

A change to heading 72.14 from any other heading, except heading 72.13.

ANNEX I

Explanatory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 10.13 (Non-Conforming Measures) and 11.6 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Articles 10.3 (National Treatment) or 11.2 (National Treatment);
- (b) Articles 10.4 (Most-Favored-Nation Treatment) or 11.3 (Most-Favored-Nation Treatment);
- (c) Article 11.5 (Local Presence);
- (d) Article 10.9 (Performance Requirements);
- (e) Article 10.10 (Senior Management and Boards of Directors); or
- (f) Article 11.4 (Market Access).

2. Each Schedule entry sets out the following elements:

- (a) Sector refers to the sector for which the entry is made;
- (b) Obligations Concerned specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 10.13 (Non-Conforming Measures) and 11.6 (Non-Conforming Measures), do not apply to the listed measure(s);
- (c) Level of Government indicates the level of government maintaining the listed measure(s);
- (d) 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
- (e) Description sets out commitments, if any, for liberalization on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the existing measures for which the entry is made.

3. In the interpretation of a Schedule entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions of the Chapters against which the entry is made. 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. In accordance with Article 10.13 (Non-Conforming Measures) and 11.6 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the law, regulation, or other measure identified in the Measures element of that entry.

5. Where a Party maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article

11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), or 11.5 (Local Presence) shall operate as a Schedule entry with respect to Article 10.3 (National Treatment), 10.4 (Most-Favored-Nation Treatment), or 10.9 (Performance Requirements) to the extent of that measure.

6. For greater certainty, Article 11.4 (Market Access) refers to non-discriminatory measures.

ANNEX I

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Sector: Irrigation Services

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, and 13

Description: Cross-Border Services

Costa Rica reserves the right to limit the number of concessions to supply irrigation services based on demand for those services. Priority will be given to concessionaires already supplying the service.

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Sector: Solid Waste Treatment Services

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, and 13

Description: Cross-Border Services

Costa Rica reserves the right to limit the number of concessions to supply solid waste treatment services based on demand for those services. Priority will be given to concessionaires already supplying the service.

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Sector: Maritime and Specialty Air Services

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, and 13

Description: Cross-Border Services

Costa Rica reserves the right to limit the number of concessions to supply maritime and specialty air services in national ports based on demand for those services. Priority will be given to concessionaires already supplying the service.

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Sector: Professional Services

Obligations Concerned: National Treatment (Article 11.2)

Most-Favored-Nation Treatment (Article 11.3)

Local Presence (Article 11.5)

Level of Government: Central

Measures: Law No. 7221 of 6 April 1991 – Ley Orgánica del Colegio de Ingenieros

Agrónomos – Arts. 5, 6, 8, 10, 15, 16, 18, 19, 20, 23, 24, and 25
Executive Decree o. 22688-MAG-MIRENEM of 22 November 1993 – Reglamento General de la Ley Orgánica del Colegio de Ingenieros Agrónomos de Costa Rica – Arts. 6, 7, and 9
Executive Decree No. 29410 of 2 March 2001 – Reglamento del Registro de Peritos Tasadores del Colegio de Ingenieros Agrónomos – Arts. 6, 20, and 22
Law No. 5230 of 2 July 1973 – Ley Orgánica del Colegio de Geólogos de Costa Rica Arts. 3, and 9
Executive Decree No. 6419-MEIC of 18 October 1976 – Reglamento del Colegio de Geólogos de Costa Rica – Arts. 4, 5, and 37
Law No. 5142 of 30 November 1972 – Ley Orgánica del Colegio de Farmacéuticos de Costa Rica – Arts. 2, 9, and 10
Executive Decree No. 3503-S of 6 February 1974 – Reglamento General Orgánico o Reglamento Interno del Colegio de Farmacéuticos de Costa Rica – Art. 2 and 6
Law No. 5784 of 19 August 1975 – Ley Orgánica del Colegio de Cirujanos Dentistas de Costa Rica – Arts. 2, 6, 9, 10, 14, and 15
Law No. 4925 of 17 December 1971 – Reforma Integral a la Ley Orgánica del Colegio Federado de Ingenieros y Arquitectos – Arts. 5, 9, 11, 13, 14, and 52
Executive Decree No. 3414-T of 3 December 1973 – Reglamento Interior General del Colegio Federado de Ingenieros y Arquitectos de Costa Rica –Arts. 1, 3, 7, 9, and 54

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Reglamento Especial de Incorporación al Colegio Federado de Ingenieros y Arquitectos de Costa Rica, approved in Session 4-82-A.E.R., 6 December 1982 – Arts. 7 and 8
Reglamento Especial para Determinar Inopia de Profesionales para los Efectos de Miembro Temporal o Incorporación de Extranjeros al Colegio Federado de Ingenieros y de Arquitectos de Costa Rica, approved in Session 45-82-GE of December 1982 – Arts. 1, 2, 3, 4, 5, 6, 7, and 8
Law No. 1038 of 19 August 1947 – Ley de Creación del Colegio de Contadores Públicos – Arts. 3, 4, 12, and 15
Law No. 3455 of 14 November 1964 – Ley Orgánica del Colegio de Médicos Veterinarios – Arts. 2, 4, 5, 7, and 27
Executive Decree No. 19184-MAG of 10 July 1989 – Reglamento a la Ley Orgánica del Colegio de Médicos Veterinarios – Arts. 6, 7, 10, 11, 19, and 24
Law No. 2343 of 4 May 1959 – Ley Orgánica del Colegio de Enfermeras de Costa Rica – Arts. 2, 22, 23, 24, and 28
Executive Decree No. 11 of 10 August 1961 – Reglamento de la Ley Número 2343 del 4 de mayo de 1959 que Crea el Colegio de Enfermeras de Costa Rica – Arts. 9, 10, 53, 54, and 67
Law No. 7764 of 17 April 1998 – Código Notarial – Arts. 3 and 10
Law No. 1269 of 2 March 1951 – Ley Orgánica del Colegio de Contadores Privados de Costa Rica– Arts. 2 and 4
Law No. 6038 of 13 January 1977 – Ley Orgánica del Colegio de Químicos e Ingenieros Químicos de Costa Rica – Arts. 5, 10, 14, 15, 16, 17, 18, 19, 20, and 71
Executive Decree No. 11275-P of 27 February 1980 – Reglamento a la Ley Orgánica de Químicos e Ingenieros Químicos de Costa Rica – Arts. 1, 2, 3, 8, 9, and 83
Law No. 3019 of 9 August 1962 – Ley Orgánica del Colegio de Médicos y Cirujanos – Arts. 4, 5, and 7
Executive Decree No. 23110-S of 22 March 1991 – Reglamento a la Ley Orgánica del

Colegio de Médicos y Cirujanos – Art. 10

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Executive Decree No. 2613-SPSS of 3 November 1972 – Reglamento General para Autorizar el Ejercicio a Profesionales de Ramas Dependientes de las Ciencias Médicas y a Técnicos en Materias Médico Quirúrgicas – Arts. 1 and 4

Law No. 3838 of 19 December 1966 – Ley Orgánica del Colegio de Optometristas de Costa Rica – Arts. 6 and 7

Law No. 4420 of 18 September 1969 – Ley Orgánica del Colegio de Periodistas de Costa Rica – Arts. 2, 24, 25, and 27

Executive Decree No. 14931 of 20 October 1983 – Reforma al Reglamento de la Ley Orgánica del Colegio de Periodistas de Costa Rica – Arts. 5, 6, and 26

Law No. 7106 of 4 November 1988 – Ley Orgánica del Colegio de Profesionales en Ciencias Políticas – Arts. 6, 26, and 29

Executive Decree No. 19026-P of 31 May 1989 – Reglamento a la Ley Orgánica del Colegio de Profesionales en Ciencias Políticas y de Relaciones Internacionales – Arts. 1, 10, 12, 19, 21, and 22

Law No. 8356 of 12 June 2002 – Reforma Ley Orgánica del Colegio de Profesionales en Ciencias Políticas – Art. 1

Law No. 4288 of 12 December 1968 – Ley Orgánica del Colegio de Biólogos – Arts. 6 and 7

Executive Decree No. 39 of 6 March 1970 – Reglamento de la Ley Orgánica del Colegio de Biólogos de Costa Rica – Arts. 10, 11, 16, 17, 18, and 19

Reglamento a la Ley Orgánica al Colegio de Bibliotecarios de Costa Rica, approved in the ordinary General Assembly of 2 October 1991 – Arts. 12 and 17

Law No. 7537 of 22 August 1995 – Ley Orgánica del Colegio de Profesionales en Informática y Computación – Arts. 6 and 8

Law No. 8142 of 17 October 2001 – Ley de Traducciones e Interpretaciones Oficiales – Art. 6

Executive Decree No. 30167-RE of 25 January 2002 – Reglamento a la Ley de Traducciones e Interpretaciones Oficiales – Art. 10

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Law No. 7105 of 31 October 1988 – Ley Orgánica del Colegio de Licenciados en Ciencias Económicas de Costa Rica – Arts. 4, 6, 15, 19, and 20

Executive Decree No. 20014-MEIC of 19 September 1990 – Reglamento General de Profesionales en Ciencias Económicas de Costa Rica – Arts. 10, 14, and 17

Law No. 7503 of 3 May 1995 – Ley Orgánica del Colegio de Físicos – Arts. 6 and 10

Executive Decree No. 28035-MINAE-MICIT of 14 April 1999 – Reglamento a la Ley Orgánica del Colegio de Físicos – Arts. 6, 7, 10, 11, 18, and 21

Law No. 6144 of 28 November 1977 – Ley Orgánica del Colegio Profesional de Psicólogos de Costa Rica – Arts. 4, 5, and 6

Reglamento General del Colegio Profesional de Psicólogos de Costa Rica, approved in Session No. 3 of the Ordinary General Assembly of 09 March 1979 – Arts. 9, 10, and 11

Executive Decree No. 28595-S of 23 March 2000 – Reglamento de la Ley Orgánica del Colegio de Profesionales en Quiropráctica – Art. 15

Description: Cross-Border Services and Investment

To join the Professional Associations of Public Accountants, Pharmacists, Geologists,

Physicians and Surgeons, Veterinarians, Lawyers (i.e., Notaries), Dental Surgeons, Optometrists, Journalists, Nurses, Medical and Surgical Technicians and Medical Sciences Branches, all foreign professionals must prove that, in their home jurisdiction where they are allowed to practice, Costa Rican nationals can exercise their profession under like circumstances.

To join the Professional Associations of Public Accountants, Pharmacists, Geologists, Agronomical Engineers (Forestry or Agriculture/Livestock Appraisers Surveyors), Physicians and Surgeons, Veterinarians, Dental Surgeons, Journalists, Medical and Surgical Technicians and Medical Sciences Branches, Computer and Information Technology, Nurses and Official Translators and Interpreters, foreign professionals must have the migratory status of residents in Costa Rica at the time of applying for membership, as well as have a certain minimum number of years of residence.

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The number of years varies from one Professional Association to another, but usually ranges between two to five years.

To join the Professional Associations of Lawyers (i.e., Notaries), Chemists and Chemical Engineers, Political Scientists and International Relations Specialists and Physicists, foreign professionals must have the migratory status of residents in Costa Rica at the time of applying for membership. Only Costa Rican professionals duly registered in the Colegio de Ingenieros Agrónomos can supply their services for consulting enterprises in agronomical sciences operating in Costa Rica to comply with the 50 percent legal requirement of total professional consulting advisory time. Consulting or advisory work in the field of agronomical sciences carried out in Costa Rica under the auspices of foreign governments or international institutions shall be jointly conducted by Costa Rican nationals registered in the Colegio, along with foreign nationals. Foreign professionals in political sciences and international relations specialists may only be hired by public or private entities when they are active members of the Professional Association and insufficiency of Costa Rican professionals has been declared. For greater certainty, subject to the conditions and terms included in the applicable legislation, the following professional associations may provide temporary licenses to allow temporary professional practice in Costa Rica: Biologists, Economists and Social Scientists, Political Scientists and International Relations Specialists, Dental Surgeons, Pharmacists, Physicists, Computer and Information Technology Professionals, Agronomical Engineers, Architects and Engineers, Physicians and Surgeons, Veterinarians, Journalists, Psychologists, Chemists and Chemical Engineers and Chiropractors. For greater certainty, none of the measures listed in this Annex entry restricts enterprises in Costa Rica from otherwise employing foreign professionals in accordance with Costa Rican law in order to carry out contracts.

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Sector: Maritime-Land Zone

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Local Presence (Article 11.5) Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 6043 of 2 March 1977 – Ley sobre la Zona Marítimo Terrestre – Arts. 9, 10, 11, and 12, and Chapters 3 and 6

Description: Cross-Border Services and Investment

A concession is required to perform any type of development or activity in the maritime terrestrial zone. (The maritime-terrestrial zone is the 200-meter strip located along the entire length of the Atlantic and Pacific coast lines of Costa Rica, measured horizontally from the ordinary high tide line. The maritime-terrestrial zone also covers all islands located within the Costa Rican territorial waters) Such a concession shall not be granted to or held by: (a) foreign nationals that have not resided in the country for at least five years; (b) enterprises with bearer shares; (c) enterprises domiciled abroad; (d) enterprises incorporated in the country solely by foreign nationals; or (e) enterprises where more than 50 percent of the capital shares or stocks are owned by foreigners. Within the maritime-terrestrial zone, no concession may be granted within the first 50 meters counted from the high tide line nor in the area comprised between the high tide line and the low tide line.

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Sector: Land Transportation Services – Transportation of Passengers

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most Favored-Nation Treatment (Articles 10.4 and 11.3) Market Access (Article 11.4)

Level of Government: Central

Measures: Executive Decree No. 26 of 10 November 1965 – Reglamento del Transporte Internacional de Personas – Arts. 1, 3, 4, 5, 9, 15, and 16 as amended by Executive Decree No. 20785-MOPT of 4 October 1991 – Art. 1

Law No. 3503 of 10 May 1965 – Ley Reguladora del Transporte Remunerado de Personas en Vehículos Automotores – Arts. 1, 3, 4, 6, 10, 11, and 25

Executive Decree No. 31180-MOPT of 24 April 2003 – Regula el Servicio Público de Transporte Remunerado de Personas en Modalidad de Taxi – Art. 1

Law No. 7969 of 22 December 1999 – Ley Reguladora del Servicio Público de Transporte Remunerado de Personas en Vehículos en la Modalidad de Taxis – Arts. 1, 2, 3, 29, 30, and 33

Executive Decree No. 5743-T of 12 February 1976 – Reglamento a la Ley Reguladora del Transporte Remunerado de Personas en Vehículos Taxis – Arts. 1, 2, 5, and 14

Executive Decree No. 28913-MOPT of 13 September 2000 – Reglamento del Primer Procedimiento Especial Abreviado para el Transporte Remunerado de Personas en Vehículos en la Modalidad de Taxi – Arts. 1, 3, and 16

Law No. 5066 of 30 August 1972 – Ley General de Ferrocarriles – Arts. 1, 4, 5, and 41

Executive Decree No. 28337-MOPT of 16 December 1999 – Reglamento sobre Políticas y Estrategias para la Modernización del Transporte Colectivo Remunerado de Personas por Autobuses Urbanos para el Área Metropolitana de San José y Zonas Aledañas que la Afecta Directa o Indirectamente – Art. 1

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Executive Decree No 15203-MOPT of 22 February 1984 Reglamento para la Explotación de Servicios Especiales de Transporte Automotor Remunerado de Personas – Arts. 2, 3, 4, and 5

Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, 10, and 13

Description: Cross-Border Services and Investment

Costa Rica reserves the right to limit the number of concessions to operate domestic remunerated passenger transportation routes in automotive vehicles (including special

passenger transportation services as defined in Articles 2 and 3 of Executive Decree No. 15203-MOPT of 22 February 1984 – Reglamento para la Explotación de Servicios Especiales de Transporte Automotor Remunerado de Personas). Such concessions shall be awarded through bidding, which shall only be opened if the Ministerio de Obras Públicas y Transportes has previously determined the need to supply the service according to the proper technical studies. Where there are multiple bids, including one by a Costa Rican supplier, that satisfy the requirements to the same extent, the Costa Rican bid shall be preferred over the foreign bid, whether by natural persons or enterprises. A permit to operate an international remunerated passenger transportation service shall be granted only to enterprises organized under Costa Rican law or those that are at least 60 percent owned by Central American nationals. In addition to the restriction set out above, when granting permits to supply international services for remunerated passenger transportation, the principle of reciprocity shall apply. A permit is required in order to supply international remunerated passenger land transportation services. New concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already supplying the service. Costa Rica reserves the right to limit the number of permits or concessions to supply domestic remunerated passenger land transportation services based on demand for the service. Priority will be given to concessionaires already supplying the service.

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The Ministerio de Obras Públicas y Transportes reserves the right to set annual limits on the number of concessions for taxi cab services to be granted in each district, county (cantón), and province. Only one taxi cab concession may be granted to each natural person, and each concession grants the right to operate only one vehicle. Bids for taxi concessions are awarded based on a point system that gives an advantage to existing suppliers. Each concession to supply regular public remunerated passenger transportation services in automotive vehicles, excluding taxi cabs, may be granted only to one person, unless an economic needs test evidences the need to have additional suppliers. In addition, one natural person may not own more than two enterprises nor be a majority shareholder in more than three enterprises operating different routes. Permission to supply non-tour bus passenger transportation services in the greater metropolitan area of the Central Valley of Costa Rica shall only be granted once it has been demonstrated that regular public bus services cannot satisfy the demand. Costa Rica reserves the right to maintain a monopoly over the supply of railroad transportation. However the State can grant concessions to private persons. Concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already supplying the service.

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Sector: Land Transportation Services – Freight Transportation

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most-Favored Nation Treatment (Articles 10.4 and 11.3) Senior Management and Boards of Directors (Article 10.10) Market Access (Article 11.4)

Level of Government: Central

Measures: Executive Decree No. 31363 of 02 June 2003 – Reglamento de Circulación por Carretera con base en el Peso y las Dimensiones de los Vehículos de Carga – Art. 69 Executive Decree No. 15624-MOPT of 28 August 1984 – Reglamento del Transporte

Automotor de Carga Local – Arts. 8, 9, 10, and 12

Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, and 13

Description: Cross-Border Services and Investment

Only Costa Rican nationals or enterprises may supply motorized transportation services between two points within the territory of Costa Rica. Such an enterprise must meet the following requirements: (a) at least 51 percent of its capital must be owned by Costa Rican nationals; and (b) Costa Rican nationals must have effective control and management of the enterprise.

