Annex I: Schedule of Canada

Reservations for Existing Measures and Liberalization

Commitments

1. The Schedule of a Party sets out, pursuant to Articles 10.9 (Investment - Reservations and Exceptions) and 11.7 (Cross-Border Trade in Services - Reservations) the reservations taken by that Party with respect to existing measures by a Party that do not conform with obligations imposed by:

- (a) Articles 10.4 (Investment – National Treatment) or 11.3 (Cross-Border Trade in Services – National Treatment);
- (b) Articles 10.5 (Investment – Most-Favoured-Nation Treatment) or 11.4 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment);
- (c) Article 11.5 (Cross-Border Trade in Services – Local Presence);
- (d) Article 10.7 (Investment – Performance Requirements);
- (e) Article 10.8 (Investment – Senior Management and Boards of Directors); or
- (f) Article 11.6 (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 industry classification codes;
  (d) **Type of Reservation** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- (e) **Measures** identifies the laws, regulations or other measures, as qualified, where indicated, by the **Description** element, for which the reservation is taken. 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;
- (f) **Description** sets out the non-conforming aspects of the existing measures for which the reservation is taken. It may also set out commitments for liberalization.

3. In the interpretation of a reservation, all elements of the reservation, with the exception of Industry Classification, shall be considered. A reservation shall be

interpreted in the light of the relevant provisions of the Articles against which the reservation is taken. To the extent that:

- (a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and
- (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. Where a Party maintains a measure that requires 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 reservation for that measure taken with respect to Article 11.3, 11.4 or 11.5 (Cross-Border Trade in Services – National Treatment, Most-Favoured-Nation Treatment or Local Presence) shall operate as a reservation with respect to Article 10.4, 10.5 or 10.7 (Investment – National Treatment, Most-Favoured-Nation Treatment or Performance Requirements) to the extent of that measure.

5. The listing of a measure in this Annex is without prejudice to a future claim that Annex II may apply to the measure or some application of the measure.

6. For purposes of this Annex:

CPC means Central Product Classification 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 numbers as set out in Statistics Canada, *Standard Industrial Classification*, fourth edition, 1980.

ANNEX I: Schedule of Canada

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 10.4)

Performance Requirements (Article 10.7)

Senior Management and Boards of Directors (Article 10.8)

Measures: *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611, as qualified by paragraphs 8 through 12 of the **Description** element

Description: Investment

1. Under the *Investment Canada Act*, the following acquisitions of Canadian businesses by non-Canadians are subject to review by the Director of Investments:

- (a) a direct acquisition of a Canadian business with assets of CAD$5 million or more;
- (b) an indirect acquisition of a Canadian business with assets of CAD$50 million or more; and
- (c) an indirect acquisition of a Canadian business with assets between CAD$5 million and CAD$50 million that represent more than 50% of the value of the assets of all the entities the control of which is being acquired, directly or indirectly, in the transaction in question.

2. For the purposes of this reservation:

non-Canadian means an individual, government, or agency thereof or an entity that is not Canadian, and

Canadian means a Canadian citizen or permanent resident, a government in Canada or agency thereof or a Canadian-controlled entity as provided for in the *Investment Canada Act*.

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

4. An investment subject to review under the *Investment Canada Act* may not be implemented unless the Minister responsible for the *Investment Canada Act* advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with 6 factors described in the Act, summarized as follows:

- (a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the use of parts, components, and services produced in Canada, and on exports from Canada;
- (b) the degree and significance of participation by Canadians in the investment;
- (c) the effect of the investment on productivity, industrial efficiency, technological development, and product innovation in Canada;
- (d) the effect of the investment on competition within an industry in Canada;
- (e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic, and cultural policy objectives

enunciated by the government or legislature of a sub-national government that is likely to be significantly affected by the investment; and

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

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

6. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review, as described above, must notify the Director of Investments.

7. The Director of Investments will review an "acquisition of control", as defined in the *Investment Canada Act*, of a Canadian business by an investor of Honduras if the value of the gross assets of the Canadian business is not less than the applicable threshold.

8. The higher review threshold, as set out in paragraph 13, does not apply to the cultural businesses sector.

9. Notwithstanding the definition of "investor of a Party" in Article 10.1 (Investment – Definitions), only an investor who is a national of Honduras, or an entity controlled by nationals of Honduras as provided for in the *Investment Canada Act*, may benefit from the higher review threshold.

10. An indirect "acquisition of control" of a Canadian business by an investor of Honduras in the cultural business sector is not reviewable.

11. Notwithstanding Article 10.7 (Investment – Performance Requirements), Canada may impose requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, conduct or operation of an investment of an investor of Honduras or of a non-Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada, in connection with the review of an acquisition of an investment under the *Investment Canada Act*.

12. Except for requirements, commitments or undertakings relating to technology transfer as set out in paragraph 11 of this reservation, Article 10.7 (Investment – Performance Requirements) applies to requirements, commitments or undertakings imposed or enforced under the *Investment Canada Act*. Article 10.7 (Investment – Performance Requirements) shall not be construed to apply to a requirement, commitment or undertaking imposed or enforced in connection with a review under the *Investment Canada Act*, to locate production, carry out research and

development, employ or train workers, or to construct or expand particular facilities, in Canada.

13. For an investor of Honduras, the applicable threshold for review of a direct acquisition of control of a Canadian business is CAD$344 million for the year 2013. In January of each subsequent year the amount is determined by the Minister using the following formula:

<table>
<tr><td colspan="3">Annual Adjustment =</td></tr>
<tr><td>Current Nominal GDP
at Market Prices</td><td rowspan="2">x</td><td rowspan="2">amount determined for previous year</td></tr>
<tr><td>Nominal GDP
Previous Year
at Market Prices</td></tr>
</table>

Current Nominal GDP at Market Prices means the average of the Nominal Gross Domestic Products at Market Prices for the most recent four consecutive quarters.

Previous Year Nominal GDP at Market Prices means the average of the Nominal Gross Domestic Products for the four consecutive quarters for the comparable period in the year preceding the year used in calculating the “Current Nominal GDP at Market Prices”.

For the above mentioned purposes, the amounts will be rounded to the nearest million in Canadian dollars.

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 10.4)

Senior Management and Boards of Directors (Article 10.8)

Measures: As set out in the **Description** element

Description: Investment

Canada or a sub-national government, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of those interests or assets, and on the ability of owners of those interests or assets to control a resulting enterprise, by investors of Honduras or of a non-Party or their investments. With respect to that sale or other disposition, Canada or a sub-national government may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

For the purposes of this reservation:

- (a) **measure** means a measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes a limitation on the ownership of equity interests or assets or imposes a nationality requirement described in this reservation and shall be deemed to be an existing measure; and
- (b) **state enterprise** means an enterprise owned or controlled through ownership interests by Canada or a sub-national government and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 10.4)

Measures: *Canada Business Corporations Act*, R.S.C. 1985, c. C-44

Canada Business Corporations Regulations, *2001*, SOR/2001-512

Canada Corporations Act, R.S.C. 1970, c. C-32

Description: Investment

1. *The Canada Business Corporations Act* provides that constraints may be placed on the issue, transfer and ownership of shares in a federally incorporated corporation. The object of those constraints is to permit a corporation to meet Canadian ownership requirements, under certain laws set out in the *Canada Business Corporations Regulations*, *2001*, in sectors where ownership or control is required as a condition to operate or to receive licenses, permits, grants, payments or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.
2. For the purposes of this reservation, **Canadian** means "Canadian" as defined in the *Canada Business Corporations Regulations, 2001*.

