

DRAFT
Subject to Legal Review for Accuracy, Clarity, and Consistency
January 28, 2004

Annex I
Schedule of El Salvador

Sector:	All sectors
Obligations Concerned:	National treatment (Article 10.3) Most-favored-nation treatment (Article 10.4)
Level of Government:	Central
Measures:	<i>Constitución de la República de El Salvador, Artículos 95 y 109</i>
Description:	<u>Investment</u>

Rural land may not be owned by a foreign person, including a branch of a foreign person, if the person is a national of a country or is organized under the law of a country that does not permit Salvadorian persons to own rural land, except in the case of land to be used for industrial plants.

An enterprise organized under Salvadorian law, a majority of whose capital is owned by foreign persons, or a majority of whose partners are foreign persons is subject to the preceding paragraph. This limitation is stated in article 95 of El Salvador's Constitution.

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Sector: All sectors

Obligations Concerned: National treatment (Article 10.3)
Most-favored-nation treatment (Article 10.4)

Level of Government: Central

Measures: *Constitución de la República de El Salvador, Artículos 95 y 115*
Ley de Inversiones, Artículo 7
Código de Comercio, Artículo 6

Description: Investment

Only the following persons may establish small scale enterprises in El Salvador:

- a. Salvadorian nationals born in El Salvador; and
- b. Nationals of Central America countries.

An enterprise organized under Salvadorian law, a majority of whose capital is owned by foreign persons, or a majority of whose partners are foreign persons, may not establish a small scale enterprise.

A small scale enterprise is an enterprise with a capitalization not greater than U.S. 200,000 dollars.

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Sector: Cooperative production societies

Obligations Concerned: National treatment (Article 10.3)

Level of Government: Central

Measures: *Reglamento de la Ley General de Asociaciones Cooperativas, Titulo VI, Capitulo 1, Artículo 84*

Description: Investment

In cooperative production societies, at least three quarters of the total number of partners must be Salvadorian persons.

For purposes of this non-conforming measure a branch of an enterprise that is not organized under Salvadorian law is not a Salvadorian person.

For greater certainty, a cooperative production society exists to provide certain benefits to its members including with respect to distribution, sales, management, and technical assistance. Its functions are not only economic but also social.

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Sector: Duty Free Commercial Centers and Establishments

Obligation Concerned: National treatment (Articles 10.3)

Level of Government: Central

Measures: *Constitución de la República de El Salvador, Artículo 95*
Ley para el Establecimiento de Tiendas Libres en los Puertos Marítimos de El Salvador, Artículo 5

Description: Investment

Only Salvadorian nationals born in El Salvador and enterprises organized under Salvadorian law may apply for a permit to establish duty free commercial centers or establishments in El Salvador's seaports.

However, an enterprise organized under Salvadorian law a majority of whose capital is owned by foreign persons or a majority of whose partners are foreign persons may not establish duty free commercial centers or establishments in El Salvador's seaports.

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Sector: Fisheries

Obligations Concerned: Most-favored-nation treatment (Articles 10.4 and 11.3)
Local presence (Article 11.5)
National treatment (Articles 10.3 and 11.2)
Market Access (Article 11.4)

Level of Government: Central

Measures: *Ley de Inversiones, Artículo 7*
Ley General de Actividades Pesqueras, Artículos 25, 26, 28, 37 y 38
Reglamento para la Aplicación de la Ley General de Actividades Pesqueras,
Artículos 30 y 32

Description: Investment and Cross-Border Services

Only the following persons may engage in small-scale fishing in El Salvador: a) Salvadorian nationals and nationals of Central American countries residing in El Salvador; b) cooperative societies; and c) trading companies organized under Salvadorian law in which 90% of the shares are owned by Salvadorian nationals and in which 60% of the shares are owned by persons who are small scale farmers by occupation.

