

Annex I
Reservations for Measures referred to
in paragraph 1 of Article 6

1. The Schedule of a Contracting Party sets out, pursuant to paragraph 1 of Article 6, the reservations taken by that Contracting Party with respect to existing measures that do not conform with obligations imposed by:

- (a) Article 2 (National Treatment);
- (b) Article 3 (Most Favored Nation Treatment);
- (c) Article 5 (Performance Requirements); or
- (d) Article 10 (Senior Management and Boards of Directors).

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, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Measures" identifies the existing laws, regulations or other measures 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; and
- (f) "Description" sets out, with regard to the obligations referred to in paragraph 1, the non-conforming aspects of the existing measures for which the reservation is taken.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of this Agreement against which the reservation is taken. The "Measures" element shall prevail over all other elements.

4. For the purposes of this Annex,

- (a) the term "JSIC" means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on November 6, 2007;
- (b) the term "CPC" means the Provisional Central Product Classification (Statistical paper Series M, No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991); and
- (c) the term "ISIC" means the International Standard Industrial Classification of All Economic Activities adopted, at its seventh session on August 27, 1948 and revised on May 22, 1989, by the Economic and Social Council of the United Nations.

Section 1
Schedule of Japan

1	Sector:	Finance	
	Sub-Sector:	Banking	
	Industry Classification:	JSIC 622	Banks, except central bank
		JSIC 631	Financial institutions for small-businesses
	Type of Reservation:	National Treatment (Article 2)	
	Measures:	Deposit Insurance Law (Law No. 34 of 1971), Article 2	
	Description:	The deposit insurance system only covers financial institutions which have their head offices within the jurisdiction of Japan. The deposit insurance system does not cover deposits taken by branches of foreign banks.	

2 Sector: Heat Supply

Sub-Sector:

Industry JSIC 3511 Heat Supply
Classification:

Type of Reservation: National Treatment (Article 2)

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

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in heat supply industry in Japan.

3 Sector: Information and Communications

Sub-Sector: Telecommunications

Industry Classification: JSIC 3700 Head offices primarily engaged in managerial operations

JSIC 3711 Regional telecommunications, except wire broadcast telephones

JSIC 3731 Services incidental to telecommunications

Type of Reservation: National Treatment (Article 2)

Senior Management and Boards of Directors (Article 10)

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

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

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign government or its representative; and
- (c) a foreign legal person or a foreign entity.

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

4 Sector: Information and Communications

Sub-Sector: Telecommunications and Internet Based Services

Industry Classification: JSIC 3711 Regional telecommunications, except wire broadcast telephones

JSIC 3712 Long-distance telecommunications

JSIC 3719 Miscellaneous fixed telecommunications

JSIC 3721 Mobile telecommunications

JSIC 401 Internet based services

Note: The activities covered by the reservation under JSIC 3711, 3712, 3719, 3721 or 401 are limited to the activities which are subject to the registration obligation under Article 9 of the Telecommunications Business Law (Law No. 86 of 1984).

Type of Reservation: National Treatment (Article 2)

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

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in telecommunications business and internet based services in Japan.

5 Sector: Manufacturing

Sub-Sector: Drugs and Medicines Manufacturing

Industry Classification: JSIC 1653 Biological preparations

Type of Reservation: National Treatment (Article 2)

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

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in biological preparations manufacturing industry in Japan. For greater certainty, "biological preparations manufacturing industry" deals with economic activities in an establishment which mainly produces vaccine, serum, toxoid, antitoxin and some preparations similar to the aforementioned products, or blood products.

6	Sector:	Manufacturing	
	Sub-Sector:	Leather and Leather Products Manufacturing	
	Industry Classification:	JSIC 1189	Textile apparel and accessories, n.e.c.
		JSIC 1694	Gelatine and adhesives
		JSIC 192	Rubber and plastic footwear and its findings
		JSIC 2011	Leather tanning and finishing
		JSIC 2021	Mechanical leather products, except gloves and mittens
		JSIC 2031	Cut stock and findings for boots and shoes
		JSIC 2041	Leather footwear
		JSIC 2051	Leather gloves and mittens
		JSIC 2061	Baggage
		JSIC 207	Handbags and small leather cases
		JSIC 2081	Fur skins
		JSIC 2099	Miscellaneous leather products
		JSIC 3253	Sporting and athletic goods

Note 1: The activities covered by the reservation under JSIC 1189 or 3253 are limited to the activities related to leather and leather products manufacturing.