No motor vehicle, trailer, or tractor-trailer with foreign license plates may transport goods within the territory of Costa Rica. This prohibition does not apply to vehicles, trailers, or tractor-trailers registered in one of the Central American countries.

Foreign enterprises involved in international multi-modal freight transportation must contract enterprises organized under the laws of Costa Rica to transport containers and tractor-trailers within Costa Rica.

Costa Rica reserves the right to grant concessions to supply railroad freight transportation services based on demand for the service. Priority will be given to concessionaires already supplying the service.

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Sector: Water Transportation Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Market Access (Article 11.4) Local Presence (Article 11.5)

Level of Government: Central

Measures: Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, and 13

Law No. 104 of 06 June 1853 – Código de Comercio de 1853- Libro III Del Comercio Marítimo – Arts. 537 and 580

Law No. 12 of 22 October 1941 – Ley de Abanderamiento de Barcos – Arts. 41 and 43

Law No. 2220 of 20 June 1958 – Ley de Servicio de Cabotaje de la República – Arts. 5, 7, 8, 9, 11, and 12

Executive Decree No. 66 of 4 November 1960 – Reglamento de la Ley de Servicios de Cabotaje de la República – Arts. 10, 11, 12, 15, and 16

Executive Decree No. 12568-T-S-H of 30 April 1981 – Reglamento del Registro Naval Costarricense – Arts. 8, 10, 11, 12, and 13

Executive Decree No. 23178-J-MOPT of 18 April 1994 – Traslada Registro Nacional Buques al Registro Público Propiedad Mueble – Art. 5

Description: Cross-Border Services and Investment

Costa Rica reserves the right to limit the number of concessions to water transportation services based on demand for those services. Priority will be given to concessionaires already supplying the service. A concession to supply cabotage services shall only be granted to Costa Rican nationals or enterprises organized under Costa Rican law of which at least 60 percent of the shares are owned by Costa Rican nationals.

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Only Costa Rican nationals, national public entities, enterprises constituted and domiciled in Costa Rica, and shipping company representatives can register vessels in Costa Rica. This rule may not apply to foreign nationals or foreign enterprises registering vessels

smaller than 50 tons for non-commercial use only.

All natural persons or enterprises established abroad that own one or more foreign registered vessels located in Costa Rica shall appoint and maintain an agent or legal representative in Costa Rica to act as liaison with the official authorities in all vessel related matters.

Trade and tourist cabotage activities between Costa Rican ports must be conducted by vessels registered in Costa Rica.

Foreign nationals who wish to act as captain of a vessel with Costa Rican registry and flag must post a bond equivalent to at least half of the value of the vessel under his/her command.

At least ten percent of the crew on Costa Rican registered vessels used for international traffic that call on Costa Rican ports shall be Costa Rican nationals, provided that such trained personnel are available domestically.

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Sector: Specialty Air Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Law No. 5150 of 14 May 1973 – Ley General de Aviación Civil – Arts. 143, 156, paragraphs 3 and 4, and 179

Executive Decree No. 3326-T of 25 October 1973 – Reglamento para el Otorgamiento de Certificados de Explotación – Arts. 5 and 6

Executive Decree No. 4440-T of 3 January 1975 – Reglamento para la Operación del Registro Aeronáutico Costarricense – Art. 20 and 38

Executive Decree No. 4637- T of 18 February 1975 – Reglamento de Licencias para Personal Técnico Aeronáutico – Art. 23

Executive Decree No. 31520-MS-MAG-MINAE-MOPT-MGPSP of 16 October 2003 – Reglamento para las Actividades de Aviación Agrícola – Arts. 10, 11, 13, 24, and 41
Executive Decree No. 28262-MOPT of 1 November 1999 – Reglamento de Certificados de Operador Aéreo (COA), Certificados Operativos y Autorizaciones de Operación (RAC 119) – Sections 119.33 and 119.47

Description: Cross-Border Services

Costa Rican enterprises interested in obtaining a provider certificate for any aeronautical service, including specialty air services, must demonstrate that effective control and management of the enterprise, and at least 51 percent of the capital, are in the hands of Costa Rican nationals. Certificates for the supply of any aeronautical service shall be issued to enterprises constituted under foreign law, based on the principle of reciprocity.

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Every holder of a provider certificate must maintain an operation and maintenance base in Costa Rica.

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Sector: Air Transportation Services

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

Treatment (Article 10.4) Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: Law No. 5150 of 14 May 1973 – Ley General de Aviación Civil – Arts. 36, 37, 42, 149, 156, and 179

Executive Decree No. 3326-T of 25 October 1973 – Reglamento para el Otorgamiento de Certificados de Explotación – Arts. 5 and 6

Executive Decree No. 4440-T of 3 January 1975 – Reglamento para la Operación del Registro Aeronáutico Costarricense – Arts. 20 and 38

Executive Decree No. 4637-T of 18 February 1975 – Reglamento de Licencias para Personal Técnico Aeronáutico – Art. 23

Description: Investment

Only Costa Rican nationals or enterprises may supply domestic air transport services, whether regular or non-regular. In order to supply these services, the Costa Rican enterprise must meet the following requirements: (a) at least 51 percent of its capital must be owned by Costa Rican nationals; and (b) effective control and management of the enterprise must be in the hands of Costa Rican nationals. Foreign nationals cannot be members of the Board of Directors of such enterprises. Only Costa Rican nationals or enterprises may register aircraft in the Registro Aeronáutico Costarricense to be used for remunerated airborne activities. Foreign nationals that legally reside in the country may also register aircraft used exclusively for non-commercial purposes. In the absence of agreements or conventions, certificates for the supply of international air transportation shall be issued based on the principle of reciprocity.

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Sector: Tourist Guides

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Executive Decree No. 31030-MEIC-TUR of 17 January 2003 – Reglamento de los Guías de Turismo – Art. 11

Description: Cross-Border Services

Only Costa Rican nationals may apply for tour guide licenses.

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Sector: Travel Agencies and Tourism

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 5339 of 24 August 1973 – Ley Reguladora de las Agencias de Viajes – Art. 8

Executive Decree No. 24863-H-TUR of 5 December 1995 – Reglamento de la Ley de Incentivos para el Desarrollo Turístico – Art. 16

Description: Cross-Border Services

Costa Rica reserves the right to limit the number of travel agencies authorized to operate in Costa Rica based on demand for that service.

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Sector: Transportation Services – Custom Brokers – Assistant Custom Brokers – Custom Transportation Agents

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Law No. 7557 of 20 October 1995 – Ley General de Aduanas y sus reformas

– Arts. 28, 29, 33, 35, 40, 41, 44, 46, and 49

Executive Decree No. 25270-H of 14 June 1996 – Reglamento a la Ley General de Aduanas – Arts. 77, 78, and 113

Description: Cross-Border Services

Only persons or enterprises that have a legal representative and corporate headquarters in Costa Rica may act as a customs transportation agent, international freight agent, customs depositary, or other public function customs auxiliary. Only Costa Rican nationals may act as customs brokers.

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Sector: Telecommunications Related Services – Radio and Television

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most-Favored Nation Treatment (Articles 10.4 and 11.3) Senior Management and Boards of Directors (Article 10.10) Market Access (Article 11.4)

Level of Government: Central

Measures: Constitución Política de la República de Costa Rica – Art.121 paragraph 14

Law No. 1758 of 19 June 1954 – Ley de Radio y Televisión – Arts. 1, 2, 3, and 7

Executive Decree No. 21 of 29 September 1958 – Reglamento para la Operación de Radiodifusoras de Televisión – Art. 4

Executive Decree No. 63 of 11 December 1956 – Reglamento de Estaciones Inalámbricas – Arts. 7, 13, 15, and 30

Description: Cross-Border Services and Investment In Costa Rica, wireless services may not be permanently removed from State ownership and may be supplied only by the public administration or by private parties, in accordance with the law or under a special concession granted for a limited period of time and on the basis of conditions and stipulations to be established by the Legislative Assembly. Only a Costa Rican national or enterprise with at least 65 percent of its capital owned by Costa Rican nationals may establish or manage an enterprise that supplies wireless services. This restriction does not apply to the establishment and operation of ham radio stations, but rights shall not be granted to a foreign national residing in Costa Rica when the country of origin of the foreign national does not grant that same right to Costa Rican nationals. Only a Costa Rican national or enterprise that has nominal capital stock and is owned by Costa Rican nationals may obtain a license for Ultra High Frequency (UHF) radio broadcasting services. Only a Costa Rican national or enterprise with at least 65 percent of its capital owned by Costa Rican nationals may obtain a license

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or be awarded a free over the air broadcast television channel for signals that originate in Costa Rica. Only a Costa Rican national or enterprise with at least 65 percent of its capital owned by Costa Rican nationals may obtain a license to operate radio; ham radio; radio-television; and maritime, aeronautical, meteorological, and private broadcasting stations. Directors and administrators of enterprises supplying radio and television services must be Costa Rican by birth or must have been naturalized Costa Ricans for at least ten years. The right to establish radiographic stations in Costa Rica for transmission or reception of official messages is permanently reserved to the State, and is not subject to concession.

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Sector: Wholesale and Retail Distribution – Crude Oil and Its Derivatives

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 7356 of 24 August 1993 – Ley del Monopolio Estatal de Hidrocarburos Administrado por Recope “Establece Monopolio a favor del Estado para la Importación, Refinación y Distribución de Petróleo, Combustibles, Asfaltos y Naftas” – Art.1

Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, and 13

Description: Cross-Border Services

Wholesale distribution of crude oil and its derivatives – including fuel, asphalt, and naphtha – is subject to a State monopoly. Costa Rica reserves the right to limit the number of concessions for retail distributors of crude oil and its derivatives – including fuel, asphalt, and naphtha – based on demand for the service. Priority will be given to concessionaires already supplying the service.

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Sector: Services Incidental to Mining – Hydrocarbon Exploration

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central

Measures: Constitución Política de la República de Costa Rica – Art. 121

Law No. 7399 of 3 May 1994 – Ley de Hidrocarburos – Arts. 1 and 22

Executive Decree No. 24735-MIRENEM of 29 September 1995 – Reglamento a la Ley de Hidrocarburos – Art. 17

Executive Decree No. 28148-MINAE of 30 August 1999 – Reglamento de Cesión de Derechos y Obligaciones de Contratos de Exploración y Explotación de Hidrocarburos – Art. 3

Description: Cross-Border Services

If the recipient of a concession for hydrocarbon exploration and other services incidental to the mining of hydrocarbons that is organized under the law of a foreign country, it must have a branch office and legal representative in Costa Rica.

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Sector: Mining and Services Incidental to Mining – Ores Other than Hydrocarbons

Obligations Concerned: Market Access (Article 11.4) National Treatment (Articles 10.3 and 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Constitución Política de la República de Costa Rica – Art. 121, paragraph 14

Law No. 6797 of 4 October 1982 – Código de Minería – Arts. 1, 4, 6, 7, 9, 11, 66, 67, 69, 70, 71, and 74

Description: Cross-Border Services and Investment

Exploration and other services incidental to the mining of any radioactive minerals in Costa Rica may be supplied only by the State or by private parties under a concession, in accordance with the Constitution. Concessions for mining or exploration of ores other than hydrocarbons may not be granted to foreign governments or their representatives. Concessionaires that are enterprises organized under foreign law or natural persons not resident in Costa Rica must appoint a legal representative with full powers of attorney to acquire rights and enter into obligations on behalf of the represented natural persons or

enterprise, and must also maintain an office in Costa Rica. Banks of the Costa Rican Banking System shall not grant funds in an amount greater than ten percent of the total investment to enterprises with more than 50 percent foreign ownership. Only individuals can constitute mining cooperatives, and 75 percent of the members must be Costa Rican nationals.

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Sector: Scientific and Research Services

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central

Measures: Law No. 7788 of 30 April 1998 – Ley de Biodiversidad – Art. 63

Description: Cross-Border Services Foreign nationals or enterprises domiciled abroad that supply scientific research and bioprospecting (bioprospecting includes the systematic search, classification, and investigation, for commercial purposes, of new sources of chemical compounds, genes, proteins, microorganisms, and other products with real or potential economic value found in biodiversity) services with regard to biodiversity (biodiversity includes the variability of live organisms of any source, found in land, air, marine, aquatic, or other ecological ecosystems, as well as the diversity within each species and between species and the ecosystems of which they are a part. Biodiversity also includes intangible elements such as: the knowledge, innovation, and individual or collective traditional practice, with real or potential economic value, associated with genetic and bio-chemical resources protected or not by intellectual property rights or sui generis registry systems) in Costa Rica shall designate a legal representative that resides in Costa Rica.

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Sector: Free Zones

Obligations Concerned: Performance Requirements (Article 10.9)

Level of Government: Central

Measures: Law No. 7210 of 23 November 1990 – Ley de Régimen de Zonas Francas – Art. 22

Executive Decree No. 29606-H-COMEX of 18 June 2001 – Reglamento a la Ley de Régimen de Zonas Francas – Arts. 55 and 57

Description: Investment

An enterprise established in the Free Zone in Costa Rica may not introduce more than 25 percent of its total sales in goods or 50 percent of its total sales in services into Costa Rica's customs territory. An enterprise established in the Free Zone in Costa Rica that only repackages or redistributes goods but does not alter them may not introduce any such goods into Costa Rica's customs territory.

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Sector: Services Incidental to Agriculture and Forestry

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Law No. 7317 of 30 October 1992 – Ley de Conservación de la Vida Silvestre – Arts. 28, 29, 31, 38, 39, 64, and 66

Executive Decree No. 26435-MINAE of 1 October 1997 – Reglamento a la Ley de Conservación de la Vida Silvestre – Art. 32

Description: Cross-Border Services

A license for scientific or cultural collection of species shall be issued for a maximum of one year for nationals or residents, and six months or less for all other foreigners. Nationals and residents shall pay a lower fee than non-resident foreigners to obtain the license referred to above.

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Sector: Fisheries and Services Incidental to Fishing

Obligations Concerned: National Treatment (Article 10.3) Performance Requirements (Article 10.9)

Level of Government: Central

Measures: Constitución Política de la República de Costa Rica – Art. 6

Law 190 of 28 September 1948 – Ley de Pesca y Caza Marítimas – Art. 7

Law No. 6267 of 29 August 1978 – Reforma a la Ley de Pesca y Barcos de Bandera Extranjera en Mar Patrimonial – Arts. 3, 5, and 14

Executive Decree No. 23943-MOPT-MAG of 5 January 1995 – Reglamento Regulador del Procedimiento para Otorgar Licencias de Pesca a Buques Extranjeros que Deseen Ejercer la Actividad de Pesca en Aguas Jurisdiccionales Costarricenses – Art. 6

Executive Decree No. 12737-A of 23 June 1981 – Reserva con Exclusividad la Pesca para Fines Comerciales a Costarricenses – Art. 1

Executive Decree No. 17658-MAG of 17 July 1987 – Clasifica Permisos para Pesca de Camarones en el Litoral Pacífico – Arts. 1, 2, and 3

Description: Investment

The State exercises complete and exclusive sovereignty over its territorial waters within a distance of 12 miles measured from the low-tide mark along its shores, over its continental shelf, and its insular undersea base, in accordance with principles of international law. It also exercises special jurisdiction over the seas adjacent to its territory within a distance of two hundred miles measured from the same mark, in order to protect, preserve, and exploit exclusively all the natural resources and wealth existing in the waters, soil, and subsoil of those zones, in accordance with those principles. Catch of shrimp and fish with scales may only be allowed in Costa Rica with vessels built in the country with wood obtained in Costa Rica and made by Costa Rican nationals.

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Foreign flag fishing vessels may pay lower fees and benefit from automatic renewal of fishing permits if they supply their catch to national enterprises. National enterprises are those with at least 51 percent of their capital belonging to Costa Rican nationals.

Commercial fishing within the 12 miles of Costa Rican territorial waters is exclusively reserved to Costa Rican nationals and Costa Rican enterprises with at least 51 percent of their capital belonging to Costa Rican nationals that fish with vessels flying the Costa Rican flag. The commercial catch of shrimp in Costa Rican territorial waters of the Pacific Ocean is reserved to vessels with Costa Rican registry and flag owned by Costa Rican nationals.

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Sector: Electric Energy

Obligations Concerned: Market Access (Article 11.4) Local Presence (Article 11.5)
National Treatment (Articles 10.3 and 11.2)

Level of Government: Central

Measures: Constitución Política de la República de Costa Rica – Art. 121

Law No. 7200 of 28 April 1990 – Ley que Autoriza la Generación Eléctrica Autónoma o Paralela – Arts. 1, 2, 3, 5, 7, and 26 as amended by Law No. 7508 of 09 May 1995 – Ley sobre Reforma a la Ley que Autoriza la Generación Autónoma o Paralela – Arts. 2 and 3

Law No. 7789 of 30 April 1998 – Transformación de la Empresa de Servicios Públicos de Heredia – Art. 15

Executive Decree No. 20346 MIRENEM of 21 March 1991 – Reglamento a la Ley que Autoriza la Generación Eléctrica Autónoma o Paralela – Arts. 4, 5, 6, and 8

Executive Decree No. 24866-MINAE of 12 December 1995 – Reglamento al Capítulo II de la Ley de Generación Paralela: Régimen de Competencia – Art. 34

Law No. 7593 of 9 August 1996 – Ley de la Autoridad Reguladora de los Servicios Públicos – Arts. 5, 9, and 13

Law No. 8345 of 20 February 2003 – Ley de Participación de las Cooperativas de Electrificación Rural y de las Empresas de Servicios Públicos Municipales en el Desarrollo Nacional – Arts. 1, 2, 3, 6, 7, 9, 11, 12, and 13

Description: Cross-Border Services and Investment Costa Rica reserves the right to grant concessions for the transmission, distribution, and trade of electric energy by legislation based on demand for the service. Priority will be given to concessionaires already supplying the service. For greater certainty, some of the enterprises that currently have concessions to supply these services include: Instituto Costarricense de Electricidad (ICE); Empresa de Servicios Públicos de Heredia; Junta Administrativa del Servicio Eléctrico

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Municipal de Cartago (JASEC); Compañía Nacional de Fuerza y Luz; and cooperative associations, cooperative consortiums, and public municipal service enterprises in accordance with the provisions of Law No. 8345. All of these enterprises may enter into joint ventures with public or private enterprises to supply their services, subject to the provisions stipulated by law. In the case of Empresa de Servicios Públicos de Heredia, no less than 51 percent of the capital of the private enterprise may be owned by Costa Rican nationals. Private persons may invest in activities for the operation of limited capacity power plants (for greater certainty, ICE may authorize the operation of a limited capacity plant, provided that the power generated by all such private plants in Costa Rica does not represent more than 15 percent of the total power produced by all public and private plants in the national electric system. Also for greater certainty, any power generated using water in the public domain may be provided only by the State or by private parties, under a concession, in accordance with the Constitution) not exceeding 20,000 kW, provided they meet the following requirements:

(a) ICE may purchase electricity from enterprises in which no less than 35 percent of the capital is owned by Costa Rican nationals.

