

ANNEX II

Explanatory Note

1. The Schedule of a Party of this Annex sets out, pursuant to Articles 10.13 (Non-Conforming Measures) and 11.6 (Non-Conforming Measures), the specific sectors, sub-sectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Articles 10.3 (National Treatment) or 11.2 (National Treatment);
- (b) Articles 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 obligation(s) referred to in paragraph 1 that, pursuant to Articles 10.13 (Non-Conforming Measures) and 11.6 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;
- (c) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and
- (d) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 10.13 (Non-Conforming Measures) and 11.6 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

ANNEX II

Schedule of Costa Rica

Sector:	All Sectors
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Description:	<p><u>Cross-Border Services and Investment</u></p> <p>Costa Rica reserves, vis-á-vis the United States, the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>Costa Rica reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none">(a) aviation;(b) fisheries; or(c) maritime matters, including salvage.

ANNEX II, Schedule of Costa Rica

Sector:	Cultural Industries
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Description:	<u>Cross-Border Services and Investment</u>

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

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

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

ANNEX II, Schedule of Costa Rica

Sector: Social Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Local Presence (Article 11.5)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)
Market Access (Article 11.4)

Description: Cross-Border Services and Investment

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

ANNEX II

Schedule of El Salvador

Sector:	All Sectors
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Description:	<p><u>Cross Border Services and Investment</u></p> <p>El Salvador reserves, vis-à-vis the United States, the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>El Salvador reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none">(a) aviation;(b) fisheries; or(c) maritime matters, including salvage.

ANNEX II, Schedule of El Salvador

Sector:	Social Services
Obligations Concerned:	National Treatment (Articles 10.3 and 11.2) Most-Favored-Nation Treatment (Articles 10.4 and 11.3) Market Access (Article 11.4) Local Presence (Article 11.5) Performance Requirements (Article 10.9) Senior Management and Boards of Directors (Article 10.10)
Description:	<u>Cross-Border Services and Investment</u> El Salvador reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

ANNEX II, Schedule of El Salvador

Sector: Minority Affairs

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Local Presence (Article 11.5)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)

Description: Cross-Border Services and Investment

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

ANNEX II, Schedule of El Salvador

Sector: Transport Services: Road Transport Services

Obligations Concerned: National Treatment (Article 11.2)
Most-Favored-Nation Treatment (Article 11.3)
Local Presence (Article 11.5)

Description: Cross-Border Services

El Salvador reserves, vis-á-vis the United States, the right to adopt or maintain any measure restricting the transportation of goods by road.

ANNEX II

Schedule of Guatemala

Sector:	All Sectors
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 11.3 and 10.4)
Level of Government:	Central
Description:	<p><u>Cross-Border Services and Investment</u></p> <p>Guatemala reserves, vis-à-vis the United States, the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>Guatemala reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none">(a) aviation,(b) fisheries, or(c) maritime matters, including salvage.

ANNEX II, Schedule of Guatemala

Sector:	Maritime Transportation
Obligations Concerned:	National Treatment (Articles 11.2 and 10.3) Most-Favored-Nation Treatment (Articles 11.3 and 10.4) Local Presence (Article 11.5) Performance Requirements (Article 10.9) Senior Management and Boards of Directors (Article 10.10)
Level of Government:	Central
Description:	<u>Cross-Border Services and Investment</u> Guatemala reserves the right to adopt or maintain any measure related to the provision of maritime transportation services.

ANNEX II, Schedule of Guatemala

Sector:	Matters Related to Disadvantaged Minorities and Indigenous Peoples
Obligations Concerned:	National Treatment (Articles 11.2 and 10.3) Local Presence (Article 11.5) Performance Requirements (Article 10.9) Senior Management and Boards of Directors (Article 10.10)
Level of Government:	Central
Description:	<u>Cross-Border Services and Investment</u> Guatemala reserves the right to adopt or maintain any measure that grants rights or preferences to socially or economically disadvantaged minorities and indigenous peoples.

ANNEX II

Schedule of Honduras

Sector: Communications Services - Telecommunications

Obligations Concerned: National Treatment (Article 10.3)
Market Access (Article 11.4)

Description: Cross-Border Services and Investment

Honduras reserves the right to adopt, maintain, or modify the level of participation in the ownership of the *Empresa Hondureña de Telecomunicaciones* (HONDUTEL), as well as its affiliates or subsidiaries.

ANNEX II, Schedule of Honduras

Sector: All Sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

Description: Cross-Border Services and Investment

Honduras reserves, vis-à-vis the United States, the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

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

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.

ANNEX II, Schedule of Honduras

Sector: Agronomists

Obligations Concerned: National Treatment (Article 11.2)
Most-Favored-Nation Treatment (Article 11.3)
Local Presence (Article 11.5)

Description: Cross-Border Services

Honduras reserves the right to adopt or maintain any measure that pertains to obligatory membership in a professional association of agronomists.