Note 2: The activities covered by the reservation under JSIC 1694 are limited to the activities related to animal glue (nikawa) and gelatine manufacturing.

Type of
Reservation:

National Treatment (Article 2)

Measures:

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

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

Description:

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

7 Sector: Matters Related to the Nationality of
a Ship

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Senior Management and Boards of
Directors (Article 10)

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

Description: The Japanese nationality shall be
given to a ship whose owner is a
Japanese national, or a company
established under Japanese law, of
which all the representatives and not
less than two-thirds of the
executives administering the affairs
are Japanese nationals.

8 Sector: Mining

Sub-Sector:

Industry Classification: JSIC 05 Mining and quarrying of stone and gravel

Type of Reservation: National Treatment (Article 2)

Measures: Mining Law (Law No. 289 of 1950), Chapters 2 and 3

Description: Only a Japanese national or a Japanese legal person may have mining rights or mining lease rights.

9 Sector: Oil Industry

Sub-Sector:

Industry Classification:	JSIC 053	Crude petroleum and natural gas production
	JSIC 1711	Petroleum refining
	JSIC 1721	Lubricating oils and greases (not made in petroleum refineries)
	JSIC 1741	Paving materials
	JSIC 1799	Miscellaneous petroleum and coal products
	JSIC 4711	Ordinary warehousing
	JSIC 4721	Refrigerated warehousing
	JSIC 5331	Petroleum
	JSIC 6051	Petrol stations (gasoline service stations)
	JSIC 6052	Fuel stores, except gasoline service stations
	JSIC 9299	Miscellaneous business services, n.e.c.

Note 1: The activities covered by the reservation under JSIC 1741, 1799, 4711, 4721 or 6052 are limited to the activities related to oil industry.

Note 2: The activities covered by the reservation under JSIC 9299 are limited to the activities related to liquefied petroleum gas industry.

Type of Reservation: National Treatment (Article 2)

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

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in oil industry in Japan. All organic chemicals such as ethylene, ethylene glycol and polycarbonates are outside the scope of the oil industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investment in the manufacture of these products.

10 Sector: Agriculture, Forestry and Fisheries, and Related Services (except Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf provided for in the reservation No. 8 in the Schedule of Japan in Annex II)

Sub-Sector:

Industry Classification:	JSIC 01	Agriculture
	JSIC 02	Forestry
	JSIC 03	Fisheries, except aquaculture
	JSIC 04	Aquaculture
	JSIC 6324	Agricultural cooperatives
	JSIC 6325	Fishery and fishery processing cooperatives
	JSIC 871	Agriculture, forestry and fisheries cooperative associations, n.e.c.

Type of Reservation: National Treatment (Article 2)

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

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in agriculture, forestry and fisheries, and related services (except fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf provided for in the reservation No. 8 in the Schedule of Japan of Annex II) in Japan.

11 Sector: Security Guard Services

Sub-Sector:

Industry JSIC 9231 Guard services
Classification:

Type of Reservation: National Treatment (Article 2)

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

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in security guard services in Japan.

12 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4600 Head offices primarily engaged in managerial operations

JSIC 4611 Air transport

Type of Reservation: National Treatment (Article 2)

Most Favored Nation Treatment (Article 3)

Senior Management and Boards of Directors (Article 10)

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

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

Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

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

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

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

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

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

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

3. A Japanese air carrier or a company having substantial control over such air carrier, such as a holding company, may reject the request from a natural person or an entity set forth in subparagraphs 2(a) through (c), who owns equity investments in such air carrier or company, to enter its name and address in the register of shareholders, in the event such air carrier or company falls into a legal person referred to in subparagraph 2(d) by accepting such request.

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

5. Permission of the Minister of Land, Infrastructure, Transport and Tourism is required for the use of foreign aircraft for air transport of passengers or cargoes to and from Japan for remuneration.

