

Annex II

Schedule of Chile

Sector: All Sectors

Sub-Sector:

**Industrial
Classification:**

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

Most-Favoured-Nation Treatment (Article 10.4)

Description: Investment

Chile reserves the right to adopt or maintain any measure relating to the ownership or control of land within five kilometers of the coastline that is used for agricultural activities. Such measure could include a requirement that the majority of each class of stock of a Chilean juridical person that seeks to own or control such land be held by Chilean persons or by persons residing in Chile for 183 days or more per year.

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

Sector: All Sectors

Sub-Sector:

**Industrial
Classification:**

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

Senior Management and Boards of Directors (Article 10.8)

Description: Investment

In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset and on the right of foreign investors or their investments to control any State company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and members of the board of directors.

A “State company” shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the entry into force of this Agreement for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise or governmental entity.

**Existing
Measures:**

Sector: All Sectors

Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:** Most-Favoured-Nation Treatment
(Articles 9.4 and 10.4)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force on, or signed prior to, the date of entry into force of this Agreement.

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

**Existing
Measures:**

Sector:	Communications
Sub-Sector:	One Way Satellite Broadcasting of Digital Telecommunication Services, whether these involve Direct Home Television Broadcasting, Direct Broadcasting of Television Services and Direct Audio Broadcasting; Supplementary Telecommunication Services.
Industrial Classification:	
Obligations Concerned:	National Treatment (Article 9.3) Most-Favoured-Nation Treatment (Article 9.4) Local Presence (Article 9.6)
Description:	<u>Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure related to cross-border trade in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services.
Existing Measures:	Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI (<i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i>)

Sector:	Communications
Sub-Sector:	One Way Satellite Broadcasting of Digital Telecommunication Services, whether these involve Direct Home Television Broadcasting, Direct Broadcasting of Television Services and Direct Audio Broadcasting; Supplementary Telecommunication Services.
Industrial Classification:	
Obligations Concerned:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Performance Requirements (Article 10.7) Senior Management and Boards of Directors (Article 10.8)
Description:	<u>Investment</u> Chile reserves the right to adopt or maintain any measure related to the investors of Australia or to their investments in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services.
Existing Measures:	Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI (<i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i>)

Sector:	Issues Involving Minorities
Sub-Sector:	
Industrial Classification:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Most-Favoured-Nation Treatment (Articles 9.4 and 10.4) Performance Requirements (Article 10.7) Senior Management and Boards of Directors (Article 10.8) Local Presence (Article 9.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.
Existing Measures:	

Sector:	Issues Involving Minorities
Sub-Sector:	
Industrial Classification:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Most-Favoured-Nation Treatment (Articles 9.4 and 10.4) Performance Requirements (Article 10.7) Senior Management and Boards of Directors (Article 10.8) Local Presence (Article 9.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure denying investors of Australia and their investments or service suppliers of Australia any rights or preferences provided to indigenous peoples.
Existing Measures:	

Sector:	Education
Sub-Sector:	
Industrial Classification:	CPC 92 Education services
Obligations Concerned:	National Treatment (Article 9.3) Most-Favoured-Nation Treatment (Article 9.4) Local Presence (Article 9.6)
Description:	<u>Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure relating to natural persons who supply educational services, including teachers and auxiliary personnel supplying educational services in elementary education, kindergarten, pre-school, special education, primary and high school education, professional, technical, and university education, including in educational establishments of any kind as well as sponsors of educational establishments, schools, lyceums, academies, training centres, professional and technical institutes and/or universities. This non-conforming measure does not apply to the supply of services related to second-language training, corporate, business, and industrial training and skill upgrading, which include consulting services relating to technical support, advice, curriculum and program development in education.
Existing Measures:	

Sector: Government Finances

Sub-Sector:

Industrial Classification: CPC 91112 Financial and fiscal services

Obligations Concerned: National Treatment (Article 10.3)

Description: Investment

Chile reserves the right to adopt or maintain any measure related to the acquisition, sale or disposal by Australian nationals of bonds, treasury securities or any other type of debt instruments issued by the Central Bank of Chile (*Banco Central de Chile*) or the Government of Chile. This non-conforming measure is not intended to affect the rights of Australian financial institutions (banks) established in Chile to acquire, sell or dispose of such instruments when required for the purposes of regulatory capital.

