwarding Business (only freight forwarding business using air transportation)

Industry Classification: 

Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central Government

Measures: Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2 through 4
Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of Ministry of Transport No. 20 of 1990)

Description: Investment

1. The following natural persons or entities may not conduct freight forwarding businesses using air transportation between points within Japan:

(a) a natural person who does not have Japanese nationality;

(b) a foreign country, or a foreign public entity or its equivalent;

(c) a legal person or other entity constituted under the laws of any foreign country; and

(d) a legal person represented by the natural persons or entities referred to in subparagraph (a),(b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a),(b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a),(b) or (c).

2. The natural persons or entities referred to in subparagraphs 1(a) through (d) are required to be registered with, or to obtain permission or approval of,
the Minister of Land, Infrastructure, Transport and Tourism for conducting freight forwarding businesses using international air transportation. Such Registration shall be permitted, or such permission or approval will be granted, on the basis of reciprocity.
Sector: Transport

Sub-Sector: Railway Transport

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:

- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment Description:

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in railway transport industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.

4. The manufacture of vehicles or parts and components for the railway transport industry is not included in railway transport industry. Therefore, the prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law do not apply to the investments in the manufacture of these products.
46 Sector: Transport

Sub-Sector: Road Passenger Transport

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:
- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Description:

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in omnibus industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.

4. The manufacture of vehicles or parts and components for omnibus industry is not included in omnibus industry. Therefore, the prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law do not apply to the investments in the manufacture of these products.
Sector: Transport
Sub-Sector: Road transport
Industry Classification:
Obligations Concerned: Market Access (Article 10.5)
Local Presence (Article 10.6)
Level of Government: Central Government
Measures: Road Transport Law (Law No. 183 of 1951), Chapter 2
Special Measures Law concerning the proper management and revitalization of the taxi business in specified and sub-specified regions (Law No. 64 of 2009) (hereinafter referred to in this reservation as “the Law”), Chapters 2 and 7
Trucking Business Law (Law No. 83 of 1989), Chapter 2
Cross-Border Trade in Services

Description:

1. A person who intends to conduct road passenger transport business or road freight transport business is required to establish a place of business in Japan, and to obtain permission of, or to submit notification to, the Minister of Land, Infrastructure, Transport and Tourism.

2. In respect of common taxicab operators business, the Minister of Land, Infrastructure, Transport and Tourism may not grant permission to a person who intends to conduct the businesses, or may not approve a modification of the business plan of such businesses in the “specified regions” and in the “semi-specified regions” designated by the Minister of Land, Infrastructure, Transport and Tourism. Such permission may be granted, or such modification of the business plan may be approved with respect to “semi-specified regions” when the standards set out in the Law are met, including those that the capacity of common taxicab operators businesses in that region does not exceed the volumes of the traffic demand.

Such designation would be made when the capacity of common taxicab transportation businesses in that region exceeds or is likely to exceed the volumes of traffic demand to the extent that it would become difficult to secure the safety of transportation and the benefits of passengers.
3. In respect of common motor trucking business or motor trucking business (particularly-contracted), the Minister of Land, Infrastructure, Transport and Tourism may not grant permission to a person who intends to conduct the businesses, or may not approve a modification of the business plan of such businesses, in the “emergency supply/demand adjustment area” designated by the Minister of Land, Infrastructure, Transport and Tourism. Such designation would be made when the capacity of common motor trucking businesses or motor trucking businesses (particularly-contracted) in that area has significantly exceeded the volumes of transportation demand to the extent that the operation of existing businesses would become difficult.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Transport</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Services Incidental to Transport</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central Government</td>
</tr>
<tr>
<td>Measures:</td>
<td>Road Transport Law (Law No. 183 of 1951), Chapter 4</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

A person who intends to conduct motorway businesses is required to obtain a licence from the Minister of Land, Infrastructure, Transport and Tourism. The issuance of a licence is subject to an economic needs test, such as whether the proposed motorway is appropriate in scale compared with the volume and nature of traffic demand in the proposed area.
<table>
<thead>
<tr>
<th>49</th>
<th>Sector:</th>
<th>Transport</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sub-Sector:</td>
<td>Services Incidental to Transport</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 10.3)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
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<tr>
<td>Level of Government:</td>
<td>Central Government</td>
<td></td>
</tr>
<tr>
<td>Measures:</td>
<td>Pilotage Law (Law No. 121 of 1949), Chapters 2, 3 and 4</td>
<td></td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
<td></td>
</tr>
</tbody>
</table>

Only a Japanese national may become a pilot in Japan. Pilots directing ships in the same pilotage district are required to establish a pilot association for the pilotage district.
<table>
<thead>
<tr>
<th>50</th>
<th>Sector:</th>
<th>Transport</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sub-Sector:</td>
<td>Water Transport</td>
</tr>
<tr>
<td></td>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 10.3)</td>
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<tr>
<td></td>
<td></td>
<td>Most-Favoured-Nation Treatment (Article 10.4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Level of Government:</td>
<td>Central Government</td>
</tr>
<tr>
<td></td>
<td>Measures:</td>
<td>Law Concerning Special Measures against Unfavorable Treatment to Japanese Oceangoing Ship Operators by Foreign Government (Law No. 60 of 1977)</td>
</tr>
<tr>
<td></td>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Oceangoing ship operators of another Party may be restricted or prohibited from entering Japanese ports or from loading and unloading cargoes in Japan in cases where Japanese oceangoing ship operators are prejudiced by that Party.</td>
</tr>
</tbody>
</table>
Sector: Transport
Sub-Sector: Water Transport

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:
- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Investment

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in water transport industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation-in which significant adverse effect is brought to the smooth operation of the Japanese economy.

Note: For greater certainty, absence of reference in this description to “national security”, which is referred to in No. 10,12,14,36,45,46,54 and 56 of this Annex, does not mean that Article 29.2 (Security Exceptions) does not apply to the screening or that Japan waives its right to invoke Article 29.2 (Security Exceptions) to justify the screening.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.

4. For greater certainty, “water transport industry” refers to oceangoing/seagoing transport, coastwise transport (i.e. maritime transport between ports in Japan), inland water transport, and ship leasing industry. However,
oceangoing/seagoing transport industry and ship leasing industry excluding coastwise ship leasing industry are exempted from the prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law.
52 Sector: Transport
Sub-Sector: Water Transport
Industry Classification:
Obligations Concerned:
National Treatment (Articles 9.4 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
Market Access (Article 10.5)
Level of Government: Central Government
Measures: Ship Law (Law No. 46 of 1899), Article 3
Description: Unless otherwise specified in laws and regulations of Japan, or international agreements to which Japan is a party, ships not flying the Japanese flag are prohibited from entering ports in Japan which are not open to foreign commerce and from carrying cargoes or passengers between Japanese ports.
53  Sector:  Vocational Skills Test

Sub-Sector:

Industry Classification:

Obligations Concerned:
  - Market Access (Article 10.5)
  - Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Human Resources Development Promotion Law (Law No. 64 of 1969), Chapter 5

Description: Cross-Border Trade in Services

Some of specific type of non-profit organization (the employers’ organizations, their federations, general incorporated associations, general incorporated foundations, incorporated labour unions or miscellaneous incorporated non-profit organizations) can supply the service. Such organization which intends to carry out the vocational skills test for workers is required to establish an office in Japan and to be designated by the Minister of Health, Labour and Welfare.
Sector: Water Supply and Waterworks

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central Government

Measures:
- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Description:

Investment

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intend to make investments in water supply and waterworks industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investor may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.
Sector: Wholesale and Retail Trade

Sub-Sector: Livestock

Industry Classification:

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Central Government

Measures: Livestock Dealer Law (Law No. 208 of 1949), Article 3

Description:

A person who intends to conduct livestock trading business is required to be resident in Japan, and to obtain a licence from the prefectural governor having jurisdiction over the place of residence. For greater certainty, “livestock trading” means the trading or exchange of livestock, or the good offices for such trading or exchange.
Sector: Aerospace Industry
Sub-Sector: Aircraft Manufacturing and Repairing Industry
Industry Classification:

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Performance Requirements (Article 9.9)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Level of Government: Central Government
Measures:
- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 5
- Aircraft Manufacturing Industry Law (Law No.237 of 1952), Article 2 through 5

Note: For greater certainty, for the purposes of this reservation, the definition of “inward direct investment” provided in Article 26 of the Foreign Exchange and Foreign Trade Law shall apply with respect to the interpretation of this reservation.

Description: Cross-Border Trade in Services and Investment

1. The prior notification requirement and screening procedures under the Foreign Exchange and Foreign Trade Law apply to foreign investors who intended to make investments in aircraft industry in Japan.

2. The screening is conducted from the viewpoint of whether the investment is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

3. The investors may be required to alter the content of the investment or discontinue the investment process, depending on the screening result.

4. A technology introduction contract between a resident and a non-resident related to aircraft industry is subject...
to the prior notification requirement and screening procedure under the Foreign Exchange and Foreign Trade Law.

5. The screening is conducted from the viewpoint of whether the conclusion of the technology introduction contract is likely to cause situation in which national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered.

6. The resident may be required to alter the provisions of the technology introduction contract or discontinued the conclusion of that contract, depending on the screening result.

7. The number of licences conferred to manufactures and service suppliers in those sectors may be limited.

8. An enterprise which intends to produce aircraft and supply repair services is required to establish a factory related to manufacture or repair aircraft under the laws and regulations of Japan.
Annex I

Schedule of Malaysia

1. **Description provides** the non-conforming measures for which the entry is made.

2. In accordance with Articles 10.7(1) (Cross Border Trade in Services – Non-Conforming Measures) and 9.11(1) (Investment – Non-Conforming Measures) the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the Description element of that entry.
1. **Sector:** All Sectors  
   **Obligations Concerned:** National Treatment (Article 9.4)  
   **Level of Government:** Federal  
   **Measures:** Registration of Business Act 1956  
   Limited Liability Partnership Act 2012  
   Co-Operative Societies Act 1993  
   **Description:** Investment  

Only Malaysian nationals or permanent residents can register a sole proprietorship or partnership in Malaysia except for the Limited Liability Partnership (LLP), the compliance officer shall be a citizen or permanent resident of Malaysia that resides in Malaysia.  

Foreigners are not allowed to establish or join cooperatives societies in Malaysia.
2. **Sector:** Manufacturing

**Obligations Concerned:** National Treatment (Article 9.4)

**Level of Government:** Federal

**Measures:** Industrial Co-ordination Act 1975

**Administrative Guidelines**

**Description:** Investment

(a) Foreign equity is limited up to 49 per cent for investment in the manufacture or assembly of motor vehicles. However, no foreign equity restrictions are imposed on the following categories:

i. Luxury passenger vehicles with engine capacity of 1,800 c.c. and above and on the road price not less than RM150,000;
ii. Pick-up trucks and commercial vehicles;
iii. Hybrid and electric vehicles; and
iv. Motorcycles with engine capacity of 200 c.c. and above.

(b) Foreign equity is limited up to 30 per cent for the manufacture of batik fabric and apparel of batik.
3. Sector: Manufacturing

Obligations Concerned: Prohibition on Performance Requirement (Article 9.9)

Level of Government: Federal and State

Measures: Industrial Co-ordination Act 1975  
Customs Act 1967  
Free Zone Act 1990  
Petroleum Development Act 1974  
Pineapple Industry (Cannery Control) Regulations 1959  
Pineapple Industrial Act 1957 (Revised 1990)  
Administrative Guidelines

Description: Investment

(a) Companies located within the Licensed Manufacturing Warehouse (LMW) and Free Industrial Zone (FIZ) are subject to export conditions.

(b) Companies engaging in petroleum refining activity are required to export 100 per cent of its products.

(c) Expansion of existing projects in the manufacture of optical disc is subject to export conditions of 100 per cent export.

(d) Expansion projects will be considered only for existing independent palm oil refineries which source 100 per cent from its own plantation. For Sabah and Sarawak, manufacturing license will only be considered for new integrated projects which source 50 per cent of crude palm oil from its own plantations. Integrated projects refer to projects with own plantation.

(e) For pineapple canning, approval will only be granted for projects which source 100 per cent supply from own plantations.

ANNEX I-MYS-4
4. Sector: Marine Capture Fisheries

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4) Local Presence (Article 10.6)

Level of Government: Federal and State

Measures: Fisheries Act 1985

Description: Cross-Border Trade in Services and Investment

No foreign fishing vessel shall load or unload any fish, fuel or supplies or tranship any fish or fish or attempt to fish or conduct any techno-economic research or waters survey of any fishery, in Malaysian fisheries waters unless authorised to do so.

An application for a licence or a permit to be issued in respect of a foreign fishing vessel to fish in Malaysian fisheries waters shall be made through a Malaysian agent who shall undertake legal and financial responsibility for the activities to be carried out by such vessel.

Fishing vessel means any boat, craft, ship or other vessel which is used for equipped to be used for, or of a type used for

(a) fishing; or

(b) aiding or assisting other boat, craft, ship or other vessel in the performance of any activity related to fishing, including any of the activities of preparation, processing, refrigeration, storage, supply or transportation of fish.
5. Sector: Patent Agent Services  
Trademark Agent Services  

Obligations Concerned: Local Presence (Article 10.6)  

Level of Government: Federal  


Description: Cross-Border Trade in Services  

Only persons registered with the Intellectual Property Corporation of Malaysia (MyIPO) and residing in Malaysia are allowed to carry out a business, practice, or act as a patent and trademark agent in Malaysia.
6. Sector: Professional Services covering
   Engineering Services
   Quantity Surveying Services
   Land Surveying Services
   Architectural Services

Obligations Concerned:
   National Treatment (Article 10.3) (Article 9.4)
   Local Presence (Article 10.6)

Level of Government:
   Federal and State

Measures:
   Registration of Engineers Act 1967 (amended 2007)
   Registration of Engineers Regulations 1990 (amended 2003)
   Architect Act 1967
   Architect Rules 1996 (Amendment 2011)
   Quantity Surveyors Act 1967
   Quantity Surveyors (Amendment) Rules 2004
   Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994
   Administrative Guidelines

Description: Cross-Border Trade in Services and Investment

Any qualified persons, who are resident in Malaysia and registered with the relevant professional boards are allowed to provide and supply engineering, quantity surveying, land surveying and architectural services.

Foreigners will be subject to a temporary registration.

Engineering services and architectural services must be authenticated by a registered professional in Malaysia.

The shareholding of an engineering, architectural and quantity surveying services establishment shall be no less than 70% held by any one of the registered professionals. For each of these establishments, the majority of directors shall be registered professionals. This shall also apply to multi-disciplinary practices (MDP) comprising of professional architects, professional engineers with practicing certificate, registered land and/or quantity surveyors with practicing certificate.
7. **Sector:** Legal services (other than arbitration)

**Obligations Concerned:**
- National Treatment (Article 10.3) (Article 9.4)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

**Level of Government:** Federal and State

**Measures:**
- Legal Profession Act 1976
- Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014
- Offshore Companies Act 1990
- Labuan Trust Companies Act 1990
- Advocates Ordinance of Sabah 1953
- Advocates Ordinance of Sarawak 1953

**Description:** Cross-Border Trade in Services and Investment

**Peninsular Malaysia and the Federal Territory of Labuan**

Foreign law firms and foreign lawyers are not permitted to practice Malaysian law save as provided for under section 40(O) of the Legal Profession Act 1976 [Act 166] and the Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014.

Foreign law firms from recognised jurisdictions must apply to a Selection Committee to be established as a Qualified Foreign Law Firm (QFLF) or an International Partnership (IP) with a Malaysian law firm. A maximum of five (5) QFLF licences may be issued in the initial period and only to foreign law firms with proven expertise in International Islamic Finance.

Only foreign lawyers from recognised jurisdictions can apply to work in a QFLF, an IP or a Malaysian law firm. Such a foreign lawyer must be resident in Malaysia for not less than one hundred and eighty two days in any calendar year.

A QFLF and an IP, and a registered foreign lawyer working in a Malaysian law firm are subject to the provisions of the Legal Profession Act 1976 [Act 166].

Foreign lawyers providing legal services in Malaysia on a “fly-in and fly-out” basis shall be subject to the provisions under section 37(2B)(b) of the Legal Profession Act 1976 [Act 166].
Sabah and Sarawak

Foreign law firms and foreign lawyers are not permitted to practice in Sabah or Sarawak.
8. Sector: Real Estate Services on a fee or contract basis

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)

Level of Government: Federal and State

Measures: Valuers, Appraisers & Estate Agents Act 1981 (Section 18)
           Valuers, Appraisers & Estate Agents Rules 1986

Description: Cross-Border Trade in Services and Investment

A person who is not a citizen or permanent resident of Malaysia shall not qualify for registration as a valuer.
9. Sector: Communications Services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)

Level of Government: Federal

Measures: Communications and Multimedia Act of 1998
Communications and Multimedia (Licensing) Regulations 2000

Description: Cross-Border Trade in Services and Investment

Licenses for the supply of telecommunications services in Malaysia are divided into individual licenses, and class licenses, depending on the character of the service.

The following persons or classes of persons shall be ineligible to apply for an individual license:

a) A foreign company defined under the Companies Act 1965 [Act 125];

b) An individual or a sole proprietorship;

c) A partnership

The following persons or classes of persons shall be ineligible to be registered as a class licensee:

i. A foreign individual who is not a permanent resident; and

ii. A foreign company as defined under the Companies Act 1965.

Foreigners are not permitted to apply for Content Applications Service Providers (CASP) services, a special subset of applications service providers that refers to satellite broadcasting, subscription broadcasting, terrestrial free to air TV or terrestrial radio broadcasting.

Minister may, for good cause or as the public interest may require, permit either of the above to apply to be registered as any one of the licensee mentioned above.
10. Sector: Education Services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4) Local Presence (Article 10.6)

Level of Government: Federal


Description: Cross-Border Trade in Services and Investment

Education services provided in Malaysia can only be provided by education services suppliers that are registered and established in Malaysia.

Foreigners are not allowed to provide the following education services:

(a) Preschool;

(b) Primary and Secondary School Education Services covering Malaysian National Curriculum; and

(c) Religious School.
11. **Sector:** Private Healthcare Facilities and Services
   Allied Health Services

**Obligations Concerned:**
- National Treatment (Article 10.3) (Article 9.4)
- Local Presence (Article 10.6)

**Level of Government:** Federal

**Measures:**
- Medical Regulations 1974
- Private Healthcare Facilities and Services Act 1998
- Private Healthcare Facilities and Services Regulations 2006
- Pharmacy Registration Act 1951
- Administrative Guidelines

**Description:** Cross-Border Trade in Services and Investment

Private healthcare facilities and services can only be provided by services suppliers that are registered and established in Malaysia and with authorisation.

Foreigners are not allowed to establish blood bank, maternity home, psychiatric hospital, pathology laboratory and to practise as general dental practitioners, general medical practitioners, general nurses including midwifery.

**Specialised Dental Services**
Foreigners are not allowed to provide specialised dental services or operate a specialised medical facility except in Oral and Maxillo-Facial Reconstructive Surgery.

**Pharmacists**
Foreign pharmacists are not allowed to prepare, dispense, assemble or sell medicinal products.

**Allied health services**
Foreigners are not allowed to provide allied health services that covers clinical scientist, microbiologist, clinical biochemist, medical geneticist, biomedical scientist, embryologist, medical physicist, entomologist, forensic scientist, nutritionist, speech language pathologist/speech language therapist, audiologist, physiotherapist, counselors, diagnostic radiographer, radiotherapist, food technologist, dietitian, medical social officer, optometrist, health education officer, environmental health officer, medical laboratory technologist, health care food service assistant officer, assistant medical officer and assistant food technologist.

ANNEX I-MYS-13
12. Sector: Customs Agents and Brokers

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Federal

Measures: Customs Act 1967
Customs Regulations 1977
Customs Standing Orders No.45/2003

Description: Cross-Border Trade in Services

Foreigners are not allowed to act as customs agents and brokers.
13. Sector: Tourist guide services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Federal

Measures: Tourism Industry Act 1992

Description: Cross-Border Trade in Services

Foreigners are not allowed to provide tourist guide services.
14.  Sector: Utilities

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
Senior Management and Boards of Directors (Article 9.10)
Market Access (Article 10.5)

Level of Government: Federal and State

Measures:
- Electricity Supply Act 1990
- Electricity (Amendment) Ordinance 2003 (Cap A109)
- Electricity Rules 1999
- Electricity (State Grid Code) Rules 2003
- SESCO Ordinance 1962 (Cap 51)
- Sarawak Electricity Supply (successor Company) Ordinance 2004
- Energy Commission Act 2001
- Electricity Regulations 1994
- Licensee Supply Regulations 1990
- Gas Supply Act 1993
- Gas Supply Regulation 1997
- Energy Commission Act 2001
- Sarawak Gas Supply Services (Operating Company) Ordinance 1995
- Waters Act 1920

Description: Cross-Border Trade in Services and Investment

No person, other than a supply authority is authorised to supply, use, work or operate any installation relating to gas, water and electricity.

Only persons that are registered and established in Malaysia can supply services for gas, water and electricity, and disposal of waste.
15. **Sector:** Transport Services

**Sub-sector:** International Maritime Transport services (excluding Maritime Cabotage and Government Cargo)

**Obligations Concerned:**
- National Treatment (Article 10.3) (Article 9.4)
- Local Presence (Article 10.6)
- Market Access (Article 10.5)
- Senior Board of Management and Directors (Article 9.10)

**Level of Government:** Federal and State

**Measures:**
- Merchant Shipping Ordinance 1952
- Merchant Shipping Ordinance 1960 (Sabah)
- Merchant Shipping Ordinance 1960 (Sarawak)
- Merchant Shipping (Amendment and Extension) Act 2007
- Administrative Guidelines

**Description:** Cross-Border Trade in Services and Investment

Foreign shipping vessels are not permitted to provide and supply domestic shipping services, maritime cabotage services and government cargo.

**Malaysia International Ship Registry**

Foreign persons may only provide international maritime services that is not plying in domestic waters only through a representative office, regional office or locally incorporated joint venture corporation with Malaysian individuals or Malaysian controlled corporations or both. Aggregate foreign shareholding in the joint venture corporation shall maintain not less than 51 per cent.

All joint venture or corporation seeking to register ships under this registry shall appoint a ship manager prior for registration of a ship, whom shall be:

1. A Malaysian citizen having its permanent residence in Malaysia; or

2. A company incorporated in Malaysia and having its principal place of business in Malaysia.

**Traditional Registry**

Only ships registered on the Traditional Registry may provide domestic maritime services.

ANNEX I-MYS-17
Foreign persons may only register a ship on the Traditional Registry through a representative office, regional office or locally incorporated joint venture corporation with Malaysian individuals or Malaysian controlled corporations or both. Aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent.

All joint venture or corporation seeking to register ships under this registry shall satisfy the following conditions:

1. Majority of senior managers and board of directors shall be Malaysians; and

2. Incorporated in Malaysia and having its main business operations in Malaysia.
16. Sector: Distribution Services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Prohibition on Performance Requirement (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Local Presence (Article 10.6)
Market Access (Article 10.5)

Level of Government: Federal

Measures: Guidelines on Foreign Participation in the Distribution Trade Services in Malaysia (Amendment) 2010
Franchise Act 1998
Companies Act 1965
Guideline on Convenience Stores with Foreign Interest

Description: Cross-Border Trade in Service and Investment

Foreigners are not allowed to operate supermarkets, mini markets, permanent wet markets, permanent pavement markets, fuel stations with or without kiosk, news agent, medical hall, Malaysian cuisine restaurants, bistro, jewelry stores and textile.

All hypermarkets, superstores, departmental stores, specialty stores, franchise businesses, and convenience stores (as defined in the relevant Guidelines) with foreign equity must be incorporated locally under the Companies Act 1965.

All foreign involvement in distributive trade shall obtain the approval of the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) on:

- acquisition;
- mergers and/or takeovers;
- opening of new branches/outlets/chain stores;
- relocation or expansion of existing and new branches/outlets/chain stores;
- acquisitions of outlets of other operators;
- purchase and sale of properties to operate distributive trade activities prior to obtaining the approval/license from local authorities and other agencies to operate distributive trade activities.

All distributive trade companies with foreign equity shall:

a) appoint Bumiputera director/directors;

ANNEX I-MYS-19
b) hire personnel at all levels including management to reflect the racial composition of the Malaysian population;

c) formulate plans on human resource such as capacity building and transfer of knowledge to assist Bumiputera participation in the distributive trade sector;

d) hire at least 1 per cent of the total workforce from persons with disabilities

The minimum capital investment is RM50 million for hypermarkets, RM25 million for superstores, RM20 million for department stores, and RM1 million for specialty stores and convenience stores, subject to review every three years.

No less than 30 per cent of the equity in hypermarkets, superstores and convenience stores is to be held by Bumiputera.

Hypermarkets, superstores, convenience stores and departmental stores shall seek to allocate 30 percent of the Stock Keeping Units displayed on the shelf space for Bumiputera SME goods and products in each outlet within 3 years.

One hypermarket will be allowed for every 250,000 residents and one superstore for every 200,000 residents.

All hypermarkets, superstores, and departmental stores shall begin operation within 2 years from the date of approval from MDTCC.

Specialty store may be allowed to operate if it fulfils the following objectives:

- absence of local players in proposed format
- create employment opportunities; and
- transfer of technology/skills; and unique/ exclusive nature of business.

Foreigners are not allowed to apply for a franchise broker/consultant license.

The sale of a franchise is deemed to be in Malaysia where:

i) an offer to sell or buy a franchise;
ii) is made in Malaysia and accepted within or outside Malaysia;
iii) is made outside Malaysia and accepted within Malaysia; and
iv) the franchised business is or will be operating in Malaysia.
There are three (3) types of franchises as follows:

<table>
<thead>
<tr>
<th>Type of Franchises</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Franchisor</td>
<td>A person who grants a franchise to a franchisee and includes a master franchisee and his relationship with a sub-franchisee.</td>
</tr>
<tr>
<td>Master Franchisee</td>
<td>A person who has been granted the rights by a franchisor to sub-franchise to another person, at his own expense, the franchise of the franchisor.</td>
</tr>
<tr>
<td>Franchisee of Foreign</td>
<td>A person who has been granted the rights by a foreign franchisor but does not sub-franchise to another person.</td>
</tr>
</tbody>
</table>

For convenience stores, only a foreign company that is not associated with the franchisor (according to Franchise Act 1998) may invest or own not more than 30% equity interest*.

*For greater certainty, only a foreign company that is not associated with the franchisor means only a foreign company that is not the franchisor according to Franchise Act 1998.
17. Sector: Construction and Related Engineering Services

Obligations Concerned: Market Access (Article 10.5) National Treatment (Article 10.3) (Article 9.4) Senior Management and Boards of Directors (Article 9.10)

Level of Government: Federal


Description: Cross-Border Trade in Services and Investment

Only an entity incorporated in Malaysia registered with the Malaysian Construction Development Board (CIDB) and locally incorporated either through a representative office, regional office or joint-venture corporation with Malaysian individuals or Malaysian controlled corporations may be permitted to provide construction and related services.

Any entity incorporated in Malaysia, whose foreign equity exceeds more than 30 per cent by way of a joint-venture corporation or consortium with Malaysian individuals or Malaysian controlled corporations, is subjected to the registration requirements by CIDB.

The senior management and board of directors of each foreign entity shall be of Malaysian majority that shall have control over its management and investment.
18. Sector: Freight road transportation services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Local Presence (Article 10.6)
Market Access (Article 10.5)

Level of Government: Federal

Measures: Land Public Transport Act 2010
Panduan Dasar Pelesenan Suruhanjaya Pengangkutan Awam Darat (SPAD)

Description: Cross-Border Trade in Services and Investment

Only entities that are registered and established in Malaysia are allowed to provide freight road transportation services in Malaysia.

Foreigners are not allowed to own more than 49 per cent of equity shareholding in any entity providing and supplying freight transportation services covering transportation of containerized freight based on a fee or contractual basis.
19. Sector: Wholesale and Distribution Services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)

Level of Government: Federal

Measures: Price Control Act 1946
Control of Supplies Act 1961

Description: Cross-Border Trade in Services and Investment

Foreigners are not permitted to provide wholesale and distribution services for fabrics and apparels of batik, motor vehicles including motorcycles and scooters, passenger cars and commercial vehicles (excluding automotive components and parts of these vehicles).
20. Sector: Oil and Gas

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Market Access (Article 10.5)
Local Presence (Article 10.6)
Prohibition on Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Level of Government: Federal

Measures: Petroleum Development Act 1974
Other Implementing Measures

Description: Cross-Border Trade in Services and Investment

The Prime Minister of Malaysia may make non-conforming regulations for the purposes of carrying into effect the provisions of the Petroleum Development Act of 1974 with respect to the upstream oil and gas sector1, and may in particular, provide for the conduct of or the carrying on of:

(a) any business or service relating to the exploration, exploitation, winning or obtaining of petroleum; and

(b) any business involving the manufacture and supply of equipment used in the petroleum industry;

except:

(a) regulations shall not be adopted or maintained with respect to the supply of the following 12 goods or services2 that impose non-conforming requirements:

i. Seismic Data Acquisition;

ii. Directional Drilling services, Gyro While Drilling services, Measurement While Drilling services, and Logging While Drilling services;

---

1 For greater certainty, the Prime Minister may make non-conforming regulations pursuant to the Petroleum Development Act of 1974 that are more non-conforming than existing regulations made pursuant to the Act. This reservation does not require the Prime Minister to maintain existing regulations.

2 For greater certainty, in the event Malaysia decides to offer a contract to an investor or service supplier of another Party for the supply of above-listed goods or services together with other goods or services, the investor or service supplier of the other Party may hold the prime contract, subject to meeting the PETRONAS LLRC requirements with respect to the supply of the other goods or services.

ANNEX I-MYS-25
iii. Cementing Related Services;
iv. Gas Turbines and related maintenance and repair services;
v. Control Valves services;
vi. Oil Country Tubular Goods;
vii. Induction motor services;
viii. Distributed Control Systems (DCS) services;
ix. Transformer services;
x. Structural Steel;
xi. Linepipes; and
xii. Process pipes.

(b) regulations shall not be adopted or maintained that impose restrictions on mode of entry for foreign entities that wish to participate in Malaysia’s upstream oil and gas sector activities of exploring, exploiting, winning and obtaining petroleum that are more non-conforming than the following requirements:

i) a requirement to have a local establishment;

ii) a requirement to partner with a PETRONAS subsidiary;

iii) a requirement, during the exploration stage, that the PETRONAS subsidiary’s participating interest as a Petroleum Arrangement Contractor is ‘carried’ at maximum of its participating interest\(^3\); and

iv) a requirement that the Petroleum Arrangement Contractors may only procure goods and services from PETRONAS’ List of Licensed Registered Companies (LLRC);

(c) regulations shall not be adopted or maintained that impose restrictions on mode of entry for foreign entities that seek to supply goods and services to Malaysia’s upstream oil and gas sector that are more non-conforming than the following requirements:

i) a requirement to be licensed on the PETRONAS LLRC; and

ii) a requirement to appoint a local as an exclusive agent, or to establish in Malaysia and form a joint venture with a local company or individual;

\(^3\) During the exploration period, all exploration and other costs are borne by the Petroleum Arrangement Contractors other than the PETRONAS subsidiary. Consequently, upon the expiry of the carried interest period, the PETRONAS subsidiary will bear the costs of future operations in proportion to its participating interest in the production-sharing contract.
(d) regulations with respect to local participation requirements for equity, board of directors and senior management positions for foreign entities licensed on the PETRONAS LLRC that seek to supply goods and services shall not be adopted or maintained that are more non-conforming than the requirements for relevant work categories listed in the existing Standardised Work and Equipment Categories for products and services; and

(e) after Malaysia negotiates and executes a contract with an operator or service supplier, non-conforming regulations shall not be applied in a manner that is inconsistent with the terms and conditions of the contract.
ANNEX I
SCHEDULE OF MEXICO

Introductory Note for the Schedule of Mexico

1. **Description** provides a general non-binding description of the measure for which the entry is made.

2. In accordance with Articles 10.7.1 (Cross Border Trade in Services – Non-Conforming Measures) and 9.11.1 (Investment – Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry.

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 **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

   (b) 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. For the purposes of this Annex:

   The term “CMAP” means Mexican Classification of Activities and Products (Clasificación Mexicana de Actividades y Productos) numbers as set out in National Institute for Statistics and Geography (Instituto Nacional de Estadística y Geografía), Mexican Classification of Activities and Products (Clasificación Mexicana de Actividades y Productos), 1994;

   The term “concession” means an authorization provided by the Mexican State to a person to exploit a natural resource or provide a service, for which Mexican nationals and Mexican enterprises are granted priority over foreigners;

   The term “foreigners’ exclusion clause” means the express provision in an enterprise’s by-laws, stating that the enterprise shall not allow foreigners, directly or indirectly, to become partners or shareholders of the enterprise.
1. Sector: All sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures:

United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 27.

Foreign Investment Law (Ley de Inversión Extranjera), Title II, Chapters I and II

Regulations to the Foreign Investment Law and the National Registry for Foreign Investment (Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras), Title II, Chapters I and II.

Description:

Investment

Foreign nationals or foreign enterprises may not acquire property rights (“dominio directo”) over land and water in a 100-kilometer strip along the country’s borders or in a 50-kilometer strip inland from its coasts (the “Restricted Zone”).

Mexican enterprises without a foreigners’ exclusion clause may acquire property rights (“dominio directo”) over real estate located in the Restricted Zone, used for non-residential purposes. Notice of the acquisition must be given to the Ministry of Foreign Affairs (Secretaría de Relaciones Exteriores, SRE) within the sixty business days following the date of acquisition.

Mexican enterprises without a foreigners’ exclusion clause may not acquire property rights (“dominio directo”) over real estate located in the Restricted Zone, used for residential purposes.

Pursuant to the procedure described below, Mexican
enterprises without a foreigners’ exclusion clause may acquire rights for the use and enjoyment over real estate in the “Restricted Zone”, used for residential purposes. Such a procedure shall also apply when foreign nationals or foreign enterprises seek to acquire rights for the use and enjoyment over real estate in the Restricted Zone regardless of the purpose for which the real estate is used.

A permit from the SRE is required for credit institutions to acquire, as trustees, rights to real estate located in the Restricted Zone, when the purpose of the trust is to allow the use and enjoyment of such real estate, without granting real property rights thereof, and the trust beneficiaries are the Mexican enterprises without a foreigners’ exclusion clause, or the foreign nationals or foreign enterprises referred to above.

The terms “use” and “enjoyment” of the real estate located in the Restricted Zone mean the rights to use or enjoy such real estate, including, as applicable, obtaining fruits, products and, in general, any yield resulting from lucrative operation and exploitation through third parties or through the credit institutions acting as trustees.

The duration of the trust referred to in this reservation shall be for a maximum period of 50 years, which may be renewed on request by the interested party.

The SRE can verify at any time the compliance with the conditions under which the permits referred to in this reservation are granted, as well as the submission and veracity of the notices mentioned above.

The SRE shall resolve on the permits, considering the economic and social benefits that these operations could imply to the Nation.

Foreign nationals or foreign enterprises seeking to acquire real estate outside the Restricted Zone, shall previously submit to the SRE a statement agreeing to consider themselves Mexican nationals for the above mentioned purposes, and waiving to invoke the protection of their governments with respect to such real estate.
2. Sector: All sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)
Market Access (Article 10.5)

Level of Government: Federal

Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title VI, Chapter III

Description: Investment and cross border services

The National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIE), in order to evaluate applications submitted for its consideration (acquisitions or establishment of investments in restricted activities as set out in this Schedule), shall take into account the following criteria:

(a) the effects on employment and training of workers;

(b) the technological contribution;

(c) the compliance with the environmental provisions contained in the environmental legislation; and

(d) in general, the contribution to increase the competitiveness of the Mexican productive system.

When resolving an application, the CNIE may only impose requirements that do not distort international trade and that are not prohibited by Article 9.9.
3. Sector: All sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

As qualified by the Description element

Description:

Investment

Favorable resolution from the National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of another Party or their investments to participate, directly or indirectly, in more than 49% of the ownership interest of a Mexican enterprise in an unrestricted sector, only when the total value of the assets of the Mexican enterprise exceeds the applicable threshold at the time the application for acquisition is submitted.

The applicable threshold for the review of an acquisition of a Mexican enterprise shall be the amount so determined by the CNIE. The threshold at the time of entry into force of the TPP for Mexico will be the equivalent in Mexican pesos to one billion US dollars, using the official exchange rate from October 5th, 2015.

Each year, the threshold will be adjusted according to the nominal growth rate of the Mexican Gross Domestic Product, as published by the National Institute for Statistics and Geography (Instituto Nacional de Estadística y Geografía, INEGI).
| 4. Sector: | All sectors |
| Sub-Sector: |
| Industry Classification: | National Treatment(Article 9.4) |
| | Senior Management and Boards of Directors (Article 9.10) |
| Obligations Concerned: | Federal |
| Level of Government: | United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 25 |
| Measures: | General Law of Cooperative Companies (Ley General de Sociedades Cooperativas), Title I, and Title II, Chapter II |
| | Federal Labor Law (Ley Federal del Trabajo), Title I |
| | Foreign Investment Law (Ley de Inversión Extranjera),Title I, Chapter III |
| Description: | Investment and cross border services |
| | No more than 10 percent of the persons participating in a Mexican cooperative production enterprise may be foreign nationals. |
| | Investors of the other Party or their investments may only own, directly or indirectly, up to 10 percent of the ownership interest in a Mexican cooperative production enterprise. |
| | No foreign nationals may engage in general administrative functions or perform managerial activities in that enterprise. |
| | A cooperative production enterprise is an enterprise whose members join their personal work, whether physical or intellectual, with the purpose of producing goods or services. |
5. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures: Federal Law to Foster the Microindustry and Handicraft Activity Ley Federal para el Fomento de la Microindustria y la Actividad Artesanal), Chapters I, II, III and IV

Description: Investment

Only Mexican nationals may apply for a license ("cédula") to qualify as a microindustry enterprise.

Mexican microindustry enterprises may not have foreign persons as partners.

The Federal Law to Foster the Microindustry and Handicraft Activity (Ley Federal para el Fomento de la Microindustria y Actividad Artesanal) defines “microindustry enterprise” as the enterprise integrated by up to fifteen workers, that is engaged in the transformation of goods, and whose annual sales do not exceed the amount so determined periodically by the Ministry of Economy (Secretaría de Economía, SE).
6. Sector: Agriculture, Livestock, Forestry, and Lumber Activities

Sub-Sector: Agriculture, Livestock or Forestry

Industry Classification:

- CMAP 1111 Agriculture
- CMAP 1112 Livestock and hunting (limited to livestock)
- CMAP 1200 Forestry and felling Trees

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures:

- United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 27
- Agrarian Law (Ley Agraria), Title VI
- Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

Description:

Investment

Only Mexican nationals or Mexican enterprises may own land for agriculture, livestock or forestry purposes. Such enterprises must issue a special type of share ("T" share) representing the value of that land at the time of its acquisition. Investors of the other Party or their investments may only own, directly or indirectly, up to 49 percent of "T" shares.
7. Sector: Retail Trade

Sub-Sector: Sale of Non-Food Products in Specialized Establishments

Industry Classification: CMAP 623087 Retail Trade of Firearms, Cartridges and Munitions

CMAP 612024 Wholesale Trade Not Elsewhere Classified (limited to firearms, cartridges and munitions)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

Description:
Investors of the other Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in the Territory of Mexico that is engaged in the sale of explosives, firearms, cartridges, ammunition, and fireworks, excluding the acquisition and use of explosives for industrial and extractive activities, and the preparation of explosive mixtures for such activities.
8. Sector: Communications

Sub-Sector: Broadcasting (radio and free to air television)

Industry Classification: CMAP 941104 Private Production and Transmission of Radio Programs (limited to production and transmission of sound broadcasting (radio) programs)

CMAP 941105 Private Services of production, Transmission and Retransmission of Television Programming (limited to transmission and retransmission of free-to-air television programming)

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)

Local Presence (Article 10.6)

Level of Government: Federal

Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Articles 28 and 32

Federal Telecommunications and Broadcasting Law (Ley Federal de Telecomunicaciones y Radiodifusión), Title IV, Chapters I, III and IV, Title XI, Chapter II.

General Means of Communication Law (Ley de Vías Generales de Comunicación), Book I, Chapter III (when it does not oppose to the Federal Telecommunication and Broadcasting Law).

Regulations to the Radio and Television Federal Law,
in the Matter of Concessions, Permits and Content of Radio and Television Transmissions (Reglamento de la Ley Federal de Radio y Televisión, en Materia de Concesiones, Permisos y Contenido de las Transmisiones del Radio y Televisión)

Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapters II and III

Regulations to the Foreign Investment Law and the National Registry for Foreign Investment (Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras), Title VI

Description:

Investment and Cross-Border Services

According to their purposes, sole concessions and frequency band concessions will be granted only to Mexican nationals or enterprises constituted under Mexican laws and regulations.

Investors of a Party or their investments may participate up to 49% in concessionaire enterprises providing broadcasting services. This maximum foreign investment, will be applied according to the reciprocity existent with the country in which the investor or trader who ultimately controls it directly or indirectly constituted.

For the purposes of the above paragraph, a previous favorable opinion of the Mexican Foreign Investment Commission is required to grant the concession for providing broadcasting services in which foreign investment participate.

Among the social concessions, indigenous concessions may be granted to indigenous people and communities in the country for the promotion, development and preservation of their languages, culture, knowledge promoting their traditions, internal
rules and under principles which respect gender equality, enabling the integration of indigenous women in the participation of the objectives for which the concession is granted and other elements that constitute indigenous cultures and identities.

Under no circumstances may the concession, the rights conferred therein, facilities, auxiliary services, offices or accessories and properties affected thereto, be assigned, encumbered, pledged or given in trust, mortgaged or transferred totally or partially to any foreign government or state.

The State shall guarantee that the broadcasting promotes the values of national identity. The broadcasting concessions shall use and stimulate local and national artistic values and expressions of Mexican culture. The daily program starring actors shall include a larger time covered by Mexicans.
| 9. Sector: | Communications |
| Sub-Sector: | Telecommunications (Including resellers and restricted television and audio service) |
| Industry Classification: | CMAP 720006 Other Telecommunications Services (limited to satellite communications) |
| | CMAP 720006 Other Telecommunications services (Not including Enhanced or Value Added Services) |
| | CMAP 502003 Telecommunications installations |
| | CMAP 720006 Other Telecommunications Services (limited to resellers) |
| Obligations Concerned: | National Treatment (Articles 9.4 and 10.3) |
| | Local Presence (Article 10.6) |
| Level of Government: | Federal |
| Measures: | United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 28 |
| | Federal Telecommunications and Broadcasting Law (Ley Federal de Telecomunicaciones y Radiodifusión), Title IV, Chapters I, III and IV, Title V, chapter VIII, and Title VI, unique chapter |
| | General Means of Communication Law (when it does not oppose to the Federal Telecommunications and Broadcasting Law). |
| | Foreign Investment Law (Ley de Inversión Extranjera) Title I, Chapter II |
| | Regulations to the Foreign Investment Law and the National Registry for Foreign Investment (Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras), Title VI. |
Description: Cross-Border Services

According to their purposes, sole concessions and frequently band concessions will be granted only to Mexican nationals or enterprises constituted under Mexican Laws and regulations.

Among the social concessions, indigenous concessions may be granted to indigenous people and communities in the country for the promotion, development and preservation of their languages, culture, knowledge promoting their traditions, internal rules and under principles which resect gender equality, enabling the integration of indigenous women in the participation of the objectives for which the concession is granted and other elements that constitute indigenous cultures and identities.

Indigenous concessions may only be granted to indigenous people and communities in Mexico without any kind of foreign investment.

Under no circumstances may the concession, the rights conferred therein, facilities, auxiliary services, offices or accessories and properties affected thereto, be assigned encumbered, pledged or given in trust, mortgaged or transferred totally or partially to any foreign government or state.

Only Mexican nationals and enterprises established under Mexican laws may obtain authorization to provide telecommunication services as a reseller without being a concessionaire.
10. Sector: Communications

Sub-Sector: Transportation and Telecommunications

Industry Classification: CMAP 7200 Communications (including telecommunications and postal services)

CMAP 7100 Transport

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures

- Ports Law (Ley de Puertos), Chapter IV
- Regulatory Law of the Railway Service Ley Reglamentaria del Ferroviario), Chapter II, Section III
- Civil Aviation Law (Ley de Aviación Civil), Chapter III, Section III
- Airports Law (Ley de Aeropuertos), Chapter IV
- Roads, Bridges and Federal Road Transport Law (Ley de Caminos, Puentes y Autotransporte Federal), Title I, Chapter III
- Federal Telecommunications and Broadcasting Law (Ley Federal de Telecomunicaciones y Radiodifusión), Title IV, Chapters I, III and IV
- General Means of Communication Law (Ley de Vías Generales de Comunicación), Book I, Chapters III and V

Description: Investment

Foreign governments and foreign States may not invest, directly or indirectly, in Mexican enterprises engaged in communications, transportation and other general means of communications.
11. Sector: Transportation

Sub-Sector: Land Transportation and Water Transportation

Industry Classification: CMAP 501421 Construction of Maritime and River Works

CMAP 501422 Construction of Roadworks and Works for Land Transport

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)

Level of Government: Federal

Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32

Roads, Bridges and Federal Road Transport Law (Ley de Caminos, Puentes y Autotransporte Federal), Title I, Chapter III

Ports Law (Ley de Puertos), Chapter IV

Commercial and Navigation Maritimes Law (Ley de Navegación y Comercio Marítimos), Title I, Chapter II

Description:

Cross-Border Services

A concession granted by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to construct and operate, or only operate, marine or river works.

A concession is also required to build, operate, exploit, conserve or maintain federal roads and bridges.

Only Mexican nationals and Mexican enterprises may obtain such a concession.
12. Sector: Energy

Sub-Sector: Oil and Other Hydrocarbons Exploration and Production

Transportation, treatment, refining, processing, storage, distribution, compression, liquefaction, decompression, regasification, sale to the public and commercialization of hydrocarbons, petroleum products and petrochemicals, as well as the users of such products and services.

Exporting and importing of hydrocarbons and petroleum products

Industry Classification:

Obligations Concerned:
- Performance Requirements (Article 9.9)
- Local Presence (Article 10.6)
- National Treatment (Articles 9.4 and 10.3)
- Market Access (Article 10.5)

Level of Government: Federal

Measures:
- United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Articles 25, 27 and 28

Hydrocarbons Law (Ley de Hidrocarburos) Articles 1, 3, 5, 6, 11, 18, 41, 46, 83, 120, 128 and Twenty Fourth Transitory Provision

Foreign Trade Law (Ley de Comercio Exterior)

Hydrocarbons Law Regulations (Reglamento de la Ley de Hidrocarburos), Articles 14 and 36.

Regulation of the activities referred to by the Third Title of the Hydrocarbons Law (Reglamento de las actividades a que se refiere el Título Tercero de la Ley de Hidrocarburos), Article 51
Methodology for the Measurement of the National Content in the Entitlements and Exploration and Production Contracts of Hydrocarbons, and the permits in the Hydrocarbons Industry, issued by the Ministry of Economy (Metodología para la Medición del Contenido Nacional en Asignaciones y Contratos para la Exploración y Extracción de Hidrocarburos, así como para los permisos en la Industria de Hidrocarburos, emitida por la Secretaría de Economía).

Description:

Investment and Cross-Border Trade in Services

The Nation has the direct, inalienable and imprescriptible ownership of all hydrocarbons in the subsoil of the national territory, including the continental shelf and the exclusive economic zone located outside the territorial sea and adjacent thereto, in strata or deposits, regardless of their physical conditions. Only the Nation shall conduct the exploration and production of hydrocarbons, through entitlements or contracts. The exploration and production contracts shall invariably stipulate that the hydrocarbons in the subsoil are property of the Nation.

The Ministry of Energy shall establish the appropriate contract model for each contractual area that undergoes a bidding process and is awarded according to the laws; for which it may choose among other contracting models: services, profit-sharing, production-sharing, or licenses.

The exploration and production activities of hydrocarbons conducted in the national territory through entitlements and exploration and production contracts must comply with a minimum national content percentage goal on average. This national content average goal will not take into account exploration and production of hydrocarbons in deep-water and ultra-deep water, which will have a different national content requirement established by the Ministry of Economy with the opinion of the Ministry of Energy considering the characteristics of those activities.

The above mentioned mandate must comply with the methodology established by the Ministry of Economy, and must consider that it doesn’t affect the competitive position of the PEMEX or any other state productive enterprises and
other economic agents developing exploration and production of hydrocarbons.

The Federal Executive shall establish safeguard zones in the areas in which the State decides to prohibit exploration and production activities, different from protected natural areas in which entitlements and contracts cannot be awarded.

The Mexican Government should include within the conditions for the entitlements and exploration and production contracts, as well as in the permits, that under the same circumstances of prices, quality and timely delivery, preference should be given to the purchase of national goods and the contracting of domestic services, including the training and hiring, at a technical and directive level, of Mexican nationals.

The Ministry of Energy and the Energy Regulatory Commission will establish the permit models for the transportation, treatment, refining, processing, storage, distribution, compression, liquefaction, decompression, regasification, sale to the public and commercialization of hydrocarbons, petroleum products and petrochemicals, taking into account that permit-holders must have an address in Mexico. The permits for the exporting and importing of hydrocarbons and petroleum products will be issued according to the Foreign Trade Law, which requires permit-holders to have a domicile in Mexico.
13. Sector: Energy

Sub-Sector: Oil and Other Hydrocarbons Exploration and Production

Transportation, treatment, refining, processing, storage, distribution, compression, liquefaction, decompression, regasification, sale to the public and commercialization of hydrocarbons, petroleum products and petrochemicals, as well as the users of such products and services

Industry Classification:

Obligations Concerned: Performance Requirements (Article 9.9)
Local Presence (Article 10.6)
National Treatment (Articles 9.4 and 10.3)
Market Access (Article 10.5)

Level of Government: Federal


Decree amending and supplementing various provisions of the Articles 25, 27 and 28 of the United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos)

Hydrocarbons Law (Ley de Hidrocarburos), Articles 1, 3, 5, 6, 8, 11, 12, 16, 17, 18, 19, 29, 41, 46 83, 122, 128 and transitory provisions 8, 24, and 28

PEMEX Law (Ley de Petróleos Mexicanos), Articles 2, 4, 5, 7, 59, 63, 76, 77, and 78.

Hydrocarbons Law Regulations (Reglamento de la Ley de Hidrocarburos), Articles 14 and 36.

Description: Investment and Cross-Border Trade in Services

The Nation has the direct, inalienable and imprescriptible ownership of all hydrocarbons in the subsoil of the national
territory, including the continental shelf and the exclusive economic zone located outside the territorial sea and adjacent thereto, in strata or deposits, regardless of their physical conditions. Only the Nation shall conduct the exploration and production of hydrocarbons, through entitlements or contracts, which must invariably stipulate that the hydrocarbons in the subsoil are property of the Nation.

The Ministry of Energy, with technical assistance from the National Hydrocarbons Commission, might award entitlements to PEMEX, as a state productive enterprise, for the exploration and production of hydrocarbons. In that regard, PEMEX may only transfer an entitlement to another state productive enterprise. In order to perform the activities related to the entitlements, Pemex shall only execute service contracts with private parties.

The State may mandate PEMEX through its entitlements, exploration and production contracts, and permits, to include preferences for the purchase of national goods, contracting domestic services, as well as a preference for nationals, including technicians and senior management.

The above mentioned mandate must comply with the methodology established by the Ministry of Economy, and consider that it doesn’t affect the competitive position of the state productive enterprise and other economic agents developing exploration and production of hydrocarbons.

The Ministry of Energy might establish a direct participation for PEMEX, or another state productive enterprise, in the contracts for exploration and production of hydrocarbons, when the contractual area coexists with an entitlement, when there are opportunities to transfer knowledge and technology, and when there is the possibility of finding a transboundary reservoir.

Until December 31, 2017 PEMEX might be the sole entity in charge of the commercialization of hydrocarbons. Until December 31, 2016 PEMEX will be the only permit-holder for the importing and exporting of gasolines and diesel.

The Ministry of Energy and the Energy Regulatory Commission will establish the permit models for the
transportation, treatment, refining, processing, storage, distribution, compression, liquefaction, decompression, regasification, sale to the public and commercialization of hydrocarbons, petroleum products and petrochemicals, taking into account that permit-holders must have an address in Mexico. The permits for the exporting and importing of hydrocarbons and petroleum products will be issued according to the Foreign Trade Law, which requires permit-holders to have a domicile in Mexico.
14. Sector: Energy
Sub-Sector: Electricity

Industry Classification:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Performance Requirements (Article 9.9)
Local Presence (Article 10.6)
Market Access (Article 10.5)

Level of Government: Federal

Measures: Decree amending and supplementing various provisions of
Articles 25, 27 and 28 of the United Mexican States Political
Constitution (Constitución Política de los Estados Unidos Mexicanos)

Electric Industry Law (Ley de la Industria Eléctrica), Articles
30, 91, 93, and 130

Federal Electricity Commission Law (Ley de la Comisión
Federal de Electricidad), Articles 5 and 78

Hydrocarbons Law (Ley de Hidrocarburos), Article 128

Geothermal Energy Law (Ley de Energía Geotérmica), Article
30

Description: Investment and Cross-Border Trade in Services

Through contracts, private persons, on behalf of the Nation,
may perform, among other activities, the financing,
installation, maintenance, management, operation and
expansion of the infrastructure needed to provide the public
service of transmission and distribution of electricity.

The modalities of contracts to perform the above mentioned
activities must be subject to a minimum percentage of
national content, which will be determined by the Ministry of
Energy and de Energy Regulatory Commission with the
opinion of the Ministry of Economy, except when there are...
not national suppliers to fulfill that requirement.

Regarding all other corporate activities of the Federal Electricity Commission (CFE), and its subsidiary productive enterprises, according to CFE’s Law the Board of Directors will issue regulations for the acquisition, leasing, contracting of services and execution of works. Among others, the Board may require minimum national content percentages according to the nature of the contracting, the tariff regulation and in accordance with the international treaties in which Mexico is a signatory.

The Ministry of Energy and the Energy Regulatory Commission, with the opinion of the Ministry of the Economy, should include within the conditions for the assignation and Exploration and Production contracts, as well as for the permits, that under the same circumstances of prices, quality, and timely delivery, preference should be given to the purchase of national goods and the hiring of domestic services, including training and hiring, at a technical and directive level, persons with Mexican nationality.

The Ministry of Energy will grant permits for the exploration and concessions for the exploitation of areas with geothermal resources to natural persons or to enterprises incorporated under the Mexican legislation, in order to generate electricity or for other purposes. All permits granted under the Electric Industry Law will be granted by the CRE. Permit holders must be natural persons or enterprises incorporated under the Mexican legislation.
15. Sector: Energy

Sub-Sector: Hydrocarbons and petroleum products

Industry Classification: CMAP 626000 Retail Trade of Gasoline and Diesel (including lubricants, oils and additives sold at service stations)

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Federal

Measures: Hydrocarbons Law (Ley de Hidrocarburos) Transitory Provision 14

Regulation of the activities referred to by the Third Title of the Hydrocarbons Law (Reglamento de las actividades a que se refiere el Título Tercero de la Ley de Hidrocarburos), Article 51

Description: Cross-Border Trade in Services

Permits for the sale to the public of gasoline and diesel fuel will be granted by the Energy Regulatory Commission starting on January 1, 2016, to economic agents established in the Mexican territory.
16. Sector: Energy

Sub-Sector: Hydrocarbons and petroleum products (Supply of fuel and lubricants for aircraft, ships and railway equipment)

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

Description: Investment

Investors of the other Party or their investments may own, directly or indirectly, up to 49 percent of the ownership interest of a Mexican enterprise which supplies fuel and lubricants for aircraft, vessels and railway equipment.
17. Sector: Energy

Sub-Sector:

Industry Classification: CMAP 623090 Retail Trade of other Articles and Goods Not Elsewhere Classified (limited to distribution, transportation and storage of natural gas)

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Federal

Measures: Hydrocarbons Law (Ley de Hidrocarburos), Article 48

Regulation of the activities referred to by the Third Title of the Hydrocarbons Law (Reglamento de las actividades a que se refiere el Título Tercero de la Ley de Hidrocarburos), Article 51

Description: Cross-Border Services

A permit granted by the Energy Regulatory Commission (Comisión Reguladora de Energía) is required to provide services of commercialization, distribution, transportation, storage compression, decompression, liquefaction, regasification and sale to the public of natural gas, to economic agents established in the Mexican territory. To obtain such permit the interested must prove that they have their domicile in Mexico.
18. Sector: Printing, Editing and Associated Industries

Sub-Sector: Newspaper Publishing

Industry Classification: CMAP 342001 Publishing of Newspapers, Magazines and Periodicals (limited to newspapers)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

As qualified by the Description element

Description: Investment

Investors of the other Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in the printing or publication of daily newspapers written primarily for a Mexican audience and distributed in the territory of Mexico.

For purposes of this reservation, daily newspapers are those published at least five days a week.
<table>
<thead>
<tr>
<th><strong>19. Sector:</strong></th>
<th>Manufacture of Goods</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-Sector:</strong></td>
<td>Explosives, Fireworks, Firearms and Cartridges</td>
</tr>
<tr>
<td><strong>Industry Classification:</strong></td>
<td>CMAP 352236 Manufacture of Explosives and Fireworks</td>
</tr>
<tr>
<td></td>
<td>CMAP 382208 Manufacture of Firearms and Cartridges</td>
</tr>
<tr>
<td><strong>Obligations Concerned:</strong></td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td><strong>Level of Government:</strong></td>
<td>Federal</td>
</tr>
<tr>
<td><strong>Measures:</strong></td>
<td>Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III</td>
</tr>
<tr>
<td><strong>Description:</strong></td>
<td>Investment</td>
</tr>
</tbody>
</table>

Investors of the other Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico that manufactures explosives, fireworks, firearms, cartridges and ammunition, excluding the preparation of explosive mixtures for industrial and extractive activities.
20. Sector: Fishing

Sub-Sector: Fishing-related services

Industry Classification: CMAP 1300 Fishing

Type of Reservation: National Treatment (Article 10.3)

Most-Favored-Nation Treatment (Article 10.4)

Level of Government: Federal

Measures:

United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32

General Law on Sustainable Fishing and Aquaculture (Ley General de Pesca y Acuacultura Sustentables), Title Six, Chapter IV; Title Seven, Chapter II

Law of Navigation and Maritime Commerce (Ley de Navegación y Comercio Marítimos), Title I, Chapter I; Title II, Chapter IV, Title Three, Chapter II

Ports Law (Ley de Puertos), Chapters I, IV and VI

Regulations to the Fishing Law (Reglamento de la Ley de Pesca), Title Two Chapter I; Chapter II, sixth section

Description: Cross-Border Services

A permit issued, by the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food (Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca, y Alimentación SAGARPA) through the National Commission of Aquaculture and Fishing (Comisión Nacional de Acuacultura y Pesca CONAPESCA); or by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes SCT), in the scope of their competence, is required to engage in Fishing activities.

A permit issued by SAGARPA is required to carry out
activities, like fishing jobs needed to justify applications for a concession, and the installation of fixed fishing gear in federal waters. Such permit shall be given preferentially to residents of local communities. In equal circumstances, applications of indigenous communities will be preferred.

An authorization issued by SCT is required, to foreign-flagged vessels, to provide dredging services.

A permit issued by SCT is required, to provide port services related to fishing, like loading operations and supply vessels, maintenance of communication equipment, electricity works, garbage or waste collection and sewage disposal. Only Mexican nationals and Mexican enterprises may obtain such permit.
21. Sector: Fishing
Sub-Sector: Fishing

Industry Classification:
- CMAP 130011 Fishing on the High Seas
- CMAP 130012 Coastal Fishing
- CMAP 130013 Fresh Water Fishing

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures:
- General Law on Sustainable Fishing and Aquaculture (Ley General de Pesca y Acuicultura Sustentables), Title VI, Chapter IV; Title VII, Chapter I; Title XIII, Unique Chapter; Title XIV, Chapter I, II and III
- Law on Navigation and Maritime Commerce (Ley de Navegación y Comercio Marítimos), Title II, Chapter I
- Sea Federal Law (Ley Federal del Mar), Title I, Chapters I and III
- National Waters Federal Law (Ley de Aguas Nacionales), Title I, and Title IV, Chapter I
- Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III
- Regulations to the Fishing Law (Reglamento de la Ley de Pesca), Title I, Chapter I; Title II, Chapters I, III, IV, V, and VI: Title III, Chapters III and IV.

Description:
Investors of the other Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in
the territory of Mexico performing coastal fishing, fresh water fishing and fishing in the Exclusive Economic Zone, excluding aquaculture.

Favorable resolution from the National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of the other Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico performing fishing on the high seas.
22. Sector: Educational Services
Sub-Sector: Private Schools
Industry Classification: CMAP 921101 Private Pre-school Educational Services
CMAP 921102 Private Primary Educational Services
CMAP 921103 Private Secondary Educational Services
CMAP 921104 Private High School Educational Services
CMAP 921105 Private Higher Education Services
CMAP 921106 Private Education Services that Combine Pre-school, Primary, Secondary, High School and Higher Education Levels

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

Law for the Coordination of Higher Education (Ley para la Coordinación de la Educación Superior), Chapter II

General Law of Education (Ley General de Educación), Chapter III

Description: Investment

Favorable resolution from the National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of the other Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico that provides pre-school, primary, secondary, high school, higher, and combined private educational services.
23. **Sector:** Professional, Technical and Specialized Services  
   **Sub-Sector:** Medical Services  
   **Industry Classification:** CMAP 9231 Medical, Dental and Veterinary Services provided by the Private Sector (limited to medical services)  
   **Obligations Concerned:** National Treatment (Article 10.3)  
   **Level of Government:** Federal  
   **Measures:** Federal Labor Law (Ley Federal del Trabajo), Chapter I  
   **Description:** Cross-Border Services  
   Only Mexican nationals licensed as doctors in the territory of Mexico may provide in-house medical services in Mexican enterprises.
24. Sector: Professional, Technical and Specialized Services
Sub-Sector: Specialized Personnel
Industry Classification: CMAP 951012 Services of Customs and Representative Agencies
Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Level of Government: Federal
Measures:
- Customs Law (Ley Aduanera), Title II, Chapters I and III, and Title VII, Chapter I
- Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter II
Description: Investment and Cross-Border Services

Only a Mexican national by birth may be a custom broker.

Only custom brokers acting as consignees or legal representatives (“mandatarios”) of an importer or exporter, as well as custom broker’s assignees, may carry out the formalities related to the custom clearance of the goods of such importer or exporter.

Investors of the other Party or their investments may not participate, directly or indirectly, in a custom broker’s agency.
25. Sector: Professional, Technical and Specialized Services
Sub-Sector: Specialized Services (Commercial Notary Public)
Industry Classification: 
Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)
Level of Government: Federal
Measures: Commercial Notary Public Federal Law (Ley Federal de Corredería Pública), Articles 7, 8, 12 and 15
Regulations to the Commercial Notary Public Federal Law (Reglamento de la Ley Federal de Corredería Pública), Chapter I, and Chapter II, Sections I and II
Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter II
Description: Investment and Cross-Border Services

Only a Mexican national by birth may be licensed to be a commercial notary public ("corredor público").

A commercial notary public may not have a business affiliation with any person for the provision of commercial notary public services.

A commercial notary public shall establish an office in the place where he has been authorized to practice.

Only Mexican nationals and Mexican enterprises with foreigners’ exclusion clause may obtain such a license. Foreign investment may not participate in the activities and companies referred, directly or through trusts, agreements, social pacts or statutory, pyramiding schemes, or other mechanism that gives them some control or participation.
<table>
<thead>
<tr>
<th>26. Sector:</th>
<th>Professional, Technical and Specialized Services</th>
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<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Professional Services</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td>CMAP 951002 Legal Services (including foreign legal consultancy)</td>
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<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favored-Nation Treatment (Articles 9.5 and 10.4)</td>
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<tr>
<td>Level of Government:</td>
<td>Federal</td>
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<tr>
<td>Measures:</td>
<td>Regulatory Law of the Constitutional Article 5 relating to the Practice of the Professions in the Federal District (Ley Reglamentaria del Artículo 5º Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal), Chapter III, Section III, and Chapter V</td>
</tr>
<tr>
<td></td>
<td>Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Services and Investment</td>
</tr>
</tbody>
</table>

Favorable resolution from the National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of the other Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico that provides legal services.

In the absence of an international treaty on the matter, the professional practice by foreigners will be subject to reciprocity in the place of residence of the applicant and to compliance with the rest of the requirements established in the Mexican laws and regulations.

Except as provided for in this Reservation, only lawyers licensed in Mexico may have an ownership interest in a law firm established in the territory of Mexico.
Lawyers licensed to practice in the other Party will be permitted to form partnership with lawyers licensed in Mexico.

The number of lawyers licensed to practice in the other Party serving as partners in a firm in Mexico may not exceed the number of lawyers licensed in Mexico serving as partners of that company. Lawyers licensed to practice in the other Party may practice and provide legal consultations on Mexican law, whenever they comply with the requirements for the exercise of the profession of lawyer in Mexico.

A law firm established by partnership of lawyers licensed to practice in the other Party and lawyers licensed to practice in Mexico may hire lawyers licensed in Mexico as employees.

For greater certainty, this reservation does not apply to the provision, on a temporary fly-in, fly-out basis and/or through the use of web based and/or telecommunications technology, of legal advisory services in foreign law and international law and, in relation to foreign and international law only, legal arbitration and conciliation/mediation services by foreign lawyers.
27. Sector: Professional, Technical and Specialized Services

Sub-Sector: Professional Services

Industry Classification: CMAP 9510 Provision of Professional, Technical and Specialized Services (limited to professional services)

Obligations Concerned: National Treatment (Article 10.3) Most-Favored-Nation Treatment (Article 10.4)

Level of Government: Federal

Measures: Regulatory Law of the Constitutional Article 5 relating to the Practice of the Professions in the Federal District (Ley reglamentaria del Artículo 5° Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal), Chapter III, Section III, and Chapter V

Regulations to the Regulatory Law of the Constitutional Article 5 relating to the Practice of the Professions in the Federal District (Reglamento de la Ley Reglamentaria del Artículo 5°Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal), Chapter III

Population General Law (Ley General de Población), Chapter III

Description: Cross-Border Services

Pursuant to the relevant international treaties of which Mexico is a Party, foreigners may practice in the Federal District the professions set forth in the Regulatory Law of the Constitutional Article 5 related to the Practice of the Professions in the Federal District.

In the absence of an international treaty on the matter, the professional practice by foreigners will be subject to reciprocity in the place of residence of the applicant and to compliance with the rest of the requirements established in the Mexican laws and regulations.
28. Sector: Religious Services

Sub-Sector: 

Industry Classification: CMAP 929001 Services of Religious Organizations

Obligations Concerned: Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Federal

Measures: Religious Associations and Public Worship Law (Ley de Asociaciones Religiosas y Culto Público), Title II, Chapters I and II

Description: Investment

Representatives of religious associations in Mexico must be Mexican nationals.

Cross-Border Services

Religious associations must be associations constituted in accordance with the Religious Associations and Public Worship Law (Ley de Asociaciones Religiosas y Culto Público).

Religious associations must register before the Ministry of Internal Affairs (Secretaría de Gobernación, SEGOB). To be registered, the religious associations must be established in Mexico.
29. Sector: Services to Agriculture

Sub-Sector: 

Industry Classification: CMAP 971010 Provision of Agricultural Services

Obligations Concerned: National Treatment (Article 10.3) 
Local Presence (Article 10.6)

Level of Government: Federal

Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32

Plant Health Federal Law (Ley Federal de Sanidad Vegetal), Title II, Chapter IV

Regulations to the Phitosanitary Law of the United Mexican States (Reglamento de la Ley de Sanidad Fitopecuaria de los Estados Unidos Mexicanos), Chapter VII

Description: Cross-Border Services

A concession granted by the Ministry of Agriculture, Livestock, Rural Development, Fishing and Food (Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación) is required to spray pesticides.

Only Mexican nationals or Mexican enterprises may obtain such a concession.
30. Sector: Transportation
Sub-Sector: Air Transportation
Industry Classification: CMAP 384205 Manufacture, Assembly and Repair of Aircraft (limited to repair of aircrafts)
Obligations Concerned: Local Presence (Article 10.6)
Level of Government: Federal
Measures: Civil Aviation Law (Ley de Aviación Civil), Chapter III, Section II
Civil Aviation Regulations (Reglamento de la Ley de Aviación Civil), Chapter VII
Description: Cross-Border Services

A permit issued by the Ministry of Communications and Transportation (SCT) is required to establish and operate, or operate and exploit an aircraft repair facility, and centers for teaching and training of personnel.

To obtain such permission the interested must prove that the aircraft repair facilities and centers for teaching and training of personnel have their domicile in Mexico.
31. Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: CMAP 973302 Airport and Heliport Management Services

Obligations Concerned: National Treatment (Article 9.4)

Local Presence (Article 10.6)

Level of Government: Federal

Measures:

United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32

General Means of Communication Law (Ley de Vías Generales de Comunicación), Book I, Chapters I,II and III

Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

Civil Aviation Law (Ley de Aviación Civil), Chapters I and IV

Airports Law (Ley de Aeropuertos), Chapter III

Regulations to the Airports Law (Reglamento de la Ley de Aeropuertos), Title II, Chapters I, II and III

Description:

Cross-Border Services and Investment

A concession granted by the Ministry of Communications and Transportation Secretaría de Comunicaciones y Transportes (SCT) is required to construct and operate, or operate, airports and heliports. Only Mexican enterprises may obtain such a Concession.

Favorable resolution from the National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of the other Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise
established or to be established in the territory of Mexico that is a concessionaire or permissionaire of airfields for public service.

When resolving, the CNIE will consider that the national and technological development be favored, and that the sovereign integrity of the nation be protected.
32. Sector: Transportation
Sub-Sector: Air Transportation
Industry Classification: CMAP 713001 Scheduled Air Transport Services on Domestically Registered Aircraft
CMAP 713002 Non-Scheduled Air Transport (Air Taxis)
Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)
Level of Government: Federal
Measures: Civil Aviation Law (Ley de Aviación Civil), Chapters IX and X
Regulations to the Civil Aviation Law (Reglamento de la Ley de Aviación Civil), Title II, Chapter I
Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III
As qualified by the Description Element
Description: Investment

Investors of another Party or their investments may only own, directly or indirectly, up to 25 percent of the voting interests in an enterprise established or to be established in the territory of Mexico that provides commercial air services on Mexican-registered aircrafts. The chairman and at least two-thirds of the boards of directors and two-thirds of the managing officers of such an enterprise must be Mexican nationals.

Only Mexican nationals and Mexican enterprises in which 75 percent of the voting interest is owned or controlled by Mexican nationals and of which the chairman and at least two-thirds of the managing officers are Mexican nationals, may register an aircraft in Mexico.
33. Sector: Transportation

Sub-Sector: Specialty Air Services

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Federal

Measures:
General Means of Communications Law (Ley de Vías Generales de Comunicación), Book I, Chapter III
Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III
Civil Aviation Law (Ley de Aviación Civil), Chapters I, II, IV and IX
As qualified by the Description Element

Description:
Investment

Investors of another Party or their investments may only own, directly or indirectly, up to 25 percent of the voting interests in an enterprise established or to be established in the territory of Mexico that provides specialty air services using Mexican-registered aircrafts. The chairman and at least two-thirds of the board of directors and two-thirds of the managing officers of such an enterprise must be Mexican nationals.

Only Mexican nationals and Mexican enterprises in which 75 percent of the voting interests is owned or controlled by Mexican nationals and of which the chairman and at least two-thirds of the managing officers are Mexican nationals may register an aircraft in Mexico.

Cross-Border Services
A permit issued by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to provide all specialty air services in the territory of Mexico. Such a permit may only be granted when the person interested in the supply of these services has an address in the Territory of Mexico.
34. Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: CMAP 973203 Maritime Port Administration, Lake and Rivers

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Measures: Ports Law (Ley de Puertos), Chapters IV and V

Regulations to the Ports Law (Reglamento de la Ley de Puertos) Title I, Chapters I and VI

Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III

Description: Investment

Investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest of a Mexican enterprise authorized to act as an integral port administrator.
35. Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: CMAP 384201 Manufacture and Repair of Vessels

Obligations Concerned: National Treatment (Article 10.3)
                          Local Presence (Article 10.6)

Level of Government: Federal

Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32
          General Means of Communication Law (Ley de Vías Generales de Comunicación), Book I, Chapters I, II and III
          Commercial and Navigation Maritimes Law (Ley de Navegación y Comercio Marítimos), Title I, Chapter II
          Ports Law (Ley de Puertos), Chapter IV

Description: Cross-Border Services

A concession granted by the Ministry of Communications and Transportation Secretaría de Comunicaciones y Transportes, (SCT) is required to establish and operate, or operate, a shipyard. Only Mexican nationals and Mexican enterprises may obtain such a concession.
36. Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: CMAP 973201 Water Transport Loading and Unloading Services (includes operation and maintenance of docks; loading and unloading of vessels at shore-side; marine cargo handling; operation and maintenance of piers; ship and boat cleaning; stevedoring; transfer of cargo between ships and trucks, trains, pipelines and wharves; waterfront terminal operations)

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)

Level of Government: Federal

Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32
Commercial and Navigation Maritimes Law (Ley de Navegación y Comercio Marítimos), Title I, Chapter II, and Title II, Chapters IV and V
Ports Law (Ley de Puertos), Chapters II, IV and VI
General Means of Communication Law (Ley de Vías Generales de Comunicación), Book I, Chapters I, II and III
Regulations to the Use and Enjoyment of the Territorial Sea, Water Ways, Beaches, Relevant Federal Coastal Zone and Lands Gained to the Sea (Reglamento para el Uso y Aprovechamiento del Mar Territorial, Vías Navegables, Playas, Zona Federal Marítimo Terrestre y Terrenos Ganados al Mar), Chapter II, Section II

As qualified by the Description element
Investment and Cross-Border Services

Favorable resolution from the National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise, established or to be established in the territory of Mexico providing port services to vessels for inland navigation such as towing, mooring and tendering.

Cross-Border Services

A concession granted by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to construct and operate, or operate, maritime and inland port terminals, including docks, cranes and related facilities. Only Mexican nationals and Mexican enterprises may obtain such a concession.

A permit issued by the SCT is required to provide stevedoring and warehousing services. Only Mexican nationals and Mexican enterprises may obtain such a permit.
<table>
<thead>
<tr>
<th>37. Sector:</th>
<th>Transportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Water Transportation</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td>CMAP 973203 Maritime and Inland (Lake and Rivers Ports Administration)</td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Federal</td>
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<tr>
<td>Measures:</td>
<td>Commercial and Navigation Maritimes Law (Ley de Navegación y Comercio Marítimos), Title III, Chapter III</td>
</tr>
<tr>
<td></td>
<td>Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III</td>
</tr>
<tr>
<td></td>
<td>Ports Law (Ley de Puertos), Chapters IV and VI</td>
</tr>
<tr>
<td>Description:</td>
<td>Investment</td>
</tr>
<tr>
<td></td>
<td>Investors of another Party or their investments may only participate, directly or indirectly, up to 49 percent in Mexican enterprises engaged in the supply of piloting port services to vessels operating in inland navigation.</td>
</tr>
</tbody>
</table>
38. Sector: Transportation
Sub-Sector: Water Transportation

Industry Classification:
- CMAP 712011 International Maritime Transportation Services
- CMAP 712012 Cabotage Maritime Services
- CMAP 712013 International and Cabotage Towing Services
- CMAP 712021 River and Lake Transportation Services
- CMAP 712022 Internal Port Water Transportation Services

Obligations Concerned:
- National Treatment Articles 9.4 and 10.3)
- Most-Favored-Nation Treatment (Articles 9.5 and 10.4)

Level of Government: Federal

Measures:
- Commercial and Navigation Maritimes Law (Ley de Navegación y Comercio Marítimos), Title III, Chapter I
- Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III
- Economic Competition Federal Law (Ley Federal de Competencia Económica), Chapter IV

As qualified by the Description element

Description:
Cross-Border Services and Investment

The operation or exploitation of high-seas navigation vessels, including transport and international towing services is open to ship-owners and vessels of all countries, on the basis of reciprocity according to international treaties. With the previous opinion of the Federal Competition Commission (Comisión Federal de Competencia, CFC), the Ministry of Communications and Transportation (Secretaría de
Comunicaciones y Transportes, SCT) may reserve, totally or partially, certain international high-seas freight transportation services, which could only be carried out by Mexican shipping enterprises with Mexican-flagged vessels or vessels reputed as such when the principles of free competition are not respected or the national economy is affected. For greater certainty the previous sentence does not apply to Canada.

The operation and exploitation of cabotage and inland navigation is reserved for Mexican shipowners with Mexican vessels. When Mexican vessels are not appropriate and available with the same technical conditions, or it is required by the public interest, the SCT may provide temporary navigation permits to operate and exploit with foreign vessels by Mexican ship-owners in accordance with the following priorities:
1. Mexican ship-owner with a foreign vessel under a bareboat charter party; and
2. Mexican ship-owner with a foreign vessel under any type of charter party.