6. A foreign aircraft may not be used for a flight between points within Japan.

13 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4600 Head offices primarily engaged in managerial operations

JSIC 4621 Aircraft service, except air transport

Type of Reservation: National Treatment (Article 2)

Senior Management and Boards of Directors (Article 10)

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

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

Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

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

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

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

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

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

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

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

3. A foreign aircraft may not be used for a flight between points within Japan.

14 Sector: Transport

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

Industry Classification:

Type of Reservation: National Treatment (Article 2)
Senior Management and Boards of Directors (Article 10)

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

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

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

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

15	Sector:	Transport				
	Sub-Sector:	Freight Forwarding Business (excluding freight forwarding business using air transportation)				
	Industry Classification:	<table border="0" style="width: 100%;"> <tr> <td style="width: 150px;">JSIC 4441</td> <td>Collect-and-deliver freight transport</td> </tr> <tr> <td>JSIC 4821</td> <td>Deliver freight transport, except collect-and-deliver freight transport</td> </tr> </table>	JSIC 4441	Collect-and-deliver freight transport	JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport
JSIC 4441	Collect-and-deliver freight transport					
JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport					
	Type of Reservation:	<p>National Treatment (Article 2)</p> <p>Most Favored Nation Treatment (Article 3)</p> <p>Senior Management and Boards of Directors (Article 10)</p>				
	Measures:	<p>Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2 through 4</p> <p>Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport No. 20 of 1990)</p>				
	Description:	<p>The following natural persons or entities are required to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism for conducting freight forwarding business using international shipping. Such registration shall be made, or such permission or approval shall be granted, on the basis of reciprocity:</p> <ul style="list-style-type: none"> (a) a natural person who does not have Japanese nationality; (b) a foreign country, or a foreign public entity or its equivalent; (c) a legal person or other entity constituted under the laws of any foreign country; and 				

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

16	Sector:	Transport				
	Sub-Sector:	Freight Forwarding Business (only freight forwarding business using air transportation)				
	Industry Classification:	<table border="0" style="width: 100%;"> <tr> <td style="width: 150px;">JSIC 4441</td> <td>Collect-and-deliver freight transport</td> </tr> <tr> <td>JSIC 4821</td> <td>Deliver freight transport, except collect-and-deliver freight transport</td> </tr> </table>	JSIC 4441	Collect-and-deliver freight transport	JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport
JSIC 4441	Collect-and-deliver freight transport					
JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport					
	Type of Reservation:	<p>National Treatment (Article 2)</p> <p>Most Favored Nation Treatment (Article 3)</p> <p>Senior Management and Boards of Directors (Article 10)</p>				
	Measures:	<p>Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2 through 4</p> <p>Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport No. 20 of 1990)</p>				
	Description:	<p>1. The following natural persons or entities may not conduct freight forwarding business using air transportation between points within Japan:</p> <ul style="list-style-type: none"> (a) a natural person who does not have Japanese nationality; (b) a foreign country, or foreign public entity or its equivalent; (c) a legal person or other entity constituted under the laws of any foreign country; and 				

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

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

17 Sector: Transport

Sub-Sector: Railway Transport

Industry Classification: JSIC 421 Railway transport
 JSIC 4851 Railway facilities services

Type of Reservation: National Treatment (Article 2)

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in railway transport industry in Japan. The manufacture of vehicles, parts and components for the railway transport industry is not included in railway transport industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

18 Sector: Transport

 Sub-Sector: Road Passenger Transport

 Industry JSIC 4311 Common omnibus operators

 Classification:

 Type of National Treatment (Article 2)

 Reservation:

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

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

 Description: The prior notification requirement
 under the Foreign Exchange and
 Foreign Trade Law applies to foreign
 investors who intend to make
 investments in omnibus industry in
 Japan. The manufacture of vehicles,
 parts and components for omnibus
 industry is not included in omnibus
 industry. Therefore, prior
 notification under the Foreign
 Exchange and Foreign Trade Law is not
 required for the investments in the
 manufacture of these products.

19 Sector: Transport

Sub-Sector: Water Transport

Industry Classification: JSIC 452 Coastwise transport
 JSIC 453 Inland water transport
 JSIC 4542 Coastwise ship leasing

Type of Reservation: National Treatment (Article 2)

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

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in water transport industry in Japan. For greater certainty, "water transport industry" refers to oceangoing/seagoing transport, coastwise transport (i.e. maritime transport between ports within Japan), inland water transport and ship leasing industry. However, oceangoing/seagoing transport industry and ship leasing industry excluding coastwise ship leasing industry are exempted from the prior notification requirement.

20 Sector: Transport

Sub-Sector: Water Transport

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Most Favored Nation Treatment
(Article 3)

Measures: Ship Law (Law No. 46 of 1899),
Article 3

Description: Unless otherwise specified in laws
and regulations of Japan, or
international agreements to which
Japan is a party, ships not flying
the Japanese flag are prohibited from
entering Japanese ports which are not
open to foreign commerce and from
carrying cargoes or passengers
between Japanese ports.