ANNEX II, Schedule of Honduras

Sector: Social Workers

Obligations Concerned: National Treatment (Article 11.2)

Description: Cross-Border Services

Honduras reserves the right to adopt or maintain any measure that pertains to obligatory membership in a professional association of social workers.

ANNEX II, Schedule of Honduras

Sector: Chemists and Pharmacists

Obligations Concerned: National Treatment (Article 11.2)
Most-Favored-Nation Treatment (Article 11.3)
Local Presence (Article 11.5)

Description: Cross-Border Services

Honduras reserves the right to adopt or maintain any measure that pertains to obligatory membership in a professional association of chemists or pharmacists.

ANNEX II, Schedule of Honduras

Sector: Social Services

Obligations Concerned: National Treatment (Article 11.2)
Most-Favored-Nation Treatment (Article 11.3)
Market Access (Article 11.4)
Local Presence (Article 11.5)
Senior Management and Boards of Directors (Article 10.10)

Description: Cross-Border Services and Investment

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

ANNEX II, Schedule of Honduras

Sector: Minority Affairs

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Local Presence (Article 11.5)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)

Description: Cross-Border Services and Investment

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

ANNEX II

Schedule of Nicaragua

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)
Senior Management and Boards of Directors (Article 10.10)

Description: Investment

Nicaragua reserves the right to limit the transfer or disposal of any interest held in an existing state enterprise, such that only a Nicaraguan national may receive such interest. However, the preceding sentence pertains only to the initial transfer or disposal of such interest. Nicaragua does not reserve this right with respect to subsequent transfers or disposals of such interest.

Nicaragua reserves the right to limit control of any new enterprise created by the transfer or disposal of any interest as described in the preceding paragraph through means other than limitations on the ownership of the interest. Nicaragua also reserves the right to adopt or maintain any measure related to the nationality of senior management and members of the board of directors in such new enterprise.

ANNEX II, Schedule of Nicaragua

Sector: Minority Affairs and Indigenous Peoples

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Local Presence (Article 11.5)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)

Description: Cross-Border Services and Investment

Nicaragua reserves the right to adopt or maintain any measure granting rights or preferences to socially or economically disadvantaged minorities and indigenous peoples.

ANNEX II, Schedule of Nicaragua

Sector: Communications

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

Description: Cross-Border Services and Investment

Nicaragua reserves the right to adopt or maintain any measure that accords differential treatment to persons of other countries due to application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services.

ANNEX II, Schedule of Nicaragua

Sector: All Sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

Description: Cross-Border Services and Investment

Nicaragua reserves, vis-à-vis the United States, the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

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

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.

ANNEX II, Schedule of Nicaragua

Sector: Coastal Lands, Islands, and River Banks

Obligations Concerned: National Treatment (Article 10.3)

Description: Investment

Nicaragua reserves the right to adopt or maintain any measure with respect to coastal lands, islands, and river banks under the possession of Nicaragua.

ANNEX II, Schedule of Nicaragua

Sector: Social Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Local Presence (Article 11.5)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)

Description: Cross-Border Services and Investment

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

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Schedule of the United States

Sector:	Communications
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 10.3 and 11.2)
Description:	<u>Cross-Border Services and Investment</u>

The United States reserves the right to adopt or maintain any measure that accords differential treatment to persons of other countries due to application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services.

ANNEX II, Schedule of the United States

Sector: Communications - Cable Television

Obligations Concerned: National Treatment (Article 10.3)
Most-Favored-Nation Treatment (Article 10.4)
Senior Management and Boards of Directors (Article 10.10)

Description: Investment

The United States reserves the right to adopt or maintain any measure that accords equivalent treatment to persons of any country that limits ownership by persons of the United States in an enterprise engaged in the operation of a cable television system in that country.

ANNEX II, Schedule of the United States

Sector: Social Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Local Presence (Article 11.5)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)
Market Access (Article 10.4)

Description: Cross-Border Services and Investment

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

ANNEX II, Schedule of the United States

Sector: Minority Affairs

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Local Presence (Article 11.5)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)

Description: Cross-Border Services and Investment

The United States reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities, including corporations organized under the laws of the State of Alaska in accordance with the *Alaska Native Claims Settlement Act*.

Existing Measures: *Alaska Native Claims Settlement Act*, 43 U.S.C. §§ 1601 et seq.

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Sector:	Transportation
Obligations Concerned:	National Treatment (Articles 10.3 and 11.2) Most-Favored-Nation Treatment (Articles 10.4 and 11.3) Local Presence (Article 11.5) Performance Requirements (Article 10.9) Senior Management and Boards of Directors (Article 10.10)
Description:	<p><u>Cross-Border Services and Investment</u></p> <p>The United States reserves the right to adopt or maintain any measure relating to the provision of maritime transportation services and the operation of U.S.-flagged vessels, including the following:</p> <ul style="list-style-type: none">(a) requirements for investment in, ownership and control of, and operation of vessels and other marine structures, including drill rigs, in maritime cabotage services, including maritime cabotage services performed in the domestic offshore trades, the coastwise trades, U.S. territorial waters, waters above the continental shelf, and in the inland waterways;(b) requirements for investment in, ownership and control of, and operation of U.S.-flagged vessels in foreign trades;(c) requirements for investment in, ownership or control of, and operation of vessels engaged in fishing and related activities in U.S. territorial waters and the Exclusive Economic Zone;(d) requirements related to documenting a vessel under the U.S. flag;(e) promotional programs, including tax benefits, available for shipowners, operators, and vessels meeting certain requirements;(f) certification, licensing, and citizenship requirements for crew members on U.S.-flagged vessels;(g) manning requirements for U.S.-flagged vessels;(h) all matters under the jurisdiction of the Federal Maritime Commission;