Only the following persons may engage in industrial inshore maritime fishing for pelagic and demersal species and industrial offshore fishing for demersal species: a) Salvadorian nationals and nationals of Central America countries; b) cooperative societies; and c) trading companies organized under Salvadorian law in which over 50% of the shares are owned by Salvadorian nationals. Reliable proof of such ownership must be provided to and approved by the Director General of Fisheries Resources.

A foreign government may not participate in or hold shares in an enterprise engaged in small scale fishing or inshore industrial fishing for pelagic and demersal species or offshore fishing for demersal species.

Any vessel used for small-scale or industrial fishing must be registered in El Salvador.

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Sector: Fisheries:
Aquaculture

Obligations Concerned : Local presence (Article 11.5)

Level of Government: Central

Measures: *Ley General de Actividades Pesqueras, Artículo 46*

Description: Cross-Border Services
To practice aquaculture in El Salvador, a foreign person must be a permanent resident of El Salvador.

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Sector: Air services:
Specialty air services

Obligations Concerned: Most-favored-nation treatment (Article 11.3)
National treatment (Article 11.2)

Level of Government: Central

Measures : *Ley Orgánica de Aviación Civil, Artículos 5, 89, 92*

Description : Cross-Border Services

The supply of specialty air services requires prior authorization from the civil aviation authority. Authorization from the civil aviation authority is subject to reciprocity and must take into account national air transport policy.

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Sector: Air services:
Aircraft repair and maintenance services during which an aircraft withdrawn from service and pilots of specialty air services

Obligations Concerned: Most-favored-nation treatment (Article 11.3)
National treatment (Article 11.2)

Level of Government: Central

Measures: *Ley Orgánica de Aviación Civil, Artículos 39 y 40*

Description: Cross-Border Services

El Salvador applies reciprocity requirements when determining whether to recognize or validate licenses, certificates, and permits issued by foreign air transport authorities to:

- a) technical staff supplying aircraft repair and maintenance services while an aircraft is withdrawn from service; and
- b) pilots and other technical staff supplying specialty air services.

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Sector: Communications services:
Advertising and promotional services for radio and television

Obligations Concerned: Most-favored-nation treatment (Article 11.3)
National treatment (Article 11.2)

Level of Government: Central

Measures: *Decreto de las disposiciones para regular la explotación de obras de naturaleza intelectual por medios de comunicación pública y la participación de artistas salvadoreños en espectáculos públicos. Decreto Legislativo No. 239, de fecha 9 de junio de 1983, publicado en el Diario Oficial No. 111, Tomo 279, de fecha 15 de junio de 1983.*

Decreto No. 18, Sustitución de los artículos 1 y 4 del Decreto Legislativo No. 239, de fecha 9 de junio de 1983, publicado en el Diario Oficial No. 7, Tomo 282, de fecha 10 de enero de 1984.

Description: Cross-Border Services

At least 90 percent of the production and recording of any commercial advertisement for use in El Salvador's public communications media, meaning over-the-air television and radio broadcasts and printed material that originate in El Salvador, must be carried out by domestic enterprises.

A commercial advertisement produced or recorded by an enterprise organized under the law of another Central American Party may be used in the Salvadorian media, as long as similar treatment is extended by that Party to commercial advertisements produced or recorded in El Salvador.

The broadcast in El Salvador's public media of a commercial advertisement for an international product, brand, or service that has been imported into El Salvador or produced in El Salvador under license and does not satisfy the requirements referenced above will be permitted and may be subject to a one-time-fee.

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Sector: Communications services:
Television and Radio broadcasting services

Obligations Concerned: National treatment (Article 10.3)

Level of Government: Central

Measures: *Ley de Telecomunicaciones, Artículo 123*

Description: Investment

Concessions and licenses for free reception broadcasting services shall only be granted to Salvadorian nationals born in El Salvador or enterprises organized under Salvadorian law. In the case of such enterprises at least 51% of the equity capital must be held by Salvadorian persons.