The operation and exploitation in inland navigation and cabotage of tourist cruises as well as dredges dredges and maritime devices for the construction, preservation and operation of ports may be carried out by Mexican or foreign shipping enterprises using Mexican or foreign vessels or maritime devices, under the condition of the existence of reciprocity with such Party, endeavoring to give priority to Mexican enterprises and complying with applicable laws.

Prior opinion of the CFC, the SCT may resolve that total or partially certain cabotage or high-seas traffic could only be carried by Mexican shipping enterprises with Mexican vessels or reputed as such in the absence of conditions of effective competition on the relevant market as per the terms of the Economic Competition Federal Law.

Investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in a Mexican shipping enterprise or Mexican vessels, established or to be established in the territory of Mexico, which is engaged in the commercial exploitation of vessels for inland and coastal navigation, excluding tourism cruises
and exploitation of dredges and maritime devices for the construction, preservation and operation of ports.

Favorable resolution from the National Commission of Foreign Investments (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in high-seas navigation services and port towing services.
39. Sector: Transportation

Sub-Sector: Non-Energy Pipelines

Industry Classification:

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Level of Government: Federal

Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32
General Means of Communication Law (Ley de Vías Generales de Comunicación), Book I, Chapters I, II and III
National Waters Federal Law (Ley de Aguas Nacionales), Title I, Chapter II, and Title IV, Chapter II

Description: Cross-Border Services

A concession granted by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to construct and operate, or operate, pipelines carrying goods other than energy or basic petrochemicals. Only Mexican nationals and Mexican enterprises may obtain such a concession.
40. Sector: Transportation
Sub-Sector: Railway Transportation Services
Industry Classification: CMAP 711101 Railway Transport Services
Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)

Level of Government: Federal
Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III
Regulatory Law of the Railway Service Chapters I and II, Section III
Regulations to the Railway Service, Title I, Chapters I, II and III,
Title II, Chapters I and IV, and Title III, Chapter I, Sections I and II

Description: Cross-Border Services and Investment

Favorable resolution from the National Commission of Foreign Investment (Comisión Nacional de Inversiones Extranjeras, CNIÉ) is required for investors of another Party or their investments to participate, directly or indirectly, in more than 49 percent of the ownership interest of an enterprise established or to be established in the territory of Mexico engaged in the construction, operation and exploitation of railroads deemed general means of communication, or in the supply of railway transportation public service.
When resolving, the CNIÉ will consider that the national and technological development be favored, and that the sovereign integrity of the nation be protected.

A concession granted by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes,
SCT) is required to construct, operate and exploit railway transportation services and to provide railway transportation public service. Only Mexican enterprises may obtain such a concession.

A permit issued by SCT is required to provide auxiliary services; the construction of entry and exit facilities, crossings and marginal facilities in the right of way; the installation of advertisements and publicity signs in the right of way; and the construction and operation of bridges over railway lines. Only Mexican nationals and Mexican enterprises may obtain such a permit.
41. Sector: Transportation
Sub-Sector: Land Transportation
Industry Classification: CMAP 973101 Management Services of Passenger Bus Terminals and Auxiliary Services (limited to main bus and truck terminals and bus and truck stations)
Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)
Most-Favored-Nation Treatment (Article 10.4)
Level of Government: Federal
Measures: Roads, Bridges and Federal Road Transport Law (Ley de Caminos, Puentes y Autotransporte Federal), Title I, Chapter III
Regulations to the Enjoyment of the Right of Way of the Federal Roads and Surrounding Zones (Reglamento para el Aprovechamiento del Derecho de Vía de las Carreteras Federales y Zonas Aledañas), Chapters II and IV
Regulations to the Federal Road Transport and Auxiliary Services (Reglamento de Autotransporte Federal y Servicios Auxiliares), Chapter I
Description: Cross-Border Services

A permit issued by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to establish, or operate, a bus or truck station or terminal. Only Mexican nationals and Mexican enterprises may obtain such a permit.

To obtain such permit the interested must prove that they have their domicile in Mexico.
42. Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CMAP 973102 Management Services of Roads, Bridges and Auxiliary Services

Obligations Concerned: National Treatment (Article 10.3)

Local Presence (Article 10.6)

Level of Government: Federal

Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Article 32

Roads, Bridges and Federal Road Transport Law (Ley de Caminos, Puentes y Autotransporte Federal), Title I, Chapter III

Regulations to the Federal Road Transport and Auxiliary Services (Reglamento de Autotransporte Federal y Servicios Auxiliares), Chapters I and V.

Description: Cross-Border Services

A permit granted by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to provide auxiliary services to federal road transportation. Only Mexican nationals and Mexican enterprises may obtain such a permit.

For greater certainty, auxiliary services are not part of federal road transportation of passengers, tourism or cargo, but they complement their operation and exploitation.
43. Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CMAP 711201 Construction Materials Transport Services

CMAP 711202 Moving Services

CMAP 711203 Other Specialized Freight Transport Services

CMAP 711204 General Freight Transport Services

CMAP 711311 Long-Distance Passenger Bus and Coach Transport Services

CMAP 711318 School and Tourist Transport Services (limited to tourist transport services)

CMAP 720002 Courier services

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)

Local Presence (Article 10.6)

Level of Government: Federal

Measures: Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter II

Roads, Bridges and Federal Road Transport Law (Ley de Caminos, Puentes y Autotransporte Federal), Title I, Chapter I and III

Regulations to the Federal Road Transport and Auxiliary Services (Reglamento de Autotransporte Federal y Servicios Auxiliares), Chapter I

As qualified by the Description element

Description: Investment

Investors of another Party or their investments may not own, directly or indirectly, an ownership interest in an enterprise established or to be established in the territory of Mexico,
engaged in transportation services of domestic cargo between points in the territory of Mexico, except for parcel and courier services.

Cross-Border Services

A permit issued by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to provide inter-city bus services, tourist transportation services or truck services for the transportation of goods or passengers to or from the territory of Mexico.

Only Mexican nationals and Mexican enterprises with a foreigners’ exclusion clause, using Mexican registered equipment that is Mexican-built or legally imported, and drivers who are Mexican nationals, may provide bus or truck services for transportation of goods or passengers between points in the territory of Mexico.

A permit issued by the SCT is required to provide parcel and courier services. Only Mexican nationals and Mexican enterprises may provide such services.
### 44. Sector:
Transportation

### Sub-Sector:
Railway Transportation Services

### Industry Classification:
CMAP 711101 Transport Services Via Railway (limited to railway crew)

### Obligations Concerned:
National Treatment (Article 10.3)

### Level of Government:
Federal

### Measures:
Federal Labor Law (Ley Federal del Trabajo), Title VI, Chapter V

### Description:
Cross-Border Services
Railway crew members must be Mexican nationals.
45. Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification:
- CMAP 711312 Urban and Suburban Passenger Bus and Coach Transport Services
- CMAP 711315 Motor Vehicle Taxi Transport Services
- CMAP 711316 Motor Vehicle Fixed Route Transport Services
- CMAP 711317 Transport Services in Motor Vehicles from Taxi-Ranks
- CMAP 711318 School and Tourist Transport Services (limited to school transport services)

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)

Level of Government: Federal

Measures:
- Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter II
- General Means of Communication Law (Ley de Vías Generales de Comunicación), Book I, Chapters I and II
- Roads, Bridges and Federal Road Transport Law (Ley de Caminos, Puentes y Autotransporte Federal), Title I, Chapter III
- Regulations to the Federal Road Transport and Auxiliary Services (Reglamento de Autotransporte Federal y Servicios Auxiliares), Chapter I

Description: Investment and Cross-Border Services

Only Mexican nationals and Mexican enterprises with a foreigners’ exclusion clause may provide local urban and suburban passenger bus services, school bus services and taxi and other collective transportation services.
<p>| | |</p>
<table>
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<tr>
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<tr>
<td><strong>46. Sector:</strong></td>
<td>Communications</td>
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<tr>
<td><strong>Sub-Sector:</strong></td>
<td>Entertainment Services (Cinema)</td>
</tr>
<tr>
<td><strong>Industry Classification:</strong></td>
<td>CMAP 941103 Private Exhibition of Films</td>
</tr>
<tr>
<td><strong>Obligations Concerned:</strong></td>
<td>National Treatment (Article 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favored-Nation Treatment (Articles 9.5 and 10.4)</td>
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<td><strong>Level of Government:</strong></td>
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<tr>
<td><strong>Measures:</strong></td>
<td>Federal Cinematography Law, Chapter III</td>
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<td>Regulations to the Federal Cinematography Law, Chapter V</td>
</tr>
<tr>
<td><strong>Description:</strong></td>
<td>Cross-Border Services and Investment</td>
</tr>
<tr>
<td></td>
<td>Exhibitors shall reserve ten percent of the total screen time to the projection of national films.</td>
</tr>
</tbody>
</table>
47. Sector: All sectors
Sub-Sector: All sectors
Industry Classification:
Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10. 6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)
Level of Government: Regional
Measures: All existing non-conforming measures of all states of the United Mexican States
Description: Cross-Border Services and Investment
ANNEX I
SCHEDULE OF NEW ZEALAND

Introductory note to the Schedule of New Zealand

1. **Description** sets out the non-conforming measure to which the entry applies.

2. In accordance with Article 9.11 (Non-conforming Measures) and Article 10.7 (Non-conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the laws, regulations, rules, procedures, decisions, administrative actions, practices or other measures identified in the **Description** element of that entry.
Sector | All Sectors
---|---
Obligations Concerned | National Treatment (Article 9.4)
Level of Government | Central
Measure | Companies Act 1993  
Financial Reporting Act 1993
Description | Investment
Consistent with New Zealand’s financial reporting regime established under the Companies Act 1993 and Financial Reporting Act 1993, the following overseas non-issuer companies are required to file audited financial statements with the Registrar of Companies:

a) any company that is incorporated outside New Zealand that carries on business in New Zealand;

b) any large company incorporated in New Zealand in which shares that carry the right to exercise or control the exercise of 25% or more of the voting power are held by:
   (i) a subsidiary of a company or body corporate incorporated outside New Zealand;
   (ii) a company or body corporate incorporated outside New Zealand; or
   (iii) a person not ordinarily resident in New Zealand;

c) any company that is a subsidiary of a company or body corporate incorporated outside New Zealand.

A company is ‘large’ if it meets at least two of the following criteria:

a) the total assets of the company and its subsidiaries exceeds NZ$10 million;

b) the company and its subsidiaries have a total turnover of NZ$20 million or more; and

c) the company and its subsidiaries have 50 or more full-time equivalent employees.

These requirements do not apply if the overseas company is a subsidiary of a New Zealand company that has already filed audited group financial statements with the Registrar.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Business Services</th>
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</thead>
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<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4)</td>
</tr>
<tr>
<td>Level of Government</td>
<td>Central</td>
</tr>
<tr>
<td>Measure</td>
<td>Section100(2)(a) of the Patents Act 1953</td>
</tr>
<tr>
<td>Description</td>
<td>Cross Border Trade in Services</td>
</tr>
</tbody>
</table>

Registration of patent attorneys is restricted to those who satisfy the criteria set out in section100(2)(a) of the Patents Act 1953, being any person who is a British subject or a citizen of the Republic of Ireland.
Sector          Agriculture, including services incidental to agriculture

Obligations Concerned  National Treatment (Articles 9.4 and 10.3)
                      Performance Requirements (Article 9.9)
                      Senior Management and Boards of Directors (Article 9.10)

Level of Government  Central

Measure          Dairy Industry Restructuring Act 2001

Description  Cross Border Trade in Services and Investment

The Dairy Industry Restructuring Act 2001 (DIRA) and Regulations provide for the management of a national database for herd testing data. The database is currently held by the Livestock Improvement Corporation Ltd (LIC).

The DIRA:

• provides for the New Zealand government to determine arrangements for the database to be managed by another dairy industry entity. In doing so it may:
  o take into account the nationality and residency of the entity, persons that own or control the entity, and the senior management and board of directors of the entity; and
  o restrict who may hold shares in the entity, including on the basis of nationality.

• requires the transfer of data by those engaged in herd testing of dairy cattle to the LIC or successor entity.

• establishes rules regarding access to the database and that access may be denied on the basis that its intended use could be “harmful to the New Zealand dairy industry”, which may take into account the nationality or residency of the person seeking access.
| Sector                  | Communication services  
|                        | Telecommunications      |
| Obligations Concerned  | National Treatment (Article 9.4)  
|                        | Senior Management and Boards of Directors (Article 9.10) |
| Level of Government    | Central                  |
| Measure                | Constitution of Chorus Limited  |
| Description            | Investment               |

The Constitution of Chorus Limited requires New Zealand government approval for the shareholding of any single overseas entity to exceed 49.9 per cent.

At least half of the Board directors are required to be New Zealand citizens.
Sector
Communication services
Audio-visual services

Obligations Concerned
National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)

Level of Government
Central

Measure
Radiocommunications Act 1989

Description
Cross Border Trade in Services and Investment
The acquisition of licences or management rights to use the radio frequency spectrum, or any interest in such licences or management rights, under the Radiocommunications Act 1989 by foreign governments or agents on behalf of foreign governments is subject to the written approval of the Chief Executive of the Ministry of Business, Innovation and Employment.
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<thead>
<tr>
<th>Sector</th>
<th>Agriculture, including services incidental to agriculture</th>
</tr>
</thead>
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<td>Obligations Concerned</td>
<td>Senior Management and Boards of Directors (Article 9.10)</td>
</tr>
<tr>
<td>Level of Government</td>
<td>Central</td>
</tr>
<tr>
<td>Measure</td>
<td>Primary Products Marketing Act 1953</td>
</tr>
<tr>
<td>Description</td>
<td><strong>Investment</strong></td>
</tr>
<tr>
<td></td>
<td>Under the Primary Products Marketing Act 1953, the New Zealand Government may impose regulations to enable the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers) for products derived from beekeeping; fruit growing; hop growing; deer farming or game deer; or goats, being the fur bristles or fibres grown by the goat (&quot;primary products&quot;). Regulations may be issued under the Primary Products Marketing Act 1953 concerning a broad range of the marketing authority’s functions, powers and activities. In particular, regulations may require that board members or personnel be nationals of or resident in New Zealand.</td>
</tr>
<tr>
<td>Sector</td>
<td>Air Transportation</td>
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</tbody>
</table>
| Obligations Concerned | National Treatment (Article 9.4)  
    Senior Management and Boards of Directors (Article 9.10) |
| Level of Government | Central            |
| Measure            | Civil Aviation Act 1990  
    Ministerial Guidelines |
| Description        | Investment         |

Only a licensed air transport enterprise may provide international scheduled air services as a New Zealand international airline. Licenses to provide international scheduled air services as a New Zealand international airline are subject to certain conditions to ensure compliance with New Zealand’s air services agreements. Such conditions may include requirements that an airline is substantially owned and effectively controlled by New Zealand nationals, has its principal place of business in New Zealand or is subject to the effective regulatory control of the New Zealand Civil Aviation Authority.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Air Transportation</th>
</tr>
</thead>
</table>
| Obligations Concerned| National Treatment (Article 9.4)  
Senior Management and Boards of Directors (Article 9.10) |
| Level of Government  | Central                                                                             |
| Measure              | Constitution of Air New Zealand Limited                                             |
| Description          | **Investment**                                                                       |

No one foreign national may hold more than 10% of shares which confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder\(^1\). In addition:

- At least three members of the Board of Directors must be ordinarily resident in New Zealand;
- More than half of the Board of Directors must be New Zealand citizens.

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\(^1\) The Kiwi Share in Air New Zealand is a single NZ$1 special rights convertible preference share issued to the Crown. The Kiwi Shareholder is Her Majesty the Queen in Right of New Zealand.
Sector
All sectors

Obligations Concerned
National Treatment (Article 9.4)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Level of Government
Central

Measure
Overseas Investment Act 2005
Fisheries Act 1996
Overseas Investment Regulations 2005

Description
Investment

Consistent with New Zealand’s overseas investment regime as set out in the relevant provisions of the Overseas Investment Act 2005, the Fisheries Act 1996 and the Overseas Investment Regulations 2005, the following investment activities require prior approval from the New Zealand Government:

a) acquisition or control by non-government sources of 25 percent or more of any class of shares or voting power in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$200 million;

b) commencement of business operations or acquisition of an existing business by non-government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ$200 million;

c) acquisition or control by government sources of 25 percent or more of any class of shares or voting power in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$100 million;

d) commencement of business operations or acquisition of an existing business by government sources, including business assets, in New Zealand, where the total

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2 For greater certainty, the term ‘shares’ includes shares and other types of securities.
3 For greater certainty, ‘voting power’ includes the power to control the composition of 25% or more of the governing body of the New Zealand entity.
4 For greater certainty, the term ‘shares’ includes shares and other types of securities.
5 For greater certainty, ‘voting power’ includes the power to control the composition of 25% or more of the governing body of the New Zealand entity.
expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ$100 million;

e) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand’s Overseas Investment legislation; and

f) any transaction, regardless of dollar value, that would result in an overseas investment in fishing quota.

Overseas investors must comply with the criteria set out in the overseas investment regime and any conditions specified by the Regulator and the relevant Minister or Ministers.

This entry should be read in conjunction with II–NZ–5.
<table>
<thead>
<tr>
<th>Sector</th>
<th>All Sectors</th>
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<tbody>
<tr>
<td>Obligations concerned</td>
<td>Performance Requirements (Article 9.9)</td>
</tr>
<tr>
<td>Level of government</td>
<td>Central</td>
</tr>
</tbody>
</table>
| Measure         | Income Tax Act 2007  
|                 | Goods and Services Tax Act 1985  
|                 | Estate and Gift Duties Act 1968  
|                 | Stamp and Cheque Duties Act 1971  
|                 | Gaming Duties Act 1971  
|                 | Tax Administration Act 1994 |
| Description     | Any existing non-conforming taxation measures. |
1. **Description** provides a general non-binding description of the measure for which the entry is made.

2. In accordance with Articles 10.7.1 (Cross Border Trade in Services - Non-Conforming Measures) and 9.11.1 (Investment - Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry.
1. **Sector:** All Sectors  

**Sub-Sector:**  

**Obligations concerned:** National Treatment (Article 9.4)  

**Level of Government:** Central  

**Measures:**  

*Political Constitution of Peru (Constitución Política del Perú) (1993), article 71.*  


**Description:** Investment  

No foreign national, enterprise constituted under foreign law or enterprise constituted under Peruvian law, and owned in whole or part, directly or indirectly, by foreign nationals may acquire or own, directly or indirectly, by any title, land or water (including mines, forest or energy sources) located within 50 kilometers of the Peruvian border. Exceptions may be authorized by Supreme Decree approved by the Council of Ministers in conformity with law in cases of expressly declared public necessity.  

For each case of acquisition or possession within the referred area, the investor shall hand in the correspondent request to the relevant Ministry, pursuant to laws in force. For example, authorizations of this kind have been given in the mining sector.
2. Sector: Services related to Fishing

Sub-Sector:

Obligations concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Before commencing operations, shipowners of foreign-flagged fishing vessels must present an unconditional, irrevocable, letter of guarantee with automatic execution and joint liability, which will be valid for no more than 30 calendar days after the expiry of the fishing permit, issued for the benefit and to the satisfaction of the Ministry of Production by a financial, banking or insurance institution recognized by the “Superintendencia de Banca y Seguros”. Such letter shall be issued in an amount equal to 25 percent of the amount that must be paid for fishing rights.

A shipowner of a foreign-flagged fishing vessel that is not of large scale (according to the regulation mentioned above) and that operates in Peruvian jurisdictional waters must rely on the Satellite Tracking System in its vessel, except for shipowners operating in highly migratory fisheries who are excepted from this obligation by a Ministerial Resolution.

Foreign-flagged fishing vessels with a fishing permit must have on board a scientific technical observer appointed by the Sea Institute of Peru (*Instituto del Mar del Perú - IMARPE*). The shipowner must provide accommodation on board for that representative and a daily stipend, which must be deposited in a special account to be administered by IMARPE.

Shipowners of foreign-flagged fishing vessels that operate in Peruvian jurisdictional waters must hire a minimum of 30 percent of Peruvian crew, subject to applicable domestic legislation.
3. Sector: Radio and Television Broadcasting Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Local Presence (Article 10.6)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

Only Peruvian nationals or juridical persons organized under Peruvian law and domiciled in Peru may be authorized or licensed to offer radio or television broadcast services.

No foreign national may hold an authorization or a license directly or through a sole proprietorship.
4. Sector: Audio-Visual Services

Sub-Sector: 

Obligations Concerned: Performance Requirements (Article 9.9) 
National Treatment (Article 10.3) 

Level of Government: Central 


Description: *Investment and Cross-Border Trade in Services*

At least 30 percent, on average, of the total weekly programs by free-to-air television broadcasters must be produced in Peru and broadcasted between the hours of 5:00 and 24:00.
5. Sector: Radio Broadcasting Services

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

If a foreign national is, directly or indirectly, a shareholder, partner, or associate in a juridical person, that juridical person may not hold a broadcasting authorization in a zone bordering that foreign national’s country of origin, except in a case of public necessity authorized by the Council of Ministers.

This restriction does not apply to juridical persons with foreign equity which have two or more current authorizations, as long as they are of the same frequency band.
6. Sector: All Sectors

Sub-Sector:

Obligations concerned: Senior Management and Boards of Directors (Article 9.10)
National Treatment (Article 10.3)
Most Favored Nation Treatment (Article 10.4)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

All employers in Peru, independently of their activity or nationality, shall give preferential treatment to nationals when hiring its employees.

Foreign natural persons who are service providers and who are employed by a service-providing enterprise may provide services in Peru under a written and time-limited employment contract, which may not exceed three years. The contract may be subsequently extended for like periods of time. Service-providing enterprises must show proof of the company’s commitment to train national personnel in the same occupation.

Foreign natural persons may not represent more than 20 percent of the total number of employees of an enterprise, and their pay may not exceed 30 percent of the total payroll for wages and salaries. These percentages will not apply in the following cases:

(a) when the foreign national providing the service is the spouse, parent, child or sibling of a Peruvian national;

(b) when the personnel is working for a foreign enterprise providing international land, air and water transport services under a foreign flag and registration;

(c) when the foreign personnel works in a multinational bank or an enterprise that provides multinational services, subject to the laws
governing specific cases;

(d) for a foreign investor, provided that its investment permanently maintains in Peru at least five units “Unidad Impositiva Tributaria” (“UITs”)\(^1\) during the life of its contract;

(e) for artists, athletes or other service-providers engaged in public performances in Peruvian territory, for a maximum of three months a year;

(f) when a foreign national has an immigrant visa;

(g) for a foreign national whose country of origin has a labor reciprocity or dual nationality agreement with Peru; and

(h) when foreign personnel provides services in Peru under a bilateral or multilateral agreement concluded by the Peruvian Government.

Employers may request waivers for the percentages related to the number of foreign employees and their share of the company’s payroll in those cases involving:

(a) specialized professional or technical personnel;

(b) directors or management personnel for new a business activity or reconverted business activity;

(c) teachers hired for post secondary education, or for foreign private elementary and high schools; or for language teaching in local private schools; or for specialized language centers;

(d) personnel working for public or private enterprises with contractual agreements with public organizations, institutions or enterprises; and

(e) in any other case determined by Supreme Decree pursuant to specialization, qualification or experience criteria.

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\(^1\) The “Unidad Impositiva Tributaria (UIT)” is an amount used as a reference in taxation rules in order to maintain in constant values the tax basis, deductions, affectation limits and other aspects of the tax that the legislator considers convenient.
7. Sector: Professional Services

Sub-Sector: Legal services

Obligations concerned: National Treatment (Articles 9.4 and 10.3)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

Only a Peruvian national by birth may supply notary services.
8. Sector: Professional Services

Sub-Sector: Architectural Services

Obligations concerned: National Treatment (Articles 9.4 and 10.3)

Level of Government: Central


Law Nº 16053, “El Peruano” Official Gazette of February 14, 1966, Professional Practice Law, authorizes the Peruvian Associations of Architects and Engineers to supervise Engineering and Architecture professionals of the Nation (Ley del Ejercicio Profesional, Autoriza a los Colegios de Arquitectos e Ingenieros del Perú para supervisar a los profesionales de Ingeniería y Arquitectura de la República), article 1.


Description: Investment and Cross-Border Trade in Services

To practice as an architect in Peru, an individual must join the “Colegio de Arquitectos”. The enrolment fees are different for Peruvians and foreigners, and subject to review by the “Colegio de Arquitectos”. For greater transparency, the current enrolment fees are:

(a) S/ 775 for a Peruvian national with a degree from a Peruvian university;

(b) S/ 1,240 for a Peruvian national with a degree from a foreign university;

(c) S/ 1,240 for a foreign national with a degree from a Peruvian university; or

(d) S/ 3,100 for a foreign national with a degree from a foreign university.

Also, to obtain temporary registration, non-resident foreign architects must have a contract of association with a Peruvian
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architect residing in Peru.
9. Sector: Professional Services

Sub-Sector: Auditing Services

Obligations concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

Auditing societies shall be constituted only and exclusively by public accountants licensed and resident in the country and duly qualified by the “Colegio de Contadores Públicos de Lima”.
10. Sector: Security Services

Sub-Sector:

Obligations concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

The supply of personal and heritage security services by natural persons is reserved to Peruvian nationals.

Only juridical persons constituted in Peru may apply for an authorization to supply security services. They must prove its constitution in Peru by a copy of the registration form of the constitution for the enterprise.
11. Sector: Recreational, Cultural and Sporting Services

Sub-Sector: National Artistic Audio-Visual Production Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Any domestic artistic audio-visual production must be comprised at least of 80 percent of national artists.

Any domestic artistic live performances must be comprised at least of 80 percent of national artists.

National artists shall receive no less than 60 percent the total payroll for wages and salaries paid to artists.

The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in artistic activities.
12. Sector: Recreational, Cultural and Sporting Services

Sub-Sector: Circus Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

A foreign circus may stay in Peru with its original cast for a maximum of 90 days. This period may be extended for the same period of time. If it is extended, the foreign circus will include a minimum of 30 percent Peruvian nationals as artists and 15 percent Peruvian nationals as technicians. The same percentages shall apply to the payroll of salaries and wages.
13. Sector: Commercial Advertising Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Commercial advertising produced in Peru, must have at least 80 percent of national artists.

National artists shall receive no less than 60 percent of the total payroll for wages and salaries paid to artists.

The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in commercial advertising.
14. Sector: Recreational, Cultural and Sporting Services

Sub-Sector: Bullfighting

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

At least one bullfighter of Peruvian nationality must participate in any bullfighting fair. At least one apprentice bullfighter of Peruvian nationality must participate in fights involving young bulls.
15. Sector: Radio and Television Broadcasting Services

Sub-Sector:

Obligations Concerned: Performance Requirements (Article 9.9)
National Treatment (Article 10.3)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

Free to air radio and television broadcast companies must dedicate at least 10 percent of their daily programming to folklore and national music and to series or programs produced in Peru on the Peruvian history, literature, culture or current issues with artists hired in the following percentages:

(a) a minimum of 80 percent of national artists;

(b) national artists shall receive no less than 60 percent of the total payroll for wages and salaries paid to artists; and

(c) the same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in artistic activities.
16. Sector: Customs Warehouses Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services

Only natural or juridical persons domiciled in Peru may apply for an authorization to operate a customs warehouse.
17. Sector: Telecommunications Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Call-back, understood as being the offer of telephone services for the realization of attempts to make calls originating in the country with the objective of obtaining a return call with an invitation to dial, coming from a basic telecommunications network located outside the national territory, is prohibited.
18. Sector: Transportation

Sub-Sector: Air Transportation and Specialty Air Services

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Central

Measures: Law N° 27261, “El Peruano” Official Gazette of May 10, 2000, Civil Aviation Law (Ley de Aeronáutica Civil), articles 75 (modified by Legislative Decree N° 999, April 19, 2008) and 79.


Description: Investment and Cross-Border Trade in Services

National Commercial Aviation is reserved to a Peruvian natural or juridical person.

For purposes of this entry, a Peruvian juridical person is an enterprise that fulfills the following requirements:

(a) is constituted under Peruvian law, specifies commercial aviation as its corporate purpose, is domiciled in Peru, and has its principal activities and administration located in Peru;

(b) at least half plus one of the directors, managers and persons who control and manage the enterprise are Peruvian nationals or have permanent domicile or are resident in Peru; and

(c) at least 51 percent of the capital stock must be owned by Peruvian nationals and be under the real and effective control of Peruvian nationals.

For greater certainty, National Commercial Aviation includes Specialty Air Services.
shareholders or partners permanently domiciled in Peru. (This limitation shall not apply to the enterprises constituted under Law Nº 24882, which may maintain the ownership percentages set in such law). Six months after the date of authorization of the enterprise to provide commercial air transportation services, foreign nationals may own up to 70 percent of the capital stock of the enterprise.

In those operations conducted by national commercial aviation operators ("explotadores nacionales"), personnel performing aeronautical functions on board must be Peruvian nationals or foreign residents with Peruvian license.

In order to perform activities as a pilot of a Peruvian juridical person, the foreign pilot must evidence, at least, two years of residence in Peru. This requirement is not applicable to the foreign resident who has the immigration category of “spouse” of a Peruvian national.

Notwithstanding the preceding paragraphs, the General Directorate of Civil Aviation may, for technical reasons, authorize foreign personnel without Peruvian license to perform these functions for a period not to exceed six months from the date on which the authorization was granted, extendable due to ascertained nonexistence of such skilled personnel.
19. Sector: Transportation

Sub-Sector: Aquatic Transportation

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Level of Government: Central

Measures:


Description: Investment and Cross-Border Trade in Services

1. A “National shipowner” or “National Ship Enterprise” is understood as a natural person of Peruvian nationality or juridical person constituted in Peru, with its principal domicile and real and effective headquarters in Peru, whose business is to provide services in water transportation in national traffic or cabotage \(^3\) and/or international traffic and who is the owner or lessee under a financial lease or a bareboat charter, with an obligatory purchase option, of at least one Peruvian flag merchant vessel and that has obtained the relevant Operation Permit from the General Aquatic Transport Directorate.

2. At least 51 percent of the subscribed and paid-in capital stock must be owned by Peruvian citizens.

3. The chairman of the board of directors, the majority

\(^3\) For greater certainty, water transportation includes transportation by lakes and rivers.
of the directors, and the General Manager must be Peruvian nationals and residents in Peru.

4. The captain and crew of Peruvian-flagged vessels must be entirely Peruvian nationals authorized by the “Dirección General de Capitanías y Guardacostas”. In exceptional cases and after ascertaining that there is no Peruvian qualified personnel with experience in that type of vessel available, foreign nationals could be hired to a maximum of 15 per cent of the total crew, and for a limited period of time. The latter exception does not reach the captain of the vessel.

5. Only a Peruvian national may be a licensed harbor pilot.

6. Cabotage is exclusively reserved to Peruvian flagged merchant vessels owned by a National Shipowner or National Ship Enterprise or leased under a financial lease or a bareboat charter, with an obligatory purchase option, except that:

   (a) up to 25 percent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy; and

   (b) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprises for a period of no more than six months for water transportation exclusively between Peruvian ports or cabotage when such an entity does not own its own vessels or lease vessels under the modalities previously mentioned.
20. Sector: Transportation

Sub-Sector: Aquatic Transportation

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)

Level of Government: Central

Measures: Supreme Decree Nº 056-2000-MTC, “El Peruano” Official Gazette of December 31, 2000. Provide that aquatic transportation services and related services conducted in bays and port areas must be provided by authorized natural and juridical persons, with vessels and artifacts of national flag (Disponen que servicios de transporte marítimo y conexos realizados en bahías y áreas portuarias deberán ser prestados por personas naturales y jurídicas autorizadas, con embarcaciones y artefactos de bandera nacional), article 1.


Description: Investment and Cross-Border Trade in Services

Water transport and related services supplied in bay and port areas must be supplied by natural persons domiciled in Peru, and juridical persons constituted and domiciled in Peru, properly authorized with Peruvian flag vessels and equipment:

(a) fuel replenishment services;
(b) mooring and unmooring services;
(c) diving services;
(d) victualing services;
(e) dredging services;
(f) harbor pilotage services;
(g) waste collection services;
(h) tug boat services; and
(i) transport of persons.
21. Sector: Transportation

Sub-Sector: Aquatic Transportation

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services

The tourist water transport service will be provided by natural or juridical persons, domiciled and constituted in Peru. At the regional and national level is reserved to be provided exclusively with own or chartered Peruvian flagged ships or in the form of financial lease or a bareboat charter, with purchase option mandatory.
22. Sector: Transportation

Sub-Sector: Aquatic Transportation

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Only Peruvian citizens may register in the Registry of Port Workers.
23. Sector: Transportation

Sub-Sector: Land Transportation of Passengers

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services

To supply land transport services it is necessary to have adequate physical infrastructure, which includes, when appropriate: offices; bus terminals for persons or goods; route stations; bus stops; all other infrastructure used as a place for loading, unloading and storage of goods; maintenance workshops; and any other necessary for the supply of the service.
### 24. Sector
Transportation

### Sub-Sector:
Land Transportation

### Obligations Concerned:
National Treatment (Article 10.3)

### Level of Government:
Central

### Measures:
“Agreement on International Land Transport” (Acuerdo sobre Transporte Internacional Terrestre - ATIT), signed between the Governments of the Republic of Chile, the Republic of Argentina, the Republic of Bolivia, the Federal Republic of Brazil, the Republic of Paraguay, the Republic of Peru and the Oriental Republic of Uruguay, signed in Montevideo on January 1, 1990.

### Description:
Cross-Border Trade in Services

Foreign vehicles allowed by Peru, in conformity with the ATIT\(^4\), which carry out international transportation by road, will not be able to provide local transport (cabotage) in the Peruvian territory.

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\(^4\) The Agreement on International Land Transport (ATIT) applies to international land transport between signatory countries (the Governments of the Republic of Chile, the Republic of Argentina, the Republic of Bolivia, the Federal Republic of Brazil, the Republic of Paraguay, the Republic of Peru and the Oriental Republic of Uruguay) for purposes of land transportation between two signatory countries as well as transit to a third country.
25. Sector: Research and Development Services

Sub-Sector: Archaeological Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central


Description: Cross-Border Trade in Services

Archaeological research programs and projects headed by a foreign archaeologist, who does not reside in Peru, must count on a Peruvian director. Both directors shall be registered in the National Registry of Archaeologists and shall assume the same responsibilities in the formulation and the integral execution of the project (field and office work), and in the elaboration of the final report.
26. Sector: Services related to Energy Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)  
Local Presence (Article 10.6)

Level of Government: Central


Description: Cross-Border Trade in Services

In order to enter into an exploration contract in Peru, foreign natural persons must register in the Public Registry and provide a power of attorney to a Peruvian national resident in the capital of the Republic of Peru.

Foreign enterprises must establish a branch or constitute a society under the Ley General de Sociedades, be domiciled in the capital of the Republic of Peru, and appoint a Peruvian national as an executive agent.
ANNEX I

SINGAPORE’S RESERVATIONS TO
CHAPTER 9 (INVESTMENT)
& CHAPTER 10 (CROSS-BORDER TRADE IN SERVICES)

Introductory Note to the Schedule of Singapore

1. Description sets out the non-conforming aspects of the measure to which the entry applies.

2. In accordance with Articles 9.11.1 (Investment – Non-conforming Measures) and 10.7.1 (Cross Border Trade in Services- Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measures identified in the **Description** element of that entry.

3. In the interpretation of a reservation, all elements of the reservation shall be considered.

4. For greater certainty, the fact that Singapore has described a measure in the Description element of an entry does not necessarily mean that, in the absence of such an entry, the measure would be inconsistent with Singapore’s obligation under Chapter 9 (Investment), Chapter 10 (Cross Border Trade in Services) and Chapter 11 (Financial Services).
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<tr>
<th>Sector</th>
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<tr>
<td>Sub-Sector</td>
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<tr>
<td>Industry classification</td>
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<tr>
<td>Obligations concerned</td>
<td>National Treatment (Article 9.4)</td>
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<tr>
<td>Measures</td>
<td>This is an administrative policy of the Government of Singapore and is inscribed in the Memorandum and Articles of Association of PSA Corporation.</td>
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<tr>
<td>Description</td>
<td>Investment:</td>
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<tr>
<td></td>
<td>The aggregate of foreign shareholdings in PSA Corporation and/or its successor body is subject to a 49% limit.</td>
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<td>The “aggregate of foreign shareholdings” is defined as the total number of shares owned by:</td>
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<td>(a) any individual who is not a Singapore citizen;</td>
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<td>(b) any corporation which is not more than 50% owned by Singapore citizens or by the Singapore Government; and/or</td>
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<td>(c) any other enterprise which is not owned or controlled by the Singapore Government.</td>
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<td>Sub-Sector</td>
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<td>Industry classification</td>
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<tr>
<td>Obligations concerned</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Measures</td>
<td>This is an administrative policy of the Government of Singapore and is inscribed in the Memorandum and Articles of Association of the relevant enterprises below.</td>
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<tr>
<td>Description</td>
<td>Investment:</td>
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<td>All individual investors, apart from the Singapore government, will be subject to the following equity ownership limits in the enterprises, and/or its successor bodies, as listed below:</td>
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<td>(a) Singapore Technologies Engineering – 15%;</td>
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<td>(b) PSA Corporation – 5%;</td>
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<td></td>
<td>(c) Singapore Airlines – 5%</td>
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<td>For the purposes of this reservation, ownership of equity by an investor in these enterprises and/or its successor bodies includes both direct and indirect ownership of equity.</td>
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<th>Sector</th>
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<td>Sub-Sector</td>
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<td>Industry classification</td>
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<tr>
<td>Obligations concerned</td>
<td>Local Presence (Article 10.6)</td>
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<tr>
<td>Measures</td>
<td>Business Registration Act, Cap. 32 Business Registration Regulations</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services:</td>
</tr>
<tr>
<td></td>
<td>Where a person required to be registered under the Business Registration Act (Cap. 32, 2001 Revised Edition) is, or, in the case of any corporation, the directors are, or the secretary of the corporation is, not ordinarily resident in Singapore, a local manager* must be appointed.</td>
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<td>* Persons who qualify to be appointed in such a capacity are primarily Singapore citizens, Singapore permanent residents and EntrePass holders (all with local address).</td>
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<tr>
<th>Sector</th>
<th>Business Services</th>
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<tr>
<td>Sub-Sector</td>
<td>Leasing or rental services concerning private cars, goods transport vehicles and other land transport equipment without operator</td>
</tr>
<tr>
<td>Industry classification</td>
<td>CPC 83101, 83102, 83105 Leasing or rental services concerning private cars, goods transport vehicles and other land transport equipment without operator</td>
</tr>
</tbody>
</table>
| Obligations concerned | National Treatment (Article 10.3)  
Market Access (Article 10.5) |
| Measures     | Road Traffic Act, Cap. 276, 2004 Revised Edition |
| Description  | Cross-Border Trade in Services:  
The cross-border rental of private cars, goods transport vehicles and other land transport equipment without operator by Singapore residents with the intent to use the vehicles in Singapore is prohibited. |
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<th>Sector</th>
<th>Business Services</th>
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<tr>
<td>Sub-Sector</td>
<td>Patent Agent Services</td>
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<td>Industry classification</td>
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<tr>
<td>Obligations concerned</td>
<td>Local Presence (Article 10.6)</td>
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<tr>
<td>Measures</td>
<td>Patents Act, Cap. 221, 1995 Revised Edition</td>
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<tr>
<td>Description</td>
<td>Cross-Border Trade in Services:</td>
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Only service suppliers registered with the Intellectual Property Office of Singapore (IPOS) and/or its successor body and resident in Singapore shall be allowed to carry on a business, practise or act as a patent agent in Singapore.

Only service suppliers which have at least 1 Singapore-registered patent agent resident in Singapore either as a director or partner, shall be allowed to carry on a business, practise or act as a patent agent in Singapore.
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<th>Sector</th>
<th>Business Services</th>
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<td>Sub-Sector</td>
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<td>Industry classification</td>
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<tr>
<td>Obligations concerned</td>
<td>Local Presence (Article 10.6)</td>
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<tr>
<td>Measures</td>
<td>Employment Agencies Act, Cap. 92</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services:</td>
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<tr>
<td></td>
<td>Only service suppliers with local presence shall be allowed to set up employment agencies and place foreign workers in Singapore.</td>
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<tr>
<td>Sector</td>
<td>Business Services</td>
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</table>
| Sub-Sector     | Private Investigation Services  
|                | Unarmed Guard Services |
| Industry classification | CPC 87301 Investigation Services  
|                | CPC 87302 Security Consultation Services  
|                | CPC 87305 Guard Services (only applies to unarmed security guard services) |
| Obligations concerned | National Treatment (Articles 9.4 and 10.3)  
|                | Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
|                | Market Access (Article 10.5)  
|                | Local Presence (Article 10.6) |
| Description    | Cross-Border Trade in Services and Investment:  
|                | Foreigners are permitted to set up security agencies to provide unarmed guards for hire but must register a company with local participation. At least 2 of the directors must be a Singapore citizen or Singapore permanent resident.  
|                | Foreigners, except Malaysians, shall not be allowed to work as guards, but can be involved in the administration of the company.  
<p>|                | The foreign directors shall produce a certificate of no criminal conviction from their country of origin or a statutory declaration before a Singapore commissioner of oaths, to the effect that they have never been convicted in any court of law for any criminal offence. |</p>
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<th>Sector</th>
<th>Community, Personal and Social Services</th>
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</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Services furnished by co-operative societies</td>
</tr>
<tr>
<td>Industry classification</td>
<td>CPC 959 Services furnished by membership organizations n.e.c (only applies to co-operative society services)</td>
</tr>
</tbody>
</table>
| Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
Local Presence (Article 10.6)  
Senior Management and Board of Directors (Article 9.10) |
| Existing Measures | Co-operative Societies Act, Cap. 62, 2009 Revised Edition  
Co-operative Societies Rules 2009 |
| Description | Cross-Border Trade in Services and Investment:  
Only service suppliers with local presence can be registered under the Co-operative Societies Act. Registration allows a co-operative society to be exempt from taxation measures applicable to other enterprises. Instead, co-operative societies are required to make a two-tier contribution of their surplus to the Central Co-operative Fund “CCF” and CCF/ Singapore Labour Foundation respectively as the society may opt.  
As a general rule, only Singapore citizens are allowed to hold office or be a member of the management committee of a co-operative society. Foreigners may be allowed to hold office or be a member of the management committee of a co-operative society, with the approval of the Registrar of Co-operative Societies.  
A person who is not a Singapore citizen can form and join a co-operative society if he or she is resident in Singapore. |
9.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Higher Education Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Higher Education Services in relation to the training of doctors</td>
</tr>
</tbody>
</table>
| Industry classification | CPC 92390 Other Higher Education Services  
(Only applies to Higher Education Services in relation to the training of doctors) |
| Obligations concerned | National Treatment (Articles 9.4 and 10.3)  
Market Access (Article 10.5) |
| Measures            | Medical Registration Act, Part V, Specialist Accreditation Board, Sections 2, 3, 34 and 35  
Private Education Act 2009 |
| Description         | Cross-Border Trade in Services and Investment:  
Only local tertiary institutions which are established pursuant to an Act of Parliament, or as designated by the Ministry of Education shall be allowed to operate undergraduate or graduate programmes for the training of doctors in Singapore.  
Currently, only the National University of Singapore and the Nanyang Technological University are allowed to operate undergraduate or graduate programmes for the training of doctors in Singapore. |
<table>
<thead>
<tr>
<th>Sector</th>
<th>Health and Social Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-Sector</strong></td>
<td>Medical Services</td>
</tr>
<tr>
<td></td>
<td>Pharmacy Services</td>
</tr>
<tr>
<td></td>
<td>Deliveries and related services, nursing services, physiotherapeutic and para-medical services and allied health services</td>
</tr>
<tr>
<td></td>
<td>Optometrists and Opticians</td>
</tr>
<tr>
<td><strong>Industry classification</strong></td>
<td>-</td>
</tr>
<tr>
<td><strong>Obligations concerned</strong></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td><strong>Measures</strong></td>
<td>Medical Registration Act, Cap. 174</td>
</tr>
<tr>
<td></td>
<td>Pharmacists Registration Act, Cap. 230</td>
</tr>
<tr>
<td></td>
<td>Medicines Act, Cap. 176,</td>
</tr>
<tr>
<td></td>
<td>Medicines (Registration of Pharmacies) Regulations, Cap. 176, Regulation 4</td>
</tr>
<tr>
<td></td>
<td>Nurses and Midwives Act, Cap. 209</td>
</tr>
<tr>
<td></td>
<td>Allied Health Professions Act, Act 1 of 2011</td>
</tr>
<tr>
<td></td>
<td>Optometrists and Opticians Act, Cap. 213A</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Cross-Border Trade in Services:</td>
</tr>
<tr>
<td></td>
<td>Only persons who are resident in Singapore are allowed to provide the following services: medical services pharmacy services, deliveries and related services, nursing services, physiotherapeutic and para-medical services and allied health services and optometry and opticianry services.</td>
</tr>
</tbody>
</table>
### 11. Sector Import, export and trading services

| Sub-Sector | - |
| Industry classification | - |
| Obligations concerned | Local Presence (Article 10.6) |
| Measures | Regulation of Imports and Exports Act, Cap. 272A  
Regulation of Imports and Exports Regulations |
| Description | Cross-Border Trade in Services:  
Only services suppliers with local presence shall be allowed to apply for import/export permits, certificates of origin or other trade documents from the relevant authorities. |
12.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Postal Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations concerned  | Market Access (Article 10.5)  
                          | Local Presence (Article 10.6) |
| Measures                | Postal Services Act, Cap. 237A |
| Description             | Cross-Border Trade in Services:
                          | For the provision of basic letter services, all service suppliers must be incorporated as companies under the Companies Act, Cap. 50, 2006 Rev Ed. |
13. 

<table>
<thead>
<tr>
<th>Sector</th>
<th>Telecommunications Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Telecommunications Services</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations concerned | Market Access (Article 10.5)  
                          | Local Presence (Article 10.6) |
| Measures              | Info-communications Development Authority of Singapore Act, Cap. 137A  
<pre><code>                      | Telecommunications Act, Cap. 323 |
</code></pre>
<p>| Description           | Cross-Border Trade in Services: |
|                       | 1. Facilities-based operators and service-based operators must be locally incorporated under the Companies Act, Cap. 50, 2006 Rev Ed. |
|                       | “Facilities-based operators” are operators who deploy any form of telecommunication networks, systems and facilities, outside of their own property boundaries, to offer telecommunication services to third parties, which may include other licensed telecommunication operators, business customers, or the general public. |
|                       | “Services-based operators” are operators who lease telecommunication network elements (such as transmission capacity and switching services) from any Facilities-Based Operator (FBO) licensed by the IDA so as to provide their own telecommunication services, or to resell the telecommunication services of FBOs to third parties. |
|                       | 2. The number of licences granted will be limited only by resource constraints, such as the availability of radio frequency spectrum. In view of spectrum constraints, parties interested in deploying networks based on wireless technology may be licenced to use radio frequency spectrum via a tender or auction process. |</p>
<table>
<thead>
<tr>
<th>Sector</th>
<th>Telecommunications Services</th>
</tr>
</thead>
</table>
| Sub-Sector | Telecommunications Services  
Domain name allocation policies in Internet country code top level  
domains (ccTLDs) corresponding to Singapore territories (.sg) |
| Industry classification | - |
| Obligations concerned | Market Access (Article 10.5)  
Local Presence (Article 10.6) |
| Measures | Info-communications Development Authority of Singapore Act,  
Cap. 137A  
Telecommunications Act, Cap. 323  
The Internet Corporation for Assigned Names and Numbers (ICANN), which recognises the ultimate authority of sovereign Governments over ccTLDs corresponding to their territories. |
| Description | Cross-Border Trade in Services:  
A registrar must be a company incorporated or a foreign company registered under the Companies Act, Cap. 50, 2006 Rev Ed. |
15.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Power Supply</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Measures</td>
<td>Electricity Act, Cap. 89A, 2002 Revised Edition, Sections 6(1) and 9(1)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services:</td>
</tr>
<tr>
<td></td>
<td>Power producers shall not be allowed to sell power directly to consumers and shall only sell power through the Singapore electricity wholesale market operator(s) licensed by the Energy Market Authority.</td>
</tr>
<tr>
<td></td>
<td>The amount of power supplied cumulatively by power producers located outside of Singapore to Singapore’s wholesale power market shall not exceed 600 MW.</td>
</tr>
<tr>
<td>Sector</td>
<td>Power Supply</td>
</tr>
<tr>
<td>--------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Measures</td>
<td>Electricity Act, Cap. 89A, 2002 Revised Edition, Sections 6(1) and 9(1)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Only the Market Support Service Licensee(s) shall be allowed to supply electricity to:</td>
</tr>
<tr>
<td></td>
<td>(a) all household consumers of electricity; and</td>
</tr>
<tr>
<td></td>
<td>(b) non-household consumers of electricity whose Average monthly consumption is below 4,000 kWh.</td>
</tr>
<tr>
<td>Sector</td>
<td>Power Transmission and Distribution</td>
</tr>
<tr>
<td>------------------------</td>
<td>------------------------------------</td>
</tr>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations concerned  | National Treatment (Articles 9.4 and 10.3)  
                          | Market Access (Article 10.5) |
| Measures               | Electricity Act, Cap. 89A, 2002 Revised Edition, Sections 6(1) and 9(1) |
| Description            | Cross-Border Trade in Services and Investment:  
<pre><code>                      | Only the Transmission Licensee(s) shall be the owner and operator of the electricity transmission and distribution network in Singapore. |
</code></pre>
<table>
<thead>
<tr>
<th>Sector</th>
<th>Tourism and Travel Related Services</th>
</tr>
</thead>
</table>
| Sub-Sector | Food and/or Beverage serving services in eating facilities run by the government  
Food and/or Beverage Catering Services |
| Industry classification | - |
| Obligations concerned | National Treatment (Articles 9.4 and 10.3)  
Market Access (Article 10.5) |
| Measures | Environmental Public Health Act, Cap. 95, 2002 Revised Edition |
| Description | Cross-Border Trade in Services and Investment:  
Only a Singapore citizen or permanent resident can apply for a licence to operate a stall in government-run markets or hawker centres, in their personal capacity.  
To provide food and/or beverage catering services in Singapore, a foreign service supplier must incorporate as a limited company in Singapore, and apply for the food establishment license in the name of the limited company. |
<table>
<thead>
<tr>
<th>Sector</th>
<th>Sewage and Refuse Disposal, Sanitation and other Environmental Protection Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Waste Management, including collection, disposal, and treatment of hazardous waste</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations Concerned | Market Access (Article 10.5)  
Local Presence (Article 10.6) |
| Measures | Environmental Public Health Act (Chapter 95 Section 110) |
| Description | Cross-Border Trade in Services:  
Foreign service suppliers must be locally incorporated in Singapore.  
The public waste collectors (PWCs) rendering services to domestic and trade premises are appointed by public competitive tender. The number of PWCs is limited by the number of geographical sectors in Singapore. For industrial and commercial waste, the market is opened to any licensed general waste collectors (GWCs). |
### 20. Cross-Border Trade in Services:

<table>
<thead>
<tr>
<th>Sector</th>
<th>Trade Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Distribution and Sale of Hazardous Substances</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Measures</td>
<td>Environmental Protection and Management Act, Cap. 94A, 2002 Revised Edition, Section 22</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services:</td>
</tr>
</tbody>
</table>

Only service suppliers with local presence shall be allowed to distribute and sell hazardous substances as defined in the Environmental Protection and Management Act.

Singapore reserves the right and flexibility to modify and/or increase the list of hazardous substances as defined and/or listed in the Environmental Protection and Management Act.
21.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Trade Services</th>
</tr>
</thead>
</table>
| Sub-Sector   | Distribution Services  
|              | Retailing Services  
|              | Wholesale Trade Services |
| Industry classification | - |
| Obligations concerned | Local Presence (Article 10.6) |
| Measures     | Medicines Act, Cap. 176, 1985 Revised Edition  
|              | Health Products Act 2007 |
| Description  | Cross-Border Trade in Services:  
|              | Only service suppliers with local presence shall be allowed to supply wholesale, retail and distribution services for medical and health-related products and materials as defined under the Medicines Act and Health Products Act, intended for purposes such as treating, alleviating, preventing or diagnosing any medical condition, disease or injury, as well as any other such items that may have an impact on the health and well-being of the human body.  
|              | Such products and materials include but are not limited to drugs and pharmaceuticals, traditional medicines, health supplements, diagnostic test kits, medical devices, cosmetics, tobacco products, radioactive materials and irradiating apparatuses.  
<p>|              | Singapore reserves the right and flexibility to modify and/or increase the list of medical and health-related products and materials as defined and/or listed in the Medicines Act and Health Products Act. |</p>
<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Air Transport Services</td>
</tr>
<tr>
<td></td>
<td>Passengers Transportation by Air</td>
</tr>
<tr>
<td></td>
<td>Freight Transportation by Air</td>
</tr>
<tr>
<td>Industry classification</td>
<td>CPC 731 Passenger Transportation by Air</td>
</tr>
<tr>
<td></td>
<td>CPC 732 Freight Transportation by Air</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Article 9.5)</td>
</tr>
<tr>
<td></td>
<td>Senior Management and Board of Directors (Article 9.10)</td>
</tr>
<tr>
<td>Measures</td>
<td>Air Navigation (Licensing of Air Services) Regulations, Cap. 6, Regulation 2</td>
</tr>
<tr>
<td>Description</td>
<td>Investment:</td>
</tr>
<tr>
<td></td>
<td>Service suppliers providing air transport services (for both passenger and freight) as a Singapore designated airline may have to be “effectively controlled” and/ or “substantially owned” by the Government or citizens of Singapore or both.</td>
</tr>
</tbody>
</table>
23. 

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
</table>
| **Sub-Sector**  | Maritime Transport Services  
|                 | Cargo Handling Services  
|                 | Pilotage Services  
|                 | Supply of Desalinated Water to Ships berthed at Singapore ports or in Singapore territorial waters |
| **Industry classification** | CPC 741 Cargo Handling Services  
|                    | CPC 74520 Pilotage and Berthing Services (only applies to Pilotage Services)  
|                    | CPC 74590 Other Supporting Services for Water Transport |
| **Obligations concerned** | National Treatment (Articles 9.4 and 10.3)  
|                      | Market Access (Articles 10.5) |
| **Measures**     | Maritime and Port Authority of Singapore Act, Cap. 170A, 1997 Revised Edition, Section 81 |
| **Description**  | Cross-Border Trade in Services and Investment:  
|                 | Only PSA Corporation Ltd and Jurong Port Pte Ltd and/or their respective successor bodies shall be allowed to provide cargo handling services.  
|                 | Only PSA Marine (Pte) Ltd. and/or its successor body shall be allowed to provide pilotage services and supply desalinated water to ships berthed at Singapore ports or in Singapore territorial waters. |
### Table: Cross-Border Trade in Services and Investment

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Maritime Transport Services</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>National Treatment (Articles 9.4 and 10.3) Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Measures</td>
<td>Maritime and Port Authority of Singapore Act, Cap. 170A, 1997 Revised Edition, Section 81</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment: Only local service suppliers shall be allowed to operate and manage cruise and ferry terminals. Local service suppliers are either Singapore citizens or legal persons which are more than 50% owned by Singapore citizens.</td>
</tr>
</tbody>
</table>
### 25.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transportation and Distribution of Manufactured Gas and Natural Gas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>National Treatment (Articles 9.4 and 10.3) Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Only the holder of a gas transporter licence shall be allowed to transport and distribute manufactured and natural gas.</td>
</tr>
<tr>
<td></td>
<td>Only one gas transport licence has been issued given the size of the Singapore market.</td>
</tr>
<tr>
<td>Sector</td>
<td>Manufacturing and Services Incidental to Manufacturing</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations Concerned          | National Treatment (Articles 9.4 and 10.3)              
|                                | Most-Favoured-Nation Treatment (Articles 9.5 and 10.4) 
|                                | Performance Requirements (Article 9.9)                  |
| Measures                       | Control of Manufacture Act, Cap. 57, 2004 Revised Edition |
| Description                    | Cross-Border Trade in Services and Investment:          
|                                | The manufacture of the following products, and services incidental to the manufacture of these products, in Singapore, may be subject to certain restrictions: |
|                                | (a) beer and stout;                                      |
|                                | (b) cigars;                                              |
|                                | (c) drawn steel products;                                |
|                                | (d) chewing gum, bubble gum, dental chewing gum or any like substance (not being a medicinal product within the meaning of the Medicines Act (Cap. 176) or a substance in respect of which an order under section 54 of the Act has been made); |
|                                | (e) cigarettes; and                                       |
|                                | (f) matches.                                             |
27.

<table>
<thead>
<tr>
<th>Sector</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
</tbody>
</table>
| Measures            | Banking Act, Cap. 19, MAS Notice 757  
                       Monetary Authority of Singapore Act, Cap. 186, MAS Notice 1105  
                       Finance Companies Act, Cap. 108, MAS Notice 816  
                       Insurance Act, Cap. 142, MAS Notice 109  
                       Securities and Futures Act, Cap. 289, MAS Notice SFA 04-N04 |
| Description         | Cross-Border Trade in Services and Investment:  
                       A non-resident financial institution may in certain circumstances be unable to borrow in Singapore dollars more than S$5 million from a resident financial institution owing to the following restrictions placed on financial institutions’ lending of the Singapore dollar to non-resident financial institutions.  
                       A financial institution shall not extend to any non-resident financial institution Singapore dollar (S$) credit facilities exceeding S$5 million per non-resident financial institution:  
                       (a) where the S$ proceeds are to be used outside of Singapore, unless:  
                           i. such proceeds are swapped or converted into foreign currency upon draw-down or before remittance abroad; or  
                           ii. such proceeds are for the purpose of preventing settlement failures where the financial institution extends a temporary S$ overdraft to any vostro account of any non-resident financial institution, and the financial institution takes reasonable efforts to ensure that the overdraft is covered within two business days; and  
                       (b) where there is reason to believe that the S$ proceeds may be used for S$ currency speculation, regardless of whether the S$ proceeds are to be used in Singapore or outside of Singapore.  
                       A financial institution shall not arrange S$ equity or bond issues for any non-resident financial institution where the S$ proceeds are |
| to be used outside Singapore, unless the proceeds are swapped or converted into foreign currency upon draw-down or before remittance abroad. |
| "Non-residents financial institution" means any financial institution which is not a resident as defined in the relevant notice. |
### Table

<table>
<thead>
<tr>
<th>Sector</th>
<th>Business Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Credit Bureau Services</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Measures</td>
<td>Administrative measure pursuant to the Monetary Authority of Singapore Act, Cap. 186</td>
</tr>
</tbody>
</table>
| Description          | **Cross-Border Trade in Services:**

Singapore reserves the right to limit the number of suppliers of credit bureau services where information provided by the supplier of credit bureau services is obtained from financial institutions in Singapore. The supplier must be established in Singapore.
ANNEX I
SCHEDULE OF THE UNITED STATES

Introductory Note for the Schedule of the United States

1. **Description** provides a general non-binding description of the measure for which the entry is made.

2. In accordance with Articles 10.7.1 (Cross Border Trade in Services – Non-Conforming Measures) and 9.11.1 (Investment – Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry.
Sector: Atomic Energy

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central


Description: Investment

A license issued by the United States Nuclear Regulatory Commission is required for any person in the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, use, import, or export any nuclear “utilization or production facilities” for commercial or industrial purposes. Such a license may not be issued to any entity known or believed to be owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government (42 U.S.C. § 2133(d)). A license issued by the United States Nuclear Regulatory Commission is also required for nuclear “utilization and production facilities,” for use in medical therapy, or for research and development activities. The issuance of such a license to any entity known or believed to be owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government is also prohibited (42 U.S.C. § 2134(d)).
Sector: Business Services

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Level of Government: Central

15 C.F.R. Part 325

Description: Cross-Border Trade in Services

Title III of the Export Trading Company Act of 1982 authorizes the Secretary of Commerce to issue “certificates of review” with respect to export conduct. The Act provides for the issuance of a certificate of review where the Secretary determines, and the Attorney General concurs, that the export conduct specified in an application will not have the anticompetitive effects proscribed by the Act. A certificate of review limits the liability under federal and state antitrust laws in engaging in the export conduct certified.

Only a “person” as defined by the Act can apply for a certificate of review. “Person” means “an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between such persons.”

A foreign national or enterprise may receive the protection provided by a certificate of review by becoming a “member” of a qualified applicant. The regulations define “member” to mean “an entity (U.S. or foreign) that is seeking protection under the certificate with the applicant. A member may be a partner in a partnership or a joint venture; a shareholder of a corporation; or a participant in an association, cooperative, or other form of profit or nonprofit organization or relationship, by contract or other arrangement.”
Sector: Business Services

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Level of Government: Central


Export Administration Regulations, 15 C.F.R. Parts 730 - 774

Description: Cross-Border Trade in Services

Certain exports and re-exports of commodities, software, and technology subject to the Export Administration Regulations require a license from the Bureau of Industry and Security, U.S. Department of Commerce (BIS). Certain activities of U.S. persons, wherever located, also require a license from BIS. An application for a license must be made by a person in the United States.

In addition, release of controlled technology to a foreign national in the United States is deemed to be an export to the home country of the foreign national and requires the same written authorization from BIS as an export from the territory of the United States.
Sector: Mining

Obligations Concerned: National Treatment (Article 9.4)  
Most-Favored-Nation Treatment (Article 9.5)

Level of Government: Central

Measures:  

10 U.S.C. § 7435

Description:
Investment

Under the Mineral Lands Leasing Act of 1920, aliens and foreign corporations may not acquire rights-of-way for oil or gas pipelines, or pipelines carrying products refined from oil and gas, across on-shore federal lands or acquire leases or interests in certain minerals on on-shore federal lands, such as coal or oil. Non-U.S. citizens may own a 100 percent interest in a domestic corporation that acquires a right-of-way for oil or gas pipelines across on-shore federal lands, or that acquires a lease to develop mineral resources on on-shore federal lands, unless the foreign investor's home country denies similar or like privileges for the mineral or access in question to U.S. citizens or corporations, as compared with the privileges it accords to its own citizens or corporations or to the citizens or corporations of other countries (30 U.S.C. §§ 181, 185(a)).

Nationalization is not considered to be denial of similar or like privileges.

Foreign citizens, or corporations controlled by them, are restricted from obtaining access to federal leases on Naval Petroleum Reserves if the laws, customs, or regulations of their country deny the privilege of leasing public lands to citizens or corporations of the United States (10 U.S.C. § 7435).
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.4)
Most-Favored-Nation Treatment (Article 9.5)

Level of Government: Central

Measures: 22 U.S.C. §§ 2194 and 2198(c)

Description: Investment

Overseas Private Investment Corporation (OPIC) programs are not available to non-U.S. citizens as individuals. The availability of these programs to foreign enterprises and foreign owned or controlled domestic enterprises depends upon the extent of U.S. ownership or other U.S. participation, as well as the form of business organization.

OPIC insurance and loan guaranties are available only to eligible investors, which are: (i) United States citizens; (ii) corporations, partnerships, or other associations, including non-profit associations, created under the laws of the United States, any state or territory thereof, or the District of Columbia, and substantially beneficially owned by United States citizens; and (iii) foreign partnerships or associations 100 percent owned, or foreign corporations at least 95 percent owned, by one or more such United States citizens, corporations, partnerships, or associations.

OPIC may issue insurance to investors not otherwise eligible in connection with arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions, such as the Multilateral Investment Guarantee Agency, for sharing liabilities assumed under such investment insurance, except that the maximum share of liabilities so assumed may not exceed the proportionate participation by eligible investors in the project.
Sector: Air Transportation

Obligations Concerned: National Treatment (Article 9.4)
Most-Favored-Nation Treatment (Article 9.5)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central

Measures: 49 U.S.C. Subtitle VII, Aviation Programs
14 C.F.R. Part 297 (foreign freight forwarders); 14 C.F.R. Part 380, Subpart E (registration of foreign (passenger) charter operators)

Description: Investment

Only air carriers that are “citizens of the United States” may operate aircraft in domestic air service (cabotage) and may provide international scheduled and non-scheduled air service as U.S. air carriers.

U.S. citizens also have blanket authority to engage in indirect air transportation activities (air freight forwarding and passenger charter activities other than as actual operators of the aircraft). In order to conduct such activities, non-U.S. citizens must obtain authority from the Department of Transportation. Applications for such authority may be rejected for reasons relating to the failure of effective reciprocity, or if the Department of Transportation finds that it is in the public interest to do so.

Under 49 U.S.C. § 40102(a)(15), a citizen of the United States means an individual who is a U.S. citizen; a partnership in which each member is a U.S. citizen; or a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, which is under the actual control of U.S. citizens, and in which at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens.
Sector: Air Transportation

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Central

Measures: 49 U.S.C., Subtitle VII, *Aviation Programs*
49 U.S.C. § 41703
14 C.F.R. Part 375

Description: Cross-Border Trade in Services

1. Authorization from the Department of Transportation is required for the supply of specialty air services in the territory of the United States. A person of a Party will be able to obtain such an authorization if the Party provides effective reciprocity by virtue of this Agreement.

Investment

2. “Foreign civil aircraft” require authority from the Department of Transportation to conduct specialty air services in the territory of the United States. In determining whether to grant a particular application, the Department will consider, among other factors, the extent to which the country of the applicant’s nationality accords U.S. civil aircraft operators effective reciprocity. “Foreign civil aircraft” are aircraft of foreign registry or aircraft of U.S. registry that are owned, controlled, or operated by persons who are not citizens or permanent residents of the United States (14 C.F.R. § 375.1). Under 49 U.S.C. § 40102(a)(15), a citizen of the United States means an individual who is a U.S. citizen; a partnership in which each member is a U.S. citizen; or a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, which is under the actual control of U.S. citizens, and in which at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens.
Sector: Land Transportation

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)
Most-Favored-Nation Treatment (Article 9.5 and 10.4)

Level of Government: Central

Measures:
49 U.S.C. 13902(c)
49 U.S.C. 13102
49 U.S.C. 13501
49 CFR Parts 365, 368, 385, 387, 393, 396
Sec. 350, PL 107-87, as amended
Sec. 6901, PL 110-28, as amended

Description: Cross-Border Trade in Services

Only persons of the United States, using U.S.-registered and either U.S.-built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of the United States.

Operating authority from the Department of Transportation is required to provide interstate or cross-border for hire bus or truck services in the territory of the United States. For persons of Mexico, grants of operating authority are subject to certain statutory and regulatory requirements.

Investment

Grants of authority for the provision of truck services by persons of Mexico between points in the United States for the transportation of goods other than international cargo is subject to reciprocity.

1 Without prejudice to the reservation in this entry with respect to 49 U.S.C. 13902(c), the United States acknowledges the relevant reservation and phase-out in its schedule to Annex I of the North American Free Trade Agreement, located at pages 18-20 of that schedule.
Sector: Transportation Services - Customs Brokers

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)

Level of Government: Central

Measures: 19 U.S.C. § 1641(b)

Description: Cross-Border Trade in Services and Investment

A customs broker’s license is required to conduct customs business on behalf of another person. An individual may obtain such a license only if that individual is a U.S. citizen. A corporation, association, or partnership may receive a customs broker’s license only if it established under the laws of any state and at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker’s license.
Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.4)
Most-Favored-Nation Treatment (Article 9.5)

Level of Government: Central

Measures:

Securities Act of 1933, 15 U.S.C. §§ 77c(b), 77f, 77g, 77h, 77j, and 77s(a)

17 C.F.R. §§ 230.251 and 230.405

Securities Exchange Act of 1934, 15 U.S.C. §§ 78l, 78m, 78o(d), and 78w(a)

17 C.F.R. § 240.12b-2

Description: Investment

Foreign firms, except for certain Canadian issuers, may not use the small business registration forms under the Securities Act of 1933 to register public offerings of securities or the small business registration forms under the Securities Exchange Act of 1934 to register a class of securities or file annual reports.
Sector: Communications – Radiocommunications*

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central

Measures: 47 U.S.C. § 310 (a)-(b)

Foreign Participation Order 12 FCC Rcd 23891, paras. 97-118 (1997)

Description: Investment

The United States restricts ownership of radio licenses in accordance with the above statutory and regulatory provisions, which provide that, inter alia:

(a) no station license may be granted to or held by a foreign government or representative thereof;

(b) no broadcast or common carrier or aeronautical en route or aeronautical fixed station license may be granted to or held by:

   (i) an alien or its representative;

   (ii) a corporation organized under the laws of a foreign government; or

   (iii) a corporation of which more than one fifth of the capital stock is owned of record or voted by an alien or its representative, a foreign government or its representative, or a corporation organized under the laws of a foreign country; and

(c) absent a specific finding that that the public interest would be served by permitting foreign ownership of a broadcast licenses, no broadcast station license shall be granted to any corporation directly or indirectly controlled by another corporation of which more than one fourth of the capital stock is owned of record or voted by an alien or its representative, a foreign government or its representative,
or a corporation organized under the laws of a foreign country.

*Radiocommunications consists of all communications by radio, including broadcasting.

Obligations Concerned: National Treatment (Article 10.3)
Most-Favored-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)

Level of Government: Central

Measures: 35 U.S.C. Chapter 3 (practice before the U.S. Patent and Trademark Office)
37 C.F.R. Part 11 (representation of others before the U.S. Patent and Trademark Office)

Description: Cross-Border Trade in Services

As a condition to be registered to practice for others before the U.S. Patent and Trademark Office (USPTO):

(a) a patent attorney must be a U.S. citizen or an alien lawfully residing in the United States (37 C.F.R. § 11.6(a));

(b) a patent agent must be a U.S. citizen, an alien lawfully residing in the United States, or a non-resident who is registered to practice in a country that permits patent agents registered to practice before the USPTO to practice in that country; the latter is permitted to practice for the limited purpose of presenting and prosecuting patent applications of applicants located in the country in which he or she resides (37 C.F.R. §11.6(c)); and

(c) a practitioner in trademark and non-patent cases must be an attorney licensed in the United States, a “grandfathered” agent, an attorney licensed to practice in a country that accords equivalent treatment to attorneys licensed in the United States, or an agent registered to practice in such a country; the latter two are permitted to practice for the limited purpose of representing parties located in the country in which he or she resides (37 C.F.R. § 11.14(a)-(c)).
Sector: All Sectors

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Level of Government: Regional

Measures: All existing non-conforming measures of all states of the United States, the District of Columbia, and Puerto Rico

Description: Cross-Border Trade in Services and Investment

For purposes of transparency, Appendix I-A sets out an illustrative, non-binding list of non-conforming measures maintained at the regional level of government.
**Appendix I-A: Illustrative list of U.S. regional non-conforming measures**

<table>
<thead>
<tr>
<th>Sectors in which regional measures are described</th>
<th>Sectors in which regional measures do not currently affect US specific commitments under the GATS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business services</td>
<td></td>
</tr>
<tr>
<td>Professional services</td>
<td></td>
</tr>
<tr>
<td>Legal services</td>
<td>X</td>
</tr>
<tr>
<td>Accounting, auditing and bookkeeping services</td>
<td>X</td>
</tr>
<tr>
<td>Architectural services</td>
<td>X</td>
</tr>
<tr>
<td>Engineering services</td>
<td>X</td>
</tr>
<tr>
<td>Integrated engineering services</td>
<td>X</td>
</tr>
<tr>
<td>Urban planning and landscape architectural services</td>
<td>X</td>
</tr>
<tr>
<td>Computer and related services</td>
<td>X</td>
</tr>
<tr>
<td>Research and development services</td>
<td>X</td>
</tr>
<tr>
<td>Real estate services</td>
<td>X</td>
</tr>
<tr>
<td>Rental/leasing services without operators</td>
<td>X</td>
</tr>
<tr>
<td>Other business services</td>
<td></td>
</tr>
<tr>
<td>Advertising services</td>
<td>X</td>
</tr>
<tr>
<td>Market research and public opinion polling services</td>
<td>X</td>
</tr>
<tr>
<td>Management consulting service</td>
<td>X</td>
</tr>
<tr>
<td>Services related to man. consulting</td>
<td>X</td>
</tr>
<tr>
<td>Technical testing and analysis services</td>
<td>X</td>
</tr>
<tr>
<td>Services incidental to agriculture, hunting and forestry</td>
<td>X</td>
</tr>
<tr>
<td>Services incidental to fishing</td>
<td>X</td>
</tr>
<tr>
<td>Services incidental to mining</td>
<td>X</td>
</tr>
<tr>
<td>Services incidental to energy distribution</td>
<td>X</td>
</tr>
<tr>
<td>Placement and supply services of Personnel</td>
<td>X</td>
</tr>
<tr>
<td>Investigation and security</td>
<td>X</td>
</tr>
<tr>
<td>Related scientific and technical consulting services</td>
<td>X</td>
</tr>
<tr>
<td>Maintenance and repair of equipment</td>
<td>X</td>
</tr>
<tr>
<td>Building-cleaning services</td>
<td>X</td>
</tr>
<tr>
<td>Photographic services</td>
<td>X</td>
</tr>
<tr>
<td>Printing, publishing</td>
<td>X</td>
</tr>
<tr>
<td>Convention services</td>
<td>X</td>
</tr>
<tr>
<td>Other</td>
<td>X</td>
</tr>
<tr>
<td>Communication services</td>
<td></td>
</tr>
<tr>
<td>Express delivery services</td>
<td>X</td>
</tr>
<tr>
<td>Other delivery services</td>
<td>X</td>
</tr>
<tr>
<td>Telecommunication services</td>
<td>X</td>
</tr>
</tbody>
</table>

---
2 This document is provided for transparency purposes only, and is neither exhaustive nor binding. The information contained in this document is drawn from U.S. commitments under the General Agreement on Trade in Services, the May 2005 Revised U.S. Services Offer under the Doha Development Agenda negotiations, and related documents.
### Appendix I-A: Illustrative list of U.S. regional non-conforming measures

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</tr>
</thead>
<tbody>
<tr>
<td>Audiovisual services</td>
<td>X</td>
</tr>
<tr>
<td>Construction and related engineering services</td>
<td>X</td>
</tr>
<tr>
<td>Distribution services</td>
<td>X</td>
</tr>
<tr>
<td>Educational services</td>
<td>X</td>
</tr>
<tr>
<td>Environmental services</td>
<td>X</td>
</tr>
<tr>
<td>Health related and social services</td>
<td>X</td>
</tr>
<tr>
<td>Tourism and travel related services</td>
<td>X</td>
</tr>
<tr>
<td>Recreational, cultural and sporting services (other than audiovisual services)</td>
<td>X</td>
</tr>
<tr>
<td>Entertainment services (including theatre, live bands and circus services)</td>
<td>X</td>
</tr>
<tr>
<td>News agency services</td>
<td>X</td>
</tr>
<tr>
<td>Libraries, archives, museums and other cultural services</td>
<td>X</td>
</tr>
<tr>
<td>Sporting and other recreational services</td>
<td>X</td>
</tr>
<tr>
<td>Transport services</td>
<td>X</td>
</tr>
<tr>
<td>Air Transport Services (Maintenance and repair of aircraft)</td>
<td>X</td>
</tr>
<tr>
<td>Rail Transport Services</td>
<td>X</td>
</tr>
<tr>
<td>Road Transport Services</td>
<td>X</td>
</tr>
<tr>
<td>Pipeline Transport</td>
<td>X</td>
</tr>
<tr>
<td>Services auxiliary to all modes of transport</td>
<td>X</td>
</tr>
<tr>
<td>Cargo-handling services</td>
<td>X</td>
</tr>
<tr>
<td>Storage and warehouse services</td>
<td>X</td>
</tr>
<tr>
<td>Freight transport agency services</td>
<td>X</td>
</tr>
</tbody>
</table>
### Appendix I-A: Illustrative list of U.S. regional non-conforming measures

<table>
<thead>
<tr>
<th>Sector</th>
<th>Non-conforming measure by jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal services (practice of U.S. law)</td>
<td>Residency: Iowa, Kansas, Massachusetts, Michigan, Minnesota (or maintain an office in Minnesota), Mississippi, Nebraska, New Jersey, New Hampshire, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia, Wyoming, In-state office: District of Columbia, Indiana, Michigan, Minnesota (or maintain individual residency in Minnesota), Mississippi, New Jersey, Ohio, South Dakota and Tennessee.</td>
</tr>
<tr>
<td>Legal services (foreign legal consulting)</td>
<td>Residency: Michigan, Texas, In-state office: Arizona, District of Columbia, Indiana, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Utah.</td>
</tr>
<tr>
<td>Architectural services, urban planning and landscape architecture services</td>
<td>Senior Managers and Boards of Directors: Michigan</td>
</tr>
<tr>
<td>Engineering services and integrated engineering services</td>
<td>Residency: Idaho, Iowa, Kansas, Maine, Mississippi, Nevada, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, West Virginia</td>
</tr>
<tr>
<td>Real estate services</td>
<td>Residency: South Dakota</td>
</tr>
<tr>
<td>Placement and supply services of personnel</td>
<td>Citizenship: Mississippi, New York</td>
</tr>
<tr>
<td>Investigation and security</td>
<td>Citizenship: Arkansas</td>
</tr>
<tr>
<td>Construction and related engineering services</td>
<td>Residency: Maine, Michigan, New York, In-state office: Michigan</td>
</tr>
</tbody>
</table>

---

3 This document is provided for transparency purposes only, and is neither exhaustive nor binding. The information contained in this document is drawn from U.S. commitments under the General Agreement on Trade in Services, the May 2005 Revised U.S. Services Offer under the Doha Development Agenda negotiations, and related documents.
### Appendix I-A: Illustrative list of U.S. regional non-conforming measures[^3]

<table>
<thead>
<tr>
<th>Sector</th>
<th>Non-conforming measure by jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Educational services (Cosmetology schools)</td>
<td>Limited number of licenses: Kentucky</td>
</tr>
<tr>
<td>Health and related social services</td>
<td>Corporate form: Michigan, New York</td>
</tr>
<tr>
<td>Rail transport services</td>
<td>Incorporation requirement: Vermont</td>
</tr>
</tbody>
</table>
ANNEX I
SCHEDULE OF VIET NAM

Introductory Note for the Schedule of Viet Nam

1. **Description** sets out the non-conforming measure for which the entry is made.