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: Senior Management and Boards of Directors (Article 10.8)

Measures: *Canada Business Corporations Act*, R.S.C. 1985, c. C-44

Canada Business Corporations Regulations, *2001*, SOR/2001-512

Canada Corporations Act, R.S.C. 1970, c. C-32

Special Acts of Parliament incorporating specific companies

Description: Investment

1. The *Canada Business Corporations Act* requires, for most federally-incorporated corporations, that 25% of directors be resident Canadians. A simple majority of resident Canadian directors is required for corporations in the following sectors: uranium mining; book publishing or distribution; book sales (if the sale of books is the primary part of the corporation's business); and film or video distribution. Similarly, corporations that, by an Act of Parliament or Regulation, are individually subject to minimum Canadian ownership requirements, are required to have a majority of resident Canadians directors.
2. For the purposes of the *Canada Business Corporations Act*, **resident Canadian** means a natural person who is a Canadian citizen ordinarily resident in Canada, a citizen who is a member of a class set out in the *Canada Business Corporations Regulations*, *2001,* or a permanent resident as defined in the *Immigration and Refugee Protection Act,* other than a permanent resident who has been ordinarily resident in Canada for more than 1 year after becoming eligible to apply for Canadian citizenship.
3. In the case of a holding corporation, not more than 1/3 of the directors need be resident Canadians if the earnings in Canada of the holding corporation and its subsidiaries are less than 5% of the gross earnings of the holding corporation and its subsidiaries.
4. Under Part IV of the *Canada Corporations Act*, a simple majority of the elected directors of a Special Act corporation must be resident in Canada and citizens of a Commonwealth country. This requirement applies to every joint stock company incorporated subsequent to 22 June 1869 by any Special Act of Parliament.

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 10.4)

Measures: *Citizenship Act, R.S.C. 1985, c. C-29*

Foreign Ownership of Land Regulations, SOR/79-416

Description: Investment

1. The *Foreign Ownership of Land Regulations* are made pursuant to the *Citizenship Act* and the *Alberta Agricultural and Recreational Land Ownership Act*, RSA 1980, c. A-9. In Alberta, an ineligible person or foreign-owned or controlled corporation may only hold an interest in controlled land consisting of not more than 2 parcels containing, in the aggregate, not more than 20 acres.
2. For the purposes of this reservation:

- **ineligible person** means:
  - (a) a natural person who is not a Canadian citizen or permanent resident;
  - (b) a foreign government or foreign government agency; or
  - (c) a corporation incorporated elsewhere than in Canada.
- **controlled land** means land in Alberta but does not include:
  - (a) land of the Crown in right of Alberta;
  - (b) land within a city, town, new town, village or summer village; and
  - (c) mines or minerals.

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 10.4)

Measures: *Air Canada Public Participation Act*, R.S.C. 1985, c. 35 (4th Supp.)

Canadian Arsenals Limited Divestiture Authorization Act, S.C. 1986, c. 20

Eldorado Nuclear Limited Reorganization and Divestiture Act, S.C. 1988, c. 41

Nordion and Theratronics Divestiture Authorization Act, S.C. 1990, c. 4

Description: Investment

1. A “non-resident” or “non-residents” may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies, the restrictions apply to individual shareholders, while for other companies the restrictions may apply in the aggregate. If there are limits on the percentage that an individual Canadian investor can own, these limits also apply to non-residents. The restrictions are as follows:

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

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

- (a) a natural person, other than a Canadian citizen, who is not ordinarily resident in Canada;
- (b) a corporation incorporated, formed or otherwise organized outside Canada;
- (c) the government of a foreign State or any political subdivision of a government or foreign State, or a person empowered to perform a function or duty on behalf of such a government;
- (d) a corporation that is controlled directly or indirectly by an entity referred to in subparagraphs (a) through (c);
- (e) a trust:
  - (i) established by an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons a majority of whom are resident in Canada, or
  - (ii) in which an entity referred to in subparagraphs (a) through (d) have more than 50% of the beneficial interest; and
- (f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: Local Presence (Article 11.5)

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

Description: Cross-Border Trade in Services

Only a natural person ordinarily resident in Canada, an enterprise with its head office in Canada or a branch office in Canada of a foreign enterprise may apply for and be issued an import or export permit or transit authorization certificate for a good or related service subject to controls under the *Export and Import Permits Act*.

Phase-Out: None

Sector: Business Service Industries

Sub-Sector: Customs Brokers

Industry Classification: SIC 7794 Customs Brokers

CPC 749 Other supporting and auxiliary transport services

Type of Reservation: National Treatment (Article 11.3)

Local Presence (Article 11.5)

Senior Management and Boards of Directors (Article 10.8)

Measures: *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.)

Customs Brokers Licensing Regulations, SOR/86-1067

Description: Cross-Border Trade in Services and Investment

To be a licensed customs broker in Canada:

- (a) a natural person must be a Canadian national;
- (b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and
- (c) a partnership must be composed of persons who are Canadian nationals, or corporations incorporated in Canada with a majority of their directors being Canadian nationals.

Phase-Out: None

Sector: Business Service Industries

Sub-Sector: Duty Free Shops

Industry Classification: SIC 6599 Other Retail Stores, Not Elsewhere Classified (limited to duty free shops)

CPC 631, 632 (limited to duty free shops)

Type of Reservation: National Treatment (Article 10.4)

National Treatment (Article 11.3)

Local Presence (Article 11.5)

Measures: *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.)

Duty Free Shop Regulations, SOR/86-1072

Description: Cross-Border Trade in Services and Investment

1. To be a licensed duty free shop operator at a land border crossing in Canada, a natural person must:

- (a) be a Canadian national;
- (b) be of good character;
- (c) be principally resident in Canada; and
- (d) have resided in Canada for at least 183 days of the year preceding the year of application for the license.

2. To be a licensed duty free shop operator at a land border crossing in Canada, a corporation must:

- (a) be incorporated in Canada; and
- (b) have all of its shares beneficially owned by Canadian nationals who meet the requirements of paragraph 1.

Phase-Out: None

Sector: Business Service Industries

Sub-Sector: Examination Services relating to the Export and Import of Cultural Property

Industry Classification: SIC 999 Other Services, Not Elsewhere Classified (limited to cultural property examination services)

CPC 96321 Museum services except for historical sites and buildings (limited to cultural property examination services)

CPC 87909 Other business services n.e.c. (limited to cultural property examination services)

Type of Reservation: Local Presence (Article 11.5)

Measures: *Cultural Property Export and Import Act*, R.S.C. 1985, c. C-51

Description: Cross-Border Trade in Services

1. Only a resident of Canada or an institution in Canada may be designated as an expert examiner of cultural property for purposes of the *Cultural Property Export and Import Act*.

2. For the purposes of this reservation:

- **institution** means an entity that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes and that conserves objects and exhibits them;
- **resident of Canada** means a natural person who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains an establishment in Canada to which employees employed in connection with the business of the corporation ordinarily report for work.

Phase-Out: None

Sector: Business Service Industries

Sub-Sector: Patent Agents

Industry Classification: SIC 999 Other Services, Not Elsewhere Classified (limited to patent agency)

CPC 8921 (Patents)

Type of Reservation: National Treatment (Article 11.3)

Local Presence (Article 11.5)

Measures: *Patent Act*, R.S.C. 1985, c. P-4

Patent Rules, SOR/96-423

Description: Cross-Border Trade in Services

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

Phase-Out: None

Sector: Business Service Industries

Sub-Sector: Trade-mark Agents

Industry Classification: SIC 999 Other Services, Not Elsewhere Classified (limited to trade-mark agency)

CPC 8922 (Trademarks)

Type of Reservation: National Treatment (Article 11.3)

Local Presence (Article 11.5)

Measures: *Trade-marks Act*, R.S.C. 1985, c. T-13

Trade-marks Regulations, SOR/96-195; SOR/2007-91, s.1

Description: Cross-Border Trade in Services

To represent a person in the presentation and prosecution of an application for a trade-mark or in other business before the Trade-mark Office a trade-mark agent must be resident in Canada and registered by the Trade-marks Office.

Phase-Out: None

Sector: Energy

Sub-Sector: Oil and Gas

Industry Classification: SIC 071 Crude Petroleum and Natural Gas Industries

CPC 883 Services incidental to mining

Type of Reservation: National Treatment (Article 10.4)

Measures: *Canada Petroleum Resources Act*, R.S.C. 1985, c. 36 (2nd Supp.)