21 Sector: Water Supply and Waterworks

Sub-Sector:

Industry Classification: JSIC 3611 Water for end users,
except industrial users

Type of Reservation: National Treatment (Article 2)

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

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

Description: The prior notification requirement
under the Foreign Exchange and
Foreign Trade Law applies to foreign
investors who intend to make
investments in water supply and
waterworks industry in Japan.

2 Sector: All Sectors

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)

Measures: Decreto 2080 de 2000, Art. 26 and 27

Description: Foreign investors may make portfolio investments in securities in Colombia only through a foreign capital investment fund (*fondo de inversión de capital extranjero*).

3 Sector: All Sectors

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Senior Management and Boards of
Directors (Article 10)

Measures: As set out in the Description
element, including Articles 3, 11 of
Ley 226 de 1995.

Description: Colombia, 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
Japan or of a non-Contracting Party
or their investments. With respect to
such a sale or other disposition,
Colombia may adopt or maintain any
measure relating to the nationality
of senior management or members of
the board of directors.

Relevant existing legislation
concerning this non-conforming
measure includes *Ley 226 de 1995*. In
this respect, if Colombia decides to
sell all or part of its interest in
an enterprise to a person other than
a Colombian state enterprise or other
Colombian government entity, it shall
first offer such interest
exclusively, and under the conditions
established in article 11 of *Ley 226
de 1995*, to:

current, pensioned, and former employees (other than former employees terminated for just cause) of the enterprise and of other enterprises owned or controlled by the enterprise;
associations of employees and former employees of the enterprise;
employee unions;
federations and confederations of trade unions;
employee funds ("fondos de empleados");
pension and severance funds; and
cooperative entities¹

However, once such interest has been transferred or sold, Colombia does not reserve the right to control any subsequent transfer or other disposal of such interest.

For purposes of this reservation:

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
"state enterprise" means an enterprise owned or controlled through ownership interests by Colombia 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.

¹ For greater certainty, *Ley 454 de 1998* establishes the type of cooperative entities existing in Colombia. There are "cooperativas de ahorro y crédito", "cooperativas financieras" and "cooperativas multiactivas o integrales".

4 Sector: Fishing and Services Related to Fishing

Sub-Sector: Other Business Services
Fishing, aquaculture and service activities incidental to fishing

Industry Classification: CPC 882 Services incidental to fishing
ISIC 0501 Fishing

Type of Reservation: National Treatment (Article 2)
Most Favored Nation Treatment (Article 3)

Measures: Decreto 2256 de 1991, Art. 27, 28 and 67
Acuerdo 005 de 2003, Sección II and VII

Description: A foreign flagged vessel may obtain a permit and engage in commercial fishing and related activities in Colombian territorial waters only in association with a Colombian enterprise that owns a permit. In this case, the costs of the permit and fishing license are higher for foreign-flagged vessels than for Colombian-flagged vessels.

If the flag of a foreign-flagged vessel is that of a country that is a party to another bilateral agreement with Colombia, the terms of that other bilateral agreement shall determine whether or not the requirement to associate with a Colombian enterprise that owns a permit applies.

5 Sector: Private Security and Surveillance Services

Sub-Sector: Other Business Services

Industry Classification: CPC 873 Investigation and security

Type of Reservation: National Treatment (Article 2)

Measures: *Decreto 356 de 1994*, Art. 8, 12, 23 and 25

Description: Partners or members of private security and surveillance services enterprises must be Colombian nationals.

Enterprises established prior to February 11, 1994 with foreign members or foreign capital may not increase the participation of foreign members. Cooperatives organized before that date may retain their juridical form.

6 Sector: Journalism

Sub-Sector: News agency services

Industry Classification: CPC 6921 news agency services to newspapers and periodicals

Type of Reservation: Senior Management and Board of Directors (Article 10)

Measures: Ley 29 de 1944, Art. 13

Description: The director or general manager of a newspaper published in Colombia that focuses on Colombian politics must be a Colombian national.