2. In accordance with Articles 10.7 (Cross Border Trade in Services – Non-Conforming Measures) and 9.11 (Investment – Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **Description** element of that entry.

3. Classification numbers, where referenced in the “sub-sector” element, refers to the activity covered by the non-conforming measure according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).
Sector: Professional Services

Sub-sector: Legal Services (CPC 861)

Obligations Concerned: National Treatment (Article 9.4 and 10.3)

Level of Government: National


Description: Cross-Border Trade in Services and Investment

Foreign lawyers organizations¹ and foreign lawyers may provide legal services in Viet Nam, through the following forms:

- Branches of foreign lawyers organizations;
- Wholly foreign limited liability law firm;
- Joint venture limited liability law firm;
- Partnerships between foreign lawyer organisations and Viet Nam’s law partnerships.

These entities are not allowed to:

- participate in legal proceedings in the capacity of defenders or representatives of their clients before the courts of Viet Nam;
- participate in legal documentation and certification services of the laws of Viet Nam².

The foreign lawyers practicing laws in Viet Nam are not permitted to advise on Vietnamese laws unless they have graduated from a Vietnamese law college and satisfy requirements applied to like Vietnamese lawyers. They are not allowed to defend or represent clients before the courts of Viet Nam.

¹ A “foreign lawyers organization” is an organization of practicing lawyers established in any commercial corporate form in a foreign country (including firms, companies, corporations, etc.) by one or more foreign lawyers or law firms.

² For greater certainty, legal documentation and certification services include notary services and other services as provided in Vietnamese law, but do not include commercial contracts and business charters. Drafting on such matters as commercial contracts and business charters may be conducted by Vietnamese lawyers working in foreign lawyer organizations.
Sector: Professional Services
Sub-sector: Auditing services (CPC 862)
Obligations Concerned: Local Presence (Article 10.6)
Level of Government: National
Measure: Decree No. 17/2012/ND-CP dated 13 March 2012.
Description: Cross-Border Trade in Services

Foreign services suppliers are not permitted to provide auditing services unless they meet the requirements of local presence in Viet Nam.
Sector: Professional Services

Sub-sector: Veterinary services (CPC 932)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Administrative measures

Description: Investment

Foreign investment to provide veterinary services may not be permitted in Viet Nam unless such services are provided by natural persons in the form of private professional practice.
Sector: Distribution services

Sub-sector:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

- Circular No. 05/2008/TT-BCT dated 14 April 2008

Description: Investment

The establishment of outlets for retail services (beyond the first one) shall be allowed on the basis of an Economic Needs Test (ENT).

Applications to establish more than one outlet shall be subject to pre-established publicly available procedures, and approval shall be based on objective criteria. The main criteria of the ENT include the number of existing service suppliers in a particular geographic area, the stability of market and geographic scale.

The establishment of outlets for retail services with area of less than 500 square meters in areas that are planned for commercial activities by the People’s Committee of cities and provinces, and on which the construction of infrastructure has been finished, is not subject to the ENT requirement.

Five years after the date of entry into force of the Agreement, the ENT shall be removed and this entry shall no longer have effect.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Other Business Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-sector:</td>
<td>Technical testing and analysis services (CPC 8676)</td>
</tr>
<tr>
<td>Obligations</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Concerned:</td>
<td></td>
</tr>
<tr>
<td>Level of</td>
<td>National</td>
</tr>
<tr>
<td>Government:</td>
<td></td>
</tr>
<tr>
<td>Description:</td>
<td>Investment</td>
</tr>
</tbody>
</table>

Where Viet Nam allows private suppliers of technical testing and analysis services access to a sector previously closed to private sector competition on the grounds that these services had been supplied in the exercise of governmental authority, such services shall be allowed without limitation on foreign ownership five years after such access to private sector competition is allowed.
<table>
<thead>
<tr>
<th><strong>Sector:</strong></th>
<th>Other Business Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-sector:</strong></td>
<td>Services incidental to agriculture, hunting and forestry (CPC 881)</td>
</tr>
<tr>
<td><strong>Obligations Concerned:</strong></td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td><strong>Level of Government:</strong></td>
<td>National</td>
</tr>
<tr>
<td><strong>Measure:</strong></td>
<td>Administrative measures</td>
</tr>
<tr>
<td><strong>Description:</strong></td>
<td>Investment</td>
</tr>
</tbody>
</table>

Foreign investment to provide services incidental to agriculture, hunting and forestry may be provided except through a business cooperation contract, a joint venture or the purchase of shares in a Vietnamese enterprise. In the case of a joint venture or the purchase of shares in an enterprise, foreign equity shall not exceed 51 percent.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Telecommunications Services
Sub-sector: Basic Services
Value-added Services

Obligations Concerned: National Treatment (Article 9.4 and 10.3)

Level of Government: National

Measure: Administrative measures

Description: Cross-Border Trade in Services and Investment

Cross-Border Trade in Services

- Satellite-based services: Foreign service suppliers are not allowed to provide satellite-based services unless the services are offered through commercial arrangements with Vietnamese international satellite service suppliers duly licensed in Viet Nam, except satellite-based services offered to off-shore/on sea based business customers, government institutions, facilities-based service suppliers, radio and television broadcasters, official international organization' representative offices, diplomatic representatives and consulates, high tech and software development parks and multinational companies that are licensed to use satellite-earth stations.

Investment

- Non facilities-based services:

  + Basic and valued added services: foreign investment to provide non facilities-based services may not be permitted except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 65 percent, or 70 percent in the case of virtual private networks. No later than five years after the date of entry into force of the TPP Agreement, Viet Nam shall eliminate any foreign equity limitation or joint venture requirement.

- Facilities-based services:

3 For the purpose of this non-conforming measure, a multinational is a corporation which: a) has a commercial presence in Viet Nam; b) operates in at least one other TPP member; c) has been in operation for at least five years; d) is licensed to use satellite services in at least one TPP Member.

4 For the purpose of this entry, a “non-facilities based service supplier” means a service supplier which does not own transmission capacity but contracts for such capacity including submarine cable capacity, including on a long-term basis, from a facilities-based supplier. A non facilities-based supplier is not otherwise excluded from owning telecommunications equipment within their premises and permitted public service provision points (POP).
+ **Basic services**: foreign investment to provide facilities-based services may not be permitted except through a joint venture or the purchase of shares in a Vietnamese enterprise duly licensed in Viet Nam, with foreign equity not exceeding 49 percent.

+ **Valued added services**: foreign investment to provide facilities-based services may not be permitted except through a joint venture or the purchase of shares in a Vietnamese enterprise duly licensed in Viet Nam, with foreign equity not exceeding 51 percent. No later than five years after the date of entry into force of the TPP Agreement, Viet Nam shall permit foreign equity up to 65 percent.

Foreign service suppliers shall be permitted up to 100 percent ownership of submarine cable transmission capacity landing at a licensed submarine cable landing station in Viet Nam, and may sell such capacity to any licensed telecommunications operator in Viet Nam, including Internet Service Providers, in Viet Nam.
Sector: Audiovisual Services

Sub-sector:
- Motion picture production (CPC 96112)
- Motion picture distribution (CPC 96113)
- Motion picture projection service (CPC 96121)

Obligations Concerned:
National Treatment (Article 9.4)

Level of Government:
National

Measure:
Administrative measures

Description:

Foreign investment to provide motion picture production, distribution and projection services may not be permitted except through a business cooperation contract or a joint venture with a Vietnamese partner legally authorized to provide such services, or the purchase of shares in a Vietnamese enterprise legally authorized to provide such services. In the case of a joint venture or the purchase of shares in an enterprise, foreign equity shall not exceed 51 percent.

For motion picture projection service, foreign organizations and individuals are not permitted to engage in business cooperation contract or joint-venture with Viet Nam’s houses of culture, public cinema clubs and societies, mobile projection teams, or owners or operators of temporary film-projection locations.
Sector: Audiovisual Services

Obligations Concerned:
Performance Requirement (Article 9.9)

Level of Government:
National

Measure:
- The Law on Cinematography 2006, Law No. 62/2006/QH11
- The Law Amending and Supplementing A Number of Articles on the Law of Cinematography 2009, Law No. 31/2009/QH12
- Decree No 54/2010/NĐ-CP dated 21 May 2010

Description: Investment

Cinemas must screen Vietnamese films on the occasion of major anniversaries of the country.

The ratio of screening Vietnamese films to total films shall not be less than 20 percent on an annual basis. Cinemas should show at least one Vietnamese film between the hours of 18:00 and 22:00.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Educational services</th>
</tr>
</thead>
</table>
| Sub-sector:     | Higher education services (CPC 923)  
|                 | Adult education (CPC 924)             
|                 | Other education services (CPC 929 including foreign language training) |
| Obligations     | National Treatment (Article 9.4)      |
| Concerned:      | National                   |
| Level of        | Administrative measures     |
| Government:     | Investment                  |

Foreign investment to provide educational services in the following fields of study is not permitted: national security, defense, political science, religion, Vietnamese culture and other fields of study necessary to protect Vietnamese public morals. This limitation shall not prevent the supply of educational services in fields of study where Viet Nam is bound under any other trade agreement.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Tourism and travel related services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub - sector:</td>
<td>Travel agencies and tour operator services (CPC 7471)</td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>National</td>
</tr>
<tr>
<td>Measure:</td>
<td>Administrative measures</td>
</tr>
<tr>
<td>Description:</td>
<td>Investment</td>
</tr>
</tbody>
</table>

Only foreign investment to provide inbound services and domestic travel for inbound tourists as an integral part of inbound services is permitted.
Sector: Recreational, cultural and sporting services

Sub - sector: Entertainment services (including theatre, live bands and circus services) (CPC 9619)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Administrative measures

Description:

Foreign investment to provide entertainment services covered by CPC 9619 (including theatre, live bands and circus services) may not be provided except through a joint venture or the purchase of shares in a Vietnamese enterprise with foreign equity not exceeding 49 percent. Three years after the date of entry into force of the Agreement, a joint venture or purchase of shares in a Vietnamese enterprise with foreign equity not exceeding 51 percent shall be permitted.
Sector: Recreational, cultural and sporting services

Sub-sector: Electronic games business

Obligations Concerned: National Treatment (Article 9.4 and 10.3)

Level of Government: National

Measure: Administrative measures

Description: Cross-Border Trade in Services and Investment

Foreign investment to provide electronic games services may not be provided except through a business cooperation contract or a joint venture with Vietnamese partner authorised to provide such services or the purchase of shares in a Vietnamese enterprise authorized to provide such services. In case of a joint venture or the purchase of shares in an enterprise, foreign equity shall not exceed 49 percent.

No later than two years after the date of entry into force of the Agreement, Viet Nam shall permit 51 percent foreign investment in electronic game services offered over the Internet. Five years after the date of entry into force of the Agreement, Viet Nam shall impose no limitations on foreign equity.

For greater certainty, the absence of a reservation against the cross-border services obligations does not preclude Viet Nam from ensuring that the cross-border supply of electronic games services comply with Viet Nam’s laws and regulations, including applicable registration and licensing requirements.
Sector: Maritime Transport Services

Sub - sector: Passenger transportation (CPC 7211)
Freight transportation (CPC 7212)

Obligations Concerned:
National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: National

Measure: Administrative measures

Description: Investment

Foreign investment to provide maritime passenger and freight transportation services under the national flag of Viet Nam may not be provided except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 49 percent. In addition, foreign seafarers may not exceed 1/3 of total employees of the ships. The Master or first chief executive must be a Vietnamese citizen.
Sector: Services auxiliary to all modes of transport

Sub-sector: Container handling services, except services provided at airports (CPC 7411)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

- Administrative measures

Description: Investment

Foreign investment to provide container handling services may not be provided except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 50 percent.
Foreign investment to provide shipping agency services may not be provided except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 49 percent.
Sector: Internal Waterways Transport

Sub-sector: Passenger transport (CPC 7221)
Freight transport (CPC 7222)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

- Administrative measures

Description: Investment

Foreign investment to provide internal waterway transport services may not be provided except through a joint venture with a Vietnamese partner or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 49 percent.
Sector: Rail Transport Services

Sub-sector: Passenger transportation (CPC 7111)
Freight transportation (CPC 7112)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

- Administrative measures

Description: Investment

Foreign investment to provide rail freight transport services may not be provided except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 49 percent.

Foreign investment to provide passenger rail transport services is not permitted.
Sector: Road Transport Services

Sub - sector: Passenger transportation (CPC 7121+7122)
Freight transportation (CPC 7123)

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

- Administrative measures

Description: Investment

Foreign investment to provide road passenger and freight transport services may not be provided except through a business cooperation contract, a joint-venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 49 percent.

In the case of road freight transport services, subject to the needs of the market\(^5\), the foreign equity limitation may be raised to but shall not exceed 51 percent.

100 percent of joint-venture drivers shall be Vietnamese citizens.

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\(^5\) The criteria taken into account are among others: creation of new jobs; positive foreign currency balance; introduction of advanced technology, including management skill; reduced industrial pollution; professional training for Vietnamese workers; etc.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Manufacturing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-sector:</td>
<td>Aircraft Manufacture Industry</td>
</tr>
<tr>
<td></td>
<td>Manufacture of railway rolling stock, spare parts, wagon and coach</td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>National</td>
</tr>
<tr>
<td>Measure:</td>
<td>Administrative measures</td>
</tr>
<tr>
<td>Description:</td>
<td>Investment</td>
</tr>
</tbody>
</table>

Foreign investment in the manufacture of aircraft, railway rolling stock, spare parts, wagon and coach may not be permitted except through a joint venture or the purchase of shares in Vietnamese enterprise, with foreign equity not exceeding 49 percent.
Sector: All sectors

Sub-sector:

Obligations concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Law on Land No. 45/2013/QH13 dated 29 November 2013 and the relevant regulations.

Description: Investment

Foreign organizations, individuals and the foreign invested enterprises may only acquire and use land-use rights in Viet Nam in accordance with the law on land.
Sector: Power Development

Sub-sector: 

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measures: Administrative measures

Description: Investment

Foreign investment to own or operate power transmission facilities in Viet Nam may not be permitted.

EVN (Viet Nam Electricity Corporation) is currently the sole authorised owner and operator of power transmission facilities in Viet Nam.
Foreign investment to establish a commercial presence in the form of branch may not be permitted, except for the following sectors and sub-sectors:

- Legal services (CPC 861);
- Computer and Related Services (CPC 841-845, CPC 849);
- Management consultant services (CPC 865);
- Services related to management consulting (CPC 866);
- Construction and related engineering services (CPC 51);
- Franchising services (CPC 8929).

For greater certainty, and consistent with Article 9.11.1.c (Ratchet), the removal of a branching restriction in a sector or sub-sector does not require the removal of a branching restriction in all sectors.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Import/Export Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub sector:</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>National</td>
</tr>
<tr>
<td>Measures:</td>
<td>Administrative measures</td>
</tr>
<tr>
<td>Description:</td>
<td>Investment</td>
</tr>
</tbody>
</table>

Foreign investment in state-trading enterprises of Viet Nam that import certain tobacco products, oil products, publications, recorded media, aircraft, and aircraft parts, as specified in Table 8c of the Report of the Working Party on the Accession of Viet Nam in the WTO may not be permitted.

For greater certainty, and consistent with Article 9.11.1.c (Ratchet), the liberalization of a state-trading enterprise does not require the liberalization of all state-trading enterprises.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Geodesy and cartography</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub sector:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 9.4)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>National</td>
</tr>
<tr>
<td>Description:</td>
<td>Investment</td>
</tr>
</tbody>
</table>

Foreign organizations and individuals carrying out directly or in cooperation with domestic organizations the geodesic and cartographic activities in Viet Nam must have their geodesic and cartographic projects approved by competent State bodies and be granted permits for geodesic and cartographic activities.

After completing the geodesic and cartographic projects, the project investors must submit one copy of the results to the State management agency in charge of geodesy and cartography.
Sector: Recreational, cultural and sporting services

Sub-sector: Amusement parks

Obligations Concerned:
- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Level of Government: National

Measure: Administrative measure

Description: Investment

Foreign investment of less than US$ 1 billion in building and managing theme parks or amusement parks shall not be accepted unless the Vietnamese competent authorities advise the applicant that the investment is likely to be of net benefit to Viet Nam. This determination is made in accordance with the following factors:

- The compatibility of the investment with the regional master plan for socio-economic development;

- The ability to meet people’s demand for cultural consumption;

- The compatibility with the local and regional cultural characteristics;

- The effect of the investment on local state budget, employment, on the use of parts, components and services produced in Viet Nam and on competition with the services provided by the local cultural houses.

Investments greater than US$ 1 billion are not subject to this determination.
| **Sector:** | Financial services provided by non-financial institutions, excluding the provision and transfer of financial information and advisory financial services |
| **Sub-sector:** |  |
| **Obligations concerned:** | National Treatment (Article 9.4) |
| **Level of Government:** | National and regional |
| **Measure:** | All existing non-conforming measures |
| **Description:** | Investment |

All existing non-conforming measures at the central and regional level of government.
Sector: Manufacture of tobacco products, including cigars and cigarettes

Sub-sector: 

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Decree 67/2013/ND-CP dated June 26, 2013

Description: Investment

Foreign investment in manufacturing of tobacco products, including cigars and cigarettes, is not allowed, except through a joint venture or the purchase of shares in a Vietnamese enterprise with foreign equity not exceeding 49 percent.
<table>
<thead>
<tr>
<th><strong>Sector:</strong></th>
<th>Services incidental to energy distribution (CPC 887)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-sector:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Obligations Concerned:</strong></td>
<td>National Treatment (Article 9.4 and 10.3)</td>
</tr>
<tr>
<td><strong>Level of Government:</strong></td>
<td>National</td>
</tr>
<tr>
<td><strong>Measure:</strong></td>
<td>Administrative measures</td>
</tr>
<tr>
<td><strong>Description:</strong></td>
<td>Cross-Border Trade in Services and Investment</td>
</tr>
</tbody>
</table>

Foreign services suppliers are not allowed to supply the services incidental to energy distribution. Foreign investment in these services is not permitted.
Sector: Mining

Sub-sector:

Obligations Concerned:
- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Level of Government:
National

Measure:
Administrative measures

Description:
Investment

Foreign investment in exploitation of minerals shall not be accepted unless the Vietnamese competent authorities advise the applicant that the investment is likely to be of net benefit to Viet Nam. In making this determination, the competent authority may consider the following factors:\(^6\)

- The effect of the investment on the level and nature of economic activity in Viet Nam, including the effect on employment, on the use of parts, components and services produced in Viet Nam and on exports from Viet Nam;

- The degree and significance of participation by Vietnamese in the investment;

- The effect of the investment on productivity, industrial efficiency, technological development and product innovation in Viet Nam;

- The effect of the investment on competition within an industry or industries in Viet Nam;

- The compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic and cultural policy objectives enunciated by the government or legislature of any province likely to be significantly affected by the investment; and

- The contribution of the investment to Viet Nam's ability to compete in world markets.

\(^6\) Foreign investors do not have to comply with all the criteria to obtain the mining license.
Sector: Oil and Gas
Sub-sector: Oil and Gas exploration, prospecting and exploitation
Obligations Concerned:
- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Performance Requirement (Article 9.9)
Level of Government: National
Measure: The Petroleum Law 1993
The 2000 Law Amending and Supplementing a Number of Articles of the Petroleum Law 1993
The 2008 Law Amending and Supplementing a Number of Articles of the Petroleum Law 1993, which was amended and supplemented under Law 19/2000/QH10 Amending and Supplementing a Number of Articles of the Petroleum Law.
Description: Investment

Viet Nam Oil and Gas Group (PetroVietnam) is the sole authorized company with respect to oil and gas exploration, prospecting and exploitation. A contract with PetroVietnam is required for oil and gas activities in Viet Nam. Sub-contracts may be awarded to foreign contractors, but priority may be given to Vietnamese organizations and individuals.

The execution of oil and gas contracts and their transfer to another entity must be approved by the Prime Minister.

In special cases, the following matters are also subject to the Prime Minister’s approval: i) the extension of the prospecting period or the term of an oil and gas contract; and ii) the suspension time limit, not to exceed three years, in cases where the parties to an oil and gas contract negotiate to suspend the execution of a number of rights and obligations under an oil and gas contract when circumstances do not allow for prompt execution of the contract.

PetroVietnam has the preemptive right to buy part or all of an oil and gas contract to be transferred.

Foreign investors may only supply flight operation services for oil and gas activities through joint venture contracts with Vietnamese companies.

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7 For special cases, the Government shall prescribe conditions for suspending the execution of a number of rights and obligations under an oil and as contract, and conditions and procedures for extending exploration and prospecting period or the term of an oil and gas contract.
Sector: Business Services

Sub-sector: Asset Appraisal

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Decree No 89/2013/ND-CP dated August 6, 2013 promulgating the implementation of some articles of the Law on Price on price appraisal

Description: Investment

Foreign organizations may not provide asset appraisal services except:

- when they are organisations legally established and providing asset appraisal services in their local country, and

- in partnership with a Vietnamese asset appraisal enterprise through a limited liability company with two or more members, or a joint stock company.

Foreign individuals are not permitted to provide asset appraisal services.
Sector: Real Estate

Sub-sector:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Law No 66/2014/QH13 dated November 25, 2014 on Real Estate Business

Description: Investment

With respect to the construction, lease, purchase, lease purchase, and transfer of real estate properties, the Law on Real Estate Business provides more limited rights to foreign entities than Vietnamese entities. Foreign invested enterprises may only:

a) With respect to residential real estate

- Construct residential real estate for sale, lease, or lease-purchase on land allocated by the State;
- Construct residential real estate for lease on land leased by the State.
- Purchase, lease-purchase, or rent commercial residential real estate in housing development investment projects;
- Rent residential real-estate for sublease;
- Obtain the transfer of residential real estate projects, partly or as a whole, to construct residential buildings for sale or for lease;

b) With respect to commercial real estate

- Construct commercial buildings for sale, lease, or lease-purchase on land leased by the State;
- Construct commercial buildings on land which is leased out in industrial parks, industrial complexes, export-processing zones, hi-tech zones, or economic zones for trading for their proper land use;
- Purchase or lease purchase commercial real estate for use according to their proper utility;
- Rent commercial real estate for use or sublease;
- Obtain the transfer of commercial real estate projects, partly or as a whole, to construct commercial buildings for sale or for lease;

For greater certainty, foreign invested enterprises may also supply real estate brokerage services; real estate exchange floors, real estate consulting services, and real estate management services, with respect to both residential and commercial real estate.
For greater certainty, foreign invested enterprises, foreign individuals and organizations are only allowed to carry out activities enumerated above.
Sector: Security systems services

Sub-sector:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Decree No. 52/2008/ND-CP dated 22 April, 2008 on management of security service business

Description: Investment

Foreign investment is not permitted except through a joint venture with foreign equity not exceeding 49 percent.

Foreign enterprises may not provide security system services unless they are enterprises with expertise in security system service business, have capital amounts and total asset value of USD 500,000 or more, have operated for five consecutive years or more, and have not violated the laws of the host or relevant countries. Foreign individuals are not permitted to provide security system services.

Foreigners may not be employed as security personnel.
Sector: Air transportation, including domestic and international air transportation services

Sub-sector: 

Obligations Concerned: National Treatment (Article 9.4) Senior Management and Boards of Directors (Article 9.10)

Level of Government: National

Measure: Decree No. 30/2013/ND-CP dated 8 April 2013

Description: Investment

Aggregate foreign capital contribution or equity is restricted to no more than 30 percent of chartered capital or shares of a Vietnamese airline. A Vietnamese individual or legal person who is not a foreign invested enterprise must hold the largest percentage of chartered capital or shares in the airline.

At least 2/3 of the total members of the executive board of a foreign invested airline established in Vietnam must be Vietnamese. The Director General (or Director), the legal representative of a foreign invested airline established in Viet Nam, must be Vietnamese.
Sector: Education Services

Sub-sector: Primary Education Services
Secondary Education Services

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: National

Measure: Decree No.73/2012/ND-CP dated 26 September 2012

Description: Investment

Foreign investment in the above-mentioned services is not permitted except through:

- Preschool education institutions using foreign educational programs for foreign children;

- Compulsory education institutions using foreign educational programs, issuing foreign qualifications, for foreign students and part of Vietnamese students.

The compulsory education institutions may enrol Vietnamese students, but the number of Vietnamese students in primary schools and middle schools shall not exceed 10 percent of the total number of students, and that in high schools shall not exceed 20 percent of the total number of students.
Annex II

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 9.11 (Non-Conforming Measures) and 10.7 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

   (a) Article 9.4 (National Treatment) or 10.3 (National Treatment);

   (b) Article 9.5 (Most-Favoured-Nation Treatment) or 10.4 (Most-Favoured-Nation Treatment);

   (c) Article 9.9 (Performance Requirements);

   (d) Article 9.10 (Senior Management and Board of Directors);

   (e) Article 10.5 (Market Access); or

   (f) Article 10.6 (Local Presence).

2. Each Schedule entry sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

   (c) **Industry Classification**, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

   (d) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 9.11.2 (Non-Conforming Measures) and 10.7.2 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;

   (e) **Description** sets out the scope and/or nature of the sectors, subsectors, or activities covered by the entry to which the reservation applies; and
(f) Existing Measures identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 9.11.2 (Non-Conforming Measures) and 10.7.2 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

4. With respect to Annex II NCMS on Most-Favoured-Nation Treatment relating to bilateral or multilateral international agreements, the absence of language regarding the scope of the reservation for differential treatment resulting from an amendment of those bilateral or multilateral international agreements in force or signed prior to the date of entry into force of this Agreement is without prejudice to each Party’s respective interpretation of the scope of that reservation.
Annex II
Schedule of Australia

Introductory Note for the Schedule of Australia

1. For the avoidance of doubt, in relation to education services, nothing in Chapter 10 (Cross-Border Trade in Services) or Chapter 9 (Investment) shall interfere with

   (a) the ability of individual education and training institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates and in the development of curricula or course content;

   (b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programs, including the standards that must be met;

   (c) government funding, subsidies or grants, such as land grants, preferential tax treatment and other public benefits, provided to education and training institutions; or

   (d) the need for education and training institutions to comply with non-discriminatory requirements related to the establishment and operation of a facility in a particular jurisdiction.

2. For greater certainty, where Australia has more than one entry in its Schedule to Annex II that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.
### Sector:

All

### Obligations Concerned:

Market Access

### Description:

Cross-Border Trade in Services

Australia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Chapter 12 (Temporary Entry for Business Persons), that is not inconsistent with Australia’s obligations under Article XVI of the General Agreement on Trade in Services (GATS).

### Existing Measures:
Sector: All

Obligations Concerned: National Treatment (CBTS Chapter and Investment Chapter)
Market Access
Performance Requirements
Local Presence
Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure according preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector.

Australia reserves the right to adopt or maintain any measure with respect to investment that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation.

For the purpose of this reservation, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.

Existing Measures: Legislation and ministerial statements at all levels of government including Australia’s foreign investment policy, and the Native Title Act (Cth).
Sector: All

Obligations Concerned: Market Access

Description: Cross-Border Trade in Services

Australia reserves the right to adopt or maintain any measure at the regional level of government that is not inconsistent with Australia’s obligations under Article XVI of the GATS.

For the purposes of this entry, Australia’s Schedule of Specific Commitments is modified as set out in Appendix A.

For the purposes of this entry, the reference to Australia’s commitments under Article XVI of the GATS includes commitments made under that Article after the date of entry into force of this Agreement.
Sector: All

Obligations Concerned: National Treatment (Investment Chapter)
Performance Requirements

Description: Investment

Australia reserves the right to adopt or maintain any measure with respect to proposals by ‘foreign persons’ and foreign government investors to invest in Australian urban land\(^1\) (including interests that arise via leases, financing and profit sharing arrangements, and the acquisition of interests in urban land corporations and trusts), other than developed non-residential commercial real estate.

Existing Measures: Australia’s foreign investment policy, which consists of the Foreign Acquisitions and Takeovers Act 1975 (FATA); Financial Sector (Shareholdings) Act 1998, Foreign Acquisitions and Takeovers Regulations 1989; and Ministerial Statements.

\(^1\)The term “Australian urban land” has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975.
Sector: All

Obligations Concerned:
- National Treatment (Investment Chapter)
- Most Favoured Nation (Investment Chapter)
- Performance Requirements
- Senior Management and Boards of Directors

Description:
Investment

Australia reserves the right to adopt or maintain any measure to allow the screening of proposals, by foreign persons, to invest 15 million Australian dollars or more in Australian agricultural land and 53 million Australian dollars or more in Australian agribusinesses.

Existing Measures: Australia’s foreign investment policy, which consists of the Foreign Acquisitions and Takeovers Act 1975 (FATA); Financial Sector (Shareholdings) Act 1998, Foreign Acquisitions and Takeovers Regulations 1989; and Ministerial Statements.

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2 The term ‘foreign person’ has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975.
3 For greater certainty, this refers to the total, cumulative value of agricultural land in Australia in which a foreign person has invested or intends to invest.
4 For greater certainty, this refers to the total, cumulative value of agribusinesses in Australia in which a foreign person has invested or intends to invest.
Obligations Concerned: National Treatment (CBTS and Investment Chapters)
Performance Requirements
Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

At the central level of government, Australia reserves the right to limit the initial transfer or disposal of government owned entities or assets, or a portion or percentage of the initial transfer, to Australian persons. For greater certainty, if Australia transfers or disposes of a government owned entity or asset in multiple phases, this right shall apply separately to each phase.

At the remaining levels of government, Australia reserves the right to adopt or maintain any measure with respect to:

(a) the devolution to the private sector of services provided in the exercise of governmental authority at the time that the Agreement comes into force; and

(b) the privatisation of government owned entities or assets.

For the purposes of this reservation, any measure adopted after the date of entry into force of this Agreement in relation to subparagraphs (a) or (b) shall be deemed an existing non-conforming measure subject to paragraphs 1, 5, 6 and 7 of Article 9.11 (Non-conforming Measures) and paragraph 1 of Article 10.7 (Non-conforming Measures).
Sector: All

Obligations Concerned:
- National Treatment (CBTS Chapter and Investment Chapter)
- Most Favoured Nation Treatment (CBTS Chapter and Investment Chapter)
- Local Presence
- Performance Requirements
- Senior Management and Boards of Directors
- Market Access

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure\(^5\) with respect to the provision of law enforcement and correctional services, and the following services\(^6\) to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health\(^7\), child care, public utilities\(^8\), public transport and public housing.

Existing Measures:

\(^5\) For greater certainty, measures adopted or maintained with respect to the provision of services covered by this reservation include measures for the protection of personal information relating to health and children.

\(^6\) This includes any measure with respect to: the collection of blood and its components; the distribution of blood and blood-related products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood-related products and services.

\(^7\) For greater certainty, the subsidies programs under Australia’s Pharmaceutical Benefits Scheme and Medicare Benefits Scheme, or successor programs, are not subject to Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), and Article 9.10 (Senior Management and Boards of Directors), in accordance with Article 9.11(6)(b) (Non-Conforming Measures).

\(^8\) With respect to the central level of government, applies only with respect to the market access obligation (CBTS Chapter).
Sector: Broadcasting and Audiovisual Services
       Advertising Services
       Live Performance

Obligations Concerned:
       National Treatment (CBTS and Investment)
       Market Access (CBTS)
       Most-Favoured-Nation Treatment (CBTS and Investment)
       Performance Requirements (Investment)
       Local Presence (CBTS)

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to:

(a) Transmission quotas for local content on free-to-air commercial television broadcasting services
(b) Non-discriminatory expenditure requirements for Australian production on subscription television broadcasting services
(c) Transmission quotas for local content on free-to-air radio broadcasting services
(d) Other audio-visual services transmitted electronically, in order to make Australian audio-visual content reasonably available to Australian consumers.
(e) Spectrum management and licensing of broadcasting services.
(f) Subsidies or grants for investment in Australian cultural activity.

This entry does not apply to foreign investment restrictions in the broadcasting and audio-visual services sector.

Existing Measures:
       Broadcasting Services Act 1992
       Radiocommunications Act 1992
       Income Tax Assessment Act 1936
       Income Tax Assessment Act 1997
       Screen Australia Act 2008

9 Applies only in respect of item (f).
10 Applies only to the treatment as local content of New Zealand programs or productions.
11 Applies only in respect of item (e) and in respect of the licensing of services covered by item (d).
12 For greater certainty, this includes the right to adopt or maintain measures under subparagraphs (a) - (f) with respect to the services supplied by the Australian Broadcasting Corporation and the Special Broadcasting Service Corporation.
13 Any such measure will be implemented in a manner that is consistent with Australia’s commitments under Article XVI and Article XVII of the General Agreement on Trade in Services (GATS).
14 In respect of item (e), Australia’s reservation applies only in respect of the Market Access and Local Presence obligations.

ANNEX II-AUSTRALIA-8
Broadcasting Services (Australian Content) Standard 2005
Children’s Television Standards 2009
Television Program Standard 23 – Australian Content in Advertising
Commercial Radio Codes of Practice and Guidelines
Community Broadcasting Codes of Practice
<table>
<thead>
<tr>
<th><strong>Sector:</strong></th>
<th>Broadcasting and Audiovisual Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Obligations Concerned:</strong></td>
<td>Most-Favoured-Nation Treatment (CBTS and Investment)</td>
</tr>
<tr>
<td></td>
<td>Performance Requirements (Investment)</td>
</tr>
<tr>
<td><strong>Description:</strong></td>
<td>Cross-Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>Australia reserves the right to adopt or maintain, under the International Co-production Program, preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under these co-production arrangements, confers national treatment on works covered by these arrangements.</td>
</tr>
<tr>
<td><strong>Existing Measures:</strong></td>
<td>International Co-production Program</td>
</tr>
</tbody>
</table>
Sector: Recreational, Cultural and Sporting Services (other than audio-visual services)

Obligations Concerned:
- National Treatment (CBTS Chapter and Investment Chapter)
- Most Favoured Nation Treatment (CBTS Chapter and Investment Chapter)
- Market Access
- Performance Requirements
- Local Presence
- Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to the creative arts, Indigenous traditional cultural expressions and other cultural heritage.

Existing Measures:

15 For the purposes of this reservation, ‘creative arts’ means: the performing arts (including live theatre, dance and music); visual arts and craft; literature (other than literary works transmitted electronically); and hybrid art works, including those which use new technologies to transcend discrete art form divisions. For live performances of the ‘creative arts’, as defined, this reservation does not extend beyond subsidies and grants for investment in Australian cultural activity.

16 Notwithstanding this, such measures shall be implemented in a manner that is consistent with Australia’s commitments under Article XVI and Article XVII of the General Agreement on Trade in Services (GATS), as applicable.

17 For the purposes of this reservation, ‘cultural heritage’ means: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.
Sector: Distribution services

Obligations Concerned: Market Access

Description: Cross-Border Trade in Services

Australia reserves the right to adopt or maintain any measure with respect to wholesale and retail trade services of tobacco products, alcoholic beverages, or firearms.

Existing Measures:
Sector: Education services

Obligations Concerned:
National Treatment (CBTS Chapter and Investment Chapter)
Most Favoured Nation Treatment (CBTS Chapter and Investment Chapter)
Market Access
Local Presence
Performance Requirements
Senior Management and Board of Directors

Description:
Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to primary education.

Existing Measures:
Sector: Gambling and Betting

Obligations Concerned: National Treatment (CBTS Chapter and Investment Chapter)
Market Access
Performance Requirements
Local Presence
Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to gambling and betting.

Existing Measures: Legislation and ministerial statements including the *Interactive Gambling Act 2001*(Cth).
Sector: Maritime Transport

Obligations Concerned:
- National Treatment (CBTS Chapter and Investment Chapter)
- Market Access
- Performance Requirements
- Local Presence
- Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services.\(^{18}\)

Existing Measures:

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\(^{18}\) For the purposes of this reservation, *cabotage* is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. *Offshore transport* refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.

**ANNEX II-AUSTRALIA-15**
Sector: Transport Services

Obligations Concerned: National Treatment (Investment Chapter)
Senior Management and Board of Directors

Description: Investment

Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.

Existing Measures:

- *Airports Act 1996* (Cth)
- *Airports (Ownership-Interests in Shares) Regulations 1996* (Cth)
- *Airports Regulations 1997* (Cth)
**Sector:** Services related to air transportation

**Obligations Concerned:** National Treatment (Cross-Border Trade in Services and Investment)
Market Access
Most-Favoured Nation Treatment (CBTS Chapter and Investment Chapter)
Senior Management and Boards of Directors
Performance Requirements
Local Presence

**Description:** Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure relating to the provision of ground handling services as defined in Article 10.1 in relation to each Party that:

i. maintains, in its Schedule to Annex II, an entry with respect to ground handling services; and

ii. lists against the National Treatment (CBTS) obligation.

but only in relation to the obligations listed by that Party.

Australia reserves the right to adopt or maintain any measure relating to the provision of airport operation services as defined in Article 10.1 in relation to each Party that

i. maintains, in its Schedule to Annex II, an entry with respect to airport operation services, and

ii. lists against two of the following obligations: National Treatment (CBTS), Most Favoured Nation Treatment (CBTS) and Local Presence,

but only in relation to the obligations listed by that Party.

**Existing Measures:**
Sector: All

Obligations Concerned: Most-Favoured-Nation Treatment (CBTS Chapter and Investment Chapter)

Description: Cross-Border Trade in Services and Investment.

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor taken as part of a process of economic integration or trade liberalisation between the Parties to the Australia New Zealand Closer Economic Relations - Trade Agreement (ANZCERTA) done at Canberra on March 28 1983.¹⁹

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor of a Pacific Island Forum member state under any international agreement in force or signed after the date of entry into force of this Agreement.

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;
(b) fisheries; or
(c) maritime matters, including salvage.

Existing Measures:

¹⁹ For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to that Agreement.

ANNEX II-AUSTRALIA-18
Appendix A

For the following sectors, Australia’s commitments under Article XVI of the General Agreement on Trade in Services (GATS) as set out in Australia’s Schedule of Specific Commitments under the GATS (GATS/SC/6, GATS/SC/6/Suppl.1, GATS/SC/6/Suppl.1/Rev.1, GATS/SC/6/Suppl.2, GATS/SC/6/Suppl.3 and GATS/SC/6/Suppl.4) are improved as described below.

<table>
<thead>
<tr>
<th>Sector/subsector</th>
<th>Market Access Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUSINESS SERVICES</td>
<td>Replace existing commitments with no limitations for modes 1-3. Mode 4 is unbound</td>
</tr>
<tr>
<td>Professional Services</td>
<td></td>
</tr>
<tr>
<td>Legal services 20</td>
<td></td>
</tr>
<tr>
<td>Legal advisory and representational services in domestic law (host-country law)</td>
<td></td>
</tr>
</tbody>
</table>

20 For the purposes of this entry:

‘legal advisory services’ – includes provision of advice to and consultation with clients in matters, including transactions, relationships and disputes, involving the application or interpretation of law; participation with or on behalf of clients in negotiations and other dealings with third parties in such matters; and preparation of documents governed in whole or in part by law, and the verification of documents of any kind for purposes of and in accordance with the requirements of law. Does not include advice, consultation and documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trade mark attorneys.

‘legal representational services’ – includes preparation of documents intended to be submitted to courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of law; and appearance before courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of the specified body of law. (Note 1: The inclusion of representational services before administrative agencies and other duly constituted official tribunals within the context of legal services does not necessarily mean that a licensed lawyer must supply such services in all cases. The precise scope of services subject to licensing requirements is subject to the discretion of the relevant regulatory authority.) Does not include documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trade mark attorneys.

‘legal arbitration, conciliation and mediation services’ – preparation of documents to be submitted to, preparation for and appearance before, an arbitrator, conciliator or mediator in any dispute involving the application and interpretation of law. Does not include arbitration, conciliation and mediation services in disputes for which the law has no bearing which fall under services incidental to management consulting. As a sub-category, international legal arbitration, conciliation and mediation services refer to the same services when the dispute involves parties from two or more countries.

‘domestic law (host country law)’ – the law of Australia.
‘foreign law’ – the law of the territories of WTO Members and other countries other than the law of Australia.
‘international law’ – includes law established by international treaties and conventions, as well as customary law.

For the purposes of these definitions:

‘arbitration’ is taken to mean a process in which the parties to a dispute present arguments and evidence to a dispute resolution practitioner (the arbitrator) who makes a determination.

‘mediation’ is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

‘conciliation’ is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the conciliator), identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.
<table>
<thead>
<tr>
<th>Sector/subsector</th>
<th>Market Access Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal advisory services in foreign law and international law and (in relation to foreign and international law only) legal arbitration and conciliation/mediation services.</td>
<td>Replace existing commitments with no limitations for modes 1 and 2, mode 3 is limited as follows: In South Australia, natural persons practising foreign law may only join a local law firm as a consultant and may not enter into partnership with or employ local lawyers. Mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>Research and Development Services</strong></td>
<td></td>
</tr>
<tr>
<td>Research and Development (R&amp;D) services on natural sciences and engineering (CPC 851)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Interdisciplinary research and development (R&amp;D) services (CPC 853)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>Other Business Services</strong></td>
<td></td>
</tr>
<tr>
<td>Landscape architectural services (CPC 86742)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Technical testing and analysis services (CPC 8676)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Site preparation work for mining (CPC 5115)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Services incidental to manufacturing (CPC 884 + 885, except for 88442).</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Related scientific and technical consulting services (CPC8675)</td>
<td></td>
</tr>
<tr>
<td>- Geological, geophysical and other scientific prospecting services (CPC 86751)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>- Subsurface surveying services (CPC 86752)</td>
<td>Replace existing commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section, for the whole sector.</td>
</tr>
<tr>
<td>- Map-making services (CPC 86754)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633 +8861-8866).</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Packaging services (CPC 8760)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Sector/subsector</td>
<td>Market Access Improvement</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Specialty design services (CPC 87907)</td>
<td>Replace existing commitments on Interior Design with no limitations for modes 1-3, mode 4 is unbound as indicated in the horizontal section.</td>
</tr>
</tbody>
</table>

**COMMUNICATION SERVICES**

This covers the following sub-sectors from the Services Sectoral Classification List (W/120) and related CPC numbers 7521, 7522, 7523, 7529**

- (a) Voice telephone services
- (b) Packet-switched data transmission services
- (c) Circuit-switched data transmission services
- (d) Telex services
- (e) Telegraph services
- (f) Facsimile services
- (g) Private leased circuit services
- (o) Other
  - Digital cellular services
  - Paging services
  - Personal communications services
  - Trunked radio system services
  - Mobile data services
  - Services covered by the *Broadcasting Services Act 1992* (Cth) are excluded from the basic telecommunications sector.

<table>
<thead>
<tr>
<th>CONSTRUCTION AND RELATED ENGINEERING SERVICES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Other</strong></td>
<td>Insert new commitments with no limitations for modes 2 and 3, mode 1 unbound*, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Other general construction work for civil engineering (CPC 511+515+518)</td>
<td></td>
</tr>
</tbody>
</table>

**DISTRIBUTION SERVICES**

- Commission agents’ services (CPC 62111, 62112**, 62113-62118)
  - Includes services by commission agents, commodity brokers, auctioneers and other wholesalers who trade on behalf of others, of food products, and non-alcoholic beverages. Excludes tobacco, alcoholic beverages, and firearms.

<table>
<thead>
<tr>
<th>Wholesale trade services (CPC 6221**, 6222**, 6223 - 6228**)</th>
<th>Replace existing commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesale trade services of agricultural raw materials and live animals. Excludes wholesale trade services of unmanufactured tobacco, tobacco products, alcoholic beverages, and</td>
<td></td>
</tr>
</tbody>
</table>

**ANNEX II-AUSTRALIA-21**
<table>
<thead>
<tr>
<th>Sector/subsector</th>
<th>Market Access Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>firearms.</strong></td>
<td>Replace existing commitments with no limitations for modes 2 and 3, mode 1 unbound except for mail order, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
</tbody>
</table>

**Retailing services**  
(CPC 631**, 63211**, 63212, 6322, 6323, 6324, 6325, 6329**, 61112, 6113, 6121)  
*Australia’s commitments in relation to these services extend to cover the following services not listed in relevant CPC classifications: inventory management of goods, assembling, sorting and grading of goods, breaking bulk, re-distribution and delivery services for retailing. Does not cover dispensing of pharmaceuticals, retailing services of alcoholic beverages, tobacco products, and firearms.*

<table>
<thead>
<tr>
<th>ENVIRONMENTAL SERVICES 2122</th>
<th></th>
</tr>
</thead>
</table>
| Wastewater management (CPC 9401)  
*This covers removal, treatment and disposal of household, commercial and industrial sewage and other waste waters including tank emptying and cleaning, monitoring, removal and treatment of solid wastes.* | Replace existing commitments on “Sewage services” with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section. |
| Waste management (CPC 9402, 9403)  
*This covers hazardous and non-hazardous waste collection, treatment and disposal (including incineration, composting and landfill); sweeping and snow removal, and other sanitation services* | Replace existing commitments on “Refuse disposal services” and “Sanitation and similar services” with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section. |
| Protection of ambient air and climate (CPC 9404)  
*This covers services at power stations or industrial complexes to remove air pollutants; monitoring of mobile emissions and implementation of control systems or reduction programmes.* | Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section. |
| Remediation and clean-up of soil and water (CPC 9406**) | Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section. |

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21 Australia’s commitments on environmental services exclude the provision of water for human use, including water collection, purification and distribution through mains.  
22 The classification scheme adopted on environmental services is largely based upon the scheme proposed by the European Communities (EC) in 2000 (see pages 6-7 of the EC paper “GATS 2000: Environmental Services”, S/CSS/W/38), but see especially footnote 18 above.  
23 This commitment and Australia’s commitment on protection of biodiversity and landscape combine to cover the entirety of CPC 9406 services.
<table>
<thead>
<tr>
<th>Sector/subsector</th>
<th>Market Access Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise and vibration abatement (CPC 9405) This covers monitoring programmes, and installation of noise reduction systems and screens.</td>
<td>Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Protection of biodiversity and landscape (CPC 9406**) 24 This covers ecology and habitat protection and promotion of forests and promoting sustainable forestry.</td>
<td>Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Other environmental and ancillary services (CPC 9409) This covers other environment protection services, including services related to environmental impact assessment.</td>
<td>Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>TOURISM AND TRAVEL RELATED SERVICES</strong></td>
<td></td>
</tr>
<tr>
<td>Travel agencies and tour operators services (CPC 7471)</td>
<td>Replace existing commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>TRANSPORT SERVICES</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Air Transport services</strong></td>
<td></td>
</tr>
<tr>
<td>Airport operation services, as defined in Article 10.1</td>
<td>Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Ground handling services, as defined in Article 10.1:</td>
<td>Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Aircraft repair and maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance (CPC 8868**) This covers establishments mainly engaged in periodic maintenance and repair (routine and emergency) of airframes (including wings, doors, control surfaces) avionics, engines and engine components, hydraulics, pressurisation and electrical systems and landing gear. Includes painting, other fuselage surface treatments and repair of flight-deck (and other) transparencies. Further includes rotary and glider aircraft.</td>
<td>Replace existing commitment on “Maintenance and repair of aircraft” with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Selling and marketing of air transport services, as defined in Article 10.1</td>
<td>Insert new commitments with no limitations on mode 1 except that Retailing services (CPC 631**, 63211**, 63212, 61112, 61113, 6121, 6322, 24 This commitment and Australia’s commitment on remediation and clean-up of soil and water combine to cover the entirety of CPC 9406 services.</td>
</tr>
<tr>
<td>Sector/subsector</td>
<td>Market Access Improvement</td>
</tr>
<tr>
<td>------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>This commitment confirms, without extending, the application to air transport services of the following:</td>
<td></td>
</tr>
<tr>
<td>- Travel agencies and tour operator services (CPC 7471),</td>
<td></td>
</tr>
<tr>
<td>- Market research and public opinion polling services (CPC 864),</td>
<td></td>
</tr>
<tr>
<td>- Advertising services (CPC 87110, 87120**, 87190), Covers services by advertising agencies in creating and placing advertising in periodicals, newspapers, radio and television for clients; outdoor advertising, media representation i.e. sale of time and space for various media; distribution and delivery of advertising material or samples. Does not include production or broadcast/screening of advertisements for radio, television or cinema.</td>
<td></td>
</tr>
<tr>
<td>- Distribution: Commission agents’ services CPC 62113-62118); Wholesale trade services (CPC 6223-6228); Retailing services (as described in this Appendix); and Franchising (CPC 8929). Excludes unmanufactured tobacco, tobacco products, alcoholic beverages, and firearms.</td>
<td></td>
</tr>
<tr>
<td>6323, 6324, 6325, 6329**) are unbound except for mail order, no limitations on modes 2 and 3. Mode 4 is unbound except as indicated in the horizontal section.</td>
<td></td>
</tr>
<tr>
<td>Rail Transportation services</td>
<td>Insert new commitments with no limitations for modes 1 and 2. Mode 3 is limited as follows:</td>
</tr>
<tr>
<td>Freight transportation (CPC 7112); Pushing and towing services (CPC 7113); and Supporting services for rail transport services (CPC 743).</td>
<td></td>
</tr>
<tr>
<td>- Below track: Most rail-track networks in Australia are government owned although much is leased to private operators. There are no restrictions on the right to establish new networks but access to public land may not be guaranteed.</td>
<td></td>
</tr>
<tr>
<td>- Above track (rail transport services (such as trains) that operate over the rail-track infrastructure): none except that access to rail infrastructure is allocated under pro-competitive principles for safety, efficiency and the long term interests of users. Mode 4 is unbound except as indicated in the horizontal section.</td>
<td></td>
</tr>
<tr>
<td>Road transportation services</td>
<td>Insert new commitments with no limitations for mode 1.</td>
</tr>
<tr>
<td>Freight transportation (CPC7123)</td>
<td></td>
</tr>
<tr>
<td>- Transportation of frozen or refrigerated goods (CPC 71231)</td>
<td></td>
</tr>
<tr>
<td>Sector/subsector</td>
<td>Market Access Improvement</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>- Transportation of bulk liquids or gases (CPC 71232)</td>
<td>Insert new commitments with no limitations for mode 1.</td>
</tr>
<tr>
<td>- Transportation of containerized freight (CPC 71233)</td>
<td>Insert new commitments with no limitations for mode 1.</td>
</tr>
<tr>
<td>- Transportation of furniture (CPC 71234)</td>
<td>Insert new commitments with no limitations for mode 1.</td>
</tr>
<tr>
<td>- Mail transportation (CPC 71235)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>- Freight transportation by man- or animal-drawn vehicles (CPC 71236)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>- Transportation of other freight (CPC 71239)</td>
<td>Insert new commitments with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td>Rental of commercial vehicles with operator (CPC 7124)</td>
<td>Insert new commitments with no limitations on modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>Services auxiliary to all modes of transport</strong></td>
<td></td>
</tr>
<tr>
<td>Storage and warehouse services (CPC 742 excluding maritime)</td>
<td>Replace existing commitments with no limitations for modes 2 and 3, mode 1 is unbound*, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>Australia’s commitment in relation to these services extends to cover the following services in addition to those listed in CPC 742: distribution centre services and materials handling and equipment services such as container station and depot services (excluding maritime).</strong></td>
<td></td>
</tr>
<tr>
<td>Freight transport agency services (CPC 748 excluding maritime)</td>
<td>Replace existing commitments on “freight forwarding” with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>Australia’s commitment in relation to these services extends to cover the following services in addition to those listed in CPC 748: customs agency services and load scheduling services (excluding maritime)</strong></td>
<td></td>
</tr>
<tr>
<td>Other supporting and auxiliary transport services (CPC 749 excluding maritime)</td>
<td>Replace existing commitments on “pre-shipment inspections” with no limitations for modes 1-3, mode 4 is unbound except as indicated in the horizontal section.</td>
</tr>
<tr>
<td><strong>Australia’s commitment in relation to these services extends to cover the following services in addition to those listed under CPC 749: container leasing and rental services (excluding maritime).</strong></td>
<td></td>
</tr>
</tbody>
</table>

* Unbound due to lack of technical feasibility
** Indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance.
1. Sector: All Sectors

Obligations Concerned:
- National Treatment (Article 9.4 and Article 10.3)
- Performance Requirements (Article 9.9)
- Senior Management and Board of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the privatisation, corporatisation, commercialisation or divestment of Government assets, entities or agencies including, but not limited to, the following:

   (a) limitations on ownership of assets;

   (b) transfer or disposal of equity interests or their assets;

   (c) the right of foreign investors or their investments to control their assets; and

   (d) nationality of the senior management or members of the board of directors.

2. The preceding sentence pertains only to the initial transfer or disposal of such interest. Brunei Darussalam does not reserve this right with respect to subsequent transfers or disposals of such interest.

3. For greater certainty,

   (a) where Brunei Darussalam transfers an interest in an existing state enterprise to another state enterprise, such transfer shall not be considered to
be an initial transfer or disposal of the interest for purposes of the preceding paragraph; and

(b) where Brunei Darussalam transfers or disposes of an interest in an existing state enterprise in multiple phases, the preceding paragraph shall apply separately to each such phase.
2.
Sector:
All Sectors

Obligations Concerned:
National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)

Description:
Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to all land transactions other than strata title, which shall be subject to approval and consent by His Majesty-in-Council, including but not limited to:

1. ownership and lease of land;

2. conditions on which such land shall be held; and

3. reciprocal arrangements on ownership and/or lease of diplomatic properties.

1 Applies only in respect of paragraph 3.
3.
Sector: All Sectors

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description: Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure that accords differential treatment:

1. to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement;

2. to ASEAN Member States under any ASEAN agreement open to participation by any ASEAN Member State, in force or signed after the date of entry into force of this Agreement;

3. to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:
   
   (i) Air services; and
   
   (ii) Maritime and Port matters.
4.
Sector: All Sectors

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

Brunei Darussalam reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, including on the total number of foreign natural persons that may be employed in any sector, subject to the provisions of Chapter 12 (Temporary Entry for Business Persons), and in a manner that is not inconsistent with Brunei Darussalam’s obligations under Article XVI of the General Agreement on Trade in Services (GATS).
5. 
**Sector:** Fishery and Services Incidental to Fisheries

**Obligations Concerned:** National Treatment (Article 9.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

**Description:** Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to any fishery and services related to fisheries activity in its territory, including its exclusive economic zone, including but not limited to:

1. any differential treatment to foreign nationals due to the application of reciprocity of commitments relating to artisanal fishery activity; and

2. ensuring the availability and sustainability of fisheries resources.
6.

Sector: Logging

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to logging activities.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Silica Sand</th>
</tr>
</thead>
</table>
| Obligations Concerned | National Treatment (Article 9.4)  
Performance Requirements (Article 9.9) |
| Description  | Investment |

Brunei Darussalam reserves the right to adopt or maintain any measure with respect to the commercialisation of activities relating to silica sand deposits, including mining, quarrying, manufacture and export of such deposits.
8.
Sector Petroleum

Obligations Concerned Most-Favoured Nation Treatment (Article 9.5)

Description Investment

1. Brunei Darussalam has no existing statutes, regulations or other similar measures that mandate preferential treatment to be accorded to investors of another Party or their investments as compared to investors of any other Party, or of any non-Party, or their investments.

2. With respect to the making of or entry into petroleum mining Agreements for the exploration, exploitation, development, and production rights of petroleum in the territory of Brunei Darussalam, and collateral agreements, Brunei Darussalam reserves the right to continue to exercise discretion to accord investors of another Party or their investments less favourable treatment than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, except that:

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1 For greater certainty, the expression “making of or entry into petroleum mining Agreements for the exploration, exploitation, development, and production rights of petroleum in the territory of Brunei Darussalam, and collateral agreements” includes: (a) the negotiation, determination and amendment of any terms and conditions in petroleum mining Agreements for the exploration, exploitation, development, and production rights of petroleum, and collateral agreements, or the renewal or extension of the term of such agreements; and (b) any decision by Brunei Darussalam to conduct a bid or tender or other process in relation to any proposed petroleum mining Agreement, for the exploration, exploitation, development, and production rights of petroleum in the territory of Brunei Darussalam, and collateral agreements, and, if any such bid or tender or other process is conducted, the terms and conditions on which any such bid or tender or other process is conducted.

2 For greater certainty, the expression “collateral agreements” shall include shareholders’ participation agreements and agreements providing fiscal incentives with respect to petroleum mining Agreements.

3 For greater certainty, the discretion under this paragraph may be exercised pursuant to any measure that Brunei Darussalam may adopt or maintain.
(a) Brunei Darussalam shall not adopt any statute, regulation or other similar measure that mandates according investors of another Party or their investments treatment less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments.

(b) Brunei Darussalam shall accord investors of another Party or their investments treatment no less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, under any bilateral or multilateral international agreement that enters into force or is signed after the date of entry into force of this Agreement.

3. The terms “petroleum mining Agreement”, “collateral agreement” and “petroleum” used herein shall have the meanings ascribed to them under the Act.

Existing Measures:

Petroleum Mining Act (Chapter 44, Rev. Ed. 2002) (as amended from time to time) (the “Act”)
Brunei National Petroleum Company Sendirian Berhad Order, 2002 (as amended from time to time)
Petroleum (Pipe-Lines) Act (Chapter 45, Rev. Ed. 1984) (as amended from time to time)
Administrative Measures and Guidelines

4 For greater certainty, the expression “other similar measure(s)” used in paragraphs 1 and 2(a) of this reservation excludes any decisions or guidance by any member of the Cabinet with respect to the making of or entry into, or amendment of, an individual petroleum mining Agreement or collateral agreements. For greater certainty, any such decision or guidance, shall not be subject to the dispute settlement provisions of this Agreement with respect to the Obligation Concerned.
9.
Sector: Coal

Obligations Concerned:
1. National Treatment (Article 9.4 and Article 10.3)
2. Most-Favoured Nation Treatment (Article 9.5)
3. Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

1. Subject to paragraph 2, Brunei Darussalam reserves the right to adopt or maintain any measure relating to the exploration, exploitation, development, and production of coal reserves in Brunei Darussalam.

2. In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, this reservation will not apply in relation to the Senior Management and Board of Directors obligation. However, in respect of the remaining Obligations Concerned, Brunei Darussalam reserves the right to adopt and maintain any measure:

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1 In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, Article 9.4 applies only with respect to sub-paragraph 2(a)(ii) and sub-paragraph 2(b) of this entry, and Article 10.3 applies only with respect to sub-paragraph 2(b)(ii) of this entry.

2 In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, Article 9.5 applies only with respect to sub-paragraph 2(a)(i) of this entry.

3 In the event that Brunei Darussalam determines that it is in its national interest to permit exploration, exploitation, development, and production of coal reserves by foreign nationals and enterprises, Article 9.9 applies only with respect to sub-paragraph 2(b)(i) of this entry.
(a) relating to the making of or entry into of contracts for the exploration, exploitation, development, and production rights of coal in the territory of Brunei Darussalam. In this regard, Brunei Darussalam may:

(i) exercise discretion to accord investors of another Party, or their investments, less favourable treatment than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, except that: Brunei Darussalam shall not adopt any statute or regulation that mandates according investors of another Party, or their investments, treatment less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, and; Brunei Darussalam shall accord investors of another Party, or their investments, treatment no less favourable than that it accords, in like circumstances, to investors of any other Party, or of any non-Party, or their investments, under any bilateral or multilateral international agreement that enters into force or is signed after the date of entry into force of this Agreement; and

(ii) require an investor of another Party, or its investment, engaged in the exploration, exploitation, development, and

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4 For greater certainty, the expression “making of or entry into of contracts for the exploration, exploitation, development, and production rights of coal in the territory of Brunei Darussalam” includes: (a) the negotiation, determination and amendment of any terms and conditions in contracts for the exploration, exploitation, development, and production rights of coal, or the renewal or extension of the term of such contracts; and (b) any decision by Brunei Darussalam to conduct a bid or tender or other process in relation to any proposed contracts for the exploration, exploitation, development, and production rights of coal in the territory of Brunei Darussalam, and, if any such bid or tender or other process is conducted, the terms and conditions on which any such bid or tender or other process is conducted.

5 For greater certainty, the discretion under this paragraph may be exercised pursuant to any measure that Brunei Darussalam may adopt or maintain.
production of coal reserves to form a joint venture or a similar arrangement with a Bruneian enterprise. However, such an investor of another Party, or its investment, shall, upon request, be permitted to hold the majority share in the joint venture or similar arrangement.  

Brunei Darussalam may require as a contractual term that, during the exploration or development period, all relevant costs with respect to the maximum participating interest of the Bruneian enterprise be borne by the partner that is an investor of another Party. Consequently, on the expiration of the carry interest period, the Bruneian enterprise will bear the costs of future operations in proportion to its participating interests in the contract; and may require as a contractual term that a Bruneian enterprise may acquire a participating interest, or increase its participating interest, in the joint venture or similar arrangement upon the occurrence of a stipulated event; and

(b) requiring foreign enterprises acting as operators in the exploration, exploitation, development, and production of coal to:

(i) provide a portion of coal and/or its derivatives in Brunei Darussalam for domestic use ("domestic supply obligations") as outlined in a contract, provided that such measure is not more restrictive than the requirements stipulated in Annex I – 27; and

6 For greater certainty, this does not preclude a Bruneian enterprise from holding a majority share in a joint venture or other similar arrangement as a result of commercial negotiations between such an investor of another Party, or its investment, and that Bruneian enterprise.
(ii) unless as may otherwise be authorised by Brunei Darussalam, purchase the services listed in Appendix I – A to Annex I – 28 either from Bruneian nationals or enterprises, or foreign nationals or enterprises under a contract, provided that they engage Bruneian nationals or enterprises to provide other services.

3. Any non-conforming measure adopted or maintained after the signature of this Agreement in relation to sub-paragraph 2(a)(ii) and sub-paragraph 2(b) above shall be deemed to be an existing non-conforming measure and subject to paragraphs 1, 5, 6 and 7 of Article 9.11 (Non-Conforming Measures) of the Agreement.
10. Sector: Private Health Services
   - Pharmacists, nurses, midwives and allied health services
   - Private laboratory services
   - Private radiology services

Obligations Concerned:
   National Treatment (Article 9.4 and Article 10.3)
   Performance Requirements (Article 9.9)
   Senior Management and Board of Directors (Article 9.10)
   Market Access (Article 10.5)
   Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the private practice of pharmacists, nurses, midwives and allied health services.

2. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment of private laboratory services and private radiology services.
11.

**Sector:** Private Health Services

– Private Health Centres/Clinics

**Obligations Concerned:** Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)

**Description:** Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment of private health centres/clinics, including but not limited to:

1. requiring that such private health centres/clinics be established in the form of a joint venture with a Bruneian national;

2. limiting the number of private health centres/clinics that can be established in Brunei Darussalam;

3. requiring such private health centre/clinic to carry out research and development within the territory of Brunei Darussalam, or transfer of technology; or

4. requiring a majority of the senior managers in the private health centres/clinics to be of Bruneian nationality.
12.

**Sector:** Broadcasting Services

**Obligations Concerned:**
- National Treatment (Article 9.4)
- Performance Requirements (Article 9.9)
- Senior Management and Board of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

**Description:** Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to any licensable free-to-air or subscription broadcasting services offered on a scheduled programming basis. These measures include, but are not limited to ownership, control and funding of an enterprise providing the aforementioned services.
13.

Sector: Business Services
– Professional Services
– Legal Services

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of legal services in Brunei Darussalam, in relation to the laws of Brunei Darussalam.

2. This reservation does not apply to the supply of legal services in Brunei Darussalam in relation to international law or home country law, which is set out in Annex I.
14. 
**Sector:** Printing, publishing and reproduction of newspapers including matters relating to the collection and publication of news and the distribution of newspapers

**Obligations Concerned:** National Treatment (Article 9.4)  
Performance Requirements (Article 9.9)

**Description:** Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the printing, publishing, and reproduction of newspapers including matters relating to the collection and publication of news and the distribution of newspapers.
15. Sector: Transport Services
   - Air Transport Services

Obligations Concerned: National Treatment (Article 9.4)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Description: Investment

Brunei Darussalam reserves the right to adopt or maintain any measure related to air transport services including, but not limited to:

1. the ownership, operation and management of airports and heliports in Brunei Darussalam;

2. the supply of ground handling operations; and

3. specialty air services, except in relation to flight training as provided for in Annex I.
16.
**Sector:** Private Educational Services

**Obligations Concerned:**
- National Treatment (Article 9.4 and Article 10.3)
- Senior Management and Board of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

**Description:** Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of private pre-primary, primary and secondary education services, other than private educational services supplied by international schools for Brunei Darussalam citizens, including the following:

1. equity shareholding by foreign nationals or companies in the ownership of schools and higher learning institutions;

2. the total number of schools and higher learning institutions that may be established in Brunei Darussalam;

3. the total number of employees, including teachers; or

4. the nationality of senior management or board of directors.
17.

**Sector:** Electricity Services

**Obligations Concerned:**
- Performance Requirements (Article 9.9)
- Market Access (Article 10.5)

**Description:** Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the generation, supply, transmission and distribution of electrical energy.
18. 
Sector: Transport Services 
– Land Transport Services 

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3) 
Market Access (Article 10.5) 
Local Presence (Article 10.6) 

Description: Cross-Border Trade in Services and Investment 

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of land transport services including but not limited to passenger transportation, freight transportation, and commercial vehicle with operator, pushing and towing services, maintenance and repair of road transport equipment and supporting services for road transport services.
19.  
**Sector:** Trade Services  
- Supply of potable water for human consumption

**Obligations Concerned:** National Treatment (Article 9.4 and Article 10.3)  
Performance Requirements (Article 9.9)  
Market Access (Article 10.5)

**Description:** Cross-Border Trade in Services and Investment

1. Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of potable water, including, but not limited to:
   
   (a) the supply of water as a public utility;
   
   (b) the extraction of ground water; and
   
   (c) the export of water.

2. For greater certainty, this reservation is only limited to the supply of potable water that may be used or required for any purposes or activity, and does not include additional restrictions on any activities utilising such supply of potable water including the manufacturing of bottled water which is an activity addressed in Annex I.
20.

**Sector:** Business Services

- Valuers (Appraisers) and Estate Agents

**Obligations Concerned:** National Treatment (Article 9.4 and Article 10.3)

Market Access (Article 10.5)

Local Presence (Article 10.6)

**Description:** Cross-Border Trade in Services and Investment

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of valuers (appraisers) and estate agent services.
21.

**Sector:** Business Services
- Taxation

**Obligations Concerned:**
- National Treatment (Article 9.4 and Article 10.3)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

**Description:** Cross-Border Trade in Services and Investment

Brunei reserves the right to adopt or maintain any measure relating to the representation of taxpayers (either by individuals or enterprises) in their tax matters; including, but not limited to, preparing and furnishing of income tax returns, filing responses to notices issued by tax authority and filing notices of objection and handling payment in relation to tax.
22. Sector: Trade Services
   - Wholesale trade services and retail trade services of tobacco

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

Brunei Darussalam reserves the right to adopt or maintain any measure relating to the supply of wholesale and retail trade services of tobacco products.
Annex II
Schedule of Canada

Introductory Note

In the interpretation of a reservation, all elements of the reservation shall be considered. The Description element shall prevail over all other elements.
1

Sector: Aboriginal Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5)
Most-Favoured-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure denying investors of and their investments, or service providers of a Party, any rights or preferences provided to aboriginal peoples.

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Canada reserves the right to adopt or maintain a measure relating to residency requirements for the ownership by investors of a Party, or their investments, of oceanfront land.
3

Sector: Fisheries

Sub-Sector: Fishing and services incidental to fishing

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5)
Most-Favoured-Nation Treatment (Article 10.4)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure with respect to licensing fishing or fishing related activities including entry of foreign fishing vessels to Canada’s exclusive economic zone, territorial sea, internal waters or ports and use of services therein.

Existing Measures: Coastal Fisheries Protection Act, R.S.C. 1985, c. C-33
Fisheries Act, R.S.C. 1985, c. F-14
Coastal Fisheries Protection Regulations, C.R.C. 1978, c. 413
Commercial Fisheries Licensing Policy
Policy on Foreign Investment in the Canadian Fisheries Sector, 1985
Sector: Government Finance
Sub-Sector: Securities
Obligations Concerned: National Treatment (Article 9.4)
Description: Investment

Canada reserves the right to adopt or maintain a measure relating to the acquisition, sale or other disposition by nationals of a Party of bonds, treasury bills or other kinds of debt securities issued by the Government of Canada or a Canadian sub-national government.

Sector: Minority Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.4)  
National Treatment (Article 10.3)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure conferring rights or privileges to a socially or economically disadvantaged minority.
Sector: Social Services

Sub-Sector: 

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5)
Most-Favoured-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure for providing public law enforcement and correctional services, as well as the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.
Sector: Transportation
Sub-Sector: Air Transportation
Obligations Concerned: Most-Favoured-Nation Treatment (Article 10.4)
Description: Cross-Border Trade in Services

Canada reserves the right to selectively negotiate agreements or arrangements with other States, organizations of States, aeronautical authorities or service providers to recognize their accreditation of repair, overhaul and maintenance facilities and certification by such facilities of work performed on Canadian-registered aircraft and other related aeronautical products.
8

**Sector:** Transportation

**Sub-Sector:** Air Transportation

**Obligations Concerned:**
- Most-Favoured-Nation Treatment (Article 10.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Local Presence (Article 10.6)
- National Treatment (Article 10.3)
- National Treatment (Article 9.4)

**Description:** Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure relating to the selling and marketing of air transportation services.
Sector: Transportation  
Sub-Sector: Water Transportation  
Obligations Concerned: National Treatment (Article 9.4)  
National Treatment (Article 10.3)  
Most-Favoured-Nation Treatment (Article 9.5)  
Most-Favoured-Nation Treatment (Article 10.4)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Boards of Directors (Article 9.10)  
Description: Cross-Border Trade in Services and Investment  

1. Canada reserves the right to adopt or maintain any measure relating to the investment in or provision of marine cabotage services, including:

   (a) the transportation of either goods or passengers by ship between points in the territory of Canada or above the continental shelf of Canada, either directly or by way of a place outside Canada. With respect to waters above the continental shelf of Canada, the transportation of either goods or passengers only in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada; and

   (b) the engaging by ship in any other marine activity of a commercial nature in the territory of Canada and, with respect to waters above the continental shelf, in such other marine activities of a commercial nature that are in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf.

2. This reservation relates to, among other things, local presence requirements for service providers entitled to participate in these activities, criteria for the issuance of a temporary cabotage license to foreign ships and limits on the number of cabotage licenses issued to foreign ships.

3. For greater certainty, this reservation applies, inter alia, to feeder services.
Existing Measures:  

Coasting Trade Act, S.C. 1992, c. 31  
Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)  
Customs and Excise Offshore Application Act, R.S.C. 1985, c. C-53
### Sector:
Transportation

### Sub-Sector:
Water Transportation

### Obligations Concerned:
Most-Favoured-Nation Treatment (Article 10.4)

### Description:
**Cross-Border Trade in Services**

Canada reserves the right to adopt or maintain any measure relating to the implementation of agreements, arrangements and other formal or informal undertakings with other countries with respect to maritime activities in waters of mutual interest in such areas as pollution control (including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality, pilotage, salvage, drug abuse control and maritime communications.
11

Sector: All Sectors

Sub-Sector:

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5)
Most-Favoured-Nation Treatment (Article 10.4)

Description: Cross-Border Trade in Services and Investment

1. Canada reserves the right to adopt or maintain a measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

2. Canada reserves the right to adopt or maintain a measure that accords differential treatment to countries under any bilateral or multilateral agreement in force or signed after the date of entry into force of this Agreement involving:

   (a) aviation;

   (b) fisheries; or

   (c) maritime matters, including salvage.
Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5)
Most-Favoured-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

1. Canada reserves the right to adopt or maintain any measure denying service providers or investors of the United States, or their investments, the benefits accorded to service providers or investors of any other country, or their investments, in sectors or activities equivalent to those subject to Schedule of the United States, Annex II, pages II-US-5 and II-US-6.

2. Canada reserves the right to adopt or maintain any measure relating to maritime transport, including maritime auxiliary services and access to and use of port services, in respect of any other TPP Party only when Canadian maritime interests have been prejudiced by that Party.

3. Paragraph 2 does not apply to the following TPP Parties: Australia, Brunei, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Viet Nam.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Water Transportation

Sub-Sector: Technical Testing and Analysis Services

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure relating to the recognition of a person, classification society or organization authorized to carry out statutory inspections and certification of ships on behalf of Canada. For greater certainty, only a person, classification society or other organization authorized by Canada, and having a local presence in Canada, may carry out statutory inspections and issue Canadian Maritime Documents to Canadian registered ships and their equipment on behalf of Canada.
Sector: Cultural Industries

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5)
Most-Favoured-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure that affects cultural industries and that has the objective of supporting, directly or indirectly, the creation, development or accessibility of Canadian artistic expression or content, except:

a) discriminatory requirements on services suppliers or investors to make financial contributions for Canadian content development; and

b) measures restricting the access to on-line foreign audio-visual content.

For the purpose of this reservation, “cultural industries” means persons engaged in any of the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video music recordings;

(d) the publication, distribution or sale of music in print or machine readable form; or
(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services.
15

Sector: All Sectors

Sub-Sector: 

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

Canada reserves the right to adopt or maintain any measure that is not inconsistent with:

1) Canada’s obligations under Article XVI of the General Agreement on Trade in Services (GATS); and

2) Canada’s 2005 proposed Schedule of Specific Commitments under the GATS (GATS/SC/16, GATS/SC/16/Suppl.1, GATS/SC/16/Suppl.1/Rev.1, GATS/SC/16/Suppl.2, GATS/SC/16/Suppl.2/Rev.1, GATS/SC/16/Suppl.3, GATS/SC/16/Suppl.4, and GATS/SC/16/Suppl.4/Rev.1).

For greater certainty, this reservation applies to measures adopted or maintained that affect the supply of a service by a covered investment pursuant to Article 10.5 (Market Access). For purposes of this entry only, Canada’s Schedule of Specific Commitments is modified as indicated in Appendix II.

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1 For greater certainty, this includes obligations resulting from future amendments to Canada’s Schedule to Article XVI of the General Agreement on Trade in Services.
16
Sector: All Sectors
Sub-Sector: 
Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)
Description: Investment

1. Canada or a province or territory, when selling or disposing of its equity interests in, or the assets of, an existing government enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets and on the ability of owners of such interests or assets to control a resulting enterprise by investors of a Party or of a non-Party or their investments. With respect to such a sale or other disposition, Canada or a province or territory may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

2. For purposes of this reservation:

(a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets or imposes a nationality requirement described in this reservation is an existing measure subject to paragraphs 1, 4, 5 and 6 of Article 9.9 (Non-conforming Measures) and paragraph 1 of Article 10.7 (Non-conforming Measures); and

(b) government enterprise means an enterprise owned or controlled through ownership interests by Canada or a province or territory, and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing State enterprise or governmental entity.\(^2\)

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\(^2\) For transparency purposes, entities that fall within the scope of this reservation include, among others, Crown corporations at the central level of government listed under Schedule III of the Financial Administration Act (R.S.C. 1985, c. F-11).
Sector: Air Services

Sub-Sector: Ground handling

Obligations Concerned:
- National Treatment (Article 9.4)
- National Treatment (Article 10.3)
- Most-Favoured-Nation Treatment (Article 9.5)
- Most-Favoured-Nation Treatment (Article 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Cross-Border Trade in Services: Canada reserves the right to adopt or maintain any measure relating to the provision of ground handling services, as defined in Article 10.1 (Definitions), for the purpose of the Cross-Border Trade in Services chapter.

Investment: Canada reserves the right to adopt or maintain any measure relating to ground handling by airlines (including self-handling or third-party handling) or by investors of another Party.