Territorial Lands Act, R.S.C. 1985, c. T-7

Federal Real Property and Federal Immovables Act, S.C. 1991, c. 50

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

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Canada Oil and Gas Land Regulations, C.R.C., c. 1518

Description: Investment

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

2. A person who holds an oil or gas production licence or shares in oil or gas production licences for discoveries made after 5 March 1982 must be a corporation incorporated in Canada.

3. The Canadian ownership requirements for oil and gas production licenses for discoveries made before 5 March 1982 are set out in the *Canada Oil and Gas Land Regulations*.

Phase-Out: None

Sector: Energy

Sub-Sector: Oil and Gas

Industry Classification: SIC 071 Crude Petroleum and Natural Gas Industries

CPC 883 Services incidental to mining

Type of Reservation: Performance Requirements (Article 10.7)

Local Presence (Article 11.5)

Measures: *Canada Oil and Gas Operations Act,* R.S.C. 1985, c. O-7

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

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

Measures implementing the *Accord between the Government of Canada and the Government of Yukon on Oil and Gas*

Revenue Sharing and Resource Management

Measures implementing Northwest Territories Oil and Gas Accord

Description: Cross-Border Trade in Services and Investment

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

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

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

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

- (a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out a work or an activity in the offshore area;
- (b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and
- (c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality and delivery.

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

- (a) In addition, Canada may impose a requirement, or enforce a commitment or undertaking, for the transfer of technology, a production process, or other proprietary knowledge, to a person of Canada in connection with the approval of development projects under the applicable Acts.

7. Similar provisions will be included in laws or regulations to implement the *Accord between the Government of Canada and the Government of Yukon on Oil and Gas Revenue Sharing and Resource Management* and Northwest Territories Oil and Gas Accord. For the purposes of this reservation, these accords shall be deemed, once concluded, to be an existing measure.

Phase-Out: None

Sector: Energy

Sub-Sector: Oil and Gas

Industry Classification: SIC 071 Crude Petroleum and Natural Gas Industries

CPC 883 Services incidental to mining

Type of Reservation: Performance Requirements (Article 10.7)

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

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

Description: Investment

1) Under the *Hibernia Development Project Act*, Canada and the Hibernia Project Owners may enter into agreements in which the Project Owners undertake to perform certain work in Canada and Newfoundland and to use their best efforts to achieve specific Canadian and Newfoundland target levels in relation to the provisions of a "benefit plan" required under the *Canada-Newfoundland Atlantic Accord Implementation Act*. "Benefits plans" are further described in the Schedule of Canada, Annex I at pages I-CA-30-32.

2) In addition, Canada may, in connection with the Hibernia project, impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a national or enterprise in Canada.

Phase-Out: None

Sector: Energy

Sub-Sector: Uranium

Industry Classification: SIC 0616 Uranium Mines

CPC 883 Services incidental to mining

Type of Reservation: National Treatment (Article 10.4)

Most-Favoured-Nation Treatment (Article 10.5)

Measures: *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Policy on Non Resident Ownership in the Uranium Mining Sector, 1987

Description: Investment

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

2. Exemptions from the Policy on Non-Resident Ownership in the Uranium Mining Sector are permitted, subject to approval of the Governor-in-Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by a non-Canadian made prior to 23 December 1987, which are beyond the permitted ownership level, may remain in place. An increase in non-Canadian ownership is not permitted.

Phase-Out: None

Sector: Professional, Technical and Specialized Services

Sub-Sector: Professional Services

Industry Classification: CPC 862 Auditing Services

Type of Reservation: National Treatment (Article 11.3)

Most-Favoured-Nation Treatment (Article 11.4)

Local Presence (Article 11.5)

Measures: *Bank Act, S.C. 1991, c. 46*

Insurance Companies Act, S.C. 1991, c. 47

Cooperative Credit Associations Act, S.C. 1991, c. 48

Trust and Loan Companies Act, S.C. 1991, c. 45

Description: Cross-Border Trade in Services

1. Banks are required to have a firm of accountants to be auditors of the bank. A firm of accountants must be qualified as set out in the *Bank Act.* Among the qualifications required: two or more members of the firm must be ordinarily resident in Canada, and the member of the firm jointly designated by the firm and the bank conducting the audit must be ordinarily resident in Canada.

2. An insurance company, a cooperative credit association, and a trust or loan company require an auditor who can be either a natural person or a firm of accountants. An auditor of the institution must be qualified as set out in the *Insurance Companies Act,* the *Cooperative Credit Associations Act* or the *Trust*

and Loan Companies Act. If a natural person is appointed as the auditor of that financial institution, among the qualifications required is that the person must be ordinarily resident in Canada. If a firm of accountants is appointed to be the auditor of that financial institution, the member of the firm jointly designated by the firm and the financial institution to conduct the audit must be ordinarily resident in Canada.

Phase-Out: None

Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: SIC 451 Air Transport Industries

CPC 731 Passenger transportation by air

CPC 732 Freight transportation by air

Specialty air services, as set out in the **Description** section below

Type of Reservation: National Treatment (Article 10.4)

Measures: *Canada Transportation Act*, S.C. 1996, c. 10

Aeronautics Act, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433:

Part II, Subpart 2, “Aircraft Markings and Registration”;

Part IV “Personnel Licensing and Training”; and

Part VII “Commercial Air Services”.

Description: Investment

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

2. Only a Canadian may provide the following commercial air transportation services:

- (a) “domestic services” (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);

- (b) “scheduled international services” (scheduled air services between a point in the territory of Canada and a point in the territory of another country) if those services are reserved to Canadian carriers under existing or future air services agreements;
- (c) “non-scheduled international services” (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) if those services are reserved to Canadian carriers under the *Canada Transportation Act;*
- (d) “specialty air services” include, but are not limited to: aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing and aerial crop spraying.

3. A foreign person may not own a Canadian-registered aircraft for private use.

4. A corporation incorporated in Canada that does not meet the Canadian ownership and control requirements may only register an aircraft for private use when the corporation is the sole owner of the aircraft. The *Canadian Aviation Regulations* also have the effect of limiting non-Canadian corporations operating foreign-registered private aircraft within Canada to the carriage of their own employees.

5. For the purposes of this reservation, “Canadian” has the meaning set out in Section 55 of the *Canada Transportation Act* and incorporated by reference in regulations made under the *Aeronautics Act*:

“Canadian” means a Canadian citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act*, a government in Canada, or an agent of that government, or a corporation or other entity that is incorporated or formed under the laws of Canada or a sub-national government, that is controlled in fact by Canadians and of which at least 75% or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned and controlled by Canadians.

Phase-Out: None

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: Local Presence (Article 11.5)

Measures: *Aeronautics Act*, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433:

Part IV "Personnel Licensing and Training";

Part V "Airworthiness";

Part VI "General Operating and Flight Rules"; and

Part VII "Commercial Air Services".

Description: Cross-Border Trade in Services

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

Phase-Out: None

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: SIC 456 Truck Transport Industries

SIC 4572 Interurban and Rural Transit Systems Industry

SIC 4573 School Bus Operations Industry

SIC 4574 Charter and Sightseeing Bus Services Industry

CPC 7121 Other scheduled passenger transportation by land other than by railway

CPC 7122 Other non-scheduled passenger transportation by land other than by railway

CPC 7123 Freight transportation by land other than by railway

Type of Reservation: National Treatment (Article 11.3)

Local Presence (Article 11.5)

Measures: *Motor Vehicle Transport Act*, R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13

Canada Transportation Act, S.C. 1996, c. 10

Customs Tariff, S.C. 1997, c. 36

Description: Cross-Border Trade in Services

Only a person of Canada using Canadian-registered and Canadian-built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of Canada.

