

**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
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**Draft 8 May 2006**

**ANNEX I**

**Explanatory Notes**

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 10.13 (Non-Conforming Measures) and 11.6 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:
  - (a) Article 10.3 (National Treatment) or 11.2 (National Treatment);
  - (b) Article 10.4 (Most-Favored-Nation Treatment) or 11.3 (Most-Favored-Nation Treatment);
  - (c) Article 11.5 (Local Presence);
  - (d) Article 10.9 (Performance Requirements);
  - (e) Article 10.10 (Senior Management and Boards of Directors); or
  - (f) Article 11.4 (Market Access).
2. Each Schedule entry sets out the following elements:
  - (a) **Sector** refers to the sector for which the entry is made;
  - (b) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to Articles 10.13.1(a) and 11.6.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;
  - (c) **Level of Government** indicates the level of government maintaining the scheduled measure(s);
  - (d) **Measures** identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the **Measures** element:
    - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement, and
    - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
  - (e) **Description** sets out commitments, if any, for liberalization on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the measure for which the entry is made.

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3. In the interpretation of a Schedule entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant articles of the Chapters against which the entry is made. To the extent that:

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

4. In accordance with Article 10.13.1(a) and 11.6.1(a), and subject to Article 10.13.1(c) and 11.6.1(c), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry.

5. Where a Party maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article 11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), or 11.5 (Local Presence) shall operate as a Schedule entry with respect to Article 10.3 (National Treatment), 10.4 (Most-Favored-Nation Treatment), or 10.9 (Performance Requirements) to the extent of that measure.

6. Peru reserves the right to maintain a prohibition on the offer of a basic telecommunications service consisting of a call originating in the territory of Peru that results in a return call with an invitation to dial, coming from a basic telecommunications network located outside the national territory (“callback”) pursuant to *Decreto Supremo N° 027-2004-MTC, Diario Oficial “El Peruano” de 15 de julio de 2004, Texto Único Ordenado del Reglamento General de la Ley de Telecomunicaciones, Artículo 269*.

7. To the extent that *Decreto Legislativo N° 689, Diario Oficial “El Peruano” de 05 de noviembre de 1991, Ley para la Contratación de Trabajadores Extranjeros, Artículos 1, 3, 4, 5* (modified by *Ley N° 26196*) establishes a limit on the number of foreign employees that an enterprise may hire, such measure is not inconsistent with Article 10.10 (Senior Management and Boards of Directors).

8. Nothing in Article 11.12 (Specific Commitments) shall be construed to prevent Colombia from maintaining the payment for concessions by private suppliers of express delivery services as provided by Article 24(a) and (b) of *Decreto 229 de 1995*, and any amendment thereto, as

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long as the payment is applied in a manner consistent with Article 10.3 (National Treatment), Article 10.4 (Most-Favored-National Treatment), Article 11.2 (National Treatment), and Article 11.3 (Most-Favored-Nation Treatment).