For greater certainty, this reservation does not affect Canada’s rights and obligations under any bilateral air transportation agreement between Canada and any of the other TPP Parties.
Sector: Transportation

Sub-Sector: Air Services

Obligations Concerned: National Treatment (Article 9.4)
National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5)
Most-Favoured-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Cross-Border Trade in Services: Canada reserves the right to adopt or maintain any measure relating to the provision of airport operation services, as defined in Article 10.1 (Definitions), for the purpose of the Cross-Border Trade in Services chapter.

Investment: Canada reserves the right to adopt or maintain any measure with respect to investment in or operation of airports.
For the following Sectors, Canada's obligations under Article XVI of the General Agreement on Trade in Services (GATS) are improved as described.

<table>
<thead>
<tr>
<th>Sector/Sub-sector</th>
<th>Market Access Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounting, Auditing, and Book-keeping services</td>
<td>Under Mode 1 remove:</td>
</tr>
<tr>
<td></td>
<td><strong>Auditing</strong></td>
</tr>
<tr>
<td></td>
<td>- Commercial presence requirement: Nova Scotia.</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Manitoba and Quebec.</td>
</tr>
<tr>
<td></td>
<td>- Permanent residence requirement for accreditation: Ontario.</td>
</tr>
<tr>
<td></td>
<td>Under Mode 2 remove:</td>
</tr>
<tr>
<td></td>
<td><strong>Auditing</strong></td>
</tr>
<tr>
<td></td>
<td>- Commercial presence requirement: Nova Scotia.</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Manitoba and Quebec.</td>
</tr>
<tr>
<td></td>
<td>- Permanent residence requirement for accreditation: Ontario.</td>
</tr>
<tr>
<td>Architectural services</td>
<td>Under Mode 1 remove:</td>
</tr>
<tr>
<td></td>
<td><strong>Architects</strong></td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Quebec.</td>
</tr>
<tr>
<td>Engineering services</td>
<td>Under Mode 1 remove:</td>
</tr>
<tr>
<td></td>
<td><strong>Consulting Engineers</strong></td>
</tr>
<tr>
<td></td>
<td>- Commercial presence requirement for accreditation: Manitoba.</td>
</tr>
<tr>
<td>Integrated engineering services</td>
<td>Under Mode 1 remove:</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td></td>
<td>Consulting Engineers</td>
</tr>
<tr>
<td></td>
<td>- Commercial presence requirement for accreditation: Manitoba.</td>
</tr>
<tr>
<td></td>
<td>Engineers</td>
</tr>
<tr>
<td></td>
<td>- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Quebec.</td>
</tr>
<tr>
<td></td>
<td>Under Mode 2 remove:</td>
</tr>
<tr>
<td></td>
<td>Consulting Engineers</td>
</tr>
<tr>
<td></td>
<td>- Commercial presence requirement for accreditation: Manitoba.</td>
</tr>
<tr>
<td></td>
<td>Engineers</td>
</tr>
<tr>
<td></td>
<td>- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Quebec.</td>
</tr>
<tr>
<td>Service Type</td>
<td>Mode 1</td>
</tr>
<tr>
<td>--------------</td>
<td>-------</td>
</tr>
</tbody>
</table>
| Engineers    | - Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.  
               - Citizenship requirement for accreditation: Quebec. | |
| Urban planning and landscape architectural services | Under Mode 1 remove: | |
| Real estate services | Under Mode 1 remove: | |
| Management consulting services | Under Mode 1 remove: | |

**Urban planning and landscape architectural services**

- Under Mode 1 remove:
  - Community/Urban Planning
    - Citizenship requirement for use of title: Quebec.

**Real estate services**

- Under Mode 1 remove:
  - Chartered Appraisers
    - Citizenship requirement for use of title: Quebec.

**Management consulting services**

- Under Mode 1 remove:
  - Agrologists
    - Citizenship requirement for accreditation: Quebec.
  - Professional Administrators and Certified Management Consultants
    - Citizenship requirement for use of title: Quebec Professional Corporation of Administrators.
  - Industrial Relations Counsellors
    - Citizenship requirement for use of title: Quebec.

- Under Mode 2 remove:
  - Agrologists
    - Citizenship requirement for accreditation: Quebec.
<table>
<thead>
<tr>
<th>Investigation and security services</th>
<th>Under Mode 3 remove:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Business and Personnel Information Investigations</td>
</tr>
<tr>
<td></td>
<td>- Foreign ownership restriction to 25 per cent in total and 10 per cent by any individual holding shares: Ontario.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Related scientific and technical consulting services</th>
<th>Under Mode 1 remove:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Land Surveyors</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Nova Scotia and Quebec.</td>
</tr>
<tr>
<td></td>
<td>Subsurface Surveying Services</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Quebec.</td>
</tr>
<tr>
<td></td>
<td>Professional Technologist</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Quebec.</td>
</tr>
<tr>
<td></td>
<td>Chemists</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Quebec.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Under Mode 2 remove:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Land Surveyors</td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for accreditation: Nova Scotia and Quebec.</td>
</tr>
<tr>
<td>Other business services</td>
<td>Under Mode 1 remove:</td>
</tr>
<tr>
<td>------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td></td>
<td><strong>Certified Translators and Interpreters</strong></td>
</tr>
<tr>
<td></td>
<td>- Citizenship requirement for use of title: Quebec.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Under Mode 2 remove:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Certified Translators and Interpreters</strong></td>
</tr>
<tr>
<td>- Citizenship requirement for use of title: Quebec.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Under Mode 3 remove:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Collection Agencies</strong></td>
</tr>
<tr>
<td>- Foreign Ownership restriction to 25 per cent in total and 10 per cent by any individual: Ontario.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Courier services</th>
<th>Under Mode 3 remove:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- Economic needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.): Nova Scotia and Manitoba.</td>
</tr>
<tr>
<td>Service Type</td>
<td>Mode 3 Action</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>General construction work for civil engineering</td>
<td>Under Mode 3 remove:</td>
</tr>
<tr>
<td></td>
<td>Construction</td>
</tr>
<tr>
<td></td>
<td>- An applicant and holder of a water power site development permit must be incorporated in Ontario.</td>
</tr>
<tr>
<td>Wholesale trade services</td>
<td>Under Mode 1, remove:</td>
</tr>
<tr>
<td></td>
<td>Marketing of Fish Products (Nova Scotia): Nova Scotia residents require ministerial approval to enter into agreements with non-residents.</td>
</tr>
<tr>
<td>Railway passenger and freight transport</td>
<td>Under Mode 1, remove:</td>
</tr>
<tr>
<td></td>
<td>- cabotage limitation</td>
</tr>
<tr>
<td>Road Passenger Transportation</td>
<td>Under Mode 3 remove:</td>
</tr>
<tr>
<td></td>
<td>Interurban bus transport and scheduled services:</td>
</tr>
<tr>
<td></td>
<td>- Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.): Prince Edward Island.</td>
</tr>
<tr>
<td>Road Freight transportation</td>
<td>Under Mode 3 remove:</td>
</tr>
<tr>
<td></td>
<td>Highway freight transportation</td>
</tr>
<tr>
<td></td>
<td>- Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the</td>
</tr>
<tr>
<td>Requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.</td>
<td>British Columbia, Manitoba, Ontario, Prince Edward Island, Nova Scotia.</td>
</tr>
<tr>
<td>---</td>
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</tr>
<tr>
<td>Under Mode 3 remove: Nova Scotia: no person may vote more than 1,000 shares of Maritime Telegraph and Telephone Ltd.</td>
<td>Telecommunications</td>
</tr>
</tbody>
</table>
ANNEX II
SCHEDULE OF CHILE

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)

Description: Investment

Chile reserves the right to adopt or maintain any measure relating to the ownership or control of land within five kilometres of the coastline that is used for agricultural activities. Such measure could include a requirement that the majority of each class of stock of a Chilean juridical person that seeks to own or control such land be held by Chilean persons or by persons residing in Chile for 183 days or more per year.

Existing Measures:
Decree Law 1939, Official Gazette, November 10, 1977, Rules for acquisition, administration and disposal of State owned assets, Title I (Decreto Ley 1939, Diario Oficial, noviembre 10, 1977, Normas sobre adquisición, administración y disposición de bienes del Estado, Título I)
In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset and on the right of foreign investors or their investments to control any State company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and members of the board of directors.

A “State company”¹ shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the entry into force of this Agreement for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise or governmental entity.

¹ A list of existing state enterprises in Chile can be found on the following website: http://www.dipres.gob.cl
Sector: All Sectors

Sub-Sector:

Obligations Concerned: Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)

Description: Cross-Border Trade in Services and Investment

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force on, or signed prior to, the date of entry into force of this Agreement.

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries;

(c) maritime matters, including salvage; or
Sector: Communications

Sub-Sector: One Way Satellite Broadcasting of Digital Telecommunication Services, whether these involve Direct Home Television Broadcasting, Direct Broadcasting of Television Services and Direct Audio Broadcasting; Supplementary Telecommunication Services; and Limited Telecommunication Services

Obligations Concerned: National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Articles 10.4) Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure related to cross-border trade in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services; and limited telecommunication services.

Sector: Communications

Sub-Sector: One Way Satellite Broadcasting of Digital Telecommunication Services, whether these involve Direct Home Television Broadcasting, Direct Broadcasting of Television Services and Direct Audio Broadcasting; Supplementary Telecommunication Services, and Limited Telecommunication Services

Obligations Concerned: National Treatment (Article 9.4) 
Most-Favoured-Nation Treatment (Article 9.5) 
Performance Requirements (Article 9.9) 
Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Chile reserves the right to adopt or maintain any measure related to the investors of TPP members or to their investments in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services and limited telecommunication services.

Existing Measures: Law 18.168, Official Gazette, 
Sector: Issues Involving Minorities

Sub-Sector:

Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Performance Requirements (Article 9.7)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Chile reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.

Existing Measures:
Sector: Issues Involving Indigenous Peoples

Sub-Sector:

Obligations Concerned:
- National Treatment (Articles 10.3 and 9.4)
- Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Chile reserves the right to adopt or maintain any measure according rights or preferences to indigenous peoples.

Existing Measures:
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Education

Sub-Sector: National Treatment (Article 10.3 and 9.4)
Most-Favoured-Nation Treatment (Article 10.4 and 9.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Chile reserves the right to adopt or maintain any measure relating to:

(a) investors and an investment of an investor of a Party in education, and

(b) natural persons who supply educational services in Chile.

Subparagraph (b) includes teachers and auxiliary personnel supplying educational services in pre-school, kindergarten, special education, elementary, secondary or higher education, professional, technical or university education, and all other persons that supply services related to education, including sponsors of educational institutions of any kind, schools, lyceums, academies, training centres, professional and technical institutes and/or universities.

This reservation does not apply to investors and an investment of an investor of a Party in kindergarten, pre-school, elementary or secondary private education institutions, that do not receive public resources, or to the supply of services related to second-language training, corporate, business, and industrial training and skill upgrading, which include consulting services relating to technical support, advice, curriculum, and program development in education.

Existing Measures:

CL-II-8
Sector: Government Finances

Sub-Sector: 

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Chile reserves the right to adopt or maintain any measure related to the acquisition, sale or disposal by TPP members nationals of bonds, treasury securities or any other type of debt instruments issued by the Central Bank of Chile (Banco Central de Chile) or the Government of Chile. This reservation is not intended to affect the rights of TPP members financial institutions (banks) established in Chile to acquire, sell or dispose of such instruments when required for the purposes of regulatory capital.

Existing Measures:
Sector: Fisheries

Sub-Sector: Fishing-Related Activities

Obligations Concerned:
- National Treatment (Articles 10.3 and 9.4)
- Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)

Description: Cross-Border Trade in Services and Investment

Chile reserves the right to control the activities of foreign fishing, including fish landing, first landing of fish processed at sea and access to Chilean ports (port privileges).

Chile reserves the right to control the use of beaches, land adjacent to beaches (terrenos de playas), water-columns (porciones de agua) and sea-bed lots (fondos marinos) for the issuance of maritime concessions. For greater certainty, “maritime concessions” do not cover aquaculture.

Existing Measures:
Sector: Arts and Cultural Industries
Sub-Sector: 
Obligations Concerned: Most-Favoured-Nation Treatment (Article 10.4 and 9.5)

Description: Cross-Border Trade in Services and Investment.

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any existing or future bilateral or multilateral international agreement, with respect to arts and cultural industries, such as audiovisual cooperation agreements.

For greater certainty, government supported subsidy programs for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

For the purposes of this reservation, “arts and cultural industries” includes:

(a) books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;

(b) recordings of movies or videos;

(c) music recordings in audio or video format;

(d) printed music scores or scores readable by machines;

(e) visual arts, artistic photography and new media;

(f) performing arts, including theatre, dance and circus arts; and

(g) media services or multimedia.
Sector: Entertainment, Audiovisual and Broadcasting Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Performance Requirements (Article 9.9)

Description: Cross-Border Trade in Services and Investment

Chile reserves the right to adopt or maintain any measure relating to:

(a) the organization and presentation in Chile of concerts and musical performances;

(b) the distribution or display of movies or videos; and

(c) radiobroadcasts aimed at the public in general, as well as all radio, television and cable television-related activities, satellite programming services and broadcasting networks.

Notwithstanding the above, Chile shall extend to the persons and investors of another Party, and their investments, treatment no less favourable than that Party accords persons and investors of Chile, and their investments.

Existing Measures:
Sector: Social Services

Sub-Sector:

Obligations Concerned: National Treatment (Articles 10.3 and 9.4)
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment
Chile reserves the right to adopt or maintain any measure with respect to the supply of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and child care.

Existing Measures:
Sector: Environmental Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)
                        Most-Favoured-Nation Treatment (Article 10.4)
                        Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure imposing the requirement that the production and distribution of drinking water, the collection and disposal of waste water and sanitation services, such as sewage systems, waste disposal and waste water treatment may only be provided by juridical persons incorporated under Chilean law or created in accordance with the requirements established by Chilean law.

This reservation measure shall not apply to consultancy services retained by the said juridical persons.

Existing Measures:
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Construction Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to the supply of construction services by foreign juridical persons or legal entities.

These measures may include requirements such as residency, registration and/or any other form of local presence, or the obligation of giving financial security for work as a condition for the supply of construction services.

Existing Measures:
Sector: Transportation

Sub-Sector: International Road Transportation

Obligations Concerned: National Treatment (Article 10.3 and 9.4)  
Most-Favoured-Nation Treatment (Articles 10.4 and 9.5)  
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Chile reserves the right to adopt or maintain any measure relating to the international land transportation of cargo or passengers in border areas.

Additionally, Chile reserves the right to adopt or maintain the following limitations for the supply of international land transportation from Chile:

(a) the service supplier must be a Chilean natural or juridical person;

(b) the service supplier must have a real an effective domicile in Chile; and

(c) in the case of juridical persons, the service supplier must be legally constituted in Chile and more than 50 percent of its capital stock must be owned by Chilean nationals and its effective control must be by Chilean nationals.

Existing Measures:
Sector: Transportation Services
Sub-Sector: Road Transportation Services
Obligations Concerned: National Treatment (Article 10.3)
Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that authorizes only Chilean natural or juridical persons to supply land transportation of persons or merchandise inside the territory of Chile (“cabotage”). For this, the enterprises shall use vehicles registered in Chile.

Existing Measures:
Sector: All Sectors

Obligations Concerned: Market Access (Article 10.5)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to Article JJ.5 (Market Access), except for the following sectors and sub-sectors subject to the limitations and conditions listed below:²

**Legal services:**
(1) and (3) None, except in the case of receivers in bankruptcy (síndicos de quiebra) who must be duly authorised by the Minister of Justice (Ministerio de Justicia), and they can only work in the place where they reside.
(2) None
(4) No commitments, except as indicated in Labour Code restriction.

**Accounting, auditing, and bookkeeping services:**
For (1) and (3): None, except the external auditors of financial institutions must be inscribed in the Register of External Auditors of the Superintendence of Banks and Financial Institutions (Superintendencia de Bancos e Instituciones Financieras) and in the Superintendence of Securities and Insurance (Superintendencia de Valores y Seguros). Only firms legally incorporated in Chile as partnerships (sociedades de personas) or associations (asociaciones), and whose main line of business is auditing services, may be inscribed in the Register. For (2): None. For (4): No commitments, except as indicated in Labor Code restriction;

**Taxation Services:**
(1), (2), and (3): None.
(4): No commitments, except as indicated in Labor Code restriction;

**Architectural services:**
(1), (2) and (3) None
(4) No commitments, except as indicated in Labour Code restriction.

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² For greater certainty, nothing in this entry shall be construed to prevent the adoption or maintenance of any measure regarding the supply of a financial service by a covered investment that is not a covered investment in a financial institution.
Engineering services:
(1), (2) and (3) None
(4) No commitments, except as indicated in Labour Code restriction.

Integrated engineering services:
(1), (2) and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Urban planning and landscape architectural services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Veterinary services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Services provided by midwives, nurses, physiotherapists and paramedical personnel:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Computer and related services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Interdisciplinary Research and Development services, Research and Development services on natural sciences, and Related scientific and technical consulting services:
(1) and (3) None, except: Any exploration of a scientific or technical nature, or related to mountain climbing (andinismo), that legal or natural persons domiciled abroad intend to carry out in border areas need to be authorized and supervised by the Directorate of Borders and Frontiers (Dirección de Fronteras y Límites del Estado). The Directorate of Borders and Frontiers may stipulate that an expedition include one or more representatives of relevant Chilean activities. These representatives would participate in and learn about the studies and their scope.
(2) None
(4) No commitments, except as indicated in Labour Code restriction.
Research and Development services on social sciences and humanities:
(1), (2) and (3) None
(4) No commitments, except as indicated in Labour Code restriction.

Real Estate services: involving owned or leased property or on a fee or contract basis:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Advertising services, market research and public opinion polling services, management consulting services, services related to management consulting, technical testing and analysis services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Services related to agriculture, hunting and forestry:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Services related to mining, placement and supply services of personnel, investigation and security services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Maintenance and repair of equipment (not including vessels, aircraft, or other transport equipment), building-cleaning services, photographic services, packing services, and convention services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Printing and publishing services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.
restriction.

*Courier services:*
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

*International long-distance telecommunications services:*
(1), (2), (3), and (4): Chile reserves the right to adopt or maintain any measure that is not inconsistent with Chile’s obligations under Article XVI of the General Agreement on Trade in Services.

*Local basic telecommunication services and networks, intermediate telecommunications services, supplementary telecommunications services, and limited telecommunications services:*
For (1), (2), and (3): a concession granted by means of a Supreme Decree (*Decreto Supremo*) issued by the Ministry of Transport and Telecommunications (*Ministerio de Transportes y Telecomunicaciones*) shall be required for the installation, operation, and exploitation of public and intermediary telecommunications services in Chilean territory. Only juridical persons organized under the Chilean law shall be eligible for such concessions.

An official decision issued by the Undersecretariat of Telecommunications (*Subsecretaría de Telecomunicaciones*) shall be required to render Supplementary Telecommunications Services, consisting of additional services provided by hooking up equipment to public networks. Said decision refers to compliance with the technical standards established by the Undersecretariat of Telecommunications (*Subsecretaría de Telecomunicaciones*) and non-alteration of the essential technical features of networks or of the permissible technological or basic service modalities provided through them.

A permit issued by the Undersecretariat of Telecommunications (*Subsecretaría de Telecomunicaciones*) shall be required for the installation, operation, and development of limited telecommunications services.

International traffic shall be routed through the installations of a company holding a concession granted by the Ministry of Transport and Telecommunications (*Ministerio de Transporte y Telecomunicaciones*).

For (4): No commitments, except as indicated in Labour
Code restriction.

Commission agents services, wholesale trade services, retailing services, franchising and other distribution:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Environmental Services:
(1) and (3) None, solely for consultancy services.
(2) None.
(4) No commitments, except as indicated in Labour Code restriction.

Hotels and restaurants (including catering), travel agencies and tour operators services and tourist guide services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Sporting and other recreational services, excluding gambling and betting services:
(1) (2), and (3) None, except that a specific type of legal entity may be required for sporting organisations that develop professional activities. In addition, (a) it is not permitted to participate with more than one team in the same category of a sport competition; (b) specific regulations may be established on equity ownership in sporting companies; and (c) minimal capital requirements may be imposed.
(4) No commitments, except as indicated in Labour Code restriction.

Sports facility operation services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Road Transport: freight transportation, rental of commercial vehicles with operator; maintenance and repair of road transport equipment; supporting services for road transport services:
(1), (2), and (3) None.
(4) No commitments, except as indicated in Labour Code restriction.

Services auxiliary to all transport: cargo handling services, storage and warehouse services, freight transport agency services:
(1), (2), and (3) None.

CL-II-22
(4) No commitments, except as indicated in Labour Code restriction.

_Pipeline transport: transportation of fuels and other goods:_
(1), (2), and (3) None, except that the service has to be supplied by juridical persons established under Chilean law and the supply of the service may be subject to a concession on a national treatment basis. 
(4) No commitments, except as indicated in Labour Code restriction.

_Aircraft repair and maintenance services:_
(1) No commitments. 
(2) and (3) None. 
(4) No commitments, except as indicated in Labour Code restriction.

_Selling and marketing of air transport services, computer reservation systems (CRS) services, specialty air services:_
(1), (2) and (3) None. 
(4) No commitments, except as indicated in Labour Code restriction.

_Airport operation services; ground handling services:_
(1), (2) and (3) None. 
(4) No commitments, except as indicated in Labour Code restriction.

For the purposes of this reservation:

(1) refers to the supply of a service from the territory of one Party into the territory of another Party; 

(2) refers to the supply of a service in the territory of one Party to a person of another Party; 

(3) refers to the supply of a service in the territory of a Party by an investor of another Party or by a covered investment; and 

(4) refers to the supply of a service by a national of a Party in the territory of another Party.
Introductory Note for the ANNEX II of Japan

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

For the purposes of this Annex, the term “JSIC” means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised in October, 2013.
ANNEX II
Schedule of Japan

1 Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Senior Management and Boards of Directors (Article 9.10)

Description: Investment

1. When transferring or disposing of its equity interests in, or the assets of, a state enterprise or a governmental entity, Japan reserves the right to:

   (a) prohibit or impose limitations on the ownership of such interests or assets by investors of another party or their investments;

   (b) impose limitations on the ability of investors of another party or their investments as owners of such interests or assets to control any resulting enterprise; or

   (c) adopt or maintain any measure relating to the nationality of executives, managers or members of the board of directors of any resulting enterprise.

2. Notwithstanding paragraph 1, the central level of the Government of Japan will not adopt any prohibition, limitation or measure referred to in paragraph 1 by new laws or regulations following the initial transfer from the central level of government of Japan to an investor of the interests or assets referred to in paragraph 1. For greater certainty, the central level of government of Japan can maintain such
prohibition, limitation or measure that is adopted or maintained at the initial transfer.

Existing Measures:
2 Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Senior Management and Boards of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Japan reserves the right to adopt or maintain any measure relating to investments in or the supply of telegraph services, betting and gambling services, manufacture of tobacco products, manufacture of Bank of Japan notes, minting and sale of coinage, and postal services in Japan.¹ ²

Existing Measures:
- Telecommunications Business Law (Law No. 86 of 1984) Supplementary Provisions, Article 5
- Postal Law (Law No. 165 of 1947), Article 2
- Law Concerning Correspondence Delivery Provided by Private Operators

¹ At the time of entry into force of this Agreement, telegraph services, betting and gambling services, manufacture of tobacco products, manufacture of Bank of Japan notes, and minting and sale of coinage in Japan are restricted to designated enterprises or governmental entities.

² For the purposes of this reservation, “postal services” means delivery of other persons’ correspondence (tanin-no-shinsho-no-sotatsu) specified in paragraph 2 of Article 4 of Postal Law (Law No. 165 of 1947) and correspondence delivery service (shinshobin-no-ekimu) within the meaning of the Law Concerning Correspondence Delivery Provided by Private Operators (Law No. 99 of 2002), but does not include special correspondence delivery services (tokutei-shinshobin-ekimu) within the meaning of the latter Law. Services not included in this definition include delivery of parcels, packages, goods, direct mail, and periodicals.
Horse Racing Law (Law No. 158 of 1948), Article 1

Law relating to Motorboat Racing (Law No. 242 of 1951), Article 2

Bicycle Racing Law (Law No. 209 of 1948), Article 1

Auto Racing Law (Law No. 208 of 1950), Article 3

Lottery Law (Law No. 144 of 1948), Article 4

The Law relating to Unit of Currency and Issue of Coin (Law No. 42 of 1987), Article 10

Sports Promotion Lottery Law (Law No. 63 of 1998), Article 3
<table>
<thead>
<tr>
<th>Sector:</th>
<th>All Sectors (Unrecognized or Technically Unfeasible Services)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td></td>
</tr>
<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
<tr>
<td></td>
<td>Japan reserves the right to adopt or maintain any measure relating to services other than those recognised or other than those should have been recognised owing to the circumstances at the time of entry into force of this Agreement by the Government of Japan.</td>
</tr>
<tr>
<td></td>
<td>Any services classified positively and explicitly in JSIC or CPC, at the time of entry into force of this Agreement should have been recognised by the Government of Japan at that time.</td>
</tr>
<tr>
<td></td>
<td>Japan reserves the right to adopt or maintain any measure relating to the supply of services in any mode of supply in which those services were not technically feasible at the time of entry into force of this Agreement.</td>
</tr>
</tbody>
</table>

Existing Measures:
4 Sector: Aerospace Industry
Sub-Sector: Space Industry

Industry Classification:

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Japan reserves the right to adopt or maintain any measure relating to the investments in space industry.

Japan reserves the right to adopt or maintain any measure relating to the supply of services in space industry, including:

(a) services based on technological inducement contracts for importing technology for development, production or use;

(b) production services on fee or contract basis;

(c) repair and maintenance services; and

(d) space transportation services.

Existing Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30
<table>
<thead>
<tr>
<th>Obligations Concerned:</th>
<th>Description:</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Treatment (Articles 9.4 and 10.3)</td>
<td>Cross-Border Trade in Services and Investment</td>
</tr>
<tr>
<td>Performance Requirements (Article 9.9)</td>
<td>Japan reserves the right to adopt or maintain any measure relating to the investment in arms industry and explosives manufacturing industry.</td>
</tr>
<tr>
<td>Senior Management and Boards of Directors (Article 9.10)</td>
<td></td>
</tr>
<tr>
<td>Market Access (Article 10.5)</td>
<td></td>
</tr>
<tr>
<td>Local Presence (Article 10.6)</td>
<td></td>
</tr>
</tbody>
</table>

Existing Measures:

- Ordnance Manufacturing Law (Law No. 145 of 1953), Article 5
- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 5
| 6 Sector: | Information and Communications |
| Sub-Sector: | Broadcasting Industry |

Industry Classification:

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in broadcasting industry.

For the purposes of this reservation, “broadcasting” means the transmission of telecommunications with the aim of direct reception by the public (paragraph 1 of Article 2 of the Broadcasting Law (Law No. 132 of 1950)) and does not include on-demand services including such services provided over the internet.

Existing Measures:
- Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
- Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3
- Radio Law (Law No. 131 of 1950), Chapter 2
- Broadcast Law (Law No. 132 of 1950), Chapters 2 and 5 through 8
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Education, Learning Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Primary and Secondary Educational Services</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>Japan reserves the right to adopt or maintain any measure relating to investments or the supply of primary and secondary educational services.</td>
</tr>
<tr>
<td>Existing Measures:</td>
<td>Fundamental Law of Education (Law No. 120 of 2006), Article 6</td>
</tr>
<tr>
<td></td>
<td>School Education Law (Law No. 26 of 1947), Article 2</td>
</tr>
<tr>
<td></td>
<td>Private School Law (Law No. 270 of 1949), Article 3</td>
</tr>
<tr>
<td></td>
<td>Law Concerning Advancement of Comprehensive Service Related to Education, Child Care, etc. of Preschool Children (Law No. 77 of 2005)</td>
</tr>
</tbody>
</table>
8 Sector: Energy

Sub-Sector: Electricity Utility Industry
Gas Utility Industry
Nuclear Energy Industry

Industry Classification:
JSIC 0519*1 Miscellaneous metal mining
JSIC 2391 Nuclear fuel
JSIC 281*2 Electronic devices
JSIC 282*2 Electronic parts
JSIC 289*2 Miscellaneous electronic parts, devices and electronic circuits
JSIC 291*2 Electrical generating, transmission, and distribution apparatus
JSIC 292*2 Industrial electrical apparatus
JSIC 2952*2 Primary batteries (dry and wet)
JSIC 296*2 Electronic equipment
JSIC 297*2 Electric measuring instruments
JSIC 299*2 Miscellaneous electrical machinery equipment and supplies
JSIC 30*2 Manufacture of information and communication electronics equipment
JSIC 313*2 Shipbuilding and repairing, and marine engines
JSIC 3159*2 Miscellaneous industrial trucks and parts and accessories
JSIC 3199*2 Transportation equipment, n.e.c
JSIC 33 Production, transmission and distribution of electricity
JSIC 34 Production and distribution of gas
JSIC 8899*2 Waste disposal business, n.e.c.
JSIC 9011*2 General machine repair shops, except construction and mining machinery
JSIC 902*2 Electrical machinery, apparatus, appliances and supplies repair shop

Note: An asterisk (*1) on the JSIC number indicates that the activities covered by the reservation under such number are limited to nuclear materials. An asterisk (*2) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to nuclear energy industry.

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Performance Requirements (Article 9.9)³

³ With respect to the obligation under Article 9.9 (Performance Requirements), this reservation applies only to measures which are not inconsistent with the obligations under Agreement on Trade-Related Investment Measures.
Senior Management and Boards of Directors (Article 9.10)

Most-Favoured-Nation Treatment (Article 10.4)

Market Access (Article 10.5)

Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in the energy industry listed in the “sub-sector” element.

Existing Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 5

Electricity Business Law (Law No. 170 of 1964), Article 5

Gas Business Law (Law No. 51 of 1954), Article 5

Specified Radioactive Waste Final Disposal Law (Law No. 117 of 2000), Chapter 5
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Fisheries and Services incidental to Fisheries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td></td>
<td>Performance Requirements (Article 9.9)</td>
</tr>
<tr>
<td></td>
<td>Senior Management and Boards of Directors (Article 9.10)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in fisheries in the territorial sea, internal waters, exclusive economic zone, and continental shelf of Japan.</td>
</tr>
<tr>
<td></td>
<td>For the purposes of this reservation, the term “fisheries” means the work of taking and cultivation of aquatic resources, including the following fisheries related services:</td>
</tr>
<tr>
<td></td>
<td>(a) investigation of aquatic resources without taking such resources;</td>
</tr>
<tr>
<td></td>
<td>(b) luring of aquatic resources;</td>
</tr>
<tr>
<td></td>
<td>(c) preservation and processing of fish catches;</td>
</tr>
<tr>
<td></td>
<td>(d) transportation of fish catches and fish products; and</td>
</tr>
<tr>
<td></td>
<td>(e) provision of supplies to other vessels used for fisheries.</td>
</tr>
<tr>
<td>Existing Measures:</td>
<td>Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27</td>
</tr>
<tr>
<td></td>
<td>Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3</td>
</tr>
</tbody>
</table>
Law for Regulation of Fishing Operation by Foreign Nationals (Law No. 60 of 1967), Articles 3, 4, and 6

Law Concerning the Exercise of Sovereign Rights concerning Fisheries in the Exclusive Economic Zones (Law No. 76 of 1996), Articles 4, 5, 7, 8, 9, 10, 11, 12, and 14
10 Sector: Land Transaction

Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Articles 9.4 and 10.3)

Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)

Description:

Cross-Border Trade in Services and Investment

With respect to the acquisition or lease of land properties in Japan, prohibitions or restrictions may be imposed by Cabinet Order on foreign nationals or legal persons, where Japanese nationals or legal persons are placed under identical or similar prohibitions or restrictions in the foreign country.

Alien Land Law (Law No. 42 of 1925), Article 1

Existing Measures:
<table>
<thead>
<tr>
<th>Sector</th>
<th>Industry Classification</th>
<th>Obligations Concerned</th>
<th>Description</th>
<th>Existing Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Public Law Enforcement and Correctional Services and Social Services</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
<td>Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in public law enforcement and correctional services, and in social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public training, health, child care and public housing.</td>
<td></td>
</tr>
</tbody>
</table>
12 Sector: Security Guard Services

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 10.3)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to the supply of security guard services.

Existing Measures: Security Business Law (Law No. 117 of 1972), Articles 4 and 5
13 Sector: Transport

Sub-Sector: Air Transport

Industry Classification:

Obligations Concerned: National Treatment (Articles 9.4)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Japan reserves the right to adopt or maintain any measure with respect to investment in airports or airport operation services as defined in Article 10.1 (Definitions) in Japan.

Existing Measures:
Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5 and 10.4)

Description: Cross-Border Trade in Services and Investment

1. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement in force on, or signed prior to, the date of entry into force of this Agreement.

2. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement, other than the agreement referred to in paragraph 1, involving:

   (a) aviation;
   (b) fisheries; or
   (c) maritime matters, including salvage.

Existing Measures:
ANNEX II
SCHEDULE OF MALAYSIA

1. Sector: Land and Real Estate

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Acquisitions or dealings of land by non-citizens and enterprises owned by foreign nationals must be approved by the relevant State Authority, subject to such conditions and restrictions as may be imposed by that Authority.

Existing Measures:
Land Acquisition Act, 1960
Land Conservation Act 1960
National Land Code 1965
National Land Code (Penang and Malacca Titles) Act 1963
Strata Titles Act 1985
Building and Common Property (Maintenance and Management) Act 2007
Strata Management Act 2012
Federal Lands Commissioner Act 1957(Revised 1988)
Land (Group Settlement Areas) Act 1960
Malay Reservations Enactment 1933
Kedah Enactment No 63 (Malay Reservations)
Kelantan Malay Reservations Enactment, 1930
Kelantan Land Settlement Act 1955 (Revised 1991)
Perlis Malay Reservations Enactment, 1353
Perlis Land Settlement Enactment, 1966
Johore Malay Reservation Enactment, 1936
Terengganu Malay Reservation Enactment, 1360
Terengganu Settlement Enactment, 1356
Sabah Land Ordinance (Sabah Cap 68)
Sabah Land Acquisition Ordinance (Sabah Cap 69)
Sarawak Land Code 1958
Local Government Act 1976
Town and Country Planning Act 1976
Federal Territory (Planning) Act 1982
Federal Capital Act 1960
Street, Drainage and Building Act 1974
2. Sector: Oil and Gas

Obligations Concerned:
- National Treatment (Article 10.3) (Article 9.4)
- Senior Management and Board of Directors (Article 9.10)
- Prohibition of Performance Requirements (Article 9.9)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

PETRONAS and its successor are vested with the entire ownership in, and the exclusive rights, powers, liberties and privileges, which shall be irrevocable, in exploring, exploiting, winning and obtaining petroleum whether onshore or offshore of Malaysia.

PETRONAS in its role as the exclusive owner of the petroleum resources, decides on the form and conditions of contractual arrangements available for foreign participation and selection of the contract parties.

Existing Measures: Petroleum Development Act 1974

ANNEX II-MYS-2
3. Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Most-Favoured-Nation (Article 10.4) (Article 9.5)
Prohibition on Performance Requirement (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the right to maintain or adopt any measures affecting the:

(a) full or partial devolvement to the private sector of services provided in the exercise of governmental authority;

(b) divestment of its equity interests in, and/or the assets of, an enterprise that is wholly or partially owned by the Malaysian government; and

(c) privatisation of government owned entities or assets.

The description above pertains only to the initial transfer or disposal of such interest, and for subsequent transfers or disposals that are for strategic sectors announced through the Malaysia Plan.

For greater certainty, the transfer of any interest in an existing state enterprise to another state enterprise shall not be considered to be an initial transfer or where the transfer or disposal of an interest in an existing state enterprise is undertaken either partially or sequentially, the same shall apply.

Existing Measures: Minister of Finance (Incorporation) Act, 1957
Privatisation Master Plan
Guidelines on Privatisation

ANNEX II-MYS-3
4. Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4) Prohibition of Performance Requirements (Article 9.9) Market Access (Article 10.5)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measures that provides assistance to Bumiputera for the purpose of supporting Bumiputera participation in the Malaysian market through the creation of new and additional licenses or permits for Bumiputera eligible to receive such assistance, provided that such measures shall not affect the rights of existing license and permit holders or future applicants for licenses and permits in sectors where foreign participation is permitted.


ANNEX II-MYS-4
5. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Malaysia reserves the right to adopt or maintain any measures relating to National and State unit trusts.

Existing Measures:
6. Sector: All Sectors

Obligations Concerned: Most-Favoured-Nation (Article 10.4) (Article 9.5)

Description: Cross-Border Trade in Services and Investment

Most-Favoured-Nation treatment may not be accorded to foreign investors and their investments with respect to preferential treatment granted under any existing free trade area agreements.

Malaysia reserves the right to adopt or maintain any measure that accords differential treatment to ASEAN member states under any ASEAN agreement open to participation by any ASEAN member state, in force or signed after the date of entry into force of this Agreement.

With regard to the sectors listed below, Malaysia reserves the right to adopt or maintain any measure that accords rights, preferences and differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) Aviation matters;
(b) Maritime and Port;
(c) Broadcasting;
(d) Space transportation; and
(e) Fisheries.

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1 Any such measure shall be implemented in a manner consistent with Malaysia’s commitments under Article II of the GATS. For greater certainty, this sub-paragraph (d) does not apply with respect to Malaysia’s obligations under Article 11.4 (Most-Favoured Nation Treatment), to the sectors or sub-sectors for which Malaysia has made specific commitments under any bilateral or multilateral international agreement in force or signed prior to the date or entry into force of this Agreement, nor to the sectors for which the following entries are made in the Schedule of Malaysia to Annex I: Annex I-6, Annex I-7, Annex I-9, Annex I-10 and Annex I-17.
7. Sector: Manufacture, assembly, marketing and distribution of explosives, weapons, ammunitions, as well as military-related equipment/devices, and similar products

Obligations Concerned:

- National Treatment (Article 9.4)
- Prohibition of Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Malaysia reserves the right to maintain or adopt any measures affecting the arms and explosives sector.

Existing Measures:

Section 4, Industrial Co-ordination Act 1975
Explosives Act 1957
Arms Act 1960
8. Sector: Gaming, Betting and Gambling including supply and suppliers of betting and gambling equipment, wholesale and retail of gambling equipment

Obligations Concerned:
- National Treatment (Article 10.3) (Article 9.4)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)
- Performance Requirement (Article 9.9)
- Senior Management and Board of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measures relating to the provision of gaming, betting and gambling including supply and suppliers of betting and gambling equipment, wholesale and retail.

Existing Measures:
- Lotteries Act 1952 (Act 288)
- Common Gaming Houses Act 1953 (Act 289)
- Pool Betting Act 1967 (Act 384)
- Betting Act 1953 (Act 495)
- Racing (Totalisator Board) Act 1961 (Act 494)
- Racing Club (Public Sweepstakes) Act 1965 (Act 404)
- Customs (Prohibition of Imports) Order 2008 (P.U. (A) 86/2008)
9. Sector: Non-medical utilization/application of atomic energy for:
- Electric power plants based on fossil fuel/materials;
- Nuclear power generation including nuclear fuel cycle; and
- Electric power generation

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Most-Favoured-Nation (Article 10.4) (Article 9.5)
Market Access (Article 10.5)
Local Presence (Article 10.6)
Senior Management and Boards of Directors (Article 9.10)
Performance Requirements (Article 9.9)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measures relating to non-medical utilization/application of atomic energy for:
- electric power plants based on fossil fuel/materials;
- nuclear power generation including nuclear fuel cycle; and
- electric power generation.

Existing measures: Atomic Energy Licensing Act 1984
10. Sector: Cultural Services

Obligations Concerned:
- National Treatment (Article 10.3) (Article 9.4)
- Market Access (Article 10.5)
- Senior Management and Boards of Directors (Article 9.8)
- Most-Favoured-Nation (Article 10.4) (Article 9.5)
- Performance Requirement (Article 9.9)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the rights to review the following products following their importation and distribution in the Malaysian market to ensure their consistency with Malaysia’s decency standards: books, magazines, periodicals or newspapers, works of art and films imported into Malaysia, programming licensed for broadcast on television, cable and satellite stations.

In addition, prior approval is required for any arts, filming and performances by foreign artist and such activities shall comply with the Central Agency for Application for Filming and Performance by Foreign Artistes (PUSPAL) Guidelines.

Such review and pre-approval shall be administered in an objective, transparent and impartial manner, and consistent, where applicable, with Article BB.3 (Goods National Treatment) and consistent with the Communications and Multimedia Act of 1998.

Existing Measures:
- Printing Machine and Publishing Act (AMCP) 1984
- Akta Perbadanan Kemajuan Filem Nasional Malaysia 1981
- Akta Perbadanan Kemajuan Kraftangan Malaysia 1979
- Dasar Industri Kreatif Negara (DIKN) 2010
- Central Agency Committee for Application for Filming and Performance by Foreign Artistes (PUSPAL) Guidelines

ANNEX II-MYS-10
11. Sector: Wholesale and Distribution Services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4) Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measures relating to wholesale and distribution services for rice, sugar (other than refined sugar for food and beverage manufacturers), flour, liquor and alcoholic beverages, tobacco and cigarettes products.
12. Sector: Sewage and Refuse Disposal, Sanitation and other Environmental Protection Services

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Malaysia reserves the right to adopt or maintain any measures relating to the collection, treatment and disposal of hazardous waste (excluding carbon gases).

Existing Measures: Environmental Quality Act 1974
13. Sector: Air Transport Services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Market Access (Article 10.5)
Senior Management and Board of Directors (Article 9.10)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services
Malaysia reserves the right to adopt and maintain any measures affecting:

(a) Airport operation services;
(b) Aircraft repair and maintenance services;
(c) Ground handling services;
(d) Specialty air services; and

Investment
(e) Air transport services covering passenger and freight transportation frequencies and routing by air.

Existing Measures:
14. Sector: Passenger road transportation services covering taxi services and scheduled passenger road transportation

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)
Performance Requirements (Article 9.9)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measures relating to passenger and scheduled passenger road transportation services covering urban and suburban regular transportation, railway, taxi services; and bus, taxi and rail station services.

Existing Measures:

ANNEX II-MYS-14
15. Sector: Legal Services covering mediation and Shari’a law

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)  
Market Access (Article 10.5)  
Most-Favoured-Nation (Article 10.4) (Article 9.5)  
Performance Requirement (Article 9.9)  
Senior Management and Boards of Directors (Article 9.10)  
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measures relating to mediation and Shari’a law.

Existing Measures:
16. Sector: All sectors

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4)

Description: Cross Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measures related to the non-internationalisation of ringgit which includes:

a) the requirement for international settlement to be made in foreign currency

b) limitation on the access to ringgit financing by non-residents for use outside Malaysia

c) limitation on the use of ringgit in Malaysia by non-residents

Existing Measures: Central Bank of Malaysia Act 2009
Financial Services Act 2013
Islamic Financial Services Act 2013
Notices on Foreign Exchange Administration Rules
17. Sector: Social services

Obligations Concerned: National Treatment (Article 10.3) (Article 9.4) Most-Favoured-Nation (Article 10.4) (Article 9.5) Performance Requirement (Article 9.9) Senior Management and Boards of Directors (Article 9.10) Local Presence (Article 10.6)

Description: Cross Border Trade in Services and Investment

Malaysia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

Existing Measure:

ANNEX II-MYS-17
Annex II
Schedule of Mexico

Introductory Note for the Schedule of Mexico

1. For the purposes of this Annex:

the term "CMAP" means Mexican Classification of Activities and Products (Clasificación Mexicana de Actividades y Productos) numbers as set out in National Institute for Statistics and Geography (Instituto Nacional de Estadística y Geografía), Mexican Classification of Activities and Products (Clasificación Mexicana de Actividades y Productos), 1994;
1. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Federal

Description: Cross-Border Services

Mexico reserves the right to adopt or maintain any measure restricting the acquisition, sale or other disposition of bonds, treasury bills or any other kind of debt security issued by the federal, state or local governments.

Existing Measures:
2. Sector: Energy

Sub-Sector: Oil and Other Hydrocarbons
Electricity

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Federal

Description: Mexico allows private investment exclusively through contractual arrangements with respect to the exploration and production of oil and other hydrocarbons, and the public service of transmission and distribution of electricity.

If Mexican law is amended to allow private investment in a different modality from that set out in the first paragraph, or to allow the sale of assets or ownership interest in an enterprise engaged in the activities set out in the first paragraph, Mexico reserves the right to impose restrictions on such investment. Any such restrictions shall be deemed existing Annex I non-conforming measures and shall be subject to paragraphs 1, 3, and 7 of Article 9.11.

For greater certainty, Mexico affirms the principle reflected in Articles 25, 27 and 28 of the Constitution that the exploration and production of oil and other hydrocarbons, the planning and control of the National Electric System and the public service of transmission and distribution of electricity are reserved to the State.

Existing Measures:

United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Articles 25, 27 and 28

Federal Electricity Commission Law (Ley de la Comisión Federal de Electricidad)

Foreign Investment Law (Ley de Inversión Extranjera)

Hydrocarbons Law (Ley de Hidrocarburos)
PEMEX Law (Ley de Petróleos Mexicanos)

The Electric Industry Law (Ley de la Industria Eléctrica)
3. Sector: Entertainment Services
Sub-Sector: Recreational and Leisure Services
Industry Classification: CMAP 949104 Other Private Recreational and Leisure Services (limited to gambling and betting services)
Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Senior Management and Boards of Directors (Article 9.10)
Local Presence (Article 10.6)
Level of Government: Federal
Description: Cross-Border Services and Investment
Mexico reserves the right to adopt or maintain any measure relating to investment in, or the supply of, gambling and betting services.
Existing Measures:
4. Sector: Minority Affairs

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Level of Government: Federal

Description: Cross-Border Services

Mexico reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged groups.

Existing Measures: United Mexican States Political Constitution Article 4
(Constitución Política de los Estados Unidos Mexicanos)
5. Sector: Social Services

Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Articles 9.4 and 10.3)

Most-Favored-Nation Treatment (Articles 9.5 and 10.4)

Performance Requirements (Article 9.9)

Senior Management and Boards of Directors (Article 9.10)

Local Presence (Article 10.6)

Level of Government: Federal

Description: Cross-Border Services and Investment

Mexico reserves the right to adopt or maintain any measure with respect to the supply of public law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

Existing Measures: United Mexican States Political Constitution (Constitución Política de los Estados Unidos Mexicanos), Articles 4, 17, 18, 25, 26, 28 and 123
<table>
<thead>
<tr>
<th>6. Sector:</th>
<th>Transportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Specialized Personnel</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td>CMAP 951023 Other Professional, Technical and Specialized Services not mentioned above (limited to ship captains; aircraft pilots; ship masters; ship machinists; ship mechanics; airport administrators (“comandantes de aeródromos”); harbor masters; harbor pilots; crew on Mexican flagged vessels or aircrafts)</td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favored-Nation Treatment (Article 10.4)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Cross-Border Services</td>
</tr>
<tr>
<td>Description:</td>
<td>Mexico reserves the right to adopt or maintain any measure with respect to Specialized Personnel. Only Mexican nationals by birth may serve as: (a) captains, pilots, ship masters, machinists, mechanics and crew members manning vessels or aircraft under the Mexican flag; and (b) harbor pilots, harbor masters and airport administrators</td>
</tr>
<tr>
<td>Existing Measures:</td>
<td>United Mexican States Political Constitution, Article 32 (Constitución Política de los Estados Unidos Mexicanos, Artículo 32)</td>
</tr>
</tbody>
</table>
7. Sector: All
Sub-Sector: Telegraph, radiotelegraph and Postal Services
Issuance of Bills (currency) and Minting of Coinage
Control, Inspection and Surveillance of Maritime and Inland Ports
Control, Inspection and Surveillance of Airports and Heliports

Obligations Concerned: National Treatment (Article 9.4)
Most-Favored-Nation Treatment (Article 9.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Level of Government: Federal
Description: Investment

The activities set out in this list are reserved to the Mexican State, and private equity investment is prohibited under Mexican Law. Where Mexico allows private investment to participate in such activities through service contracts, concessions, lending arrangements or any other type of contractual arrangement, such participation shall not be construed to affect the State's reservation of those activities.

If Mexican law is amended to allow private equity investment in an activity set out in this list, Mexico may impose restrictions on foreign investment participation and describe them in Annex I. Mexico may also impose restrictions on foreign equity investment participation when selling an asset or ownership interest in an enterprise engaged in activities set out in this list, and describe them in Annex I.

(a) Telegraph, radiotelegraph and Postal Services
(b) Issuance of Bills (currency) and Minting of Coinage
(c) Control, Inspection and Surveillance of Maritime and Inland Ports
(d) Control, Inspection and Surveillance of Airports and Heliports
(e) Nuclear Power

This description also applies to NCM 2 in this Annex.

Existing Measures:


Law of the Mexican Bank (Ley del Banco de México)

Law of the House of currency of Mexico (Ley de la Casa de Moneda de México).

United Mexican States Monetary Law (Ley Monetaria de los Estados Unidos Mexicanos).

Commercial and Navigation Maritimes Law (Ley de Navegación y Comercio Marítimos).

Ports Law (Ley de Puertos)

Airports Law, (Ley de Aeropuertos)

Federal Telecommunication and Broadcasting Law (Ley Federal de Telecomunicaciones)

Decree that establish the decentralized agency of "Navigation Services in the Mexican Airspace" (SENEAM by its acronym in Spanish

General Means of Communication Law (Ley de Vías Generales de Comunicación)

The Mexican Postal Service Law (Ley del Servicio Postal Mexicano), Title I, Chapter III

Foreign Investment Law (Ley de Inversión Extranjera).
8. Sector: All

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Article 9.5)

Level of Government: Federal

Description: Investment

Mexico reserves the right to adopt or maintain any measure granting different treatment to countries accorded under all bilateral or multilateral international agreements in force prior to the entry into force of this agreement.

Mexico reserves the right to adopt or maintain any measure granting different treatment to countries accorded under all international agreements in force or signed after the entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.
9. Sector: All

Sub-Sector:

Obligations Concerned: Market Access Article 10.5)

Level of Government: Federal and Subfederal

Description:
Cross-Border Services and Investment

Mexico reserves the right to adopt or maintain any measure related to article JJ.5 (Market Access), except for the following sectors and sub-sectors subject to the limitations and conditions listed below.

For the purpose of this entry:
1. (1) refers to the supply of a service from the territory of one Party into the territory of any other Party
2. (2) refers to the supply of a service in the territory of one Party by a person of that Party to a person of the other Party;
3. (3) refers to the supply of a service in the territory of one Party by an investor of the other Party or a covered investment;
4. (4) refers to the supply of a service by a national of one Party, in the territory of any other Party.

This entry:

a) applies to federal level;
b) applies to subfederal level in accordance with specific commitments of Mexico under the Article XVI of the GATS which exist at the entry into force of this Agreement; and,
c) it does not apply to municipal or local level.

This entry does not apply to reservations listed in Annex I with respect to the Market Access principle. Mexico’s limitations to Market Access in this entry are only those limitations which are not discriminatory.
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. BUSINESS SERVICES</td>
<td></td>
</tr>
<tr>
<td>1. A. Professional services</td>
<td></td>
</tr>
<tr>
<td>a) Legal services (CPC 861)</td>
<td>1), 2) and 3) None 4) Unbound except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>b) Accounting, auditing and bookkeeping services (CPC 862)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>d) Consultancy and technical studies for architecture (CPC 8671)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>e) Consultancy and technical services for engineering (CPC 8672)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>f) Integrated engineering services (CPC 8673)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>g) Urban planning and landscape architectural services (CPC 8674)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
</tbody>
</table>

1 In order to practice a profession in Mexico, it is necessary to have a degree that has been recognized or confirmed by the Ministry of Public Education (Secretaría de Educación Pública) and also to obtain a professional licence. There are special requirements to be met by engineers, architects and doctors.
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>h) Related scientific and technical consulting services (CPC 8675)</td>
<td>1, 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>i) Medical and dental services (CPC 9312)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>k) Other services</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Religious services (CPC 95910)</td>
<td></td>
</tr>
<tr>
<td>1. B. Computer and Related Services</td>
<td></td>
</tr>
<tr>
<td>a) Consultancy services related to the installation of computer hardware (CPC 841)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>b) Software implementation services (CPC 842)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>c) Data processing services (CPC 843)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>d) Data base services (CPC 844)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>e) Other (CPC 845+849)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>1. C. Research and Development Services (CPC 85) (other than research and technological development centres)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Research and experimental development services on engineering and technology (CPC 85103)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Research and development services on social sciences and humanities (CPC 852)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>1. D. Real estate services</td>
<td></td>
</tr>
<tr>
<td>a) Real estate services involving own or leased property (CPC 821)</td>
<td>1) Unbound 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>Other than: Real estate services involving own property</td>
<td></td>
</tr>
<tr>
<td>b) Real estate services on a fee or contract basis (CPC 822)</td>
<td>1) Unbound 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>1. E. Rental/Leasing Services without Operators</td>
<td></td>
</tr>
<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>a) Leasing or rental services concerning vessels without operator (CPC 83103)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>b) Leasing or rental services concerning aircraft without operator (CPC 83104)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>c) Leasing or rental services concerning other means of transport without operator</td>
<td>1) Unbound</td>
</tr>
<tr>
<td>(limited to private cars without operator CPC 83101)</td>
<td>2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td></td>
<td>- Leasing or rental services concerning means of maritime transport without operator</td>
</tr>
<tr>
<td></td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) and 3) None</td>
</tr>
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<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>d) Leasing or rental services concerning other machinery and equipment without</td>
<td>1) Unbound</td>
</tr>
<tr>
<td>operator:</td>
<td>2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td></td>
<td>- Rental services concerning agricultural and fishery machinery and equipment (CPC 83106)</td>
</tr>
<tr>
<td></td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td></td>
<td>- Rental services concerning machinery and equipment for industry</td>
</tr>
<tr>
<td></td>
<td>1), 2) and 3) None</td>
</tr>
</tbody>
</table>
### Sector or subsector

<table>
<thead>
<tr>
<th>(CPC 83109)</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>e) Other</td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Rental services concerning electronic equipment for data processing (CPC 83108)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>- Leasing or rental services concerning other personal or household goods (CPC 83209)</td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Rental services concerning office equipment and furniture (CPC 83108)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>- Rental services concerning televisions, sound equipment, video-cassette recorders and musical instruments (CPC 83201)</td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Rental services concerning professional photographic equipment and projectors (CPC 83209)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>- Rental services concerning other machinery, equipment and furniture not mentioned above (CPC 83109)</td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
</tbody>
</table>

1. F. Other Business Services
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
</table>
| a) Advertising and related activities (excluding broadcasting as well as restricted radio and television services) (CPC 871) | 1), 2) and 3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| b) Market research services (CPC 8640)                                              | 1), 2) and 3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| c) Management consulting services (CPC 8650)                                         | 1), 2) and 3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| d) Administrative formalities and collection services (CPC 8660)                    | 1), 2) and 3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| e) Technical testing and analysis services (CPC 8676)                                | 1), 2) and 3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| f) Services incidental to agriculture, hunting and forestry                          | 1), and 2) None  
3) None except as indicated in 1.A  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Services incidental to animal husbandry (CPC 8812 limited to professional services incidental to animal husbandry)</td>
<td>1), and 2) None</td>
</tr>
<tr>
<td></td>
<td>3) None except as indicated in 1.A</td>
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<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Services incidental to forestry and logging (CPC 88104)</td>
<td>1), and 2) None</td>
</tr>
<tr>
<td></td>
<td>3) None except as indicated in 1.A</td>
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<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>g) Services incidental to fishing (CPC 882)</td>
<td>1), 2) and 3) None</td>
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<td></td>
<td>4) Unbound except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>k) Placement and supply of services of personnel (CPC 8720)</td>
<td>1), 2) and 3) None</td>
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<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>l) Protection and guard services (CPC 8730)</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) None</td>
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<td></td>
<td>3) None, except that the requirements laid down for each specific means of transport must be fulfilled.</td>
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<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
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<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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<tr>
<td>n) Maintenance and repair of equipment except maritime vessels, aircraft and other transport equipment:</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Repair and maintenance of industrial machinery and equipment (CPC 8862)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Repair and maintenance of professional technical equipment and instruments (CPC 8866)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Repair services incidental to metal products, machinery and equipment. (CPC886)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Repair and maintenance of machinery and equipment for general use, not assignable to any specific activity (CPC 886)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>o) Building-cleaning services (CPC 8740)</td>
<td>1) None 2) Unbound* 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>p) Photographic services</td>
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<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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<td>---------------------</td>
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</table>
| - Photography and motion-picture processing services (CPC 87505 and 87506) | 1) None  
  2) Unbound*  
  3) None  
  4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| r) Printing, publishing (CPC 88442) | 1), 2) and 3) None  
  4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| Only includes: | |
| - Publishing of books and similars | |
| - Printing and binding (except newsprint for circulation exclusively in the Mexican territory) | |
| - Auxiliary and related industries with editing and printing (excludes manufacturing for printing types which are classified into 3811 branch, "casting and molding of ferrous and nonferrous metal parts"). | |
| s) Convention services (CPC 87909***) | 1) Unbound*  
  2) None  
  3) None  
  4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| t) Other | |
| - Credit reporting services (CPC 87901) | 1) Unbound  
  2) None  
  3) None  
  4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| - Speciality design services (CPC 87907) | 1), 2) and 3) None  
  4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
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</thead>
<tbody>
<tr>
<td>- Industrial design services (CPC 86725)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Photocopying and similar services (CPC 87904)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Translation and interpretation services (CPC 87905)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Laundry collection services (CPC 97011)</td>
<td>1) Unbound*</td>
</tr>
<tr>
<td></td>
<td>2) None</td>
</tr>
<tr>
<td></td>
<td>3) None</td>
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<td></td>
<td>4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
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2.COMMUNICATION SERVICES

B. Courier services

- Courier services (CPC 7512)

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<tbody>
<tr>
<td>1)</td>
<td>Unbound</td>
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<tr>
<td>2)</td>
<td>None</td>
</tr>
<tr>
<td>3)</td>
<td>None, except that the requirements laid down for each specific means of transport must be fulfilled.</td>
</tr>
<tr>
<td>4)</td>
<td>Unbound, except as indicated in Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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</tbody>
</table>
| C Telecommunication Services | 1) The international traffic only may be routed through international ports of a natural person or juridical person with a concession granted by the regulatory agency to install, operate or use a public telecommunication network in the Mexican territory authorized to provide long distance service.  
2) None  
3) The Institute shall reserve for community indigenous FM radio stations ten percent of broadcasting band of FM that goes from 88 to 108 MHz. Such percentage shall be granted as concession for the upper part of the referred band.  
The Institute shall directly assign 90 MHz of the 700 MHz band for the operation and exploitation of a wholesale shared network through a concession for commercial use.  
Resellers of telecommunications of long distance and international long distance may contract telecommunications services (exclusively) with authorized concessionaires.  
The economic agent who has been declared preponderant in the telecommunications sector or the concessionaires that are part of the economic group to which the declared preponderant agent belongs to may not participate directly or indirectly in any reseller.  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
| a) Telephony services (CCP 75211, 75212) | 1) As indicated in 2.C.1).  
2) None  
3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter. |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
</table>
| b) Packet-switched data transmission services (CCP 7523**) | 1) As indicated in 2.C.1).  
2) None  
3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.                                                                                                                |
| c) Circuit-switched data transmission services (CCP 7523**) | 1) As indicated in 2.C.1).  
2) None  
3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.                                                                                                                |
| f) Facsimile services (CCP 7521**+7529**)                | 1, 2) and 3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.                                                                                                                                          |
| g) Private leased circuit services (CCP 7522**+7523**)    | 1) As indicated in 2.C.1).  
In Mexico it is not allowed allow the resale of private leased circuits to private networks.  
2) None  
3) None  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.                                                                                                                |
| o) Others                                               |                                                                                                                                                                                                                             |
| - Paging services (CCP 75291)                           | 1) As indicated in 2.C.1).  
2) None  
3) As indicated in 2.C.3).  
4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.                                                                                                                       |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
</table>
| - Cellular telephony (75213**)              | 1) As indicated in 2.C.1).  
   2) None  
   3) None  
   4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.                                                                                                                                               |
| - Resellers²                                | 1) As indicated in 2.C.1).  
   2) None  
   3) None, except that the establishment and operation of resellers is invariably subject to the relevant regulations. The IFT will not issue permits for the establishment of a reseller until the corresponding regulations are issued.  
   4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.                                                                                                                                               |

²Companies which, without owning transmission means, provide third parties with telecommunications services by using capacity leased from a public network concessionaire.
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>-Other telecommunication services. Value-added services (Services that use public telecommunication network and have effect on the format, content, code, protocol, storage or similar aspects of the information transmitted by a user and which market users with additional information, different and restructured, or involve interaction user with information stored). ³</td>
<td>1) Registration before the IFT is required to provide Value Added Services. The Value Added Services originated overseas destined to the Mexican territory may only be taken and delivered in Mexico through infrastructure or facilities of a public telecommunications network concessioner. 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
</tbody>
</table>

2.D. Audiovisual services

a) Private production of cinematographic films (CPC 96112)  
1), 2) and 3) None, except that film screening requires a permit issued by the Ministry of the Interior.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.  
b) Private film-screening services (CPC 96121)  
1), 2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.  
c) Radio and Television Services (CPC9613)  
- broadcasting (radio and free to air television)  
1) None  
2) None  
3) The Federal Institute of Telecommunications (IFT) shall grant upon request authorizations to

³ Value Added Services are not those services for which its establishment, operation or exploitation make use of transmission infrastructure owned by the service provider, unless the service provider has the appropriate license or permit to establish, operate or exploit a public telecommunications network. It does not include those value-added services, the provision requiring the obtaining of licenses and permits including, without limitation, the following services: voice telephony, regardless of the technology used (VoIP) in its modalities of local service; long distance telephony; simple resale of leased private circuits, mobile telephony, mobile or fixed radio telephony, cable television, paid television using microwaves and satellite; paging services, trunking services; private or maritime radio-communication: restricted radio; data transmission; videoconferencing and vehicle radiolocation.
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
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</thead>
<tbody>
<tr>
<td>- Restricted radio and television services</td>
<td>access the multiprogramming. In the case of concessionaires belonging to an agent declared preponderant the Institute will not authorize the transmission of a number of channels greater than fifty percent of the total amount of broadcasted television channels, including the multiprogramming ones, authorized for other concessionaires that are broadcasting in the region covered. Concessionaires of commercial, public and social use providing broadcasting service shall have daily free transmission in each station and for each programming channel, of duration up to thirty minutes whether continuous or discontinuous, dedicated to disseminate educational, cultural and social interest topics. In addition to the time set for the State, All concessionaires of commercial, public and social use providing broadcasting services shall be required to broadcast simultaneously in radio stations and television channels in the country when it comes to transmitting information of concern to the nation, according to the Ministry of interior. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. 1) None 2) None 3) Concessionaires providing restricted or audio services shall reserve at no charge channels for the distribution of federal public institutions television signals as indicated by the executive trough the Federal Executive as follows: I. A channel with the service consists of 31 to 37 channels;</td>
</tr>
<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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<td></td>
<td>II. Two channels, when the service consists of 38 to 45 channels, and III. Three channels, when the service consists of 46 to 64 channels. Beyond this last number, a channel shall be added for every 32 transmission channels.</td>
</tr>
<tr>
<td></td>
<td>When the service consists of up to 30 channels, The Ministry may require, that a specific cannel dedicates up to 6 hours daily for transmission of programming as indicated by the Ministry of the Interior.</td>
</tr>
<tr>
<td></td>
<td>Concessionaires providing broadcasting or restricted television and audio services, as well as programmers and signals operators shall maintain a balance between advertising and programming transmitted daily, and the following rules shall apply:</td>
</tr>
<tr>
<td>I. Concessionaires of commercial use broadcasting:</td>
<td></td>
</tr>
<tr>
<td>a) In television stations, the time spent on commercial advertising shall not exceed eighteen percent of the total transmission time per programming channel, and b) In radio stations, the time spent on commercial advertising shall not exceed forty percent of the total transmission time per programming channel.</td>
<td></td>
</tr>
<tr>
<td>The length of commercial advertising does not include transmissions of the station own advertising, nor does it include State time and other Executive Power provisions or programs offering products or services;</td>
<td></td>
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<tr>
<td>II. Concessionaires of restricted television, and audio:</td>
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</tbody>
</table>
### Sector or subsector Limitations on market access

<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
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</thead>
<tbody>
<tr>
<td>a) May transmit, daily and per channel, up to six minutes of advertising for every hour of transmission.</td>
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<tr>
<td>For purposes of corresponding calculation, advertising in the broadcast signals that are retransmitted and programming channels own advertising shall not be considered, and</td>
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<tr>
<td>The channels exclusively dedicated to programs of product offerings, shall be exempted from the limit stated in the previous paragraph.</td>
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<tr>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
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<thead>
<tr>
<th>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. General construction work for buildings</td>
</tr>
<tr>
<td>- Residential or housing building (CPC 5121 and 5122)</td>
</tr>
<tr>
<td>1) Unbound</td>
</tr>
<tr>
<td>2) Unbound*</td>
</tr>
<tr>
<td>3) None</td>
</tr>
<tr>
<td>4) Unbound,</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>- Non-residential buildings (CPC 5124, 5127 and 5128)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Unbound</td>
</tr>
<tr>
<td>2) Unbound*</td>
</tr>
<tr>
<td>3) None</td>
</tr>
<tr>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
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<thead>
<tr>
<th>B. General construction work for civil engineering</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Construction of urban development works (CPC 5131 and 5135)</td>
</tr>
<tr>
<td>1) Unbound</td>
</tr>
<tr>
<td>2) Unbound*</td>
</tr>
<tr>
<td>3) None</td>
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<tr>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
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<tr>
<td>Sector or subsector</td>
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<tr>
<td>- Construction of industrial buildings (excluding electric power stations and plants for the piping of oil and oil products (CPC 52121)</td>
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<tr>
<td>- Other construction (excluding construction of maritime and river works, highway and transport works and track construction) (CPC 52269)</td>
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<tr>
<td>D. Building completion and finishing work</td>
</tr>
<tr>
<td>- Electrical, plumbing and drainage installations in buildings (excluding telecommunication installations and other special installations) (CPC 5161-5164)</td>
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<td>E. Other</td>
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<tr>
<td>- Special work, including earth moving, foundations, underground excavation, under-water work, signalling and protection installations, demolition, construction of drinking water or water treatment plants (excluding sinking of oil, gas and water wells) (CPC 511 and 515)</td>
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<tr>
<td>4. DISTRIBUTION SERVICES</td>
</tr>
<tr>
<td>Sector or subsector</td>
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</tr>
<tr>
<td>4.A Trade intermediary services (CCP 621)</td>
</tr>
<tr>
<td>(Includes sales agents who are not considered within the paid staff of any establishment in particular).</td>
</tr>
<tr>
<td>4. B. Wholesale trade services</td>
</tr>
<tr>
<td>- Wholesale trade of non-food products, including animal feed (excluding petroleum-based fuels, coal, firearms, cartridges and ammunition) (CPC 622)</td>
</tr>
<tr>
<td>- Commission agents’ services (CPC 62113 – 621118)</td>
</tr>
<tr>
<td>- Wholesale trade of food, beverages and tobacco (CPC 6222)</td>
</tr>
<tr>
<td>- Wholesale trade services (CPC 622)</td>
</tr>
<tr>
<td>4. C. Retail trade services:</td>
</tr>
<tr>
<td>- Retail sales of food, beverages and tobacco in specialized establishments (CPC 6310)</td>
</tr>
<tr>
<td>- Retail sales of food products in supermarkets, self-service stores and shops (CPC 6310)</td>
</tr>
<tr>
<td>Sector or subsector</td>
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<td>------------------------------------------------------------------------------------</td>
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<tr>
<td>-Retail sales of non-food products in department stores and shops (CPC 632)</td>
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<tr>
<td>-Retail sales of motor vehicles, including tyres and spare parts (CPC 61112)</td>
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</tr>
<tr>
<td>-Retail sales of non-food products in specialized establishments (excluding retail sales of liquefied fuel gas, charcoal, coal and other non-petroleum-based fuels, paraffin, fuel, and tractor vaporising oil (TVO), gasoline and diesel, firearms, cartridges and ammunition) (CPC 6329)</td>
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<td></td>
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<tr>
<td>4.D. Franchises services</td>
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<td></td>
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<tr>
<td>5.PRIVATE EDUCATION SERVICES</td>
</tr>
<tr>
<td>5. A. Primary education services (CPC 921)</td>
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<tr>
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<tr>
<td>5. B. Secondary education services (CPC 922)</td>
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<tr>
<td>Sector or subsector</td>
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<tr>
<td>5. C. Higher education services (CPC 923)</td>
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<tr>
<td>5. E. Other education services:</td>
</tr>
<tr>
<td>- Language education, special education and commercial training (CPC 9290)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>6. ENVIRONMENTAL SERVICES.</td>
</tr>
<tr>
<td>6. A. Sewage services (CPC 9401)</td>
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<tr>
<td>6. B. Additional environmental Services</td>
</tr>
<tr>
<td>- Refuse disposal services (CPC 9402)</td>
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</tbody>
</table>

*The level of disaggregation of each of this sector’s subsectors is interpreted in accordance with Mexico’s domestic legislative framework and may not correspond exactly to the stated CPC classification; Mexico therefore reserves the right to further clarify such levels in the course of the negotiations.*
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Protection of ambient air and climate (CPC 9404)</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) None</td>
</tr>
<tr>
<td></td>
<td>3) None</td>
</tr>
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<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Noise abatement services (CPC 9405)</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) None</td>
</tr>
<tr>
<td></td>
<td>3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Nature and landscape protection services (CPC 9406)</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) None</td>
</tr>
<tr>
<td></td>
<td>3) None</td>
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<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Limited to environmental impact assessments and Consultancy services for environmental protection services (CPC9409)</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) None</td>
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<tr>
<td></td>
<td>3) None</td>
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<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>6. C. Sanitation services (CPC 94030)</td>
<td>1) Unbound</td>
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<tr>
<td></td>
<td>2) None</td>
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<tr>
<td></td>
<td>3) None</td>
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<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>8. HEALTH RELATED AND SOCIAL SERVICES</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) None</td>
</tr>
<tr>
<td></td>
<td>3) None</td>
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<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
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<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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<td>------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>8. A. Private hospital services (CPC 9311)</td>
<td>1) Unbound*</td>
</tr>
<tr>
<td></td>
<td>2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>8. B. Other human health services.</td>
<td>1) Unbound</td>
</tr>
<tr>
<td>- Private services of clinical laboratories auxiliary to medical diagnosis (CPC 93199)</td>
<td>2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Other private services auxiliary to medical treatment (CPC 93191)</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Dental prosthesis laboratory services (CPC 93123)</td>
<td>1) Unbound</td>
</tr>
<tr>
<td></td>
<td>2) and 3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>9. Tourism and travel related services</td>
<td></td>
</tr>
<tr>
<td>9. A. Hotel and restaurant services</td>
<td></td>
</tr>
<tr>
<td>- Hotel services (CPC 6411)</td>
<td>1), 2) and 3) None, except for the requirement of holding a permit to engage in the activity from the competent authority (federal, State or municipal).</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
</tr>
<tr>
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</tr>
</tbody>
</table>
| - Motel services (CPC 6412) | 1) Unbound*  
2) None  
3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Board and lodging in guest houses and furnished accommodation (CPC 64192 and 64193) | 1) Unbound*  
2) None  
3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Youth hostels and temporary camping facilities (CPC 64194) | 1) Unbound*  
2) None  
3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Camping facilities for mobile homes (trailer parks) (CPC 64195) | 1) Unbound*  
2) None  
3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity. |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant services (CPC 642)</td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>- Restaurant services (CPC 642)</td>
<td>1), 2) and 3) None, except for the requirement of holding a permit to engage in the activity from the competent authority (federal, State or municipal). 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>Cabarets and night clubs (CPC 6432)</td>
<td>1) Unbound*</td>
</tr>
<tr>
<td>- Cabarets and night clubs (CPC 6432)</td>
<td>2) None</td>
</tr>
<tr>
<td>- Cabarets and night clubs (CPC 6432)</td>
<td>3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>Canteens, bars and taverns (CPC 6431)</td>
<td>1) Unbound*</td>
</tr>
<tr>
<td>- Canteens, bars and taverns (CPC 6431)</td>
<td>2) None</td>
</tr>
<tr>
<td>- Canteens, bars and taverns (CPC 6431)</td>
<td>3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
</tr>
<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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</tbody>
</table>
| **B. Travel agencies and tour operators (CPC 7471)** | 1) None  
2) None  
3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| **C. Tourist guide services (CPC 7472)** | 1) Unbound*  
2) None  
3) None, except a permit from the competent authority (federal, State or municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| **9. D. Others** | 1), 2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter |
| **- Spa services (CPC 97029)** | Only includes:  
Private services in social centers, recreational and sports.  
Also, sports clubs services, gyms, spas, swimming pools, sports fields, billiards, bowling, horses and bicycles.  
Excludes boats rental. |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
</table>
| Catering services, providing meals to outside (CPC 6423) (other than service on aircraft and in airports) | 1) Unbound*  
2) None  
3) None except that a permit from the competent authority (Federal, State or Municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter |
| Bar services with entertainment (Only in hotels and other lodging places)            | 1) Unbound*  
2) None  
3) None, except that a permit from the competent authority (federal, State or municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter |
| Public house services without entertainment (CPC 6431) (Except in hotels, other lodging places and other means of transport) | 1) Unbound*  
2) None  
3) None, except that a permit from the competent authority (federal, State or municipal) is required to engage in the activity.  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter |
| 10. RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)  |                                                                                                                                                                                                                           |
| 10. A. Entertainment services (including theater, live bands and circus) (CCP 9619) | 1), 2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. B. News agency services (CPC 962)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>10. C. Libraries, archives, museums and other cultural services (CPC 963)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>10. D. Sporting and other recreational services (CPC 964)</td>
<td></td>
</tr>
<tr>
<td>- Sports event organization services (CPC 96412)</td>
<td>1) Unbound * 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>- Sports facility operation services (CPC 96413)</td>
<td>1) Unbound * 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>- Other sporting services (Only services provided by sport and game schools) (CPC 96419)</td>
<td>1) Unbound * 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>- Promotion of sports services (CCP 96411)</td>
<td>1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>11. TRANSPORT SERVICES</td>
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<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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<tr>
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</tr>
<tr>
<td>A. Maritime transport services International Transport (freight and passengers) CPC 7211 and 7212, other than cabotage transport</td>
<td>(1) Scheduled, bulk, tramp and other international maritime transport, including passenger transport Specific international deep-sea transport may be reserved wholly or partly for shipping companies which are Mexican, or recognized as such, when the principles of free competition are not observed and the national economy is affected.</td>
</tr>
<tr>
<td></td>
<td>2) and 3) None</td>
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<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
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<tr>
<td>- Supporting services for water transport (CPC 745) (includes operation and maintenance of docks; loading and unloading of vessels at shore-side; marine cargo handling, operation and maintenance of piers; ship and boat cleaning; stevedoring; transfer of cargo between ships and trucks, trains, pipelines and wharves; waterfront terminal operations)</td>
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<tr>
<td></td>
<td>1) None</td>
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<td></td>
<td>2) None</td>
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<td></td>
<td>3) None</td>
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<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
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<tr>
<td>- Supporting services for water transport (CPC 745) (limited to Maritime Port Administration, Lake and Rivers)</td>
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<tr>
<td></td>
<td>1) None</td>
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<td></td>
<td>2) None</td>
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<tr>
<td></td>
<td>3) None</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
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<td></td>
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<tr>
<td>Maritime cargo handling services</td>
<td>1) Unbound*</td>
</tr>
<tr>
<td></td>
<td>2) and 3) None</td>
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<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.</td>
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<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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</tr>
</tbody>
</table>
| - Storage and warehousing services, except general bonded warehouses (CPC 742)    | 1) Unbound*  
2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Container station and depot services                                             | 1) Unbound*  
2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Maritime agency services                                                          | 1) Unbound*  
2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Maritime freight forwarding services                                             | 1) Unbound*  
2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Vessel maintenance and repair                                                    | 1) Unbound*  
2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |

11. C. Air transport services

e) Supporting services for air transport
   - Airport and heliport administration services

1) Unbound
2) None
3) None, except that a concession from the Ministry of Communications and Transport (SCT) is required to operate an airport.
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
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<tbody>
<tr>
<td>11. E. Rail transport services</td>
<td></td>
</tr>
<tr>
<td>c. Pushing or towing services (CPC 7113)</td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>11. F. Road transport services</td>
<td></td>
</tr>
<tr>
<td>d) Maintenance and repair of road transport equipment</td>
<td></td>
</tr>
<tr>
<td>-Motor vehicle maintenance and repair services (CPC 6112 and 8867)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>Other supporting services for road transport (CPC 74490) (limited to main bus and truck terminals and bus and truck stations)</td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>e) Supporting services for road transport services Supporting services for road transport (CPC 744) limited to Management Services of Roads, Bridges and Auxiliary Services</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>11. G. Pipeline transport.</td>
<td></td>
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<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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<td>--------------------</td>
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</tbody>
</table>
| b) Transportation of other goods (CPC7139) limited to Non-energy Pipelines | 1), 2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter |
| 11. H. Services auxiliary to all modes of transport | |
| - Weighbridge services for transport purposes (CPC 7490) | 1) None, 2) None,  
3) None,  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Supporting services for air transport | 1), 2) and 3) None  
4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter |
| 11. I. Other transport services | |
| - Tramway transport (CPC 71211) | 1) Unbound  
2) None  
3) None  
4) Unbound except as indicated in the Temporary Entry for Business Persons Chapter. |
| - Subway transport (CPC 71211) | 1) Unbound except as indicated in the horizontal section  
2) None  
3) None  
4) Unbound except as indicated in the Temporary Entry for Business Persons Chapter |
| - Rental of commercial vehicles with operator (CPC 7124) | 1) Unbound except as indicated in the horizontal section  
2) None |
<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>12. OTHER SERVICES</strong></td>
<td></td>
</tr>
<tr>
<td>-Repair of footwear and other articles of leather and skins</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>-Footwear and leather goods repair services (CPC 63301)</td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>-Repair of electronic appliances mainly for household use (CPC 63302)</td>
<td></td>
</tr>
<tr>
<td>- Repair services of electrical household appliances (CPC 63302)</td>
<td></td>
</tr>
<tr>
<td>-Repair of clocks, watches and jewellery (CPC 63303)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>- Watch, clock and jewellery repair services (CPC 63303)</td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>- Repair and cleaning of headgear (CPC 63304)</td>
<td></td>
</tr>
<tr>
<td>-Repair of bicycles (CPC 63309)</td>
<td>1), 2) and 3) None</td>
</tr>
<tr>
<td>- Bicycle repair (CPC 63309)</td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
<tr>
<td>Sector or subsector</td>
<td>Limitations on market access</td>
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</tr>
<tr>
<td>- Locksmiths' trade</td>
<td>1) and 2) None</td>
</tr>
<tr>
<td>(CPC 63309)</td>
<td>3) None, except that state and municipal authorities are responsible for authorizing these services</td>
</tr>
<tr>
<td></td>
<td>4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter</td>
</tr>
</tbody>
</table>

*Unbound due to lack of technical feasibility.*
ANNEX II
SCHEDULE OF NEW ZEALAND

Sector
All sectors

Obligations Concerned
National Treatment (Articles 9.4 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description
Cross Border Services and Investment
New Zealand reserves the right to adopt or maintain any measure with respect to:

- The provision of public law enforcement and correctional services; and

- The following, to the extent that they are social services established for a public purpose:
  - Child care;
  - Health;
  - Income security and insurance;
  - Public education;
  - Public housing;
  - Public training;
  - Public transport;
  - Public utilities;¹
  - Social security and insurance; and
  - Social welfare.