Phase-Out: None

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 4553 Marine Salvage Industry

SIC 4559 Other Service Industries Incidental to Water Transport

CPC 721 Transport services by sea-going vessels

CPC 722 Transport services by non-seagoing vessels

CPC 74540 Vessel salvage and refloating services

CPC 74590 Other supporting services for water transport

Type of Reservation: National Treatment (Article 10.4)

National Treatment (Article 11.3)

Local Presence (Article 11.5)

Measures: *Canada Shipping Act*, *2001*, S.C. 2001, c. 26

Description: Cross-Border Trade in Services and Investment

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

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

- (b) a corporation incorporated under the domestic law of Canada or sub-national government; or
- (c) when the ship is not already registered in another country, a corporation incorporated under the domestic law of a country other than Canada if one of the following is acting with respect to all matters relating to the ship:

  - (i) a subsidiary of the corporation that is incorporated under the domestic law of Canada or a sub-national government,
  - (ii) an employee or director in Canada of a branch office of the corporation that is carrying on business in Canada, or
  - (iii) a ship management company incorporated under the domestic law of Canada or a sub-national government.

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

- (a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*; or
- (b) a corporation incorporated under the domestic law of Canada or a sub-national government.

Phase-Out: None

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 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-seagoing vessels

CPC 74520 Pilotage and berthing services

CPC 74540 Vessel salvage and refloating services

CPC 74590 Other supporting services for water transport

Type of Reservation: National Treatment (Article 11.3)

Local Presence (Article 11.5)

Measures: *Canada Shipping Act*, *2001*, S.C. 2001, c. 26

Marine Personnel Regulations, SOR/2007-115

Description: Cross-Border Trade in Services

Masters, mates, engineers and certain other seafarers must hold a certificate granted by the Minister of Transport as a requirement for service on Canadian-registered ships. This certificate may be granted only to a Canadian citizen or permanent resident.

Phase-Out: None

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: SIC 4554 Piloting Service, Water Transport Industry

CPC 74520 Pilotage and berthing services

Type of Reservation: National Treatment (Article 11.3)

Local Presence (Article 11.5)

Measures: *Pilotage Act*, R.S.C., 1985, c. P-14

General Pilotage Regulations, SOR/2000-132

Atlantic Pilotage Authority Regulations, C.R.C., c. 1264

Laurentian Pilotage Authority Regulations, C.R.C., c. 1268

Great Lakes Pilotage Regulations, C.R.C., c. 1266

Pacific Pilotage Regulations, C.R.C., c. 1270

Description: Cross-Border Trade in Services

Subject to the Schedule of Canada, Annex II, at pages II- CA- 18-19**,** a licence or a pilotage certificate issued by the relevant regional Pilotage Authority is required to provide pilotage services in the compulsory pilotage waters of the territory of Canada. Only a Canadian citizen or permanent resident may obtain that licence or pilotage certificate. A permanent resident of Canada who has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within 5 years of receipt of that licence or pilotage certificate in order to retain it.

Phase-Out: None

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: SIC 454 Water Transport Industry

CPC 721 Transportation services by sea-going vessels

CPC 722 Transportation services by non-sea-going vessels

Type of Reservation: Local Presence (Article 11.5)

Measures: *Shipping Conferences Exemption Act*, 1987, R.S.C. 1985, c. 17 (3rd Supp.)

Description: Cross-Border Trade in Services

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

Phase-Out: None

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

CPC 721 Transportation services by sea-going vessels

CPC 722 Transportation services by non-sea-going vessels

Type of Reservation: Most-Favoured-Nation Treatment (Article 11.4)

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

Description: Cross-Border Trade in Services

The prohibitions under the *Coasting Trade Act*, set out in Schedule of Canada, Annex II, at pages II-CA-15-17, do not apply to a vessel that is owned by the U.S. Government when that vessel is used solely for the purpose of transporting goods owned by the U.S. Government from the territory of Canada to supply Distant Early Warning sites.

Phase-Out: None

`

Annex I: Schedule of Honduras

Reservations for Existing Measures and Liberalization

Commitments

1. The Schedule of a Party sets out, pursuant to Articles 10.9 (Investment – Reservations and Exceptions) and 11.7 (Cross-Border Trade in Services – Reservations) the reservations taken by that Party with respect to existing measures by a Party that do not conform with obligations imposed by:

- (a) Articles 10.4 (Investment – National Treatment) or 11.3 (Cross-Border Trade in Services – National Treatment);
- (b) Articles 10.5 (Investment – Most-Favoured-Nation Treatment) or 11.4 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment)
- (c) Article 11.5 (Cross-Border Trade in Services – Local Presence);
- (d) Article 10.7 (Investment – Performance Requirements);
- (e) Article 10.8 (Investment – Senior Management and Boards of Directors); or
- (f) Article 11.6 (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 industry classification codes;
- (d) **Type of Reservation** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- (e) **Measures** identifies the laws, regulations or other measures, as qualified, where indicated, by the **Description** element, for which the reservation is taken. 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;
- (f) **Description** sets out the non-conforming aspects of the existing measures for which the reservation is taken. It may also set out commitments for liberalization.

3. In the interpretation of a reservation, all elements of the reservation, with the exception of Industry Classification, shall be considered. A reservation shall be

interpreted in the light of the relevant provisions of the Articles against which the reservation is taken. To the extent that:

- (a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and
- (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. Where a Party maintains a measure that requires 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 reservation for that measure taken with respect to Article 11.3, 11.4 or 11.5 (Cross-Border Trade in Services – National Treatment, Most-Favoured-Nation Treatment or Local Presence) shall operate as a reservation with respect to Article 10.4, 10.5 or 10.7 (Investment – National Treatment, Most-Favoured-Nation Treatment or Performance Requirements) to the extent of that measure.

5. The listing of a measure in this Annex is without prejudice to a future claim that Annex II may apply to the measure or some application of the measure.

6. For purposes of this Annex:

CPC means Central Product Classification 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 numbers as set out in Statistics Canada, *Standard Industrial Classification*, fourth edition, 1980.

Annex I

Schedule of Honduras

Sector: All Sectors

Type of Reservation: National Treatment (Article 10.4)

Level of Government: Central

Measures: Decree No. 131, Constitution of the Republic of Honduras, Title III, Chapter II, Article 107 (*Decreto No. 131, Constitución de la República de Honduras, Título III, Capítulo II, Artículo 107*)

Decree No. 90-1990, Act on Property Acquisition in Urban Areas delimiting the Article 107 of the Constitution of the Republic of Honduras, Articles 1 and 4 (*Decreto N° 90 1990, Ley para la Adquisición de Bienes Urbanos en las Áreas que delimita el Artículo 107 de la Constitución de la República de Honduras, Artículos 1 y 4*)

Decree No. 968, Declaratory Act, Planning and Development of Tourism Zones, Title V, Chapter V, Article 16 (*Decreto No 968, Ley para la Declaratoria, Planeamiento y Desarrollo de las Zonas de Turismo, Título V, Capítulo V, Artículo 16*)

Description: Investment

State land, common land, and private land within 40 kilometres of the borders and coastlines, and such land on islands, keys, coral reefs, breakwaters, rocks, and sandbanks in Honduras, can only be acquired, owned or held under any title by persons who are Honduran by birth, by companies fully owned by Honduran nationals, and by state institutions.

Notwithstanding the preceding paragraph, anyone 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 Secretary of State of Tourism (*Secretaría de Estado en el Despacho de Turismo*).

Anyone who acquires, owns or holds such urban land may transfer that land only with the authorization of the Secretary of State in the Office of Tourism (*Secretaría de Estado en el Despacho de Turismo*).

Sector: All Sectors

Type of Reservation: National Treatment (Article 10.4) Most Favoured Nation Treatment (Article 10.5)

Level of Government: Central

Measures: Decree No. 131, Constitution of the Republic of Honduras, Title VI, Chapter I, Article 337 (*Decreto No. 131, Constitución de la República de Honduras, Título VI, Capítulo I, Artículo 337*)

Agreement No. 345-92, Regulation of the Investment Law, Chapters I and VI, Sections 3 and 49 (*Acuerdo No. 345-92, Reglamento de la Ley de Inversiones, Capítulos I y VI, Artículos 3 y 49*)

Description: Investment

Small-scale industry and trade are reserved for Hondurans.

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" refers to companies with capital, excluding land, buildings and vehicles, of less than 150,000 lempiras.

