

Annex II – Colombia

Sector:

Certain Sectors

Subsector:

Industry Classification:

Type of Reservation:

Market Access (Article 904)

Description:

Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure in the following sectors:

Investigation and security services;

Research and development services;

The establishment of exclusive areas for services incidental to energy distribution in order to ensure universal service;

Distribution, wholesale and retail services in sectors in which the government establishes a monopoly, pursuant to Article 336 of the Constitución Política de Colombia, with revenue to be dedicated for public or social services. As of the date of signing of this Agreement, Colombia has in place monopolies only with respect to liquor and gambling;

Primary and secondary education services, and, with respect to higher education, requirements relating to the specific type of legal entity that may supply such services;

Environmental services established or maintained for a public purpose;

Health related and social services, and professional services related to health;

Libraries, archives and museums;

Sporting and other recreational services;

The number of concessions and the total number of operations for road transportation passenger services; passenger and freight rail transportation services; pipeline transport; services auxiliary to all modes of transport, and other transport services.

For greater certainty, no measure shall be inconsistent with Colombia's obligations under Article XVI of GATS.

Existing Measures:

Sector:

All Sectors

Subsector:**Industry Classification:****Type of Reservation:**

National Treatment (Article 803)

Description:**Investment**

Colombia reserves the right to adopt or maintain any measure related to ownership of real property by foreigners in border regions, national coasts, or insular territory of Colombia.

For purposes of this reservation:

- Border region means a zone of two kilometres in width, parallel to the national border line;
- National coast means a zone of two kilometres in width, parallel to the line of the highest tide; and
- Insular territory means islands, islets, keys, headlands, and shoals that are part of the territory of Colombia.

Existing Measures:**Sectors:**

All Sectors

Subsector:**Industry Classification:****Type of Reservation:**

Most Favoured Nation Treatment (Articles 804, 903)

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

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

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

- 1. Aviation;
- 2. Fisheries; and
- 3. Maritime matters, including salvage.

Existing Measures:

Sector:

Social Services

Subsector:

Industry Classification:

Type of Reservation:

National Treatment (Articles 803 and 902)

Most Favoured Nation Treatment (Articles 804 and 903)

Market Access (Article 904)

Local Presence (Article 905)

Performance Requirements (Article 807)

Senior Management and Board of Directors (Article 808)

Description:

Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: social re-adaptation, income security or insurance, social security, social welfare, public training and education, health, and child care.

Existing Measures:

Sector:

Issues Related to Minorities and Ethnic Groups

Subsector:

Industry Classification:

Type of Reservation:

National Treatment (Articles 803 and 902)

Most Favoured Nation Treatment (Articles 804 and 903)

Market Access (Article 904)

Local Presence (Article 905)

Performance Requirements (Article 807)

Senior Management and Board of Directors (Article 808)

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

Colombia reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities and ethnic groups, including with respect to the communal lands held by ethnic groups in accordance with Art. 63 of the Constitución Política de Colombia. The ethnic groups in Colombia are: indigenous and Rom (gypsy) people, Afro-Colombian communities and the Raizal community of the Archipelago of San Andres, Providencia, and Santa Catalina.

Existing Measures:**Sector:**

Traditional Expressions

Subsector:**Industry Classification:****Type of Reservation:**

National Treatment (Articles 803 and 902)

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

Colombia reserves the right to adopt or maintain any measure according rights or preferences to local communities with respect to the support and development of expressions relating to intangible cultural heritage declared pursuant to Resolución No. 0168 de 2005

This intangible cultural heritage includes but is not limited to:

- 1. Languages and oral expressions;
- 2. Musical, dancing and sound expressions;
- 3. Ritual, scenic and ceremonial expressions, festive acts and traditional plays;
- 4. Knowledge, capabilities and techniques relating to the elaboration of objects, designs and corporal painting;
- 5. Social applications, knowledge and practices of the human being, nature and the universe;
- 6. Knowledge and practice relating to traditional juridical systems; and
- 7. Knowledge, practice and techniques relating to gastronomy.