(b) Enterprises organized under foreign law that sign a power purchase contract with ICE must establish a branch office in Costa Rica.

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Sector: Higher Education Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Senior Management

and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: Executive Decree No. 30431 of 23 April 2002 – Reglamento de la Educación Superior Parauniversitaria – Arts. 6 and 61, paragraph (d)

Description: Cross-Border Services and Investment

No less than 85 percent of the faculty, administrative faculty, and administrative staff of a private institute of higher education must be Costa Rican nationals.

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Sector: Human Health Service Professionals – Physicians and Surgeons, Dental Surgeons, Microbiologists, Pharmacists, Nurses, and Nutritionists

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Law No. 7559 of 9 November 1995 – Ley de Servicio Social Obligatorio para los Profesionales en las Ciencias de la Salud – Arts. 2, 3, 5, 6, and 7

Executive Decree No. 25068 of 21 March 1996 – Reglamento de Servicio Social

Obligatorio para los Profesionales en Ciencias de la Salud – Arts. 7, 13, 14, 17, 18, 21, and 22

Executive Decree No. 25841-S of 5 February 1997 – Reforma al Reglamento de Servicio Social Obligatorio para los Profesionales en Ciencias de la Salud – Art. 1

Description: Cross-Border Services

All Physicians and Surgeons, Dental Surgeons, Microbiologists, Pharmacists, Nurses, and Nutritionists must perform the equivalent of a one-year continuous, remunerated mandatory social services requirement. The assignment of the slots to perform mandatory social services is made through a drawing. If there are enough slots to perform mandatory social services for all applicants, applicants who are Costa Rican nationals are given priority over applicants who are foreign nationals with respect to assignment of the specific slots.

If the number of slots offered in the drawing is less than the number of applicants, applicants who are Costa Rican nationals shall have the priority to freely choose if they want to participate or not in the drawing. Such choice shall be respected as long as the number of applicants who do not wish to choose a slot is equal to or less than the number of shortage of slots. When the number of applicants who are Costa Rican nationals that do not wish to participate in the drawing exceeds the number of shortage of slots, a lottery shall be made among them to determine who shall participate in the drawing of slots.

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If there is still a shortage of slots when the applicants who are Costa Rican nationals have already made their choice, the same procedure shall be applied for the drawing of slots among applicants who are foreign nationals. Subject to the conditions and terms included in the legislation and regulations applicable to each professional category listed above, the mandatory social service requirement may be waived for temporary professional practice.

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Sector: Audiovisuals – Advertising – Services of Cinema, Radio, Television, and Other Shows

Obligations Concerned: Performance Requirements (Article 10.9) Local Presence (Article

11.5) National Treatment (Articles 10.3 and 11.2) Most-Favored-Nation Treatment (Articles 10.4 and 11.3) Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 6220 of 20 April 1978 – Regula Medios de Difusión y Agencias de Publicidad – Art. 3

Law No. 1758 of 19 June 1954 – Ley de Radio y Televisión – Art. 11

Executive Decree No. 12764-G of 22 June 1981 – Reglamenta Ley de Publicidad – Arts. 1 and 5

Description: Cross-Border Services and Investment

Mass media and advertising services may only be provided by enterprises incorporated in Costa Rica with nominative stock or established as “sociedades personales” under Costa Rican law. Radio and television programs must observe the following rules:

- If the commercials consist of jingles recorded abroad, a lump sum must be paid every time the commercial is aired on domestically transmitted television. Only 30 percent of the commercials aired on each domestic television station or projected in each cinema may originate from abroad.
- Commercials imported in a physical medium from outside the Central American region and aired on domestically transmitted television must pay a tax equivalent to 100 percent of the declared value of the production of the commercial. Radio, movie, or television commercials are considered national when they are produced in any of the Central American countries with which there is reciprocity in the matter.
- The number of radio programs and radio soap operas recorded abroad may not exceed 50 percent of the total number aired per domestically transmitted radio station per day.

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- The number of programs filmed or videotaped abroad may be limited to 60 percent of the total number of programs aired on domestically transmitted television per day. Radio, movie, or television commercials are considered national when at least 90 percent of the jingle has been composed or arranged by Costa Rican nationals, at least 90 percent of the image has been drawn, photographed, printed, filmed, or videotaped by Costa Rican nationals, and when at least 90 percent of the technical personnel participating in the overall production are Costa Rican nationals.

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Sector: News Agency Services

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Executive Decree No. 14931-C of 20 October 1983 – Reforma Reglamento Ley Orgánica Colegio Periodistas – Arts. 6 and 26

Executive Decree No. 15294-C of 27 February 1984

Description: Cross-Border Services

Except as authorized, a journalist who is a foreign national may cover events in Costa Rica only if he or she is a resident of Costa Rica. The Board of Directors of the Colegio de Periodistas may grant non-resident foreign nationals a special permit to cover events in Costa Rica for up to one year and may extend that period, provided that doing so does not harm or conflict with the interests of members of the Colegio de Periodistas. If the Colegio de Periodistas decides that an event of international importance will or has occurred in Costa Rica, the Colegio de Periodistas may grant a non-resident foreign

national with appropriate professional credentials a temporary permit to cover the event for the foreign media the journalist represents. Such permit may be valid for up to one month after the event.

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Sector: Sports Services and Other Entertainment Services

Obligations Concerned: Market Access (Article 11.4) National Treatment (Articles 10.3 and 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Law No. 7744 of 19 December 1997 – Ley de Concesión y Operación de Marinas Turísticas – Arts. 1, 12, and 21 Executive Decree No. 27030-TUR-MINAE-MOPT of 20 May 1998 – Reglamento a la Ley de Concesión y Funcionamiento de Marinas Turísticas – Art. 52

Description: Cross-Border Services and Investment

To obtain concessions to develop tourism marinas or docking facilities, enterprises with their principal place of business abroad must be established in Costa Rica. Foreign nationals shall appoint a representative with sufficient legal authority and with permanent residence in Costa Rica. All foreign flag vessels using marina services may remain in the Costa Rican exclusive economic zone for a maximum period of two years, extendable for like periods. While in Costa Rica, foreign flag vessels and their crew cannot supply water transportation services or fishing, diving, or other sports or tourism-related activities, except tourism cruises.

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Sector: Railroads, Ports, and Airports

Obligations Concerned: Market Access (Article 11.4) Local Presence (Article 11.5) Level of Government: Central

Measures: Constitución Política de la República de Costa Rica – Art. 121, paragraph 14 Law No. 7762 of 14 April 1998 – Ley General de Concesión de Obras Públicas con Servicios Públicos – Arts. 2, 3, 4, 5, and 31

Description: Cross-Border Services

National railroads, docks, and airports – the latter while in use – may not be sold, leased or encumbered, directly or indirectly, or be otherwise removed from State ownership and control. The Executive Branch may grant concessions for railroads, railways, docks, and international airports. In the case of Limon, Moin, Caldera, and Puntarenas docks, concessions may only be granted for future works or expansions. All enterprises holding railroad, port or airport concession must be organized under Costa Rican law and domiciled in Costa Rica.

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Sector: Wireless Services

Obligations Concerned: Market Access (Article 11.4) National Treatment (Articles 10.3 and 11.2) Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

Level of Government: Central

Measures: Constitución Política de la República de Costa Rica – Art. 121, paragraph 14 Law No. 1758 of 19 June 1954 – Ley de Radio y Televisión – Arts. 1, 2, 3, and 25

Description: Cross Border Services and Investment

In Costa Rica, wireless services may not be permanently removed from State ownership

and may be supplied only by the public administration or by private parties, in accordance with the law or under a special concession granted for a limited period of time and on the basis of conditions and stipulations to be established by the Legislative Assembly. The right to establish radiographic stations in Costa Rica for transmission or reception of official messages, is permanently reserved to the State, and is not subject to concession. Only a Costa Rican national or enterprise with at least 65 percent of its capital owned by Costa Rican nationals may establish or manage an enterprise that supplies wireless services. This restriction does not apply to the establishment and operation of ham radio stations, but rights shall not be granted to a foreign national residing in Costa Rica when the country of origin of the foreign national does not grant that same right to Costa Rican nationals. Notwithstanding the measures listed above, including any requirements regarding ownership of capital by Costa Rican nationals, Costa Rica shall allow telecommunications services providers of another Party, on a non discriminatory basis, to effectively compete to supply directly to the customer, through the

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technology of their choice, the following telecommunications services in its territory: (If Costa Rica requires a license for the provision of a listed service, Costa Rica shall make licenses available within the timeframes specified in this subparagraph).

(i) private network services, (private network services (closed-user group services) mean networks provided for communications with no interconnection to the public switched telecommunications network at either end. Nothing in this Annex shall be construed to prevent Costa Rica from prohibiting persons operating private networks from using their networks to supply public telecommunications networks or services to third parties) no later than January 1, 2006;

(ii) Internet services, (internet services shall include electronic mail; retrieval and processing on-line information and databases and electronic data exchange services, and offering the ability to access the Internet) no later than January 1, 2006; and

(iii) mobile wireless services, (mobile wireless services mean voice, data, and/or broadband services provided by radio electric means in specifically allocated bands, using mobile or fixed terminal equipment, using cellular, PCS (Personal Communications Service), satellite, or any other similar technology that may be developed in the future for these services) no later than January 1, 2007.

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Sector: On Premise Supply of Liquors for Consumption

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 10 of 7 October 1936 – Ley sobre la Venta de Licores – Arts. 8, 11, and 16

Description: Cross-Border Services

Municipalities decide the number of establishments selling liquor that can be authorized in each one of the areas under their jurisdiction. In no case can this number exceed the following proportion:

(a) in province capitals, one establishment selling foreign liquor and one establishment selling domestic liquor per three hundred residents;

(b) in all other cities with over one thousand inhabitants, one establishment selling

foreign liquor per five hundred residents and one establishment selling domestic liquor per three hundred residents;

(c) cities under one thousand residents but over five hundred residents may have two establishments selling foreign liquor and two selling domestic liquor; and

(d) any other cities with five hundred residents or less may have one establishment selling foreign liquor and one establishment selling domestic liquor. No establishment for on-premise supply of liquors for consumption will be allowed outside the perimeter of cities or where no permanent police authority exists. In a public auction, no person may receive authorization for more than one establishment selling foreign liquor and one establishment selling domestic liquor in the same city.

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Sector: Lottery Sale Services

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Law No. 7395 of 3 May 1994 – Ley de Loterías – Art. 2 Law No. 1387 of 21 November 1951 – Ley de Rifas y Loterías – Art. 1

Description: Cross-Border Services

The Junta de Protección Social de San José shall be the sole manager and distributor of lottery, except for the “Juego Crea”. All lottery, “tiempos”, raffles, and clubs that award prizes consisting of payments in cash are prohibited, except for the “Juego Crea” and those issued by the Junta de Protección Social de San José.

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Schedule of the Dominican Republic

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Measures: - Ley sobre Inversión Extranjera, No. 16-95, November 20, 1995, Art. 5 - Ley General sobre Medio Ambiente y Recursos Naturales, No. 64-00, August 18, 2000, Art. 101

Description: Investment

Only Dominican nationals may perform activities related to the disposal of toxic, hazardous, or dangerous or radioactive waste produced outside the Dominican Republic.

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Sector: Professional Services – Legal Services

Obligations Concerned: National Treatment (Article 11.2) Market Access (Article 11.4)

Measures: - Ley del Notariado, No. 301, June 18, 1964, Arts. 4, 5, and 10 - Ley de Organización Judicial, y sus modificaciones, No. 821, November 21, 1927, Chapter XI, Art. 73 - Ley que crea el Colegio de Abogados, No. 91, February 3, 1983, Art. 4

Description: Cross-Border Services

To practice law before the courts in the Dominican Republic or to render public notary services a lawyer must be a Dominican national and a member of the Colegio de Abogados. A foreign lawyer may render legal services other than those related to the judicial function or appearing in court provided the foreign lawyer is a member of the Colegio de Abogados. A foreign lawyer who is not a member of the Colegio de Abogados may supply foreign legal consulting services provided that the foreign lawyer is licensed to practice law in a jurisdiction that permits Dominican nationals to supply foreign legal

consulting services. The Dominican Republic shall permit foreign lawyers who are supplying foreign legal consulting services from the territory of a Party into the territory of the Dominican Republic in the period preceding the date of signature of this Agreement to continue supplying such services. The authorization of new notaries public is subject to quotas, proportional to the number of inhabitants in each municipality and the national district.

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A foreign lawyer may become a member of the Colegio de Abogados:

- (a) by obtaining a law degree in the Dominican Republic;
- (b) by obtaining revalidation of a law degree issued in a foreign country; or
- (c) if the government of a jurisdiction in which the foreign national has a license to practice law has an agreement with the Dominican Republic establishing reciprocal treatment for Dominican lawyers. For purposes of this entry:
 - (a) lawyer means in general all persons who, in the exercise of a function and by reason of special knowledge regarding the law, render legal advice, and includes professors and researchers working in universities, all the judges of the Dominican Republic, court appointed lawyers (abogados de oficio), public prosecutors, public notaries, legal advisors and consultants to natural or corporate persons, public or private; and
 - (b) foreign legal consulting service means providing advice by a lawyer regarding matters with respect to which the lawyer or law firm is authorized to render legal services in his, her, or its home market.

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Sector: Professional Services – Architectural and Engineering Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Measures: - Ley sobre el Ejercicio de Ingeniería, la Arquitectura, la Agrimensura y Profesiones Afines, No. 6200, February 22, 1962, Arts. 17, 18, and 19 - Decreto que Reglamenta el Ejercicio Profesional del Ingeniero Químico, No. 511-86, June 26, 1986, Arts. 8, 9, and 10 - Ley sobre la Promoción del Desarrollo Turístico en Destinos Subdesarrollados y en Nuevos Destinos en Provincias y Localidades con Potencial Extraordinario, que Crea el Fondo Oficial para la Promoción del Turismo, No. 158-01, October 9, 2001, Art. 14

Description: Cross-Border Services

Only members of the Colegio Dominicano de Ingenieros, Arquitectos y Agrimensores de la Republica Dominicana (“CODIA”) may practice as engineers, architects, and land surveyors. A foreign professional who meets the relevant qualifications may join CODIA as long as Dominican nationals are not prohibited from practicing in the jurisdiction in which the foreign professional is licensed. However, professionals who graduated from foreign universities who are not members of CODIA may practice in the Dominican Republic when:

- (a) the Executive Branch, in special and justified cases, contracts their services to perform specialized jobs or technical consulting in those fields of the profession in which such services are necessary; or
- (b) an enterprise or institution contracts the professional to supply a specific service for a specified time and sufficiently demonstrates the necessity for this to CODIA, which will then authorize the professional to supply the service. A Dominican chemical engineer

must review the plans for and installation of any production facility constructed in the Dominican Republic by foreign technicians or enterprises. In addition, if

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foreign technicians whose activities are related to the chemical engineering field are used in the installation or start up of a production facility, at least one Dominican chemical engineer must have a role in their supervision. After the installation and start up of a production facility, the facility may not employ foreign technicians related to the field of chemical engineering if Dominican engineers with the relevant expertise are available. If no qualified Dominican engineer is available, an enterprise may employ foreign technicians, but only as long as their number is proportionate to the number of Dominican technicians. (In practice, an enterprise may meet this requirement at any time by employing three Dominican technicians for every seven foreign technicians). However, this requirement does not apply to enterprises that employ at least one Dominican engineer. To provide architectural and engineering services related to construction, persons who are not members of CODIA must associate with a CODIA member. A Dominican professional must prepare any projects and preliminary plans that are submitted to qualify for benefits from the Fondo Oficial de Promoción Turística. Foreign nationals and enterprises organized under foreign law must associate with an enterprise organized under Dominican law in order to provide services related to urban and architectural studies for a tourism-related project.

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Sector: Professional Services

Accounting, Auditing, and Bookkeeping Services.

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Market Access (Article 11.4)

Measures: - Decreto que aprueba el Reglamento Interno del Instituto de Contadores Públicos Autorizados de la República Dominicana, No. 2032, June 1, 1984, Art. 6 - Código de Ética Profesional del Instituto de Contadores Públicos Autorizados de la República Dominicana (ICPARD), October 9, 2001, Art. 3.2.13

Description: Cross-Border Services

Only Dominican nationals may practice as Certified Public Accountants in the Dominican Republic. Foreign public accountants, auditors, or bookkeepers, as individuals or enterprises, may practice their profession only in association with a Dominican accountant.