Sector: All Sectors

Type of Reservation: National Treatment (Article 10.4)
Most Favoured Nation Treatment (Artícle 10.5)

Level of Government: Central

Measures: Decree No. 65-87, dated May 20, 1987, Honduras Cooperatives Act, Title II, Chapter I, Sections 18 and 19 (*Decreto No. 65-87, de fecha 20 de mayo de 1987, Ley de Cooperativas de Honduras, Titulo II, Capítulo I, Artículos 18 y 19*)

Agreement No. 191-88 dated May 30, 1988, Regulation of the Law on Cooperatives of Honduras, Article 34 (c) and (d) (*Acuerdo No 191-88 de fecha 30 de mayo de 1988, Reglamento de la Ley de Cooperativas de Honduras, Artículo 34(c) y (d)*)

Description: Investment

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

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

Sector: Customs Agents and Customs Agencies

Type of Reservation: National Treatment (Articles 10.4 and 11.3)

Level of Government: Central

Measures: Decree No. 212-87, Customs Act, Title IX, Chapter I, Section One and Three, Articles 177 and 182 (*Decreto No 212-87, Ley de Aduanas, Título IX, Capítulo I, Sección Primera y Tercera, Artículos 177 y 182*)

Description: Cross-Border Trade in 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 must also be Honduran nationals by birth.

Sector: Agricultural

Type of Reservation: National Treatment (Article 10.4)

Level of Government: Central

Measures: Agreement No. 2124-92, Regulation on Land Adjudication Regulations on Land Reform, Articles 1 and 2 (*Acuerdo No. 2124-92, Reglamento de Adjudicación de Tierras en la Reforma Agraria, Artículos 1 y 2*)

Description: Investment

Agrarian reform beneficiaries must be Honduran nationals by birth, individually or organized in farm cooperatives or other farm worker enterprises.

Sector: All Sectors

Type of Reservation: National Treatment (Articles 10.4 and Article 11.3)

Level of Government: Central

Measures: Decree No. 255-2002, Administrative Simplification Act, Article 8 Amendments to the Commercial Code, Articles 308 and 309 (*Decreto No. 255-2002, Ley de Simplificación Administrativa, Artículo 8 Reformas al Código de Comercio, Artículos 308 y 309*)

Description: Cross-Border Trade in Services and Investment

So that a company established under foreign laws can do business in Honduras, it must:

Permanently have at least one representative in Honduras with broad powers to conduct all the required legal transactions and proceedings related to business in Honduras.

Have its own property for the business activity to be conducted in Honduras.

Companies that do not have their legal domicile in Honduras are considered to be established under foreign laws.

Sector: All Sectors

Type of Reservation: National Treatment (Article 10.4)

Level of Government: Central

Measures: Decree No. 549, Section 4, as amended by Decree No. 804, Act of Representatives, Distributors and Agents of National and Foreign Companies (*Decreto No. 549, Artículo 4, reformado por Decreto No. 804, Ley de Representantes, Distribuidores y Agentes de Empresas Nacionales y Extranjeras*)

Agreement No. 669-79, Regulation of the Law of Representatives, Distributors and Agents of National and Foreign Companies, Section 2 (*Acuerdo No. 669-79, Reglamento de la Ley de Representantes, Distribuidores y Agentes de Empresas Nacionales y Extranjeras, Artículo 2*)

Description: Investment

Licensees are required to be Honduran nationals or Honduran companies.

Individuals pursuing acting as representatives, agents or distributors must be previously registered as an individual business person. To be considered Honduran, at least 51% of the capital of the company must be held by Hondurans.

Sector: Communications Services – Mail

Type of Reservation: Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 120-93, Organic Law of the Postal Office of Honduras, Articles 3 and 4 (*Decreto No. 120-93, Ley Orgánica de la Empresa de Correos de Honduras, Artículos 3 y 4*)

Description: Cross-Border Trade in Services

The operation of the postal system in Honduras is reserved exclusively for Postal Office Honduran Company (*Empresa Hondureña de Correos* [HONDUCOR] Footnote1.

Sector: Radio, Television and Newspaper Services

Type of Reservation: National Treatment (Article 10.4)
Senior Management and Boards of Directors (Article 10.8)

Level of Government: Central

Measures: Decree No. 131, Constitution of the Republic of Honduras, Chapter II, Article 73, third paragraph (*Decreto No. 131, Constitución de la República de Honduras, Capítulo II, Artículo 73, párrafo tercero*)

Decree No. 6, Law of Freedom of Thought Chapter IV, Article 30 (*Decreto No. 6, Ley de Emisión del Pensamiento, Capítulo IV, Artículo 30*)

Decree No. 759, Law Association of Journalists of Honduras, Article 8, amended by Decree No. 79 of January 1, 1981 (*Decreto No. 759, Ley del Colegio de Periodistas de Honduras, Artículo 8, reformado por Decreto No. 79 del 1ero de enero de 1981*)

Description: Investment

Only Honduran nationals by birth may hold senior management positions in newspapers or broadcast media (radio and television), including the editorial, political and managerial policy thereof Footnote2

Sector: Telecomunications

Type of Reservation: National Treatment (Article 11.3)

Level of Government: Central

Measures: Decree No. 185-95, Telecommunications Sector Framework Law Chapter I, Article No. 26 (*Decreto No. 185-95, Ley Marco del Sector Telecomunicaciones Capítulo I, Artículo No. 26*)

Agreement No. 141-2002 dated December 26, 2002, General Rules of Telecommunications Sector Framework Law, Title III, Chapter I, Article 93 (*Acuerdo No. 141-2002 de fecha 26 de diciembre del 2002, Reglamento General de la Ley Marco del Sector de Telecomunicaciones, Titulo III, Capítulo I, Artículo 93*)

Description: Cross-Border Trade in Services

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

Sector: Telecomunications

Type of Reservation: National Treatment (Articles 10.4 and 11.3)

Level of Government: Central

Measures: Decree No. 185-95, Telecommunications Sector Framework Law, Chapter I (*Decreto No. 185-95, Ley Marco del Sector de Telecomunicaciones, Capítulo I*)

Agreement No. 141-2002, General Rules of Telecommunications Sector Framework Law (*Acuerdo No. 141-2002, Reglamento General de la Ley Marco del Sector de Telecomunicaciones*).

Description: Cross-Border Trade in Services and Investment

Except for the Government of Honduras, no operator or any of its partners with at least a 10% share or any affiliate or subsidiary thereof or anyone belonging to that economic group may hold directly or indirectly more than 10% of the capital of a company authorized to provide said services. Data transmission services are exempt from this provision.

The practice of callbacks involving telephone services provided inside Honduras that systematically originate outside the country as a direct result of international calls not originally completed inside Honduras is prohibited.

To qualify, foreign companies must have an address in Honduras and name a legal representative also domiciled in Honduras.

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

Type of Reservation: National Treatment (Artícles 10.4 and 11.3)
Most Favoured Nation Treatment (Article 11.4)
Market Acces (Article 11.6)
Local presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 47-1987, Organic Law of the College of Civil Engineers of Honduras, Article 67 (*Decreto No. 47 1987, Ley Orgánica del Colegio de Ingenieros Civiles de Honduras, Artículo 67*)

Regulation of the Organic Law of the College of Civil Engineers of Honduras, Articles 100 (A) – (D) and 101 (*Reglamento de la Ley Orgánica del Colegio de Ingenieros Civiles de Honduras, Artículos 100 (A – (D) y 101*)

Decree No. 753, Organic Law of the College of Architects of Honduras, Sections 37 (b), (c), (d), (g) and (h) (*Decreto No. 753, Ley Orgánica del Colegio de Arquitectos de Honduras, Artículos 37 (b), (c), (d), (g), y (h)*)

Regulation of the Organic Law of the College of Architects of Honduras, Articles 4 (h), 7 (a), (c), (d) and (h), 13, 68 and 69 (*Reglamento de la Ley Orgánica del Colegio de Arquitectos de Honduras, Artículos 4 (h), 7(a), (c), (d) y (h), 13, 68 y 69*)

Decree No. 902, Organic Law of the College of Mechanical, Electrical and Chemical Honduras, Article 40 (c), (d) and (h) (*Decreto No. 902 , Ley Orgánica del Colegio de Ingenieros Mecánicos, Electricistas y Químicos de Honduras, Artículo 40 (c), (d) y (h)*)

Description: Cross-Border Trade in Services and Investment

Consulting and construction companies must be organized under Honduran law in order to be members of the College of Civil Engineering of Honduras (*Colegio de Ingenieros Civiles de Honduras* [CICH]) and to carry out civil engineering projects in Honduras. For greater certainty, consulting and construction companies organized under foreign law may register provisionally with the CICH to carry out specific civil engineering projects. Higher membership fees apply to foreign-owned companies. In addition, foreign personnel must be authorized by the CICH in order to work on such projects.