7 Sector: Domiciliary Public Services

Sub-Sector:

Industry
Classification:

Type of Reservation: National Treatment (Article 2)

Measures: *Ley 142 de 1994*, Artículos 1, 17, 18, 19 and 23

Código de comercio, Art. 471 and 472

Description: An enterprise in which a locally organized community holds a controlling interest shall be given a preference over enterprises with otherwise equivalent bids in the granting of a concession or license for the provision of domiciliary public services to that community.

For the purposes of this reservation entry, domiciliary public services include the provision of water, sewage, refuse disposal, electric power, combustible gas distribution, and basic public-switched telephone services (PSTN) and any activities supplemental thereto. Activities supplemental to basic public-switched telephone services means long-distance public telephone and fixed wireless local loop telephone services in rural areas, but does not include commercial mobile telephone services.

8 Sector: Cinematography

Sub-Sector:

Industry
Classification:

Type of
Reservation: Performance Requirements (Article 5)

Measures: Ley 814 de 2003, Art. 5, 14, 15, 18 y
19

Description: The exhibition and distribution of
foreign films is subject to the
Cinematographic Development Fee,
which is set at 8.5 per cent of the
monthly net income derived from such
exhibition and distribution.

The fee applied to an exhibitor is
reduced to 2.25 percent, when a
foreign movie is exhibited together
with a Colombian short film.

Until 2013, the fee applied to a
distributor is reduced to 5.5 percent
if, during the preceding year, the
percentage of Colombian full-length
films it distributed to cinemas and
other exhibitors equaled or exceeded
the target percentage set by the
government.

9 Sector: Radio Broadcasting Services

Sub-Sector:

Industry
Classification:

Type of Reservation: Senior Management and Board of Directors (Article 10)

Measures: Ley 80 de 1993, Art. 35
Decreto 1447 de 1995, Art. 7, 9 y 18

Description: The directors of informative or journalist programs must be a Colombian national.

- 10 Sector: Free-to-air Television
Audio-Visual Production Services
- Sub-Sector:
- Industry
Classification:
- Type of Reservation: National Treatment (Article 2)
Performance Requirements (Article 5)
- Measures: Ley 014 de 1991, Art. 37
Ley 680 de 2001, Art. 1 y 4
Ley 335 de 1996, Art. 13 y 24
Ley 182 de 1995, Art. 37 numeral 3,
Art. 47 y Art. 48
Acuerdo 002 de 1995, Art. 10
parágrafo
Acuerdo 023 de 1997, Art. 8 Parágrafo
Acuerdo 024 de 1997, Art. 6 y 9
Acuerdo 020 de 1997, Art. 3 y 4
- Description: Foreign equity in any enterprise holding a free-to-air television concession is limited to 40 percent.
- National Television
Suppliers (operators and/or persons granted the right to use programming slots) of free-to-air national television services must broadcast nationally produced programming on each channel as follows:
- (a) a minimum of 70 per cent between 19:00 hours and 22:30 hours,
 - (b) a minimum of 50 per cent between 22:30 hours and 24:00 hours,
 - (c) a minimum of 50 per cent between 10:00 hours and 19:00 hours,
 - (d) a minimum of 60 per cent for Saturdays, Sundays, and holidays between 19:00 hours and 22:30 hours

Regional and Local Television

Regional television may be supplied only by state-owned entities. Suppliers of regional and local free-to-air television services must broadcast a minimum of 50 percent nationally produced programming on each channel.

11 Sector: Subscription Television
 Audio-visual Production Services

 Sub-Sector:

 Industry
 Classification:

 Type of Performance Requirements (Article 5)
 Reservation:

 Measures: Ley 680 de 2001, Art. 4 y 11
 Ley 182 de 1995, Art. 42
 Acuerdo 014 de 1997, Art.14, 16 y 30
 Ley 335 de 1996, Art. 8
 Acuerdo 032 de 1998, Art. 7 y 9

 Description: Enterprises that supply subscription
 television services must make
 available to subscribers, at no
 additional cost, those free-to-air
 Colombian national, regional, and
 municipal television channels
 available in the authorized area of
 coverage. The transmission of
 regional and municipal channels will
 be subject to the technical capacity
 of the subscription television
 operator.

 Suppliers of satellite subscription
 television only have the obligation
 of including in their basic
 programming the transmission of the
 public interest channels of the
 Colombian State. When rebroadcasting
 free-to-air programming subject to a
 domestic content quota, a
 subscription television provider may
 not modify the content of the
 original signal.