¹ Only with respect to utility services for which exclusive rights or government support are accorded by central government for the purpose of ensuring the affordability, availability or accessibility of such services. This footnote does not apply to measures adopted or maintained by local government.
Sector: All sectors

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any measure with respect to water, including the allocation, collection, treatment and distribution of drinking water.

This reservation does not apply to the wholesale trade and retail of bottled mineral, aerated and natural water.
Sector
All sectors

Obligations Concerned
National Treatment (Articles 9.4 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description
Cross Border Trade in Services and Investment
New Zealand reserves the right to adopt and maintain any measure solely as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force. Such measures may include:

- Restricting the number of service suppliers;
- Allowing an enterprise, wholly or majority owned by the Government of New Zealand, to be the sole service supplier or one amongst a limited number of service suppliers;
- Imposing restrictions on the composition of senior management and boards of directors;
- Requiring local presence; and
- Specifying the juridical form of the service supplier(s).
Sector: All sectors

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description:
Cross Border Trade in Services and Investment

Where the New Zealand Government wholly owns or has effective control over an enterprise then New Zealand reserves the right to adopt or maintain any measures regarding the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to New Zealand nationals.

Entities within the scope of this reservation include state-owned enterprises at the central level of government. For transparency purposes, such enterprises include:

- Airways Corporation of New Zealand Limited;
- Animal Control Products Limited;
- AsureQuality Limited;
- Electricity Corporation of New Zealand Limited;
- KiwiRail Holdings Limited;
- Kordia Group Limited;
- Landcorp Farming Limited;
- Learning Media Limited;
- Meteorological Service of New Zealand Limited;
- New Zealand Post Limited;
- New Zealand Railways Corporation;
- Quotable Value Limited;
- Solid Energy New Zealand Limited;
- Terralink NZ Limited; and
- Transpower New Zealand Limited.
Sector: All sectors

Obligations Concerned:
- National Treatment (Article 9.4)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

New Zealand reserves the right to adopt or maintain any measure that sets out the approval criteria to be applied to the categories of overseas investment that require approval under New Zealand’s overseas investment regime.

For transparency purposes those categories, as set out in I–NZ–10, are:

a) acquisition or control by non-government sources of 25 percent or more of any class of shares\(^2\) or voting power\(^3\) in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$200 million;

b) commencement of business operations or acquisition of an existing business by non-government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ$200 million;

c) acquisition or control by government sources of 25 percent or more of any class of shares\(^4\) or voting power\(^5\) in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$100 million;

d) commencement of business operations or acquisition of an existing business by government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ$100 million;

e) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand’s Overseas Investment legislation; and

f) any transaction, regardless of dollar value, that would result in an overseas investment in fishing quota.

\(^2\) For greater certainty, the term ‘shares’ includes shares and other types of securities.

\(^3\) For greater certainty, ‘voting power’ includes the power to control the composition of 25% or more of the governing body of the New Zealand entity’.

\(^4\) For greater certainty, the term ‘shares’ includes shares and other types of securities.

\(^5\) For greater certainty, ‘voting power’ includes the power to control the composition of 25% or more of the governing body of the New Zealand entity’.
<table>
<thead>
<tr>
<th>Existing Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overseas Investment Act 2005</td>
</tr>
<tr>
<td>Fisheries Act 1996</td>
</tr>
<tr>
<td>Overseas Investment Regulations 2005</td>
</tr>
</tbody>
</table>
Sector All sectors

Obligations Concerned Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)

Description Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or a non-party under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or a non-party under any international agreement in force or signed after the date of entry into force of this Agreement involving:

- Aviation;
- Fisheries; and
- Maritime matters.
Sector  
All sectors

Obligations Concerned  
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)

Description  
Cross Border Trade in Services and Investment
New Zealand reserves the right to adopt or maintain any measure taken as part of a wider process of economic integration or trade liberalisation between the parties to the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) or the Pacific Agreement on Closer Economic Relations (PACER) that accords differential treatment to a Party or a non-party.  

6 For the avoidance of doubt, this includes any measure adopted or maintained under any existing or future protocol to the agreements.
<table>
<thead>
<tr>
<th>Sector</th>
<th>All Sectors</th>
</tr>
</thead>
</table>
| Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
Local Presence (Article 10.6) |
| Description   | Cross Border Trade in Services and Investment |
|               | New Zealand reserves the right to adopt or maintain any measure regarding the control, management or use of: |
|               | • Protected areas, being areas established under and subject to the control of legislation, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation, and scenery preservation; or |
|               | • Species owned under enactments by the Crown or that are protected by or under an enactment. |
| Existing Measures | Conservation Act 1987 and the enactments listed in Schedule 1 of the Conservation Act 1987  
Resource Management Act 1991  
Local Government Act 1974 |
Sector
All Sectors

Obligations Concerned
National Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.10)

Description
Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any nationality or residency measures in relation to:

- animal welfare; and

- the preservation of plant, animal and human life and health; including in particular:
  - food safety of domestic and exported foods;
  - animal feeds;
  - food standards;
  - biosecurity;
  - biodiversity; and
  - certification of the plant or animal health status of goods.

Nothing in this reservation shall be construed to derogate from the obligations of Chapter 7 (Sanitary and Phytosanitary Measures), or the obligations of the SPS Agreement.

Nothing in this reservation shall be construed to derogate from the obligations of Chapter 8 (Technical Barriers to Trade), or the obligations of the TBT Agreement.
<table>
<thead>
<tr>
<th>Sector</th>
<th>All sectors</th>
</tr>
</thead>
</table>
| Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
                  | Performance Requirements (Article 9.9)  
                  | Senior Management and Boards of Directors (Article 9.10) |
| Description      | Cross Border Trade in Services and Investment |
|                  | New Zealand reserves the right to maintain or adopt any measure made by or under an enactment in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters) territorial sea, the Exclusive Economic Zone, and the continental shelf, including for the issuance of maritime concessions in the continental shelf. |
| Existing Measures | Resource Management Act 1991  
                          | Marine and Coastal Area (Takutai Moana) Act 2011  
                          | Continental Shelf Act 1964  
<pre><code>                      | EEZ and Continental Shelf (Environmental Effects) Act 2012 |
</code></pre>
<table>
<thead>
<tr>
<th>Sectors</th>
<th>All Sectors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obligations Concerned</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross Border Trade in Services</td>
</tr>
</tbody>
</table>

New Zealand reserves the right to adopt or maintain any measure that is not inconsistent with New Zealand’s obligations under Article XVI of the GATS as set out in New Zealand’s Schedule of Specific Commitments under the GATS (GATS/SC/62, GATS/SC/62 Suppl. 1, GATS/SC/62/Suppl. 2).

For the purposes of this entry only, New Zealand’s Schedule of Specific Commitments is modified as set out in Appendix A.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Business Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fire Services</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>New Zealand reserves the right to adopt or maintain any measure with respect to the provision of fire fighting services, excluding aerial fire fighting services.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>Fire Service Act 1975</td>
</tr>
<tr>
<td></td>
<td>Forest and Rural Fires Act 1977</td>
</tr>
</tbody>
</table>
Sector: Business Services
Research and Development

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Performance Requirements (Article 9.9)

Description: Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any measure with respect to:

- Research and development services carried out by State funded tertiary institutions or by Crown Research Institutes when such research is conducted for a public purpose;
- Research and experimental development services on physical sciences, chemistry, biology, engineering and technology, agricultural sciences, medical, pharmaceutical and other natural sciences i.e. CPC 8510.
Sector Business Services  
Technical Testing and Analysis Services

Obligations Concerned National Treatment (Articles 9.4 and 10.3)

Description Cross Border Trade in Services and Investment
New Zealand reserves the right to adopt or maintain any measures in respect of:
- composition and purity testing and analysis services (CPC 86761);
- technical inspection services (CPC 86764);
- other technical testing and analysis services (CPC 86769);
- geological, geophysical, and other scientific prospecting services (CPC 86751); and
- drug testing services.
Sector
Business Services
Fisheries and aquaculture
Services related to fisheries and aquaculture

Obligations Concerned
National Treatment (Articles 9.4 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description
Cross Border Trade in Services and Investment
New Zealand reserves the right to control the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges) consistent with the provisions of the United Nations Convention on the Law of the Sea.

Existing Measures
Fisheries Act 1996
Aquaculture Reform Act 2004
Sector
Business Services
Energy
Manufacturing
Wholesale trade
Retail

Obligations Concerned
National Treatment (Articles 9.4 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description
Cross Border Trade in Services and Investment
New Zealand reserves the right to adopt any measure in order to prohibit, regulate, manage or control the production, use, distribution or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.
Sector: Communication Services
Audio-visual and other Services

Obligations Concerned: Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)

Description: Cross Border Trade in Services and Investment
New Zealand reserves the right to adopt or maintain preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under these co-production arrangements, confers national treatment on works covered by these arrangements.

Existing Measures: For greater transparency, section 18 of the New Zealand Film Commission Act 1978 limits Commission funding to films with a “significant New Zealand content”. This criterion is deemed to be satisfied if made pursuant to a co-production agreement or arrangement with the partner country in question.
Sector Communication Services
Audio-visual and other Services

Obligations Concerned National Treatment (Articles 9.4 and 10.3)
Market Access (Article 10.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any measure with respect to the promotion of film and television production in New Zealand and the promotion of local content on public radio and television, and in films.
Sector: Agriculture, including services incidental to agriculture

Obligations Concerned:
- National Treatment (Article 9.4)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

New Zealand reserves the right to adopt or maintain any measures with respect to:
- the holding of shares in the co-operative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 (DIRA) (or any successor body); and
- the disposition of assets of that company or its successor bodies.

Existing Measures: Dairy Industry Restructuring Act 2001
<table>
<thead>
<tr>
<th>Sector</th>
<th>Agriculture, including services incidental to agriculture</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Obligations Concerned</strong></td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Performance Requirements (Article 9.9)</td>
</tr>
<tr>
<td></td>
<td>Senior Management and Boards of Directors (Article 9.10)</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Cross Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>New Zealand reserves the right to adopt or maintain any</td>
</tr>
<tr>
<td></td>
<td>measures with respect to the export marketing of fresh</td>
</tr>
<tr>
<td></td>
<td>kiwifruit to all markets other than Australia.</td>
</tr>
<tr>
<td><strong>Existing Measures</strong></td>
<td>Kiwifruit Industry Restructuring Act 1999 and Regulations</td>
</tr>
</tbody>
</table>
Sector Agriculture, including services incidental to agriculture

Obligations Concerned National Treatment (Articles 9.4 and 10.3)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description Cross Border Trade in Services and Investment
New Zealand reserves the right to adopt or maintain any measures with respect to:

- specifying the terms and conditions for the establishment and operation of any government endorsed allocation scheme for the rights to the distribution of export products falling within the HS categories covered by the WTO Agreement on Agriculture to markets where tariff quotas, country-specific preferences or other measures of similar effect are in force; and

- the allocation of distribution rights to wholesale trade service suppliers pursuant to the establishment or operation of such an allocation scheme.

This reservation is not intended to have the effect of prohibiting investment in the provision of wholesale trade and distribution services relating to goods in the HS chapters covered by the WTO Agreement on Agriculture. The entry applies in respect of investment to the extent that wholesale trade and distribution services are provided with respect to agricultural products that are subject to tariff quotas, country-specific preferences, or other measures of similar effect.
<table>
<thead>
<tr>
<th><strong>Sector</strong></th>
<th>Agriculture, including services incidental to agriculture</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Obligations Concerned</strong></td>
<td>Senior Management and Boards of Directors (Article 9.10)</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Cross Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>New Zealand reserves the right to maintain or adopt any measures necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as “export marketing strategies”) for the export marketing of products derived from:</td>
</tr>
<tr>
<td></td>
<td>• agriculture;</td>
</tr>
<tr>
<td></td>
<td>• beekeeping;</td>
</tr>
<tr>
<td></td>
<td>• horticulture;</td>
</tr>
<tr>
<td></td>
<td>• arboriculture;</td>
</tr>
<tr>
<td></td>
<td>• arable farming; and</td>
</tr>
<tr>
<td></td>
<td>• the farming of animals,</td>
</tr>
<tr>
<td></td>
<td>where there is support within the relevant industry that a mandatory collective marketing plan should be adopted or activated.</td>
</tr>
<tr>
<td></td>
<td>For the avoidance of doubt, mandatory marketing plans, in the context of this reservation, exclude measures limiting the number of market participants or limiting the volume of exports.</td>
</tr>
<tr>
<td><strong>Existing Measures</strong></td>
<td>New Zealand Horticulture Export Authority Act 1987</td>
</tr>
<tr>
<td><strong>Sector</strong></td>
<td>Health and Social Services</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td><strong>Obligations Concerned</strong></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Cross Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>New Zealand reserves the right to adopt or maintain any measure with respect to all services suppliers and investors for the supply of adoption services.</td>
</tr>
<tr>
<td><strong>Existing Measures</strong></td>
<td>Adoption Act 1955</td>
</tr>
<tr>
<td></td>
<td>Adoption (Inter-country) Act 1997</td>
</tr>
</tbody>
</table>
Sector: Recreation, cultural and sporting

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description:
Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any measure with respect to gambling, betting and prostitution services.

Existing Measures:
- Gambling Act 2003 and Regulations
- Prostitution Reform Act 2003
- Racing Act 2003
- Racing (Harm Prevention and Minimisation) Regulations 2004
- Racing (New Zealand Greyhound Racing Association Incorporated) Order 2009
Sector
Recreation, cultural and sporting
Library, archive, museum and other cultural services

Obligations Concerned
National Treatment (Articles 9.4 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)

Description
Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any measure in respect of:

- Cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific or technological heritage, as well as collections that are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions;
- Public archives;
- Library and museum services; and
- Services for the preservation of historical or sacred sites or historical buildings.
### Sector
Transport
Maritime Services

### Obligations Concerned
- National Treatment (Articles 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

### Description
Cross Border Trade in Services and Investment

New Zealand reserves the right to adopt or maintain any measure with respect to:

- The carriage by sea of passengers or cargo between a port located in New Zealand and another port located in New Zealand and traffic originating and terminating in the same port in New Zealand (maritime “cabotage”).

- The establishment of registered companies for the purpose of operating a fleet under the New Zealand flag.

- The registration of vessels in New Zealand.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Distribution Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obligations Concerned</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross Border Trade in Services</td>
</tr>
<tr>
<td></td>
<td>New Zealand reserves the right to adopt or maintain any measure for public health or social policy purposes with respect to wholesale and retail trade services of tobacco products and alcoholic beverages.</td>
</tr>
<tr>
<td>Sector</td>
<td>Financial Services</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------</td>
</tr>
</tbody>
</table>
| Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
                        Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
                        Local Presence (Article 10.6)  
                        Performance Requirements (Article 9.9)  
                        Senior Management and Boards of Directors (Article 9.10) |
| Description | Cross Border Services and Investment  
New Zealand reserves the right to adopt or maintain any measure with respect to the supply of:  
• Compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and  
• Disaster insurance for residential property for replacement cover up to a defined statutory maximum. |
<table>
<thead>
<tr>
<th>Sector</th>
<th>All sectors</th>
</tr>
</thead>
</table>
| Obligations Concerned | National Treatment (Article 9.4)  
                  Performance Requirements (Article 9.9) |
| Description    | Investment  |

New Zealand reserves the right to adopt or maintain any taxation measure with respect to the sale, purchase or transfer of residential property (including interests that arise via leases, financing and profit sharing arrangements, and acquisition of interests in enterprises that own residential property).

For greater certainty, residential property does not include non-residential commercial real estate.
Appendix A

For the purposes of entry II-NZ-12, New Zealand’s obligations under Article XVI of the GATS as set out in New Zealand’s Schedule of Specific Commitments under the GATS (GATS/SC/62, GATS/SC/62 Suppl. 1, GATS/SC/62/Suppl. 2) are improved in the following sectors as described below.

<table>
<thead>
<tr>
<th>Sector/subsector</th>
<th>Market Access Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUSINESS SERVICES</td>
<td></td>
</tr>
<tr>
<td>Professional Services</td>
<td></td>
</tr>
<tr>
<td>Practice of foreign law</td>
<td></td>
</tr>
<tr>
<td>Business tax planning and consulting services</td>
<td></td>
</tr>
<tr>
<td>Integrated engineering services</td>
<td></td>
</tr>
<tr>
<td>Consultancy related to Urban Planning and Landscape Architecture (CPC 8674**)</td>
<td></td>
</tr>
<tr>
<td>Computer And Related Services</td>
<td></td>
</tr>
<tr>
<td>Maintenance and repair of office machinery and equipment including computers</td>
<td></td>
</tr>
<tr>
<td>Other Computer Services</td>
<td></td>
</tr>
<tr>
<td>Other Business Services</td>
<td></td>
</tr>
<tr>
<td>Management Consulting Services</td>
<td></td>
</tr>
<tr>
<td>Services related to management consulting</td>
<td></td>
</tr>
<tr>
<td>Services incidental to animal husbandry</td>
<td></td>
</tr>
<tr>
<td>Placement and supply services of personnel</td>
<td></td>
</tr>
<tr>
<td>Photographic services</td>
<td></td>
</tr>
<tr>
<td>Convention services (CPC 87909**)</td>
<td></td>
</tr>
<tr>
<td>Other credit reporting services</td>
<td></td>
</tr>
<tr>
<td>Collection agency services</td>
<td></td>
</tr>
<tr>
<td>Interior Design Services (CPC 87907**)</td>
<td></td>
</tr>
<tr>
<td><strong>Telephone Answering Services</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Duplicating Services</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Mailing list compilation and mailing services</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Other Business Services –** services generally provided to business not elsewhere classified in the CPC and not including convention services. These include: business brokerage services, appraisal services (other than for real estate), secretarial services, demonstration and exhibition services, etc.

**COMMUNICATION SERVICES**

| **Postal And Courier Services** |  |
| **Services relating to the handling**\(^7\) of postal items\(^8\) whether for domestic or foreign destinations: | Insert new commitment with modes 1 and 3 limited as follows: “None, other than Additional conditions for operation in the market or de-registration may be imposed on postal operators where these engage in anti-competitive behaviour”, no limitations on mode 2 and mode 4 “Unbound, except as indicated in the horizontal section.” |
| A. Handling of addressed written communications on any kind of physical medium\(^9\), including: |  |
| - Hybrid mail services |  |
| - Direct mail |  |
| B. Handling of addressed parcels and packages\(^10\) |  |
| C. Handling of addressed press products\(^11\) |  |
| D. Handling of items referred to in A. to above as registered or insured mail. |  |
| E. Express delivery services\(^12\) for items referred to in A. to C. above. |  |
| F. Handling of non-addressed items. |  |
| G. Document exchange. |  |
| H. Other services not elsewhere specified, including post office counter services, other than the issue |  |

---

\(^7\) The term “handling” should be taken to include clearance, sorting, transport and delivery.

\(^8\) “Postal item” refers to items handled by any type of commercial operator, whether public or private.

\(^9\) For example. letter, postcards.

\(^10\) Books, catalogues are included hereunder.

\(^11\) Journals, newspapers, periodicals.

\(^12\) Express delivery services may include, in addition to greater speed and reliability, value added elements such as collection from point of origin, personal delivery to addressee, tracing and tracking, possibility of changing the destination and addressee in transit, confirmation of receipt.
<table>
<thead>
<tr>
<th>Services</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONSTRUCTION AND RELATED ENGINEERING SERVICES</td>
<td>Replace existing restriction under mode 1 with “None for consultancy services”.</td>
</tr>
<tr>
<td>General Construction Work for Buildings</td>
<td>Replace existing restriction under mode 1 with “None for consultancy services”.</td>
</tr>
<tr>
<td>General Construction Work for Civil Engineering</td>
<td>Replace existing restriction under mode 1 with “None for consultancy services”.</td>
</tr>
<tr>
<td>Installation and Assembly Work</td>
<td>Replace existing restriction under mode 1 with “None for consultancy services”.</td>
</tr>
<tr>
<td>Building Completion and Finishing Work</td>
<td>Replace existing restriction under mode 1 with “None for consultancy services”.</td>
</tr>
<tr>
<td>Other</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Site preparation: new construction (other than pipelines)</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Maintenance and repair of fixed structures</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Other</td>
<td>Replace existing commitments with:</td>
</tr>
<tr>
<td>Renting Services related to Equipment for Construction or Demolition of Buildings or Civil Engineering, with Operator</td>
<td>Replace existing commitments with:</td>
</tr>
<tr>
<td>DISTRIBUTION SERVICES</td>
<td>Replace existing commitments with:</td>
</tr>
<tr>
<td>Commission Agents’ Services</td>
<td>Replace existing commitments with:</td>
</tr>
<tr>
<td>CPC 62113-62115, 62117-62118: no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
<td></td>
</tr>
<tr>
<td>CPC 62111** only in respect of 02961-02963** (ovine wool); CPC 62112** only in respect of CPC 21111, 21112, 21115, 21116 and 21119** (edible offals of bovine and ovine origin) and 02961-02963** (ovine wool); and CPC 62116** only in respect of 2613-2615**, (ovine wool): Insert new commitments with no limitations for modes 1 and 2,</td>
<td></td>
</tr>
</tbody>
</table>

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13 The issue of stamps bearing the said words is restricted to UPU designated operators except where the said words form part of the name of the operator issuing the stamps.
<table>
<thead>
<tr>
<th>Wholesale trade services</th>
<th>Replace existing commitments with:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CPC 6223 – 6226, CPC 6228: no</td>
</tr>
<tr>
<td></td>
<td>limitations for modes 1-3 and mode 4</td>
</tr>
<tr>
<td></td>
<td>“Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td></td>
<td>CPC 6221<strong>only in respect of 02961-02963</strong> (ovine wool); CPC 6222** only in respect of CPC 21111, 21112, 21115, 21116 and 21119** (edible offals of bovine and ovine origin); and CPC 62277** only in respect of 2613-2615**, (ovine wool): Insert new commitments with no limitations for modes 1 and 2, mode 3 “None, except in terms of export distribution: (i) the allocation of distribution rights related to exports of these products to export markets where tariff quotas, country specific preferences and other measures of similar effect are found may place limitations on the numbers of services suppliers, total value of services transactions or numbers of services operations; (ii) mandatory export marketing strategies may apply where there is support within the relevant industry. These export marketing strategies do not include measures limiting the number of market participants or limiting the volume of exports.”</td>
</tr>
<tr>
<td></td>
<td>mode 3 “None, except in terms of export distribution: (i) the allocation of distribution rights related to exports of these products to export markets where tariff quotas, country specific preferences and other measures of similar effect are found may place limitations on the numbers of services suppliers, total value of services transactions or numbers of services operations; (ii) mandatory export marketing strategies may apply where there is support within the relevant industry. These export marketing strategies do not include measures limiting the number of market participants or limiting the volume of exports.”</td>
</tr>
<tr>
<td></td>
<td>mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
</tbody>
</table>
marketing strategies may apply where there is support within the relevant industry. These export marketing strategies do not include measures limiting the number of market participants or limiting the volume of exports.” and mode 4 “Unbound, except as indicated in the horizontal section.”

<table>
<thead>
<tr>
<th>EDUCATION SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Education Services</td>
</tr>
<tr>
<td>Other Education in respect of the following services only: Language training provided in private specialist language institutions; Tuition in subjects taught at the primary and secondary levels, provided by private specialist institutions operating outside the New Zealand compulsory school system.</td>
</tr>
<tr>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ENVIRONMENTAL SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste water management</td>
</tr>
<tr>
<td>Waste Management</td>
</tr>
<tr>
<td>Refuse disposal services</td>
</tr>
<tr>
<td>Sanitation and similar services</td>
</tr>
<tr>
<td>Protection of ambient air and climate</td>
</tr>
<tr>
<td>Remediation and clean-up of soil and water</td>
</tr>
<tr>
<td>Noise and vibration abatement</td>
</tr>
<tr>
<td>Protection of biodiversity and landscape</td>
</tr>
<tr>
<td>Other environmental and ancillary services</td>
</tr>
<tr>
<td>Insert new commitments for consultancy and these services contracted by private industry only with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
</tbody>
</table>

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14 Examples of these services might include the provision of extension or remedial tuition in relation to Maths, Science or History.
15 New Zealand’s commitments on environmental services exclude the collection, purification and distribution of water, including water for human use.
<table>
<thead>
<tr>
<th>Service Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maritime Transport Services</td>
<td>Replace existing condition applicable to all maritime service sectors with the following: “General conditions applicable to all maritime service sectors: marketing and sales of maritime transport and related services for products covered under CPC 01, 02, 211, 213-216, 22, 2399 and 261; unbound, except for marketing and sales related to the following products in respect of which a commitment is made: CPC 21111, 21112, 21115, 21116 and CPC 21119** (edible offals of bovine and ovine origin only); CPC 2613-2615** (ovine wool only); and CPC 02961-02963** (ovine wool only).”</td>
</tr>
<tr>
<td>Maritime Auxiliary Services</td>
<td></td>
</tr>
<tr>
<td>Maritime Cargo Handling Services**</td>
<td>Insert new commitment with mode 1 “Unbound except for no limitation on transhipment (board to board or via the quay) and/or use of on board cargo handling equipment.”, no limitations for modes 2 and 3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Customs Clearance Services**</td>
<td>Insert new commitment with mode 1 unbound, no limitations for modes 2 and 3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Container Station and Depot Services**</td>
<td>Insert new commitments with no limitations for modes 2 and 3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Maritime Agency Services**</td>
<td>Insert new commitments with no limitations for modes 2 and 3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
</tbody>
</table>

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16 Maritime Cargo Handling Services: activities exercised by stevedoring companies, including terminal operators, but not including the direct activities of dockers when this workforce is organised independently of the stevedoring or terminal operator companies. The activities include the organisation and supervision of:
- the loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

17 Customs Clearance Services: activities consisting of carrying out on behalf of another party customs formalities concerning the import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

18 Container Station and Depot Services: activities consisting of storing containers, whether in port or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

19 Maritime Agency Services: activities consisting of representing as an agent, the business interests of one or more shipping lines, for the following purposes:
- Marketing and sales of maritime transport and related services, from quotation to invoicing, and issuing bills of lading on behalf of the companies; acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
- Acting on behalf of the companies organising the call of a ship or taking over cargoes when required.
<table>
<thead>
<tr>
<th>Service Type</th>
<th>Description</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIR TRANSPORT SERVICES</td>
<td>Selling and marketing of air transport services</td>
<td>Replace existing limitation for modes 1, 2 and 3 with “Unbound for products covered under CPC 01, 02, 211, 213-216, 22, 2399 and 261, except for marketing and sales related to CPC 21111, 21112, 21115, 21116 and CPC 21119** (edible offals of bovine and ovine origin), CPC 2613-2615** (ovine wool), and CPC 02961-02963** (ovine wool).”</td>
</tr>
<tr>
<td>Aircraft repair and maintenance Services</td>
<td></td>
<td>Insert new commitment with mode 1 unbound, no limitations for modes 2 and 3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Airport Operation Services</td>
<td>CPC74610**, excluding Navigation aids</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Other supporting services for air transport</td>
<td>CPC 74690** excluding fire fighting and fire-prevention services</td>
<td>Insert new commitment with mode 1 unbound, no limitations for modes 2 and 3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td></td>
<td>Cargo and baggage handling services (CPC 741**)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ramp handling services (CPC 741**)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Airport management services</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>OTHER SERVICES NOT INCLUDED ELSEWHERE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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20 As defined in paragraph 6(b) of the Annex on Air Transport Services.
21 As defined in paragraph 6(b) of the Annex on Air Transport Services.
<table>
<thead>
<tr>
<th>Other</th>
<th>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washing, cleaning and dyeing services</td>
<td></td>
</tr>
</tbody>
</table>

II-NZ-38
ANNEX II
SCHEDULE OF PERU

1. Sector: All Sectors

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Articles 9.5 and 10.4)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Peru reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreements in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters,¹ including salvage.

Existing Measures:

¹ For greater certainty, maritime matters include transport by lakes and rivers.

ANNEX II-PERU-1
2. Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Most-Favored-Nation Treatment (Article 9.5)
Senior Management and Board of Directors (Article 9.10)

Description: Investment

Peru, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets, and on the ability of owners of such interests or assets to control any resulting enterprise, by investors of a Party or of a non-Party or their investments. With respect to such a sale or other disposition, Peru may adopt or maintain any measure relating to the nationality of individuals appointed to senior management positions or members of the board of directors.

For the purposes of this reservation:

(a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets or imposes nationality requirements described in this reservation shall be deemed to be an existing measure subject to paragraphs 1, 4, 5 and 6 of Article 9.11 (Non-conforming Measures) and paragraph 1 of Article 10.7 (Non-conforming Measures); and

(b) “state enterprise” means an enterprise owned or controlled through ownership interests by Peru and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Existing Measures:

An illustrative list of existing state enterprises in Peru can be found in the following website: www.fonafe.gob.pe.
3. Sector: Indigenous Communities, Peasant, Native and Minority Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities and ethnic groups. For purposes of this entry, “ethnic groups” means indigenous, native, and peasant communities.

Existing Measures:
4. Sector: Fishing and Services related to Fishing

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Performance Requirements (Article 9.9)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to artisanal fishing.

Existing Measures:
5. Sector: Cultural Industries

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Articles 9.5 and 10.4)

Description: Investment and Cross-Border Trade in Services

For purposes of this entry, the term “cultural industries” means:

(a) publication, distribution, or sale of books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;

(b) production, distribution, sale, or display of recordings of movies or videos;

(c) production, distribution, sale, or display of music recordings in audio or video format;

(d) production and presentation of theatre arts;

(e) production and exhibition of visual arts;

(f) production, distribution, or sale of printed music scores or scores readable by machines;

(g) design, production, distribution and sale of handicrafts; or

(h) radiobroadcasts aimed at the public in general, as well as all radio, television, and cable television-related activities, satellite programming services, and broadcasting networks.

Peru reserves the right to adopt or maintain any measure giving preferential treatment to persons of other countries pursuant to any existing or future bilateral or multilateral international agreement regarding cultural industries, including audio-visual cooperation agreements.

For greater certainty, Articles 9.4 (National Treatment) and 9.5 (Most-Favored-Nation Treatment) and Chapter 10 (Cross-Border Trade in Services) shall not apply to

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3 The term “theatre arts” means live performances or presentations such as drama, dance or music.
government support for the promotion of cultural industries.

Existing Measures:
6. Sector: Handicraft Industries

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3) Performance Requirements (Article 9.9)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to the design, distribution, retailing, or exhibition of handicrafts that are identified as Peruvian handicrafts.

Performance requirements shall in all cases be consistent with the Agreement on Trade-Related Investment Measures (TRIMs Agreement).
7. Sector: Audio-Visual Industry

Sub-Sector:

Obligations Concerned: Performance Requirements (Article 9.9) National Treatment (Article 10.3)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure whereby a specified percentage (up to 20 percent) of the total cinematographic works shown on an annual basis in cinemas or exhibition rooms in Peru consist of Peruvian cinematographic works. In establishing such percentage, Peru shall take into account factors including the national cinematographic production, the existing exhibition infrastructure in the country and attendance.

Existing Measures:
8. Sector:
   Jewelry Design
   Theater arts
   Visual arts
   Music
   Publishing

Sub-Sector:

Obligations Concerned:
   Performance Requirements (Article 9.9)
   National Treatment (Article 10.3)

Description:
   Investment and Cross-Border Trade in Services
   Peru reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government support for the development and production of jewelry design, theater arts, visual arts, music and publishing on the recipient achieving a given level or percentage of domestic creative content.

Existing Measures:
   Publishing
   Music

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
   Most-Favored-Nation Treatment (Articles 9.5 and 10.4)

Description: Investment and Cross-Border Trade in Services

Peru may adopt or maintain any measure that affords a person of another Party the treatment that is afforded by that Party to Peruvian persons in the audiovisual, publishing, and music sectors.

Existing Measures:
10. Sector: Social Services

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security and insurance, social security, social welfare, public education, public training, health, and childcare.

Existing Measures:
11. Sector: Public Supply of Potable Water

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to the public supply of potable water.

For greater certainty, nothing in this reservation shall affect the ability of a foreign enterprise to supply bottled water.

Existing Measures:
12. Sector: Public Sewage Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to public sewage services.

Existing Measures:
13. Sector: Telecommunications Services

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to the granting of a concession for the installation, operation and exploitation of public telecommunication services.
14. Sector: Education Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)
Most-Favored-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to natural persons who render educational services, including teachers and auxiliary personnel rendering educational services in basic and superior education including “educación técnico productiva” (technical and productive training) as well as other people who render services related to education included sponsors of educational institutions of any level or stage of the educational system.

Existing Measures:
15. Sector: Transportation Services

Sub-Sector: Road Transportation Services

Obligations Concerned: National Treatment (Article 10.3)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that authorizes only Peruvian natural or juridical persons to supply land transportation of persons or merchandise inside the territory of Peru (“cabotage”). For this, the enterprises shall use vehicles registered in Peru.

Existing Measures:
16. Sector: Transportation

Sub-Sector: International Road Transportation Services

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to the international land transportation of cargo or passengers in border areas.

Additionally, Peru reserves the right to adopt or maintain the following limitations for the supply of international land transportation from Peru:

(a) the service supplier must be a Peruvian natural or juridical person;

(b) the service supplier must have a real and effective domicile in Peru; and

(c) in the case of juridical persons, the service supplier must be legally constituted in Peru and more than 50 percent of its capital stock must be owned by Peruvian nationals and its effective control must be by Peruvian nationals.

Existing Measures:
17. Sector: Transportation

Sub-Sector: Air Transportation Services

Obligations Concerned: Most-Favored-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services
Peru reserves the right to adopt or maintain any measure relating to ground-handling services.

Existing Measures:
18. Sector: Transportation

Sub-Sector: Air Transportation Services

Obligations Concerned:
- National Treatment (Article 10.3)
- Most-Favored-Nation Treatment (Article 10.4)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to airport operation services.

Existing Measures:
19. Sector: All Sectors

Sub-Sector:

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to Article YY.Y (Market Access), except for the following sectors and sub-sectors subject to the limitations and conditions listed below:

**Legal services:** For (a) and (c): None, except that the number of notary positions depends on the number of inhabitants of each city. For (b): None. For (d): No commitments, except as indicated in the "Ley para la Contratación de Trabajadores Extranjeros".

**Accounting, auditing and bookkeeping services:** For (a) and (c): None, except that Auditing societies shall be constituted only and exclusively by public accountants licensed and resident in the country and duly qualified by the Board of Public Accountants of Lima ("Colegio de Contadores Públicos de Lima"). No partner may be a member of another auditory society in Peru. For (b): None. For (d): No commitments, except as indicated in the "Ley para la Contratación de Trabajadores Extranjeros".

**Taxation services:** For (a), (b) and (c): None. For (d): No commitments, except as indicated in the "Ley para la Contratación de Trabajadores Extranjeros".

**Architectural services:** For (a), (b) and (c): None, except that for temporary registration, non-resident foreign architects must have a contract of association with a Peruvian architect residing in Peru. For (d): No commitments, except as indicated in the "Ley para la Contratación de Trabajadores Extranjeros".

**Engineering services:** For (a), (b) and (c): None. For (d): No commitments, except as indicated in the "Ley para la Contratación de Trabajadores Extranjeros".

**Integrated engineering services:** For (a), (b) and (c): None. For (d): No commitments, except as indicated in the "Ley para la Contratación de Trabajadores Extranjeros".

**Annex II—Peru—20**
Urban planning and landscape architectural services: For (a), (b) and (c): None, except that to obtain temporary registration, non-resident foreign architects must have a contract of association with a Peruvian architect residing in Peru. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Veterinary Services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Services provided by midwives, nurses, physiotherapists, and paramedical personnel: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Computer and Related Services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Research and Development services on natural sciences: For (a), (b) and (c): None, except that a permission of operation may be required and the competent authority may require the inclusion to the expedition of one or more representatives of the Peruvian pertinent activities, in order to participate and know the studies and its scope. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Research and Development services on social sciences and humanities: For (a), (b) and (c): None, subject to the respective authorizations of the competent authority. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Interdisciplinary Research and Development services: For (a), (b) and (c): None, except that a permission of operation may be required. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Real Estate Services: Involving owned or leased property or on a fee or contract basis: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment:
For (a), (b) and (c): None, except that:
A “National Shipowner” or “National Ship Enterprise” is understood as a natural person of Peruvian nationality or juridical person constituted in Peru, with its principal domicile and real and effective headquarters in Peru, whose business is to provide water transportation services in national traffic or cabotage and/or international traffic and who is the owner or lessee under a financial lease or a bareboat charter, with an obligatory purchase option, of at least one Peruvian flag merchant vessel and that has obtained the relevant Operation Permit from the General Aquatic Transport Directorate.

Cabotage is exclusively reserved to Peruvian flagged merchant vessels owned by a National Shipowner or National Ship Enterprise or leased under a financial lease or a bareboat charter, with an obligatory purchase option, except that:

(i) up to 25 percent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy, and

(ii) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprise for a period of no more than six months for water transportation exclusively between Peruvian ports or cabotage when such an entity does not own its own vessels or lease vessels under the modalities previously mentioned.

For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Advertising services: For (a), (b) and (c): None, except that: Commercial advertising produced in Peru, must use at least 80 percent national artists. National artists shall receive no less than 60 percent of the total payroll for wages and salaries paid to artists. The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in commercial advertising. For (d): No commitments, except as indicated in the “Ley del Artista, Intérprete y Ejecutante” and “Ley para la Contratación de Trabajadores Extranjeros”.

Market research and public opinion polling services, management consulting services, services related to management consulting, and technical testing and analysis

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4 For greater certainty, water transportation includes transportation by lakes and rivers.
services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Services related to agriculture, hunting, and forestry: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Services incidental to fishing: solely advisory and consulting services relating to fishing: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Services related to mining, placement and supply services of personnel, and investigation and security services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Related scientific and technical consulting services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Maintenance and repair of equipment (not including vessels, aircraft, or other transport equipment), building-cleaning services, photographic services, packing services and convention services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Printing and publishing services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Other (CPC 8790) except: credit rating services (CPC 87901); jewelry design services; design services of handicrafts that are identified as Peruvian handicrafts; and other business services non elsewhere classified (CPC 87909). For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Express delivery services: For (a) and (b): No commitments. For (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.
Advisory services on telecommunications: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

National or international long-distance telecommunications services: For (a), (b), (c) and (d): Peru reserves the right to adopt or maintain any measure that is not inconsistent with Peru’s obligations under Article XVI of GATS.

Carrier telecommunications services, private telecommunications services and value added services\(^5\): For (a), (b), (c): None, except for the obligation of obtaining a concession, authorization, registry or any other title which Peru considers convenient to grant in order to habilitate the suppliers to provide these services. The juridical persons constituted under Peruvian law can be eligible for a concession.

Call-back, understood as being the offer of telephone services for the realization of attempts to make calls originating in the country with the objective of obtaining a return call with an invitation to dial, coming from a basic telecommunications network located outside the national territory, is prohibited.

International traffic shall be routed through the installations of a company holding a concession or other permission for operation granted by the “Ministerio de Transportes y Comunicaciones”.

Interconnection among private services is prohibited.

For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Commission agents services (except hydrocarbons): For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Retailing services, except alcohol and tobacco: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

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\(^5\) Value added services shall be defined in accordance with Peruvian legislation.
Wholesale trade services (except hydrocarbons): For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Franchising: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Construction services: solely consulting services related to construction: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Higher Education Services: For (a): No commitments, except for subjects that are part of a program that mainly takes place outside Peru. For (b): None. For (c) and (d): No commitments.

Environmental services: solely consulting services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Hotels and restaurants (including catering), travel agencies and tour operators services, and tourist guide services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Entertainment services (including theater, live bands, and circus services), news agencies services, libraries, archives, museums, and other cultural and sporting services: For (a), (b) and (c): None, except that:

(i) any domestic theater and visual arts production and any domestic artistic live performance must be comprised of at least 80 percent national artists. National artists shall receive no less than 60 percent of the total payroll for wages and salaries paid to artists. The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in artistic activities.

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6 For greater certainty, these commitments do not affect any regulation or mandatory requirements related to the recognition of certificates or degrees and they shall not be construed to exempt any student from meeting any applicable requirement to practice a profession or otherwise engage in business activities.

7 The term “theater arts” means live performances or presentations such as drama, dance, or music.
(ii) a foreign circus may stay in Peru with the original cast for a maximum of 90 days. This period may be extended for the same period of time. If it is extended, the foreign circus will include a minimum of 30 percent Peruvian nationals as artists and 15 percent Peruvian nationals as technicians. The same percentages shall apply to the payroll of salaries and wages.

For (d): No commitments, except as indicated in the “Ley del Artista, Intérprete y Ejecutante” and “Ley para la Contratación de Trabajadores Extranjeros”.

Exploitation of facilities for competitive and recreational sports: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Recreational parks services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Road Transport: rental of commercial vehicles with operator, maintenance and repair of road transport equipment, and exploitation of roads, bridges and tunnels services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Services auxiliary to all transport: cargo handling services; storage and warehouse services; freight transport agency services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Aircraft repair and maintenance services: For (a): No commitments. For (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Selling and marketing of air transport services, and computer reservation system services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “Ley para la Contratación de Trabajadores Extranjeros”.

Airport operation and ground handling services: For (a) and (b) No commitments. For (c): None. For (d): No commitments, except as indicated in the “Ley para la
Contratación de Trabajadores Extranjeros”.

For greater certainty, nothing in this reservation shall be inconsistent with Peru’s commitments under Article XVI of the GATS.

For purposes of this non-conforming measure:

1. “(a)” refers to the supply of a service from the territory of one Party into the territory of Peru;

2. “(b)” refers to the supply of a service in the territory of a Party by one person of that Party to a person of Peru;

3. “(c)” refers to the supply of a service in the territory of Peru by an investor of another Party or by a covered investment; and

4. “(d)” refers to the supply of a service by a national of a Party in the territory of Peru.

Existing Measures:

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ANNEX II

SINGAPORE’S RESERVATIONS TO
CHAPTER 9 (INVESTMENT) &
CHAPTER 10 (CROSS-BORDER TRADE IN SERVICES)

1.

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<td>Industry classification</td>
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<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Article 10.3)</td>
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<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Article 10.4)</td>
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<td></td>
<td>Market Access (Article 10.5)</td>
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<tr>
<td>Description</td>
<td>Cross-Border Trade in Services:</td>
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<td></td>
<td>Singapore reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons.</td>
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<tr>
<td>Industry classification</td>
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</table>
| Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
                          Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
                          Market Access (Article 10.5)  
                          Performance Requirements (Article 9.9)  
                          Senior Management and Board of Directors (Article 9.10)  |
| Description     | Cross-Border Trade in Services and Investment:  
                          Singapore reserves the right to adopt or maintain any measure in relation to the divestment of the administrator and operator of airports.  |
| Existing Measures | -                     |
3. Sector | All
---|---
Sub-Sector | -
Industry classification | -
Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
Market Access (Article 10.5)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10)
Description | Cross-Border Trade in Services and Investment:
Singapore reserves the right to maintain or adopt any measure affecting the supply of the following services:
(a) Social services;
(b) Social security;
(c) Public training;
(d) Ambulance services; and
(e) Health services by government-owned or controlled healthcare institutions, such as hospitals and polyclinics, including investments in these institutions, hospitals and polyclinics.
Existing Measures | -
### 4.

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<th>Sector</th>
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<td>Sub-Sector</td>
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<tr>
<td>Industry classification</td>
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</table>
| **Obligations Concerned** | National Treatment (Articles 9.4 and 10.3)  
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
Market Access (Article 10.5)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10) |
| **Description** | Cross-Border Trade in Services and Investment: Singapore reserves the right to maintain or adopt any measure affecting:  
(a) the full or partial devolvement to the private sector of services provided in the exercise of governmental authority;  
(b) the divestment of its equity interests in, and/or the assets of, an enterprise that is wholly owned by the Singapore government; and  
(c) the divestment of its equity interests in, and/or the assets of, an enterprise that is partially owned by the Singapore government.  
However, the right referred to in the preceding paragraph shall, in respect of measures affecting:  
(i) subparagraph (a) (to the extent that the devolvement is accompanied by a divestment), and  
(ii) subparagraphs (b) and (c),  
pertain only to the initial divestment and Singapore does not reserve this right with respect to subsequent divestments of such divested equity interests and/or assets.  

**Note** For greater certainty, any transfer of equity interests and/or assets to an enterprise that is wholly owned by the Singapore government, whether for consideration or not, shall not be considered to be a divestment. |
| **Existing Measures** | - |
5.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Administration and Operation of National Electronic Systems</th>
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<tbody>
<tr>
<td>Sub-Sector</td>
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<td>Industry classification</td>
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<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
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<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
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<td>Market Access (Article 10.5)</td>
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<td>Local Presence (Article 10.6)</td>
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<td>Performance Requirements (Article 9.9)</td>
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<td></td>
<td>Senior Management and Board of Directors (Article 9.10)</td>
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<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
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<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure relating to or affecting the collection and administration of proprietary information by national electronic systems.</td>
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<td>Existing Measures</td>
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6.

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<td>Sub-Sector</td>
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<td>Industry classification</td>
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</table>
| Obligations Concerned   | National Treatment (Articles 9.4 and 10.3)  
                          Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
                          Market Access (Article 10.5)  
                          Local Presence (Article 10.6)  
                          Performance Requirements (Article 9.9)  
                          Senior Management and Board of Directors (Article 9.10) |
| Description             | Cross-Border Trade in Services and Investment:  
                          Singapore reserves the right to maintain or adopt any measure affecting the arms and explosives sector. |
| Existing Measures       | Arms and Explosives Act, Cap. 13, Revised Edition 1985 |
7. **Sector**

Broadcasting Services

Broadcasting is defined as the transmission of signs or signals via any technology for the reception and/or display of aural and/or visual programme signals by all or part of the domestic public.

| Sub-Sector | - |
| Industry classification | - |

| Obligations Concerned | National Treatment (Articles 9.4 and 10.3) |
| | Most-Favoured-Nation Treatment (Articles 9.5 and 10.4) |
| | Market Access (Article 10.5) |
| | Local Presence (Article 10.6) |
| | Performance Requirements (Article 9.9) |
| | Senior Management and Board of Directors (Article 9.10) |

| Description | Cross-Border Trade in Services and Investment: |

Singapore reserves the right to maintain or adopt any measure affecting broadcasting services receivable by Singapore’s domestic audience or originating from Singapore, including but not limited to:

- (a) Transmission quotas for content on television broadcasting services in Singapore
- (b) Non-discriminatory expenditure requirements for Singapore production on television broadcasting services
- (c) Transmission quotas for content on radio in Singapore
- (d) Spectrum management and licensing of broadcasting services
- (e) Subsidies or grants for investment involving Singapore subjects, persons and services

This reservation does not apply to:

- (i) a service supplier of another Party, an investor of another Party, or a covered investment of an investor of another Party, in respect of measures affecting the supply of non-scheduled broadcasting services, to the extent that Singapore is bound to accord national treatment to that service supplier, investor or covered investment for non-scheduled broadcasting services under an agreement between Singapore and that Party, that was notified to the WTO Council for Trade in Services under Article V:7 of the GATS prior to entry into force of this Agreement.
(ii) the sole activity of transmitting licensed broadcasting services to a final consumer.

(iii) the production, distribution and public display of motion pictures, video recordings and sound recordings. Commitments in the production, distribution and public display of motion pictures, video recordings and sound recordings shall not include all the broadcasting and audiovisual services and materials that are broadcasting-related. Examples of services that are reserved include: free-to-air broadcasting, cable and pay television.

(iv) value-added network (VAN) services such as electronic-mail, voice-mail, online information and data-base retrieval, electronic data interchange, and online information and/or data processing.

| Existing Measures | - |
8.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Business Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Patent Agent Services</td>
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<tr>
<td>Industry classification</td>
<td>-</td>
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<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 10.3)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services: Singapore reserves the right to maintain or adopt any measure affecting the recognition of educational and professional qualifications for purposes such as admission, registration and qualification for patent agents.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>Patents Act, Cap. 221, 1995 Revised Edition</td>
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<tr>
<td>Sector</td>
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<tr>
<td>Sub-Sector</td>
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<tr>
<td>Industry classification</td>
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<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
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<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
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<td>Local Presence (Article 10.6)</td>
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<td>Performance Requirements (Article 9.9)</td>
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<tr>
<td></td>
<td>Senior Management and Board of Directors (Article 9.10)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure affecting real estate. This includes, but is not limited to, measures affecting the ownership, sale, purchase, development and management of real estate.</td>
</tr>
<tr>
<td></td>
<td>This reservation does not apply to real estate consultancy services, real estate agency services, real estate auction services, real estate valuation services, and renting or leasing services involving owned or leased non-residential property.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>Residential Property Act, Cap. 274, 1985 Revised Edition</td>
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<td>State Lands Act, Cap. 314, 1996 Revised Edition</td>
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<td>Housing and Development Act, Cap. 129, 1997 Revised Edition</td>
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<td>Jurong Town Corporation Act, Cap. 150, 1998 Revised Edition</td>
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<td></td>
<td>Executive Condominium Housing Scheme Act, Cap. 99A, 1997 Revised Edition</td>
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<td></td>
<td>Planning Act, Cap 232</td>
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</tbody>
</table>
10. Sector | Business Services  
---|---  
Sub-Sector | Scientific and technical consulting services  
Industry classification | CPC 8675 Engineering related scientific and technical consulting services  
Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
| Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
| Market Access (Article 10.5)  
| Local Presence (Article 10.6)  
| Performance Requirements (Article 9.9)  
| Senior Management and Board of Directors (Article 9.10)  
Description | Cross-Border Trade in Services and Investment  
Singapore reserves the right to maintain or adopt any measure affecting the supply of the following services:  
(a) Geological, geophysical and other scientific prospecting services (CPC 86751);  
(a) Subsurface surveying services (CPC 86752);  
(b) Surface surveying services (CPC 86753) and  
(c) Map making services (CPC 86754).  
Existing Measures | -
11.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Business Services</th>
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</table>
| Sub-Sector      | Armed Escort Services and Armoured Car Services  
|                 | Armed Guard Services |
| Industry        | CPC 87305 Guard Services |
| classification  |                   |
| Obligations     | National Treatment (Articles 9.4 and 10.3)  
| Concerned       | Most-Favoured-Nation Treatment (Articles 9.5 and 10.4) |
|                 | Market Access (Article 10.5)  
|                 | Local Presence (Article 10.6)  
|                 | Performance Requirements (Article 9.9)  
|                 | Senior Management and Board of Directors (Article 9.10) |
| Description     | Cross-Border Trade in Services and Investment:  
|                 | Singapore reserves the right to maintain or adopt any measure affecting the provision of armed escort, armoured car and armed guard services. |
12.

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<thead>
<tr>
<th>Sector</th>
<th>Business Services</th>
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<tbody>
<tr>
<td>Sub-Sector</td>
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<tr>
<td>Industry classification</td>
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<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
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<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
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<td>Performance Requirements (Article 9.9)</td>
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<td>Senior Management and Board of Directors (Article 9.10)</td>
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<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
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<td>Singapore reserves the right to maintain or adopt any measure affecting the supply of betting and gambling services.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>Betting Act, Cap. 21, 1985 Revised Edition</td>
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<td>Common Gaming Houses Act, Cap. 49, 1985 Revised Edition</td>
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<td>Private Lotteries Act, Cap. 250</td>
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<td>Sector</td>
<td>Business Services</td>
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<tr>
<td>Sub-Sector</td>
<td>Legal Services</td>
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<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
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<td></td>
<td>Local Presence (Article 10.6)</td>
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<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
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<td>Singapore reserves the right to maintain or adopt any measure affecting the supply of legal services in the practice of Singapore law.</td>
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<td>Legal Profession Act, Cap. 161</td>
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<th>Sector</th>
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<td>CPC 952 Services furnished by trade unions</td>
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<td>Local Presence (Article 10.6)</td>
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<td></td>
<td>Senior Management and Board of Directors (Article 9.10)</td>
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<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
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<td>Singapore reserves the right to maintain or adopt any measure affecting services provided by trade unions.</td>
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<tr>
<td>Existing Measures</td>
<td>Trade Unions Act, Cap. 333, 1985 Revised Edition</td>
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<tr>
<td>Industry classification</td>
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</tbody>
</table>
| Obligations Concerned | National Treatment (Article 9.4)  
                          Senior Management and Board of Directors (Article 9.10) |
| Description  | Investment:  
                          Singapore reserves the right to adopt or maintain any measure in  
                          relation to the retention of a controlling interest by the Singapore  
                          Government in Singapore Technologies Engineering (the Company) and/or its successor body, including but not limited to  
                          controls over the appointment and termination of members of the  
                          Board of Directors, divestment of equity and dissolution of the  
                          Company. |
| Existing Measures | -     |
### Sector

Distribution, Publishing and Printing of Newspapers

“Newspaper” means any publication containing news, intelligence, reports of occurrences, or any remarks, observations or comments, in relation to such news, intelligence, reports of occurrences, or to any other matter of public interest, printed in any language and published for sale or free distribution at regular intervals or otherwise, but does not include any publication published by or for the Government.

<table>
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<tr>
<th>Sub-Sector</th>
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<tr>
<td>Industry classification</td>
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</table>
| **Obligations Concerned** | National Treatment (Articles 9.4 and 10.3)  
Market Access (Article 10.5)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10) |
| **Description** | Cross-Border Trade in Services and Investment:  
Singapore reserves the right to maintain or adopt any measure affecting the distribution, publishing and printing of newspapers, including but not limited to, shareholding limits and management control. |
| **Existing Measures** | Newspaper and Printing Presses Act, Cap 206. 2002 Revised Edition |
17.

<table>
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<th>Sector</th>
<th>Trade Services</th>
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<tbody>
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<td>Commission Agents’ Services</td>
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<td>Wholesale Trade Services</td>
</tr>
<tr>
<td></td>
<td>Retailing Services</td>
</tr>
<tr>
<td></td>
<td>Franchising</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure affecting the supply of any products subject to import or export prohibition or non-automatic import or export licensing.</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to modify and/or increase the list of products stipulated in the laws, regulations and other measures governing Singapore’s import or export prohibition or non-automatic import or export licensing regime.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>-</td>
</tr>
</tbody>
</table>
18.  

<table>
<thead>
<tr>
<th>Sector</th>
<th>Educational Services</th>
</tr>
</thead>
</table>
| Sub-Sector                  | Primary Education Services  
                           | Secondary Education Services  |
| Industry classification     | CPC 921 Primary Education Services  
                           | CPC 92210 General Secondary Education Services  
                           | CPC 92220 Higher Secondary Education Services (only applies to Junior colleges and pre-university centres under the Singapore educational system) |
| Obligations Concerned       | National Treatment (Articles 9.4 and 10.3)  
                           | Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
                           | Market Access (Article 10.5)  
                           | Local Presence (Article 10.6) |
| Description                 | Cross-Border Trade in Services and Investment:  
                           | Singapore reserves the right to maintain or adopt any measure affecting the supply of primary, general secondary and higher secondary (only applies to junior colleges and pre-university centres under the Singapore educational system) education services for Singapore citizens, including Sports Education Services. |
| Existing Measures           | Education Act, Cap. 87, 1985 Revised Edition  
                           | Administrative Guidelines  
<pre><code>                       | Private Education Act 2009 |
</code></pre>
<table>
<thead>
<tr>
<th>Sector</th>
<th>Health and Social Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-Sector</strong></td>
<td></td>
</tr>
<tr>
<td>Medical Services</td>
<td></td>
</tr>
<tr>
<td>Pharmacy Services</td>
<td></td>
</tr>
<tr>
<td>Deliveries and related services, nursing services, physiotherapeutic and para-medical services and allied health services</td>
<td></td>
</tr>
<tr>
<td>Optometrists and Opticians</td>
<td></td>
</tr>
<tr>
<td><strong>Industry classification</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Obligations Concerned</strong></td>
<td>National Treatment (Article 10.3)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td><strong>Cross-Border Trade in Services:</strong></td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any limit on the number of service suppliers providing, including but not limited to, the following services: medical services, pharmacy services, deliveries and related services, nursing services, physiotherapeutic and para-medical services and allied health services and optometry and opticianry services.</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure with respect to the regulation of service suppliers providing, including but not limited to, the following services: medical services, pharmacy services, deliveries and related services, nursing services, physiotherapeutic and para-medical services and allied health services and optometry and opticianry services.</td>
</tr>
<tr>
<td><strong>Existing Measures</strong></td>
<td>Allied Health Professions Act 2011</td>
</tr>
</tbody>
</table>
### 20. Sector

<table>
<thead>
<tr>
<th>Sector</th>
<th>Sewage and Refuse Disposal, Sanitation and other Environmental Protection Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Waste Water Management, including but not limited to collection, disposal and treatment of solid waste and waste water.</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>

### Obligations Concerned

<table>
<thead>
<tr>
<th>Obligations Concerned</th>
<th>National Treatment (Articles 9.4 and 10.3)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td></td>
<td>Performance Requirements (Article 9.9)</td>
</tr>
<tr>
<td></td>
<td>Senior Management and Board of Directors (Article 9.10)</td>
</tr>
</tbody>
</table>

### Description

**Cross-Border Trade in Services and Investment:**

Singapore reserves the right to maintain or adopt any measure affecting waste water management, including but not limited to the collection, treatment and disposal of waste water.

### Existing Measures

- Code of Practice on Sewerage and Sanitary Works
- Sewerage and Drainage Act, Cap. 294, 2001 Revised Edition
<table>
<thead>
<tr>
<th>Sector</th>
<th>Postal Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td></td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
Market Access (Article 10.5)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Boards of Directors (Article 9.10) |
| Description | Cross-Border Trade in Services and Investment:  
Singapore reserves the right to adopt or maintain any measure relating to Public Postal Licensee(s). |
<p>| Existing Measures | - |</p>
<table>
<thead>
<tr>
<th>Sector</th>
<th>Telecommunications Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Telecommunications Services</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations Concerned       | National Treatment (Article 9.4 and 10.3)  
                           | Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
                           | Market Access (Article 10.5) |
| Description                 | Cross-Border Trade in Services and Investment: |
|                             | Singapore reserves the right to adopt or maintain any measure that accords treatment to persons of the other Party equivalent to any measure adopted or maintained by the other Party limiting ownership by persons of Singapore enterprises engaged in the provision of public mobile and wireless communications in the territory of the other Party, including: |
|                             | (a) Public Radiocommunication Services; |
|                             | (Public Radiocommunication Services refer to Maritime and Aeronautical radiocommunication services) |
|                             | (b) Public Cellular Mobile Telephone Service (PCMTS); |
|                             | (c) Public Radio Paging Services (PRPS); |
|                             | (d) Public Trunked Radio Services (PTRS); |
|                             | (e) Public Mobile Data Services (PMDS); |
|                             | (f) Public Mobile Broadband Multimedia Services; and |
|                             | (g) Public Fixed-Wireless Broadband Multimedia Services. |
| Existing Measures           | -                           |
23.  

<table>
<thead>
<tr>
<th>Sector</th>
<th>Trade Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Supply of potable water for human consumption</td>
</tr>
<tr>
<td>Industry classification</td>
<td>CPC 18000 Natural Water</td>
</tr>
<tr>
<td></td>
<td>The sectors listed above apply only insofar as they relate to the supply of potable water.</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td></td>
<td>Performance Requirements (Article 9.9)</td>
</tr>
<tr>
<td></td>
<td>Senior Management and Board of Directors (Article 9.10)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure affecting the supply of potable water.</td>
</tr>
<tr>
<td></td>
<td>For greater certainty, this reservation does not affect the supply of bottled water.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>Public Utilities Act, Cap. 261, 2002 Revised Edition</td>
</tr>
</tbody>
</table>
24.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Air transport services</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations Concerned | National Treatment (Articles 9.4 and 10.3)  
|                       | Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)  
|                       | Market Access (Article 10.5)  
|                       | Local Presence (Article 10.6)  
|                       | Senior Management and Board of Directors (Article 9.10) |
| Description          | Cross-Border Trade in Services and Investment:  
|                       | Singapore reserves the right to maintain or adopt any measure affecting cross-border supply of:  
|                       | (a) aircraft repair and maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance;  
|                       | (b) the selling and marketing of air transport services;  
|                       | (c) computer reservation system services;  
|                       | (d) airport operation services;  
|                       | (e) ground handling services  
|                       | Singapore reserves the right to maintain or adopt any measure affecting investments in air transport related services. |
| Existing Measures    | Civil Aviation Authority of Singapore Act 2009 |
25.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Specialty Air Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td></td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure affecting the supply of specialty air services.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>-</td>
</tr>
</tbody>
</table>
26.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-Sector</strong></td>
<td>Land Transport Services – Passenger Transport Services, including but not limited to Passenger Transportation services by Railway, Urban and Suburban Regular Transportation Services, Taxi Services; Bus and Rail Station Services and Ticketing Services related to passenger transport services</td>
</tr>
</tbody>
</table>

Passenger Transport Services are services which are used by and accessible to members of the public for the purposes of transporting themselves within Singapore.

<table>
<thead>
<tr>
<th>Industry classification</th>
<th>-</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Obligations Concerned</strong></td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
</tbody>
</table>

**Description**

Cross-Border Trade in Services and Investment:

Singapore reserves the right to maintain or adopt any measure affecting the supply of passenger transport services.

Passenger transport services are services which are used by and accessible to members of the public for the purposes of transporting themselves within Singapore.

<table>
<thead>
<tr>
<th><strong>Existing Measures</strong></th>
<th>Rapid Transit Systems Act, Cap. 263A</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Land Transport Authority of Singapore Act, Cap. 158A, 1996 Revised Edition</td>
</tr>
<tr>
<td></td>
<td>Road Traffic Act, Cap. 276, 2004 Revised Edition</td>
</tr>
</tbody>
</table>
27.  

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Land Transport Services – Railway and Road Freight transportation. Supporting services for railway and road transport services.</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure affecting the supply of land transport services as set out above.</td>
</tr>
<tr>
<td></td>
<td>This reservation does not apply to:</td>
</tr>
<tr>
<td></td>
<td>(i) maintenance and repair services of motor vehicles (CPC 61120)</td>
</tr>
<tr>
<td></td>
<td>(ii) maintenance and repair services of parts of motor vehicles (CPC 88**)</td>
</tr>
<tr>
<td></td>
<td>(iii) parking services (CPC 74430).</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>-</td>
</tr>
<tr>
<td>Sector</td>
<td>Transport Services</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Sub-Sector</td>
<td>Services Auxiliary to All Modes of Transport</td>
</tr>
<tr>
<td>Industry classification</td>
<td>CPC 742 Storage and warehousing services</td>
</tr>
<tr>
<td></td>
<td>CPC 742** Container station and depot services</td>
</tr>
<tr>
<td></td>
<td>CPC 748 Freight transport agency services</td>
</tr>
<tr>
<td></td>
<td>CPC 7123** Inland trucking services</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td></td>
<td>Performance Requirements (Article 9.9)</td>
</tr>
<tr>
<td></td>
<td>Senior Management and Board of Directors (Article 9.10)</td>
</tr>
<tr>
<td>Description</td>
<td>Cross-Border Trade in Services and Investment:</td>
</tr>
<tr>
<td></td>
<td>Singapore reserves the right to maintain or adopt any measure that accords</td>
</tr>
<tr>
<td></td>
<td>equivalent treatment to storage and warehousing, freight forwarding, inland</td>
</tr>
<tr>
<td></td>
<td>trucking, container station and depot services of the other Party.</td>
</tr>
<tr>
<td>Existing Measures</td>
<td>-</td>
</tr>
</tbody>
</table>
29.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-Sector</strong></td>
<td>Maritime Transport Services – Towing and tug assistance; provisioning, fuelling and watering; garbage collection and ballast waste disposal; port captain’s services; navigation aids; emergency repair facilities; anchorage; and other shore-based operational services essential to ship operations, including communications, water and electrical supplies.</td>
</tr>
</tbody>
</table>
| **Industry classification** | CPC 74510 Port and Waterway Operation Services  
CPC 74520 Pilotage and Berthing Services  
CPC 74530 Navigation Aid Services  
CPC 74590 Other Supporting Services for Water Transport |
| **Obligations Concerned** | National Treatment (Articles 9.4 and 10.3)  
Market Access (Article 10.5)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10) |
| **Description**   | Cross-Border Trade in Services and Investment:  
Singapore reserves the right to maintain or adopt any measure affecting the supply of towing and tug assistance; provisioning, fuelling and watering; garbage collection and ballast waste disposal; port captain’s services; navigation aids; emergency repair facilities; anchorage; and other shore-based operational services essential to ship operations, including communications, water and electrical supplies.  
For greater certainty, no measures shall be applied which deny international maritime transport operators reasonable and non-discriminatory access to the above port services.  
This reservation does not apply to:  
(i) international transport (freight and passengers) excluding cabotage transport (CPC 7211**, 7212**)  
(ii) international towage (CPC 7214**)  
(iii) rental of vessels with crew (CPC 7213)  
(iv) other supporting and auxiliary services (including catering) (CPC 749**) |
| **Existing Measures** | Maritime and Port of Singapore Act Cap. 170A, Section 41 (Part |
## 30.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Transport Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Transportation services via pipeline</td>
</tr>
<tr>
<td>Industry classification</td>
<td>Transportation of goods via pipeline of goods such as chemical and petroleum products and petroleum, and other related products</td>
</tr>
</tbody>
</table>
| Obligations concerned | National Treatment (Article 10.3)  
Most-Favoured-Nation Treatment (Article 10.4)  
Market Access (Article 10.5)  
Local Presence (Article 10.6) |
| Description       | Cross-Border Trade in Services:  
Only service suppliers with local presence shall be allowed to provide transportation services via pipeline of goods such as chemical and petroleum products and petroleum, and other related products.  
Singapore reserves the right and flexibility to modify and/or increase the list of the chemical and petroleum products, and other related products that are subject to this reservation. |
| Existing Measures | Administrative |
### 31.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Trade Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-Sector</strong></td>
<td>Wholesale trade services and retail trade services of alcoholic beverages and tobacco</td>
</tr>
<tr>
<td><strong>Industry classification</strong></td>
<td>-</td>
</tr>
</tbody>
</table>
| **Obligations Concerned** | Market Access (Article 10.5)  
Local Presence (Article 10.6) |
| **Description** | Cross-Border Trade in Services:  
Singapore reserves the right to adopt or maintain any measure affecting the supply of wholesale and retail trade services of tobacco products and alcoholic beverages. |
| **Existing Measures** | - |
### 32.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Energy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
</tbody>
</table>
| Obligations Concerned   | National Treatment (Articles 9.4 and 10.3)  
Market Access (Article 10.5)  
Local Presence (Article 10.6)  
Performance Requirements (Article 9.9)  
Senior Management and Board of Directors (Article 9.10) |
| Description             | Cross Border Trade in Services and Investment: Singapore reserves the right to adopt or maintain any measure in order to prohibit, manage or control the generation, use, distribution and retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so. |
| Existing Measures       | -      |
33.

<table>
<thead>
<tr>
<th>Sector</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>-</td>
</tr>
<tr>
<td>Industry classification</td>
<td>-</td>
</tr>
<tr>
<td>Obligations Concerned</td>
<td>Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)</td>
</tr>
</tbody>
</table>

**Description**

Cross-Border Trade in Services and Investment:

Singapore reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Singapore reserves the right to adopt or maintain any measure that accords differential treatment to ASEAN member states under any ASEAN agreement open to participation by any ASEAN member state, in force or signed after the date of entry into force of this Agreement.

Singapore reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) Aviation matters;
(b) Maritime and Services Auxiliary to Maritime; and Port matters;
(c) Land Transport matters; and
(d) Telecommunication matters.

**Existing Measures**

-
ANNEX II
SCHEDULE OF THE UNITED STATES

Sector: Communications

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to:

a) adopt or maintain any measure that accords differential treatment
to persons of other countries due to application of reciprocity
measures or through international agreements involving sharing
of the radio spectrum, guaranteeing market access, or national
treatment with respect to the one-way satellite transmission of
direct-to-home (DTH) and direct broadcasting satellite (DBS)
television services and digital audio services; and

b) prohibit a person of a Party from offering DTH or DBS
television and digital audio services into the territory of the
United States unless that person establishes that the Party of
which it is a person:

(i) permits U.S. persons to obtain a license for such
service in that Party in similar circumstances; and

(ii) treats the supply of audio or video content
originating in the Party no more favorably than the
supply of audio or video content originating in a
non-Party or any other Party.
Sector: Communications - Cable Television

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.10)

Description: Investment

The United States reserves the right to adopt or maintain any measure that prohibits a person of a Party from owning or operating a cable television system in the territory of the United States unless that person establishes that the Party:

(a) permits U.S. persons to own or operate such systems in the territory of the Party under similar circumstances; and

(b) treats the supply of video content originating in the Party no more favorably than the supply of content of any other Party or non-Party.

A measure may be deemed to treat content of a Party more favorably if it applies preferential treatment on the basis that the director, producer, publisher, actors or owner of such content is a person of that Party, or the production, editing or distribution of such content took place in the territory of that Party, or on any other basis that affords protection to local production.
Sector: Social Services

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.4 and 10.5)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.
Sector: Minority Affairs

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities, including corporations organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act.

Sector: Transportation

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Most-Favored-Nation Treatment (Articles 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to adopt or maintain any measure relating to the provision of maritime transportation services and the operation of U.S.-flagged vessels, including the following:

(a) requirements for investment in, ownership and control of, and operation of vessels and other marine structures, including drill rigs, in maritime cabotage services, including maritime cabotage services performed in the domestic offshore trades, the coastwise trades, U.S. territorial waters, waters above the continental shelf, and in the inland waterways;

(b) requirements for investment in, ownership and control of, and operation of U.S.-flagged vessels in foreign trades;

(c) requirements for investment in, ownership or control of, and operation of vessels engaged in fishing and related activities in U.S. territorial waters and the Exclusive Economic Zone;

(d) requirements related to documenting a vessel under the U.S. flag;

(e) promotional programs, including tax benefits, available for shipowners, operators, and vessels meeting certain requirements;

(f) certification, licensing, and citizenship requirements for crew members on U.S.-flagged vessels;

(g) manning requirements for U.S.-flagged vessels;

(h) all matters under the jurisdiction of the Federal Maritime Commission;

(i) negotiation and implementation of bilateral and other international maritime agreements and understandings;

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subject to legal review in english, spanish and french
for accuracy, clarity and consistency
subject to authentication of english, spanish and french versions

(j) limitations on longshore work performed by crew members;

(k) tonnage duties and light money assessments for entering U.S. waters; and

(l) certification, licensing, and citizenship requirements for pilots performing pilotage services in U.S. territorial waters.

The following activities are not included in this reservation. However, the treatment provided to a Party in (b) is conditional upon obtaining comparable market access in these sectors from that Party:

(a) vessel construction and repair; and

(b) landside aspects of port activities, including operation and maintenance of docks; loading and unloading of vessels directly to or from land; marine cargo handling; operation and maintenance of piers; ship cleaning; stevedoring; transfer of cargo between vessels and trucks, trains, pipelines, and wharves; waterfront terminal operations; boat cleaning; canal operation; dismantling of vessels; operation of marine railways for drydocking; marine surveyors, except cargo; marine wrecking of vessels for scrap; and ship classification societies.

Existing Measures:


Shipping Act of 1916, 46 U.S.C. §§ 802 and 808


Merchant Ship Sales Act of 1946, 50 U.S.C. App. § 1738

46 U.S.C. App. §§ 121, 292, and 316

46 U.S.C. §§ 12101 et seq. and 31301 et seq.

46 U.S.C. §§ 8904 and 31328(2)

Passenger Vessel Act, 46 U.S.C. App. § 289


46 U.S.C. §§ 3301 et seq., 3701 et seq., 8103, and 12107(b)

Shipping Act of 1984, 46 U.S.C. App. §§ 1708 and 1712


Alaska North Slope, 104 Pub. L. 58; 109 Stat. 557

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Longshore restrictions and reciprocity, 8 U.S.C. §§ 1101 et seq.
Vessel escort provisions, Section 1119 of Pub. L. 106-554, as amended
Nicholson Act, 46 U.S.C. App. § 251
Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, 46
43 U.S.C. § 1841
Intercoastal Shipping Act, 46 U.S.C. App. § 843
46 U.S.C. § 9302, 46 U.S.C. § 8502; Agreement Governing the
Operation of Pilotage on the Great Lakes, Exchange of Notes at Ottawa,
August 23, 1978, and March 29, 1979, TIAS 9445
Magnuson Fishery Conservation and Management Act, 16 U.S.C. §§
1801 et seq.
19 U.S.C. § 1466
North Pacific Anadramous Stocks Convention Act of 1972, P.L. 102-587;
Oceans Act of 1992, Title VII
Tuna Convention Act, 16 U.S.C. §§ 951 et seq.
Atlantic Tuna Convention Act, 16 U.S.C. §§ 971 et seq.
§§ 2431 et seq.
American Fisheries Act, 46 U.S.C. § 12102(c) and 46 U.S.C. § 31322(a)
Sector: Services Related to Air Transportation

Obligations concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)
Most-Favored-Nation Treatment (Article 10.4)

Description: Cross-Border Trade in Services

The United States reserves the right to adopt or maintain any measure relating to the cross-border supply of airport operation services, computer reservation system services, ground handling services, and selling and marketing of air transport services, as defined in 10.1.

Existing Measures: International Air Transportation Fair Competitive Practices Act of 1974, as amended
Sector: Betting and Gambling

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Market Access (Article 10.5)
Local Presence (Article 10.6)
Performance Requirements (Article II.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to adopt or maintain any measure relating to betting and gambling services.
Sector: All

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

The United States reserves the right to adopt or maintain any measure that is not inconsistent with the United States’ obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3).

For purposes of this entry only, the U.S. Schedule of Specific Commitments is modified as indicated in Appendix II-A.
Sector: All

Obligations Concerned: Most-Favored-Nation Treatment (Articles 9.4 and 10.3)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

The United States reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;
(b) fisheries;
(c) maritime matters, including salvage; or
(d) launch of satellites in the international commercial space launch market.