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

Type of Reservation: National Treatment (Article 10.4)

Level of Government: Central

Measures: Decree No. 549, Act of Representatives, Distributors and Agents of National and Foreign Companies, Chapter I and VI, Articles 4 and 2 (*Decreto No. 549, Ley de Representantes, Distribuidores y Agentes de Empresas Nacionales y Extranjeras, Capítulo I y VI, Artículos 4 y 2*)

Decree No. 804, Amending Article 4 of the Act of Representatives, Distributors and Agents of National and Foreign Companies (*Decreto No. 804, reforma el Artículo 4 de la Ley de Representantes, Distribuidores y Agentes de Empresas Nacionales y Extranjeras*)

Description: Investment

Only Honduran nationals and companies organized under Honduran law may be authorized to sell petroleum products. Companies must be at least 51% owned by Honduran nationals.

Sector: Electricity

Type of Reservation: Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 158-94 dated November 26, 1994, Framework Law under the Electricity Sub-Sector, Chapter V, Article 15 (*Decreto No. 158-94 de fecha 26 de noviembre de 1994, Ley Marco del Sub-Sector Eléctrico, Capítulo V, Artículo 15*)

Description: Cross-Border Trade in Services

Only the Honduran government, through the National Electricity Company (*Empresa Nacional de Energía Eléctrica*), may transmit electricity or operate the electricity transmission system and dispatch center.

Sector: Lotteries

Type of Reservation: Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 438, dated April 23, 1977, Article 5 (c), Organic Law of the National Child Welfare Fund (*Decreto No. 438, de fecha 23 de abril de 1977, Artículo 5 (c), Ley Orgánica de Patronato Nacional de la Infancia*)

Description: Cross-Border Trade in Services

The National Child Welfare Fund (*Patronato Nacional de la Infancia* [PANI]) exclusively administers the national lottery.

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

Type of Reservation: National Treatment (Article 11.3)
Most Favoured Nation Treatment (Article 11.4)
Local Presence (Article 11.5)
Senior Management and Boards of Directors (Article 10.8)

Level of Government: Central

Measures: Decree No. 131, Constitution of the Republic of Honduras, Title III, Chapter VIII, Articles 34, 166 and 168 (*Decreto No. 131, Constitución de la República de Honduras, Título III, Capítulo VIII, Artículos 34, 166 y 168*)

Decree No 79, Organic Law of Education, Articles 64 and 65 (*Decreto No. 79, Ley Orgánica de Educación, Artículos 64 y 65*)

Decree No. 136-97, Organic Law for Teaching Staff, Articles 7 and 8 (*Decreto No 136-97, Ley del Estatuto del Docente, Artículos 7 y 8*)

Executive Decision No 0760-5E-99, General Regulation of the Law for Teaching Staff, Article 6 (*Acuerdo Ejecutivo No 0760 -5E-99, Reglamento General del Estatuto del Docente, Artículo 6*)

Description: Cross-Border Trade in Services and Investment

School directors and supervisors must be Honduran 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 intermediate and secondary levels if no Honduran nationals are available to teach such subjects. Notwithstanding the preceding sentence, foreign nationals may teach the Honduran Constitution, civics, geography and history of Honduras only if there is reciprocity for Honduran nationals in their country of origin.

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

Sector: Entertainment Services – Music Entertainers

Type of Reservation: National Treatment (Articles 10.4 and 11.3)

Level of Government: Central

Measures: Decree No. 123 dated October 23, 1968, the Law on Protection of Musical Artists, Articles 1 – 4 (*Decreto No. 123 de fecha 23 de octubre de 1968, Ley de Protección a los Artistas Musicales, Artículos 1 – 4*)

Description: Cross-Border Trade in Services and Investment

Notwithstanding the measure above, Honduras agrees that foreign musicians who wish to perform individually or as a group in Honduras must pay 5% of their fees therefor to the Artists' Union of Honduras (*Sindicato de Artistas de Honduras*) and the manager or lessee shall, if possible, hire local musicians for the same performance.

For greater certainty, foreign musicians must register with the Artists' Union of Honduras (*Sindicato de Artistas Musica de Honduras*) for each performance in Honduras.

Sector: Championships and Soccer Games Services

Type of Reservation: National Treatment (Article 11.3)
Local Presence (Article 11.5)

Level of Government: Central

Measures: Regulation of Championships and Competitions Football League First Division Amateur No. Articles 9 and 10 (*Reglamento de Campeonatos y Competencias Liga Nacional de Fútbol No Aficionado de Primera División, Artículos 9 y 10*)

Description: Cross-Border Trade in Services

For the registration of foreign players, a certificate issued by the Ministry of the Interior and Justice stating that their residency application is being processed shall be required. Each club affiliated with the football (soccer) league may register up to 4 foreign players.

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

Type of Reservation: National Treatment (Article 10.4)
Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 488, dated February 16, 1977, Casinos and Gambling Act, Article 3 (*Decreto No. 488, de fecha 16 de febrero de 1977, Ley de Casinos de Juegos de Envite o Azar, Artículo 3*)

Description: Cross-Border Trade in Services and Investment

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

Sector: Environmental Services

Type of Reservation: Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 134-90, Municipal Law, Article 13 (3) and (4) (*Decreto No 134-90, Ley de Municipalidades, Artículo 13 (3) y (4)*)

Decree No. 104-93, General Environmental Law, Articles 29 and 67 (*Decreto No. 104-93, Ley General del Ambiente, Artículos 29 y 67*)

Description: Cross-Border Trade in 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 building aqueducts, maintaining and managing potable water, sanitary sewers, drainage, and promoting and executing related projects.

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

Type of Reservation: Market Access (Artícle 11.6)

Level of Government: Central

Measures: Decree No. 131, Constitution of the Republic of Honduras, Title V, Chapter X, Article 292 (*Decreto No. 131, Constitución de la República de Honduras, Título V, Capítulo X, Artículo 292*)

Decree No 80-92, Investment Law, Chapter VI, Article 16 (*Decreto No. 80-92, Ley de Inversiones, Capítulo VI, Artículo 16*)

Description: Cross-Border Trade in Services

The wholesale and retail distribution of the following items is reserved solely for the Honduran Armed Forces:

- munitions;
- warplanes;
- military rifles;
- all classes of pistols and revolvers, 41 calibre 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.

Sector: Investigation and Security Services

Type of Reservation: National Treatment (Article 10.4)
Senior Management and Boards of Directors (Article 10.8)

Level of Government: Central

Measures: Decree No. 156-98, Organic Law of the National Police, Article 91 (*Decreto No. 156-98, Ley Orgánica de la Policía Nacional, Artículo 91*)

Regulation No. 0771-2005 dated June 18, 2005, Articles 5 and 15 characters t), u) and v) (*Reglamento Número 0771 2005 de fecha 18 de junio de 2005, Artículos 5 y 15, letras t), u) y v)*)

Description: Investment

Foreign companies that request a permit to provide private security services must partner with Honduran companies working in the same field and appoint a Honduran national by birth as manager.

To obtain authorization to operate a private security company, foreigners must submit the following documents:

For foreign employees, a photocopy of the permit from the Secretary of State of Foreign Affairs and the Secretary of Labour and Social Security (*Secretaría de Estado en el Despacho de Relaciones Exteriores y Secretaría de Trabajo y Previsión Social*) to perform security-related functions.