ANNEX I, Schedule of the Dominican Republic

Sector: Professional Services – Health Services and Related Professions

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation

Treatment (Article 11.3) Local Presence (Article 11.5)

Measures: - Ley General de Salud, No.42-01, March 8, 2001, Arts. 92 and 93

- Ley que crea el Colegio Dominicano de Psicólogos/as, No. 22- 01, February 1, 2001, Art. 4-c - Ley que Establece un Impuesto sobre los Honorarios Cobrados por Médicos Extranjeros que Ejerzan en la República Dominicana, No. 3491, March 6, 1953, Art. 1

(The reference in Article 1 of Law No. 3491 to Law No. 289 does not signify that Article 1, 2, or 3 of Law No. 289 is a measure within the scope of this entry)

Description: Cross-Border Services

Foreign nationals graduated from foreign universities may practice health-related

professions in the Dominican Republic provided that:

- (a) there is an agreement between governments allowing professionals to practice in both countries;
- (b) the service is not offered or is insufficient in the Dominican Republic; and
- (c) the foreigner has the degree certified for equivalency and obtains an exequátur from the Executive Branch. However, health professionals authorized by the Secretaría de Estado de Salud Pública y Asistencia Social (SESPAS) may practice their profession provided they are visiting the country to render public health services on a non-profit basis. Other health professionals may practice medicine or surgery on a temporary basis if requested or contracted by a clinic or hospital of the Dominican Republic and authorized by SESPAS and by the Asociación Médica Dominicana. For greater certainty, such temporary practice may include training, demonstration, lecturing, or research through a health-related facility, including a university or laboratory. Before leaving the country, the facility or the foreign health professional must present a declaration to SESPAS

ANNEX I, Schedule of the Dominican Republic

stating in detail the amounts, if any, the professional has charged to private patients. To offer psychology services in the Dominican Republic a professional must be permanent resident.

ANNEX I, Schedule of the Dominican Republic

Sector: Energy Related Services

Obligations Concerned: National Treatment (Article 10.3) Market Access (Article 11.4)

Measures: - Ley General de Electricidad, No. 125-01, July 26, 2001, Art. 53 - Ley General de Reforma de la Empresa Pública, No. 141-97, June 24, 1997, Arts. 13 and 14

Description: Cross-Border Services

Three joint ventures currently distribute electricity on an exclusive basis within specified regions of the Dominican Republic pursuant to concessions granted by the Government of the Dominican Republic.

ANNEX I, Schedule of the Dominican Republic

Sector: Mining

Obligations Concerned: National Treatment (Article 10.3)

Measures: - Ley de Minería de la República Dominicana, No.146, June 4, 1971, Art. 9

Description: Investment

Mining concessions may not be granted to any foreign government either directly or through the intermediation of a natural person or an enterprise. In duly justified cases, and with the prior approval of the National Congress, the Executive Branch may enter into special agreements with foreign mining enterprises that are partially or wholly state owned.

ANNEX I, Schedule of the Dominican Republic

Sector: Communications – Audio-Visual Services

Obligations Concerned: Performance Requirements (Article 10.9) National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)

Measures: - Decreto que introduce modificaciones en el Reglamento No. 824, del 25 de marzo de 1971, sobre la Operación de la Comisión Nacional de Espectáculos Públicos y Radiodifusión, No. 4306, February 22, 1974, Arts. 101 and 109

Description: Cross-Border Services and Investment

Only Dominican nationals may work as announcers for a radio or television broadcast to a national audience in the territory of the Dominican Republic. However, the Comisión Nacional de Espectáculos Públicos y Radiofonía may authorize enterprises that make such broadcasts, in special cases and for a period of six months, to hire foreign nationals to serve as announcers. This authorization may be extended at the discretion of the National Commission for Public Entertainment and Radio. Only Dominican nationals may serve as sports narrators, including commercial announcers and commentators, in transmitting sporting events for a national audience in the Dominican Republic. However, foreign nationals may serve as sports narrators as long as in their country of origin Dominican sportscasters may also do so. In all radio programming that originates in the Dominican Republic, 50 percent of the music played shall be by Dominican authors, composers, and singers. For every three soap operas that are broadcast for a national audience in the Dominican Republic, one must be by Dominican authors and must have been made in the Dominican Republic.

ANNEX I, Schedule of the Dominican Republic

Sector: Communications – Advertising Services

Obligations Concerned: National Treatment (Article 11.2)

Measures: - Reglamento sobre la Operación de la Comisión Nacional de Espectáculos Públicos y Radiodifusión, No. 824, March 25, 1971, Art. 74.

Description: Cross-Border Services

Seventy-five percent of all artists, announcers, singers and other participants in the production of any jingle, video, tape, script, advertisement for use in cinemas (cintas cinematográficas), or commercial that is transmitted and presented on radio and television must be Dominican nationals. For greater certainty, this requirement applies only to such advertisements that are produced in the Dominican Republic. However, if a commercial for Dominican goods and services to be sold in the Dominican Republic needs to be produced abroad, 25 percent of the artists and production personnel in charge of production must be Dominican nationals.

ANNEX I, Schedule of the Dominican Republic

Sector: Communications – News Agency Services

Obligations Concerned: Senior Management and Boards of Directors (Article 10.10)

Measures: - Ley sobre Expresión y Difusión del Pensamiento, No. 6132, December 15, 1972, Art. 5

Description: Investment

The senior manager of every newspaper or periodical produced in the Dominican Republic must be a Dominican national.

ANNEX I, Schedule of the Dominican Republic

Sector: Communications – Broadcasting

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Market Access (Article 11.4) Local Presence (Article 11.5)

Measures: - Ley General de Telecomunicaciones, No. 153-98, May 27, 1998, Chapters V, X and XI

Description: Cross-Border Services and Investment

In order to obtain a corresponding authorization to install and operate broadcast

networks and to provide broadcast services in the Dominican Republic it is required to have a legal domicile in the Dominican Republic and be a stock company (compañía por acciones) or a non-profit organization incorporated under the laws of the Dominican Republic. Only Dominican nationals may own and control an enterprise that provides public radio broadcasting services that originate in the Dominican Republic. For greater certainty, this entry does not apply to content providers.

ANNEX I, Schedule of the Dominican Republic

Sector: Communications

Obligations Concerned: Market Access (Article 11.4) Local Presence (Article 11.5)

Measures: - Ley General de Telecomunicaciones, No. 153-98, May 27, 1998, Chapter V

Description: Cross-Border Services

In order to obtain the corresponding authorization to install and operate telecommunications networks in the Dominican Republic, in order to provide telecommunications services to users in the Dominican Republic, it is required to have a legal domicile in the Dominican Republic and be a stock company (compañía por acciones) incorporated under the laws of the Dominican Republic.

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Sector: Distribution, Trade, and Commission Agent Services

Obligations Concerned: Market Access (Article 11.4) Local Presence (Article 11.5)

Performance Requirements (Article 10.9)

Measures: - Ley de Promoción Agrícola y Ganadera, No. 532, December 12, 1969, Art.

41 - Reglamento sobre Preparación, Clasificación y Transporte del Café, No. 7107, September 18, 1961, Art. 15

- Ley que Establece que el Instituto de Estabilización de Precios será el Distribuidor Único del Azúcar de Producción Nacional para el Consumo Interno, No. 80, November 28, 1974, Art. 1

- Ley que Crea e Integra el Consejo de Administración Salinera, como Distribuidor Exclusivo de toda la Sal en Grano de Origen Marino Producido en el País, No. 286-98, July 29, 1998, Art. 1, y su Reglamento de Aplicación, No. 1294-00, December 13, 2001

Description: Cross-Border Services and Investment

Only enterprises organized as stock companies (compañías por acciones) under Dominican law may operate as deposit warehouses for the care and conservation of imported goods. Coffee for export must be packed in locally manufactured sacks. Only the Instituto de Estabilización de Precios (INESPRE) may distribute domestically produced sugar in the Dominican Republic. Only the Consejo de Administración Salinera may distribute marine unrefined salt produced in the Dominican Republic.

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Sector: Tourism and Services Related to Travel

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Measures: - Ley Orgánica de Turismo, No. 541, December 31, 1969, Arts. 18 and 23

Reglamento para el Transporte Terrestre Turístico de Pasajeros, No. 817-03, August 20, 2003, Art. 11

- Decreto que Autoriza el Establecimiento de Casinos, Juegos de Bingo y Tragamonedas, No. 6273, December 8, 1960, Art. 2

Description: Cross-Border Services

To operate in the Dominican Republic, foreign travel agencies and tour operators must

be duly authorized in their country of origin and represented by a local agency. Tour guide licenses may be granted to foreign nationals only in exceptional circumstances, such as when no Dominican tour guide can satisfy the needs of a particular tour group, including the need to speak a particular language. All casino and game employees must be Dominican nationals. Drivers for land transport of tourists must be Dominican nationals or foreign nationals resident in the Dominican Republic.

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Sector: Recreational and Cultural Services

Obligations Concerned: National Treatment (Article 11.2)

Measures: - Ley sobre Expresión y Difusión del Pensamiento, No. 6132, December 15, 1972, Art. 33

- Reglamento sobre la Operación de la Comisión Nacional de Espectáculos Públicos y Radiodifusión, No. 824, March 25, 1971, Art. 122

Description: Cross-Border Services

Variety shows offered to audiences in theaters, nightclubs, and other entertainment venues that are performed by foreign artists must include the performance of one Dominican artist for each foreign artist.

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Sector: Transportation – Maritime Transportation

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Senior Management and Boards of Directors (Article 10.10) Local Presence (Article 11.5)

Measures: - Ley sobre Policía de Puertos y Costas, No. 3003, May 17, 1951 Art. 56 and its paragraph

- Ley sobre Protección y Desarrollo de la Marina Mercante, No. 180, May 30, 1975, Arts. 1 and 4

- Decreto que Establece el Reglamento Tarifario de la Autoridad Portuaria Dominicana, No. 572-99, December 30, 1999, Art. 3, para. I, subparas. a and b, note 2

Description: Cross-Border Services and Investment

Vessels used for towing, passenger or freight transportation, or loading or unloading in Dominican ports, as well as vessels used to navigate inland waterways in the Dominican Republic, must be Dominican flagged vessels. Cabotage in the Dominican Republic is exclusively reserved for national flagged vessels. When a Dominican flag vessel cannot perform this service, a temporary permit may be granted to a national shipowner for a foreign flag vessel to offer this service. All Dominican Republic flag ships of more than 50 tons, providing cabotage are exempt from the requirement to have a harbor pilot on board and to pay pilotage fees provided they do not transport cargo abroad.

When loading and unloading merchandise or passengers, Dominican Republic flag vessels pay 50 percent of the amount set for foreign-flag vessels. The fees for foreign flag vessels range from 1.00 U.S. dollars per foot of beam per day in port to 1.15 U.S. dollars per foot of beam per day in port. Tariffs applied to foreign tourist yachts (for greater certainty, this tariff does not apply to cruise vessels) will be 0.50 U.S. dollars per foot of beam per day or its equivalent in Dominican pesos (RD\$). The fees for national tourist yachts range from RD\$ 300.00 for 25 passengers to RD\$ 800.00 for up to 99 passengers, and for 100 or more passengers, the fee increases by RD\$ 10.00 for each passenger.

ANNEX I, Schedule of the Dominican Republic

For purposes of this entry, national shipowner means a shipowner who is a Dominican national and resides in the Dominican Republic. If the ship is co-owned or is community property, 70 percent of its value must belong to Dominicans residing in the Dominican Republic. Enterprises organized under Dominican law, whose main purpose is the administration of Dominican flag vessels and maritime commercial passenger and/or freight transportation, must comply with the following requirements:

(a) 70 percent of the shares and participations, as well as 70 percent of the subscribed and paid-in capital, must belong to Dominican nationals that reside in the Dominican Republic or enterprises organized under Dominican law.

(b) 75 percent of the Board of Directors must be Dominican nationals residing in the Dominican Republic; and

(c) it must be organized as a stock company (compañía por acciones) under Dominican law and have its main headquarters and official domicile in the Dominican Republic.

ANNEX I, Schedule of the Dominican Republic

Sector: Air Transportation

Obligations Concerned: National Treatment (Article 10.3) – Senior Management and Boards of Directors (Article 10.9)

Measures: - Ley sobre Aeronáutica Civil, No. 505, November 10, 1969, Arts. 128, 130 and 140

- Decreto que Reglamenta u Regula los Operadores, Agentes y Consignatarios de Vuelos no Regulares, No.751-02, September 19,2002, Arts. 1 and 2

Description: Investment

Air transportation of passengers, cargo or correspondence between destinations within the Dominican Republic (cabotage) is reserved for aircraft owned by Dominican persons. For puposes of the preceding paragraph, enterprises shall be deemed to be Dominican enterprises when at least 51 percent of their capital is owned by Dominican nationals and at least 51 percent of their administrators are Dominican nationals as well. All enterprises performing the functions of operator, agent, or non- regular (charter) flight consignee, must be organized under Dominican law, must be at least 51 percent owned by Dominican nationals, and must employ Dominican nationals in senior management.

ANNEX I, Schedule of the Dominican Republic

Sector: Air Transportation – Specialty Air Services and Maintenance and Repair of Aircraft

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)

Measures: - Ley sobre Aeronáutica Civil, No. 505, November 10, 1969, Arts. 79, 82, and 128

Description: Cross-Border Services

Aerial advertising and publicity, agricultural works, fumigation, fishing prospects, air taxis, filming, photography, and surveyance shall be reserved for Dominican persons. The Dirección General de Aeronáutica Civil may issue temporary permits to foreign pilots that come to the country to perform air transport services on a temporary basis, provided that it is demonstrated that there is no available Dominican personnel to provide the service. Foreign nationals may engage in remunerated aeronautical activities only if they hold licenses or certificates either issued in the Dominican Republic, or issued in a foreign

country in which Dominican nationals holding licenses or certificates issued in the Dominican Republic are able to engage in such remunerated aeronautical activities.

ANNEX I, Schedule of the Dominican Republic

Sector: Free Zones

Obligations Concerned: Performance Requirements (Article 10.9)

Measures: - Ley sobre Fomento de Zonas Francas, No. 8-90, January 15, 1990, Art. 17

Description: Investment

An enterprise established in the Free Zone of the Dominican Republic may not introduce more than 20 percent of its total sales in goods or services into the Dominican Republic's customs territory. This non-conforming measure shall cease to exist no later than December 31, 2009 in accordance Article 3.4 (Waiver of Customs Duties), paragraph 3.

ANNEX I, Schedule of the Dominican Republic

Sector: Oil Exploitation and Exploration Services

Obligations Concerned: National Treatment (Article 10.3)

Measures: - Ley sobre la Exploración, Explotación y Beneficios por Particulares de los Yacimientos de Petróleo y sus Derivados, los Hidrocarburos y demás Combustibles Similares, No. 4532, August 30, 1956, Art. 4

Description: Investment

Sovereign foreign governments may not be granted the right to explore, exploit, or benefit from oil and other hydrocarbon substances, nor shall any natural person or enterprise enjoying these rights allow a sovereign foreign government as a partner, associate, or shareholder.

ANNEX I, Schedule of the Dominican Republic

Sector: Fishing

Obligations Concerned: National Treatment (Article 10.3)

Measures: - Ley de Pesca, No. 5914, May 22, 1962, Arts. 15 (para. 1), and 19 (paras. a and b)

- Proyecto de Ley que crea el Consejo Dominicano de Pesca y Acuicultura, Art. 41

Description: Investment

Only natural persons residing in the Dominican Republic or enterprises organized under Dominican law may obtain fishing permits or fishing licenses. To engage in maritime or fluvial fishing and hunting, an enterprise must be organized under Dominican law and 50 percent of its capital must be owned by Dominican nationals. In order to obtain fishing permits, foreign-flag vessels must be previously authorized by the Marina de Guerra and the Dirección Nacional de Drogas. Only Dominican nationals may engage in artisanal fishing within 54 nautical miles of the coast.

ANNEX I, Schedule of the Dominican Republic

Sector: Educational Services

Obligations Concerned: Market Access (Article 11.4) Local Presence (Article 11.5)

Measures: - Ley sobre Educación Superior, Ciencia y Tecnología, No. 139-01, August 13, 2001, Art. 44

- Reglamento Orgánico para las Instituciones Educativas, No. 66,97, May 28, 1999, Art. 19.2

Description: Cross-Border Services

To teach at any Education Center in the kindergarten, pre-school, elementary, intermediate, high school, technical, or university level, a foreign national must reside in the Dominican Republic. The Secretaría de Estado de Educación Superior, Ciencia y Tecnología (SEESCYT) may deny a request to create a new institution of higher learning or professional or technical institute if there is no economic need of such institution or institute. For greater certainty, this entry does not apply to the supply of foreign language training, corporate, business, and industrial training programs, skill development programs, or educational consulting services, including technical support and development of curriculums and programs. It also does not apply to foreign educational institutions that offer their programs through institutions already established in the Dominican Republic.

ANNEX I, Schedule of the Dominican Republic

Sector: Cooperative Associations

Obligations Concerned: National Treatment (Article 10.3)

Measures: - Ley sobre Asociaciones Cooperativas, No. 127-64, January 27, 1964, Arts. 1, 50, and 51

Description: Investment

Cooperatives are non-profit associations constituted by natural persons residing in the Dominican Republic or enterprises organized under the laws of the Dominican Republic. They may accept foreign nationals residing in the Dominican Republic as associates in a proportion not larger than 50 percent of the total membership and shares.

ANNEX I, Schedule of the Dominican Republic

Sector: Lotteries

Obligations Concerned: Market Access (Article 11.4)

Measures: - Ley que Estable una Renta Pública bajo la Denominación de Lotería Nacional, No. 5158, June 25, 1959, Arts. 1, 2, and 3

Description: Cross-Border Services

The Lotería Nacional is the state enterprise that operates and manages the lottery of the Dominican Republic. A private enterprise currently holds an exclusive concession to provide electronic lottery services in the Dominican Republic. Under Dominican law, a lottery is any system used to distribute prizes in money through raffles among people buying tickets for that purpose.

ANNEX I, Schedule of the Dominican Republic

Sector: Retail Distribution of Pharmaceutical Products

Obligations Concerned: Market Access (Article 11.4)

Measures: - Ley General de Salud, No. 42-01, March 8, 2001, Art. 103

Description: Cross-Border Services

Pharmaceutical establishments shall be at a distance of at least 500 meters from each other. For purposes of this entry, pharmaceutical establishment means a pharmacy, drug store, or industrial pharmaceutical laboratory.