1 The United States will implement item (d) consistent with its MFN exemption for space transportation under the GATS.
Appendix II-A

For the following Sectors, U.S. obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3) are improved as described.
<table>
<thead>
<tr>
<th>Sector/Subsector</th>
<th>Market Access Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Legal Consulting Services</td>
<td>Insert new commitments for the following states:</td>
</tr>
<tr>
<td></td>
<td>Louisiana, New Mexico: No limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td></td>
<td>Arizona, Indiana, Massachusetts, North Carolina, Utah: No limitations modes 1-2; for mode 3 “in-state law office required,” and mode 4 “Unbound, except as indicated in the horizontal section. Additionally, an in-state law office required.”</td>
</tr>
<tr>
<td></td>
<td>Missouri: No limitations modes 1-2; for mode 3 “Association with in-state law office required,” and mode 4 “Unbound, except as indicated in the horizontal section. Additionally, association with an in-state law office required.”</td>
</tr>
<tr>
<td>Accounting, Auditing and Bookkeeping Services</td>
<td>Modify mode 3 limitation as follows: Sole proprietorships or partnerships are limited to persons licensed as accountants, except in Iowa where accounting firms must incorporate.</td>
</tr>
<tr>
<td></td>
<td>Modify mode 4 limitation as follows: In addition, an in-state office must be maintained for licensure in to receive a license to perform audits in:</td>
</tr>
<tr>
<td>Engineering Services</td>
<td>Replace existing description of Mode 4 with “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Integrated Engineering Services</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Research and development services: R&amp;D services on natural sciences, social sciences and humanities, and interdisciplinary R&amp;D services, excluding R&amp;D financed in whole or in part by public funds</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Technical testing and analysis services, other than government-mandated services or services financed in whole or in part by public funds</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Other business services: Other</td>
<td>Insert new commitments for “Other” under “Other business services” with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Sector/Subsector</td>
<td>Market Access Improvements</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Express Delivery Services (as defined in the FTA annex)</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Other Delivery Services</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Multi-channel video services over provider-owned cable systems</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Information services (the offering of a capability for generating, acquiring, storing transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing)</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Higher Education Services (except flying instruction)²</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Motion Picture &amp; Video Tape Home Video Entertainment Production and Distribution</td>
<td>Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Promotion or advertising services</td>
<td></td>
</tr>
<tr>
<td>Motion picture or video tape² production services</td>
<td></td>
</tr>
<tr>
<td>Motion picture or video tape² distribution services</td>
<td></td>
</tr>
<tr>
<td>Other services in connection with motion pictures and video tape² production and distribution</td>
<td></td>
</tr>
<tr>
<td>Motion Picture Projection Services</td>
<td></td>
</tr>
</tbody>
</table>

² For transparency purposes, individual U.S. institutions maintain autonomy in admission policies, in setting tuition rates, and in the development of curricula or course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established. In some jurisdictions, accreditation of institutions or programs may be required. Institutions maintain autonomy in selecting the jurisdiction in which they will operate, and institutions and programs maintain autonomy in choosing to meet standards set by accrediting organizations as well as to continue accredited status. Accrediting organizations maintain autonomy in setting accreditation standards. Tuition rates vary for in-state and out-of-state residents. Additionally, admissions policies include considerations of equal opportunity for students (regardless of race, ethnicity, or gender), as permitted by domestic law, as well as recognition by regional, national, and/or specialty organizations; and required standards must be met to obtain and maintain accreditation. To participate in the U.S. student loan program, foreign institutions established in the United States are subject to the same requirements as U.S. institutions.

³ For purposes of clarity, this class refers to theatrical and non-theatrical motion pictures, whether provided on fixed media or electronically.
<table>
<thead>
<tr>
<th>Sector/Subsector</th>
<th>Market Access Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Radio and Television Services</td>
<td></td>
</tr>
<tr>
<td>Radio and Television Distribution Services</td>
<td></td>
</tr>
</tbody>
</table>
| Other services in connection with motion pictures and video tape
  production and distribution[^4]                                               |                                                                                                                                                            |
| Environmental Services                                                          |                                                                                                                                                            |
| Wastewater Management, excluding Water for Human Use (Wastewater services (contracted by private industry)) | Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.” |
| Solid/hazardous waste management (contracted by private industry)               |                                                                                                                                                            |
| Refuse disposal services                                                         |                                                                                                                                                            |
| Sanitation and Similar Services                                                 |                                                                                                                                                            |
| Protection of ambient air and climate (Services to reduce exhaust gases and other emissions to improve air quality) |                                                                                                                                                            |
| Remediation and cleanup of soil and water (Treatment, remediation of contaminated/polluted soil and water) |                                                                                                                                                            |
| Noise and vibration abatement (Noise abatement services)                        |                                                                                                                                                            |
| Protection of biodiversity and landscape (Nature and landscape protection services) |                                                                                                                                                            |
| Other environmental and ancillary services (Other services not classified elsewhere) |                                                                                                                                                            |

[^4]: For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.
<table>
<thead>
<tr>
<th>Sector/Subsector</th>
<th>Market Access Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical well-being services(^5)(^6)</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Road freight transport</td>
<td>Insert new commitments for domestic transportation with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
<tr>
<td>Cargo-handling services, Storage and warehouse services, and Freight transport agency services, except maritime or air transport services</td>
<td>Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section.”</td>
</tr>
</tbody>
</table>

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\(^5\) For transparency purposes, this subsector includes physical well-being services such as delivered by, *inter alia*, fitness centers, spas, salons, massage (excluding therapeutic massage), and ayurvedics. This subsector does not include regulated medical services.

\(^6\) For greater certainty, nothing in this commitment authorizes the provision of unregulated substances or affects the ability of state authorities to regulate substances that may be affiliated with these services.
ANNEX II
SCHEDULE OF VIET NAM

Sector: All sectors

Sub sector:

Obligations Concerned:
National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure conferring rights or privileges to the socially, economically and geographically disadvantaged minorities and ethnic groups.

Existing measures:
Sector: All sectors

Sub sector:

Obligations Concerned:
National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to limit the transfer or disposal of any interest held in an existing state enterprise to nationals of Viet Nam. This reservation pertains only to the initial transfer or disposal of such interest. Viet Nam does not reserve this right with respect to subsequent transfers or disposals of such interest to nationals of TPP Parties on the date hereof, subject to any limitation found in Viet Nam’s annexes of non-conforming measures.

Where Viet Nam transfers or disposals of an interest in an existing state enterprise in multiple phases, the preceding paragraph shall apply separately to each such phase.

Existing measures:
- Law on Investment No. 59/2005/QH11 dated 29 November 2005
- Law on Enterprise No. 60/2005/QH11 dated 29 November 2005
- Decree No. 108/2006/ND-CP dated 22 September 2006
Sector: All sectors

Sub-sector:

Obligations concerned: National Treatment (Article 9.4)

Description: Investment

The level of equity purchased on the Vietnamese stock exchange by foreign investors is subject to any equity limitations set forth in Annexes I and II.¹

Existing measures:

¹ For greater certainty, while this entry is included in Annex II, equity limitations in Annex I are subject to the rules applicable to Annex I entries, including pursuant to 9.11.1 (Non-conforming measures).
Sector: All sectors

Sub sector:

Obligations Concerned:

- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Performance Requirements (Article 9.9)
- Senior Management and Board of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to land ownership.

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Subject to Authentication of English, Spanish and French Versions

Sector: All sectors

Sub sector: Obligations

Concerned: Most-Favoured-Nation Treatment (Article 9.5 and 10.4)

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure that accords differential treatment:

- to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

- to ASEAN member states under any ASEAN agreement open to participation by any ASEAN member state, in force or signed after the date of entry into force of this Agreement.

Viet Nam reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

- Maritime matters, including salvage;
- Fisheries;
- Aviation.

Existing measures:
Sector: Transport services
Sub sector: Air-transport related services

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to maintain or adopt any measure with respect to:

- Specialty air services (except for commercial flight training);
- Ground handling;
- Airport operation services.

Existing measures:
Sector: All sectors

Sub sector:

Obligations Concerned: National Treatment (Article 9.4 and 10.3)

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure regarding assistance to Small and Medium-sized Enterprises in production site selection and related regulatory matters, human resource training, providing research assistance and information on technology and equipment, legal assistance, and providing marketing assistance and promotional information.

Existing measures: Decree No. 56/2009/ND-CP dated 30 June 2009 on assistance to the development of small and medium sized enterprises.

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2 The term “small and medium-sized enterprise” is defined under Article 3 of the Decree 56/2009/ND-CP, dated 30/6/2009 of the Government as follows: small and medium-sized enterprise is an enterprise established in accordance with laws which has less than or equal to 300 employees or has total legal capital of less than or equal to 100 billion VND.
Sector: River ports, sea ports and airports construction, operation and management

Sub sector:

Obligations Concerned: National Treatment (Article 9.4 and 10.3) Most-Favoured-Nation Treatment (Article 9.5 and 10.4) Performance Requirements (Article 9.9) Local Presence (Article 10.6) Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the construction, operation and management of river ports, sea ports and airports. This NCM shall not be invoked to nullify the commitments set out in Annex I.

Existing measures:
Viet Nam reserves the right to adopt or maintain any measure with respect to establishment and operation of co-operatives, union of co-operatives, household business and sole-proprietorship.
Sector: Agriculture

Sub sector: Cultivating, producing or processing rare or precious plants, breeding or husbandry of precious or rare wild animal and processing of those plants or animals (including both living animals and processed matter taken from animals).³

Obligations Concerned:
National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to investment in the above mentioned sectors and sub-sectors.

Existing measures:

³ List of rare or precious plants and animals can be found in website: [www.kiemlam.org.vn](http://www.kiemlam.org.vn)
Sector: Distribution Services

Sub-sector: 

Obligations Concerned: National Treatment (Article 9.4 and 10.3)

Description: Cross-Border Trade in Services and Investment

- Viet Nam reserves the right to adopt or maintain any measure in regard of cross-border trade in:
  i) Commission agents' services (CPC 621, 61111, 6113, 6121)
  ii) Wholesale trade services (CPC 622, 61111, 6113, 6121)
  iii) Retailing services (CPC 631 + 632, 61112, 6113, 6121)\(^4\)

regarding the distribution of products other than products for personal use and legitimate computer software for personal and commercial use.

- Notwithstanding the above, with respect to distribution of the following products covered by CPC 621, 622, and 632, Viet Nam reserves the right to adopt or maintain any measure in regard of cross-border trade in services and investment regarding cigarettes and cigars, publications\(^5\), precious metals and stones, pharmaceutical products and drugs\(^6\), explosives, processed oil and crude oil.

Existing measures:
- Law on Trade No. 36/2005/QH11 dated 14 June 2005
- Revised Publishing Law No. 19/2012/QH13
- Amendment and Supplement to Publishing Law No 12/2008/QH12 dated 3 June 2008;
- Decree No. 11/2009/ND-CP dated 10 February 2009;
- Decree No. 110/2010/ND-CP dated 6 November 2010;
- Circular N006F 02/2010/TT-BTTTT dated 11 January 2010

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\(^4\) For transparency purposes, these services include multi-level sales by properly trained and certified Vietnamese individual commission agents away from a fixed location for which remuneration is received both for the sales effort and for sales support services that result in additional sales by other contracted distributors.

\(^5\) For greater clarity, publications include but not limited to:
- Printed books, books printed in Braille, e-books (work read or heard through electronic devices, digital devices or the Internet);
- Calendars, tear-off calendars, pocket calendars, book calendars, desk calendars;
- Pictures, photos, maps, posters, leaflets, and brochures with contents specified in Article 4 of the Publication Law;
- Audio tapes and discs, video tapes, and discs substituting or illustrating books.

\(^6\) For the purposes of this schedule "pharmaceuticals and drugs" do not include non-pharmaceutical nutritional supplements in tablet, capsule or powdered form.
Sector: Telecommunication services

Sub sector:

Obligations Concerned: National Treatment (Article 9.4 and 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Board of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the investment, building, operating and exploiting telecommunication networks and services serving ethnic minorities in rural and remote areas of Viet Nam.

Existing measures
Sector: Audiovisual Services

Sub sector: Sound recording

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to sound recording services except that it shall permit foreign ownership of up to 51 percent in enterprises engaged in sound recording.

Existing measures
Sector: Educational services

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to investment in secondary education services.

This NCM shall not be invoked to nullify the commitments set out in Annex I.

Existing measures
Sector: Educational services

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Local Presence (Article 10.6)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to investment in and/or the supply of primary education services.

This NCM shall not be invoked to nullify the commitments set out in Annex I.

Existing measures
Sector: Performing arts and fine arts

Sub-sector:

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure to grant/give preferential treatment to Vietnamese artists and Vietnamese-owned companies in the performing arts, fine arts and other cultural activities.\(^7\)

Existing measures:

\(^7\) For greater certainty, other cultural activities mean photography, art exhibitions, fashion shows, beauty and model contests, karaoke and discotheque business, festival organization.

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Sector: Cultural heritage

Sub-sector:

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure to protect, maintain and renovate Viet Nam’s tangible heritages as defined in the Law on Cultural Heritage (2001) and the revised Law on Cultural Heritage (2009) and intangible cultural heritages as covered by the revised Law on Cultural Heritage (2009).

Existing measures: The Law on Cultural heritage 2001 and the revised Law on Cultural heritage 2009
Sector: Mass communication

Sub-sector: Press and news-gathering agencies, publishing, radio and television broadcasting, in any form

Obligations Concerned:
- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the sub-sectors listed above, including regulating activities in these subsectors in accordance with Vietnamese law and regulation.

For greater certainty, the absence of a reservation against the cross-border services obligations does not preclude Viet Nam from ensuring that the cross-border supply of the listed sub-sectors comply with Viet Nam’s laws and regulations, including applicable registration and licensing requirements.

Existing measures:
Sector: Production and distribution of video records

Sub-sector:

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure in respect of investment in the production and distribution of video records on whatever medium.

Cross Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure in respect of the distribution of video records on whatever medium.

Existing measures:
Sector: Audio visual services
Sub-sector: Production, distribution, and projection of television programmes and cinematographic works

Obligations Concerned:
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Performance requirements (Article 9.9)

Description: Cross Border Trade in Services & Investment

Viet Nam reserves the right to adopt or maintain subsidies inconsistent with Article 9.9.2 for audiovisual services and preferential treatment to television programmes and cinematographic works produced under co-production agreements.

Existing measures:
Sector: Power Development

Sub-sector:

Obligations Concerned:
National Treatment (Article 9.4)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to hydroelectricity and nuclear power.

Existing measures:
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Sector: Business services

Sub-sector: Printing (CPC 88442)
- Public opinion polling (CPC 864)
- Investigation and security, excluding security system services (part of CPC 873)
- Technical testing and analysis services (CPC 8676): conformity testing of means of transport and certification of transport vehicles
- Arbitration and conciliation services (CPC 86602), excluding arbitration and conciliation services for commercial disputes between businesses
- Placement and supply services of personnel (CPC 872)
- Services incidental to fishing (CPC 882), (excluding specialised consultancy services related to marine or freshwater fisheries, fish hatchery services)

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the above mentioned sub-sectors.

Existing measures:
Sector: Tourism and travel related services

Sub-sector: Tourist guides services

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to tourist guides services.

Existing measures:
Sector: Health and social services

Sub-sector: Residential health facilities services other than hospital services (CPC 93193)
Other human health services (CPC 93199)\(^8\)
Social services (CPC 933)

Obligations Concerned: National Treatment (Article 9.4 and 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the listed sub-sectors.

Existing measures:

---

\(^8\) Only with respect to the obligations of Cross-Border Trade in Services.
Sector: Recreational, cultural and sporting services

Sub-sector: Sporting and other recreational services, excluding electronic games business

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to martial art clubs and extreme sports.

Existing measures:
Sector: Transport services

Sub-sector: Maritime cabotage services
Internal waterway transport: cabotage services, rental of vessels with crew (CPC 7223)
Space transport
Pipeline transport
Rail transport (cabotage services, infrastructure business services)
Road cabotage services
Pushing and towing services

Obligations Concerned:
National Treatment (Article 9.4 and 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross Border Trade in Services and Investment
Viet Nam reserves the right to adopt or maintain any measure with respect to the above mentioned sub-sectors.

Existing measures:
Sector: Manufacturing

Sub-sector: - Paper production
- Manufacturing and assembling of buses and transport vehicles of more than 29 seats

Obligations Concerned:
National Treatment (Article 9.4)
Performance Requirements (Article 9.9)

Description: Investment

Viet Nam reserves the right to adopt or maintain measures inconsistent with 9.9.1.h for foreign-invested enterprises in these above subsectors.

Existing measures:
- Decision No. 22/2005/QD-BCN dated 26 April 2005
- Decision No. 177/2004/QD-TTg dated 5 October 2004.
- Decision No. 147/QD-TTg dated 4 September 2007.
- Decision No. 249/QD-TTg dated 10 October 2005.
- Decree No. 80/2006/ND-CP dated 9 August 2006
- Decree No. 12/2006/ND-CP dated 23 January 2006
Sector: Fishery

Sub-sector:

Obligations Concerned: National Treatment (Article 9.4) Most-Favoured-Nation Treatment (Article 9.5) Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure in relation to fishery activities within Viet Nam sovereignty and jurisdiction waters as defined in accordance with the 1982 UNCLOS.

No investment license shall be issued to foreign investors in:

- Fresh-water fishing, marine fishing
- Coral and natural pearl exploitation

Existing measures:

- Law on Investment No. 59/2005/QH11 dated 29 November 2005
- Decree No. 108/2006/ND-CP dated 22 September 2006
- Decree No. 86/2001/ND-CP dated 16 November 2001
- Decree No. 191/2004/ND-CP dated 18 November 2004
- Decree No. 59/2005/ND-CP dated 4 May 2005
- Decision No. 10/2007/QD-TTg dated 11 January 2006
- Circular No. 02/2005/TT-BTS dated 4 May 2005
- Decree 32/2010/ND-BNN dated 30 March 2010

II-VN-28
Sector: Forestry and hunting

Sub-sector: Forestry and hunting (excluding CPC 881)

Obligations Concerned:
- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to investment in forestry and hunting activities.

Existing measures:
- Resolution No. 71/2006/QH11 dated 29 November 2006
- Decree No. 23/2006/QD-TTg dated 3 March 2006.
Sector: Traditional Markets

Sub-sector:

Obligations Concerned:
- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to traditional market.

Existing measures:
Sector: Commodity exchange

Sub-sector:

Obligations Concerned:

- National Treatment (Article 9.4)
- Most-Favoured-Nation Treatment (Article 9.5)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the establishment and management of Commodity exchange.

Existing measures:
Sector: Judicial administration and related services

Sub-sector:

Obligations Concerned:
National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Investment

Vietnam reserves the right to adopt or maintain any measure with respect to:

- judicial expertise services;
- bailiff services;
- property auction services relating to property in accordance with the law on auction;
- notary and certification services; and
- proper managing and liquidating according to the regulations of the law on bankruptcy.

Existing measures:
Sector: Lottery, betting and gambling services

Sub-sector:

Obligations Concerned:
- National Treatment (Article 9.4 and 10.3)
- Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
- Local Presence (Article 10.6)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to lottery, betting and gambling services.

Existing measures:
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Professional Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-sector:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

Viet Nam reserves the right to adopt or maintain any measure that is not consistent with the obligations of Local Presence in cross-border trade in services in accounting, book-keeping and taxation services.

**Existing measures:**
Sector: All
Sub sector: 
Obligations Concerned: Market Access (Article 10.5)
Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure that is not inconsistent with Viet Nam’s obligations under Article XVI of the General Agreement on Trade in Services (GATS).

For the purposes of this entry, Viet Nam’s Schedule of Specific Commitments is modified as set out in Appendix A.

Existing measures
Sector: Services in the exercise of governmental authority

Sub sector:

Obligations Concerned:
National Treatment (Article 9.4 and 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and 10.4)
Local Presence (Article 10.6)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure relating to services in the exercise of governmental authority when these services are opened for private sector.

For purposes of this reservation, any non-conforming measure adopted after the opening of such services to the private sector shall be deemed to be an existing measure subject to Articles 9.11.1 (Non-conforming Measures) and 10.7.1 (Non-conforming Measures) 5 years after the adoption of the measure.

Existing measures:
For the purposes of entry numbered II-VN-35 in ANNEX II, Viet Nam’s obligations under Article XVI of the General Agreement on Trade in Services as set out in Viet Nam’s Schedule of Specific Commitments in Services under the GATS (WT/ACC/VNM/48/Add.2) are improved in the following sectors as described below.

<table>
<thead>
<tr>
<th>Sector/subsector</th>
<th>Market Access Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BUSINESS SERVICES</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Real estate services</strong></td>
<td></td>
</tr>
<tr>
<td>Involving own or leased property (CPC 821)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None</td>
</tr>
<tr>
<td>On a fee or contract basis</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None</td>
</tr>
<tr>
<td><strong>Rental/Leasing Services without Operators</strong></td>
<td></td>
</tr>
<tr>
<td>Relating to other machinery and equipment (CPC 83109)</td>
<td>Replace existing restriction under mode 1 with “None”.</td>
</tr>
<tr>
<td><strong>Other Business Services</strong></td>
<td></td>
</tr>
<tr>
<td>Services incidental to fishing (only specialised consultancy services related to marine or freshwater fisheries, fish hatchery services) (CPC 882)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None</td>
</tr>
<tr>
<td>Services incidental to mining (CPC 883)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td>Service Description</td>
<td>New Commitments</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Portrait Photography services (CPC 87504)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td>Specialty Photography services except aerial photography (CPC 87504)</td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None, except only in the form of BBC or joint venture with Vietnamese supplier. There shall</td>
</tr>
<tr>
<td></td>
<td>be no limitation on foreign equity distribution in the joint venture.</td>
</tr>
<tr>
<td>Services provided by midwives, nurses, physiotherapists and paramedical personnel</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td>(CPC 93191)</td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None</td>
</tr>
<tr>
<td>R&amp;D services on social science and humanity (CPC 852)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None</td>
</tr>
<tr>
<td>A. Interdisciplinary R&amp;D services (CPC 853)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None</td>
</tr>
<tr>
<td>Packaging services (CPC 876)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 2: None.</td>
</tr>
<tr>
<td></td>
<td>Mode 3: None, except joint venture with the foreign capital contribution not exceeding 49 percent</td>
</tr>
<tr>
<td></td>
<td>shall be permitted.</td>
</tr>
<tr>
<td>ENVIRONMENTAL SERVICES</td>
<td></td>
</tr>
<tr>
<td>Sewage Services (CPC 9401)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td></td>
<td>Mode 1: Unbound, except related consulting services</td>
</tr>
<tr>
<td>Service Description</td>
<td>Mode 1</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Sanitation and similar services (CPC 9403)</td>
<td></td>
</tr>
<tr>
<td>Insert new commitments as follows:</td>
<td></td>
</tr>
<tr>
<td>Mode 1: None.</td>
<td></td>
</tr>
<tr>
<td>Mode 2: None.</td>
<td></td>
</tr>
<tr>
<td>Mode 3: None.</td>
<td></td>
</tr>
<tr>
<td>Nature and landscape protection (CPC 9406)</td>
<td></td>
</tr>
<tr>
<td>Insert new commitments as follows:</td>
<td></td>
</tr>
<tr>
<td>Mode 1: None.</td>
<td></td>
</tr>
<tr>
<td>Mode 2: None.</td>
<td></td>
</tr>
<tr>
<td>Mode 3: None.</td>
<td></td>
</tr>
<tr>
<td>Other services</td>
<td></td>
</tr>
<tr>
<td>- Cleaning services of exhaust gases (CPC 94040) and noise abatement services (CPC 94050)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td>Mode 1: Unbound, except related consulting services</td>
<td></td>
</tr>
<tr>
<td>Mode 2: None.</td>
<td></td>
</tr>
<tr>
<td>RECREATIONAL, CULTURAL AND SPORTING SERVICES</td>
<td></td>
</tr>
<tr>
<td>Services related to the hosting of a sporting event (including promotion, organisation and facilities management)</td>
<td>Insert new commitments as follows:</td>
</tr>
<tr>
<td>Mode 2: None</td>
<td></td>
</tr>
<tr>
<td>Modes 3: None, in accordance with Viet Nam's laws and regulations and in a manner consistent with Viet Nam's commitments under this Agreement</td>
<td></td>
</tr>
</tbody>
</table>
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 1(b) and 1(c);

   (b) in Section A, pursuant to Article 11.10.1 (Non-Conforming Measures), a Party’s existing measures that are not subject to some or all of the obligations imposed by:

       (i) Article 11.3 (National Treatment);

       (ii) Article 11.4 (Most-Favoured-Nation Treatment);

       (iii) Article 11.5 (Market Access for Financial Institutions);

       (iv) Article 11.6 (Cross-Border Trade); or

       (v) Article 11.9 (Senior Management and Boards of Directors); and

   (c) in Section B, pursuant to Article 11.10.2 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which a Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

       (i) Article 11.3 (National Treatment);

       (ii) Article 11.4 (Most-Favoured-Nation Treatment);

       (iii) Article 11.5 (Market Access for Financial Institutions);

       (iv) Article 11.6 (Cross-Border Trade); or

       (v) Article 11.9 (Senior Management and Boards of Directors).

2. Each Schedule entry in Section A sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;
3. Each Schedule entry in Section B sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

(c) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1(c) that, pursuant to Article 11.10.2 (Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(d) **Level of Government** indicates the level of government maintaining the listed measure(s); and

(e) **Description** sets out the scope and/or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and

(f) **Existing Measures** identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

4. Parties recognise that measures falling under exceptions applicable to this chapter, such as those in Article 11.11 (Exceptions), need not be scheduled. Nevertheless, some Parties have listed measures that may fall within applicable exceptions. For greater certainty, the listing of a measure in a Party’s Schedule to Annex III is without prejudice to whether that measure or any other measure:
(a) adopted or maintained by the Party; or

(b) adopted or maintained by any other Party;

is covered by exceptions such as those in Article 11.11 (Exceptions).
ANNEX III

AUSTRALIA’S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under Chapter 11 (Financial Services) are undertaken subject to the limitations and conditions set forth in these headnotes and the Schedule below.

2. To clarify Australia’s commitment with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Australia are subject to non-discriminatory limitations on juridical form.¹

3. Article 11.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 11.5(b) (Market Access for Financial Institutions).

4. Description sets out the non-conforming measure for which the entry is made.

5. For Section A of this Schedule, in accordance with Article 11.10.1 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measures identified in the Description element of that entry.

¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.
ANNEX III

SECTION A

A-1

Sector: Financial Services
Sub-sector: Banking and other financial services (excluding insurance)
Obligations Concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)
Level of Government: Central
Source of Measure: Banking Act 1959 (Cth)
Payment Systems (Regulation) Act 1998 (Cth)
Description: A branch of a foreign bank that is authorised as a deposit taking institution in Australia (foreign ADI) is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than $A250,000.

A representative office of a foreign bank is not permitted to undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point.
A-2

**Sector:** Financial Services  
**Sub-sector:** All  
**Obligations Concerned:** Senior Management and Boards of Directors (Article 11.9)  
**Level of Government:** Central  
**Source of Measure:**  
- *Corporations Act 2001* (Cth)  
- *Corporations Regulations 2001* (Cth)  

**Description:** At least one director of a private company must be ordinarily resident in Australia.  
At least two directors of a public company must be ordinarily resident in Australia.
A-3

Sector: Financial Services

Sub-sector: All

Obligations Concerned:
- National Treatment (Article 11.3)
- Most-Favoured-Nation Treatment (Article 11.4)
- Market Access for Financial Institutions (Article 11.5)
- Cross-Border Trade (Article 11.6)
- Senior Management and Boards of Directors (Article 11.9)

Level of Government: Regional

Source of Measure: All existing non-conforming measures at the regional level of government.

Description: All existing non-conforming measures at the regional level of government.
Sector: Financial Services
Sub-sector: Banking and other financial services (excluding insurance)
Obligations Concerned: National Treatment (Article 11.3)
Level of Government: Central
Source of Measure: Commonwealth Banks Act 1959 (Cth)
Description: Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, is covered by transitional guarantee arrangements.
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Financial services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-sector:</td>
<td>Life insurance services</td>
</tr>
<tr>
<td>Level of Government:</td>
<td>Central</td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Article 11.3)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 11.5)</td>
</tr>
<tr>
<td>Source of Measure:</td>
<td><em>Life Insurance Act 1995 (Cth)</em></td>
</tr>
<tr>
<td>Description:</td>
<td>Approval of non-resident life insurers is restricted to subsidiaries incorporated under Australian law.</td>
</tr>
</tbody>
</table>
ANNEX III

SECTION B

B-1

Sector: Financial Services

Subsector: All

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central and regional

Description: Australia reserves the right to adopt or maintain any measure with respect to the guarantee by government of government-owned entities whose operations include the provision of financial services, including guarantees related to the privatisation of such entities.
ANNEX III

BRUNEI DARUSSALAM’S RESERVATIONS TO CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under the Chapter on Financial Services are undertaken subject to the limitations and conditions set forth in these headnotes and the schedule below.

2. To clarify Brunei Darussalam’s commitment with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Brunei Darussalam, regulations and guidelines are subject to non-discriminatory limitations on juridical forms.

3. All financial institutions offering Islamic financial products and services shall be subject to the Syariah requirements as determined by the laws of Brunei Darussalam and any supervisory bodies for the control of the administration and business dealings of financial institutions concerning Islamic products and any matters connected thereto.

4. **Description** sets out the non-conforming measure for which the entry is made.

5. For Section A of this Schedule, in accordance with Article 11.10.1 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **Description** element of that entry.

6. Brunei Darussalam reserves the right to require a foreign bank branch that is systemically important to be a locally incorporated bank in Brunei Darussalam subject to the following prerequisites:

   (a) Such measure is imposed in a reasonable, objective and impartial manner;

   (b) Brunei Darussalam shall take in due consideration the quality of home regulation and supervision over the bank, degree of protection accorded to depositors in the home country with respect to depositors in Brunei Darussalam, and the amount of assets held in Brunei Darussalam;

   (c) Prior to the imposition of the requirement, the bank and the party where the bank originates from shall be notified at least six months in advance of Brunei Darussalam’s intention to locally incorporate the bank;

   (d) Brunei Darussalam shall engage the Party concerned in consultations

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For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Brunei Darussalam. This headnote is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.
regarding the requirement and provide due considerations to the views expressed by the Party concerned in this regard; and

(e) Provide considerable duration for the bank to comply with the requirement.
ANNEX III

SECTION A

A-1

Sector: Financial Services
Sub-sector: Finance Companies
Obligation concerned: Market Access for Financial Institutions (Article 11.5)
Level of government: National
Measures: Finance Companies Act (Chapter 89)
Description: A finance company must be established as a company incorporated in Brunei Darussalam.
A-2

Sector: Financial Services
Sub-sector: Money-Changing and Remittance Businesses

Obligation concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of government: National

Measures: Money-Changing and Remittance Businesses Act (Chapter 174)

Description: Only Bruneian citizens are allowed to carry on money-changing and money remittance businesses.

There is a limit to the number of licences awarded for these businesses.
<table>
<thead>
<tr>
<th><strong>Sector:</strong></th>
<th>Financial services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-sector:</strong></td>
<td>Insurance</td>
</tr>
<tr>
<td><strong>Obligation concerned:</strong></td>
<td>Cross-Border Trade (Article 11.6)</td>
</tr>
<tr>
<td><strong>Level of government:</strong></td>
<td>National</td>
</tr>
</tbody>
</table>
| **Measures:** | *Motor Vehicles Insurance (Third Party Risks) Act* (Chapter 90)  
*Workmen’s Compensation Act* (Chapter 74) |
| **Description:** | Compulsory insurance of motor third party liability and workmen’s compensation can only be purchased directly or through an intermediary from licensed insurance companies or takaful operators in Brunei Darussalam. |
Sector: Financial Services

Sub-sector: Insurance Intermediaries

Obligation concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of government: National

Measures: Insurance Order, 2006
Takaful Order, 2008
Companies Act (Chapter 39)
Business Names Act (Chapter 92)

Description:

1. Insurance agents

Only Bruneian citizens and Bruneian permanent residents are allowed to be registered as an insurance agent in Brunei Darussalam.

2. Insurance brokers

Insurance brokers must be established as a company incorporated in Brunei Darussalam.
Sector: Financial Services
Sub-sector: Banking
Obligation concerned: Cross-Border Trade (Article 11.6)
Level of government: National
Measures: Banking Order, 2006
Islamic Banking Order, 2008
Outsourcing Guidelines

Description: Any outsourcing activities by licensed banks in Brunei Darussalam is subject to approval by AMBD with the following conditions:

(i) The outsourced activities are not related to credit assessment, processing, administration or any related core banking activities; and

(ii) The outsourcing activities will not affect financial institutions’ human capital and it does not involve any retrenchment of local employees.
A-6

Sector: Financial Services

Sub-sector: Banking

Obligation concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)
Senior Management and Board of Directors (Article 11.9)

Level of government: National

Measures: Banking Order, 2006
Islamic Banking Order, 2008

Description: Autoriti Monetari Brunei Darussalam has absolute discretion not to grant a licence to a bank if it is satisfied that:

(a) The bank is closely linked to any person who is subject to any laws of any jurisdiction outside Brunei Darussalam or administrative provisions that would prevent the effective exercise by the AMBD of its supervisory functions in relation to the bank; or

(b) 50% or more of its capital issued and paid-up is owned by or on behalf of a foreign Government, or that all or a majority of the persons having the directions, control or management of the bank are appointed by or on behalf of any such government or agency.
A-7

Sector: Financial Services

Sub-sector: All Subsectors

Obligation concerned: Senior Management and Board of Directors (Article 11.9)

Level of government: National
ANNEX III

SECTION B

B-1

Sector: Financial Services

Sub-sector: Capital Market
Clearing and Settlement Services

Obligation concerned: National Treatment (Article 11.3)
Most-Favoured-Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)
Senior Management and Board of Directors (Article 11.9)

Level of government: National

Measures: Autoriti Monetari Brunei Darussalam Order, 2010
Securities Markets Order, 2013
Payment and Settlement Systems (Oversight) Order, 2015

Description: Brunei Darussalam reserves the right to limit the establishment or operation of the following:

(i) Clearing and settlement services;

(ii) Central securities depository;

(iii) Trade repository;

(iv) Trading facilities;

(v) Credit rating agencies;

(vi) Exchanges; or

(vii) Securities and futures market.

For greater certainty, this reservation does not apply to financial institutions participating in, or seeking to participate in, any such exchange or securities market.
B-2

Sector: Financial Services

Sub-sector: Credit Reporting Services

Obligation concerned: National Treatment (Article 11.3)
Most-Favoured-Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)

Level of government: National

Measures:
- Autoriti Monetari Brunei Darussalam Order, 2010
- Banking Order, 2006
- Islamic Banking Order, 2008

Description: Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment and operation of credit reporting services.
B-3

Sector: Financial Services
Sub-sector: Banking
Obligation concerned: Market Access for Financial Institutions (Article 11.5)
Level of government: National
Measures: Banking Order, 2006
          Islamic Banking Order, 2008
Description: Brunei Darussalam reserves the right to provide advantages to locally incorporated banks that are not available to licensed foreign bank branches such as and not limited to the following:

   (i) Number of branch locations; and

   (ii) Types of banking business\(^2\) offered.

\(^2\) Banking Business is as defined under Section 2, Banking Order, 2006 and Section 2, Islamic Banking Order, 2008.
B-4

Sector: Financial Services

Sub-sector: All sector

Obligation concerned: National Treatment

Level of government: National

Description: (a) Brunei Darussalam reserves the right to provide subsidies or grant advantages not limited to the following:

(i) Government owned or government controlled entities for legitimate national economic development objectives; and

(ii) Islamic financial institutions carrying out Islamic banking, takaful/retakaful and Islamic capital markets for the purpose of Islamic finance development

(b) With respect to Small and Medium Enterprises Financing Programme, Brunei Darussalam reserves the right to provide preferences to local financial institutions which may not be opened to foreign financial institutions.
ANNEX III

CANADA’S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

INTRODUCTORY NOTE

1. For Canada, in the interpretation of a reservation in Section A, 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 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

   (b) 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.

2. For Canada, in the interpretation of a reservation in Section B, all elements of the reservation shall be considered. The Description element shall prevail over all other elements.
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 Canada’s commitment with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Canada are subject to non-discriminatory limitations on juridical form.

3. Article 11.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 11.5(b) (Market Access for Financial Institutions).

4. For greater certainty, limitations on the participation of foreign capital in terms of maximum percentage limits on foreign shareholding or the total value of individual or aggregate foreign investment should not be considered a limitation to Article 11.5 (Market Access for Financial Institutions).

---

1 For example, partnerships and sole proprietorships are generally not acceptable juridical forms for financial institutions in Canada. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.
ANNEX III

SECTION A

A-1

Sector: Financial Services

Subsector: All

Type of Reservation: National Treatment (Article 11.3)
Senior Management and Boards of Directors (Article.11.9)

Level of Government: Central

Measures: Sections 159 and 749 of the Bank Act, sections 167 and 796 of the Insurance Companies Act
Section 163 of the Trust and Loan Companies Act
Foreign Institutions Subject to the Canadian Residency Requirements Regulations (Insurance Companies)
Foreign Institutions Subject to the Canadian Residency Requirements Regulations (Trust and Loan Companies)
Section 169 of the Cooperative Credit Association Act

Description: A minimum of one half of the directors of a federally-regulated financial institution that is a subsidiary of a foreign institution and a majority of the directors of any other federally-regulated financial institution must be either Canadian citizens ordinarily resident in Canada or permanent residents ordinarily resident in Canada.
A-2

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Type of Reservation: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: Section 524 of the Bank Act

Description: In order to establish a bank branch, a foreign bank must be a bank in the jurisdiction under whose laws it is incorporated.
Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Type of Reservation: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: 
- Bank Act s. 520, 524, 540, 545
- Sales or Trades (Authorized Foreign Banks) Regulations

Description: A foreign bank must establish a subsidiary as a condition for accepting retail deposits.

Foreign lending branches may not accept deposits.
Sector: Financial Services

Sub-Sector: All

Type of Reservation: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures:
- Trust and Loan Companies Act
- Bank Act
- Cooperative Credit Associations Act
- Insurance Companies Act

Description: Federal laws do not permit a trust and loan company, credit union, or fraternal benefit society in Canada to be established through branches of corporations organised under a foreign country’s law.
Sector: Financial Services

Subsector: All

Type of Reservation: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: 

Bank Act s. 510, 522.16, 524

Insurance Companies Act s. 574, 581

Description: A bank branch must be established directly under the authorised foreign bank incorporated in the jurisdiction where the authorised foreign bank principally carries on business.

A foreign entity authorised to insure, in Canada, risks must be established directly under the foreign insurance company incorporated in the jurisdiction where the foreign insurance company, either directly or through a subsidiary, principally carries on business.
Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Type of Reservation: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: 
- Bank Act s. 520, 540, 545
- Schedule I and Schedule II to the Bank Act
- Canadian Deposit Insurance Corporation Act s. 2, 8, 17

Description: Full service foreign bank branches and lending foreign bank branches are prohibited from becoming member institutions of the Canadian Deposit Insurance Corporation.
A-7

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Type of Reservation: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: *Canadian Payments Act* s. 2, 4
*Bank Act* s. 524, 540

Description: Lending branches of foreign banks are prohibited from being members of the Canadian Payments Association.
A-8

Sector: Financial Services

Subsector: All

Type of Reservation: National Treatment (Article 11.3)  
Most-Favoured-Nation Treatment (Article 11.4)  
Cross-Border Trade (Article 11.6)  
Senior Management and Boards of Directors (Article 11.9)

Level of Government: Regional

Description: All existing non-conforming measures of all provinces and territories.
ANNEX III

SECTION B

B-1

Sector: Financial Services

Subsector: All

Type of Reservation: Market Access for Financial Institutions (Article 11.5)

Level of Government: Regional

Description: Canada reserves the right to adopt or maintain any measure that is not inconsistent with Canada’s obligations under Article XVI of the General Agreement on Trade in Services.
B-2

Sector: Financial Services

Subsector: All

Type of Reservation: National Treatment (Article 11.3)

Level of Government: Central

Description: With regard to the Canada Mortgage and Housing Corporation and its subsidiaries, Canada reserves the right to adopt or maintain any measure that grants advantages to that entity or any new, reorganized, or transferee entity having similar functions and objectives with respect to housing finance.
ANNEX III

CHILE’S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

INTRODUCTORY NOTE

1. The Schedule of Chile to this Annex sets out:

   (a) headnotes, that limit or clarify the commitments of Chile with respect to the obligations described in subparagraphs 1(b) and 1(c);

   (b) in Section A, pursuant to Article 11.10 (Non-Conforming Measures) a Party’s existing measures that are not subject to some or all of the obligations imposed by:

      (i) Article 11.3 (National Treatment);

      (ii) Article 11.4 (Most-Favoured-Nation Treatment);

      (iii) Article 11.5 (Market Access for Financial Institutions);

      (iv) Article 11.6 (Cross-Border Trade); or

      (v) Article 11.9 (Senior Management and Boards of Directors); and

   (c) in Section B, pursuant to Article 11.10.2 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which a Party may maintain existing, or adopt new or more restrictive measures that do not conform with obligations imposed by:

      (i) Article 11.3 (National Treatment);

      (ii) Article 11.4 (Most-Favoured-Nation Treatment);

      (iii) Article 11.5 (Market Access for Financial Institutions);

      (iv) Article 11.6 (Cross-Border Trade); or

      (v) Article 11.9 (Senior Management and Boards of Directors).

2. Each Schedule entry in Section A sets out the following elements:

   III-CL-1
4. Parties recognise that measures falling under the exception set out in Article 11.11.1 (Exceptions) need not be scheduled. Nevertheless, some Parties have listed measures that may fall within this exception. For greater certainty, the listing of a measure in a Party’s Schedule to Annex II is without prejudice to whether that measure or any other measure:

(a) adopted or maintained by the Party; or

(b) adopted or maintained by any other Party,

is covered by the exception set out in Article 11.11.1 (Exceptions).
HEADNOTES

1. Commitments in the financial services sector under this Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and the schedule below.

2. Juridical persons supplying financial services and constituted under the laws of Chile are subject to non-discriminatory limitations on juridical form. For example, partnerships (sociedades de personas) are generally not acceptable juridical forms for financial institutions in Chile. This headnote is not in and of itself intended to affect or otherwise limit a choice by a financial institution of the other Party between branches and subsidiaries.
ANNEX III

SECTION A

A-1

Sector: Financial Services

Sub-sector: Banking and Other Financial Services

Obligations Concerned: National Treatment (Article 11.3)
Senior Management and Boards of Directors (Article 11.9)

Measures: Ley N° 18.045, Official Gazette of October 22, 1981,
Ley de Mercado de Valores, Titles VI and VII,
Articles 24, 26 and 27.

Description: The directors, administrators, managers or legal
representatives of legal entities or natural persons
performing the activities of stockbroker and securities
agent, must be Chileans or foreigners with a
permanent residence permit.
A-2

Sector: Financial Services

Sub-sector: Banking and Other Financial Services

Obligations Concerned: National Treatment (Article 11.3)

Measures:


Ley N° 18.046, Official Gazette of October 22, 1981, Ley de Sociedades Anónimas, Title XIII, Articles 126 to 132.

Ley N° 18.045, Official Gazette of October 22, 1981, Ley de Mercado de Valores, Title XXVII, Articles 220 to 238.

Description: The capital of a foreign capital investment fund (FICE) may not be remitted abroad until five years from the date in which the contribution was made, or three years in the specific case of venture capital foreign investment funds.
Sector: Financial Services

Sub-sector: Insurance and Insurance-related Services

Obligations Concerned: National Treatment (Article 11.3)

Measures: Decreto con Fuerza de Ley N° 251, Official Gazette of May 22, 1931, Ley de Seguros, Title I, Article 16.

Description: Reinsurance brokerage can be performed by foreign reinsurance brokers. These brokers shall be juridical persons, demonstrate that the entity is legally organised in its country of origin and authorised to intermediate risks ceded from abroad, and provide the date that such authorization was granted. Such entities shall designate a representative in Chile to represent them with broad powers. The representative may be subject to summons and must have residence in Chile.
A-4

Sector: Financial Services

Sub-sector: Insurance and Insurance-related Services

Obligations Concerned: National treatment (Article 11.3)
Senior Management and Board of Directors (Article 11.9)

Measures: Decreto con Fuerza de Ley 251, Official Gazette of May 22, 1931, Ley de Seguros, Title III, Articles 58, 62.


Description: Administrators and legal representatives of legal entities and natural persons performing the activity of claim settlement and insurance brokerage must be Chileans or foreigners with a permanent residence permit.
Sector: Financial Services

Sub-sector: Insurance and Insurance-related Services

Obligations Concerned: National Treatment (Article 11.3)

Measures: Decreto con Fuerza de Ley N° 251, Official Gazette of May 22, 1931, Ley de Seguros, Title I, Article 20.

Description: In the case of the types of insurance covered in Decreto Ley 3.500, involving the cession of reinsurance to foreign reinsurers, the deduction for reinsurance cannot exceed 40 per cent of the total of the technical reserves associated with those types of insurance or a higher percentage if set by the Superintendencia de Valores y Seguros.
Sector: Financial Services  
Sub-sector: Insurance and Insurance-related Services  
Type of Reservation: National Treatment (Article 11.3)  
Measures: Decreto con Fuerza de Ley N° 251, Diario Oficial, Mayo 22, 1931, Ley de Seguros, Título I.  
Description: The reinsurance activity may be provided by foreign entities classified, according to risk rating agencies of international well-known reputation as indicated by the Securities and Insurance Commission (Superintendencia de Valores y Seguros), at least in the risk category BBB or other equivalent to it. These entities shall have a representative in Chile who will represent them with broad powers. The representative may be subject to summons. Notwithstanding the aforementioned, it will not be necessary the designation of a representative if a reinsurer broker, registered on the records of the Superintendency, carries out the reinsurance operation. For all purposes, especially for those relating to the application and performance in the country of the reinsurance contract, this broker shall be considered the legal representative of the reinsurers.
ANNEX III

SECTION B

B-1

Sector: Financial Services

Sub-sector: All Sub-sectors

Obligations Concerned: Cross Border Trade (Article 11.6)


Description: The purchase of financial services, by persons located in the territory of Chile and its nationals wherever located, from financial services suppliers of another Party shall be subject to the exchange rate regulations adopted or maintained by the *Banco Central de Chile* in accordance with its Organic Law (*Ley 18.840*).
B-2

Sector: Financial Services

Sub-sector: Banking and Other Financial Services

Obligations Concerned: National Treatment (Article 11.3)


Description: Chile may grant advantages or exclusive rights to *Banco del Estado de Chile*, a Chilean state owned bank, including but not limited to the following: the management of the Chilean government financial resources is made only through deposits in the *Cuenta Única Fiscal* and in its subsidiary accounts, all of which must be kept at *Banco del Estado de Chile.*
B-3

Sector: Financial Services

Sub-sector: Insurance and Insurance-related Services

Obligations Concerned: Cross-border Trade (Article 11.6)

Measures: Decreto con Fuerza de Ley N° 251, Official Gazette of May 22, 1931, Ley de Seguros, Title I, Article 4.

Description: All types of insurance that Chilean law makes or may make compulsory, and all insurance related to social security, cannot be contracted outside Chile. This reservation shall not apply to the types of insurance included in Chile’s commitments listed in paragraph 1(a) of Annex 12.5.
Sector: Financial Services
Sub-sector: Social Services
Obligations Concerned: Market Access for Financial Institutions (Article 11.5)
Cross-border Trade (Article 11.6)
Description: Chile reserves the right to adopt or maintain any measure with respect to the provision of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and child care.
B-5

Sector: Financial Services

Sub-sector: All Sub-sectors

Obligations Concerned: Market Access for Financial Institutions

Description: Chile reserves the right to adopt or maintain any measure with respect to Article 11.10.4 (Market Access for Financial Institutions), except for the following sectors, sub-sectors and financial services defined in accordance with the relevant Chilean legislation and subject to the terms, limitations and conditions specified below:
1. The Chilean financial services sector is partially compartmentalised, that is to say the institutions, domestic and foreign, authorised to operate as banks may not participate directly in the insurance and securities business and vice versa. However, subject to authorisation from the Superintendencia de Bancos e Instituciones Financieras, SBIF (Superintendency of Banks and Financial Institutions), domestic and foreign banks operating in Chile may set up subsidiaries, to supply other financial services in addition to their main line of business.

2. Chile reserves the right to adopt measures to regulate financial conglomerates, including the entities forming part of it.

3. The term “CPC” means the Provisional Central Product Classification (Statistical paper Series M, No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, (1991)).

<table>
<thead>
<tr>
<th>Sub-sector</th>
<th>Limitation on Market Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Banking services:</td>
<td></td>
</tr>
<tr>
<td>a.1) Core banking services and bank operations:</td>
<td></td>
</tr>
<tr>
<td>- Acceptance of deposits (includes only current bank accounts <em>(cuentas corrientes bancarias)</em>, sight deposits, time deposits, savings accounts, financial instruments with repurchase agreements, and warranty deposits or surety bonds);</td>
<td></td>
</tr>
<tr>
<td>- Credit granting (includes only ordinary loans, consumer credit, loans in letters of credit, mortgage loans, mortgage loans in letters of credit, purchase of financial instruments with resale agreements, credit for issue of bank surety bonds or other types of financing, issue and negotiation of letters of credit for imports and exports, issue and confirmation of standby letters of credit);</td>
<td></td>
</tr>
<tr>
<td>- Purchase of publicly-offered securities (includes only purchase of bonds, purchase of letters of credit, subscription and</td>
<td></td>
</tr>
<tr>
<td>Foreign banking institutions must be banking companies <em>(sociedades bancarias)</em> legally constituted in their country of origin and must put up the capital required by Chilean law.</td>
<td></td>
</tr>
<tr>
<td>Foreign banking institutions may only operate:</td>
<td></td>
</tr>
<tr>
<td>(i) through shareholdings in Chilean banks established as corporations in Chile;</td>
<td></td>
</tr>
<tr>
<td>(ii) by becoming established as a corporation in Chile;</td>
<td></td>
</tr>
<tr>
<td>(iii) as branches of foreign corporations, in which case the legal personality in the country of origin is recognised. For the purposes of foreign bank branch operations in Chile, the capital effectively invested in Chile is considered, and not that of the main office. The increases of capital or reserves that do not come from capitalisation of other reserves, will have the same treatment as the initial capital and reserves. In the transactions between a branch and its main office abroad, both will be considered as independent entities.</td>
<td></td>
</tr>
</tbody>
</table>
No national or foreign, natural or legal, person may acquire directly or through third parties shares in a bank which, alone or added to the shares such a person already possesses, represent more than 10 per cent of the bank's capital without having first obtained the authorisation of the SBIF. In addition, the partners or shareholders of a financial institution may not transfer a percentage of rights or shares in their company in excess of 10 per cent without having obtained authorisation from the SBIF.

<table>
<thead>
<tr>
<th>Complementary banking services</th>
<th>The supply of financial services that complement core banking services may be provided directly by these institutions, with prior authorisation from the SBIF, or through subsidiaries which the SBIF shall determine.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial leasing (CPC 81120)</td>
<td>Financial leasing and Factoring services are regarded as complementary banking services and, consequently, the SBIF is empowered to extend or restrict the operation of the services which these institutions may offer, and these institutions may only offer the services expressly authorised by the SBIF.</td>
</tr>
<tr>
<td>Advisory and other auxiliary financial services (CPC 8133)</td>
<td>None.</td>
</tr>
<tr>
<td>Management of funds of third parties</td>
<td>The management of funds of third parties can only be</td>
</tr>
</tbody>
</table>

### Table: Complementary Banking Services

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue and operation of credit cards (CPC 81133)</td>
<td>Includes only credit cards issued in Chile.</td>
</tr>
<tr>
<td>Issue and operation of debit cards; Travellers' cheques; Transfer of funds (bank drafts); Discounting or acquisition of bills of exchange and promissory notes;</td>
<td></td>
</tr>
<tr>
<td>Endorsement and guarantee of third party liabilities in Chilean currency and foreign currency; Securities custody; Exchange market operations carried out according to the regulations issued or to be issued by the Central Bank of Chile; Operations with derivatives authorised or to be authorised by the Central Bank of Chile (includes only forwards and swaps of currency and interest rate); and Acceptance and execution of fiduciary operations.</td>
<td></td>
</tr>
<tr>
<td>Acceptance and execution of fiduciary operations.</td>
<td></td>
</tr>
</tbody>
</table>

### Table: Financial Leasing and Factoring

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial leasing (CPC 81120) includes only leasing contracts for goods acquired at the client's request, i.e. they cannot acquire goods in order to stock them and offer them for leasing.</td>
<td></td>
</tr>
<tr>
<td>Factoring</td>
<td></td>
</tr>
</tbody>
</table>

### Table: Advisory and Other Auxiliary Financial Services

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>None.</td>
<td></td>
</tr>
</tbody>
</table>

### Table: Management of Funds of Third Parties

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>The management of funds of third parties can only be</td>
<td></td>
</tr>
<tr>
<td>Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency</td>
<td></td>
</tr>
<tr>
<td>Subject to Authentication of English, Spanish and French Versions</td>
<td></td>
</tr>
<tr>
<td>performed by a General Management Fund (Administradora General de Fondos) (in no circumstances does this include management of pension funds and voluntary pension savings plans (Planes de Ahorro Previsional Voluntario))</td>
<td>offered through subsidiaries as established in the General Banking Act and with prior authorisation of both the SBIF and the Superintendencia de Valores y Seguros, SVS (Securities and Insurance Commission).</td>
</tr>
<tr>
<td>Securitisation Intermediation of publicly offered securities (CPC 81321).</td>
<td>Banks can provide securitisation services through subsidiaries as established in the General Banking Act. In order to provide these services, bank subsidiaries must comply with the securities laws and the norms issued by the SVS. Prior authorisation from both the SVS and the SBIF is required.</td>
</tr>
<tr>
<td>Banks can provide the services of intermediation of publicly offered securities through subsidiaries as established in the General Banking Act, either as securities agents and/or as stockbrokers. Except for the requirement to enrol in the relevant register of the SVS, in order to provide these services bank subsidiaries must comply with the securities laws and the norms issued by the SVS. Prior authorisation from both the SVS and the SBIF is required.</td>
<td></td>
</tr>
<tr>
<td>a.3) Representative offices of foreign banks.</td>
<td>The SBIF may authorise foreign banks to maintain representative offices acting as business agents for their main offices, and shall exercise upon them the same inspection authority granted upon the Superintendent by the Ley General de Bancos with respect to banking enterprises. The authorisation given by the SBIF to representative offices is subject to revocation if its maintenance is found to be inconvenient, as expressed in the Ley General de Bancos. This is not intended to limit any remedies that the investor affected by the revocation of the authorisation may have under Chilean law to challenge the measure.</td>
</tr>
</tbody>
</table>
b) Insurance and insurance-related services:

1. In Chile, the insurance business is divided into two groups: the first group comprises companies that insure goods or property (patrimonio) against the risk of loss or damage, while the second comprises those that cover personal risks or guarantee, within or at the end of a certain term, a capital sum, a paid-up policy or an income for the insured or his/her beneficiaries. The same insurance company may not be constituted in such a way as to cover both categories of risk.

2. Credit insurance companies, even though classified in the first group, must be established as legal entities with the sole purpose of covering this type of risk, i.e. loss of or damage to the goods or property (patrimonio) of the insured as a result of the non-payment of a money debt or loan, being also permitted to cover guarantee and fidelity risks.

<table>
<thead>
<tr>
<th>Sub-sector</th>
<th>Limitation on Market Access</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Insurance:</strong></td>
<td>Insurance services can be provided only by insurance companies established in Chile as corporations or as branches of foreign corporations with the sole purpose of developing this line of business, either direct life insurance or direct general insurance. In the case of general credit insurance (81296), they must be established as corporations or branches with the sole purpose of covering this type of risk.</td>
</tr>
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<td>Sale of direct life insurance (does not include insurance related to the social security system) (CPC 81211), and Sale of direct general insurance (CPC 8129, except for CPC 81299) (excluding the Instituciones de Salud Previsional, ISAPRES (social security health institutions) i.e. legal persons set up for the purpose of providing health benefits to persons who opt to become members and financed through the statutory contribution of a percentage of taxable income fixed by law or a higher amount, as the case may be. It also excludes the Fondo Nacional de Salud, FONASA (National Health Fund), a public agency financed by the government and the statutory contribution of a percentage of taxable income fixed by law, which is jointly responsible for paying benefits under the optional health scheme which persons not members of an ISAPRE may join. (Does not include sale of insurance for international maritime shipping, international commercial aviation and space</td>
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</table>

III-CL-18
<table>
<thead>
<tr>
<th>Service Description</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>launching and freight (including satellites) and goods in international transit.</td>
<td>Insurance may be issued directly or through insurance brokers who, to engage in that activity, must be enrolled in the Register maintained by the SVS, and must satisfy the requirements of the law.</td>
</tr>
<tr>
<td>Sale of insurance for international maritime shipping, international commercial aviation and space launching and freight (including satellites) and goods in international transit. (includes goods transported, the vehicle transporting the goods and any civil responsibility deriving therefrom. Does not include national transport (cabotage)).</td>
<td>Insurance services may be offered by insurance corporations constituted in Chile and which have the sole purpose of developing the business of direct general insurance.</td>
</tr>
<tr>
<td>Insurance brokers (excludes insurance for international maritime shipping, international commercial aviation and space launching and freight (including satellites) and goods in international transit).</td>
<td>Must be enrolled in the Register maintained by the SVS and fulfil the requirements established by the SVS. Only legal persons legally constituted in Chile for this specific purpose may provide this service.</td>
</tr>
<tr>
<td>Brokers of insurance for international maritime shipping, international commercial aviation and space launching and freight (including satellites) and goods in international transit (includes the goods being transported, the vehicle transporting the goods and any civil responsibility deriving therefrom. Does not include national transport (cabotage)).</td>
<td>Must be enrolled in the Register maintained by the SVS and fulfil the requirements established by the SVS. Only legal persons legally constituted in Chile for this specific purpose may provide this service.</td>
</tr>
<tr>
<td>Reinsurance and retrocession (includes reinsurance brokers).</td>
<td>Reinsurance services are provided by reinsurance corporations and branches established in Chile in accordance with the provisions of the law on corporations and authorised by the SVS. Insurance corporations may also provide reinsurance services as a complement to their insurance business if their articles of association so allow. Reinsurance services may also be provided by foreign reinsurers and foreign reinsurance brokers enrolled in the Register maintained by the SVS.</td>
</tr>
<tr>
<td>Claim settlement services.</td>
<td>Claim settlement services may be offered directly by insurance companies established in Chile or by legal</td>
</tr>
</tbody>
</table>

III-CL-19
| Auxiliary insurance services (includes only consultancy, actuarial services and risk assessment). | Auxiliary insurance services may only be provided by legal persons constituted in Chile and registered with the SVS. |
c) Securities services:

1. Publicly offered securities may be traded by legal persons established under Chilean law, whose sole purpose is securities brokerage, either as members of a stock exchange (stockbrokers) or outside the stock exchange (securities agents). However, only stockbrokers may trade shares or their derivatives (subscription options) on the stock exchange. Non-share securities may be traded by stockbrokers or securities agents registered with the SVS.

2. Publicly offered securities risk rating services are provided by rating agencies established for the sole purpose of rating publicly offered securities, and they must be enrolled in the Registro de Entidades Clasificadoras de Riesgo (Register of Risk Rating Agencies) maintained by the SVS.

3. Securities custody consists of the physical safe-keeping of securities’ certificates and may be undertaken by securities intermediaries (stockbrokers and securities agents) as an activity complementary to their sole purpose. It may also be undertaken by entities that provide depository and custodial services for securities which should be established as special purpose corporations (sociedades anónimas especiales) with the sole purpose of receiving in deposit publicly offered securities from entities authorised by law and to facilitate operations for the transfer of such securities (centralised securities depositories, depósitos centralizados de valores).

4. Financial advisory services, which involve giving financial advice on financing alternatives, investment appraisal, investment possibilities and debt rescheduling strategies may be undertaken by securities intermediaries (stockbrokers and securities agents) as an activity complementary to their sole purpose.

<table>
<thead>
<tr>
<th>Sub-sector</th>
<th>Limitation on Market Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stock exchanges.</td>
<td>Stock exchanges must be established as special purpose corporations (sociedades anónimas especiales) under Chilean law.</td>
</tr>
<tr>
<td>Intermediation of publicly offered securities, except shares (CPC 81321)</td>
<td>Brokerage activities must be supplied through a legal person established in Chile and require prior enrolment in the Register of stockbrokers and securities agents kept by the SVS.</td>
</tr>
<tr>
<td>Subscription and placement as agents (underwriting).</td>
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</tr>
<tr>
<td>• Intermediation of publicly offered shares of corporations (CPC 81321)</td>
<td>In order to trade on the stock exchange, intermediaries (stockbrokers) must be constituted as a legal person in Chile. They must acquire a share in the respective stock exchange and be accepted as members of this exchange. Prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS is required for brokerage activities. In addition to the legal requirement concerning capital and investments in stock exchange derivatives authorised by the Superintendencia de Valores y Seguros</td>
</tr>
<tr>
<td>(includes subscription and placement as agents, underwriting).</td>
<td></td>
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<tr>
<td>• Operations in stock exchange</td>
<td></td>
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<tr>
<td>derivatives authorised by the Superintendencia de Valores y Seguros</td>
<td></td>
</tr>
<tr>
<td>(Securities and Insurance Commission) (includes only dollar and interest rate futures, and options on shares. Shares must fulfill the requirements established by the respective clearing house, cámara de compensación).</td>
<td>reserves (patrimonio), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated, and the category of intermediaries to which they apply.</td>
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</tr>
<tr>
<td>Trading in metals on the stock exchange (includes only gold and silver).</td>
<td>Trading in gold and silver may be carried out by stockbrokers on their own account and for third parties in the stock exchange in accordance with stock exchange regulations. In order to trade on the stock exchange, intermediaries (stockbrokers) must be constituted as legal persons in Chile. They must acquire a share in their respective stock exchange and be accepted as members of this exchange. Prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS is required for brokerage activities. In addition to the legal requirement concerning capital and reserves (patrimonio), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.</td>
</tr>
<tr>
<td>Securities risk rating (relates solely to rating or giving an opinion on publicly offered securities).</td>
<td>They must be established in Chile as a partnership (sociedad de personas). One of the specific requirements to be fulfilled is that not less than 60 per cent of the company's capital must be held by the principal partners (natural or legal persons in this line of business holding a minimum of five per cent of the membership rights in the rating agency).</td>
</tr>
<tr>
<td>Securities custody undertaken by securities intermediaries (CPC 81319) (does not include the services offered by suppliers who combine custody, securities clearance and settlement (securities depositories, depósitos de valores)).</td>
<td>For securities custody, intermediaries (stockbrokers and agents) must be constituted in Chile as a legal person. In addition to the legal requirement concerning capital and reserves (patrimonio), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.</td>
</tr>
<tr>
<td>Custody undertaken by entities for the deposit and custody of securities.</td>
<td>Securities deposit and custody entities must be constituted in Chile as corporations set up for that sole purpose.</td>
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<tr>
<td>Financial advisory services supplied by securities intermediaries (CPC 81332).</td>
<td>Financial advisory services supplied by securities intermediaries established as legal persons in Chile require prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS. In addition to the legal requirement concerning capital and reserves (<em>patrimonio</em>), the SVS may impose more stringent non-discriminatory provisions regarding economic solvency on the intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.</td>
</tr>
<tr>
<td>Financial portfolio management supplied by security intermediaries (this does not under any circumstances include a General Management Fund (<em>Administradora General de Fondos</em>).</td>
<td>Financial portfolio management services supplied by securities intermediaries established as legal persons in Chile require prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS. In addition to the legal requirement concerning capital and reserves (<em>patrimonio</em>), the SVS may impose more stringent non-discriminatory provisions regarding economic solvency on the intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.</td>
</tr>
<tr>
<td>Management of funds of third parties performed by a General Management Fund <em>Administradora General de Fondos</em> (in no circumstances does this include management of pension funds and voluntary pension savings plans (<em>Plan de Ahorro Previsional Voluntario</em>).</td>
<td>The Fund management service may be carried out by corporations set up for that sole purpose, constituted in Chile, with authorisation from the SVS.</td>
</tr>
<tr>
<td>Service of clearing houses for derivatives (contracts for futures and options on securities).</td>
<td>Clearing houses for futures contracts and options on securities must be established in Chile as corporations for that sole purpose and with an authorisation from the SVS. They may only be constituted by stock exchanges and their stockbrokers.</td>
</tr>
<tr>
<td>Cattle and agricultural commodities exchanges.</td>
<td>Entities must be established as special purpose corporations (<em>sociedades anónimas especiales</em>) under Chilean law.</td>
</tr>
<tr>
<td>Service of clearing houses of futures and options on cattle and agricultural commodities.</td>
<td>The activity of cattle and agricultural commodities broker must be performed by legal entities established under Chilean law.</td>
</tr>
<tr>
<td>Cattle and agricultural commodities brokerage.</td>
<td>Provision of warrant services may be carried out only by legal persons duly constituted in Chile who have the supply of warrant services as their sole purpose.</td>
</tr>
<tr>
<td>General deposit warehouses (warrants) (corresponds to merchandise warehousing services accompanied by the issue of a deposit certificate and a chattel mortgage receipt (<em>vale de prenda</em>)).</td>
<td>None</td>
</tr>
<tr>
<td>Securities issue and registration services (CPC 81322) (does not include deposit and custody of securities services).</td>
<td>None</td>
</tr>
<tr>
<td><strong>d) Other financial services:</strong></td>
<td></td>
</tr>
<tr>
<td>Provision and transfer of financial information and financial data processing and related software by suppliers of other financial services.</td>
<td>None.</td>
</tr>
<tr>
<td>Exchange market operations carried out according to the regulations issued or to be issued by the Central Bank of Chile.</td>
<td>Only banks, juridical persons, stockbrokers and securities agents, all of which must be established in Chile as legal entities, can operate in the Formal Exchange Market. Juridical persons, stockbrokers and securities agents require prior authorisation from the Banco Central de Chile to operate in the Formal Exchange Market.</td>
</tr>
<tr>
<td>Management of mortgage loans as established in <em>Decreto con Fuerza de Ley N° 251, Ley de Seguros</em>, Title V.</td>
<td>Mortgage Loans Management Agencies must be established as corporations (<em>sociedades anónimas</em>) under Chilean law. For greater certainty, according to <em>Decreto con Fuerza de Ley N° 251, Ley de Seguros</em>, Title V, Article 88.</td>
</tr>
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</table>
ANNEX III

JAPAN’S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under Chapter 11 (Financial Services) are undertaken subject to the limitations and conditions set forth in these headnotes and the Schedule below.

2. In the interpretation of a reservation in Section A, 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, and the Measures element shall prevail over all the other elements.

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

4. To clarify Japan’s commitment with respect to Article 11.5 (Market Access for Financial Institutions), enterprises supplying financial services are subject to non-discriminatory limitations on juridical form.

5. (a) For greater certainty, for prudential reasons within the context of Article 11.11 (Exceptions), Japan shall not be prevented from applying non-discriminatory limitations concerning admission to the market of new financial services which shall be consistent with a regulatory framework aimed at achieving such prudential objectives. In this context, securities firms are allowed to deal in securities defined in the relevant laws of Japan, and banks are not allowed to deal in those securities unless allowed in accordance with those laws.

 (b) For Japan, services supplied in the territory of a Party to a service consumer in another Party without any active marketing from the service supplier are considered as services supplied under subparagraph (b) of the definition of cross-border supply of financial services in Article 11.1 (Definitions).

6. For the purposes of this Annex, JSIC means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on November 6, 2007.
ANNEX III

SECTION A

A-1 Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (excluding Insurance and Insurance-Related Services)

Industry Classification:
- JSIC 622 Banks, except central bank
- JSIC 631 Financial institutions for small-businesses

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central Government

Measures: Deposit Insurance Law (Law No. 34 of 1971), Article 2

Description: The deposit insurance system does not cover deposits taken by branches of foreign banks.
A-2  Sector:  Financial Services

Sub-Sector:  Insurance and Insurance-Related Services

Industry Classification:  JSIC 672 Non-life insurance institutions
JSIC 6742 Non-life insurance agents and brokers

Obligations Concerned:  Cross-Border Trade (Article 11.6)

Level of Government:  Central Government

Measures:  Insurance Business Law (Law No.105 of 1995), Articles 185, 186, 275, 276, 277, 286 and 287


Ministerial Ordinance for Enforcement of Insurance Business Law (Ministerial Ordinance of the Ministry of Finance No. 5 of 1996), Articles 116 and 212-6

Description:  Commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom:

(a) goods being transported within Japan; and

(b) ships of Japanese registration which are not used for international maritime transport.
SECTION B

B-1  Sector: Financial Services

Sub-Sector: Insurance and Insurance-Related Services

Industry Classification:

Obligations Concerned: National Treatment (Article 11.3)
Cross-Border Trade (Article 11.6)

Description: Japan reserves the right to adopt or maintain any measure with respect to cross-border supply of or trade in financial services as defined in subparagraph (b) of the definition of cross-border supply of financial services in Article 11.1 (Definitions) for insurance and insurance-related services, other than the following services, whether supplied by a cross-border financial service supplier of another Party established in that Party as a principal, through an intermediary or as an intermediary:

(a) insurance of risks relating to:

(i) maritime shipping 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 arising therefrom; and

(ii) goods in international transit; and

(b) reinsurance, retrocession and the services auxiliary to insurance as referred to in paragraph (d) of the definition of financial service in Article 11.1 (Definitions).

Note: Insurance intermediation services may be supplied only for insurance contracts allowed to be supplied in Japan.
Existing Measures:  *Insurance Business Law (Law No. 105 of 1995)*, Articles 185, 186, 275, 276, 277, 286, and 287


*Ministerial Ordinance for Enforcement of Insurance Business Law (Ministerial Ordinance of the Ministry of Finance No. 5 of 1996)*, Articles 116 and 212-6
ANNEX III
MALAYSIA’S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under this Chapter are undertaken subject to the limitations and conditions set forth in these headnotes and the Schedule below.

2. For greater certainty, all financial institutions offering Islamic financial products and services will be subject to the Shariah requirements as determined by financial services regulators in Malaysia. Shariah requirements may be measures for the purposes of Article 11.11.1 (Exceptions).

3. To clarify Malaysia’s commitments with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws, regulations and guidelines of Malaysia, are subject to non-discriminatory limitations on juridical forms.

4. For entries in:

   (a) Section A, all elements of the entry shall be considered in their totality for the purpose of its interpretation. Where there is any discrepancy between the Source of Measure element and the Description element of that entry, the Description element shall prevail to the extent of that discrepancy.

   (b) Section B, in accordance with Article 11.10.2 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

\[1\] For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Malaysia. This headnote is not itself intended to affect, or otherwise limit, the choice of a financial institution of the other Party between setting up as a branch or subsidiary.
ANNEX III

SECTION A

A-1

Sector: Financial services

Sub-sector: All

Level of Government: Federal

Obligations concerned: Market Access for Financial Institutions (Article 11.5)

Source of Measures:
- Financial Services Act 2013
- Islamic Financial Services Act 2013
- Money Services Business Act 2011
- Guidelines on International Islamic Bank
- Guidelines on Establishment of International Takaful Operator
- Guideline on Electronic Money
- Guidelines on Application for Registration and Operation of Retakaful Operator
- BNM Press Statement (Ref. 06/10/10) dated 25 June 2010
- Requirements for Operating Remittance Service
- Credit Card Guidelines
- Capital Markets and Services Act 2007
- Licensing Handbook

Description:
Financial institutions supplying financial services in the territory of Malaysia must be constituted as locally-incorporated companies under the laws of Malaysia.

This requirement is not applicable to persons solely carrying out:

- Reinsurance or retakaful business;
- Islamic banking business in international currencies other than ringgit;
- Takaful business in international currencies other than ringgit; and
- Maritime and aviation loss adjusting business.
Sector: Financial Services

Sub-sector: All

Level of Government: Federal

Obligations concerned: Most-Favoured Nation Treatment (Article 11.4)
Cross-Border Trade (Article 11.6)

Source of Measures: 
Financial Services Act 2013
Islamic Financial Services Act 2013
Guidelines on Outsourcing of Banking Operations
Guidelines on Outsourcing of Islamic Banking Operations
Guidelines on Outsourcing for Insurers
Guidelines on Outsourcing for Takaful Operators

Description: Approval for licensed banking institutions and insurance companies or takaful operators in Malaysia to outsource any of their activities abroad is subject to reciprocal treatment by the applicant’s home country.

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2 A licensed foreign financial institution from any country that allows Malaysian-owned financial institutions operating in its country to outsource their activities abroad (under the same conditions as the country allows a domestic financial institution) will be allowed to outsource their activities abroad, subject to complying with other relevant requirements established by Bank Negara Malaysia. If such country has entered into a Free Trade Agreement with Malaysia and the country has undertaken an obligation to provide national treatment in relation to outsourcing by financial institutions, that fact shall be a positive factor in the consideration of such financial institution’s application to outsource abroad.
A-3

Sector: Financial Services
Sub-sector: All
Level of Government: Federal
Obligations concerned: Senior Management and Board of Directors (Article 11.9)
Source of Measures: Section 122 of the *Companies Act 1965*
Description: At least two directors of a company incorporated in Malaysia must be ordinarily resident or have principal residence within Malaysia.
Sector: Financial Services
Sub-sector: All
Level of Government: Federal
Obligations concerned: Market Access for Financial Institutions (Article 11.5)
Source of Measures: Financial Services Act 2013
Islamic Financial Services Act 2013

Description: The carrying on of a licensed business or an approved business regulated by Bank Negara Malaysia (the Bank) requires a license by the Minister of Finance or an approval by the Bank, respectively. A license or an approval will not be granted unless the Minister of Finance or the Bank determines that the application for license or approval will be in the best interest of Malaysia. In making a determination, the Minister and the Bank will have regard to:

(a) the effect of the investment on the level and nature of economic activity in Malaysia, including the effect on productivity, efficiency and quality of financial services;

(b) the contribution towards enhancing international trade and investment linkages between Malaysia and other countries;

(c) the effect of the investment on the stability of the financial system, including on conduct and behaviours that could pose a risk to the financial system; or

(d) the degree and significance of participation of Malaysians in the financial sector.

In accordance with Article 11.13 (Transparency and Administration of Certain Measures):

(i) The Bank shall make an administrative decision on a completed application within 120 days, and shall

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3 The key considerations will be that control of a significant share of domestically-owned financial institutions remains with Malaysians and that Malaysians continue to have an economically meaningful share of the financial sector.
promptly notify the applicant of the decision;

(ii) On the request of an unsuccessful applicant, the Bank shall, to the extent practicable, provide to the applicant the reasons as to why the application was not in the best interest of Malaysia.

An application shall not be considered complete until all relevant hearings are held and all necessary information received. Where it is not practicable for a decision to be made within 120 days, the Bank shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable time thereafter.
A-5

Sector: Financial Services

Sub-sector: All

Level of Government: Federal

Obligations concerned: National Treatment (Article 11.3)

Source of Measures: Financial Services Act 2013
Islamic Financial Services Act 2013

Description: 1. No natural person shall hold more than 10% of shares or interest in shares of a licensed commercial bank, investment bank, Islamic bank, licensed insurance company or takaful operator (“maximum permissible holdings”).

2. The:

   (a) acquisition of shares or interest-in-shares of a licensed commercial bank, investment bank, Islamic bank, licensed insurance company or takaful operator; and

   (b) exemption from the maximum permissible holdings in a licensed commercial bank, investment bank, Islamic bank, licensed insurance company or takaful operator requires approval by the Minister of Finance or Bank Negara Malaysia (the Bank), as the case may be. Approval will not be granted unless the Minister of Finance or the Bank, as the case may be, determines that the application will be in the best interest of Malaysia. In making a determination, the Minister of Finance and the Bank will have regard to:

      (a) the effect of the investment on the level and nature of economic activity in Malaysia, including the effect on productivity, efficiency and quality of financial services;

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5 For greater certainty, approval is only required for acquisition of shares or interest in shares resulting in holding of shares or interest in shares of, or exceeding:

   (i) A multiple of 5%

   (ii) Percentage holding for a mandatory offer under the Malaysia Code of Take-overs and Mergers
(b) the contribution towards enhancing international trade and investment linkages between Malaysia and other countries;

(c) the effect of the investment on the stability of the financial system, including on conduct and behaviours that could pose a risk to the financial system; or

(d) the degree and significance of participation of Malaysians in the financial sector.

In accordance with Article 11.13:

(i) The Bank shall make a decision on a completed application within 120 days, and shall promptly notify the applicant of the decision;

(ii) On the request of an unsuccessful applicant, the Bank shall, to the extent practicable, provide to the applicant the reasons as to why the application was not in the best interest of Malaysia.