Foreign partners must submit the original police and criminal record from their country of origin and residence, authenticated by the competent authority.

Properly authenticated original police and criminal records of foreigners serving the company, from both their country of origin and their country of residence.

Sector: Fisheries

Type of Reservation: National Treatment (Article 10.4)

Level of Government: Central

Measures: Decree No. 154, Fisheries Act, Chapter IV, Articles 20, 26 and 29 *Decreto No. 154, Ley de Pesca, Capítulos IV, Artículos 20, 26 y 29*)

Description: Investment

Only Honduran nationals resident in Honduras and companies organized under Honduran law at least 51% owned by Honduran nationals can engage in commercial fishing in the territorial waters, seas, rivers and lakes of Honduras. For greater certainty, only Honduran-flagged vessels can conduct commercial fishing activities in Honduran territorial waters.

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

Sector: Professional Services

Type of Reservation: National Treatment (Article 11.3)
Most Favoured Nation Treatment (Article 11.4)
Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 131, Constitution of the Republic of Honduras, Chapter VIII, Article No 177 (*Decreto No. 131, Constitución de la República de Honduras, Capítulo VIII, Artículo No. 177*)

Regulation for the Recognition of Foreign University Credentials and Incorporation of Professionals, Articles 2, 11 and 18 (*Reglamento para el Reconocimiento de Estudios Universitarios e Incorporación de Profesionales, Artículos 2, 11 y 18*)

Description: Cross-Border Trade in Services

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

Honduras agrees that if a jurisdiction of Canada recognizes professional degrees granted by Honduran educational institutions, then Honduras will recognize equivalent professional degrees granted by a Canadian educational institution.

Likewise, Honduras agrees that if a jurisdiction of Canada allows Honduran nationals to apply for and receive a licence or certificate for the provision of a professional service, then Honduras will allow nationals of Canada to apply for and receive an equivalent licence or certificate.

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

In addition, the relevant professional association in Honduras will recognize a licence granted by a jurisdiction in Canada and allow the holder of that licence to register with the association and practise the profession in Honduras temporarily, on the basis of the licence issued in a jurisdiction in Canada, in the following cases:

- (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 licence is a recognized expert in the profession; or
- (c) allowing the professional to practise in Honduras will, through training, demonstration, or other such opportunity, further the development of the profession in Honduras.

Sector: Air Transportation

Type of Reservation: National Treatment (Article 10.4)
Senior Management and Boards of Directors (Article 10.8)

Level of Government: Central

Measures: Decree No. 55-2004, May 19, 2004, Civil Aviation Act, Title VIII, Chapter I, Articles 106 and 149 (*Decreto No. 55 2004, 19 de mayo de 2004, Ley de Aeronáutica Civil, Título VIII, Capítulo I, Artículos 106 y 149*)

Description: Investment

Public air transport services between any two (2) places in Honduras are reserved for Honduran companies.

Honduran companies are those that meet the following requirements:

- (1) At least 51% of the capital must belong to Honduran nationals or companies; andM
- (2) Effective control and management of the company must also be in Honduran hands.

In order to provide private specialty air services for remuneration, the authorization of the Civil Aviation Directorate (*Dirección General de Aeronáutica Civil*) is required and the provider must be a Honduran national or company.

Sector: Maritime Transportation – Coastal Navigation

Type of Reservation: National Treatment (Articles 10.4 and 11.3)
Most Favoured Nation Treatment (Articles 10.5 and 11.4)
Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 167-94, Organic Law of the National Merchant Marine, dated January 2, 1995, Title II, III, Chapter VII, Article 40 (*Decreto No. 167-94, Ley Orgánica de la Marina Mercante Nacional, de fecha 2 de enero de 1995, Título II, III, Capítulo VII, Artículo 40*)

Agreement No. 000764, on Maritime Transport Regulations dated December 13, 1997, Article 6 (*Acuerdo No. 000764, Reglamento de Transporte Marítimo de fecha 13 de diciembre de 1997, Artículo 6*)

Description: Cross-Border Trade in 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, for as long as such a condition exists, the Merchant Marine Directorate (*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 vessels flying a Central American flag.

Honduran merchant vessels must be registered under Honduran law, at least 51% of their paid up capital must be owned by Honduran nationals, and the company must be domiciled in Honduras.

Sector: Land Transportation

Type of Reservation: National Treatment (Artícles 10.4 and 11.3)
Most Favoured Nation Treatment (Article 11.4)
Market Access (Article 11.6)
Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 319 - 1976, Land Transport Act, Articles 3, 5, 17, 18, 27 and 28 (*Decreto No 319-1976, Ley de Transporte Terrestre, Artículos 3, 5, 17, 18, 27 y 28*)

Agreement No. 200, Regulation of the Land Transport Act, Articles 1, 7, 32, 33 and 34 (*Acuerdo No 200, Reglamento de la Ley de Transporte Terrestre, Artículos 1, 7, 32, 33 y 34*)

Decree No. 205-2005, Transit Act of January 3, 2006, Article 46 (*Decreto No. 205-2005, Ley de Transito del 3 de enero de 2006, Artículo 46*)

Description: Cross-Border Trade in Services and Investment

Public domestic land passenger and cargo transportation services may be supplied only by Honduran nationals and companies established under Honduran law and at least 51% owned by Honduran nationals. It is necessary to obtain an operating certificate from the Transport Directorate of the Secretary of Public Works, Transport and Housing (*Dirección General de Transporte de la Secretaría de Estado en los Despachos de Obras Públicas, Transporte y Vivienda* [SOPTRAVI]), which is subject to a test of economic necessity.

Public international land passenger and cargo transportation services may be supplied by foreign nationals and companies established under foreign law on the basis of reciprocity, but authorization for particular routes will be granted on a preferential basis to Honduran nationals and to companies established under Honduran law.

Foreigners who enter Honduras will be able to drive with the valid licence that they carry and be subject to the principle of reciprocity.

Sector: Transportation – Railways

Type of Reservation: National Treatment (Article 10.4) Senior Management and Boards of Directors (Article 10.8)

Level of Government: Central

Measures: Decree No. 48, Act establishing the National Railway of Honduras, Chapters I and VIII, Article 32 and Article 12 amended by Decree No. 54 (*Decreto No. 48, Ley Constitutiva del Ferrocarril Nacional de Honduras, Capítulos I y VIII, Artículo 32 y Artículo 12 reformado mediante Decreto No. 54*)

Description: Investment

The Honduran National Railway (*Ferrocarril Nacional de Honduras*) may sell its subsidiaries only to Honduran nationals and to companies established under Honduran law.

Senior managers of the Honduran National Railway (*Ferrocarril Nacional de Honduras*) must be Honduran by birth.

Sector: Other Business Services – Warehousing

Type of Reservation: Market Access (Article 11.6)

Level of Government: Central

Measures: Agreement No. 1055, Bonded Warehouses Regulation, Article 3 (*Acuerdo No. 1055, Reglamento de los Almacenes Generales de Depósitos, Artículo 3*)

Description: Cross-Border Trade in Services

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

Sector: Business Consulting Services

Type of Reservation: National Treatment (Article 11.3)
Most Favoured Nation Treatment (Article 11.4)
Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 900, Organic Law of the of Business Administrators of Honduras, Articles 61-E and 61-F (*Decreto No. 900, Ley Orgánica del Colegio de Administradores de Empresas de Honduras, Artículos 61-E y 61-F*)

Regulation of the Organic Law of the College of Business Administrators of Honduras, Articles 96, 111, 113 and 114 (*Reglamento de Ley Orgánica del colegio de Administradores de Empresas de Honduras, Artículos 96, 111, 113 y 114*)

Description: Cross-Border Trade in Services

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

Companies established under foreign law may enter into contracts to provide business administration consulting services after confirmation of the contract by the College of Business Administrators of Honduras (*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, said companies must form a partnership with Honduran firms that are duly registered with the College of Business Administrators of Honduras (*Colegio de Administradores de Empresas de Honduras*).

Foreign nationals and companies established under foreign law must pay registration fees that are higher than those charged to Honduran nationals and companies established under Honduran law.