ANNEX I, Schedule of the Dominican Republic

Sector: Services Incidental to Mining, Hydro-Electric Plant Construction and Management; Electricity Transmission, Marketing and Distribution Services; Public Irrigation Services;

Management and Operation of Water Distribution and Waste Management Services; Airport and Port Construction, Operation and Management Services; and Operation of Lotteries

Obligations Concerned: Market Access (Article 11.4)

Existing Measures: - Ley Minera de la República Dominicana, No. 146, June 4, 1971, Art. 3

- Ley General de Electricidad, No. 125-01, July 26, 2001, Art. 41

- Ley sobre el Dominio de Aguas Terrestre y Distribución de Aguas Publicas, No. 5852, March 29, 1962, Arts. 17 and 18

- Ley que Crea el Instituto Nacional de Recursos Hidráulicos (INDRHI), No. 6, September 8, 1964, Art. 4

- Ley que Estable una Renta Pública bajo la Denominación de Lotería Nacional, No. 5158, June 25, 1959, Arts. 1 and 3

Description: Cross-Border Services

In granting concessions to supply the following services:

- construction or temporary management of a hydro-electric power plant;
- construction or temporary management of an electric transmission project;
- distribution or marketing of electricity;
- irrigation services or construction, management, operation, or maintenance of water distribution or waste management services;
- construction, operation, or management of a port or airport;
- services incidental to mining; or
- operation of lotteries; the Dominican Republic reserves the right to impose limitations on the number of service suppliers in the form of numerical quotas, monopolies, or exclusive service suppliers; or require supply of these services through a joint venture.

ANNEX I, Schedule of the Dominican Republic

For greater certainty, any other conditions on the grant of such concession shall be otherwise consistent with the Agreement and services suppliers of the other Parties will be permitted to obtain such concessions.

ANNEX I

Schedule of El Salvador

Sector: All Sectors

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

Level of Government: Central

Measures: Constitución de la República de El Salvador, Arts. 95 and 109

Description: Investment

Rural land may not be owned by a foreign person, including a branch of a foreign person, if the person is a national of a country or is organized under the law of a country that does not permit Salvadoran persons to own rural land, except in the case of land to be used for industrial plants. An enterprise organized under Salvadoran law, a majority of whose capital is owned by foreign persons, or a majority of whose partners are foreign persons, is subject to the preceding paragraph.

ANNEX I, Schedule of El Salvador

Sector: All Sectors

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

Level of Government: Central

Measures: Constitución de la República de El Salvador, Arts. 95 and 115

Ley de Inversiones, Legislative Decree No. 732, Art. 7

Código de Comercio, Art. 6

Description: Investment

Only the following persons may engage in small scale commerce, industry, and the supply of services in El Salvador:

(a) Salvadoran nationals born in El Salvador; and

(b) nationals of Central American Parties.

An enterprise organized under Salvadoran law, a majority of whose capital is owned by foreign persons, or a majority of whose partners are foreign persons, may not establish a small scale enterprise to engage in small scale commerce, industry, and the supply of services ("small scale enterprise"). For purposes of this entry, a small scale enterprise is an enterprise with a capitalization not greater than 200,000 U.S. dollars.

ANNEX I, Schedule of El Salvador

Sector: Cooperative Production Societies

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Reglamento de la Ley General de Asociaciones Cooperativas, Title VI, Chapter 1, Art. 84

Description: Investment

In cooperative production societies, at least 75 percent of the total number of partners must be Salvadoran persons. For purposes of this non-conforming measure, a branch of an enterprise that is not organized under Salvadoran law is not a Salvadoran person. For greater certainty, a cooperative production society exists to provide certain benefits to its members including with respect to distribution, sales, management, and technical assistance. Its functions are not only economic but also social.

ANNEX I, Schedule of El Salvador

Sector: Duty-Free Commercial Centers and Establishments

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Constitución de la República de El Salvador, Art. 95

Ley para el Establecimiento de Tiendas Libres en los Puertos Marítimos de El Salvador, Art. 5

Description: Investment

Only Salvadoran nationals born in El Salvador and enterprises organized under Salvadoran law may apply for a permit to establish duty-free commercial centers or establishments in El Salvador's seaports.

However, an enterprise organized under Salvadoran law, a majority of whose capital is owned by foreign persons, or a majority of whose partners are foreign persons, may not establish duty free commercial centers or establishments in El Salvador's seaports.

ANNEX I, Schedule of El Salvador

Sector: Air Services – Specialty Air Services

Obligations Concerned: Most-Favored-Nation Treatment (Article 11.3) National Treatment (Article 11.2)

Level of Government: Central

Measures: Ley Orgánica de Aviación Civil, Arts. 5, 89, and 92

Description: Cross-Border Services

The supply of specialty air services requires prior authorization from the Autoridad de Aviación Civil. Authorization from the civil aviation authority is subject to reciprocity and must take into account national air transport policy.

ANNEX I, Schedule of El Salvador

Sector: Air Services – Aircraft Repair and Maintenance Services During which an Aircraft is Withdrawn from Service and Pilots of Specialty Air Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)

Level of Government: Central

Measures: Ley Orgánica de Aviación Civil, Arts. 39 and 40

Description: Cross-Border Services

El Salvador applies reciprocity requirements when determining whether to recognize or validate licenses, certificates, and permits issued by foreign air transport authorities to:

- (a) technical staff supplying aircraft repair and maintenance services while an aircraft is withdrawn from service; and

- (b) pilots and other technical staff supplying specialty air services.

ANNEX I, Schedule of El Salvador

Sector: Communications Services – Advertising and Promotional Services for Radio and Television

Obligations Concerned: Most-Favored-Nation Treatment (Article 11.3) National Treatment (Article 11.2)

Level of Government: Central

Measures: Decreto de las disposiciones para regular la explotación de obras de naturaleza intelectual por medios de comunicación pública y la participación de artistas salvadoreños en espectáculos públicos, Legislative Decree No. 239, June 9, 1983, published in Diario Oficial No. 111, Vol. 279, June 15, 1983, Art. 4

Decree No. 18, Sustitución de los artículos 1 y 4 del Decreto Legislativo No. 239, June 9, 1983, published in Diario Oficial No. 7, Vol. 282, January 10, 1984

Description: Cross-Border Services

At least 90 percent of the production and recording of any commercial advertisement for use in El Salvador's public communications media, meaning over-the-air television and radio broadcasts and printed material that originate in El Salvador, must be carried out by enterprises organized under Salvadoran law. A commercial advertisement produced or recorded by an enterprise organized under the law of another Central American Party may be used in the Salvadoran media, as long as similar treatment is extended by that Party to commercial advertisements produced or recorded in El Salvador. The broadcast in El Salvador's public media of a commercial advertisement for an international product, brand, or service that has been imported into El Salvador or produced in El Salvador under license and does not satisfy the requirements referenced above will be permitted and may be subject to a one-time-fee.

ANNEX I, Schedule of El Salvador

Sector: Communications Services – Television and Radio Broadcasting Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Ley de Telecomunicaciones, Art. 123

Description: Investment

Concessions and licenses for free reception broadcasting services shall only be granted to Salvadoran nationals born in El Salvador or enterprises organized under Salvadoran law whose equity capital is at least 51 percent owned by Salvadoran persons.

ANNEX I, Schedule of El Salvador

Sector: Performing Arts

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Ley de Migración, Arts. 62-A and 62-B

Legislative Decree No. 382, May 29, 1970, published in Diario Oficial No. 64, Vol. 227, April 10, 1970

Executive Decree No. 16, May 12, 1970, published in Diario Oficial No. 87, Vol. 227, May 18, 1970, Art. 1

Description: Cross-Border Services

No foreign artist may give paid performances of any kind without the prior express authorization of the Ministerio de Gobernación, which shall first seek, within 15 days, the advisory opinion of the legally established craft union of the artistic field in which the artist is involved. Foreign artists shall pay, to the relevant union, a performance fee deposit of 10 percent of the gross income likely to be earned in the country. Where it is not possible to make the advance payment, the artist shall pay an adequate amount as a “security deposit” to the relevant union. No foreign artist or group of artists may perform in the country for more than 30 days consecutively or intermittently within a year from the date of the first performance. An artist is any person acting in El Salvador, individually or in a company consisting of one or more persons, to give performances in music, song, dance or readings, or to present shows, whether in person (i.e., live) or before a large or small audience or on radio or television.

ANNEX I, Schedule of El Salvador

Sector: Circuses

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Ley de Migración, Art. 62-C

Decree No. 122, November 4, 1988, published in Diario Oficial No. 219, Vol. 301, November 25, 1988, Art. 3

Legislative Decree No. 382, May 29, 1970, published in Diario Oficial No. 64, Vol. 227, April 10, 1970

Decree No. 193, March 8, 1989, published in Diario Oficial No. 54, Vol. 302, March 17, 1989, Arts. 1 and 2

Reglamento para la Aplicación de los Decretos Legislativos 122 and 193 Relativos a Empresas Circenses, Arts. 1 and 2

Description: Cross-Border Services

Foreign circuses or other similar shows must pay to the relevant circus union a

performance fee equal to 2.5 percent of the gross income likely to be earned daily from ticket sales. The fee must be paid in full through the withholding system. All foreign circuses must be authorized by the appropriate Ministry and once authorized, notify the Asociación Salvadoreña de Empresarios Circenses (ASEC) and pay ASEC 3 percent of the gross income earned from ticket sales for each performance, as well as 10 percent of total earnings from sales to the audience, inside the circus, of flags, caps, tee shirts, balloons, photographs and other paraphernalia. The foreign circus shall pay an adequate amount as a security deposit to ASEC. A foreign circus entering El Salvador may only work in the city of San Salvador for 15 days, which may be extended for a further 15 days. A foreign circus that has performed in El Salvador can only return to the country after at least one year has elapsed since the date on which the circus left the country.

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Sector: Performing Arts

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Decreto de las disposiciones para regular la explotación de obras de naturaleza intelectual por medios de comunicación pública y la participación de artistas salvadoreños en espectáculos públicos, Legislative Decree No. 239, June 9, 1983, published in Diario Oficial No. 111, Vol. 279, June 15, 1983, Art. 3

Decree No. 18, Sustitución de los artículos 1 y 4 del Decreto Legislativo No. 239, June 9, 1983, published in Diario Oficial No. 7, Vol. 282, January 10, 1984

Description: Cross-Border Services

In the case of public performances involving the live participation of artists of any kind, the participation of Salvadoran nationals shall be equivalent to 20 percent of the number of participating foreigners.

ANNEX I, Schedule of El Salvador

Sector: Construction and Related Engineering Services

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

National Treatment (Articles 10.3 and 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Ley de Incentivos a las Empresas Nacionales de la Industria de la Construcción, Legislative Decree No. 504, published in Diario Oficial No. 167, Vol. 308, July 9, 1990, as amended by Legislative Decree No. 733, published in Diario Oficial No. 80, Vol. 311, April 23, 1991

Description: Cross-Border Services and Investment To participate in design activities, consulting, consulting and management of engineering or architectural projects, or any type of work or study relating to such projects' construction, whether before, during, or after construction, an enterprise a majority of whose capital is owned by foreign nationals ("foreign enterprise") must be contractually associated with an enterprise established in El Salvador ("Salvadoran enterprise") that is legally registered and qualified with the Ministerio de Obras Públicas, unless the foreign enterprise determines that such Salvadoran enterprise is not available. The foreign enterprise must have a resident representative in El Salvador. Further, an engineering or architectural project is subject to the following requirements:

(a) enterprises organized under Salvadoran law must have an investment in the project equal to at least 20 percent of the value of the project; and

(b) such enterprises must supply at least 30 percent of the technical staff and 90 percent of the administrative staff on the project.

The requirements of subparagraph (b) do not apply if the foreign enterprise determines that Salvadoran enterprises are not able to provide the necessary resources.

ANNEX I, Schedule of El Salvador

For greater certainty, technical staff and administrative staff do not include senior management. The requirements of subparagraphs (a) and (b) do not apply:

- (i) when the funds for the project come partially or entirely from foreign governments or international organizations; or
- (ii) to specific projects or grants for specialized technical cooperation.

ANNEX I, Schedule of El Salvador

Sector: Public Accounting and Public Auditing

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

National Treatment (Articles 10.3 and 11.2)

Level of Government: Central

Measures: Ley Reguladora del Ejercicio de la Contaduría, Arts. 2, 3, and 4

Description: Cross-Border Services and Investment Only a Salvadoran national may be authorized as a public accountant. Only a person authorized as a public accountant may be authorized as an external auditor. For an enterprise to be authorized to supply public accounting services, the principal partners, shareholders, or associates must be Salvadoran nationals, and at least one person among the partners, shareholders, associates, or administrators must be authorized as a public accountant in El Salvador.

ANNEX I, Schedule of El Salvador

Sector: Professional Services:

- Architectural Services
- Engineering Services
- Integrated Engineering Services
- Urban Planning and Landscaping Services

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Ley de Urbanismo y Construcción, Arts. 4 and 8

Registro Nacional de Arquitectos, Ingenieros, Proyectistas y Constructores, Executive Decree No. 34, published in Diario Oficial No. 4, Vol. 306, January 8, 1990

Reglamento Interno del Consejo Nacional de Arquitectos, Ingenieros, Proyectistas y Constructores, Executive Decree No. 75, published in Diario Oficial No. 11, Vol. 310, January 17, 1991, Arts. 25, 26, and 27

Description: Cross-Border Services

Only architects and engineers who are inscribed in the Registro Nacional de Arquitectos, Ingenieros, Proyectistas y Constructores ("Registro Nacional") may supervise architectural and engineering work on construction projects and sign and seal architectural or engineering plans for such projects. An architect or engineer must be resident in El Salvador to be inscribed in the Registro Nacional. Draftsmen, builders, and electrical installation technicians must be Salvadoran nationals in order to be inscribed in the Registro Nacional.

ANNEX I, Schedule of El Salvador

Sector: Professional Services: Health Services (Including but not limited to: General and Specialist Medical Services, Dental Services, Veterinary Services, Paramedical Services, Services rendered by Psychologists, Midwives, Nurses, Physiotherapists, Chemists and Qualified Clinical Laboratory Technicians, and Technical and Auxiliary Staff)

Obligations Concerned: Most-Favored-Nation Treatment (Article 11.3) National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Código de Salud, Arts. 4, 5, 17, 23, 30, 31, 32, and 306

Description: Cross-Border Services

A permit is necessary for the exercise of the health services professions and their specialized, technical, and auxiliary activities. Permits are issued by the appropriate Junta de Vigilancia. The Junta de Vigilancia may grant permanent, temporary, or provisional permits. A permanent permit is available only for private professional activity. Other permits are subject to restrictions and limitations in accordance with the law for specified reasons. To grant a permanent permit the Junta de Vigilancia shall require that persons be Salvadoran nationals by birth or authorized to permanently reside in the country. In addition to fulfilling the requirements under the law, foreigners must provide proof that the jurisdiction in which they earned their qualification allows Salvadoran nationals or graduates to practice their profession in analogous circumstances.

ANNEX I, Schedule of El Salvador

Sector: Professional Services – Legal Services (Notary Public)

Obligations Concerned: Most-Favored-Nation Treatment (Article 11.3) National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Ley de Notariado, Art. 4

Description: Cross-Border Services

Only persons authorized by the Supreme Court of Justice may exercise the profession of notary public. Only Salvadoran nationals who are attorneys may obtain such authorization. Central American nationals who have been authorized to practice law in El Salvador and who have resided in the country for at least two years may also obtain such authorization, provided that:

(a) they have not been barred from practicing the profession of notary public in their own country; and

(b) Salvadoran nationals may practice the same profession in their country without any additional requirements than those laid down in Salvadoran law.

ANNEX I, Schedule of El Salvador

Sector: Professional Services – Teachers

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Constitución de la República, Art. 60

Description: Cross-Border Services

Only Salvadoran nationals may teach national history and the Constitution.

ANNEX I, Schedule of El Salvador

Sector: Professional Services: Customs Agents

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

National Treatment (Articles 10.3 and 11.2)

Level of Government: Central

Measures: Reglamento del Código Aduanero Uniforme Centroamericano, Art. 18

Description: Cross-Border Services and Investment

Only nationals of the Central American Parties may work as customs agents.

ANNEX I, Schedule of El Salvador

Sector: Transport Services – Road Transport Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)

Measures: Constitución de la República de El Salvador, Art. 95

Ley de Transporte Terrestre, Tránsito y Seguridad Vial, Arts. 38-A and 38-B

Reglamento General de Transporte Terrestre, Arts. 1 and 2

Level of Government: Central

Description: Cross-Border Services and Investment

Permits for the supply of services in passenger transport, regular and non-regular, within El Salvador may only be granted to Salvadoran nationals or their partners. Only vehicles with Salvadoran license plates may transport goods from points in El Salvador to other points in El Salvador. At least 51 percent of the equity capital of an enterprise engaged in such goods transport in El Salvador must be owned by Salvadoran persons. If such capital is owned by an enterprise, at least 51 percent of the stock of that enterprise must be owned by Salvadoran nationals.

ANNEX I, Schedule of El Salvador

Sector: Energy

Obligations Concerned: Market Access (Article 11.4)

Measures: Ley reguladora del deposito, transporte y distribución de productos de petróleo, Art. 8

Description: Cross-Border Services

The construction of a gas service station will not be authorized if it is not a prudent distance from another gas station, in order to avoid excessive concentration. A prudent distance is considered one of not less than 600 meters in an urban area and 10 kilometers in a rural area. The 10 kilometer requirement also applies to one-way roads. For two-way roads containing medians, the distance will be measured on each side of the road independently.

ANNEX I, Schedule of El Salvador

Sector: Land Transport

Obligations Concerned: Market Access (Article 11.4)

Measures: Reglamento General de Transporte Terrestre, Title III, Art. 11 and Title V, Arts. 29 and 30

Description: Cross-Border Services

Public passenger land transportation concessions for a specific route will be limited, subject to technical studies of existing demand. A free public passenger land transportation concession is limited to one vehicle.

ANNEX I

Schedule of Guatemala

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Decree No. 118-96 that amends Decree Nos. 38-71 and 48-72, Arts. 1 and 2

Description: Investment

Only the following persons may be granted title to, rent, or use state-owned lands in the Department of El Petén:

(1) Guatemalans by birth who do not own rural real estate anywhere in the country that exceeds 45 hectares; and

(2) Guatemalans by birth who do not own industrial, mining or commercial enterprises.

Enterprises owned 100 percent by Guatemalans by birth that meet the requirements set out in the preceding paragraph may be granted title to, rent, or use state-owned lands in the Department of El Petén.

ANNEX I, Schedule of Guatemala

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Ley de Titulación Supletoria, Decree 49-79, Art. 2

Description: Investment

Only Guatemalans by birth and enterprises that are majority owned by Guatemalans by birth may take adverse possession of real estate.