Subscription television not including satellite

The concessionaire of subscription television that transmits commercials different from those of origin must comply with the minimum percentages of nationally produced programming required of suppliers of free-to-air national television services as described in the entry on free-to-air television and audio-visual production services of the schedule of Colombia of this Annex. Colombia interprets Article 16 of *Acuerdo 014 de 1997* as not requiring subscription television suppliers to comply with minimum percentages of nationally produced programming when commercials are inserted into programming outside the territory of Colombia. Colombia will continue to apply this interpretation, subject to Article 6.1 (d).

Suppliers of cable television services must produce and broadcast in Colombia a minimum of one hour of programming each day between 18:00 hours and 24:00 hours.

12 Sector: Waste-Related Services

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)

Measures: Decreto 2080 de 2000, Art. 6

Description: Foreign investment is not permitted
in activities related to the
processing, disposition, and disposal
of toxic, hazardous or radioactive
waste not produced in Colombia.

13 Sector: Transport services

Sub-Sector: Maritime Transportation
Fluvial Transportation

Industry Classification: CPC 72 Water transport services

Type of Reservation: Performance Requirements (Article 5)
Senior Management and Board of Directors (Article 10)

Measures: Decreto 804 de 2001, Art. 2 and 4 numeral 4
Código de Comercio, Art. 1455
Decreto Ley 2324 de 1984, Art. 99, 101 and 124
Ley 658 de 2001, Art. 11
Decreto 1597 de 1998, Art. 23

Description: In Colombian flag vessels and foreign-flagged vessels (except those relating to fishing) that operate in Colombian jurisdictional waters for a period of time longer than six months, continuous or discontinuous, from the date of the issuing of the respective permit, the captain, officials and at least 80 per cent of the rest of the crew must be Colombians.

14 Sector: Transport

Sub-Sector: Specialty Air Services

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Most Favored Nation Treatment
(Article 3)
Performance Requirements (Article 5)

Measures: *Código de Comercio*, Artículos 1795 y
1864

Description: Only Colombian nationals or juridical
persons organized under Colombian law
may own and maintain real and
effective control of an airplane
registered to supply specialty air
services in Colombia.

All specialty air services companies
established in Colombia as an agency
or branch shall employ Colombian
workers in a proportion of no less
than 90 per cent for its operation in
Colombia. This percentage shall not
apply to foreign workers from
countries that accord reciprocity to
Colombian workers. The aeronautic
authority may allow, under justified
reasons and for the necessary time,
the no application of the workforce
limitation mentioned.

15 Sector: Finance

Sub-Sector: Financial Services. Banking and other financial services (excluding insurance)

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Measures: *Decreto 2419 de 1999, Art. 1 (en concordancia con la Ley 270 de 1996, Art. 203*

Decreto 1065 de 1999, Art. 16).

Description: The sums of money subject to court or police order, including *cauciones*², and funds consigned under leases must be deposited in the *Banco Agrario de Colombia. S.A.*, which may derive a competitive advantage with respect to its overall operations from all or some portion of that exclusive right.

² A *caución*, under Colombian law, is a deposit of money made under court order - for example, by a civil defendant in return for the court lifting an injunction won by the plaintiff against certain assets of the defendant.

16 Sector: Finance

Sub-Sector: Financial Services. Banking and other financial services (excluding insurance)

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Measures: Estatuto Orgánico del Sistema Financiero

Description: Colombia may grant advantages or exclusive rights to the following financial entities:

- *Fondo para el Financiamiento del Sector Agropecuario (FINAGRO);*
- *Banco Agrario de Colombia;*
- *Fondo Nacional de Garantías;*
- *Financiera Eléctrica Nacional (FEN);*
- *Financiera de Desarrollo Territorial (FINDETER);*
- *Fiduciaria La Previsora;*
- *Instituto Colombiano de Crédito Educativo y Estudios Técnicos en el Exterior (ICETEX);*
- *Banco de Comercio Exterior (BANCOLDEX);*
- *Fondo Financiero de Proyectos de Desarrollo (FONADE).*

The advantages or exclusive rights may include, but are not limited to, the following:³

- exemption from certain taxation;
- exemption from registration and periodic reporting requirements for the issuance of securities; and
- purchase by the government of Colombia, through any public entity of Colombia, of obligations issued by the entities listed above.

³ For greater certainty, and notwithstanding the location of this non-conforming measure within Annex I, the Parties understand that the advantages or exclusive rights that a Party may grant to the specified entities are not limited only to the cited examples.