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Sector: Performing Arts

Obligations Concerned: National treatment (Article 11.2)

Level of Government: Central

Measures: *Ley de Migración, Artículos 62-A y 62-B*

Decreto Legislativo No. 382, de fecha 29 de mayo de 1970, publicado en el Diario Oficial No. 64, Tomo. 227, de fecha 10 de abril de 1970

Decreto Ejecutivo No. 16 de fecha 12 de mayo de 1970, publicado en el Diario Oficial No. 87, Tomo. 227, de fecha 18 de mayo de 1970

Description: Cross-Border Services

No foreign artist may give paid performances of any kind without the prior express authorization of the Ministry of the Interior which shall first seek, within 15 days, the advisory opinion of the legally established craft union of the artistic field in which the artist is involved. Foreign artists shall pay, to the relevant union, a performance fee deposit of 10% of the gross income likely to be earned in the country. Where it is not possible to make the advance payment, the artist shall pay an adequate amount as a “security deposit” to the relevant union.

No foreign artist or group of artists may perform in the country for more than 30 days consecutively or intermittently within a year from the date of the first performance.

An artist is any person acting in El Salvador, individually or in a company consisting of one or more persons, to give performances in music, song, dance or readings, or to present shows, whether in person (i.e. live) or before a large or small audience or on radio or television.

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Sector: Circuses

Obligations Concerned: National treatment (Article 11.2)

Level of Government: Central

Measures: *Decreto No. 122 de fecha 4 de noviembre de 1988, publicado en el Diario Oficial No. 219, Tomo 301, de fecha 25 de noviembre de 1988, Artículo 3*

Decreto Legislativo No. 382 de fecha 29 de mayo de 1970, publicado en el Diario Oficial No. 64, Tomo 227, de fecha 10 de abril de 1970

Decreto No. 193 de fecha 8 de marzo de 1989, publicado en el Diario Oficial No. 54, Tomo 302, de fecha 17 de marzo de 1989, Artículos 1 y 2

Reglamento para la Aplicación de los Decretos Legislativos 122 and 193 Relativos a Empresas Circenses, Artículos 1 y 2

Description: Cross-Border Services

Foreign circuses or other similar shows must pay to Circus Union of Artist a performance fee equal to 2.5 % of the gross income likely to be earned daily from ticket sales. The fee must be paid in full through the withholding system.

All foreign circuses must pay to the Salvadorian Circus Association (ASEC) 3% of the gross income earned from ticket sales for each performance, as well as 10% of total earnings from sales to the audience, inside the circus, of flags, caps, shirts, balloons, photographs and other paraphernalia. The foreign circus shall pay an adequate amount as a security deposit to ASEC.

A foreign circus entering El Salvador may only work in the city of San Salvador for 15 days, which may be extended for a further 15 days.

A foreign circus that has performed in El Salvador can only return to the country after at least one year has elapsed since the date on which the circus left the country.

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Sector: Performing Arts

Obligations Concerned: National treatment (Article 11.2)

Level of Government: Central

Measures: *Decreto de las disposiciones para regular la explotación de obras de naturaleza intelectual por medios de comunicación pública y la participación de artistas salvadoreños en espectáculos públicos. Decreto Legislativo No. 239, de fecha 9 de junio de 1983, publicado en el Diario Oficial No. 111, Tomo 279, de fecha 15 de junio de 1983*

Decreto No. 18, Sustitución de los artículos 1 y 4 del Decreto Legislativo No. 239, de fecha 9 de junio de 1983, publicado en el Diario Oficial No. 7, Tomo 282, de fecha 10 de enero de 1984

Description:

Cross-Border Services

In the case of public performances involving the live participation of artists of any kind, the participation of Salvadorian nationals shall be equivalent to 20% of the number of participating foreigners.