Sector: Economic Consulting Services

Type of Reservation: Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 1002, Organic Law of the Honduran College of Economists, Article 58 (*Decreto No. 1002, Ley Orgánica del Colegio Hondureño de Economistas, Artículo 58*)

Description: Cross-Border Trade in Services

In order to provide economic consulting services in the territory of Honduras, foreign economic consulting enterprises must be represented by a member of the Honduran College of Economists (*Colegio Hondureño de Economistas*).

Sector: Agricultural Engineering and Agronomy

Type of Reservation: National Treatment (Article 11.3)
Most Favoured Nation Treatment (Article 11.4)

Level of Government: Central

Measures: Decree No. 148-95, Organic Law of the College of Agricultural Sciences Professional Honduras, Article 5 (*Decreto No. 148-95, Ley Orgánica del Colegio de Profesionales en Ciencias Agrícolas de Honduras, Artículo 5*)

Regulation of the Organic Law of the College of Agricultural Sciences Professional Honduras, Article 9 and the COLPROCAH Pay Table (*Reglamento de la Ley Orgánica del Colegio de Profesionales en Ciencias Agrícolas de Honduras, Artículo 9 y Tabla de Pagos al* COLPROCAH)

Description: Cross-Border Trade in Services

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

Sector: Forestry Engineering

Type of Reservation: National Treatment (Article 11.3)
Local Presence (Article 11.5)

Level of Government: Central

Measures: Organic Law of the Association of Forestry Engineers of Honduras, Article 66 (*Ley Orgánica del Colegio de Ingenieros Forestales de Honduras, Artículo 66*)

Description: Cross-Border Trade in Services

Forestry engineering consulting companies established under foreign law must hire a significant number of Honduran nationals who are members of the Association of Forestry Engineers of Honduras (*Colegio de Ingenieros Forestales de Honduras*), in proportion to the size of the project.

Sector: Veterinarians

Type of Reservation: National Treatment (Article 11.3)
Most Favoured Nation Treatment (Article 11.4)
Local Presence (Article 11.5)

Level of Government: Central

Measures: Organic Law of the College of Veterinarians of Honduras, Article 12 (*Ley Orgánica del Colegio de Veterinarios de Honduras, Artículo 12*)

Regulation of the Organic Law of the College of Veterinarians of Honduras, Article 5 (*Reglamento de la Ley Orgánica del Colegio de Médicos Veterinarios de Honduras, Artículo 5*)

Description: Cross-Border Trade in Services

Foreign companies wishing to provide veterinary services in Honduras must be established under Honduran law. Foreign veterinarians may be subject to higher professional registration fees than those charged to Central American veterinarians.

Sector: Microbiologists and Clinicians

Type of Reservation: National Treatment (Article 11.3)

Level of Government: Central

Measures: Admission Regulations of the College of Microbiologists and Chemists, Articles 5, 6 and 8 (*Reglamento de Inscripción del Colegio de Microbiólogos y Químicos Clínicos. Artículos 5, 6 y 8*)

Description: Cross-Border Trade in Services

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

Sector: Notaries

Type of Reservation: National Treatment (Article 11.3)

Level of Government: Central

Measures: Decree No. 353-2005 January 17, 2007, The Notaries Code, Article 7 (*Decreto No. 353-2005, 17 de enero de 2007, Código del Notariado, Artículo 7*)

Description: Cross-Border Trade in Services

Notaries must be Honduran by birth and obtain the notarial *exequatur*.

Sector: Electrical Energy Services

Type of Reservation: Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 158-94, Framework Law of the Electricity Sub Sector, Article 23 (*Decreto No. 158-94, Ley Marco del Sub-Sector Eléctrico, Artículo 23*)

Description: Cross-Border Trade in Services

In order to be established in Honduras and supply electrical energy distribution services, a company must be incorporated with registered stock.

Sector: Telecommunications

Type of Reservation: Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 44-2008 of 19 June 2008, Concession Agreement for the Provision of Personal Communications Services (PCS) in the Republic of Honduras (*Decreto No. 44-2008 del 19 de junio de 2008, Contrato de Concesión para la Prestación del Servicio de Comunicaciones Personales (PCS) en la República de Honduras*)

Description: Cross-Border Trade in Services

The National Telecommunications Commission (*Comisión Nacional de Telecomunicaciones* [CONATEL]) cannot authorize additional mobile telephony operators until December 2009. CONATEL will authorize at least one additional operator after that date.

Sector: Public Accountants

Type of Reservation: Local Presence (Article 11.5)

Level of Government: Central

Measures: Decree No. 19-93, Organic Law of the College of University Professionals in Public Accounting, Article 23 (*Decreto No. 19-93, Ley Orgánica del Colegio de Profesionales Universitarios en Contaduría Pública, Artículo 23*)

Description: Cross-Border Trade in Services

Anyone wishing to provide public accountancy services in Honduras must be established under Honduran law.

Sector: Architects

Type of Reservation: Local Presence (Article 11.5)

Level of Government: Central

Measures: Regulations of the College of Architects of Honduras, Article 7 (c) and (d) (*Reglamento Interno del Colegio de Arquitectos de Honduras, Artículo 7(c) y (d)*)

Description: Cross-Border Trade in Services

Companies established under foreign law must designate a member of the College of Architects of Honduras [CAH] (*Colegio de Arquitectos de Honduras* [CAH]) as their representative before registering with the CAH to provide architectural services in Honduras. For greater certainty, companies established under foreign law may register only for specific projects.

Sector: Professional Services – Nurses

Type of Reservation: National Treatment (Article 11.3)
Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 90-99, Law for Professional Nursing Staff, July 21, 1999, Article 12 (*Decreto No. 90-99, Ley del Estatuto del Personal Profesional de Enfermería de Honduras, del 21 de Julio de 1999, Artículo 12*)

Description: Cross-Border Trade in Services

No more than 5% of the personnel hired by the employer may be foreign.

Sector: Professional Services – Physicians

Type of Reservation: National Treatment (Article 11.3)
Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 167-95 Law for Staffing of Physicians dated October 9, 1985, Article 10 (*Decreto No. 167-95, Ley del Estatuto del Médico Empleado de fecha 9 de octubre de 1985, Artículo 10*)

Description: Cross-Border Services

Owners and employers must meet the following conditions:

- 1. At least 90% of the physicians hired or appointed must be Honduran by birth; this percentage will be calculated on the basis of the total number of physicians to be hired, appointed or contracted.
- 2. The Honduran physicians by birth must be paid at least 85% of all the salaries earned by the medical staff of the company, establishment or institution concerned.

Sector: Professional Services – Medical and Dental

Type of Reservation: National Treatment (Article 11.3)
Market Access (Article 11.6)

Level of Government: Central

Measures: Decree No. 203-1993 of November 4, 1993, Occupational Law for Dental Surgeons, Chapter VI Section II, Article 7 (*Decreto No. 203-1993 del 4 de noviembre de 1993, Ley del Estatuto Laboral del Cirujano Dentista, Capítulo VI Sección II, Artículo 7*)

Description: Cross-Border Trade in Services

At least 80% of the dental surgeons hired or appointed on the dental staff must be Honduran, unless there is no professional with that specialization in Honduras.

Sector: All the sectors

Type of Reservation: National Treatment (Article 10.4)
Senior Management and Boards of Directors (Article 10.8)

Level of Government: Central

Measures: As set out in the **Description** element

Description: Investment

Honduras, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets, and on the ability of owners of such interests or assets to control any resulting enterprise, by investors of Canada. With respect to such a sale or other disposition, Honduras may adopt or maintain any measure relating to the nationality of senior management or members of the board of directors.

For purposes of this reservation:

- (a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets or imposes nationality requirements described in this reservation shall be deemed to be an existing measure; and

- (b) "state enterprise" means an enterprise owned or controlled through ownership interests by Honduras and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Footnotes

Footnote 1

However, this exclusivity does not apply to express delivery services.

Return to footnote 1 referrer

Footnote 2

This does not apply to newspapers or news media established outside of Honduras.

Return to footnote 2 referrer