ANNEX II, Schedule of the United States

- (i) negotiation and implementation of bilateral and other international maritime agreements and understandings;
- (j) limitations on longshore work performed by crew members;
- (k) tonnage duties and light money assessments for entering U.S. waters; and
- (l) certification, licensing, and citizenship requirements for pilots performing pilotage services in U.S. territorial waters.

The following activities are not included in this reservation. However, the treatment provided to a Party under (b) is conditional upon obtaining comparable market access in these sectors from that Party:

- (a) vessel construction and repair; and
- (b) landside aspects of port activities, including operation and maintenance of docks; loading and unloading of vessels directly to or from land; marine cargo handling; operation and maintenance of piers; ship cleaning; stevedoring; transfer of cargo between vessels and trucks, trains, pipelines, and wharves; waterfront terminal operations; boat cleaning; canal operation; dismantling of vessels; operation of marine railways for drydocking; marine surveyors, except cargo; marine wrecking of vessels for scrap; and ship classification societies.

Existing Measures:

Merchant Marine Act of 1920, §§ 19 and 27, 46 U.S.C. App. § 876 and § 883 et seq.
Jones Act Waiver Statute, 64 Stat 1120, 46 U.S.C. App., note preceding Section 1
Shipping Act of 1916, 46 U.S.C. App. §§ 802 and 808
Merchant Marine Act of 1936, 46 U.S.C. App. §§ 1151 et seq., 1160-61, 1171 et seq., 1241(b), 1241-1, 1244, and 1271 et seq.
Merchant Ship Sales Act of 1946, 50 U.S.C. App. § 1738
46 U.S.C. App. §§ 121, 292, and 316
46 U.S.C. §§ 12101 et seq. and 31301 et seq.
46 U.S.C. §§ 8904 and 31328(2)
Passenger Vessel Act, 46 U.S.C. App. § 289

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42 U.S.C. §§ 9601 et seq.; 33 U.S.C. §§ 2701 et seq.; 33 U.S.C. §§ 1251 et seq.
46 U.S.C. §§ 3301 et seq., 3701 et seq., 8103, and 12107(b)
Shipping Act of 1984, 46 U.S.C. App. §§ 1708 and 1712
The Foreign Shipping Practices Act of 1988, 46 U.S.C. App. § 1710a
Merchant Marine Act, 1920, 46 U.S.C. App. §§ 861 et seq.
Shipping Act of 1984, 46 U.S.C. App. §§ 1701 et seq.
Alaska North Slope, 104 Pub. L. 58; 109 Stat. 557
Longshore restrictions and reciprocity, 8 U.S.C. §§ 1101 et seq.
Vessel escort provisions, Section 1119 of Pub. L. 106-554, as amended
Nicholson Act, 46 U.S.C. App. § 251
Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, 46 U.S.C. § 2101 and 46 U.S.C. § 12108
43 U.S.C. § 1841
22 U.S.C. § 1980
Intercoastal Shipping Act, 46 U.S.C. App. § 843
46 U.S.C. § 9302, 46 U.S.C. § 8502; Agreement Governing the Operation of Pilotage on the Great Lakes, Exchange of Notes at Ottawa, August 23, 1978, and March 29, 1979, TIAS 9445
Magnuson Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 et seq.
19 U.S.C. § 1466
North Pacific Anadromous Stocks Convention Act of 1972, P.L. 102-587; *Oceans Act of 1992, Title VII*
Tuna Convention Act, 16 U.S.C. §§ 951 et seq.
South Pacific Tuna Act of 1988, 16 U.S.C. §§ 973 et seq.
Northern Pacific Halibut Act of 1982, 16 U.S.C. §§ 773 et seq.
Atlantic Tunas Convention Act, 16 U.S.C. §§ 971 et seq.
Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. §§ 2431 et seq.
Pacific Salmon Treaty Act of 1985, 16 U.S.C. §§ 3631 et seq.
American Fisheries Act, 46 U.S.C. § 12102(c) and 46 U.S.C. § 31322(a)

ANNEX II, Schedule of the United States

Sector: All

Obligations Concerned: Market Access (Article 11.4)

Description: Cross-Border Services

The United States reserves the right to adopt or maintain any measure that is not inconsistent with the United States' obligations under Article XVI of the General Agreement on Trade in Services.

ANNEX II, Schedule of the United States

Sector: All

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

Description: Cross-Border Services and Investment

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

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

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.