Existing Measures:

Sector:	Fisheries
Sub-Sector:	Fishing-Related Activities
Industrial Classification:	CPC 882 Services incidental to fishing CPC 04 Fish and other fishing products
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)
Description:	<u>Investment and Cross-Border Trade in Services</u> Chile reserves the right to control the activities of foreign fishing, including fish landing, first landing of fish processed at sea and access to Chilean ports (port privileges). Chile reserves the right to control the use of beaches, land adjacent to beaches (<i>terrenos de playas</i>), water-columns (<i>porciones de agua</i>) and sea-bed lots (<i>fondos marinos</i>) for the issuance of maritime concessions. For greater certainty, “maritime concessions” do not cover aquaculture.
Existing Measures:	Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II, III, IV and V (<i>Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación Títulos I, II, III, IV y V</i>) D.F.L. 340, Official Gazette, April 6, 1960, about Maritime Concessions (<i>D.F.L. 340, Diario Oficial, abril 6, 1960, sobre Concesiones Marítimas</i>) Supreme Decree 660, Official Gazette, November 28, 1988, Maritime Concession Act (<i>Decreto Supremo 660, Diario Oficial, noviembre 28, 1988, Reglamento de Concesiones Marítimas</i>) Supreme Decree 123 of the Ministry of Economic Affairs, Development and Reconstruction, Vice-Ministry of Fishing, Official Gazette, August 23, 2004, On Use of Ports (<i>Decreto Supremo 123 del Ministerio de Economía, Fomento y Reconstrucción, Subsecretaría de Pesca, Diario Oficial, agosto 23, 2004, Sobre Uso de Puertos</i>)

Sector: Cultural Industries

Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:** Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any existing or future bilateral or multilateral international agreement with respect to cultural industries, such as audiovisual cooperation agreements. For greater certainty, for the purposes of this non-conforming measure, government supported subsidy programs for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

“Cultural industries” means persons engaged in any of the following activities:

- (a) publication, distribution, or sale of books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;
- (b) production, distribution, sale, or display of recordings of movies or videos;
- (c) production, distribution, sale, or display of music recordings in audio or video format;
- (d) production, distribution, or sale of printed music scores or scores readable by machines; or
- (e) radiobroadcasts aimed at the public in general, as well as all radio, television and cable television-related activities, satellite programming services and broadcasting networks.

**Existing
Measures:**

Sector:	Social Services
Sub-Sector:	
Industrial Classification:	CPC 913 Compulsory social security services CPC 92 Education services CPC 93 Health and social services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Most-Favoured-Nation Treatment (Articles 9.4 and 10.4) Performance Requirements (Article 10.7) Senior Management and Boards of Directors (Article 10.8) Local Presence (Article 9.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure with respect to the supply of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and child care.
Existing Measures:	

Sector:	Environmental Services
Sub-Sector:	
Industrial Classification:	CPC 94 Sewage and refuse disposal, sanitation and other environmental protection services
Obligations Concerned:	National Treatment (Article 9.3) Most-Favoured-Nation Treatment (Article 9.4) Local Presence (Article 9.6)
Description:	<u>Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure imposing the requirement that the production and distribution of drinking water, the collection and disposal of waste water and sanitation services, such as sewage systems, waste disposal and waste water treatment may only be provided by juridical persons incorporated under Chilean law or created in accordance with the requirements established by Chilean law. This non-conforming measure shall not apply to consultancy services retained by the said juridical persons.
Existing Measures:	

Sector:	Construction Services
Sub-Sector:	
Industrial Classification:	CPC 51 Construction work CPC 52 Constructions
Obligations Concerned:	National Treatment (Article 9.3) Local Presence (Article 9.6)
Description:	<u>Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure with respect to the supply of construction services by foreign juridical persons or legal entities imposing requirements of residence, registration and/or any other form of local presence, or imposing the obligation of giving financial security for work as a condition for the supply of construction services.
Existing Measures:	

Sector	All Sectors
Obligations Concerned:	Market Access (Article 9.5)
Description	<u>Investment and Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure relating to Article 9.5, except for the following sectors and sub-sectors subject to the limitations and conditions listed below: <i>Legal services:</i> (1) and (3) None, except in the case of receivers in bankruptcy (<i>síndicos de quiebra</i>) who must be duly authorised by the Minister of Justice, and they can only work in the place where they reside. (2) None (4) No commitments, except as indicated in Labour Code restriction. <i>Accounting, auditing and bookkeeping services:</i> (1) and (3) None, except the external auditors of financial institutions must be inscribed in the Register of External Auditors of the <i>Superintendencia de Bancos e Instituciones Financieras</i> and in the <i>Superintendencia de Valores y Seguros</i>. Only firms legally incorporated in Chile as partnerships (<i>sociedades de personas</i>) or associations (<i>asociaciones</i>), and whose main line of business is auditing services, may be inscribed in the Register. (2) None (4) No commitments, except as indicated in Labour Code restriction. <i>Taxation services:</i> (1), (2), and (3) None. (4) No commitments, except as indicated in Labour Code restriction. <i>Architectural services:</i> (1), (2) and (3) None (4) No commitments, except as indicated in Labour Code restriction. <i>Engineering services:</i> (1), (2) and (3) None (4) No commitments, except as indicated in Labour Code restriction.