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Sector: Construction and Related Engineering Services

Obligations Concerned: Most-favored-nation treatment (Articles 10.4 and 11.3)
National treatment (Articles 10.3 and 11.2)
Local presence (Article 11.5)

Level of Government: Central

Measures: *Ley de Incentivos a las Empresas Nacionales de la Industria de la Construcción, Decreto Legislativo No. 504, publicado en el Diario Oficial No. 167, Tomo 308, de fecha 9 de julio de 1990*
Decreto Legislativo No. 733, publicado en el Diario Oficial No. 80, Tomo 311, de fecha 23 de abril de 1991

Description: Investment and Cross-Border Services

To participate in design activities, consulting, consulting and management of engineering or architectural projects or any type of work or study relating to such projects' construction, whether before, during, or after the construction, an enterprise a majority of whose capital is owned by foreign nationals ("foreign enterprise") must be contractually associated with a legally registered and qualified enterprise established in El Salvador ("Salvadorian enterprise") unless the foreign enterprise determines that such Salvadorian enterprise is not available.

The foreign enterprise must appoint a resident representative in El Salvador.

Further, an engineering or architectural project is subject to the following requirements:

- a) enterprises organized under salvadorian law must have an investment in the project equal to at least 20% of the value of the project; and
- b) such enterprises must supply at least 30% of the technical staff and 90% of the administrative staff on the project.

For greater certainty, technical staff and administrative staff do not include senior management. However, the requirements of this paragraph do not apply if the foreign enterprise determines that Salvadorian enterprises are not able to provide the necessary resources.

The preceding paragraphs do not apply:

- a) when the funds for the project come partially or entirely from foreign governments or international organizations;
- b) to specific projects or grants for specialized technical cooperation.

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Sector:	Public accounting and public auditing
Obligations Concerned:	Most favored nation treatment (Articles 10.4 and 11.3). National treatment (Articles 10.3 and 11.2)
Level of Government:	Central
Measures:	<i>Ley Reguladora del Ejercicio de la Contaduría, Artículos 2,3 y 4</i>
Descriptions:	<u>Investment and Cross-Border Services</u> Only a Salvadorian national may be authorized as a public accountant. Only a person authorized as a public accountant may be authorized as an external auditor. For an enterprise to be authorized to supply public accounting services, the principal partners, shareholders, or associates must be Salvadorian nationals, and at least one person among the partners, shareholders, associates, or administrators must be authorized as a public accountant in El Salvador.

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Sector:	Professional services: <ul style="list-style-type: none">- Architectural services- Engineering services- Integrated engineering services- Urban planning and landscaping services
Obligations Concerned:	National treatment (Article 11.2) Local presence (Article 11.5)
Level of Government:	Central
Measures:	<i>Ley de Urbanismo y Construcción, Artículos 4 y 8</i> <i>Decreto Ejecutivo No. 34, D.O. No. 4, Tomo 306 del 8 de enero 1990, Registro Nacional de Arquitectos, Ingenieros, Proyectistas y Constructores..</i> <i>Decreto Ejecutivo No. 75, D.O. No. 11, Tomo 310 del 17 de enero de 1991, Reglamento Interno del Consejo Nacional de Arquitectos, Ingenieros, Proyectistas y Constructores.</i>
Description:	<u>Cross-Border Services</u> Only architects and engineers who are inscribed in the National Register of Architects, Engineers, Draughtsmen and Builders may supervise architectural and engineering work on construction projects and sign and seal architectural or engineering plans for such projects. An architect or engineer must be resident in El Salvador to be inscribed in the National Register. Draughtsmen, builders, and electrical installation technicians must be Salvadorian nationals in order to be inscribed in the National Register of Architects, Engineers, Draughtsmen and Builders.