ANNEX I, Schedule of Guatemala

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Constitución Política de la República de Guatemala, Art. 122 Ley Reguladora de las Áreas de Reservas Territoriales del Estado de Guatemala, Decree No. 126-97, Art. 5

Description: Investment

Foreign nationals require an authorization from the Oficina de Control de Areas de Reserva del Estado to acquire ownership of the following state-owned land:

(a) real estate located in urban zones; and

(b) real estate for which rights were registered in the General Property Registry before March 1, 1956 in the following locations:

(i) a 3-kilometer-long strip of land along the ocean;

(ii) 200 meters around the lakeshores;

(iii) 100 meters on either side of the navigable rivers; and

(iv) 50 meters around any spring that serves as a source of water for the population.

Only the Government may rent state-owned land described above to enterprises organized under Guatemalan law.

ANNEX I, Schedule of Guatemala

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Constitución Política de la República de Guatemala, Art. 123

Description: Investment

Only Guatemalans by birth and enterprises 100 percent owned by Guatemalans by birth may own or possess real property located within 15 kilometers of the borders. Foreign nationals may, however, own or possess urban real estate and real estate for which rights were registered in the General Property Registry before March 1, 1956 within the 15 kilometer area.

ANNEX I, Schedule of Guatemala

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Código de Comercio, Decree No. 2-70, and its amendments contained in Decree No. 62-95, Art. 2

Description: Investment

For an enterprise organized under foreign law to be established in Guatemala, in any form, it must allocate an assigned amount of capital for its operations in Guatemala, and execute a guarantee in favor of third parties in an amount not less than the equivalent in quetzales of US\$ 50,000, which must remain in effect for the duration of the enterprise's operations in Guatemala. The exact amount of the guarantee shall be determined by the Registro Mercantil, based on, among other factors, the amount of the investment. For greater certainty, the requirement of a bond is not to be construed to prevent an enterprise organized under the laws of a foreign country from establishing in Guatemala.

ANNEX I, Schedule of Guatemala

Sector: Forestry

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Constitución Política de la República de Guatemala, Art. 126

Description: Investment

Only Guatemalans by birth or enterprises organized under Guatemalan law may exploit and renew forestry resources.

ANNEX I, Schedule of Guatemala

Sector: Professional Services – Notaries

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Código de Notariado, Decree No. 314, Art. 2

Description: Cross-Border Services

To practice as a notary public, an individual must be a Guatemalan by birth domiciled in Guatemala.

ANNEX I, Schedule of Guatemala

Sector: Professional Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Código de Comercio, Decree No. 2-70, Art. 213

Description: Investment

An enterprise organized under the laws of a foreign country that supplies a professional service that requires a legally recognized university degree, certificate, or diploma may not be established in Guatemala. However, such an enterprise may supply its services in Guatemala through a contract or other relationship with an enterprise established in Guatemala.

ANNEX I, Schedule of Guatemala

Sector: Performing Arts

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Ley de Espectáculos Públicos, Decree No. 574, Arts. 36, 37, and 49 Acuerdo Ministerial No. 592-99 del Ministerio de Cultura y Deportes, Art. 1

Description: Cross-Border Services

Prior authorization from the Dirección de Espectáculos is required to contract with foreign groups, enterprises, or artists. In order for foreign artists or artist groups to perform in Guatemala, they must have a consent letter from any of the legally recognized non-governmental artist unions in the country. In mixed performances, made up of one or more films and variety shows, preference will be given to Guatemalans if the circumstances of the cast, schedule, and contract so allow.

ANNEX I, Schedule of Guatemala

Sector: Tour Guides

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Acuerdo No. 219-87 del Instituto Guatemalteco de Turismo – INGUAT
Funcionamiento de Guías de Turismo, Art. 6

Description: Cross-Border Services

Only Guatemalans by birth or nationals of a foreign country that are residents in Guatemala may provide tour guide services in Guatemala.

ANNEX I, Schedule of Guatemala

Sector: Specialty Air Services

Obligations Concerned: Most-Favored-Nation Treatment (Article 11.3)

Level of Government: Central

Measures: Ley de Aviación Civil, Decreto del Congreso 93-2000, Art. 24

Description: Cross-Border Services

In order to perform aeronautical duties on board foreign aircraft, individuals are required to have a certificate, license, or the equivalent, accepted by the Dirección General de Aeronáutica Civil, or issued pursuant to an international agreement to which Guatemala is a party, under conditions of reciprocity.

ANNEX I, Schedule of Guatemala

Sector: Specialty Air Services

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Ley de Aviación Civil, Decree No. 93-2000, Art. 62

Description: Cross-Border Services

In the operation of specialty air services by Guatemalan operators, all personnel

performing aeronautical duties on board the aircraft must be Guatemalans by birth. However, the Dirección General de Aeronáutica Civil may authorize foreign nationals to perform such duties for a period not to exceed three months, counting from the date of authorization. The Dirección General de Aeronáutica Civil may extend this period if it determines that there are no such trained personnel in Guatemala.

ANNEX I, Schedule of Guatemala

Sector: Air Transportation

Obligations Concerned: National Treatment (Article 10.3) Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: Ley de Aviación Civil, Decree No. 93-2000, Art. 71

Description: Investment

Only Guatemalans by birth or enterprises organized under Guatemalan law may operate commercial air transportation services in Guatemala. For greater certainty, commercial air transportation services includes all domestic air transport, including of passengers, mail or cargo. In order to supply such services, an enterprise must also meet the following requirements:

- (a) the enterprise must have its principal place of business in Guatemala; and
- (b) at least one-half, plus 1, of the directors, managers and individuals who have responsibility for management and control of the enterprise must be Guatemalans by birth or be a permanent resident of Guatemala.

ANNEX I

Schedule of Honduras

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Decree No. 131, Constitución de la República, Title III, Chapter II, Art. 107

Decree No. 90-1990, Ley para la Adquisición de Bienes Urbanos en las Áreas que delimita el Artículo 107 de la Constitución de la República, Arts. 1 and 4

Decree No. 968, Ley para la Declaratoria, Planeamiento y Desarrollo de las Zonas de Turismo, Title V, Chapter V, Art. 16

Description: Investment

State land, common land, and private land within 40 kilometers of the borders and coastlines, and such land on islands, keys, coral reefs, breakwaters, rocks, and sand shoals in Honduras, can only be acquired, possessed, or held under any title by Honduran nationals by birth, by enterprises fully owned by Honduran nationals, and by state institutions.

Notwithstanding the preceding paragraph, any person may acquire, possess, hold, or lease for up to 40 years (which may be renewed) urban lands in such areas provided that it is certified and approved for tourist purposes, economic or social development, or for the public interest by the Secretaría de Estado en el Despacho de Turismo.

Any person that acquires, possesses, or holds such urban land may transfer that land only after prior authorization by the Secretaría de Estado en el Despacho de Turismo.

ANNEX I, Schedule of Honduras

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3) Most-Favored-Nation Treatment (Article 10.4)
Level of Government: Central
Measures: Decree No. 131, Constitución de la República de Honduras, Title VI, Chapter I, Art. 337
Agreement No. 345-92, Reglamento de la Ley de Inversiones, Chapters I and VI, Arts. 3 and 49
Description: Investment
Small-scale industry and trade are reserved to Honduran persons.
Foreign investors cannot engage in small-scale industry or trade unless they are naturalized citizens and their country of origin grants reciprocity.
“Small-scale industry and trade” means an enterprise with capital, excluding land, buildings, and vehicles, of less than 150,000 Lempiras.

ANNEX I, Schedule of Honduras

Sector: All Sectors

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

Level of Government: Central

Measures: Decree No. 65-87, May 20, 1987, Ley de Cooperativas de Honduras, Title II, Chapter I, Arts. 18 and 19

Agreement No. 191-88, May 30, 1988, Reglamento de la Ley de Cooperativas de Honduras, Art. 34(c) and (d)

Description: Investment

Non-Honduran cooperatives may establish in Honduras if they receive authorization from the Instituto Hondureño de Cooperativas. Authorization will be granted if:

- (a) reciprocity exists in the country of origin; and
- (b) the non-Honduran cooperative has at least one permanent legal representative in Honduras.

ANNEX I, Schedule of Honduras

Sector: Customs Agents and Customs Agencies

Obligations Concerned: National Treatment (Article 10.3 and 11.2)

Level of Government: Central

Measures: Decree No. 212-87, Ley de Aduanas, Title IX, Chapter I, First and Third Sections, Arts. 177 and 182

Description: Cross-Border Services and Investment

Licensed customs agents must be Honduran nationals by birth.

Employees of the customs agent, who act on behalf of the customs agent, also must be Honduran nationals by birth.

ANNEX I, Schedule of Honduras

Sector: Agricultural

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Agreement No. 2124-92, Reglamento de Adjudicación de Tierras en la Reforma Agraria, Arts. 1 and 2

Description: Investment

Agrarian reform beneficiaries must be Honduran nationals by birth, individually or

organized in peasant cooperatives or other peasant enterprises.

ANNEX I, Schedule of Honduras

Sector: Communications Services – Mail

Obligations Concerned: Market Access (11.4)

Level of Government: Central

Measures: Decree No. 120-93, Ley Orgánica de le Empresa de Correos de Honduras, Arts. 3 and 4

Description: Cross-Border Services

The operation of the mail system in Honduras is reserved exclusively to the Empresa Hondureña de Correos (HONDUCOR). (However, this exclusivity does not apply to the supply of express delivery services).

ANNEX I, Schedule of Honduras

Sector: Radio, Television, and Newspaper Services

Obligations Concerned: Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures:

Decree No. 131, Constitución de la República de Honduras, Chapter II, Art. 73, third paragraph

Decree No. 6, Ley de Emisión del Pensamiento, Chapter IV, Art. 30

Decree No. 759, Ley del Colegio de Periodistas de Honduras, Art. 8, amended by Decree No. 79, January 1, 1981

Description: Investment

Only Honduran nationals by birth may exercise senior management of newspapers or free over the air broadcast (radio and television) news media, including its intellectual, political, and administrative orientation. (This does not apply to newspapers or news media that are established outside Honduras).

ANNEX I, Schedule of Honduras

Sector: Telecommunications

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Decree No.185-95, Ley Marco del Sector Telecomunicaciones, Chapter I, Art. 26

Agreement No. 141-2002, Reglamento General de la Ley Marco del Sector de Telecomunicaciones, December 26, 2002, Title III, Chapter I, Art. 93

Description: Cross-Border Services

Foreign governments may not directly participate in the provision of public telecommunications services.

ANNEX I, Schedule of Honduras

Sector: Telecommunications

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Decree No. 244-98, October 2, 1998, Art.1

Description: Cross-Border Services

The Empresa Hondureña de Telecomunicaciones (HONDUTEL) has the exclusive right to

provide national and international telecommunications services throughout the territory of Honduras, such as: carrier, telex, telephone and telegraph services, including telegraph services in places where there is no other means of communication with the rest of the country. HONDUTEL shall benefit from the exclusive right to provide such services until December 24, 2005.

Timetable for reduction:

Starting on December 25, 2005, HONDUTEL shall no longer have the exclusive right to provide national and international telecommunications services throughout the territory of Honduras, such as: carrier, telex, telephone and telegraph services, including telegraph services in places where there is no other means of communication with the rest of the country.

ANNEX I, Schedule of Honduras

Sector: Construction or Consulting Services and Related Engineering Services – Civil Engineering

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most-Favored Nation Treatment (Article 11.3) Market Access (Article 11.4) Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 47-1987, Ley Orgánica del Colegio de Ingenieros Civiles de Honduras, Art. 67

Reglamento de Ley Orgánica del Colegio de Ingenieros Civiles de Honduras, Arts. 100 (A) – (D) and 101

Decree No. 753, Ley Orgánica del Colegio de Arquitectos de Honduras, Art. 37(b), (c), (d), (g), and (h)

Reglamento de Ley Orgánica del Colegio de Arquitectos de Honduras, Arts. 4(h), 7(a), (c), (d) and (h), 13, 68, and 69

Decree No. 902, Ley Orgánica del Colegio de Ingenieros Mecánicos, Electricistas y Químicos de Honduras, Art. 40 (c), (d), and (h)

Description: Cross-Border Services and Investment

Consulting and construction enterprises must be organized under Honduran law in order to be members of the Colegio de Ingenieros Civiles de Honduras (CICH) and to perform civil engineering projects in Honduras. For greater certainty, consulting and construction enterprises organized under foreign law may register provisionally with the CICH to perform specific civil engineering projects. Higher membership fees apply to foreign owned enterprises. In addition, foreign workers must be authorized by the CICH in order to work on such projects.

ANNEX I, Schedule of Honduras

Sector: Distribution Services – Petroleum Products (Liquid Fuel, Automotive Oil, Diesel, Kerosene, and LPG)

Obligations Concerned: National Treatment (Article 10.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 549, Ley de Representantes, Distribuidores y Agentes de Empresas Nacionales y Extranjeras, Chapter I and VI, Arts. 4 and 25

Decree No. 804, amending Art. 4 of the Ley de Representantes, Distribuidores y Agentes de Empresas Nacionales y Extranjera

Description: Cross-Border Services and Investment

Only Honduran nationals and enterprises organized under Honduran law may be authorized to sell petroleum products. Enterprises must be at least 51 percent owned by Honduran nationals.

ANNEX I, Schedule of Honduras

Sector: Electricity

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Decree No. 158-94, Ley Marco del Sub Sector Eléctrico, November 26, 1994, Chapter V, Art. 15

Description: Cross-Border Services

Only the Honduran Government, through the Empresa Nacional de Energía Eléctrica, may transmit electricity or operate the electricity transmission system and dispatch center.

ANNEX I, Schedule of Honduras

Sector: Lotteries

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Ley Orgánica de la Lotería Nacional, Decree No. 438, April 23, 1977, Art. 5(c)

Description: Cross-Border Services

The Patronato Nacional de la Infancia (PANI) exclusively administers the national lottery.

ANNEX I, Schedule of Honduras

Sector: Education Services – Private Preschool, Primary, and Secondary Educational Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5) Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: Decree No. 131, Constitución de la República, Title III, Chapter VIII, Arts. 34, 166, and 168

Decree No. 79, Ley Orgánica de Educación, Arts. 64 and 65

Decree No. 136-97, Ley del Estatuto del Docente, Arts. 7 and 8

Executive Agreement No. 0760-5E-99, Reglamento General del Estatuto del Docente, Art. 6

Description: Cross-Border Services and Investment

A school director or supervisor must be a Honduran national by birth.

Teachers at all levels of the education system must be Honduran nationals by birth.

Foreign nationals may, however, teach particular subjects at the middle and high school levels if there are no such Honduran nationals available to teach such subjects.

Notwithstanding the preceding sentence, foreign nationals may teach the Constitution, civic education, geography, and the history of Honduras only if there is reciprocity for Honduran nationals in their country of origin.

Private schools at all levels must be organized under Honduran law. For greater certainty, there are no restrictions on foreign ownership of such schools.

ANNEX I, Schedule of Honduras

Sector: Entertainment Services – Music Entertainers

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)

Level of Government: Central

Measures: Decree No. 123, October 23, 1968, Ley de Protección a los Artistas Musicales, Arts. 1 – 4

Description: Cross-Border Services and Investment

Notwithstanding the measure listed above, Honduras agrees that foreign music artists who wish to perform individually or as a group in Honduras must pay five percent of the contracted fee to the Artist Union of Honduras and the manager or leaser shall, if possible, contract local artists to perform during the same performance.

For greater certainty, foreign music artists must register with the Artist Union of Honduras for each performance in Honduras.

ANNEX I, Schedule of Honduras

Sector: Championships and Soccer Games Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Reglamento de Campeonatos y Competencias Liga Nacional de Fútbol No Aficionado de Primera División, Arts. 9 and 10

Description: Cross-Border Services

Foreign nationals that are players in the Honduran national soccer league must be temporarily resident in Honduras. Each team in such league may register a maximum of four foreign players, one of whom must be a national from a Central American country.

ANNEX I, Schedule of Honduras

Sector: Amusement, Cultural, and Sports Services – Casinos and Gambling (Encompasses Roulette, Cards, Punter, Baccarat, Slot Machines, and the Like)

Obligations Concerned: National Treatment (Article 10.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 488, February 16, 1977, Ley de Casinos de Juegos de Envite o Azar, Art. 3

Description Cross-Border Services and Investment

Only Hondurans nationals by birth and enterprises organized under Honduran law may operate a casino.

ANNEX I, Schedule of Honduras

Sector: Environmental Services

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Decree No. 134-90, Ley de Municipalidades, Art. 13(3) and (4)

Decree No. 104-93, Ley General del Ambiente, Arts. 29 and 67

Description: Cross-Border Services

Only the State, through its municipalities, may provide public water distribution, waste disposal, and sanitation and hygiene services. For greater certainty, municipalities are responsible for the construction of aqueducts, the maintenance and administration of potable water, sanitary sewerage, and drainage, and the promotion and development of related projects.

ANNEX I, Schedule of Honduras

Sector: Distribution, Wholesale and Retail – Weapons, Munitions, and Other Related Items

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Decree No. 131, Constitución de la República, Title V, Chapter X, Art. 292

Decree No. 80-92, Ley de Inversiones, Chapter VI, Art.16

Description: Cross-Border Services

The wholesale and retail distribution of the following items are reserved solely for the Fuerzas Armadas de Honduras:

- munitions;
- warplanes,
- military rifles,
- all classes of pistols and revolvers, 41 caliber or higher;
- Honduran Army standard-issue pistols;
- silencers for all classes of firearms;
- firearms;
- accessories and munitions;
- cartridges for firearms;
- apparatus and other accessories required to load cartridges;
- gunpowder, explosives, caps, and fuses;
- gas masks; and
- air rifles.

For greater certainty, use of explosives for commercial purposes may be permitted by the appropriate Honduran authority.

ANNEX I, Schedule of Honduras

Sector: Investigation and Security Services

Obligations Concerned: National Treatment (Article 10.3) Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: Decree No. 156-98, Ley Orgánica de la Policía Nacional, Art.91

Description: Investment

In order to be established in Honduras, foreign private security enterprises must partner with Honduran enterprises working in the same field and appoint a Honduran national by birth as a senior manager.