Existing Measures:

Sector:

Business Services

Subsector:

Professional Services Excluding Accountants and Travel Agents

Industry Classification:**Type of Reservation:**

National Treatment (Article 902)

Market Access (Article 904)

Local Presence (Article 905)

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

Colombia reserves the right to adopt or maintain any measure that would allow a professional, other than an accountant or travel agent, who is a national of Canada, to practice only to the extent that the government of the province or territory in which that professional conducts his or her primary practice affords treatment consistent with the obligations referenced in this reservation to a Colombian national who otherwise satisfies the relevant authorization, licensing, or certification requirements to practice that profession. Notwithstanding the preceding sentence, Colombia shall permit such professionals who were practicing in its territory prior to the date of entry into force of this Agreement in accordance with Colombian law to continue practicing in accordance with the existing law.

For purposes of this reservation, the province or territory in which a professional conducts his or her primary practice is the province or territory within which the professional was licensed to practice and actually practiced most frequently in the preceding 12 month period.

Existing Measures:**Sector:**

Transport Services

Subsector:

Road Transport

River Transport

Industry Classification:

CPC 71: Land transport services

CPC 722: Transport services non-seagoing vessels

Type of Reservation:

Most Favored Nation Treatment (Article 903)

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

Colombia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement signed after the date of entry into force of this Agreement involving road and river transport services.

Existing Measures:**Sectors:**

All

Subsector:**Industry Classification:****Type of Reservation:**

National Treatment (Article 902)

Most Favored Nation Treatment (Article 903)

Market Access (Article 904)

Local Presence (Article 905)

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

Colombia reserves the right to maintain or adopt any measure affecting the supply of a service provided in the exercise of governmental authority.

A “service supplied in the exercise of governmental authority” means a service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

Annex II – Headnote

1. The Schedule of a Party sets out, pursuant to Article 809 (Investment – Non-Conforming Measures) and Article 906 (Cross-Border Trade in Services – Non-Conforming Measures), the reservations taken by that Party with respect to specific sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive measures that do not conform with obligations imposed by:

- a. Articles 803, 902 (National Treatment – Investment, Cross-Border Trade in Services);
- b. Articles 804, 903 (Most-Favoured-Nation Treatment – Investment, Cross-Border Trade in Services);
- c. Article 905 (Cross-Border Trade in Services – Local Presence);
- d. Article 807 (Investment – Performance Requirements);
- e. Article 808 (Investment – Senior Management and Boards of Directors); or
- f. Article 904 (Cross-Border Trade in Services – Market Access).

2. Each reservation sets out the following elements:

- a. Sector refers to the general sector in which the reservation is taken;
- b. Sub-Sector refers to the specific sector in which the reservation is taken;
- c. Industry Classification refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;
- d. Type of Reservation specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- e. Description sets out the scope of the sector, sub-sector or activities covered by the reservation; and
- f. Existing Measures identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the reservation.

3. In the interpretation of a reservation, all elements of the reservation, with the exception of Industry Classification, shall be considered. The Description element shall prevail over all other elements.

4. For purposes of this Annex:

CPC means Central Product Classification (CPC) numbers as set out in

Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, Provisional Central Product Classification, 1991; and

SIC means Standard Industrial Classification (SIC) numbers as set out in Statistics Canada, Standard Industrial Classification, fourth edition, 1980.

Annex II – Schedule of Canada

Sector:

Aboriginal Affairs

Sub-sector:

Industry Classification:

Type of Reservation:

National Treatment (Articles 803, 902)

Most-Favoured-Nation Treatment (Articles 804, 903)

Local Presence (Article 905)

Performance Requirements (Article 807)

Senior Management and Boards of Directors (Article 808)

Description:

Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure denying investors of Colombia and their investments, or service providers of Colombia, any rights or preferences provided to aboriginal peoples.