Integrated engineering services:

(1) No commitments.

(2) None

(3) No commitments.

(4) No commitments, except as indicated in Labour Code restriction.

Veterinary services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services provided by midwives, nurses, physiotherapists and paramedical personnel:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Computer and related services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Research and Development services on natural sciences:

(1), (3) None except: The Directorate of Borders and Frontiers may stipulate that an expedition include one or more representatives of relevant Chilean activities. These representatives would participate in and learn about the studies and their scope.

(2) None

(4) No commitments, except as indicated in Labour Code restriction.

Research and Development services on social sciences and humanities, Interdisciplinary Research and Development services:

(1), (2) and (3) None

(4) No commitments, except as indicated in Labour Code restriction.

Real Estate services: involving owned or leased property or on a fee or contract basis:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Advertising services, market research and public opinion polling services, management consulting services, services related to management consulting, technical testing and analysis services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services related to agriculture, hunting and forestry:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services related to mining, placement and supply services of personnel, investigation and security services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Maintenance and repair of equipment (not including vessels, aircraft, or other transport equipment), building-cleaning services, photographic services, packing services, and convention services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Printing and publishing services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Post-secondary technical and vocational education services and adult education services n.e.c.:

(1), (2) None.

(3) No commitments.

(4) No commitments, except as indicated in Labour Code Restriction.

National or international long-distance telecommunications services:

(1), (2), (3), and (4) Chile reserves the right to adopt or maintain any measure that is not inconsistent with Chile's obligations under Article XVI of GATS.

Local basic telecommunication services and networks, intermediate telecommunications services, supplementary

telecommunications services and limited telecommunications services:

(1), (2), and (3) A concession granted by means of a *Decreto Supremo* issued by the *Ministerio de Transportes y Telecomunicaciones* shall be required for the installation, operation and exploitation of public and intermediary telecommunications services in Chilean territory. Only juridical persons organised under the Chilean law shall be eligible for such concessions.

An official decision issued by the *Subsecretaría de Telecomunicaciones* shall be required to render Supplementary Telecommunications Services, consisting of additional services provided by hooking up equipment to public networks. Said decision refers to compliance with the technical standards established by the *Subsecretaría de Telecomunicaciones* and non-alteration of the essential technical features of networks or of the permissible technological or basic service modalities provided through them.

A permit issued by the *Subsecretaría de Telecomunicaciones* shall be required for the installation, operation and development of limited telecommunications services. International traffic shall be routed through the installations of a company holding a concession granted by the *Ministerio de Transporte y Telecomunicaciones*.

(4) No commitments, except as indicated in Labour Code restriction.

Commission agents services, wholesale trade services, retailing services, franchising and other distribution:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Hotels and restaurants (including catering), travel agencies and tour operators services and tourist guide services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Entertainment services (including theatre, live bands and circus services), news agencies services, libraries, archives, museums, and other cultural services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Sporting and other recreational services, excluding gambling and betting services:

- (1) (2), and (3) None, except that a specific type of legal entity may be required for sporting organisations that develop professional activities. In addition, (a) it is not permitted to participate with more than one team in the same category of a sport competition; (b) specific regulations may be established on equity ownership in sporting companies; and (c) minimal capital requirements may be imposed.
- (4) No commitments, except as indicated in Labour Code restriction.

Road Transport: freight transportation, rental of commercial vehicles with operator; maintenance and repair of road transport equipment; supporting services for road transport services:

- (1), (2), and (3) None.
- (4) No commitments, except as indicated in Labour Code restriction.

Services auxiliary to all transport: cargo handling services; storage and warehouse services; freight transport agency services:

- (1), (2), and (3) None.
- (4) No commitments, except as indicated in Labour Code restriction.

Pipeline transport: transportation of fuels and other goods:

- (1), (2), and (3) None, except that the service has to be supplied by juridical persons established under Chilean law and the supply of the service may be subject to a concession on a national treatment basis.
- (4) No commitments, except as indicated in Labour Code restriction.

Aircraft repair and maintenance services:

- (1) No commitments.
- (2) and (3) None.
- (4) No commitments, except as indicated in Labour Code restriction.