ANNEX I, Schedule of Honduras

Sector: Fisheries

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Decree No. 154, Ley de Pesca, Chapter IV, Arts. 20, 26, and 29

Description : Investment

Only Honduran nationals resident in Honduras and enterprises organized under Honduran law at least 51 percent owned by Honduran nationals can engage in commercial fishing in the territorial waters, rivers, and lakes in Honduras. For greater certainty, only Honduran flag vessels can perform commercial fishing activities in territorial waters in Honduras.

For greater certainty, only Honduran nationals by birth can be captains of commercial fishing vessels.

ANNEX I, Schedule of Honduras

Sector: Professional Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 131, Constitución de la República de Honduras, Chapter VIII, Art. 177 Reglamento para el Reconocimiento de Estudios Universitarios e Incorporación de Profesionales, Arts. 2, 11, and 18

Description: Cross-Border Services

Notwithstanding existing measures relating to requirements for the practice of professions, including the measures listed above, Honduras agrees that authorization for professional practice will be granted based on principles of reciprocity.

Honduras agrees that if a jurisdiction in the United States recognizes professional degrees awarded by Honduran educational institutions, then Honduras will recognize equivalent professional degrees awarded by U.S. educational institutions.

Likewise, Honduras agrees that if a jurisdiction in the United States allows Honduran nationals to apply for and receive a license or certificate for the provision of a professional service, then Honduras will allow U.S. nationals to apply for and receive an equivalent license or certificate.

For greater certainty, the preceding paragraphs do not grant the automatic recognition of professional degrees or right to practice a profession, nor do they eliminate the nationality requirement for certain professions reserved exclusively for Honduran nationals, as provided for in Annexes I or II.

In addition, the relevant professional association in Honduras will recognize a license granted by a jurisdiction in the United States, and allow the holder of that license to register with the association and practice the profession in Honduras on a temporary basis based on the license issued in a jurisdiction in the United States, in the following cases:

ANNEX I, Schedule of Honduras

(a) no educational institution in Honduras offers a course of study that would allow the practice of the profession in Honduras;

(b) the holder of the license is a recognized expert in the profession; or

(c) allowing the professional to practice in Honduras will, through training, demonstration, or other such opportunity, further the development of the profession in Honduras.

ANNEX I, Schedule of Honduras

Sector: Air Transportation

Obligations Concerned: National Treatment (Article 10.3) Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: Decree No. 146, Ley de Aeronáutica Civil, Chapter X, Second, Third, and Fourth Sections, Art.80

Description: Investment

Only Honduran nationals and enterprises organized under Honduran law may supply domestic and international commercial public air transportation services by means of a

Honduran flag aircraft.

Such enterprises must be controlled and at least 51 percent owned by Honduran nationals.

ANNEX I, Schedule of Honduras

Sector: Air Transportation

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 146, Ley de Aeronáutica Civil, Chapter X, Second, Third, and Fourth Sections, Arts. 37, 125, and 126

Description: Cross-Border Services

Private specialty air transportation services for remuneration can only be provided by Honduran nationals or enterprises organized under Honduran law and must be authorized by the Secretaría de Obras Públicas, Transporte y Vivienda.

When Honduran personnel are not available to perform such activities, foreign pilots or other technical personnel may be allowed to exercise such activities, with preference given to qualified personnel from any Central American country.

ANNEX I, Schedule of Honduras

Sector: Maritime Transportation - Coastal Navigation

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most-Favored Nation Treatment (Articles 10.4 and 11.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 167-94, January 2, 1995, Ley Orgánica de la Marina Mercante Nacional, Title II, III, Chapter VII, Art. 40 Agreement No. 000764, December 13, 1997, Reglamento de Transporte Marítimo, Art. 6

Description: Cross-Border Services and Investment

Coastal navigation for commercial purposes is reserved for Honduran merchant vessels. If there are no Honduran merchant vessels, or if they are not available, and for the time period that such circumstances exist, the Dirección General de la Marina Mercante may authorize foreign merchant vessels to provide coastal navigation in Honduras. In such circumstances, preference shall be given to Central American flag vessels.

Honduran merchant vessels must be organized under Honduran law, at least 51 percent of its subscribed and paid-in share capital must be owned by Honduran nationals, and the company must be domiciled in Honduras.

ANNEX I, Schedule of Honduras

Sector: Land Transportation

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most-Favored Nation Treatment (Article 11.3) Market Access (Article 11.4) Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 319-1976, Ley de Transporte Terrestre, Arts. 3, 5, 17, 18, 27, and 28

Agreement No. 200, Reglamento de la Ley de Transporte Terrestre, Arts. 1, 7, 32, 33, and 34

Description: Cross-Border Services and Investment

Public domestic land passenger and cargo transportation services may be supplied only by Honduran nationals and enterprises that are organized under Honduran law and at least 51 percent owned by Honduran nationals. It is necessary to obtain a certificate of operation from the Dirección General de Transporte de la Secretaría de Obras Públicas, Transporte y Vivienda (SOPTRAVI), which is subject to an economic needs test. Public international land passenger and cargo transportation services may be supplied by foreign nationals and enterprises organized under foreign law based on reciprocity, but authorization for particular routes will be granted on a preferential basis to Honduran nationals and to enterprises organized under Honduran law.

ANNEX I, Schedule of Honduras

Sector: Transportation – Railways

Obligations Concerned: National Treatment (Article 10.3) Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: Decree No. 48, Ley Constitutiva del Ferrocarril Nacional de Honduras, Chapters I and VIII, Arts. 32 and 12 (amended by Decree No. 54)

Description: Investment

The Ferrocarril Nacional de Honduras may only sell its subsidiaries to Honduran nationals and enterprises organized under Honduran law.

The senior manager of the Ferrocarril Nacional de Honduras must be a Honduran national by birth.

ANNEX I, Schedule of Honduras

Sector: Other Business Services – Warehousing

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Agreement No. 1055, Reglamento de los Almacenes Generales de Depositos, Art. 3

Description: Cross-Border Services

Only enterprises organized under Honduran law with fixed capital and the sole purpose of providing warehousing services shall be authorized to provide such services.

ANNEX I, Schedule of Honduras

Sector: Business Consulting Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Market Access (Article 11.4)

Level of Government: Central

Measures: Decree No. 900, Ley Orgánica del Colegio de Administradores de Empresas de Honduras, Arts. 61-E and 61-F Reglamento de Ley Orgánica del Colegio de Administradores de Empresas de Honduras, Arts. 96, 111, 113, and 114

Description: Cross-Border Services

Foreign nationals may enter into contracts to provide business administration consulting services after confirmation of the contract by the Colegio de Administradores de Empresas de Honduras.

Enterprises organized under foreign law may enter into contracts to provide business administration consulting services after confirmation of the contract by the Colegio de Administradores de Empresas de Honduras if such services are not otherwise available in

Honduras or because of contractual needs. In order to provide such services, such enterprises must form a partnership with Honduran firms that are duly registered with the Colegio de Administradores de Empresas de Honduras.

Foreign nationals and enterprises organized under foreign law must pay registration fees that are higher than those imposed on Honduran nationals and enterprises organized under Honduran law.

ANNEX I, Schedule of Honduras

Sector: Economic Consulting Services

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 1002, Ley Orgánica del Colegio Hondureño de Economistas, Art. 58

Description: Cross-Border Services

In order to provide economic consulting services into the territory of Honduras, economic consulting enterprises organized under foreign law must be represented by a member of the Colegio Hondureño de Economistas.

ANNEX I, Schedule of Honduras

Sector: Agricultural Engineering and Agronomy

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)

Level of Government: Central

Measures: Decree No. 148-95, Ley Orgánica del Colegio de Profesionales en Ciencias Agrícolas de Honduras, Art. 5 Reglamento de la Ley Orgánica del Colegio de Profesionales en Ciencias Agrícolas de Honduras, Art. 9 and Tabla de Pagos al COLPROCAH

Description: Cross-Border Services

Foreign agricultural engineers and agronomists may be subject to higher professional association registration fees than those imposed on Honduran agricultural engineers and agronomists.

ANNEX I, Schedule of Honduras

Sector: Forestry Engineers

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Ley Orgánica del Colegio de Ingenieros Forestales de Honduras, Art. 66

Description: Cross-Border Services

Forestry engineering consulting enterprises organized under foreign law must hire Honduran nationals that are members of the Association of Forestry Engineers of Honduras in a proportion meaningful to the size of the project.

ANNEX I, Schedule of Honduras

Sector: Veterinarians

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Level of Government: Central

Measures: Ley Orgánica del Colegio de Veterinarios de Honduras, Art. 12 Reglamento de la Ley Orgánica del Colegio de Médicos Veterinarios de Honduras, Art. 5

Description: Cross-Border Services

Foreign enterprises wishing to supply veterinary services in Honduras must be organized under Honduran law. Foreign veterinarians may be subject to higher professional association fees than those imposed on Central American veterinarians.

ANNEX I, Schedule of Honduras

Sector: Microbiologists and Clinicians

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Reglamento de Inscripción del Colegio de Microbiólogos y Químicos Clínicos, Arts. 5, 6, and 8

Description: Cross-Border Services

Foreign microbiologists and clinicians must pay a higher registration fee than those paid by Honduran microbiologists and clinicians.

ANNEX I, Schedule of Honduras

Sector: Notaries

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Decree No. 277-2002, August 16, 2002, Ley del Notariado, Art. 4

Description: Cross-Border Services

Notaries must be Honduran nationals.

ANNEX I, Schedule of Honduras

Sector: Electrical Energy Services

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Decree No. 158-94, Ley Marco del Sub-sector Eléctrico, Art. 23

Description: Cross-Border Services

In order to be established in Honduras and supply electrical energy distribution services, an enterprise must be organized as a commercial corporation with nominative stock.

ANNEX I, Schedule of Honduras

Sector: Telecommunications

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures: Decree No. 80-2003, Art. 1(3.5) Executive Decree No. PCM-018-2003, October 2, 2003, Art. 1, No. IV (a) Decree No. 109-2003, October 24, 2003, Art. 1, No. IV (a)

Description: Cross-Border Services

The Comisión Nacional de Telecomunicaciones (CONATEL) will not authorize additional mobile telephony operators until December 2005. CONATEL will authorize at least one additional operator after that date.

ANNEX I, Schedule of Honduras

Sector: Public Accountants

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 19-93, Ley Orgánica del Colegio de Profesionales Universitarios en Contaduría Pública, Art. 23

Description: Cross-Border Services

Any person wishing to supply public accountancy services in the territory of Honduras must be organized under Honduran law.

ANNEX I, Schedule of Honduras

Sector: Architects

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central

Measures: Reglamento Interno Colegio de Arquitectos de Honduras, Art. 7(c) and (d)

Description: Cross-Border Services

Enterprises organized under foreign law must designate a member of the Colegio de Arquitectos de Honduras (CAH) as their representative prior to registering with the CAH to supply architectural services in Honduras. For greater certainty, enterprises organized under foreign law may only register for specific projects.

ANNEX I

Schedule of Nicaragua

Sector: Musicians and Artists

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)

Measures: Ley de Promoción a las Expresiones Artísticas Nacionales y de Protección a los Artistas Nicaragüenses, Law No. 215, published in La Gaceta No. 134, July 17, 1996, Arts. 14, 23, 24, 25, and 31

Description: Cross-Border Services

Foreign artists or musical bands may perform in Nicaragua solely by means of a prior contract.

Foreign artists performing shows or reviews of a commercial nature shall include in their program a Nicaraguan artist or group that performs similar shows.

Foreign artists or artistic groups not wishing to include a national artist in their program must pay one percent of the show's net receipts to the Instituto Nicaragüense de Cultura unless the foreign artists' or groups' country of origin does not levy such tax on Nicaraguan artists or artistic groups.

Foreigners selected for the design and construction of public, pictorial, or sculptural monuments erected in Nicaragua, shall do so in association with Nicaraguan artists.

ANNEX I, Schedule of Nicaragua

Sector: Tourism – Hotels, Restaurants, Tour Guides, Car Rental, and Other Tourism Related Activities.

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Measures: Ley de Incentivos a la Industria Turística de la República de Nicaragua, Law No. 306, published in La Gaceta No. 117, June 21, 1999, Arts. 16.1 and 16.2

Reglamento de Empresas y Actividades Turísticas de Nicaragua, published in La Gaceta No. 99, May 28, 2001, Arts. 16 and 17

Reglamento de los Operadores de Viajes de Nicaragua, published in La Gaceta No. 100, May 29, 2001, Art. 8

Reglamento que Regula las Actividades de las Empresas Arrendadoras de Vehículos

Automotrices y Acuáticos (Rent a Car), published in La Gaceta No. 108, June 8, 2001, Art. 9

Reglamento de Guías de Turistas, published in La Gaceta No. 40, February 26, 2001, Art. 9

Reglamento de Agencias de Viajes de Nicaragua, published in La Gaceta No. 96, May 21, 2001, Art. 5

Description: Cross-Border Services

In order to supply tourism services in Nicaragua an enterprise must be organized under Nicaraguan law; and a foreign national must reside in Nicaragua or appoint a legal representative in Nicaragua. This paragraph does not apply to the supply of tourism services during a cruise. Tour Guides must be Nicaraguan nationals.

ANNEX I, Schedule of Nicaragua

Sector: Services Related to Construction

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Measures: Ley Reguladora de la Actividad de Diseño y Construcción, Decree No. 237, December 1, 1986, Arts. 2, 4, and 6

Description: Cross-Border Services

In order to supply construction services in Nicaragua an enterprise must be organized under Nicaraguan law; and a foreign national must reside in Nicaragua or appoint a legal representative in Nicaragua.

ANNEX I, Schedule of Nicaragua

Sector: Distribution of Fireworks, Firearms, and Munitions

Affected Obligation: National Treatment (Article 11.2) Local Presence (Article 11.5)

Measures: Reglamento de la Ley de la Policía Nacional, Decree No. 26-96, published in La Gaceta No. 32, February 14, 1996, Arts. 76 and 77

Description: Cross-Border Services

In order to engage in the distribution of fireworks, firearms, and munitions in Nicaragua an enterprise must be organized under Nicaraguan law; and a foreign national must reside in Nicaragua.

ANNEX I, Schedule of Nicaragua

Sector: Private Security Services

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Measures: Manual de la Vigilancia Civil, No. 001, July 6, 1998, Art. 6

Description: Cross-Border Services

An enterprise must be established in Nicaragua to operate a private security guard company. Natural persons serving as armed guards must be Nicaraguan nationals.

ANNEX I, Schedule of Nicaragua

Sector: Radio Broadcast, Free Television Reception

Affected Obligation: National Treatment (Articles 10.3 and 11.2)

Measures: Ley de Reforma a la Ley No. 200, "Ley General de Telecomunicaciones Servicios Postales", Law No. 326, published in La Gaceta No. 244, December 22, 1999, Art. 1

Reglamento del Servicio de Radiodifusión Televisiva, Administrative Agreement No. 07 97, published in La Gaceta No. 228, November 28, 1997, Art. 12

Description: Cross-Border Services and Investment

A license for operating free over the air television and radio broadcast services (known under Nicaraguan law as "medios de comunicación social") may only be granted to Nicaraguan persons. In the case of enterprises, Nicaraguan nationals must own 51 percent of the capital.

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Sector: Communications – Professional Radio and Television Broadcast Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)

Measures: En Radiodifusoras y Televisiones del País, Únicamente Locutores Nicaragüenses Podrán ser Utilizados para las Narraciones de Programas Deportivos, Decree No. 66, published in La Gaceta No. 256, November 10, 1972, Arts. 1 and 3
Description: Cross-Border Services

Enterprises that supply radio and television broadcast services in Nicaragua shall only use the professional services of announcers who are Nicaraguan nationals for narration, commentary, and live broadcast in sports or similar commercial programs.

Notwithstanding the foregoing, foreign nationals will be allowed to serve as announcers if the laws of their own countries allow Nicaraguan nationals to supply such services. The provisions of this measure shall not apply to the broadcast of programs by foreign announcers when the transmission of such programs is aimed exclusively at other countries.

ANNEX I, Schedule of Nicaragua

Sector: Electricity Distribution

Obligations Concerned: Local Presence (Article 11.5)

Measures: Ley de la Industria Eléctrica, Law No. 272, published in La Gaceta No.74, April 23, 1998, Arts. 4 and 76

Description: Cross-Border Services

In order to engage in the distribution of electricity an enterprise must be organized under Nicaraguan law.

ANNEX I, Schedule of Nicaragua

Sector: Services Incidental to Mining – Hydrocarbons

Obligations Concerned: Local Presence (Article 11.5)

Measures: Ley Especial de Exploración y Explotación de Hidrocarburos, Law No. 286, published in La Gaceta No. 109, June 12, 1998, Art. 11

Reglamento a la Ley Especial de Exploración y Explotación de Hidrocarburos, Decree No. 43-98, published in La Gaceta No. 117, June 24, 1998, Arts. 5 and 6

Description: Cross-Border Services

An enterprise that supplies hydrocarbon exploration and testing services must be organized under Nicaraguan law. To conduct studies of hydrocarbons such as geological or geophysical studies, drafting topographic maps, seismic, or geochemical studies, a foreign national must designate a legal representative permanently domiciled in Nicaragua.

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Sector: Services Incidental to Mining – Metallic and Non-Metallic Minerals

Obligations Concerned: Local Presence (Article 11.5)

Measures: Reglamento de la Ley No. 387, Ley Especial de Exploración y Explotación de Minas, Decree No. 119 –2001, published in La Gaceta No. 4, January 7, 2002, Art. 31

Description: Cross-Border Services

In order to obtain a concession for exploration for metallic and nonmetallic minerals in Nicaragua an enterprise must be organized under Nicaraguan law. A foreign national not resident in Nicaragua must appoint a legal representative domiciled in Managua, Nicaragua.

ANNEX I, Schedule of Nicaragua

Sector: Fisheries and Services Incidental to Fishing

Obligations Concerned: National Treatment (Articles 10.4 and 11.2) Performance Requirements (Article 10.9) Local presence (Article 11.5)

Measures: Ley de Licitación Pública de Licencias y Concesiones Pesqueras, Law No.165, February 22, 1994, Art. 6

Ley Especial sobre Explotación de la Pesca, Decree No. 557, published in La Gaceta No. 32, February 7, 1961, Arts. 2 and 9

Normativa para la Pesca y Acuicultura en Nicaragua, Acuerdo Ministerial Agreement DGRN-PA. No. 359-2004, Arts. 11 and 78

Description: Cross-Border Services and Investment

Processing, packing, and other services related to fishing products must be carried out by enterprises organized under Nicaraguan law and licensed in Nicaragua. Processing and packing for export of fishing products captured in Nicaraguan territorial waters shall be carried out in enterprises in Nicaragua. Only Nicaraguan nationals may engage in artisanal fishing as a family enterprise for subsistence.