Existing Measures:

Constitution Act, 1982, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11

Sectors:

All sectors

Sub-sector:

Industry Classification:

Type of Reservation:

National Treatment (Article 803)

Description:

Investment

Canada reserves the right to adopt or maintain any measure relating to residency requirements for the ownership by investors of Colombia, or their investments, of oceanfront land.

Existing Measures:

Sectors:

Communications

Sub-sector:

Telecommunications Transport Networks and Services
Radiocommunications

Industry Classification:

CPC 752 Telecommunication Services

Type of Reservation:

National Treatment (Article 803)

Senior Management and Boards of Directors (Article 808)

Description:**Investment**

Canada reserves the right to adopt or maintain any measure:

- a. that limits foreign investment in facilities-based telecommunications service suppliers, provided that the measures adopted or maintained by Canada do not limit foreign investment to less than a cumulative total of 46.7 per cent of voting shares, based on 20 per cent direct investment and 33.3 per cent indirect investment;
- b. requiring that facilities-based telecommunications service suppliers be controlled in fact by Canadians;
- c. requiring that at least 80 per cent of the members of the board of directors of facilities-based telecommunications service suppliers be Canadian; and
- d. subjecting facilities-based telecommunications service suppliers that exceeded the permissible cumulative foreign investment level on 22 July 1987 and continue to exceed this level, to restrictions.

Exceptions to this reservation are:

- a. foreign investment is allowed up to 100 per cent for suppliers conducting operations under an international submarine cable licence;
- b. mobile satellite systems owned and controlled up to a level of 100 per cent by a foreign service provider may be used by a Canadian service provider to provide services in Canada; and
- c. fixed satellite systems owned and controlled up to a level of 100 per cent by foreign service providers may be used to provide services between points in Canada and all points outside of Canada.

Existing Measures:

Telecommunications Act, S.C. 1993, c. 38

Canadian Telecommunications Common Carrier

Ownership and Control Regulations, SOR/94-667

Radiocommunications Act, R.S.C. 1985, c. R-2
Radiocommunication Regulations, SOR/96-484

Sectors:

Communications

Sub-sector:

Telecommunications Transport Networks and Services, Radiocommunications
Telecommunication Services

Industry Classification:

CPC 7529 Other telecommunication services

CPC 7549 Other telecommunication services not elsewhere classified

Type of Reservation: Local Presence (Article 905) National Treatment
(Article 803)

Senior Management and Boards of Directors (Article 808)

Description:

Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure relating to the provision of or investment in telecommunications services classified in CPC 7529, excluding mobile services, and CPC 7549.

Existing Measures:

Radiocommunication Act, R.S.C. 1985, c. R-2

Radiocommunication Regulations, SOR/96-484

Telecommunications Act, S.C. 1993, c. 38

Canadian Telecommunications Common Carrier

Ownership and Control Regulations, SOR/94-667

Sectors:

Communications

Sub-sector: Telecommunications Transport Networks and Services

Industry Classification:

CPC 752 Telecommunications services

CPC 7543 Connection services

CPC 7549 Other telecommunications services not elsewhere classified
(limited to telecommunications)

Type of Reservation:

National Treatment (Article 803)

Description:

Investment

Canada reserves the right to adopt or maintain any measure that may limit competition in the provision of local wireline telephone services in the serving areas of Northwestel Inc.

Existing Measures:

Telecommunications Act, S.C. 1993, c. 38

Sector:

Fisheries

Fishing and Fishing Related Services and Investment

Industry Classification:

SIC 031 Fishing Industry

SIC 032 Services Incidental to Fishing

CPC 882 Services incidental to fishing

Type of Reservation:

National Treatment (Articles 803, 902)

Most Favoured- Nation Treatment (Articles 804, 903)

Description:

Cross-Border Trade in Services and Investment

Canada retains the right to adopt or maintain any measure with respect to the issuance of licenses to foreign fishing vessels and with respect to access for foreign fishing vessels to Canada' s ports, internal waters, territorial sea or Exclusive Economic Zone.