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6 The key considerations will be that control of a significant share of domestically-owned financial institutions remains with Malaysians and that Malaysians continue to have an economically meaningful share of the financial sector.

7 An application shall not be considered complete until all relevant hearings are held and all necessary information received. Where it is not practicable for a decision to be made within 120 days, the Bank shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable time thereafter.
A-6

Sector: Financial Services

Sub-sector: Banking and other financial services (excluding insurance)

Level of Government: Federal

Obligations concerned: National Treatment (Article 11.3)
Most-Favoured Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)

Source of Measures: Financial Services Act 2013
Islamic Financial Services Act 2013
Press statement Ref No: 08/11/06 dated 17 August 2011
Circular on Establishment of New Branches by Locally-Incorporated Foreign Banks

Description: 1. In relation to the establishment, closure and relocation of offices\(^8\) by locally incorporated foreign banks in Malaysia, the following restrictions are applicable:

(a) With effect from 29 December 2005, locally incorporated foreign banks may only establish up to eight new physical branches subject to a distribution ratio of 1(market centre): 2(semi-urban): 1(non-urban). However,

   (i) Locally incorporated foreign banks are permitted to retain the number of branches established as at 29 December 2005.

   (ii) The distribution ratio is not applicable if the locally incorporated foreign bank has less than eight physical branches as of 17 August 2011.

(b) Locally incorporated foreign banks may not establish new off-premise electronic terminals.

2. Notwithstanding paragraph 1, locally incorporated foreign banks from TPP countries may establish:

   (a) An additional eight new physical branches based on a

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\(^8\) Under section 2(1) of the Financial Services Act 2013, “office” refers to a place where or at which any business of any person is carried out, including the head office in Malaysia, or any other office, a branch, an agency, a mobile place of business, a place of business set up and maintained for a limited period only or an electronic terminal.
distribution ratio of 1(market centre): 2(semi-urban): 1(non-urban); and

(b) New off-premise automated teller machines, subject to reciprocal treatment\textsuperscript{9} from the licensed foreign bank’s home country.

3. In relation to the establishment and relocation of offices by locally incorporated foreign Islamic banks in Malaysia, the establishment of physical branches by locally incorporated foreign Islamic banks is subject to a distribution ratio of 1(market centre): 1(non-market centre).

\textsuperscript{9} All Malaysian banks in the respective TPP country are accorded, at minimum, the same flexibility to establish additional physical branches and new off-premise automated teller machines accorded by Malaysia under this NCM.
A-7

Sector: Financial Services

Sub-sector: Insurance and insurance-related services

Level of Government: Federal

Obligations concerned: Cross-Border Trade (Article 11.6)

Source of Measures: 
- Financial Services Act 2013
- Islamic Financial Services Act 2013

Description:
Approval for purchase of insurance or takaful cover for property and liability risks from insurance companies or takaful operators abroad is only granted if such insurance or takaful coverage is not available from licensed insurance companies or takaful operators.

For the purpose of this entry:

Property means “movable or immovable property located in Malaysia, including any ship or aircraft registered in Malaysia”.

Liability means “liability of a person resident in Malaysia to a third party”.

This limitation is not applicable for direct insurance of risks relating to:

(a) maritime shipping 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 arising therefrom;

(b) goods in international transit;

(c) product liability; and

(d) directors and officers’ liability five years after the date of entry into force of this Agreement.
Sector: Financial Services

Sub-sector: Insurance and insurance-related services

Level of Government: Federal

Obligations concerned: Cross-Border Trade (Article 11.6)

Source of Measures: 
- *Financial Services Act 2013*
- *Islamic Financial Services Act 2013*
- Guidelines on General Reinsurance Arrangements
- Guidelines on Takaful Operational Framework

Description: All licensed general insurance companies and takaful operators in Malaysia must first accord priority to insurance or reinsurance companies and takaful or retakaful operators licensed in Malaysia, followed by Labuan before obtaining reinsurance or retakaful cover from insurance or reinsurance companies and takaful or retakaful operators abroad.
Sector: Financial Services
Sub-sector: Insurance and insurance-related services
Level of Government: Federal
Obligations concerned: National Treatment (Article 11.3)
Cross-Border Trade (Article 11.6)
Source of Measures: *Income Tax Act 1967*
Description: Annuity incomes received by policyholders of annuity policies underwritten by domestic-owned life insurers or family takaful operators operating in the territory of Malaysia are exempted from tax.
A-10

Sector: Financial Services

Sub-sector: Insurance and insurance-related services

Level of Government: Federal

Obligations concerned: National Treatment (Article 11.3)

Source of Measures: Circular on Voluntary Cessions to Malaysian Reinsurance Berhad

Description: All licensed general insurance companies operating in Malaysia are required to reinsure 2.5% for all insurance classes with Malaysian Reinsurance Berhad.

In addition, if a licensed general insurance company reinsures a further portion of its underwritten business beyond the percentage specified above, 15% of the remaining portion of business to be reinsured must be reinsured with Malaysian Reinsurance Berhad.
A-11

Sector: Financial Services

Sub-sector: Insurance and insurance-related services

Level of Government: Federal

Obligations concerned: National Treatment (Article 11.3)

Source of Measures:

Description: Malaysia reserves the right to adopt or maintain any measures in relation to the development of the pension system in Malaysia. Such measures will cease to be applicable three years after the date of entry into force of this Agreement.
A-12

**Sector:** Financial Services

**Sub-sector:** Banking and other financial services (excluding insurance)

**Level of Government:** Federal

**Obligations concerned:**
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)

**Source of Measures:**
- *Capital Markets and Services Act 2007*
- Licensing Handbook

**Description:** Only Malaysian citizens or Malaysian permanent residents are allowed to provide financial planning services through a sole proprietor or partnership.
A-13

Sector: Financial Services

Sub-sector: Banking and other financial services (excluding insurance)

Level of Government: Federal

Obligations concerned: National Treatment (Article 11.3)

Source of Measures: Capital Markets and Services Act 2007
Licensing Handbook

Description: Limitation on foreign shareholding in the capital market

The permissible composition of foreign shareholding in a credit rating agency is limited to 49%. However, this limitation will not be applicable after 31 December 2016.

Limitation on individual shareholding in a stockbroking company

Foreign investors are only allowed to own shares in a stockbroking company as corporations. In contrast, Malaysians are allowed to hold shares in a stockbroking company either as individuals or corporations. Malaysians wishing to own shares as individuals are only allowed to hold up to a maximum of 10% of the total paid-up capital of a stockbroking company.
A-14

Sector: Financial Services

Sub-sector: Banking and other financial services (excluding insurance)

Level of Government: Federal

Obligations concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Source of Measures: Capital Markets and Services Act 2007
Licensing Handbook

Description: A special scheme broker is only allowed to carry out the range of activities as stipulated in Appendix 1 of the Licensing Handbook. Branching is not allowed for a special scheme broker.

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10 Means a foreign stockbroking company established pursuant to the Application for Establishment of Foreign Stockbroking Companies under the Special Scheme and Application for Establishment of A New Stockbroking Company.
A-15

Sector: Financial Services

Sub-sector: Banking and other financial services (excluding insurance)

Level of Government: Federal

Obligations concerned: Market Access for Financial Institutions (Article 11.5)

Source of Measures: Capital Markets and Services Act 2007
Licensing Handbook

Description: Any person wishing to undertake capital market activities requires authorisation by the Securities Commission Malaysia. Authorisation will not be granted unless the application is determined to be in the best interest of Malaysia. In making a determination, the Securities Commission Malaysia will give regard to any one or more of the following:

(a) The area of specialisation and level of expertise that can be offered to the capital market including its effect on the productivity, transference of skills and efficiency and quality of capital market services;

(b) The risk posed on the systemic stability of the capital market including activities and conduct that will likely impact the orderly functioning of the capital market;

(c) Contribution towards attracting investments, enhancing market linkages and promoting vibrancy in the capital market;

(d) Ability in developing strategic or nascent sectors in the capital market; or

(e) The degree and significance of participation of Malaysians in the capital market.

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11 Capital market activity means any type of regulated activity or capital market services as defined under the Capital Markets and Services Act 2007.

12 Authorisation includes grant of a license, registration or approval, as the case may be.

13 The key considerations will be that the control of a significant share of capital market activities including intermediation activities remains with Malaysians, and that Malaysians continue to have an economically meaningful participation in the capital market sector.
In accordance with Article 11.13 (Transparency and Administration of Certain Measures):

(i) The Securities Commission Malaysia shall, to the extent practicable make an administrative determination on a completed application within 120 days, and shall promptly notify the applicant of the decision.

(ii) On the request of an unsuccessful applicant, the Securities Commission Malaysia shall, to the extent practicable, provide to the applicant reasons as to why the application was not in the best interest of Malaysia.

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14 An application shall not be considered complete until all relevant hearings are held and all necessary information received. Where it is not practicable for a decision to be made within 120 days, the Securities Commission Malaysia shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable time thereafter.
ANNEX III

SECTION B

B-1

Sector: Financial Services

Sub-sector: All

Level of Government: Federal

Obligations concerned: Most-Favoured Nation Treatment (Article 11.4)
Cross-Border Trade (Article 11.6)

Source of Measures: Central Bank of Malaysia Act 2009
Financial Services Act 2013
Islamic Financial Services Act 2013
Notices on Foreign Exchange Administration Rules

Description: Malaysia reserves the right to adopt or maintain any measures related to the non-internationalisation of ringgit which include:

(a) the requirement for international settlement to be made in foreign currency;

(b) limitation on the access to ringgit financing by non-residents for use outside Malaysia;

(c) limitation on the use of ringgit in Malaysia by non-residents.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

B-2

Sector: Financial Services

Sub-sector: All

Level of Government: Federal

Obligations concerned: Cross-Border Trade (Article 11.6)

Source of Measures:
- Central Bank of Malaysia Act 2009
- Financial Services Act 2013
- Islamic Financial Services Act 2013
- Notices on Foreign Exchange Administration Rules

Description: The purchase of financial service, by a resident from financial service supplier abroad shall be subject to the requirements, restrictions and conditions imposed under the Notices on Foreign Exchange Administration Rules.
Sector: Financial Services
Sub-sector: All
Level of Government: Federal
Obligations concerned: National Treatment (Article 11.3)
Source of Measures:
Description: Malaysia may grant advantages to one or more development financial institutions, including but not limited to:
  - Bank Pembangunan Malaysia Berhad
  - Bank Perusahaan Kecil dan Sederhana Malaysia Berhad
  - Export-Import Bank of Malaysia Berhad
  - Bank Kerjasama Rakyat Malaysia
  - Bank Simpanan Nasional
  - Bank Pertanian Malaysia Berhad
  - Malaysian Industrial Development Finance Berhad
  - Credit Guarantee Corporation Berhad
  - Lembaga Tabung Haji
  - Sabah Development Bank Berhad
  - Sabah Credit Corporation
  - Borneo Development Corporation (Sabah) Sdn. Bhd
  - Borneo Development Corporation (Sarawak) Sdn. Bhd
  - Danajamin Nasional Berhad
  - Cagamas Berhad

15 “Development financial institution” means an institution which carries on any activity, whether for profit or otherwise, with or without any Government funding, with the purpose of promoting development in the financial, industrial, agricultural, commercial or other economic sector, including the provision of capital or other credit facility; and for the purposes of this definition, “development” includes the commencement of any new industrial, agricultural, commercial or other economic venture or the expansion or improvement of any such existing venture.
Sector: Financial Services
Sub-sector: Banking and other financial services (excluding insurance)
Level of Government: Federal
Obligations concerned: National Treatment (Article 11.3)
Most-Favoured Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)
Source of Measures: Capital Markets and Services Act 2007
Securities Industry (Central Depositories) Act 1991
Description: The establishment or operation of the following:
- securities and derivatives markets (as approved exchanges, exempt exchanges or registered electronic facilities);
- clearing facility; and
- central depository,
is subject to the written approval, including the imposition of terms and conditions for approval, either from the Minister of Finance, on the recommendation of the Securities Commission Malaysia or from the Securities Commission Malaysia, where applicable. For greater certainty, this measure will not affect the participation of financial institutions in any such markets, clearing facility or central depository.

Written approval from the Minister of Finance is required before a person (alone or acting in concert with other persons) can acquire voting shares of an exchange holding company of 5% or more of the aggregate of the nominal amount of all the voting shares in the exchange holding company.

Written approval from the Minister of Finance is required before an exchange holding company can reduce its shareholding in a stock exchange, a derivatives exchange, an approved clearing house or a central depository, to a level below 75%, or such other percentage as may be specified from time to time by the Minister of Finance of the total issued and paid-up capital in the stock exchange, derivatives exchange, approved clearing house or central depository.
B-5

Sector: Financial Services

Sub-sector: Banking and other financial services (excluding insurance)

Level of Government: Federal

Obligations concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Source of Measures:

Description: Malaysia reserves the right to provide subsidies or grant advantages to financial institutions that are integral for the orderly functioning and development of the capital market. This includes subsidies and advantages granted in connection with:

(a) the supply of any financial service involving what Malaysia deems to be strategically important institutions, including:

- exchanges;
- central depositories;
- repositories;
- clearing and settlement facilities;
- market operators; or

(b) the supply of any financial service, which Malaysia deems necessary:

- for the development of local micro, small and medium enterprises;
- to facilitate or enable the supply of any service to Malaysian enterprises that is not being supplied in Malaysia or that is not being supplied efficiently.
ANNEX III

MEXICO'S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments in the financial services sector under this Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.

2. The listing of 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 11.11.1 (Exceptions).

3. With respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Mexico are subject to non-discriminatory limitations on juridical form.

4. Paragraph 1(c) of Article 11.10 (Non-Conforming Measures) shall not apply to those non-conforming measures relating to paragraph (b) of Article 11.5 (Market Access for Financial Institutions).

5. For greater certainty, “limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment” should not be considered a limitation to Article 11.5 (Market Access for Financial Institutions).

6. Description provides a general non-binding description of the measure for which the entry is made.

7. In the interpretation of a reservation in Section A, all elements of the entry shall be considered. The Measures element shall prevail over all other elements.

8. In the interpretation of a reservation in Section B, all elements of the entry shall be considered. The Description element shall prevail over all other elements.
ANNEX III

SECTION A

A-1

Sector: Financial Services

Sub-Sector: Banking and other Financial Services (excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Measures: Credit Unions Law (Ley de Uniones de Crédito); Article 21

Description: Participation by any individual or legal entity, whether direct or indirect, in the equity of a credit union shall not exceed 15%, unless authorised by the National Commission on Banking and Securities (Comisión Nacional Bancaria y Valores) (CNBV).

Notwithstanding the above paragraph, any foreign individual or legal entity, as well as foreign entities without legal capacity, may hold up to 15% of the equity of a credit union, indirectly, through a Mexican legal entity.
Sector: Financial services

Sub-sector: All Services

Obligations concerned:
National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures:
Law to Regulate Financial Groups (Ley para Regular las Agrupaciones Financieras); Articles 68, 70, 72 and 74

Credit Institutions Law (Ley de Instituciones de Crédito); Articles 45-A section I, 45-B, 45-E, 45-G and 45-I

Securities Market Law (Ley del Mercado de Valores); Articles 2 section VIII, 160, 161, 163 and 165

Insurance and Bonding Companies Law (Ley de Instituciones de Seguros y Fianzas); Articles 2 section XI, 74, 75, 78 and 79

Law of Credit Organizations and Auxiliary Activities (Ley General de Organizaciones y Actividades Auxiliares del Crédito); Articles 45 Bis 1 section I, 45 Bis 2, 45 Bis 3, 45 Bis 5 and 45 Bis 7

Investment Funds Law (Ley de Fondos de Inversión); Articles 62 section I, 63, 64 and 66

Retirement Savings System Law (Ley de los Sistemas de Ahorro para el Retiro); Article 21

Rules for the Establishment of Foreign Financial Institution Subsidiary Companies
Description:

In order to invest in the equity of a Mexican subsidiary of a financial groups holding company, a commercial bank, a securities firm, a bonding company, an insurance company, a foreign exchange firm, a general deposit warehouse, a managing company of investment funds, an investment fund stock distribution company, and a retirement funds management company, a financial institution of another Party must:

(a) directly or indirectly, perform in the territory of that other Party, in accordance with the applicable law, the same type of operations that the subsidiary in question is allowed to perform in Mexico;

(b) be incorporated in a country with which Mexico has entered into an international treaty or agreement that allows the establishment of subsidiaries in Mexico, and

(c) obtain prior authorisation of the Mexican financial authorities and comply with the requirements set out in the respective law.

The financial institutions of another Party must own at least 51% of the subsidiary’s equity.
Sector: Financial Services
Sub-sector: All Services
Obligations concerned: Market Access for Financial Institutions (Article 11.5)
Level of Government: Central
Measures: Law to Regulate Financial Groups (Ley para Regular las Agrupaciones Financieras); Article 67 sections I and II
Credit Institutions Law (Ley de Instituciones de Crédito); Article 45-A sections I and II
Securities Market Law (Ley del Mercado de Valores); Article 2 sections VIII and XIII
Insurance and Bonding Companies Law (Ley de Instituciones de Seguros y Fianzas); Article 2 sections XI and XVIII
Law of Credit Organizations and Auxiliary Activities (Ley General de Organizaciones y Actividades Auxiliares del Crédito); Article 45 Bis 1 sections I and II
Investment Funds Law (Ley de Fondos de Inversión); Article 62 sections I and II
Retirement Savings Systems Law (Ley de los Sistemas de Ahorro para el Retiro); Article 21

Description: Branches of financial institutions of another Party are not permitted in Mexican Territory.  

1 For clarification purposes, this wording should not be considered as a departure from Mexico’s position in other international agreements it has entered into.
A-4

Sector: Financial Services

Sub-sector: All Services

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Measures:
- Law to Regulate Financial Groups (Ley para Regular las Agrupaciones Financieras); Article 24
- Credit Institutions Law (Ley de Instituciones de Crédito); Article 13
- Securities Market Law (Ley del Mercado de Valores); Articles 117 and 237
- Law to Regulate Credit Information Corporations (Ley para Regular las Sociedades de Información Crediticia); Article 8
- Insurance and Bonding Companies Law (Ley de Instituciones de Seguros y Fianzas); Article 50 section I
- Retirement Saving System Law (Ley de los Sistemas de Ahorro para el Retiro); Article 21
- Law of Credit Organizations and Auxiliary Activities (Ley General de Organizaciones y Actividades Auxiliares de Crédito); Article 8 section III
- Investment Funds Law (Ley de Fondos de Inversión); Article 37
- Credit Unions Law (Ley de Uniones de Crédito); Article 21
Description:

Foreign governments are not allowed to participate in the equity of Mexican financial groups holding companies, commercial banks, securities firms, stock exchange, credit information corporations, bonding companies, insurance companies, retirement funds management companies, foreign exchange firms, auxiliary credit organizations, general deposit warehouses, managing companies of investment funds, investment fund stock distribution companies, investment fund stock value assessment companies, or credit unions, except:

I. When they do it as a temporary prudential measure, such as support or bailouts.

Financial entities in this scenario will submit to the corresponding financial authority the information and documents that prove they fall within this exception.

II. When said participation implies control \(^2\) over such financial institutions, and its carried out through official legal entities, such as funds and development governmental entities, prior discrentional authorization by the corresponding financial authority, which has to determine that such legal entities:

(a) Do not exercise governmental functions, and

(b) Their managing boards are independent from the respective foreign government.

III. When the participation is indirect and does not involve the control of the financial institutions.

\(^2\) The term “control” is defined in each corresponding Act.
Sector: Financial Services
Sub-sector: All Services
Obligations Concerned: Senior Management and Board of Directors (Article 11.9)
Level of Government: Central
Measures:
- Credit Institutions Law (*Ley de Instituciones de Crédito*); Articles 23, 24, 45-K and 45-L
- Securities Market Law (*Ley del Mercado de Valores*); Articles 124, 128, 131 and 168
- Law to Regulate Financial Groups (*Ley para Regular las Agrupaciones Financieras*); Articles 35, 60 and 77
- Popular Savings and Credit Law (*Ley de Ahorro y Crédito Popular*); Articles 21 and 23
- Credit Unions Law (*Ley de Uniones de Crédito*); Article 26
- Law of Credit Organizations and Auxiliary Activities (*Ley General de Organizaciones y Actividades Auxiliares del Crédito*); Articles 8 section X, 8 Bis 1, 8 Bis 3, 45 Bis 11, 45 Bis 12 and 45 Bis 13
- Law to Regulate the Activities of Savings and Loans Cooperative Companies (*Ley para Regular las Actividades de las Sociedades Cooperativas de Ahorro y Préstamo*); Article 5 section I
- Cooperative Companies General Law (*Ley General de Sociedades Cooperativas*); Article 7
Insurance and Bonding Companies Law  
(\textit{Ley de Instituciones de Seguros y Fianzas}); Articles 56, 58, 60 and 82

Investment Funds Law (\textit{Ley de Fondos de Inversión}); Article 73

Retirement Savings Systems Law (\textit{Ley de los Sistemas de Ahorro para el Retiro}); Articles 50 section V and 66 Bis section I

Rules for the Establishment of Foreign Financial Institution Subsidiary Companies  
(\textit{Reglas para el establecimiento de Filiales de Instituciones Financieras del Exterior}); Rule Tenth

Rules Applicable to Clearing Houses for Card Payments (\textit{Reglas Aplicables a las Cámaras de Compensación para Pagos con Tarjetas}); Second Rule

\textbf{Description:}

The majority of the members of the board of directors of commercial banks, securities firms, financial groups holding companies, popular financial companies, credit unions, general deposit warehouses, foreign exchange firms, bonding companies, insurance companies, retirement funds management companies, subsidiary managing companies of investment funds, subsidiary investment fund stock distribution companies and clearing houses for card payments, must be Mexican or reside in Mexican territory.

Directors and managers of savings and loans cooperative companies must be Mexican.
Sector: Financial Services
Sub-sector: Banking and other Financial Services (excluding insurance)
Obligations Concerned: 
National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)
Level of Government: Central
Measures: Securities Market Law (*Ley del Mercado de Valores*); Article 167
Description: If a subsidiary securities firm acquires a Mexican securities firm, both financial institutions must merge.
Sector: Financial Services

Sub-sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Measures: Retirement Savings Systems Law (Ley de los Sistemas de Ahorro para el Retiro); Article 26

Level of Government: Central

Description: Retirement funds management companies may not own more than 20% share of the retirement savings systems market.\(^3\)

The National Retirement Savings System Commission may authorise a limit beyond 20%, provided that this does not constitute prejudice to the interests of workers.

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\(^3\) The term “market” refers to the total amount of individual retirement accounts.
Sector: Financial Services

Sub-sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: Securities Market Law (Ley del Mercado de Valores); Article 234

Description: In order to be organised as a stock exchange, it is required to obtain prior concession from the Federal Government, which may be granted at the discretion of the financial authorities. The granting of such concessions will be subject to considerations regarding the market’s development.
Sector: Financial Services

Sub-sector: Insurance and insurance-related services

Obligations Concerned: Cross-border Trade (Article 11.6)

Measures: Insurance and Bonding Companies Law (Ley de Instituciones de Seguros y Fianzas); Articles 20, 21, 22, 23 and 24.

Level of Government: Central

Description:

I. It is forbidden to contract with entities of another Party:

(a) Insurance of persons: (i) when the contracting holder is a natural person and is in Mexico when the contract is entered into; or (ii) when the contracting holder is a legal person, if the insured resides in Mexican territory;

(b) Insurance of maritime or aircraft hulls, as well as any kind of vehicle, for risks inherent to the maritime and transportation industries, as long as those maritime and aircraft hulls and vehicles have Mexican plates or belong to persons domiciled in Mexico;

(c) Credit insurance, housing credit insurance and insurance of financial guarantee, when the insured is subject to Mexican law. Regarding insurance of financial guarantee, the prohibition in the previous paragraph will not apply when the securities, or documents matter of the insurance participate in foreign markets exclusively;

(d) Insurance against liability, derived
from events that may take place in Mexico; and

(e) Insurance against all the other industries for risks that may take place in Mexican territory. Insurance acquired by non-residents in Mexican territory outside of Mexico for their persons or vehicles to cover risks during their eventual entries will not be considered as such.

II. In the following cases, the National Insurance and Bonding Commission (Comisión Nacional de Seguros y Fianzas) (CNSF), may make an exception from point I. above:

(a) To the companies of another Party that, prior authorization of the National Insurance and Bonding Commission (Comisión Nacional de Seguros y Fianzas), and complying with the requirements established by it, enter into insurance contracts in Mexico to cover risks that may only take place in the foreign country where they are authorised to provide insurance services;

(b) To the person that proves that none of the insurance companies authorised to operate in the country, either is able or deems convenient to enter into a given insurance operation proposed to it. In this case, a specific authorisation will be granted so that the insurance may be contracted with an entity of another Party, either directly or through a Mexican insurance company, and

III. The brokerage of insurance, agency of insurance and auxiliary services for the operations listed in number I. above is forbidden.
IV. The contracts entered into that contravene the aforementioned provisions will not produce any legal effect.
A-10

Sector: Financial Services

Sub-sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: Cross-border Trade (Article 11.6)

Level of Government: Central

Measures: Insurance and Bonding Companies Law (Ley de Instituciones de Seguros y Fianzas); Articles 34 and 35.

Description:

I. It is forbidden to contract with foreign companies bonds to guarantee acts of persons that must comply with obligations in Mexican territory, except for rebonding or when the bonds are received by Mexican bonding institutions as counter guaranty.

II. Notwithstanding the prohibition in point I. above, when none of the financial institutions authorized to operate in Mexico either can or deems it convenient to undertake a bonding operation proposed to it, the National Insurance and Bonding Commission (Comisión Nacional de Seguros y Fianzas) (CNSF) once the above-mentioned circumstances have been proved to it, will grant a specific authorisation so that the individual proposing it may contract the bond directly with a foreign company, either directly or through a financial institution of Mexico.

III. The brokerage of the operations described in point I. above is forbidden.

IV. The contracts entered into that contravene the aforementioned provisions will not produce any legal effect.
A-11

Sector: Financial Services

Sub-sector: All

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Measures:
- Insurance and Bonding Companies Law (Ley de Instituciones de Seguros y Fianzas); Article 337 section X
- Regulation of Insurance and Bonding Agents (Reglamento de Agentes de Seguros y de Fianzas); Article 12, section V, subparagraph (b)
- Rules for the authorisation and operation of reinsurance brokers (Reglas para la autorización y operación de intermediarios de reaseguros); Rule Fourth

Description:
Governments or official foreign entities may not participate in mutual insurance companies, the equity of insurance and bonding agencies, or the equity of reinsurance brokers, either directly or indirectly.

Foreign financial entities may not participate in insurance or bonding agencies, or mutual insurance companies.

Groups of foreign individuals or legal entities, regardless of the form they adopt, may not participate in the equity of mutual insurance companies, either directly or indirectly. For clarification purposes, foreign individuals may participate in mutual insurance companies as long as they do so individually and not as part of a group.
or entity.
ANNEX III

SECTION B

B-1

Sector: Financial Services
Sub-sector: All Services
Obligations Concerned: Market Access for Financial Institutions (Article 11.5)
Cross-Border Trade (Article 11.6)
Senior Management and Board of Directors (Article 11.9)

Level of Government: Central

Description: Mexico, when selling or disposing of its equity interest in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interest or assets, and on the ability of owners of such interest or assets to control any resulting enterprise, by investors of Mexico of another Party or of a non-Party or their investments.

Additionally, Mexico may impose limitations on the supply of the services related to such investments. With respect to such a sale or other disposition, Mexico may adopt or maintain any measure relating to the nationality of individuals appointed to senior management positions of members of the board of directors.

For the purposes of this reservation:

(a) Any measure maintained or adopted after the date of entry into
force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interest or assets or imposes nationality requirements described in this reservation shall be deemed to be an existing measure; and

(b) “state enterprise” means an enterprise owned or controlled through ownership interest by Mexico and includes an enterprise established after the date of entry into force of this agreement solely for the purposes of selling or disposing of equity interest in, or the assets of, an existing state enterprise or governmental entity.
B-2

Sector: Financial Services

Sub-sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Description:
Mexico reserves the right to adopt or maintain measures that grant exclusive rights to development banks, decentralised entities or public funds for the economic development already established at the time that this Agreement comes into force, as well as any new, reorganised or transferee development bank, decentralised entity or public fund for the economic development with similar functions and objectives with respect to development banking.

The institutions of development banking include:

- National Financial Institution, S.N.C. (Nacional Financiera, S.N.C.);

- National Bank of Public Works and Services, S.N.C. (Banco Nacional de Obras y Servicios Públicos, S.N.C.);

- National Bank of Foreign Trade, S.N.C. (Banco Nacional del Comercio Exterior, S.N.C.);

- Federal Mortgage Corporation, S.N.C. (Sociedad Hipotecaria Federal, S.N.C.);

- National Savings and Financial Services Bank, S.N.C. (Banco del Ahorro Nacional y Servicios Financieros,
S.N.C.);


or their respective successors.
B-3

Sector: Financial Services

Sub-sector: All Services

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Description: Mexico reserves the right to adopt or maintain measures that grant advantages or exclusive rights to the national insurance institutions, national bonding institutions, a national pension fund or national auxiliary organizations of credit in existence at the moment of entry into force of this Agreement, as well as any new, reorganised or transferee national insurance institution, national bonding institution, a national pension fund or national auxiliary organisation of credit with similar functions and objectives with respect to public policy purposes.
B-4

Sector: Financial Services

Sub-sector: All Services

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Description: Mexico reserves the right to adopt or maintain any measure in relation to any financial service that is supplied by a covered investment as defined in Article 9.2 (Definitions) that is not a covered investment in a financial institution as defined in Article 11.1 (Definitions), in order to regulate such entity as a financial institution.
ANNEX III
NEW ZEALAND’S RESERVATIONS TO CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under Chapter 11 (Financial Services) are undertaken subject to the limitations and conditions set forth in the consolidated headnote, these headnotes and the Schedule below.

2. For entries in Section A, **Description** sets out the non-conforming measure for which the entry is made.

3. For entries in Section A, all elements of the entry shall be considered in their totality for the purposes of its interpretation.

4. For entries in Section B, where an inconsistency arises in relation to the interpretation of an entry, the **Description** element of the entry shall prevail to the extent of the inconsistency.

5. In accordance with Article 11.10 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations concerned** element of an entry do not apply to measures identified in the **Description** element of that entry.

6. To clarify New Zealand’s commitment with respect to Article 11.5 (Market Access for Financial Institutions) of the Agreement, juridical persons supplying financial services and constituted under the laws of New Zealand are subject to non-discriminatory limitations on juridical form.¹

7. Article 11.10(1)(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to paragraph (b) of Article 11.5 (Market Access for Financial Institutions).

8. For transparency purposes and in accordance with Article 11.10.3 (Non-Conforming Measures), non-conforming measures set out in Annex I or II of New Zealand’s Schedule of Cross Border Trade in Services and Investment Non-Conforming Measures as not subject to Articles 9.4 or 10.3 (National Treatment), Articles 9.5 or 10.4 (Most Favoured-Nation Treatment), or Article 9.10 (Senior Management and Boards of Directors), including those entries that apply to all sectors or financial services, shall be treated as non-conforming measures not subject to Articles 11.3 (National Treatment), 11.4 (Most-Favoured-Nation Treatment), or 11.9

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¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in New Zealand. This headnote is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.
(Senior Management and Boards of Directors), to the extent that the measure, sector, subsector, or activity set out in the entry is covered by Chapter 11 (Financial Services).

9. For greater certainty, the measures which New Zealand may take in accordance with Article 11.11(1) (Exceptions), provided they meet the requirements of that Article, include those governing:

(a) licensing, registration or authorisation as a financial institution or cross-border financial service supplier, and corresponding requirements;

(b) juridical form, including legal incorporation requirements for systemically important financial institutions and limitations on deposit-taking activities of branches of overseas banks, and corresponding requirements;

(c) requirements pertaining to directors and senior management of a financial institution or cross-border financial service supplier;

(d) capital, related party exposures, liquidity, disclosure, and other risk management requirements;

(e) payment, clearance and settlement systems (including securities systems);

(f) anti-money laundering and countering financing of terrorism; and

(g) distress or failure of a financial institution or cross-border financial service supplier.
SECTION A

Sector
Financial Services

Sub-Sector
Insurance and insurance-related services

Obligations concerned
National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)
Cross-Border Trade (Article 11.6)

Level of Government
Central

Measure
Commodity Levies Act 1990
Commodity Levies Amendment Act 1995
Kiwifruit Industry Restructuring Act 1999 and regulations

Description
The provision of crop insurance for wheat can be restricted in accordance with the Commodity Levies Amendment Act 1995. Section 4 of this Act provides for the use of funds derived under a mandatory commodity levy on wheat growers to be used for the purpose of funding a scheme insuring wheat crops against damage or loss.

The provision of insurance intermediation services related to the export of kiwifruit can be restricted in accordance with the Kiwifruit Industry Restructuring Act 1999 and regulations relating to the export marketing of kiwifruit.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Financial Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Banking and other financial services (excluding insurance)</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>Senior Management and Boards of Directors (Article 11.9)</td>
</tr>
<tr>
<td>Level of Government</td>
<td>Central</td>
</tr>
<tr>
<td>Measure</td>
<td>Kiwisaver Act 2006</td>
</tr>
<tr>
<td>Description</td>
<td>At least one director of a corporate trustee and one director of a fund manager of a registered Kiwisaver scheme must be a New Zealand resident.</td>
</tr>
</tbody>
</table>
SECTION B

Sector

Financial Services

Sub-Sector

Insurance and insurance-related services

Obligations concerned

Market Access for Financial Institutions (Article 11.5)
Cross-Border Trade (Article 11.6)
Senior Management and Boards of Directors (Article 11.9)

Description

New Zealand reserves the right to adopt or maintain any measure with respect to the supply of:

- compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and

- disaster insurance for residential property for replacement cover up to a defined statutory maximum.

Existing Measures

Accident Compensation Act 2001
Earthquake Commission Act 1993
<table>
<thead>
<tr>
<th>Sector</th>
<th>Financial Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Banking and other financial services (excluding insurance)</td>
</tr>
</tbody>
</table>
| Obligations concerned | National Treatment (Article 11.3)  
Market Access for Financial Institutions (Article 11.5) |
| Description     | New Zealand reserves the right to adopt or maintain any measure with respect to the establishment or operation of exchanges, securities markets or futures markets.  
For greater certainty, this reservation does not apply to financial institutions participating in, or seeking to participate in, any such exchange, securities market, or futures market. |
<table>
<thead>
<tr>
<th>Sector</th>
<th>Financial Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>Banking and other financial services (excluding insurance)</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>National Treatment (Article 11.3)</td>
</tr>
<tr>
<td></td>
<td>Market Access for Financial Institutions (Article 11.5)</td>
</tr>
<tr>
<td></td>
<td>Senior Management and Boards of Directors (Article 11.9)</td>
</tr>
<tr>
<td>Description</td>
<td>New Zealand reserves the right to adopt or maintain any measure with respect to the establishment or operation of any unit trust, market or other facility established for the trade in, or allotment or management of, securities in the co-operative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 (DIRA) (or any successor body).</td>
</tr>
</tbody>
</table>
Sector: Financial Services

Sub-Sector: Insurance and insurance-related services

Obligations concerned:
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)
- Cross-Border Trade (Article 11.6)

Description:
New Zealand reserves the right to adopt or maintain any measure with respect to insurance and insurance-related services for industry marketing boards established for products under the following CPC codes:

- 01, except 01110 and 01340 (products of agriculture, horticulture and market gardening, except wheat and kiwifruit);
- 02 (live animals and animal products);
- 211, except 21111, 21112, 21115, 21116 and 21119 (meat and meat products, except beef, sheep meat, poultry and offal);
- 213-216 (prepared and preserved vegetables, fruit juices and vegetable juices, prepared and preserved fruit and nuts, animal and vegetable oils and fats);
- 22 (dairy);
- 2399 (“other food products”); and
- 261, except for 2613, 2614, 2615, 02961, 02962 and 02963 (natural textile fibres prepared for spinning, excluding wool).

Existing Measures:
Commodity Levies Act 1990
Sector: Financial Services
Sub-Sector: All
Obligations concerned: Senior Management and Boards of Directors (Article 11.9)

Description:
New Zealand reserves the right to adopt or maintain measures which require all companies to have one or more directors, of whom at least one must:

i) live in New Zealand; or

ii) live in an “enforcement country”\(^1\) and be a director of a company that is registered (except as the equivalent of an overseas company) in that enforcement country.\(^*\)

\(^1\) A country that has an agreement with New Zealand that allows for the recognition and enforcement there of New Zealand judgments imposing regulatory regime criminal fines.
Sector: Financial Services

Sub-Sector: All

Obligations concerned: Market Access for Financial Institutions (Article 11.5)
Cross-Border Trade (Article 11.6)

Description: New Zealand reserves the right to adopt or maintain any measure with respect to:
- the provision of public law enforcement and correctional services; and
- the following, to the extent that they are social services established for a public purpose:
  - child care
  - health
  - income security and insurance
  - public education
  - public housing
  - public training
  - public transport
  - public utilities
  - social security and insurance
  - social welfare
<table>
<thead>
<tr>
<th>Sector</th>
<th>Financial Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector</td>
<td>All</td>
</tr>
<tr>
<td>Obligations concerned</td>
<td>National Treatment (Article 11.3)</td>
</tr>
<tr>
<td>Description</td>
<td>New Zealand reserves the right to adopt or maintain any measure which provides a subsidy or grant to any entities that are controlled, or wholly or partially owned, by the government and which may conduct financial operations, including measures taken in relation to the privatisation of such entities.</td>
</tr>
</tbody>
</table>
Sector: Financial Services
Sub-Sector: All
Obligations concerned:
- National Treatment (Article 11.3)
- Most-Favoured-Nation Treatment (Article 11.4)

Description:
New Zealand reserves the right to adopt or maintain any measure which provides a subsidy or grant to any entity that is systemically important to the infrastructure of the financial market, including:
- exchanges;
- clearing and settlement facilities; and
- market operators.
ANNEX III

PERU’S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under this Agreement, in the sub-sectors 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 Peru with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services constituted under the laws of Peru are subject to non-discriminatory limitations on juridical form.¹

3. Paragraph 1(c) of Article 11.10 (Non-Conforming Measures) shall not apply to those non-conforming measures relating to subparagraph (b) of Article 11.5 (Market Access for Financial Institutions).

4. In case of Section A, Description provides a general non-binding description of the measure for which the entry is made.

¹ For example, limited liability partnerships and sole proprietorships with limited liability are generally not acceptable juridical forms for financial institutions in Peru. This headnote does not affect, or otherwise limit, a choice by an investor of the other Party between branches and subsidiaries.
A-1

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligation concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central


Description: A financial institution of the other Party providing banking services and established in Peru through a branch must assign to its branch certain capital, which must be located in Peru. In addition to measures that Peru may impose consistent with paragraph 1 of Article 11.11 (Exceptions) the operations of the branch are limited by its capital located in Peru.
A-2

Sector: Financial Services

Sub-Sector: Insurance and Insurance Related Services

Obligation concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central


Description: A financial institution of the other Party providing insurance or insurance related services and established in Peru through a branch must assign to its branch certain capital, which must be located in Peru. In addition to measures that Peru may impose consistent with paragraph 1 of Article 11.11 (Exceptions) the operations of the branch are limited by its capital located in Peru.
A-3

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligation concerned: Cross-Border Trade (Article 11.6)

Level of Government: Central

Measures: Securities Market Law (*Ley del Mercado de Valores*), approved by Legislative Decree N° 861, modified by Laws N° 26827, 27323, 27649, 29660, 29720, 29782 and by Legislative Decree N° 1061; articles 280, 333, 337 and Seventeenth Final Provision.


Description: Financial institutions constituted under the laws of Peru and debt securities offered in a primary or secondary public offering in the territory of Peru must be rated by credit rating companies constituted under the laws of Peru. They may also be rated by other credit rating agencies, but only in addition to the mandatory rating.
Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligation concerned: National Treatment (Article 11.3)

Level of Government: Central

Measures:
- Law establishing the Banco Agropecuario (Ley de creación del Banco Agropecuario), Law Nº 27603 and its amendments.
- Law establishing the Corporación Financiera de Desarrollo (COFIDE) (Ley de creación de la Corporación Financiera de Desarrollo (COFIDE)), Law Decree Nº 206 and its amendments and Law Nº 25382.
- Law establishing the Banco de la Nación (Ley de creación del Banco de la Nación), Law Nº 16000 and its amendments.
- Law Nº 28579, Fondo MiVivienda and its amendments.
- Supreme Decree Nº 157-90-EF and its amendments.
- Supreme Decree Nº 07-94-EF and its amendments.

Description: Peru may grant advantages or exclusive rights, without limitation, to one or more of the following financial entities, so long as they are partially or fully owned by the State: Corporación Financiera de Desarrollo (COFIDE), Banco de la Nación, Banco Agropecuario, Fondo MiVivienda, Cajas Municipales de Ahorro y Crédito, and the Caja Municipal de Crédito Popular.
Examples of such advantages are the following:2

The *Banco de la Nación* and *Banco Agropecuario* are not required to diversify their risk; and

The *Cajas Municipales de Ahorro y Crédito* may directly sell collateral they repossess in cases of loan default, in accordance with pre-established procedures.

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2 For greater certainty, and notwithstanding the location of this non-conforming measure within Section A of this Schedule, the Parties understand that the advantages or exclusive right that Peru may grant to the specified entities are not limited only to the cited examples.
A-5

Sector: Financial Services

Sub-Sector: Banking and other financial services (Excluding Insurance)

Obligations concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures:
Securities Market Law (*Ley del Mercado de Valores*), approved by Legislative Decree N° 861, modified by Laws N° 26827, 27323, 27649, 29660, 29720, 29782 and by Legislative Decree N° 1061; articles 130, 167, 185, 204, 223, 259, 269, 270, 302, 324, 354 and Seventeenth Final Provision.

Legislative Decree N° 862, Law of the Investment Funds and their Management Corporations (*Ley de Fondos de Inversión y sus Sociedades Administradoras*), article 12.

Law N° 26361, Law on Commodities Exchange (*Ley sobre Bolsas de Productos*), modified by Law N° 27635; articles 2, 9 and 15.

Law Decree N° 22014, article 1.

Consolidated Text of the Law of Private Pension Funds (*Texto Único Ordenado de la Ley del Sistema Privado de Administración de Fondos de Pensiones*), approved by Supreme Decree N° 054-97-EF; article 13; and the Regulation of the Consolidated Text of the Law of Private Pension Funds (*Reglamento del Texto Único Ordenado de la Ley del Sistema Privado de Administración de Fondos de Pensiones*), approved by Supreme Decree N° 004-98-EF; article 18.

Description: Financial institutions established in Peru to supply financial services in the securities or commodities markets or financial services related to asset management, including pension fund managers, must be constituted under the laws of Peru. Therefore, financial institutions of another Party established in Peru to supply these financial services may not be established as branches or agencies.
A-6

Sector: Financial Services

Sub-Sector: All

Obligation concerned: Cross-Border Trade (Article 11.6)

Level of Government: Central

Measures: General Law of the Financial and Insurance Systems and Organic Law of the Superintendency of Banking and Insurance (Ley General del Sistema Financiero y del Sistema de Seguros y Orgánica de la Superintendencia de Banca y Seguros), Law N° 26702 and its amendments

Description: Creditors domiciled in Peru have legal preference with regard to the assets located in Peru of a branch of a foreign financial institution, in case of liquidation of the financial institution or its branch in Peru.
ANNEX III

SECTION B

B-1

Sector: Financial Services

Sub-Sector: Insurance and insurance-related services

Obligation concerned: Cross-Border Trade (Article 11.6)

Level of Government: Central

Measure: Law N° 27181 and its Regulation approved by Supreme Decree 024-2002-MTC

Law N° 26790, Law on the Modernization of the Social Security in Health (Ley de la Modernización de la Seguridad Social en Salud), and its Regulation approved by Supreme Decree N° 03-98-SA

Description: Peru reserves the right to adopt or maintain measures that restrict the acquisition of obligatory insurance outside of Peru, or that require that obligatory insurance be purchased from suppliers established in Peru, such as “Compulsory Car Insurance” (Seguro Obligatorio de Accidentes de Transito - SOAT) and “Hazardous Work Supplementary Insurance” (Seguro Complementario de Trabajo en Riesgo). These restrictions shall not apply to any insurance covered by Annex 11-A (Cross-Border Trade).
B-2

Sector: Financial Services

Subsector: Social Services

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)
Cross-Border Trade (Article 11.6)

Description: Peru reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security and insurance, social security, social welfare, public education, public training, health and childcare.
B-3

Sector: Financial Services

Subsector: All

Obligations Concerned: Most Favoured Nation Treatment (Article 11.5)
Cross-Border Trade (Article 11.6)

Description: Peru reserves the right to adopt or maintain any measure based on a reciprocal treatment, with respect to the services covered by Annex 11-A (Cross-Border Trade).
ANNEX III

SINGAPORE’S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under the Chapter on Financial Services are undertaken subject to the limitations and conditions set forth in these headnotes and the schedule below.

2. To clarify Singapore’s commitment with respect to Article 11.5(b) (Market Access for Financial Institutions) of this Agreement, juridical persons supplying financial services are subject to non-discriminatory limitations on juridical form.¹

3. (a) Singapore reserves the right to require a foreign bank that is systemically important to incorporate within Singapore, provided that such a requirement is applied in a reasonable, objective, and impartial manner. Before imposing such a requirement, Singapore will take into account such factors as the quality of home country regulation and supervision over the bank, degree of protection accorded to depositors in the home country vis-à-vis depositors in Singapore, and the amount of assets held or situated in Singapore.

   (b) Singapore shall not impose the requirement described in subparagraph (a) with respect to a foreign bank of another Party, unless it:

      (i) notifies the bank and the other Party of its intent at least six months before imposing the requirement;

      (ii) consults with the other Party concerning the requirement and gives due consideration to the views expressed by the other Party in this respect; and

      (iii) allows the bank a reasonable time to comply with the requirement.

4. Description sets out the non-conforming measure for which the entry is made.

5. For entries in Section A, in accordance with Article 11.10.1(a) (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measures identified in the Description element of that entry.

¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Singapore. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.
6. For entries in Section B, in accordance with Article 11.10.2 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors and activities identified in the **Description** element of that entry.
ANNEX III

SECTION A

A-1

Sector: Financial Services

Sub-Sector: Banking

Obligations Concerned:
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure:
- Banking Act, Cap. 19
- Guidelines for Operation of Wholesale Banks
- Guidelines for Operation of Offshore Banks

Reservation:
No new full bank licenses will be granted to foreign banks.

No foreign bank can have more than one place of business, establish off-premise ATMs, establish ATM networking or provide debit services through an Electronic Funds Transfer at Point of Sale (EFTPOS) network.

Wholesale Banks

Wholesale banks are not permitted to:

(a) accept Singapore dollar fixed deposits of less than S$250,000;

(b) offer savings accounts;

(c) operate interest-bearing Singapore dollar current accounts for natural persons who are Singapore residents;

(d) issue Singapore dollar bonds and negotiable certificates of deposit, unless the requirements pertaining to minimum maturity period, minimum denomination or class of investors contained in the Guidelines for Operation of Wholesale Banks issued by the Monetary Authority of Singapore and/or its successor body are complied with.

Offshore banks

Offshore banks are not permitted to:
(a) provide credit facilities to non-bank residents of Singapore in Singapore dollars exceeding a total of S$500 million at any one time;

(b) offer savings account;

(c) accept any fixed or other interest-bearing deposits in Singapore dollars from non-bank residents of Singapore;

(d) operate current accounts for non-bank residents unless the accounts are offered:

   (i) in connection with credit facilities granted to, or other business dealings with the customer; or

   (ii) to customers of the bank's head office;

(e) operate interest-bearing Singapore dollar current accounts for natural persons who are Singapore residents;

(f) accept Singapore dollar fixed deposits of less than S$250,000 from non-bank non-residents;

(g) issue Singapore dollar bonds and negotiable certificates of deposit, unless the requirements pertaining to minimum maturity period, minimum denomination or class of investors contained in the Guidelines for Operation of Offshore Banks issued by the Monetary Authority of Singapore and/or its successor body are complied with.
A-2

Sector: Financial Services

Sub-Sector: Banking

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: *Finance Companies Act*, Cap. 108

Reservation: No new finance company licenses will be granted.

Finance companies may only establish as Singapore-incorporated companies.

Finance companies are not permitted to establish off-premise ATMs, ATM networking, or allow their accounts to be debited through an Electronic Funds Transfer at Point of Sale (EFTPOS).
A-3

Sector: Financial Services

Sub-Sector: Banking

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: Banking Act, Cap. 19
Monetary Authority of Singapore Act, Cap. 186
Guidelines for Operation of Merchant Banks

Reservation: No merchant bank may establish more than one customer service location.
Sector: Financial Services

Sub-Sector: Banking

Obligations Concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: Banking Act, Cap. 19
Central Provident Fund Act, Cap. 36

Reservation: Only foreign banks with Qualifying Full Bank privileges and local banks may apply to provide Supplementary Retirement Scheme accounts and Central Provident Fund Investment Scheme accounts.

Only foreign banks with Qualifying Full Bank privileges and local banks may apply to accept fixed deposits under the Central Provident Fund Investment Scheme and Minimum Sum Scheme.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

A-5

Sector: Financial Services
Sub-Sector: Banking
Obligations Concerned: National Treatment (Article 11.3)
Level of Government: National
Measure: Banking Act, Cap. 19
 Monetary Authority of Singapore Act, Cap. 186
Reservation: No foreign person shall, acting alone or in concert with other persons, assume control of any Singapore-incorporated bank or its financial holding company which is regulated by MAS (other than a Singapore-incorporated bank or financial holding company that is controlled by a financial institution of another Party).

Approval from the Minister is required before a person, either alone or together with associated persons, is allowed to acquire indirect control over and shareholdings or voting control of or exceeding 5%, 12% or 20% in a Singapore-incorporated bank or a financial holding company, and before a Singapore-incorporated bank or a financial holding company is merged or taken over by any other body.

In approving applications to exceed the threshold limits, the Minister may impose conditions that are considered necessary to prevent undue control, protect public interests, and ensure the integrity of the financial system.

A foreign person is a person that is:

(a) in the case of a natural person, not a citizen of Singapore; and

(b) in the case of a corporation, not controlled by citizens of Singapore.
A-6

Sector: Financial Services

Sub-Sector: Banking

Obligations Concerned: Senior Management and Board of Directors (Article 11.9)

Level of Government: National

Measure: *Banking Act*, Cap. 19, MAS Notice No. 622

Banking (Corporate Governance) Regulations

Reservation: A majority of the directors of a bank incorporated in Singapore must be either Singapore citizens or Singapore permanent residents.
Sector: Financial Services

Sub-Sector: Settlement and clearing services for financial assets

Obligations Concerned: National Treatment (Article 11.3)

Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: Banking Act, Cap. 19

Reservation: Only the clearing house established under the Banking Act may provide clearing services for cheques and other credit instruments which are drawn on a bank in Singapore (whether payable in Singapore dollars or other currency), and services for interbank GIRO transfers.
Sector: Financial Services

Sub-Sector:

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: Securities and Futures Act, Cap. 289

Reservation: The establishment or operation of securities and futures markets as approved exchanges, recognized market operators or exempt market operators, is subject to the authorisation, including the imposition of conditions for authorisation, by the Monetary Authority of Singapore and/or its successor body. In authorising such markets or in imposing conditions on the operations of such markets, Singapore may take into account factors including (but not limited to) market structure, fragmentation of liquidity, range of products offered and the type of investors targeted.
Reservation: In considering the admission of Fund Management Companies (FMCs) under the Central Provident Fund Investment Scheme (CPFIS), the Central Provident Fund Board and/or its successor body takes into consideration the following factors:

(a) whether the FMC has a minimum one-year track record as a capital markets services license holder under the Securities and Futures Act (Cap. 289) in the fund management industry in Singapore while the group as a whole has a minimum of 3 years track record in fund management;

(b) whether the FMC manages at least S$500 million worth of funds in Singapore;

(c) whether the FMC has a minimum of 3 fund managers, one of whom must have at least 5 years of fund management experience. For the purpose of this reservation, the definition of “fund manager” shall include portfolio managers, research analysts and traders.
A-10

Sector: Financial Services

Sub-Sector: Participation in all kinds of securities, including underwriting and placement as agent and provision of service related to such issues

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: Banking Act, Cap. 19

Reservation: Banks’ and merchant banks’ membership on any securities exchange or futures exchange established in Singapore must be held through subsidiaries incorporated in Singapore.
A-11

Sector: Financial Services

Sub-Sector: Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services

Obligations Concerned: National Treatment (Article 11.3)

Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: Companies Act, Cap. 50

Reservation: Only the Central Depository Pte Ltd and/or its successor body is authorised to provide custodial services for book-entry securities.
A-12

Sector: Financial Services

Sub-Sector: Payment and non-money transmission services

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: National

Measure: Money-Changing and Remittance Businesses Act, Cap. 187

Reservation: Remittance shops and money-changing businesses, except where the remittance or money-changing business is conducted by banks, merchant banks and finance companies, must be majority-owned by Singapore citizens (i.e. ownership of more than 50% shareholding).
A-13

Sector: Financial Services

Sub-Sector: Insurance

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: National

Measure: Admission Criteria, Guidelines and Application Forms for Fund Management and Insurance Companies included under CPFIS

Reservation: In considering the admission of insurers under the Central Provident Fund Investment Scheme (CPFIS), the Board takes into consideration the following factors:

(a) whether the insurer is registered under the Insurance Act to carry on life insurance business;

(b) whether the insurer has a minimum one-year track record as a registered insurer in Singapore;

(c) whether the insurer employs a minimum of three fund management staff, one of whom have at least five years of fund management experience. The other two may only have two years of fund management experience if he or she:

(i) is a fully qualified Chartered Financial Analyst (CFA), or

(ii) is an Associate of the Society of Actuaries, or

(iii) holds a Certificate in Finance and Investments from the Institute of Actuaries, or

(iv) holds an equivalent qualification from any of the professional actuarial bodies recognised in Singapore.

Note: The above listed are the basic criteria for insurers to be included under CPFIS. The Board, in consultation with MAS, may consider an applicant for admission, on case by case basis, if the applicant does not meet a specific criterion but has other strengths. Insurers that pass the qualifying criteria stated above will be allowed to offer new investment-linked insurance products (ILPs) and manage ILP sub-funds.
Sector: Financial Services
Sub-Sector: Insurance
Obligations Concerned: Market Access for Financial Institutions (Article 11.5)
Level of Government: National
Measure: Insurance Act, Cap. 142
Reservation: All insurance brokers must be established as Singapore-incorporated companies.
A-15

Sector: Financial Services

Sub-Sector: Insurance

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: *Insurance Act*, Cap. 142

Reservation: Captive insurers may only establish as Singapore-incorporated companies.
A-16

Sector: Financial Services

Sub-Sector: Insurance

Obligations Concerned: Cross Border Trade (Article 11.6)

Level of Government: National

Measure: Motor Vehicles (Third Party Risks and Compensation) Act, Cap. 189

Work Injury Compensation Act, Cap. 354

Reservation: Compulsory insurance of Motor Third Party Liability and Workmen’s Compensation can only be purchased directly or through an intermediary from registered insurers in Singapore.
A-17

Sector: All

Sub-Sector: -

Obligations Concerned: Cross Border Trade (Article 11.6)

Level of Government: National

Measure: Financial Advisers Act, Cap. 110
Insurance Act, Cap. 142

Reservation: The placement of domestic risks outside Singapore by brokers is subject to approval by the Monetary Authority of Singapore, with the exception of reinsurance risks and insurance risks relating to maritime liabilities of ship owners insured by a maritime mutual insurer, or marine, aviation and transit business insured with an approved MAT insurer.
reservation: A non-resident financial institution may in certain circumstances be unable to borrow in Singapore dollars more than S$5 million from a resident financial institution owing to the following restrictions placed on financial institutions’ lending of the Singapore dollar to non-resident financial institutions.

A financial institution shall not extend to any non-resident financial institution Singapore dollar (S$) credit facilities exceeding S$5 million per non-resident financial institution:

(a) where the S$ proceeds are to be used outside of Singapore, unless:

(i) such proceeds are swapped or converted into foreign currency upon draw-down or before remittance abroad; or

(ii) such proceeds are for the purpose of preventing settlement failures where the financial institution extends a temporary S$ overdraft to any vostro account of any non-resident financial institution, and the financial institution takes reasonable efforts to ensure that the overdraft is covered within two business days; and

(b) where there is reason to believe that the S$ proceeds may be used for S$ currency speculation, regardless of whether the S$ proceeds are to be used in Singapore or outside of Singapore.

A financial institution shall not arrange S$ equity or bond issues for any non-resident financial institution where the S$ proceeds are to be used outside Singapore, unless the proceeds are swapped or converted into foreign currency upon draw-down or before remittance abroad.
"Non-residents financial institution" means any financial institution which is not a resident as defined in the relevant notice.
A-19

Sector: All

Sub-Sector: -

Obligations Concerned: Senior Management and Board of Directors (Article 11.9)

Level of Government: National

Measure: *Companies Act*, Cap. 50

Reservation: Every Singapore-incorporated company shall have at least one director who is ordinarily resident in Singapore.
B-1

Sector: Financial Services

Sub-Sector: Banking

Obligations Concerned:
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: *Banking Act*, Cap. 19, MAS Notice 619

Reservation:
Singapore reserves the right to adopt or maintain any measure affecting the supply of services by foreign banks with Qualifying Full Bank privileges, save that any such measures shall not decrease the Qualifying Full Bank Privileges in respect of the supply of services enjoyed by foreign banks with Qualifying Bank Privileges as of the date of entry into force of this Agreement.
B-2

Sector: Financial Services

Sub-Sector: Settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: 
- Companies Act, Cap. 50
- Securities and Futures Act, Cap. 289

Reservation: Singapore reserves the right to adopt or maintain any measure affecting the supply of clearing and settlement services for exchange traded securities, financial futures and interbank transfers.
B-3

Sector: Financial Services
Sub-Sector: Social Services
Obligations Concerned: Market Access for Financial Institutions (Article 11.5), Cross-Border Trade (Article 11.6)
Level of Government: National
Measure: -
Reservation: Singapore reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and the following services to the extent that they are social services established or maintain for a public purpose: income security and insurance, social security, social welfare, social development, poverty reduction, public education, public training, health, and childcare.
B-4

Sector: Financial Services

Sub-Sector: -

Obligations Concerned: National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: -

Reservation: Singapore reserves the right to adopt or maintain any measure in the form of subsidies or grants provided by Singapore that affects the supply of any financial service by any financial service supplier, which Singapore deems necessary:

(a) for the development of local small and medium enterprises;

(b) to facilitate or enable the supply of any service to Singapore enterprises that is not being supplied in Singapore or that is not being supplied efficiently.
B-5

Sector: Financial Services

Sub-Sector: -

Obligations Concerned: National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)

Level of Government: National

Measure: -

Reservation: Singapore reserves the right to adopt or maintain any measure in the form of subsidies or grants provided by Singapore in connection with the supply of any financial service involving what Singapore deems as systemically important financial markets infrastructure, including:

- Exchanges;
- Central Depositories;
- Repositories;
- Clearing and Settlement facilities; and
- Market operators
Reservation:

1. Subject to paragraph 2, the obligation under Article 11.4 (Most-Favoured-Nation Treatment) shall only apply to differential treatment that is accorded to a country pursuant to a bilateral or multilateral international agreement that is signed and enters into force after the date of entry into force of this Agreement for Singapore and that is not pursuant or related to, or under any prior international agreements which Singapore has with that country.

2. Singapore reserves the right to adopt or maintain any measure that accords preferential treatment to the European Union pursuant to the European Union – Singapore Free Trade Agreement, initialled on 20 September 2013 including any subsequent amendments.
ANNEX III

UNITED STATES’ RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments in these sub-sectors under this Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.

2. National treatment commitments in these sub-sectors are subject to the following limitations:

   (a) National treatment with respect to banking will be provided based upon the foreign bank’s “home state” in the United States, as that term is defined under the International Banking Act, where that Act is applicable. A domestic bank subsidiary of a foreign firm will have its own “home state,” and national treatment will be provided based upon the subsidiary’s home state, as determined under applicable law.¹

   (b) National treatment with respect to insurance financial institutions will be provided according to a non-United States insurance financial institution’s state of domicile, where applicable, in the United States. State of domicile is defined by individual states, and is generally the state in which an insurer either is incorporated, is organised or maintains its principal office in the United States.

3. To clarify the United States commitment with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying banking or other financial services (excluding insurance) and constituted under the laws of the United States are subject to non-discriminatory limitations on juridical form.²

¹ Foreign banking organisations are generally subject to geographic and other limitations in the United States on a national treatment basis. Where such limitations do not conform to national treatment, they have been listed as non-conforming measures. For purposes of illustration, under this approach, the following situation does not accord national treatment and would therefore be listed as a non-conforming measure: a foreign bank from a particular home state is accorded less favourable treatment than that accorded to a domestic bank from that state with respect to expansion by branching. For greater certainty, a bank that is incorporated in the United States, including a United States bank subsidiary of a foreign bank, is considered a “domestic bank” and not a “foreign bank”. Please refer to the referenced measures for the relevant comprehensive definitions.

² For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in the United States. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.
4. Article 11.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 11.5(b) (Market Access for Financial Institutions).
GENERAL NOTE

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 1(b) and 1(c);

   (b) in Section A, pursuant to Article 11.10.1 (Non-Conforming Measures), a Party’s existing measures that are not subject to some or all of the obligations imposed by:

      (i) Article 11.3 (National Treatment);

      (ii) Article 11.4 (Most-Favoured-Nation Treatment);

      (iii) Article 11.5 (Market Access for Financial Institutions);

      (iv) Article 11.6 (Cross-Border Trade); or

      (v) Article 11.9 (Senior Management and Boards of Directors); and

   (c) in Section B, pursuant to Article 11.10.2 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which a Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

      (i) Article 11.3 (National Treatment);

      (ii) Article 11.4 (Most-Favoured-Nation Treatment);

      (iii) Article 11.5 (Market Access for Financial Institutions);

      (iv) Article 11.6 (Cross-Border Trade); or

      (v) Article 11.9 (Senior Management and Boards of Directors).

2. Each Schedule entry in Section A sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;
(c) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1(b) that, pursuant to Article 11.10.1(a) (Non-Conforming Measures), do not apply to the listed measure(s) as indicated in the headnote for each Party’s schedule;

(d) **Level of Government** indicates the level of government maintaining the listed measure(s);

(e) **Measures** identifies the laws, regulations or other measures for which the entry is made. 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; and

(f) **Description**, as indicated in the headnote for each Party’s schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.

3. Each Schedule entry in Section B sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

(c) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1(c) that, pursuant to Article 11.10.2 (Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(d) **Level of Government** indicates the level of government maintaining the listed measure(s); and

(e) **Description** sets out the scope and/or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and

(f) **Existing Measures** identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

4. Parties recognise that measures falling under exceptions applicable to this chapter, such as those in Article 11.11 (Exceptions), need not be scheduled. Nevertheless, some Parties have listed measures that may fall within applicable exceptions. For greater certainty, the listing of a measure in a Party’s Schedule to Annex III is without prejudice to whether that measure or any other measure:
(a) adopted or maintained by the Party; or

(b) adopted or maintained by any other Party;

is covered by exceptions such as those in Article 11.11 (Exceptions).
INTRODUCTORY NOTE

1. The Schedule of the United States to this Annex sets out:

   (a) headnotes that limit or clarify the commitments of the United States with respect to the obligations described in subparagraphs (b)(i) through (v) and in subparagraph (c);

   (b) in Section A, pursuant to Article 11.10.1 (Non-Conforming Measures), the existing measures of the United States that do not conform with some or all of the obligations imposed by:

      (i) Article 11.3 (National Treatment);

      (ii) Article 11.4 (Most-Favoured-Nation Treatment);

      (iii) Article 11.5 (Market Access for Financial Institutions);

      (iv) Article 11.6 (Cross-Border Trade); or

      (v) Article 11.9 (Senior Management and Boards of Directors); and

   (c) in Section B, pursuant to Article 11.10.2 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which the United States may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 11.3 (National Treatment), Article 11.4 (Most-Favoured-Nation Treatment), Article 11.5 (Market Access for Financial Institutions), Article 11.6 (Cross-Border Trade), or Article 11.9 (Senior Management and Boards of Directors) (articles referenced in subparagraphs (b)(i) through (v)).

2. Each entry in Section A sets out the following elements:

   (a) **Sector** refers to the general sector for which the entry is made;

   (b) **Sub-sector** refers to the specific sector for which the entry is made;

   (c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1(b) that, pursuant to Article 11.10.1(a) (Non-Conforming Measures), do not apply to the non-conforming aspects of the law, regulation or other measure, as set out in paragraph 4;
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

(d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);

(e) **Measures** identifies the laws, regulations, or other measures for which the entry is made. 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; and

(f) **Description** provides a general, non-binding description of the measure for which the entry is made.

3. Each entry in Section B sets out the following elements:

(a) **Sector** refers to the general sector for which the entry is made;

(b) **Sub-sector** refers to the specific sector for which the entry is made;

(c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1(c) that, pursuant to Article 11.10.2 (Non-Conforming Measures), do not apply to the sectors, sub-sectors, or activities scheduled in the entry;

(d) **Level of Government** indicates the level of government maintaining the listed measure(s); and

(e) **Description** sets out the scope of the sectors, sub-sectors, or activities covered by the entry.

(f) **Existing Measures** identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, sub-sectors or activities covered by the entry.

4. For entries in Section A, in accordance with Article 11.10.1(a) (Non-Conforming Measures), and subject to Article 11.10.1(c) (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation or other measure identified in the **Measures** element of that entry, except to the extent that such non-conforming aspects are inconsistent with a Specific Commitment in Annex 11-B.

5. For entries in Section B, in accordance with Article 11.10.2 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an
entry do not apply to the sectors, sub-sectors, and activities identified in the **Description** element of that entry.

6. Parties recognise that measures falling under exceptions applicable to this chapter, such as those in Article 11.11, need not be scheduled. Nevertheless, some Parties have listed measures that may fall within applicable exceptions. The listing of a measure in a Party’s Schedule to Annex III is without prejudice to whether that measure, another measure adopted or maintained by the Party, or a measure adopted or maintained by any other Party is covered by Article 11.11.
ANNEX III

SECTION A

A-1

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Senior Management & Boards of Directors (Article 11.9)

Level of Government: Central

Measures: 12 U.S.C. 72

Description: All directors of a national bank must be U.S. citizens except that the Comptroller of the Currency may waive the citizenship requirement for not more than a minority of the total number of directors.
Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central


Description: Foreign ownership of Edge corporations is limited to foreign banks and U.S. subsidiaries of foreign banks, while domestic non-bank firms may own such corporations. Edge Act corporations are international financial vehicles chartered, supervised, and examined by the Board of Governors of the Federal Reserve through which U.S. banking organisations may conduct certain activities abroad that are permissible to foreign banks abroad but may not otherwise be permissible to U.S. banks.
Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central


Description: Federal and state laws do not permit a credit union, savings bank, or savings association (both of the latter two entities may be also called thrift institutions) in the United States to be established through branches of corporations organised under a foreign country’s law.
Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: 12 U.S.C. 3104(d)

Description: In order to accept or maintain domestic retail deposits of less than the standard maximum deposit insurance amount, and requiring deposit insurance protection, a foreign bank must establish an insured banking subsidiary. This requirement does not apply to a foreign bank branch that was engaged in insured deposit-taking activities on December 19, 1991.
Sector: Financial Services
Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central


Description: Foreign banks are required to register as investment advisers under the Investment Advisers Act of 1940 to engage in securities advisory and investment management services in the United States, while domestic banks\(^1\) (or a separately identifiable department or division of the bank) do not have to register unless they advise registered investment companies. The registration requirement involves record maintenance, inspections, submission of reports and payment of a fee.

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\(^1\) For greater clarity, “domestic banks” include U.S. bank subsidiaries of foreign banks.
A-6

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Measures: 12 U.S.C. 221, 302, 321

Description: Foreign banks cannot be members of the Federal Reserve System, and thus may not vote for directors of a Federal Reserve Bank. Foreign-owned bank subsidiaries are not subject to this measure.
A-7

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Level of Government: Central


Description: The United States undertakes no commitment with respect to Article 11.5(b) in relation to the expansion, by a foreign bank into another state from its “home state,” as that term is defined under applicable law, via:

- the establishment of a “de novo” branch in another state;
- the establishment of branches by merger with a bank in another state; or
- the acquisition of one or more branches of a bank in another state without the acquisition of the entire bank,

if not permitted by the state in which the resulting branch is or would be located. Except as provided elsewhere in this schedule, such expansion shall be accorded on a national treatment basis in accordance with headnote 2(a).
A-8

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Level of Government: Central

Measures: 12 U.S.C. 3102(a)(1); 12 U.S.C. 3103(a); 12 U.S.C. 3102(d)

Description: Establishment of a federal branch or agency by a foreign bank is not available in the following states that may prohibit establishment of a branch or agency by a foreign bank:

- Branches and agencies may be prohibited in Kansas, Maryland, North Dakota and Wyoming.

- Branches, but not agencies, may be prohibited in Georgia, Missouri and Oklahoma.

Certain restrictions on fiduciary powers apply to federal agencies.

Note: The cited federal measures provide that certain state law restrictions shall apply to the establishment of federal branches or agencies.
Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Most-Favoured-Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)
Cross-Border Trade (Article 11.6)

Level of Government: Central


Description: The authority to act as a sole trustee of an indenture for a bond offering in the United States is subject to a reciprocity test.
Sector: Financial Services
Sub-Sector: Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned: Most-Favoured-Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)
Level of Government: Central
Measures: 22 U.S.C. 5341-5342
Description: Designation as a primary dealer in U.S. government debt securities is conditioned on reciprocity.²

²A foreign-owned firm from any country that accords to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments as the country accords to a domestic company will be entitled to be designated as a primary dealer, assuming the firm meets applicable business requirements established by the Federal Reserve. If such country has entered into a Free Trade Agreement with the United States and the country has undertaken an obligation to provide national treatment for its government debt market, that fact shall be a positive factor in the consideration of such firm’s request for designation.
A-11

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Most-Favoured-Nation Treatment (Article 11.4)

Level of Government: Central

Measures: 15 U.S.C. 78o(c)

Description: A broker-dealer registered under U.S. law that has its principal place of business in Canada may maintain its required reserves in a bank in Canada subject to the supervision of Canada.
A-12

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central


Description: The United States may grant advantages, including but not limited to the following, to one or more of the Government-Sponsored Enterprises (GSEs) listed above:

- Capital, reserves and income of the GSE are exempt from certain taxation.
- Securities issued by the GSE are exempt from registration and periodic reporting requirements under federal securities laws.
- The U.S. Treasury may, in its discretion, purchase obligations issued by the GSE.
A-13

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)
Most-Favoured-Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)
Senior Management and Boards of Directors (Article 11.9)

Level of Government: Regional

Measures: All existing non-conforming measures of all states, the District of Columbia and Puerto Rico

Description: Pursuant to the measures referred to above, some U.S. states may, among other things:

- restrict or fail to provide an explicit mechanism for initial entry for the various juridical forms (e.g., subsidiary, branch, agency, representative office) through which foreign banks may obtain a state license to conduct business activities within their territory;³ and

- impose citizenship requirements on some or all members of the boards of directors of state-chartered depository institutions.

Additionally, states may impose restrictions or conditions upon the business activities with respect to juridical form; that is, with respect to a foreign bank operating in the state as a state-licensed or state-chartered incorporated entity, branch, agency, or representative office.

Some of the above limitations may reflect state reciprocity requirements.

³ For purposes of transparency, Appendix I-A sets out an illustrative, non-binding list of foreign bank structures explicitly provided for at the regional level of government.
Sector: Financial Services
Sub-Sector: Insurance
Obligations Concerned: National Treatment (Article 11.3)
Cross-Border Trade (Article 11.6)
Market Access for Financial Institutions (Article 11.5)
Level of Government: Central
Description: Branches of foreign insurance companies are not permitted to provide surety bonds for U.S. Government contracts.
Sector: Financial Services
Sub-Sector: Insurance
Obligations Concerned: Cross-Border Trade (Article 11.6)
Level of Government: Central
Measures: 46 C.F.R. § 249.9
Description: When more than 50 per cent of the value of a maritime vessel whose hull was built under federally guaranteed mortgage funds is insured by a non-U.S. insurer, the insured must demonstrate that the risk was substantially first offered in the U.S. market.
A-16

Sector: Financial Services

Sub-Sector: Insurance

Obligations Concerned: National Treatment (Article 11.3)
Most-Favoured-Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)
Cross-Border Trade (Article 11.6)
Senior Management and Boards of Directors (Article 11.9)

Level of Government: Regional

Measures: All existing non-conforming measures of all states, the District of Columbia and Puerto Rico. For purposes of transparency, Appendix 1-B sets out an illustrative, non-binding list of non-conforming measures maintained at the regional level of government.
APPENDIX 1-A

LIST OF FOREIGN BANK STRUCTURES EXPLICITLY PROVIDED FOR AT THE REGIONAL LEVEL OF GOVERNMENT

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<th>Commercial Bank</th>
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4 This document is provided for transparency purposes only, and is neither exhaustive nor binding, and is based upon information available as of December, 2010, not as of the date of entry into force of the Agreement.
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## APPENDIX 1-B

**DRAFT ILLUSTRATIVE LIST OF U.S. REGIONAL NON-CONFORMING MEASURES AFFECTING INSURANCE**

### Part I: Measures affecting a commercial presence

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<th>Juridical Form</th>
<th>Senior Management and Boards of Directors</th>
<th>Government Ownership or Control</th>
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5 This document is provided for transparency purposes only, and is neither exhaustive nor binding.
# Part I: Measures affecting a commercial presence

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<tr>
<th>Juridical Form</th>
<th>Senior Management and Boards of Directors</th>
<th>Government Ownership or Control</th>
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</table>
### Part I: Measures affecting a commercial presence

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<tr>
<th>Juridical Form</th>
<th>Senior Management and Boards of Directors</th>
<th>Government Ownership or Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maryland, Minnesota, Mississippi. The following states have no mechanism for licensing initial entry of a non-US insurance company as a branch, unless that company is already licensed in some other US state: Arkansas, Arizona, Connecticut, Georgia, Kansas, Maryland, Minnesota, Nebraska, New Jersey, North Carolina, Pennsylvania, Tennessee, Vermont, Wyoming.</td>
<td></td>
<td>Hawaii, Idaho, Kansas, Kentucky, Maine, Maryland, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Washington, Wyoming.</td>
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### Part II: Measures affecting a natural person

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<th>Citizenship</th>
<th>Differential license fees</th>
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<tr>
<td>Insurance intermediation, and services auxiliary to insurance</td>
<td>Non-resident licenses are not issued to individuals not licensed in another US state in: Connecticut, Colorado, California, Delaware, Georgia, Florida, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Mississippi, Montana, Nevada, New Jersey, North Dakota, Nebraska, New York, North Carolina, Oregon, Pennsylvania, South Dakota, Virginia, West Virginia, Texas, Washington.</td>
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<tr>
<td>Agency services</td>
<td>Residency</td>
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<td>Differential license</td>
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III-US-30
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<tr>
<th>Residency requirement: California, Florida, Kansas, Louisiana, Oregon, Rhode Island, Texas.</th>
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<tr>
<td>Residency requirement (for surplus lines brokers): All states except Alaska, Arkansas, Florida, Idaho, Kentucky, Louisiana, Nevada, New Mexico, Ohio, Oregon, South Dakota, Texas, West Virginia, Wyoming.</td>
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<tr>
<td>Consultancy, actuarial, risk assessment, and claim settlement services</td>
</tr>
<tr>
<td>Citizenship requirement: Alabama, Missouri, New Mexico, Oklahoma.</td>
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ANNEX III

SECTION B

B-1

Sector: Financial Services

Sub-Sector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Description: With regard to the Federal Home Loan Banks, Federal Home Loan Mortgage Corporation and Federal National Mortgage Association, the United States reserves the right to adopt or maintain measures that grant advantages, including those described in the entry on page 16 to that entity, or any new, reorganised, or transferee entity with similar functions and objectives with respect to housing finance.
ANNEX III

VIET NAM'S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)

INTRODUCTORY NOTE

1. The Schedule of Viet Nam to this Annex sets out:

(a) headnotes that limit or clarify the commitments of a Party with respect to
the obligations described in subparagraphs 1(b) and 1(c);

(b) in Section A, pursuant to Article 11.10.1 (Non-Conforming Measures),
Vietnam’s existing measures that are not subject to some or all of the
obligations imposed by:

(i) Article 11.3 (National Treatment);

(ii) Article 11.4 (Most-Favoured-Nation Treatment);

(iii) Article 11.5 (Market Access for Financial Institutions);

(iv) Article 11.6 (Cross-Border Trade); or

(v) Article 11.9 (Senior Management and Boards of Directors); and

(c) in Section B, pursuant to Article 11.10.2 (Non-Conforming Measures), the
specific sectors, sub-sectors or activities for which Vietnam may maintain
existing, or adopt new or more restrictive, measures that do not conform
with obligations imposed by:

(i) Article 11.3 (National Treatment);

(ii) Article 11.4 (Most-Favoured-Nation Treatment);

(iii) Article 11.5 (Market Access for Financial Institutions);

(iv) Article 11.6 (Cross-Border Trade); or

(v) Article 11.9 (Senior Management and Boards of Directors).
2. Each Schedule entry in Section A as described in subparagraph 1(b) sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

(c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(b) that, pursuant to Article 11.10.1(a) (Non-Conforming Measures), do not apply to sectors, subsectors or activities listed in the entry;

(d) **Level of Government** indicates the level of government maintaining the listed measure(s);

(e) **Measures** identifies the laws, regulations or other measures for which the entry is made. 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; and

(f) **Description** sets out the non-conforming aspects of the measure for which the entry is made.