ANNEX I, Schedule of Nicaragua

Sector: Land Transportation

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Measures: Ley General de Transporte, Decree No. 164, published in La Gaceta No. 34, February 17, 1986, Art. 2

Ley Reglamentaria para la Emisión y Obtención de las Licencias de Funcionamiento en el Transporte Terrestre, Decree No. 1140, published in La Gaceta No. 280, November 30, 1982, Art. 7

Comunicado del Ministerio de Construcción y Transporte, November 12, 1990

Description: Cross-Border Services

To supply point-to-point land transportation of cargo or passengers within Nicaragua, an enterprise must be established in Nicaragua. An enterprise organized under the laws of a foreign country may supply international land transportation of cargo or passengers to the extent that a specific agreement between such country and Nicaragua provides for reciprocal treatment of enterprises organized under the laws of Nicaragua.

Notwithstanding the foregoing, only Nicaraguan persons may supply collective land transportation services in the interior of Nicaragua.

ANNEX I, Schedule of Nicaragua

Sector: Maritime Transportation

Obligations Concerned: National Treatment (Article 11.2)

Measures: Ley de Transporte Acuático, Law No. 399, published in La Gaceta No. 166, September 3, 2001, Arts. 44, 45, and 48

Ley Reguladora para el Servicio de Practicaje, Decree No. 15-49, published in La Gaceta No. 4, January 5, 1985, Art. 64

Description: Cross-Border Services

In order to operate as a shipowner or shipping enterprise in Nicaragua, a natural person must be a Nicaraguan national and an enterprise must be organized under Nicaraguan law. To operate as a shipping agent, general shipping agent, or shipping consignment agent, a natural person must be a Nicaraguan national, and an enterprise must be organized under Nicaraguan law. Only a Nicaraguan nationals or an enterprise established in Nicaragua may obtain a route concession to engage in maritime transportation. Cabotage is reserved exclusively for enterprises established in Nicaragua. Only Nicaraguan nationals may be named as official pilots for any port in Nicaragua.

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Sector: Ports

Obligations Concerned: Market Access (Article 11.4)

Measures: Creación de la Empresa Portuaria Nacional, Decree No. 35-95, published in La Gaceta No. 119, June 27, 1995, Arts. 6 and 7

Description: Cross-Border Services

The administration and operation of the existing ports of national interest (Corinto, Sandino, San Juan del Sur, Cabezas, El Rama and El Bluff) is reserved to the Empresa Portuaria Nacional (EPN).

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Sector: Air Transportation – Repair and Maintenance Services, Specialty Air Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation

Treatment (Article 11.3) Local Presence (Article 11.5)

Measures: Código de Aviación Civil, Decree No. 176, published November 22, 1956, with corrections on September 3, 1957, Arts. 32, 120, and 121

Reglamento para la Aviación Agrícola, Decree No. 36-A, published in La Gaceta No. 136, June 19, 1962, Arts. 11 and 13

Description: Cross-Border Services

The authorization of the Dirección General de Aeronáutica Civil is required to supply specialty air services and aircraft repair services in the territory of Nicaragua. Only Nicaraguan nationals or enterprises organized under Nicaraguan law may supply private, for profit air services. For greater certainty, private air services include:

(a) air-related tasks such as aero-topography, aero-photography, commercial advertising, and other similar tasks;

(b) agricultural fumigation services;

(c) industrial activities other than public transportation; and

(d) scientific civil aviation applications, such as educational flights, the determination of hurricane trajectories and migratory birds, and other similar applications.

Flight personnel who participate in aviation activities for agricultural purposes within the national territory must be Nicaraguan nationals. Similarly, aircraft used for such purposes must be licensed in Nicaragua. Only Nicaraguan technical personnel may engage in remunerated repair and maintenance services or specialty air services in

Nicaragua. In the absence of such personnel, the Dirección General de Aeronáutica Civil may allow foreign pilots or other technical personnel to engage in such activities, in which case the Dirección

ANNEX I, Schedule of Nicaragua

General de Aeronáutica Civil must give preference to nationals of other Central American Parties.

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Sector: Air Transportation

Obligations Concerned: National Treatment (Article 10.4) Senior Management and Boards of Directors (Article 10.10)

Measures: Código de Aviación Civil, Decree No. 176, published November 22, 1956, with corrections on September 3, 1957, Arts. 75, 120, and 121

Investment

Only an enterprise organized under Nicaraguan law may be granted a license to engage in public air transportation services. Nicaraguan nationals must own at least 51 percent of the capital, have effective control, and be in the senior management positions of such enterprises. Only Nicaraguan nationals and enterprises organized under Nicaraguan law may engage in remunerated private air transportation services.

ANNEX I, Schedule of Nicaragua

Sector: Professional Services

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Measures: Ley de Incorporación de Profesionales en Nicaragua, Decree No. 132, published in La Gaceta No. 47, November 2, 1979, Art. 5

Description: Cross-Border Services

A foreign professional may practice in Nicaragua in a form and subject to the same conditions that are permitted for Nicaraguans in the country of origin of such professional. Nicaragua agrees that if a jurisdiction in a foreign country allows Nicaraguan nationals to apply for and receive the licenses or certificates necessary to practice a profession in such jurisdiction, a foreign national with a license or certificate to practice the profession in such jurisdiction shall also be allowed to apply for and receive any license or certificate necessary to practice in Nicaragua. In addition, the relevant professional association in Nicaragua will recognize a license granted by a foreign jurisdiction, and allow the holder of that license to register with the association and practice the profession in Nicaragua based on the foreign license, in the following cases:

- (a) no academic institution in Nicaragua offers a course of study that would allow the practice of the profession in Nicaragua;
- (b) the holder of the license is a recognized expert in the profession; or
- (c) allowing the professional to practice in Nicaragua will, through training, demonstration, or other such opportunity, further the development of the profession in Nicaragua.

ANNEX I, Schedule of Nicaragua

Sector: Public Accounting and Auditing

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)
Measures: Ley para el Ejercicio de Contador Público, Law No. 6 published in La Gaceta, April 30, 1959, Art. 19

Description: Cross-Border Services

Foreign public accounting firms, auditors, and accountants, either as individuals or enterprises, may exercise their profession in Nicaragua, or other related activity, through an authorized Nicaraguan public accounting firm or association.

ANNEX I, Schedule of Nicaragua

Sector: Professional Services – Notary Publics

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)

Measures: Ley del 19 de noviembre de 1938, published in La Gaceta No. 267, December 10, 1938, Art.1

Ley del Notariado, Annex to Código de Procedimiento Civil de Nicaragua, Art. 10

Description: Cross-Border Services

Public notaries must be Nicaraguan nationals by birth authorized by the Supreme Court of Justice in order to practice their profession. Central American nationals by birth authorized to act as attorneys in the Republic may also obtain this authorization after residing in Nicaragua at least five years, provided they are allowed to exercise their profession as public notaries in their own countries, and that Nicaraguans are authorized to act as public notaries in their respective countries.

ANNEX I, Schedule of Nicaragua

Sector: Customs Brokers

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

Measure: Ley que Establece el Autodespacho para la Importación, Exportación y otros Regímenes, Law No. 265, published in La Gaceta No. 219, November 17, 1997, Arts. 49, 50, and 52

Description: Cross Border Services

A customs broker must be a Nicaraguan national or a national of a country that permits Nicaraguan nationals to serve as customs brokers. An enterprise operating as a customs broker in Nicaragua must be organized under Nicaraguan law and at least one official of the customs enterprise must have a valid license.

ANNEX I, Schedule of Nicaragua

Sector: Scientific Research Services

Obligations Concerned: Local Presence (Article 11.5)

Measures: Ley General sobre Explotación de Nuestras Riquezas, Decree No. 316, published in La Gaceta, April 17, 1958, Art. 83

Description: Cross-Border Services

To engage in scientific research activities related to natural resources a foreign national must have a legal representative in Nicaragua during the entire time the research is being conducted.

ANNEX I, Schedule of Nicaragua

Sector: Regime on Free Zones and Regime on Active Improvement

Obligations Concerned: Performance Requirements (Article 10.9)

Measures: Reglamento del Decreto de Zonas Francas Industriales de Exportación, Decree No. 31-92, published in La Gaceta No.112, June 12, 1992, Arts. 22 and 67

Description: Investment

An enterprise authorized to operate in a free zone may introduce up to 40 percent of its production by volume into the territory of Nicaragua after payment of duties and taxes, depending on whether it falls under category A (or “primera categoría”), B (or “segunda categoría”), or C (or “tercera categoría”). Nicaragua will apply this measure consistent with its obligations under the WTO Agreement on Subsidies and Countervailing Measures.

ANNEX I, Schedule of Nicaragua

Sector: Telecommunications

Obligations Concerned: Market Access (Article 11.4) National Treatment (Article 11.2)

Measures: Contrato de Concesión del Instituto Nicaragüense de Telecomunicaciones y Correos published in La Gaceta No. 67, April 12, 2002, clause 8.1

Description: Cross-Border Services

The Empresa Nicaragüense de Telecomunicaciones (ENITEL) has an exclusive regime for providing basic telephone services, including local telephone service, national and international long distance, and supply of television and telegraph links, pursuant to its concession contract. ENITEL exclusivity will end according to Nicaraguan law or concession but in any event no later than April 13, 2005.

ANNEX I, Schedule of Nicaragua

Sector: Development of Maps

Obligations Concerned: Market Access (Article 11.4)

Measures: Ley Orgánica del Instituto Nicaragüense de Estudios Territoriales (INETER), Law No. 311, published in La Gaceta No. 103, July 28, 1999, Art. 4

Description: Cross-Border Services

The developing, drafting, editing, and publishing of official regional, property, urban, and rural maps, as well as thematic maps and hydrographical, nautical, and aeronautical charts of Nicaragua in different scales is reserved to the Instituto Nicaragüense de Estudios Territoriales.

ANNEX I, Schedule of Nicaragua

Sector: Potable Water, Sanitary Sewer Systems, and Sewage Collection and Disposal.

Affected Obligation: Market Access (Article 11.4)

Measures: Ley de Creación de la Empresa Nicaragüense de Acueductos y Alcantarillados Sanitarios (ENACAL), Law No. 276, published in La Gaceta No. 12, January 20, 1998, Art. 3

Ley de Suspensión de Concesiones de Uso de Aguas, Law No. 440, Arts. 2 and 3

Description: Cross-Border Services

The establishment, construction, and development of public works for the supply and distribution of drinking water, and collecting and disposing of wastewater, may only be performed by the Empresa Nicaragüense de Acueductos y Alcantarillados Sanitarios (ENACAL). ENACAL is the State entity responsible for providing potable water and collecting and disposing of wastewater, and has the following functions:

(a) to capture, treat, conduct, store, distribute, and sell potable water; and to gather, treat and finally dispose of wastewater;

- (b) to purchase natural water, purchase and sell potable water, as well as to commercialize the services of collection, treatment and final disposal of wastewater;
- (c) take all necessary measures so that the release of treated wastewater minimizes the environmental impact;
- (d) develop the Company's Expansion Plan for the short, medium and long terms;
- (e) investigate, explore, develop, and exploit the water resources; and
- (f) any other activity required for its development.

ANNEX I, Schedule of Nicaragua

Sector: Airports

Affected Obligation: Market Access (Article 11.4)

Measures: Ley de la Empresa Administradora de Aeropuertos Internacionales, Decree No. 1292, published in La Gaceta No. 186, August 16, 1983, Art. 3

Description: Cross-Border Services

The Empresa Administradora de Aeropuertos Internacionales (EAAI) is responsible for establishing, operating, administering, carrying out works, and providing services in international airports.

ANNEX I, Schedule of Nicaragua

Sector: Energy Services

Obligations Concerned: Market Access (Article 11.4)

Measures: Ley de la Industria Eléctrica, Law No. 272, published in La Gaceta No. 74, April 23, 1998, Arts. 27 and 58

Description: Cross-Border Services

Electricity transmission services may only be provided by the Centro Nacional de Despacho de Carga.

ANNEX I, Schedule of Nicaragua

Sector: Administration of Lotteries

Obligations Concerned: Market Access (Article 11.4)

Measures: Reglamento Interno de la Lotería Nacional, published in La Gaceta No. 229, December 3, 1996, Arts. 4 and 5

Description: Cross-Border Services

Only the Lotería Nacional, a State-owned enterprise, may administer lotteries, drawings, raffles, promotions, and games of chance for money or prizes. Notwithstanding the preceding sentence, commercial promotions are allowed through the prior authorization of the Lotería Nacional, which shall be freely granted.

ANNEX I, Schedule of Nicaragua

Sector: Public Communications Services

Obligations Concerned: Market Access (Article 11.4)

Measures: Ley General de Telecomunicaciones y Servicios Postales, Law No. 200, published in La Gaceta No. 154, August 18, 1995, Art. 118

Description: Cross-Border Services

The issuance, finance, and marketing of postal stamps, as well as the usage of franking machines and other analogous systems, is reserved to the Correos de Nicaragua.

ANNEX I

Schedule of the United States

Sector: Atomic Energy

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: Atomic Energy Act of 1954, 42 U.S.C. §§ 2011 et seq.

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)).

ANNEX I, Schedule of United States

Sector: Business Services

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Export Trading Company Act of 1982, 15 U.S.C. §§ 4011-4021 15 C.F.R. Part 325

Description: Cross-Border 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.”

ANNEX I, Schedule of United States

Sector: Business Services

Obligations Concerned: National Treatment (Article 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: Export Administration Act of 1979, as amended, 50 U.S.C. app. §§ 2401-2420

International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-1706

Export Administration Regulations, 15 C.F.R. Parts 730 - 774

Description: Cross-Border Services

With some limited exceptions, exports and reexports 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.

ANNEX I, Schedule of United States

Sector: Mining

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

Level of Government: Central

Measures: Mineral Lands Leasing Act of 1920, 30 U.S.C. Chapter 3A 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).

ANNEX I, Schedule of United States

Sector: All Sectors

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

Level of Government: Central

Measures: 22 U.S.C. §§ 2194 and 2198(c)

Description: Investment

The Overseas Private Investment Corporation insurance and loan guarantees are not

available to certain aliens, foreign enterprises, or foreign-controlled domestic enterprises.

ANNEX I, Schedule of United States

Sector: Air Transportation

Obligations Concerned: National Treatment (Article 10.3) Most-Favored-Nation Treatment (Article 10.4) Senior Management and Boards of Directors (Article 10.10)

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:

- (a) an individual who is a U.S. citizen;
- (b) a partnership in which each member is a U.S. citizen; or
- (c) 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, and at least 75 percent of the voting interest in the corporation is owned or controlled by U.S. citizens.

ANNEX I, Schedule of United States

In addition, this statutory requirement has historically been interpreted by the Department of Transportation (and the Civil Aeronautics Board before it) to require that an air carrier in fact be under the actual control of U.S. citizens. The Department of Transportation makes this determination on a case-by-case basis, and has provided guidance as to certain lines of demarcation. For example, total foreign equity investment of up to 49 percent (with a maximum of 25 percent being voting stock), by itself, is not construed as indicative of foreign control. See Department of Transportation Order 91-1-41, January 23, 1991.

ANNEX I, Schedule of United States

Sector: Air Transportation

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most-Favored-Nation Treatment (Articles 10.4 and 11.3) Local Presence (Article 11.5) Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures: 49 U.S.C., Subtitle VII, Aviation Programs 49 U.S.C. § 41703 14 C.F.R. Part 375

As qualified by paragraph 2 of the Description element

Description: Cross-Border Services

1. Authorization from the Department of Transportation is required for the provision of

specialty air services in the territory of the United States.*

Investment

2. “Foreign civil aircraft” require authority from the Department of Transportation to conduct specialty air services in the territory of the United States. “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:

- (a) an individual who is a U.S. citizen;
- (b) a partnership in which each member is a U.S. citizen; or
- (c) 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, and at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens.

ANNEX I, Schedule of United States

In addition, this statutory requirement has historically been interpreted by the Department of Transportation (and the Civil Aeronautics Board before it) to require that an air carrier in fact be under the actual control of U.S. citizens. The Department of Transportation makes this determination on a case-by-case basis, and has provided guidance as to certain lines of demarcation. For example, total foreign equity investment of up to 49 percent (with a maximum of 25 percent being voting stock), by itself, is not construed as indicative of foreign control. See Department of Transportation Order 91-1-41, January 23, 1991.

*A person of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua will be able to obtain such an authorization given their governments’ acceptance of the U.S. definition of specialty air services in Chapter Eleven (Cross Border Trade in Services).

ANNEX I, Schedule of United States

Sector: Transportation Services – Customs Brokers

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Local Presence (Article 11.5)

Level of Government: Central

Measures: 19 U.S.C. § 1641(b)

Description: Cross-Border Services and Investment

A customs broker’s license is required to conduct customs business on behalf of another person. Only U.S. citizens may obtain such a license. A corporation, association, or partnership established under the law of any state may receive a customs broker’s license if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker’s license.

ANNEX I, Schedule of United States

Sector: All Sectors

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

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.

ANNEX I, Schedule of United States

Sector: Communications – Radiocommunications

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: 47 U.S.C. § 310

Foreign Participation Order 12 FCC Rcd 23891 (1997)

Description: Investment

The United States reserves the right to restrict ownership of radio licenses in accordance with the above statutory and regulatory provisions. Radiocommunications consists of all communications by radio, including broadcasting.

ANNEX I, Schedule of United States

Sector: Professional Services – Patent Attorneys, Patent Agents, and Other Practice before the Patent and Trademark Office

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)

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 10 (representation of others before the U.S. Patent and Trademark Office)

Description: Cross-Border 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. § 10.6(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. §10.6(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. § 10.14(a)- (c)).

ANNEX I, Schedule of United States

Sector: All Sectors

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Most-Favored
Nation Treatment (Articles 10.4 and 11.3) Local Presence (Article 11.5) Performance
Requirements (Article 10.9) Senior Management and Boards of Directors (Article 10.10)

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 Services and Investment