Under the Coastal Fisheries Protection Act, Fisheries and Oceans Canada is responsible for controlling the activities of foreign fishing vessels in Canada' s Exclusive Economic Zone, as well as access to Canadian ports (including port privileges).

Under the Coastal Fisheries Protection Act, foreign fishing vessels are prohibited from entering Canada' s territorial waters or Exclusive Economic Zone except under authority of a license or under treaty.

“Foreign” vessels are those which are not “Canadian” as defined in the Coastal Fisheries Protection Act. Under the Fisheries Act, the Minister of Fisheries and Oceans has discretionary authority with respect to the issuance of licenses.

Canada issues a port entry and port privileges license, including for the purchase of fuel and supplies, ship repair, crew exchanges and transshipment of fish catches, only to fishing vessels from a country with which it has favourable fisheries relations, based primarily on adherence by that country to international conservation practices and policies. Exceptions to this general rule are permitted in cases of emergency

(“force majeure”) and where the specific provisions of bilateral fisheries treaties apply.

Existing Measures:

Coastal Fisheries Protection Act, R.S.C. 1985, c. C-33

Fisheries Act, R.S.C 1985, c. F-14

Coastal Fisheries Protection Regulations, C.R.C. 1978, c. 413

Commercial Fisheries Licensing Policy

Sector:

Government Finance

Sub-sector:

Securities

Industry Classification:

SIC 8152 Finance and Economic Administration

Type of Reservation:

National Treatment (Article 803)

Description:

Investment

Canada reserves the right to adopt or maintain any measure relating to the acquisition, sale or other disposition by nationals of Colombia of bonds, treasury bills or other kinds of debt securities issued by the Government of Canada, a province or local government.

Existing Measures:

Financial Administration Act, R.S.C. 1985, c. F-11

Sector:

Minority Affairs

Sub-sector:

Industry Classification:

Type of Reservation:

National Treatment (Articles 803, 902)

Local Presence (Article 905)

Performance Requirements (Article 807)

Senior Management and Boards of Directors (Article 808)

Description:

Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.

Existing Measures:

Sector:

Social Services

Sub-sector:

Industry Classification:

Type of Reservation:

National Treatment (Articles 803, 902)

Most-Favoured-Nation Treatment (Article 903)

Local Presence (Article 905)

Senior Management and Boards of Directors (Article 808)

Description:

Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure with respect to the provision of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

Existing Measures:

Sector:

Transportation

Sub-sector:

Air Transportation

Industry Classification:

SIC 4523 Aircraft Servicing Industry

SIC 3211 Aircraft and Aircraft Parts Industry

Not CPC-defined: Aircraft repair and maintenance services, as defined in the Cross-Border Trade in Services chapter

Type of Reservation:

Most-Favoured-Nation Treatment (Article 804)

Description:

Cross-Border Trade in Services

Canada reserves the right to selectively negotiate agreements or arrangements with other aeronautical authorities or service providers to recognize their accreditation of repair, overhaul and maintenance facilities and certification by such facilities of work performed on Canadian-registered aircraft and other related aeronautical products.

Existing Measures:

Sector:

Transportation

Sub-sector:

Air Transportation

Industry Classification:

SIC 451 Air Transport Industries

Not CPC-defined: Selling and marketing of air transport services, as defined in the Cross-Border Trade in Services chapter

Type of Reservation:

National Treatment (Article 902)

Most-Favoured-Nation Treatment (Article 903)

Local Presence (Article 905)

Description:

Cross-Border Trade in Services

Canada reserves the right to adopt or maintain any measure relating to the selling and marketing of air transportation services.