3. Each entry in Section B sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

(c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(c) that, pursuant to Article 11.10.2 (Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(d) **Level of Government** indicates the level of government maintaining the listed measure(s); and

III-VN-2
(e) **Description** sets out the scope and/or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and

(f) **Measures** identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

4. For entries in Section A, all elements of the entry shall be considered in their totality for the purposes of its interpretation. Where there is any inconsistency in relation to the interpretation of an entry, the **Description** element of the entry shall prevail to the extent of the inconsistency.

5. For entries in Section B, where an inconsistency arises in relation to the interpretation of an entry, the **Description** element of the entry shall prevail to the extent of the inconsistency.

6. Parties recognise that measures falling under exceptions applicable to this chapter, such as those in Article 11.11 (Exceptions), need not be scheduled. Nevertheless, some Parties have listed measures that may fall within applicable exceptions. For greater certainty, the listing of a measure in a Schedule to Annex III by a Party does not affect the determination of whether a measure adopted or maintained by that Party or any other Party for prudential reasons may qualify as an exception under Article 11.11 (Exceptions). In addition, notwithstanding the listing of a measure by a Party in its Annex III:

   (a) that Party may maintain that measure or adopt or maintain a similar measure; or

   (b) any other Party may adopt or maintain that measure or a similar measure, that qualifies as an exception under Article 11.11 (Exceptions).
HEADNOTES

1. Commitments in these sub-sectors under the Agreement are undertaken subject to the limitations and conditions set forth in these Headnotes and in the Schedule below.

2. To clarify Viet Nam’s commitments with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws, regulations and guidelines of Viet Nam are subject to non-discriminatory limitations on juridical forms.\(^1\)

3. Article 11.10(1)(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to paragraph (b) of Article 11.5 (Market Access for Financial Institutions).

4. For greater certainty, limitations on the participation of foreign capital in terms of maximum percentage limits on foreign shareholding or the total value of individual or aggregate foreign investment should not be considered a limitation to Article 11.5 (Market Access for Financial Institutions).

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\(^1\) For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in the Viet Nam. This headnote does not affect, or otherwise limit, a choice by a financial institution of the other Party between branches and subsidiaries.
ANNEX III

SECTION A

A-1

Sector: Financial Services

Sub-sector: Banking and Other Financial Services (Excluding Securities and Insurance)

Obligations Concerned: National Treatment (Article 11.3)

Market Access for Financial Institutions (Article 11.5)

Measures:

Law no. 47/2010/QH12 on Credit Institutions 2010;

Decree no. 39/2014/ND-CP of the Government on operation of finance company and financial leasing company;

Circular 40/2011/TT-NHNN of the State Bank of Vietnam on licensing, organisation and operations of commercial banks, branches of foreign banks, representative offices of foreign credit institutions, other foreign institutions engaged in banking.

Description:

Foreign credit institutions are only permitted to establish commercial presence in Vietnam in the following forms:

(a) With respect to foreign commercial banks: representative office, branch of foreign commercial bank, commercial joint venture bank with foreign capital contribution not exceeding 50% of chartered capital, joint venture financial leasing company, 100% foreign-invested financial leasing company, joint venture finance company and 100% foreign-invested finance company, and 100% foreign-owned banks.

(b) With respect to foreign finance companies: representative

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2 “Credit institutions” is defined as in Article 4 of Law on Credit Institution 2010. For greater certainty, a foreign credit institution does not include branch or an entity that has no independent legal existence of investor.
office, joint venture finance company, 100% foreign-invested finance company, joint venture financial leasing company and 100% foreign-invested financial leasing company.

(c) With respect to foreign financial leasing companies: representative office, joint venture financial leasing company and 100% foreign-invested financial leasing company.
A-2

Sector: Financial Services

Sub-sector: Banking and Other Financial Services (Excluding Securities and Insurance)

Obligations Concerned:
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)

Measures:
- Law no. 47/2010/QH12 on Credit Institutions 2010;
- Decree no. 01/2014/ND-CP of the Government on acquiring shares of Viet Nam’s commercial banks

Description:
Total equity held by foreign institutions and individuals in each Viet Nam’s joint-stock commercial bank may not exceed 30% of the bank’s chartered capital, unless otherwise provided by Viet Nam’s laws or authorised by a Viet Nam’s competent authority.

Equity held by a foreign strategic investor \(^3\) and its affiliated persons in each Viet Nam’s joint-stock commercial bank may not exceed 20% of the bank’s chartered capital,

In special cases to implement the restructuring of weak credit institutions for the sound banking system, the Prime Minister will decide the total shareholding of foreign investors in a restructured weak credit institution that might exceed the set ceiling proportion on a case by case basis.

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\(^3\) “Foreign strategic investor” means a foreign credit institution which has prestige, financial capacity and ability to assist Vietnamese banks in developing banking products and services, raising management capacity and applying modern technologies; and which has strategic interests conformable with Vietnamese banks’ development strategies and meets specific criteria set by Vietnamese banks.
Sector: Financial Services

Sub-sector: Banking and Other Financial Services (Excluding Securities and Insurance)

Obligations Concerned: National Treatment (Article 11.3)

Measures:
- Law no. 47/2010/QH12 on Credit Institutions 2010;
- Decree no. 39/2014/ND-CP of the Government on operation of finance company and financial leasing company;
- Circular 40/2011/TT-NHNN of the State Bank of Viet Nam on licensing, organization and operations of commercial banks, branches of foreign banks, representative offices of foreign credit institutions, other foreign institutions engaged in banking

Description:
The conditions for the establishment of a branch of a foreign commercial bank in Viet Nam: The parent bank has total assets of more than US$20 billion at the end of the year prior to application.

The conditions for the establishment of a joint venture bank or a 100% foreign-owned bank: The parent bank has total assets of more than US$10 billion at the end of the year prior to application.

The conditions for the establishment of a 100% foreign-invested finance company or a joint venture finance company, a 100% foreign-invested financial leasing company or a joint-venture financial leasing company: The foreign credit institution has total assets of more than US$10 billion at the end of the year prior to application.

Only persons having nationality of Viet Nam can be allowed to be founding shareholders of joint stock commercial banks.
Sector: Financial Services

Sub-sector: Banking and Other Financial Services (Excluding Securities and Insurance)

Obligations Concerned:
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)

Measures:
- Law no. 47/2010/QH12 on Credit Institutions 2010;

Description:
A foreign credit institution or a foreign institution engaged in a banking operation shall only be permitted to establish one representative office in each province or city under central authority.
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<td><strong>Sector:</strong></td>
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<td><strong>Obligations Concerned:</strong></td>
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<td><strong>Measures:</strong></td>
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<td><strong>Description:</strong></td>
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</table>
Sector: Financial Services

Sub-sector: Banking and Other Financial Services (Excluding Securities and Insurance)

Obligations Concerned:
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)

Measures:
- Law no. 47/2010/QH12 on Credit Institutions 2010
- Decree no. 141/2006/ND-CP on list of legal capital for credit institutions
- Decree No. 10/2011/ND-CP on the amendment and supplement to some articles of Decree no. 141/2006/ND-CP on list of legal capital for credit institutions
- Circular 21/2013/TT-NHNN on the operational networks of commercial banks

Description:
A foreign bank branch shall not be permitted to: (i) either contribute capital or purchase shares; (ii) carry out activities that the foreign bank is not allowed to conduct in its home country; (iii) open a transaction point\(^4\) outside its location which is stated in the License in any form;

Prudential ratios of foreign bank branch in Viet Nam must be calculated based on its regulatory capital, which must be located in Viet Nam.

\(^4\) Transaction point means a location, excluding ATMs, which is set up outside the office of a foreign bank branch in order to conduct transactions with clients.
A-7

Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: National Treatment (Article 11.3)


Description: Foreign natural persons are not allowed to supply insurance agency services in Viet Nam.
Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: Cross border Trade (Article 11.6)


Decree 123/2011/ND-CP

Description: Foreign insurance company supplying cross border insurance services not covered in Viet Nam’s CBT Annex shall only conduct business via an insurance broker which has the license to establish and operate in Viet Nam.

Foreign insurance broker when supplying cross-border insurance services not covered in Viet Nam’s CBT Annex shall only conduct business for insurance company or branch of foreign non-life insurance company which has license of establishment and operation in Viet Nam.
A-9

Sector: Financial Services

Sub-sector: Securities

Obligations Concerned: National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)


Description: The Viet Nam Securities Depository (VSD) is the only organization authorised to act as a Central Securities Depository (CSD) which typically supply services on registration, depository, clearing and settlement of securities and securities transactions.
ANNEX III

SECTION B

B-1

Sector: Financial Services

Sub-sector: Banking and other financial services

Obligations Concerned:
- National Treatment (Article 11.3)
- Most Favoured Nations (Article 11.4)
- Market Access for Financial Institutions (Article 11.5)
- Senior Management and Board of Directors (Article 11.9)

Source of measures: Law no. 47/2010/QH12 on Credit Institutions 2010

Description: Viet Nam reserves the right to adopt or maintain any measure relating to the equitisation of state owned commercial banks and restructuring process of credit institutions in Viet Nam.
B-2

Sector: Financial Services

Sub-sector: All

Obligations Concerned:
- National Treatment (Article 11.3)
- Market Access for Financial Institutions (Article 11.5)
- Senior Management and Board of Directors (Article 11.9)

Description: Viet Nam may grant advantages or exclusive rights to one or more development financial institutions, co-operative banks, people’s credit funds and microfinance institutions including but not limited to Viet Nam Bank for Social Policies, Viet Nam Development Bank, Co-operative Bank of Viet Nam, Bank for Agriculture and Rural Development of Viet Nam, Mortgage Refinance Bank.
B-3

Sector: Financial Services

Sub-sector: All

Obligations Concerned: National Treatment (Article 11.3)
Most-Favoured-Nation Treatment (Article 11.4)
Market Access for Financial Institutions (Article 11.5)

Description: Without limiting Viet Nam’s obligations under Article 11.7 (New Financial Services), Viet Nam may impose a pilot testing program for a new financial service and in doing so may impose either a cap on the number of financial service providers that may participate in a pilot testing program or restrictions on scope of pilot testing program.
Sector: Financial Services
Sub-sector: All
Obligations Concerned: Cross-Border Trade (Article 11.6)
Description: To the extent of financial services not committed under CBT Annex of Viet Nam, Viet Nam reserves the right to adopt or maintain any measure with respect to the purchase of financial services by persons located in Viet Nam from financial service suppliers abroad.
Sector: Financial Services

Sub-sector: All

Obligations Concerned:

- National Treatment (Article 11.3)
- Most-Favoured-Nation Treatment (Article 11.4)
- Market Access for Financial Institutions (Article 11.5)
- Cross-Border Trade (Article 11.6)
- Senior Management and Board of Directors (Article 11.9)

Description: Viet Nam reserves the right to adopt or maintain any measures including but not limited to financial support, such as government-supported loans, guarantees and insurance with respect to activities for a public purpose: income security and insurance, social security, social welfare, social development, social housing, poverty reduction, public education, public training, health, and childcare, promoting the welfare and employment of ethnic minorities and people living in disadvantages areas, small and medium enterprises’ development, granting of one-time subsidisation to promote and facilitate the process of equitisation.
B-6

Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: National Treatment (Article 11.3)

Measures: Law on Insurance Business No.24/2000/QH10;

Decree 45/2007/ND-CP.

Law amending and supplementing some articles of the Insurance Business Law No. 61/2012/QH12

Decree 123/2011/ND-CP

Circular 124/2012/TT-BTC

Description: In addition to the general conditions for being granted the establishment and operation license, financial services suppliers or investors of a Party asking for the permission to establish foreign insurance enterprises, foreign insurance brokerage enterprises and reinsurance enterprises must satisfy a number of additional conditions on a minimum years of experience, value of total assets, making profits and no violation of the laws and regulations on insurance business or of other laws of the country where it has its head office
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<th><strong>Sector:</strong></th>
<th>Financial Services</th>
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<td><strong>Sub-sector:</strong></td>
<td>Insurance</td>
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<tr>
<td><strong>Obligations Concerned:</strong></td>
<td>Cross-Border Trade (Article 11.6)</td>
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</table>
| **Measures:** | Law No.61/2010/QH12 amending and supplementing a number of articles of Insurance Business Law  
Circular 124/2012/TT-BTC |
| **Description:** | In addition to the general conditions for supplying reinsurance services, a foreign reinsurance company must satisfy an additional condition on required credit ratings. |
B-8

Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Measures: Decree 123/2011/ND-CP

Description: No foreign insurance company except foreign non-life insurance one is permitted to open branches in Viet Nam.

In order to be granted the license for establishment of non-life insurance branch in Viet Nam, a foreign non-life insurance company must satisfy the conditions under Vietnamese law, including:

(a) Operational and financial capacity and branch management and supervisory capacity in Viet Nam of foreign non-life insurance company.

(b) The cooperation between the foreign insurance administrative body of the country where the company head office is located and the Vietnamese insurance administrative body in managing and supervising the branch of foreign non-life insurance company in Viet Nam.
B-9

Sector: Financial Services

Sub-sector: Securities

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)


Decree No. 58/2012/ND-CP dated 20/7/2012 detailing and guiding the Securities Law and amendments thereof

Description: The operation and services provided by branches of foreign securities company and fund management company in Viet Nam are subject to approval of the Government of Viet Nam, including the imposition of conditions for the approval.
B-10

Sector: Financial Services

Sub-sector: Securities

Obligations Concerned: National Treatment (Article 11.3)

Measure: Securities Law No.70/2006/QH11 and Amended Law on Securities No.62/2010/QH12

Article 1, 2 and 3 of Decision No.55/2009/QD-TTg dated 15/4/2009 of the Prime Minister

Description: Foreign participation from above 49% to less than 100% of charter capital of a securities company, fund management company in Viet Nam is subject to approval of the Government of Viet Nam, including the imposition of conditions for the approval.

This non-conforming measure will be deemed to be a Section A measure under Article 11.10 (Non-Conforming Measures) in 5 years from the date of entry into force of this Agreement for Viet Nam.
B-11

Sector: Financial Services

Sub-sector: Securities

Obligations Concerned:
National Treatment (Article 11.3)
Market Access for Financial Institutions (Article 11.5)

Measure:

Description: Viet Nam reserves the right to adopt or maintain any measures relating to the establishment, ownership and operation of regulated securities markets and associated infrastructure, including but not limited to Central Securities Depository (including registration, depository, clearing and settlement), Central Counterparty (CCP), Securities Trading Center / Stock and Derivatives Exchanges (including transactions system and infrastructure), Electronic Communication Networks (ECNs) and the designation of settlement bank. For greater certainty, this reservation does not apply to financial institutions participating in, or seeking to participate in any such regulated markets, or accessing such associated infrastructure, to provide a financial service.
B-12

Sector: Financial Services

Subsector: Securities

Obligations Concerned: Most-Favoured-Nation Treatment (Article 11.4)

Measure:

Description: Viet Nam reserves the right to provide differential treatment to a Foreign Central Securities Depository (CSD) with respect to its membership in or interactions with the Viet Nam Securities Depository (VSD), including the designation of settlement bank, according to agreement between the CSD and VSD.
Annex IV
Schedule of Australia

Obligations Concerned: Article 17.4.1(a) in relation to the purchase of a good or service
Article 17.4.1(b)

Entity: All existing and future state-owned enterprises at central level of government.

Scope of Non-conforming Activities: The Entity may accord more favourable treatment to Indigenous persons and organisations in the purchase of goods and services.

For the purposes of this reservation, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.
ANNEX IV

Schedule of Brunei Darussalam (1)

Obligations Concerned: 17.4.1(a) with respect to the purchase of services

Entity: All state-owned enterprises engaged in the petroleum industry.

Scope of Non-conforming Activities: Unless as may otherwise be authorised, the Government of Brunei Darussalam may require an Entity involved in the petroleum industry within the territory of Brunei Darussalam to purchase the services listed in Attachment A to NCM 28 in Annex I either from:

1) Bruneian nationals or enterprises; or
2) foreign nationals or enterprises under an arrangement or contract, provided they engage Bruneian nationals or enterprises to provide these services.

The preferences to services described above are granted pursuant to Brunei’s entry 28 in its Schedule of Non-Conforming Measures listed in Annex I. For greater certainty, Brunei has not scheduled against Article 17.4.1(b) for these preferences by virtue of Article 17.2.11.

Measures: Local Business Development Directive No. 2 of the Energy Department, Prime Minister’s Office
ANNEX IV

Schedule of Brunei Darussalam (2)

Obligations Concerned: 17.4.1(a) with respect to the sale of goods or services. 17.4.2(a) with respect to the sale of goods or services.

Entity: All state-owned enterprises or designated monopolies engaged in the supply of natural gas or manufactured petrochemical products and their derivatives.

Scope of Non-conforming Activities Brunei Darussalam may require the Entity to accord preferential rates in the sale of natural gas or manufactured petrochemical products and their derivatives:

1) for the purposes of power generation;
2) promoting foreign investment; or
3) promoting the development of economic activity,

in the territory of Brunei Darussalam.
ANNEX IV

Schedule of Brunei Darussalam (3)

Obligations Concerned:
17.6.1(b)
17.6.2(b)

Entity:
Brunei National Petroleum Company
Sendirian Berhad, PB Trading Sdn Bhd and
PB Services Sdn Bhd and their successors.

Scope of Non-conforming Activities:
Brunei Darussalam may provide non-commercial assistance to the Entity with respect to their supply of the following services:

1) marketing of crude oil, LNG, methanol and other petroleum products;
2) drilling mud supply services;
3) plug and abandonment services;
4) wireline services; and
5) asset integrity repair and maintenance services in the oil and gas industry, including power generation services.

Transition Period:
This entry shall cease to have effect three years after entry into force of this Agreement for Brunei Darussalam.
ANNEX IV

Schedule of Brunei Darussalam (4)

Obligations Concerned:

17.4
17.6

Entity:

Brunei Investment Agency and any other special purpose investment fund owned by the Brunei Investment Agency, or the Government of Brunei Darussalam that engages exclusively in the scope of activities described below.

Scope of Non-conforming Activities:

Investment and asset management, using the financial assets of the Government of Brunei Darussalam.

Brunei Darussalam has been an observer of in the Working Group of the International Forum of Sovereign Wealth Funds (“the Forum”) and is exploring membership of the Forum.
ANNEX IV
Schedule of Canada (1)

Obligations Concerned: Articles 17.6:1(b) and 17.6:1(c)
Articles 17.6:2(b) and 17.6:2(c)

Entity: Bridge Authorities that manage international crossings, or any new, reorganized, or transferee enterprise, with similar functions and objectives, that engages in the activities described below.

The Bridge Authorities that manage international crossings are the Federal Bridge Corporation Limited and the Windsor-Detroit Bridge Authority.

Scope of Non-Conforming Activities: Canada, its state enterprises or state-owned enterprises may provide the Entity(ies) with appropriations or assistance from funding programs to manage international crossings, including the design, construction, operation and maintenance of the Entity’s or Entities’ crossing(s) and any related infrastructure, which may involve the supply of services or commercial establishment outside the territory of Canada.

Measure(s): International Bridges and Tunnels Act, S.C. 2007, c. 1
(and regulations thereof)
And including any future amendments.
ANNEX IV
Schedule of Canada (2)

Obligations Concerned: Articles 17.4.1(a), 17.4.1(b)(i) and 17.4.1(c)(i) in respect of financial or related housing services
 Article 17.6.1(b)

Entity: Canada Mortgage and Housing Corporation and Canada Housing Trusts, or any new, reorganized or transferee enterprise(s), with similar functions and objectives

Scope of Non-Conforming Activities: With respect to Article 17.4.1(a), the Entity(ies) may take into account factors other than commercial considerations in the provision of financial or housing-related services such as:

- guarantees, mortgage insurance, loans and mortgage-backed securities
- management of nursing homes, retirement homes, on-reserve and rental housing and ancillary infrastructure

in furtherance of the mandate to support housing needs and housing affordability in Canada as set out in laws, regulations, policies or programs.

With respect to Articles 17.4.1(b)(i) and 17.4.1(c)(i) and as set out in applicable laws and regulations, policies or programs, the Entity(ies) may:

- provide financial or housing-related services such as mortgage insurance, loans and advisory services only to enterprises in Canada or provide such services to enterprises in certain other countries
- purchase financial or housing-related services from enterprises in certain other countries

With respect to Article 17.6.1(b), Canada may provide the Entity(ies) with non-commercial assistance with respect to its supply of financial or housing-related services from Canada into the
territory of another Party as set out in applicable laws, regulations, policies or programs.

**Measure(s):**

*Canada Mortgage and Housing Corporation Act*, R.S.C. 1985, c. C-7


(and regulations thereof)

And including any future amendments.
ANNEX IV
Schedule of Canada (3)

Obligations Concerned:
Article 17.4.1 (a)
Article 17.6.1 (a) and 17.6.2 (a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Canada
Article 17.6.1 (b)
Article 17.6.2 (b)

Entity:
The Canadian Broadcasting Corporation (CBC), Telefilm Canada, and any new, reorganized, or transferee enterprise related to cultural industries.

Scope of Non-Conforming Activities:
Canadian Broadcasting Corporation

With respect to Article 17.4.1 (a), the CBC may take into account factors other than commercial considerations, and may accord preferences in its purchase and sale of goods and services to Canadian products, suppliers and persons, including:

- originate programs, secure programs from within or outside Canada by purchase, exchange or otherwise and make arrangements necessary for their transmission;
- make contracts with any person, within or outside Canada, in connection with the production or presentation of programs originated or secured by the CBC;
- produce, distribute and sell such consumer products as may seem conducive to the attainment of the objects of the CBC;
- do all such other things as the Board deems incidental or conducive to the attainment the objects of the CBC.

The preferences to goods and services described above are granted pursuant to Canada’s entry 14 in its Schedule to Annex II. For greater certainty, Canada has not scheduled against Articles 17.4.1(b), 17.4.1(c) and Articles 17.4.2(b), 17.4.2(c) for these

ANNEX IV – CANADA - 4
preferences by virtue of Article 17.2.11.

With respect to Articles 17.6.1(a), 17.6.1(b) and Articles 17.6.2(a), 17.6.2(b), Canada or the CBC may provide non-commercial assistance with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Canada and the supply of a service from Canada to the territory of another Party.

Telefilm Canada

With respect to Article 17.4.1(a), Telefilm Canada may take into account factors other than commercial considerations and may accord preferences in its purchase and sale of services to Canadian products, suppliers and persons, including:

- make loans to producers of individual Canadian productions and charge interest on those loans;
- advise and assist Canadian producers in the distribution of their works and in the administrative functions of film production.

The preferences to goods and services described above are granted pursuant to Canada’s entry 14 in its Schedule to Annex II. For greater certainty, Canada has not scheduled against Articles 17.4.1(b), 17.4.1(c) and Articles 17.4.2(b), 17.4.2(c) for these preferences by virtue of Article 17.2.11.

With respect to Article 17.6.1(b) and Article 17.6.2(b), Canada or Telefilm Canada may provide non-commercial assistance with respect to the supply a service from Canada to the territory of another Party.

A new, reorganized, or transferee enterprise

With respect to Article 17.4.1(a), a new, reorganized, or transferee enterprise related to cultural industries may take into account factors other than commercial considerations, and may
accord preferences in its purchase and sale of goods and services to Canadian products, suppliers and persons.

The preferences to goods and services described above are granted pursuant to Canada’s entry 14 in its Schedule to Annex II. For greater certainty, Canada has not scheduled against Articles 17.4.1(b), 17.4.1(c) and Articles 17.4.2(b), 17.4.2(c) for these preferences by virtue of Article 17.2.11.

With respect to Articles 17.6.1(a), 17.6.1(b) and Articles 17.6.2(a), 17.6.2(b), Canada or a new, reorganized, or transferee enterprise related to cultural industries may provide non-commercial assistance with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Canada and the supply of a service from Canada to the territory of another Party.

For the purpose of this reservation, “cultural industries” means persons engaged in any of the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video music recordings;

(d) the publication, distribution or sale of music in print or machine readable form; or

(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable

ANNEX IV – CANADA - 6
broadcasting undertakings and all satellite programming and broadcast network services;

Measure(s):

Telefilm Canada Act, R.S.C. 1985, c. C-16 (and regulations thereof)
And including any future amendments.
ANNEX IV
Schedule of Canada (4)

Obligations Concerned:
Article 17.4:1(a)
Article 17.4:1(c)(i)
Article 17.6:1(b)

Entity:
Canadian Commercial Corporation, or any new, reorganized, or transferee enterprise, with similar functions and objectives, that engages in the activities described below.

Scope of Non-Conforming Activities:
With respect to Article 17.4.1(a), the Entity(ies) may restrict the sale of services associated with facilitating the import or export of goods or services to enterprises located within Canada as set out in applicable laws, regulation, policies and practices.

With respect to Article 4.1(c)(i), the Entity(ies) may accord preferences in the sale of services associated with facilitating the import or export of goods or services to or from certain countries based on bilateral arrangement(s) with the relevant country.

With respect to Article 17.6.1(b), Canada may provide the Entity(ies) with non-commercial assistance with respect to its supply of a service from Canada into the territory of another Party associated with facilitating the import or export of goods and services, as set out in applicable laws, regulations and policies.

Measure(s):
Canadian Commercial Corporation Act, R.S.C. 1985, c. C-14 (and regulations thereof)
And including any future amendments.
ANNEX IV
Schedule of Canada (5)

Obligations Concerned: Article 17.6:1(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment within the territory of Canada
Article 17.6:1(b)

Entity: Canadian Dairy Commission, or any new, reorganized, or transferee enterprise, with similar functions and objectives.

Scope of Non-Conforming Activities: With respect to Article 17.6.1(a), Canada may provide the Entity(ies) with non-commercial assistance with respect to the production and sale of dairy products within the territory of Canada pursuant to the Canadian Dairy Commission Act.

With respect to Article 17.6.1(b), Canada may provide the Entity(ies) with non-commercial assistance regarding services related to the cross-border trade of dairy products (export and import) such as shipping, insuring and wholesale trade and distribution, pursuant to the Canadian Dairy Commission Act.

Measure(s): Canadian Dairy Commission Act, R.S.C. 1985, c. C-15 (and regulations thereof)
And including any future amendments.
ANNEX IV
Schedule of Canada (6)

Obligations Concerned: Article 17.4.1(a) in relation to the purchase of a good or service
                       Article 17.4.1(b)

Entity: All existing and future state-owned enterprises

Scope of Non-Conforming Activities: The Entity(ies) may accord more favourable treatment to aboriginal persons and organizations in the purchase of goods and services.

ANNEX IV
Schedule of Chile (I)

Obligations Concerned:

Article 17.4.1 (a), (b) and (c)(i)
Article 17.6.1(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Chile.

Entity:

ENAP (*Empresa Nacional del Petróleo*) or its successor, its subsidiaries and affiliates.

Scope of Non-conforming Activities:

With respect to Article 17.4.1(a), and (c)(i), the Entity may accord preferential treatment in its sales of energy products, such as hydrocarbon products or electric power from any source of generation, to consumers in remote or underserved areas of Chile.

With respect to Article 17.4.1(a) and (b), the Entity may accord preferential treatment in its purchases of energy products, such as hydrocarbons or electric power from any source of generation, for resale in remote or underserved areas of Chile.

With respect to Article 17.6.1(a), the Entity may receive non-commercial assistance with respect to the production and sale of energy products, such as hydrocarbon products or electric power from any source of generation, for the purpose of ensuring adequate power supply in remote or underserved areas of Chile.
### ANNEX IV

**Schedule of Chile (2)**

| Obligations Concerned: | Article 17.4.1(a) and (b)  
Article 17.6.1(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Chile. |
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Entity:</td>
<td>CODELCO (<em>Corporación Nacional del Cobre</em>) or its successor, its subsidiaries and affiliates.</td>
</tr>
</tbody>
</table>
| Scope of Non-conforming Activities: | With respect to Article 17.4.1(a) and (b), the Entity may accord preferential treatment to enterprises in the territory of Chile in up to 10% of the total value of its annual purchases of goods and services.  
With respect to Article 17.6.1(a), the Entity may receive non-commercial assistance with respect to the production and sale of mineral resources or by-products in the territory of Chile. |
ANNEX IV
Schedule of Chile (3)

Obligations Concerned: Article 17.4.1(a),(b) and (c)(i)
Article 17.6.1(a), with respect to the production and sale of a
good in competition with a like good produced and sold by a
covered investment in the territory of Chile.

Entity: ENAMI (Empresa Nacional de Minería) or its successor, its
subsidiaries and affiliates.

Scope of Non-conforming Activities: With respect to Articles 17.4.1(a) and (b), the Entity may,
pursuant to laws or regulations, accord preferential treatment
in its purchases of minerals from small and medium-sized
Chilean producers.

With respect to Articles 17.4.1(a) and (c)(i), the Entity may,
pursuant to laws or regulations, provide technical support
and financial services under preferential terms, to small and
medium-sized Chilean producers.

With respect to Article 17.6.1(a), the Entity may receive
non-commercial assistance for the purpose of maintaining its
activities in support of small and medium-sized Chilean
producers through the purchase of minerals and the supply
of technical support and financial services.
ANNEX IV
Schedule of Chile (4)

Obligations Concerned: Article 17.4.1(a) and (b)

Entity: METRO (Empresa de Transporte de Pasajeros Metro S.A.) or its successor, its subsidiaries and affiliates.

Scope of Non-conforming Activities: With respect to Article 17.4.1(a) and (b), the Entity may accord preferential treatment to enterprises in the territory of Chile up to 10% of the total value of its annual purchases of goods and services.
ANNEX IV
Schedule of Chile (5)

Obligations Concerned:
Article 17.4.1(a) and (b)
Article 17.6.1(b)

Entity:
TVN (Televisión Nacional de Chile) or its successor, its subsidiaries and affiliates.

Scope of Non-conforming Activities:
With respect to Article 17.4.1(a) and 17.4.1(b), the Entity may, pursuant to laws or regulations, accord preferential treatment to Chilean content and products in its purchases of programming content.

With respect to Article 17.6.1(b), the Entity may receive non-commercial assistance for the supply of television broadcasting services that are intended principally for the Chilean domestic market.
ANNEX IV
Schedule of Chile (6)

Obligations Concerned: Article 17.4.1(a) and (c)(i), with respect to financial services

Entity: BANCOESTADO (Banco del Estado de Chile) or its successor, its subsidiaries and affiliates.

Scope of Non-conforming Activities: With respect to Article 17.4.1(a) and (c)(i), the Entity may, pursuant to laws or regulations, accord preferential treatment in the supply of financial services to underserved segments of the population in Chile, provided that such financial services are not intended to displace or impede financial services provided by privately-owned enterprises from the relevant market.
ANNEX IV
Schedule of Chile (7)

Obligations Concerned: Article 17.4.1(a) and (b)

Entity: All existing and future state-owned enterprises.

Scope of Non-conforming Activities: Existing and future state-owned enterprises may accord preferential treatment to Indigenous people and their communities in the purchase of goods and services.

For the purpose of this entry, Indigenous people and their communities are those recognized under Law 19.253 of the Ministry of Planning and Cooperation, or its successor.
Headnotes to Malaysia’s Annex IV

1. Commitments under Chapter 17 (State-owned Enterprises and Designated Monopolies) are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.

2. The preferences referred to in entry 1 shall not collectively comprise more than 40% of the total value of a state-owned enterprise’s annual budget for purchases of goods and services for use in its commercial activities in the territory of Malaysia.

3. Paragraph 2 shall not apply to the following entities with respect to the purchase of goods and services directly related to the scope of business activities indicated below:

   a. Majlis Amanah Rakyat (MARA) – developing, encouraging, facilitating and fostering Bumiputera development such as in the area of entrepreneurship, education and investment;

   b. Unit Peneraju Agenda Bumiputera (TERAJU) – leading and coordinating the Bumiputera Agenda with the aim of increasing sustainable Bumiputera participation and involvement in the national economy; and

   c. Ekuiti Nasional Berhad (EKUINAS) – the purchase and sale of equity for the purpose of delivering financial value on its investments and enhance equitable Bumiputera participation in the Malaysian economy.
ANNEX IV

Schedule of Malaysia (1)

Obligations Concerned:

- Article 17.4.1(a) and (b)
- Article 17.4.2(a) and (b)
- Article 17.6.1(a) and 17.6.2(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Malaysia

Entity:

All state-owned enterprises and designated monopolies

Scope of Non-Conforming Activities:

With respect to Article 17.4.1(a) and (b) and Article 17.4.2(a) and (b), Malaysia may require the Entity to accord preferential treatment in its purchases of goods or services for use in its commercial activities in the territory of Malaysia to goods or services sold by:

- a) Bumiputera enterprises, pursuant to measures implementing Bumiputera Affirmative Action*;
- b) enterprises located in the states of Sabah and Sarawak, pursuant to measures with the objective of promoting economic development in those states; and
- c) small and medium enterprises.**

This reservation shall not apply with respect to Petronas Nasional Berhad (PETRONAS), its subsidiaries or any new, reorganized or successor enterprise, when engaging in upstream activities in the oil and gas sector.

With respect to Article 17.6.1(a) and 17.6.2(a), Malaysia, its state enterprises or state-owned enterprises may provide non-
commercial assistance to Bumiputera enterprises, pursuant to measures implementing Bumiputera Affirmative Action.

*Bumiputera Affirmative Action is any measure that confers, safeguards, provides preference or render assistance, benefits or other forms of rights or interests to Bumiputera companies. Malaysia reserves the right to accord and grant Bumiputera status to eligible companies.

** The term “small and medium enterprises” has the same meaning as in Guidelines for New SME Definition, October 2013, or any successive definitions introduced by the Government of Malaysia.
ANNEX IV

Schedule of Malaysia (2)

Obligations Concerned:

- Article 17.4.1(a)
- Article 17.4.1(b)

Entity:

Petronas Nasional Berhad (PETRONAS), its subsidiaries or any new, reorganized or successor enterprise.

Scope of Non-Conforming Activities:

With respect to Article 17.4.1(a) and 17.4.1(b), the Entity may accord preferences to Malaysian enterprises in its purchase of goods or services when engaging in upstream activities in the oil and gas sector in the territory of Malaysia except for the following goods or services:

a) Seismic Data Acquisition;

b) Directional Drilling services, Gyro While Drilling services, Measurement While Drilling services, and Logging While Drilling services;

c) Cementing Related Services;

d) Gas Turbines and related maintenance and repair services;

e) Control Valve services;

f) Oil Country Tubular Goods;

g) Induction motors services;

h) Distributed Control System (DCS) services;

i) Transformer services;

j) Structural Steel;

k) Linepipes; and

l) Process pipes.

For the first year after signature of this Agreement, the preferences referred to above shall not comprise more than 70 percent of the total value of the Entity’s annual budget for purchases of goods and services.
services for use in its upstream activities in the territory of Malaysia.

For the second and third years after signature of this Agreement, the preferences shall not comprise more than 65 percent of the total value of the Entity’s annual budget for purchases of goods and services for use in its upstream activities in the territory of Malaysia.

For the fourth year after signature of this Agreement, the preferences shall not comprise more than 60 percent of the Entity’s annual budget for purchases of goods and services for use in its upstream activities in the territory of Malaysia.

For the fifth year after signature of this Agreement, the preferences shall not comprise more than 50 percent of the Entity’s annual budget for purchases of goods and services for use in its upstream activities in the territory of Malaysia.

For the sixth year after signature of this Agreement and thereafter, the preferences shall not comprise more than 40 percent of the Entity’s annual budget for purchases of goods and services for use in its upstream activities in the territory of Malaysia.

Note: “Petroleum Development Act 1974 (PDA 1974) vested PETRONAS with the entire ownership in, and the exclusive rights, powers, liberties and privileges of exploring, exploiting, winning and obtaining and commercialising of conventional and unconventional petroleum and hydrocarbon resources, whether onshore or offshore of Malaysia.

In addition, pursuant to PDA 1974, PETRONAS is designated as the sole entity that may award petroleum arrangement and other related contracts for exploration, development and production activities in Malaysia.

Parties recognize that the fact that PETRONAS is the sole authority designated to award petroleum arrangement and other related contracts to other companies to engage in exploration, development and production of petroleum and hydrocarbon resources does not mean that PETRONAS is a designated monopoly for the purposes of Article 17.4.2”

ANNEX IV – MALAYSIA - 5
ANNEX IV

Schedule of Malaysia (3)

Obligations Concerned:

- Article 17.4.1(a)
- Article 17.4.1(c)

Entity:

Petroleam Nasional Berhad (PETRONAS), its subsidiaries or any new, reorganized or successor enterprise.

Scope of Non-Conforming Activities:

With respect to Article 17.4.1(a) the Entity may sell natural gas and its byproducts at below market rates:

1) to consumers in the power or non-power sector, or to residential consumers, in the territory of Malaysia for the purpose of ensuring adequate supply and affordable prices for the general public; or

2) to the general public in the territory of Malaysia for the use of Natural Gas Vehicles for the purpose of promoting the use of gas fuel for environmental purposes.

With respect to Article 17.4.1(c), Malaysia may accord preferences to Malaysian persons in the sale of such goods.
ANNEX IV

Schedule of Malaysia (4)

Obligations Concerned: Article 17.6.1(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Malaysia

Article 17.6.1(b)

Entity: Petroliam Nasional Berhad (PETRONAS), its subsidiaries or any new, reorganized or successor enterprise.

Scope of Non-Conforming Activities: With respect to Article 17.6.1(a) and Article 17.6.1(b), Malaysia may provide the Entity with non-commercial assistance in the following circumstances:

1) to compensate the Entity for carrying out government-mandated projects in the territory of Malaysia outside the oil and gas sector with social implications and economic development objectives; and

2) to compensate the Entity for the sale of natural gas and its byproducts at below market rates:

   a. to consumers in the power or non-power sector, or to residential consumers, in the territory of Malaysia for the purpose of ensuring adequate supply and affordable prices for the general public; or
   b. to the general public in the territory of Malaysia for the use of Natural Gas Vehicles for the purpose of promoting the use of gas fuel for environmental purposes

provided that the government-mandated project does not itself confer an advantage to the Entity in its commercial activities.

ANNEX IV – MALAYSIA - 7
With respect to Article 17.6.1(a), Malaysia may provide the Entity with non-commercial assistance as compensation for carrying out government-mandated projects in the oil and gas sector necessary to ensure an adequate and sustainable supply of hydrocarbons or to develop capacity in the domestic oil and gas sector, provided that the government-mandated project does not itself confer an advantage to the Entity in its commercial activities.
ANNEX IV
Schedule of Malaysia (5)

Obligations Concerned: Article 17.4.1(a) and (b)

Entity: Felda Global Ventures Berhad or any new, reorganized or successor enterprise or entity

Scope of Non-Conforming Activities: With respect to Article 17.4.1(a) and (b), Felda Global Ventures Berhad may accord preferential treatment in its purchases of goods for the purpose of commercial resale to goods produced by its members/settlers who are participants in Federal Land Development Authority development schemes.

Measures: Land Development Ordinance 1956
ANNEX IV
Schedule of Malaysia (6)

Obligations Concerned: Article 17.4.1(a) and 4.1(c)

Entity: All existing and future Development Financial Institutions

Scope of Non-Conforming Activities: With respect to Article 17.4.1(a) and (c), the Entity provides financial services within the territory of Malaysia for the purposes of promoting development. Such financial services are not intended to displace or impede financial services supplied by privately-owned enterprises from the relevant market.

The Entity may accord preferences to Malaysian persons in the supply of such financial services.

“Development Financial Institutions” means institutions which carry on any activity, whether for profit or otherwise, with or without any Government funding, with the purpose of promoting development in the financial, industrial, agricultural, commercial or other economic sector, including the provision of capital or other credit facility; and for the purposes of this definition, “development” includes the commencement of any new industrial, agricultural, commercial or other economic venture or the expansion or improvement of any such existing venture. “Development Financial Institutions” includes but is not limited to:

- Bank Pembangunan Malaysia Berhad
- Bank Perusahaan Kecil dan Sederhana Malaysia Berhad
• Export-Import Bank of Malaysia Berhad
• Bank Kerjasama Rakyat Malaysia
• Bank Simpanan Nasional
• Bank Pertanian Malaysia Berhad
• Malaysian Industrial Development Finance Berhad
• Credit Guarantee Corporation Berhad
• Lembaga Tabung Haji
• Sabah Development Bank Berhad
• Sabah Credit Corporation
• Borneo Development Corporation (Sabah) Sdn Bhd
• Borneo Development Corporation (Sarawak) Sdn Bhd
• Danajamin Nasional Berhad
• Cagamas Berhad

Measures: Development Financial Institutions Act 2002
### ANNEX IV

#### Schedule of Mexico (1)

<table>
<thead>
<tr>
<th>Obligations Concerned</th>
<th>Comisión Federal de Electricidad, its subsidiaries and affiliates, or any new, reorganized or successor enterprise or entity.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 17.4.1(a).</td>
<td>With respect to Article 17.4.1(a), the Entity may grant preferences to goods and services of Mexican enterprises in its purchases of goods and services, when engaging in the following activities within the territory of Mexico:</td>
</tr>
<tr>
<td>Article 17.6.1(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Mexico.</td>
<td>a) Transmission and distribution of electricity;</td>
</tr>
<tr>
<td>Article 17.6.2(b).</td>
<td>b) Electricity generation through the use of nuclear fuels; and</td>
</tr>
<tr>
<td></td>
<td>c) Conditioning, transportation, storage and confinement of radioactive waste.</td>
</tr>
<tr>
<td>Entity</td>
<td>The State may require the Entity in the contracts and permits awarded to or granted to the Entity, to include preferences for the purchase of goods and services of Mexican enterprises, when engaging in the transportation, storage, distribution, and commercialization of natural gas and other fuels, pursuant to the Hydrocarbons Law.</td>
</tr>
<tr>
<td>Scope of Non-Conforming Activities</td>
<td>The preferences to goods and services described above are granted pursuant to Mexico’s entry 14 (Electricity) in its Schedule of Non-Conforming Measures listed in Annex I. For greater certainty, Mexico has not scheduled against Article 17.4.1(b) for these preferences by virtue of Article 17.2.11.</td>
</tr>
<tr>
<td></td>
<td>With respect to Articles 17.6.1(a) and 17.6.2(b), Mexico or its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity, including from the Universal Electric Service Fund, for the sole purpose of implementing targeted programs which are undertaken pursuant to the Ley de la Industria Eléctrica and which promote the electrification of rural communities and marginalized urban areas, including the supply of power to vulnerable users at affordable prices.</td>
</tr>
<tr>
<td>Measure(s)</td>
<td>- Ley de la Comisión Federal de Electricidad, Articles 5, 63, 78 paragraphs VIII and IX.</td>
</tr>
</tbody>
</table>

ANNEX IV – MEXICO - 1
- Ley Reglamentaria del artículo 27 Constitucional en Materia Nuclear, Article15 paragraphs 1 and 2, and 49.
- Implementing laws and regulations.
### ANNEX IV
### Schedule of Mexico (2)

| Obligations Concerned | 17.6.1(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment.  
17.6.1(b), with respect to the supply of services into the territory of a bordering Party.  
17.6.2(a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment.  
17.6.2(b), with respect to the supply of services into the territory of a bordering Party. |
| Entity | Comisión Federal de Electricidad, its subsidiaries and affiliates, or any new, reorganized or successor enterprise. |
| Scope of Non-Conforming Activities | Mexico or its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity for the sole purpose of carrying out government-mandated projects with social implications and economic development in the following areas:  
a) Pipeline transportation and storage of gas; and  
b) Distribution of gas. |
| Measure(s) | - Ley de Hidrocarburos, Article 122.  
- Implementing laws and regulations. |
<table>
<thead>
<tr>
<th>Obligations Concerned</th>
<th>Article 17.4.1(a).</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Entity</strong></td>
<td>Petróleos Mexicanos, its subsidiaries and affiliates, or any new, reorganized, or successor enterprise or entity.</td>
</tr>
<tr>
<td><strong>Scope of Non-Conforming Activities</strong></td>
<td>With respect to Article 17.4.1(a), the Entity may grant preferences for goods and services of Mexican enterprises in its purchases of goods and services, pursuant to measures listed below when engaging in exploration and production of oil and other hydrocarbons within the territory of Mexico.</td>
</tr>
</tbody>
</table>

The State may require the Entity in the entitlements, exploration and production contracts, and permits awarded to or granted to the Entity, to include preferences for the purchase of national goods, contracting domestic services.

Average national content for exploration and production activities shall be 25 percent by 2015 and at least 35 percent by 2025. This percentage does not apply to deepwater and ultra-deepwater projects, which will have a different national content requirement. After 2025, Mexico will review and update the average national content for exploration and production activities every five years.

In imposing such requirements, the Entity must employ the methodology established by the Ministry of Economy and must take into account that it does not affect the competitive position of the Entity, and other enterprises developing exploration and production of hydrocarbons.

The preferences to goods and services described above are granted pursuant to Mexico’s entry 13 (Energy) in its Schedule of Non-Conforming Measures listed in Annex I. For greater certainty, Mexico has not scheduled against Article 17.4.1(b) for these preferences by virtue of Article 17.2.11.

**Measure(s)**
- Ley de Hidrocarburos, Articles 3, 6, 8, 11, 16, 17, 19, 29, 41, 46, 122, 125, 128 and Transitory Provision 8, 14, 24 and 28.
- Ley de Petróleos Mexicanos, Articles 13, 63 and 76.
- Reglamento de la Ley de Hidrocarburos, Articles 14 and 36.
- Methodology for the Measurement of the National Content in the Entitlements and Exploration and Production Contracts of Hydrocarbons, and for the permits in the Hydrocarbons.
Industry, issued by the Ministry of Economy (Metodología para la Medición del Contenido Nacional en Asignaciones y Contratos para la Exploración y Extracción de Hidrocarburos, así como para los permisos en la Industria de Hidrocarburos, emitida por la Secretaría de Economía).

- Implementing laws and regulations.
ANNEX IV
Schedule of Mexico (4)

Obligations Concerned

17.6.1 (a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment.

17.6.1(b).

17.6.2 (a), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment.

17.6.2(b).

Entity

Petróleos Mexicanos, its subsidiaries and affiliates, or any new, reorganized, or transferee enterprise or entity.

Scope of Non-Conforming Activities

With respect to Articles 17.6.1(a) and (b), and Articles 17.6.2(a) and (b), Mexico or its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity for the sole purpose of undertaking projects mandated by the federal government:

a) With social implications and to promote economic development, including projects involving the supply of services into the territory of bordering Parties, in the following sectors:
   - Treatment and refining of oil and natural gas processing;
   - Transport and storage of hydrocarbons and petroleum products;
   - Pipeline transportation and storage of petrochemicals;
   - Distribution of gas and petroleum products;
   - Retail sales of gas and petroleum products.

b) To ensure the adequate supply of hydrocarbons and petroleum products at affordable prices in order to meet the basic needs of the population in rural areas and marginalized urban areas within Mexico.

Measure(s)

- Ley de Hidrocarburos, Articles 122, 123 and 124.
- Implementing laws and regulations.

ANNEX IV – MEXICO - 6
## ANNEX IV
### Schedule of Mexico (5)

<table>
<thead>
<tr>
<th>Obligations Concerned</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.6.1(a)</td>
<td>with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment.</td>
</tr>
<tr>
<td>17.6.1(b)</td>
<td></td>
</tr>
<tr>
<td>17.6.2(a)</td>
<td>with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment.</td>
</tr>
<tr>
<td>17.6.2(b)</td>
<td></td>
</tr>
</tbody>
</table>

**Entity**

*Centro Nacional de Control del Gas Natural*, or any new, reorganized, or transferee enterprise or entity.

**Scope of Non-Conforming Activities**

With respect to Articles 17.6.1 and Article 17.6.2, Mexico or its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity for the sole purpose of undertaking projects with social implications and to promote economic development in the following areas:

a) Natural gas processing;
b) Transport and storage of hydrocarbons and petroleum products;
c) Distribution of gas and petroleum products.

**Measure(s)**

- *Ley de Hidrocarburos*, Articles 122 and 123.
- Implementing laws and regulations.
**ANNEX IV**

**Schedule of Mexico (6)**

<table>
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<tr>
<th>Obligations Concerned</th>
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<tbody>
<tr>
<td>Article 17.4.1(a), (b) and (c).</td>
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<tr>
<td>Article 17.6.1(b).</td>
<td></td>
</tr>
<tr>
<td>Article 17.6.2(b).</td>
<td></td>
</tr>
</tbody>
</table>

**Entity**

*Banco Nacional de Obras y Servicios Públicos, S.N.C.*, or any new, reorganized, or successor enterprise, with similar functions and objectives.

**Scope of Non-Conforming Activities**

The purpose of the Entity, as a development bank, is to finance or refinance projects that are directly or indirectly related to public or private investment in infrastructure and public services, and supporting the institutional strengthening of the Government (Federal, State and Municipal levels).

With respect to Articles 17.4.1(a) and 17.4.1(b), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises.

With respect to Articles 17.4.1(a) and 17.4.1(c), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programs oriented to promote access to credit only to nationals or Mexican enterprises.

With respect to Articles 17.6.1(b) and 17.6.2(b) the Entity may receive government guarantees for banking services in order to comply with the Entity’s purpose referred above and pursuant to considerations consistent with its laws and regulations.

The services provided by this Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

**Measure(s)**

- *Ley de Instituciones de Crédito*, Articles 30 to 44 Bis 2, 46, 46 1 bis, 47 and 75.
- *Ley Orgánica del Banco Nacional de Obras y Servicios Públicos*, Articles 2, 3, 4, 6, 7, 8, 11, 29 and 31.
- *Disposiciones de Carácter General Aplicables a las Instituciones de Crédito*, Chapter 11.
ANNEX IV
Schedule of Mexico (7)

<table>
<thead>
<tr>
<th>Obligations Concerned</th>
<th>Article 17.4.1(a), (b) and (c).</th>
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<tbody>
<tr>
<td></td>
<td>Article 17.6.1(b).</td>
</tr>
<tr>
<td></td>
<td>Article 17.6.2(b).</td>
</tr>
</tbody>
</table>

| Entity | Banco del Ahorro Nacional y Servicios Financieros, S.N.C., or any new, reorganized, or successor enterprise, with similar functions and objectives. |

| Scope of Non-Conforming Activities | The purpose of the Entity, as a development bank is to promote savings, financing, and investment among the members of the Banking sector, offer financial services and instruments among such members, and channel financial and technical aids that are necessary to promote savings habits and good development of the Banking sector. |

With respect to Articles 17.4.1(a) and 17.4.1(b), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises.

With respect to Articles 17.4.1(a) and 17.4.1(c), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programs oriented to promote access to credit only to nationals or Mexican enterprises.

With respect to Articles 17.6.1(b) and 17.6.2(b) the Entity may receive government guarantees on banking services in order to comply with the Entity’s purpose referred above and pursuant to considerations consistent with laws and regulations.

The services provided by this Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

| Measure(s) | - Ley de Instituciones de Crédito, Articles 30 to 44 Bis 2, 46, 46 l bis, 47 and 75. |
|           | - Ley Orgánica del Banco del Ahorro Nacional y Servicios Financieros, Articles 3, 4, 7, 8, 10, 32 and 36. |
|           | - Disposiciones de Carácter General Aplicables a las Instituciones de Crédito, Chapter 11. |
ANNEX IV
Schedule of Mexico (8)

| Obligations Concerned | Article 17.4.1(a), (b) and (c).  
|                        | Article 17.6.1(b). 
|                        | Article 17.6.2(b). |

**Entity**

*Banco Nacional del Ejército, Fuerza Aérea y Armada, S.N.C.*, or any new, reorganized, or successor enterprise, with similar functions and objectives.

**Scope of Non-Conforming Activities**

The purpose of the Entity, as a development bank, is to grant financial aid mainly to the members of the Mexican Army, Air Force, and Navy.

With respect to Articles 17.4.1(a) and 17.4.1(b), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises.

With respect to Articles 17.4.1(a) and 17.4.1(c), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programs oriented to promote access to credit only to nationals or Mexican enterprises.

With respect to Articles 17.6.1(b) and 17.6.2(b) the Entity may receive government guarantees on banking services in order to comply with the Entity’s purpose referred above and pursuant to considerations consistent with its laws and regulations.

The services provided by this Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

**Measure(s)**

- *Ley de Instituciones de Crédito*, Articles 30 to 44, Bis 2, 46, 46 1 bis, 47 and 75.
- *Ley Orgánica del Banco Nacional del Ejército, Fuerza Aérea y Armada*, Articles 2, 3, 4, 6, 7, 9 and 52.
- *Disposiciones de Carácter General Aplicables a las Instituciones de Crédito*, Chapter 11.
### ANNEX IV

#### Schedule of Mexico (9)

<table>
<thead>
<tr>
<th>Obligations Concerned</th>
<th>Article 17.4.1(a), (b) and (c).</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Article 17.6.1(b).</td>
</tr>
<tr>
<td></td>
<td>Article 17.6.2(b).</td>
</tr>
</tbody>
</table>

#### Entity

*Nacional Financiera, S.N.C.*, or any new, reorganized, or successor enterprise, with similar functions and objectives.

#### Scope of Non-Conforming Activities

The purpose of the Entity, as a development bank, is to promote savings and investment, and to channel financial and technical resources for the industrial development and national and regional economic development.

With respect to Articles 17.4.1(a) and 17.4.1(b), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprise.

With respect to Articles 17.4.1(a) and 17.4.1(c), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programs oriented to promote access to credit only to nationals or Mexican enterprises.

With respect to Articles 17.6.1(b) and 17.6.2(b) the Entity may receive government guarantees on banking services in order to comply with the Entity’s purpose referred above and pursuant to considerations consistent with its laws and regulations.

The services provided by this Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

#### Measure(s)

- *Ley de Instituciones de Crédito*, Articles 30 to 44, Bis 2, 46, 46 1 bis, 47 and 75.
- *Ley Orgánica de Nacional Financiera*, Articles 2, 3, 5, 6, 10, 29, 30, 32, 33 and 36.
- *Disposiciones de Carácter General Aplicables a las Instituciones de Crédito*, Chapter 11.
### ANNEX IV
Schedule of Mexico (10)

<table>
<thead>
<tr>
<th>Obligations Concerned</th>
<th>Scope of Non-Conforming Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 17.4.1(a), (b) and (c).</td>
<td>The purpose of the Entity, as a development bank, is to foster the development of primary and secondary mortgage markets, by granting credit and guarantees for the construction, acquisition and improvement of housing, preferably social interest housing, as well as increase production capacity and technological development related to housing. It could also guarantee funding related to the equipment of housing complexes.</td>
</tr>
<tr>
<td>Article 17.6.1(b).</td>
<td>With respect to Articles 17.4.1(a) and 17.4.1(b), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises.</td>
</tr>
<tr>
<td>Article 17.6.2(b).</td>
<td>With respect to Articles 17.4.1(a) and 17.4.1(c), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programs oriented to promote access to credit only to nationals or Mexican enterprises.</td>
</tr>
</tbody>
</table>

The services provided by this Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

**Measure(s)**

- *Ley de Instituciones de Crédito*, Articles 30 to 44, Bis 2, 46, 46 1 bis, 47 and 75.
- *Ley Orgánica de Sociedad Hipotecaria Federal*, Articles 2, 4, 5, 8, 8Bis, 24Bis, 24Ter and 28.
- *Disposiciones de Carácter General Aplicables a las Instituciones de Crédito*, Chapter 11.
ANNEX IV

Schedule of New Zealand (1)

Obligations Concerned

Article 17.6.1 (b)
Article 17.6.2 (b)

Entity

All existing and future state-owned enterprises

Scope of Non-Conforming Activities

New Zealand or any of its state-owned enterprises or state-enterprises, may provide non-commercial assistance to the Entity for the supply of construction, operation, maintenance or repair services of physical infrastructure supporting communications between New Zealand and other TPP Parties.
ANNEX IV

Schedule of New Zealand (2)

Obligations Concerned

Article 17.6.1 (b)
Article 17.6.2 (b)

Entity

All existing and future state-owned enterprises

Scope of Non-Conforming Activities

New Zealand, or any of its state-owned enterprises or state-enterprises may provide non-commercial assistance to the Entity for the supply of air transport services and maritime transport services to the extent that they provide a connection for New Zealand to the rest of the world, provided that non-commercial assistance for the supply of air transport services:

a. is provided in order to maintain ongoing operations; and

b. does not cause:

i. A significant increase in the Entity’s market share of the service;

ii. A significant price undercutting by the service supplied by the Entity as compared with the price in the same market of a like service supplied by a service supplier of another TPP Party, or significant price suppression, price depression or lost sales in the same market.
### ANNEX IV

**Schedule of New Zealand (3)**

<table>
<thead>
<tr>
<th>Obligations Concerned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 17.6.1 (a) and 6.2 (a) with respect to the production and sale of goods in competition with a like good produced and sold by a covered investment in the territory of New Zealand</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid Energy New Zealand Limited</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Scope of Non-Conforming Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Zealand, or any of its state-owned enterprises or state enterprises may provide non-commercial assistance to Solid Energy New Zealand Limited for the production and sale of coal within the territory of New Zealand.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deed of indemnity between Solid Energy New Zealand Limited and the Crown dated September 2014</td>
</tr>
</tbody>
</table>
ANNEX IV
Schedule of Peru (1)

Obligations Concerned: Article 17.6.1 (a) with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Peru.

Entity: Petróleos del Perú - PETROPERU S.A. or its successor.

Scope of Non-conforming Activities: With respect to Article 17.6.1 (a) PETROPERU S.A. or its successor may, in a restructuring process that includes the private participation in equity and/or management in the enterprise, receive non-commercial assistant that could have an impact in their activities of exploitation, refining, production and sales of fuels and other oil products.

Measures: Legislative Decree Nº 43, 1981.
ANNEX IV

Schedule of Peru (2)

Obligations Concerned: Article 17.4.1 (a) in relation to the purchase of a good or service.

Entity: All existing and future state-owned enterprises at central level of government.

Scope of Non-conforming Activities: Existing and future state-owned enterprises may accord more favorable treatment to socially or economically disadvantaged minorities and ethnic groups in the purchase of goods and services.

For the purposes of this reservation, ethnic groups means indigenous, native, and peasant communities.
ANNEX IV

Schedule of the United States of America (1)

Obligations Concerned: Article 17.4.1(a) and 17.4.1(c)(i), with respect to financial services
Article 17.6.1(b)

Entity: Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association, or any new, reorganized or transferee enterprise(s), with similar functions and objectives.

Scope of Non-conforming Activities:
With respect to Articles 17.4.1(a) and 17.6.1(b), to facilitate housing finance in the United States, the Entity, pursuant to considerations consistent with laws and regulations:

- purchases, sells or trades single-family, multi-family, and commercial mortgage loans, and assets underlying these loans as a consequence of foreclosure or a similar action in connection with defaulted debt;
- issues mortgage-backed securities and direct debt or other obligations related to risks associated with those securities;
- guarantees or insures the timely payment of principal and interest on mortgage-backed securities;
- administers payments associated with mortgage-backed securities; and
- purchases, sells or trades mortgage-backed securities and direct debt or other obligations related to risks associated with those securities.

With respect to Article 17.4.1(c)(i), to facilitate housing finance in the United States, the Entity may, in certain circumstances, pursuant to considerations consistent with
laws and regulations such as 12 U.S.C. 1451-1459 and 12 U.S.C. 1716-1723i:

- purchase, sell, trade single-family, multi-family, and commercial mortgage loans, and assets underlying such loans as a consequence of foreclosure or a similar action in connection with defaulted debt, and administer payments associated with such loans or assets, only with enterprises in the territory of the United States; and

- guarantee or insure the timely payment of principal and interest only on mortgage-backed securities that are issued by enterprises in the territory of the United States.

The scope of non-conforming activities listed with respect to Article 17.4.1(c)(i) includes the purchase of associated financial services.

**Measures:**

ANNEX IV

Schedule of the United States of America (2)

Obligations Concerned: Article 17.4.1(a) and 17.4.1(c)(i), with respect to financial services

Article 17.6.1(b)

Entity: Federal Financing Bank, or any new, reorganized or transferee enterprise, with similar functions and objectives.

Scope of Non-conforming Activities:

With respect to Articles 17.4.1(a) and 17.6.1(b), the Entity may, pursuant to considerations set out in laws and regulations:

- provide loans (including through the purchase of obligations, such as bonds or notes) that are guaranteed by U.S. federal agencies or by U.S. federal government-authorized entities to (a) enterprises; and to (b) governments of other TPP Parties; and
- issue or sell obligations to privately owned enterprises.

With respect to Article 17.4.1(c)(i), the Entity may, in certain circumstances and pursuant to considerations set out in laws and regulations:

- provide loans (including through the purchase of obligations, such as bonds or notes) that are guaranteed by U.S. federal agencies or by U.S. federal government-authorized entities only to (a) privately owned enterprises in the territory of the United States; (b) enterprises in the territories of certain other countries; or (c) governments of certain other countries as determined by the United States; and
- issue or sell obligations only to (a) privately owned enterprises in the territory of the United States; or
(b) enterprises in the territories of certain other countries as determined by the United States.

The scope of non-conforming activities listed with respect to Article 17.4.1(c)(i) includes the purchase of associated financial services.

**Measures:**

12 U.S.C. 2285
ANNEX IV
Schedule of the United States of America (3)

Obligations Concerned: Article 17.4.1 (a) and 17.4.1(c)(i), with respect to financial services

Entity: A national infrastructure bank, or any reorganized or transferee enterprise, with similar functions and objectives.

Scope of Non-conforming Activities: With respect to Article 17.4.1(a) and 17.4.1(c)(i), the Entity, pursuant to a government mandate in laws and regulations, provides financing at below market rates to privately owned enterprises to construct or maintain general infrastructure located in whole or in part in the territory of the United States, and may, in certain circumstances and pursuant to a government mandate, provide this financing only to privately owned enterprises in the territory of the United States.

The scope of non-conforming activities listed with respect to Article 17.4.1(c)(i) includes the purchase of associated financial services.
ANNEX IV
Schedule of Viet Nam (1/14)

Obligations Concerned: Article 17.6.1 (a), with respect to production and sale of a good in competition with a covered investment in the territory of Viet Nam
Article 17.6.1 (b)

Entity: All state-owned enterprises and designated monopolies

Scope of Non-conforming Activities: With respect to Article 17.6.1 (a), Viet Nam may provide any financing necessary to the restructuring of the Entity, provided that the financing does not cause:

i. a significant increase in the market share of a good produced and sold by the Entity in the relevant market in the territory of Viet Nam; or

ii. a significant price-undercutting of a good produced and sold by the Entity as compared with the price in the same market of a like good produced and sold by an enterprise that is a covered investment of another Party, or a significant price suppression, price depression or lost sales in the same market.

With respect to Article 17.6.1 (a) and (b), Viet Nam may provide the Entity with assistance in the form of a one-time purchase of non-performing loans or unused assets at market value and financing of the government to settle excessive employees, provided that the assistance is non-recurrent, cannot be repeated and is given for purposes of equitisation.

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1 Except any financing related to the equitisation of an enterprise
2 For the purpose of this entry, “equitisation” means the transformation of an enterprise which is 100% state-owned into an joint stock company
## ANNEX IV
### Schedule of Viet Nam (2/14)

<table>
<thead>
<tr>
<th>Obligations Concerned:</th>
<th>Article 17.4.1 (a) and Article 17.4.2 (a) Article 17.6.1 (a) and Article 17.6.2 (a) with respect to production and sale of a good in competition with a covered investment in the territory of Viet Nam</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entity:</td>
<td>All state-owned enterprises and designated monopolies</td>
</tr>
<tr>
<td>Scope of Non-Conforming Activities:</td>
<td>With respect to Article 17.4.1 (a) and Article 17.4.2 (a), as a means of ensuring economic stability or providing public goods as defined in laws and regulations, Viet Nam may, pursuant to laws or regulations, require a state-owned enterprise or a designated monopoly: (i) to sell or purchase goods at a regulated price, quantity or other terms and conditions; and (ii) produce or sell a good to the public, as defined in laws and regulations, within the territory of Viet Nam.</td>
</tr>
<tr>
<td></td>
<td>With respect to Article 17.6.1 (a) and Article 17.6.2 (a), Viet Nam, its state enterprises or state-owned enterprises may provide the Entity with non-commercial assistance to cover the reasonable costs, including any contributions to employee welfare funds, as a result of the implementation of such measure(s).</td>
</tr>
</tbody>
</table>
ANNEX IV
Schedule of Viet Nam (3/14)

Obligations Concerned:

Article 17.4.1 (a) and Article 17.4.2 (a)

Article 17.6.1 (a) and Article 17.6.2 (a) with respect to production and sale of a good in competition with a covered investment in the territory of Viet Nam

Entity:

All state-owned enterprises and designated monopolies

Scope of Non-conforming Activities:

With respect to Article 17.4.1 (a) and Article 17.4.2 (a), as a means of promoting and facilitating the economic development of remote and mountainous areas, borderlands and offshore areas, areas under extremely difficult socio-economic conditions or areas where the standard of living is abnormally low or where there is serious underemployment, Viet Nam may require or direct the Entity to take into account factors other than commercial considerations in its purchase of goods pursuant to a government measure.

With respect to Article 17.6.1 (a) and Article 17.6.2 (a), Viet Nam, its state enterprises or state-owned enterprises may provide the Entity with compensation for the implementation of such measure.
ANNEX IV

Schedule of Viet Nam (4/14)

Obligations Concerned: Article 17.4.1 (a) and (b) Article 17.4.2 (a) and (b)

Entity: All state-owned enterprises and designated monopolies

Scope of Non-Conforming Activities: With respect to Article 17.4.1 (a) and (b) and Article 17.4.2 (a) and (b), as a means of promoting and facilitating the development of small and medium enterprises as defined by laws and regulations 3, Viet Nam may require or direct the Entity to:

(i) take into account factors other than commercial considerations; and/or
(ii) accord preferential treatment to small and medium enterprises that are investments of Vietnamese investors in the territory of Viet Nam,

in its purchase of a good or service from small and medium enterprises pursuant to a government measure.

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3 For greater certainty, the term “small and medium enterprise” for Viet Nam is consistent with entry 7 in Annex II

ANNEX IV – VIET NAM - 4
ANNEX IV

Schedule of Viet Nam (5/14)

**Obligations Concerned:**
- Article 17.4.1 (a)
- Article 17.4.2 (a)
- Article 17.6.1 (a) and Article 17.6.2 (a) with respect to production and sale of a good in competition with a covered investment in the territory of Viet Nam

**Entity:**
Vietnam Oil and Gas Group (PETROVIETNAM) and its subsidiaries\(^4\) and successors

**Scope of Non-conforming Activities:**
With respect to Article 17.4.1 (a) and Article 17.4.2 (a), the Entity, pursuant to a governmental measure, may be required to take into account factors other than commercial considerations with respect to sales of a good and may accord preferential treatment in its purchases of a good or service supplied by enterprises that are investments of Vietnamese investors in the territory of Viet Nam in the following activities: oil and gas exploration, prospecting and exploitation, flight operation services.

The preferences to a good or service described above are accorded pursuant to Viet Nam’s entry 31 in its Schedule to Annex I. For greater certainty, Viet Nam has not scheduled against Articles 17.4.1 (b) and 17.4.2 (b) for these preferences by virtue of Article 17.2.11.

With respect to Articles 17.6.1 (a) and 17.6.2 (a), Viet Nam, its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity in order to carry out a project in the oil and gas, hydrocarbon and hydrocarbon derivative and related industries with the objectives of regional or socio-economic development within the territory of Viet Nam.

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\(^4\) A list of subsidiaries of PETROVIETNAM can be found at [www.pvn.vn](http://www.pvn.vn)

ANNEX IV – VIET NAM - 5
### ANNEX IV

#### Schedule of Viet Nam (6/14)

| Obligations Concerned: | Article 17.4.1 (a)  
| Article 17.4.2 (a)  
| Article 17.6.1 (a) and Article 17.6.2 (a) with respect to production and sale of a good in competition with a covered investment in the territory of Viet Nam  |
| Entity: | Vietnam Electricity (EVN) and its subsidiaries and successors\(^5\);  
| Any existing or future state-owned enterprise that engages in power generation, including nuclear power or any types of renewable energy;  |
| Scope of Non-conforming Activities: | With respect to Articles 17.4.1 (a) and 17.4.2 (a), pursuant to a government measure, the Entity must ensure the development of a sustainable power system, fulfill the requirements to provide safe, stable and efficient power supply at regulated prices and other terms and conditions and may accord differential treatment in its purchase of a good or service in the areas of power generation by hydropower, nuclear power and security-related power generators, transmission and distribution of all types of electricity, power and alternative or substitute of electricity.  
| The preferences to a good or service described above are accorded pursuant to Viet Nam’s entry 22 in its Schedule to Annex I and entry 21 in its Schedule to Annex II. For greater certainty, Viet Nam has not scheduled against Articles 17.4.1 (b) and 17.4.2 (b) for these preferences by virtue of Article 17.2.11.  
| With respect to Articles 17.6.1 (a) and 17.6.2 (a), Viet Nam, its state enterprises or state-owned enterprises may provide loans or loan guarantees to the Entity for the purpose of establishing power generation facilities with the objectives of regional or socio-economic development. |

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\(^5\) A list of subsidiaries of Vietnam Electricity can be found at [www.evn.com.vn](http://www.evn.com.vn)
ANNEX IV

Schedule of Viet Nam (7/14)

Obligations Concerned:

Article 17.4.1 (a), with respect to the sale of a good

Article 17.6.1 (a) and Article 17.6.2 (a) with respect to production and sale of a good in competition with a covered investment in the territory of Viet Nam

Entity:

Vietnam National Coal - Minerals Holding Corporation Limited (Vinacomin) and its subsidiaries and successors in the mining sector

Scope of Non-conforming Activities:

With respect to Article 17.4.1 (a), the Entity may sell coal or any minerals in the territory of Viet Nam on terms and conditions other than those based on commercial considerations, pursuant to laws and regulations.

With respect to Articles 17.6.1 (a) and 17.6.2 (a), Viet Nam, its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity for the maintenance of its existing activities in remote areas or areas of strategic importance in its production of coal and minerals in the territory of Viet Nam, provided the assistance does not cause: i) a significant increase in the market share of a good produced and sold by the Entity in the relevant market in the territory of Viet Nam; or ii) a significant price-undercutting of a good produced and sold by the Entity as compared with the price in the same market in the territory of Viet Nam of a like good produced and sold by an enterprise that is a covered investment of another Party, or a significant price suppression, price depression or lost sales in the same market.
**ANNEX IV**

**Schedule of Viet Nam (8/14)**

| Obligations Concerned: | Article 17.4  
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td><strong>Entity:</strong></td>
<td>State Capital Investment Corporation (SCIC) and its subsidiaries and successors</td>
</tr>
<tr>
<td><strong>Scope of Non-conforming Activities:</strong></td>
<td>Asset management, investment and related activities, using financial assets of Viet Nam</td>
</tr>
</tbody>
</table>

*This entry will cease to have effect once SCIC becomes a full member of the International Forum of Sovereign Wealth Funds or within 5 years after the entry into force of this Agreement, whichever comes first.*
ANNEX IV
Schedule of Viet Nam (9/14)

Obligations Concerned: Articles 17.4.1 (a) and (c) Articles 17.6.1 (b) and (c)

Entity: - Vietnam National Financial Switching JSC., (Banknetvn);
- Debt and Asset Trading Corporation (DATC);
- Vietnam Development Bank (VDB); Vietnam Bank for Agriculture and Rural Development (Agribank) and its subsidiaries;
- Social policy funding entities, co-operative banks, and any development financial institutions;
- a mortgage refinance bank
and their successors

Scope of Non-conforming Activities: With respect to Articles 17.4.1 (a) and (c), pursuant to a government measure, the Entities listed in this entry (except Banknetvn) may take into account factors other than commercial considerations and provide financial services (except insurance and securities) solely to or accord preferential treatment to Vietnamese nationals or enterprises in the territory of Viet Nam. These services are not intended to displace or impede private financing.

With respect to Articles 17.6.1 (b) and (c), Viet Nam may provide assistance to BanknetVN to provide financial switching services.
<table>
<thead>
<tr>
<th>Obligations Concerned:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 17.4</td>
</tr>
<tr>
<td>Article 17.6</td>
</tr>
</tbody>
</table>

**Entity:** Any state-owned enterprises owned or controlled by the Ministry of Defense of Viet Nam or the Ministry of Public Security of Viet Nam, except Viettel Global JSC., and enterprises exclusively engaged in commercial activities not related to national defense, public order or public security.

**Scope of Non-conforming Activities:** All existing and future activities
ANNEX IV
Schedule of Viet Nam (11/14)

Obligations Concerned:
Articles 17.4.1 (a) and (c)
Articles 17.6.1 (b) and 17.6.2 (b)

Entity:
Airport Corporation of Vietnam, Vietnam Airlines Corporation, Vietnam National Shipping Lines and their subsidiaries and successors;

Scope of Non-conforming Activities:
With respect to Articles 17.4.1 (a) and (c), Airport Corporation of Vietnam may provide ground handling services to Vietnamese national airlines at preferential rates, pursuant to a governmental measure.

With respect to Article 17.6.1 (b), Vietnam Airlines Corporation may receive non-commercial assistance in the form of a loan guarantee as part of an international financial arrangement or contract, provided that the assistance does not directly cause: (i) a significant increase in the market share of a service provided by Vietnam Airlines Corporation in the relevant market; or (ii) a significant price undercutting of a service provided by Vietnam Airlines Corporation as compared with the price in the same market of a like service provided by an enterprise that is a covered investment of another Party, or a significant price suppression, price depression or lost sales in the same market.

With respect to Articles 17.6.1 (b) and 17.6.2 (b), Viet Nam, its state enterprises or state-owned enterprises may provide non-commercial assistance to Vietnam National Shipping Lines pursuant to a restructuring plan with respect to the supply of maritime transportation services.
ANNEX IV
Schedule of Viet Nam (12/14)

Obligations Concerned: Articles 17.6.1 (a) and 17.6.2 (a) with respect to the production and sale of goods in competition with a covered investment in the territory of Vietnam

Entity: Shipbuilding Industry Corporation (SBIC) and its subsidiaries and successors in the shipbuilding and related sectors

Scope of Non-conforming Activities: With respect to Articles 17.6.1 (a) and 17.6.2 (a), Viet Nam, its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity pursuant to a restructuring plan.
ANNEX IV
Schedule of Viet Nam (13/14)

Obligations Concerned: Articles 17.6.1 (a) and 17.6.2 (a), with respect to the production and sale of a good in competition with a covered investment in the territory of Viet Nam

Entity: Vietnam National Coffee Corporation

Scope of Non-conforming Activities: With respect to Articles 17.6.1 (a) and 17.6.2 (a), Viet Nam, its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity in the production and sale of coffee in the territory of Viet Nam.
ANNEX IV
Schedule of Viet Nam (14/14)

Obligations Concerned:  
Article 17.4.1 (a)  
Articles 17.6.1 (b) and 17.6.2 (b)

Entity:  
Any state-owned enterprises in the printing, publishing, audio-visual services, mass communication (press, news-gathering agencies, publishing, radio and television broadcasting, in any form) and telecom sectors

Scope of Non-conforming Activities:  
Any activities of Entity in the mass-communication, printing and publishing sectors;

With respect to Article 17.4.1 (a), the Entity in the telecom sector may sell or purchase goods and services at a regulated price or other terms and conditions pursuant to a government measure.

With respect to Article 17.4.1 (a), any states owned enterprises may take into account factors other than commercial considerations and accord differential treatment to purchase and sale of audio-visual productions and distribution services.

The preferences to a good or service described above are accorded pursuant to Viet Nam’s entries 8 and 9 in its Schedule to Annex I, and entries 13, 18 and 20 in its Schedule to Annex II. For greater certainty, Viet Nam has not scheduled against Article 17.4.1 (b) for these preferences by virtue of Article 17.2.11.

With respect to Articles 17.6.1 (b) and 17.6.2 (b), Viet Nam, its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity with respect to overseas broadcasting of Vietnamese language programming.