Existing Measures:

Sector:

Transportation

Sub-sector:

Water Transportation

Industry Classification:

SIC 4129 Other Heavy Construction

SIC 4541 Freight and Passenger Water Transport

Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4552 Harbour and Port Operation Industries (limited to berthing, bunkering and other vessel operations in a port)

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry
SIC 4559 Other Service Industries Incidental to Water Transport (not including landside aspects of port activities)

CPC 52232 Constructions of Harbours, rivers, canals, and related facilities

CPC 721 Transportation services by sea-going vessels

CPC 722 Transportation services by non-sea-going vessels

CPC 74510 Port and waterway operation services (excl. cargo handling)

CPC 74520 Pilotage and berthing services

CPC 74590 Other supporting services for water transport

Other marine activities of a commercial nature, as set out in the **Description** section below

Type of Reservation:

National Treatment (Articles 803, 902)

Most-Favoured-Nation Treatment (Articles 804, 903) Local Presence (Article 905)

Performance Requirements (Article 807)

Senior Management and Boards of Directors (Article 808)

Description:

Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain any measure relating to the investment in or provision of marine cabotage services, including:

1. the transportation of either goods or passengers by ship between points in the territory of Canada or above the continental shelf of Canada, either directly or by way of a place outside Canada; but with respect to waters above the continental shelf of Canada, the transportation of either goods or passengers only in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada; and
2. the engaging by ship in any other marine activity of a commercial nature in the territory of Canada and, with respect to waters above the continental shelf, in such other marine activities of a commercial nature that are in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada.

This reservation relates to, among other things, local presence requirements for services providers entitled to participate in these activities, criteria for the issuance of a temporary cabotage license to foreign ships and limits on the number of cabotage licenses issued to foreign ships.

Existing Measures:

Coasting Trade Act, S.C., 1992, c. 31
Canada Shipping Act, R.S.C., 1985, c. S-9
Customs Act, R.S.C., 1985, c.1 (2nd Supp.)
Customs and Excise Offshore Application Act, R.S.C., 1985, c. C-53.

Sector:

Transportation

Sub-sector:

Water Transportation

Industry Classification:

SIC 4541 Freight and Passenger Water Transport

Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4551 Marine Cargo Handling Industry

SIC 4552 Harbour and Port Operation Industries

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry

SIC 4559 Other Service Industries Incidental to Water

Transport

CPC 721 Transport services by sea-going vessels

CPC 722 Transport services by non-sea-going vessels

CPC 74510 Port and waterway operation services (excl. cargo handling)

CPC 74520 Pilotage and berthing services

CPC 74590 Other supporting services for water transport

Type of Reservation:

Most-Favoured-Nation Treatment (Article 804)

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

Canada reserves the right to adopt or maintain any measure relating to the implementation of agreements, arrangements and other formal or informal undertakings with other countries with respect to maritime activities in waters of mutual interest in such areas as pollution control (including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality, pilotage, salvage, drug abuse control and maritime communications.

Existing Measures:

United States Wreckers Act, R.S.C. 1985, c. U-3

Various agreements and arrangements, including:

- 1. Memorandum of Arrangements on Great Lakes Pilotage;
- 2. Canada - United States Joint Marine Pollution Contingency Plan;
- 3. Agreement with the United States on Loran "C" Service on the East and West Coasts; and
- 4. Denmark - Canada Joint Marine Pollution Circumpolar Agreement.

Sector:

All Sectors

Sub-sector:

Industry Classification:

Type of Reservation:

Most-Favoured-Nation Treatment (Article 804)

Description:

Investment

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

Canada reserves the right to adopt or maintain any measure that accords differential treatment to a country pursuant to any existing or future bilateral or multilateral agreement relating to:

- 1. aviation;
- 2. fisheries;
- 3. maritime matters, including salvage.

Existing Measures:

Sector:

All sectors

Sub-sector:

Industry Classification:

Type of Reservation:

Market Access (Article 904)

Description:

Cross-Border Trade in Services

Canada reserves the right to adopt or maintain any measure that is not inconsistent with Canada' s obligations under Article XVI of the GATS.