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Sector:	Professional Services: <ul style="list-style-type: none">- General medical services- Specialist medical services- Dental services- Veterinary services for pets- Other veterinary services- Services rendered by midwives, nurses, physiotherapists and paramedical staff.- Other human health services n.e.c. (For example but not limited to: technical and auxiliary staff, chemists and qualified clinical laboratory technicians, degree holders in Psychology and other related fields and the other technical and auxiliary activities that the Supervisory Board for the Dental Profession believes should be included therein.)
Obligations Concerned:	Most-favored-nation treatment (Article 11.3) National treatment (Article 11.2) Local presence (Article 11.5)
Level of Government:	Central
Measures:	<i>Código de Salud, Artículos 5, 17, 23, 30, 31,32, 306</i>
Description:	<u>Cross-Border Services</u> A permit is necessary for the exercise of the different professions and their specialized, technical and auxiliary activities. Permits are issued by the appropriate Professional Supervisory Boards. The Boards may grant permanent, temporary or provisional permits. Only private professional activity may benefit from permanent permits; other permits are subject to restrictions and limitations in accordance with the law for specified reasons. In order to grant a permanent permit, the Supervisory Board shall require that persons be of Salvadorian nationality by birth or be authorized to permanently reside in the country. In addition to fulfilling the requirements under the law, foreigners must provide proof that the jurisdiction in which they earned their qualification allows Salvadorians or El Salvador graduates to practice their profession in analogous circumstances.

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Sector: Professional Services: Legal services (Notary public)

Obligations Concerned: Most-favored-nation treatment (Article 11.3)
National treatment (Article 11.2)
Local presence (Article 11.5)

Level of Government: Central

Measures: *Ley de Notariado, Artículo 4*

Description: Cross-Border Services

Only those persons authorized by the Supreme Court of Justice may exercise the profession of notary public. Only Salvadorian nationals may obtain such authorization.

Central American nationals who have been authorized to practice law in El Salvador and who have resided in the country for at least two years may also obtain such authorization, provided that:

- (a) they have not been barred from practicing the profession of notary public in their own country, and
- (b) Salvadorians may practice the same profession in their country without any more requirements than those laid down in Salvadorian law.

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Sector: Professional services: teachers

Obligations Concerned: National treatment (Article 11.2)

Level of Government: Central

Measures: *Constitución de la República, Artículo 60*

Description: Cross-Border Services

Only Salvadorian nationals may teach national history and the Constitution.

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Sector: Professional Services: customs agents

Obligations Concerned: Most-favored-nation treatment (Articles 10.4 and 11.3).
National treatment (Articles 10.3 and 11.2)

Level of Government: Central

Measures: *Tratado General de Integración Económica Centroamericana*
Código Aduanero Uniforme Centroamericano
Reglamento del Código Aduanero Uniforme Centroamericano.
Artículo 18

Description: Investment and Cross-Border Services
Only nationals of the Central America countries may work as customs agents.

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Sector: Transport services: Road transport services

Obligations Concerned: National treatment (Articles 10.3 and 11.2)

Measures: *Constitución de la República de El Salvador*
Ley de Transporte Terrestre, Tránsito y Seguridad Vial
Reglamento General de Transporte Terrestre

Level of Government: Central

Investment and Cross-Border Services

Description: Permits for the supply of services in passenger transport, regular and non-regular, shall be granted to Salvadorian nationals or their partners within El Salvador's territory.

Only vehicles with Salvadorian license plates may transport goods from points in El Salvador to other points in El Salvador.

At least 51% of the equity capital of an enterprise engaged in such goods transport in El Salvador must be owned by Salvadorian persons. If such capital is owned by an enterprise at least 51% of the stock of that enterprise must be owned by Salvadorian nationals.

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Sector: Various

Obligation Concerned: Market Access (Article 11.4)

Measures: *Certain Measures Existing and In Force on January 1, 2004*

Description : Cross-Border Services

El Salvador reserves the right to maintain market access restrictions in accordance with the following paragraphs.

1. Sectors other than computer services, construction, energy services, professional services, land transport, audiovisual, telecommunications, express delivery, and sectors included in El Salvador's schedule of specific commitments with respect to Article XVI of the GATS:

- (a) Subject to subparagraph (b) and (c), El Salvador may list any measure existing and in force on January 1, 2004, unless another Party objects on the grounds that it has a substantial trade interest in the sector and that listing the measure would have a significant adverse effect on that interest.
- (b) Where a Party objects in accordance with subparagraph (a), the Parties shall consult to determine whether the measure may be listed. Upon agreement, El Salvador may list the measure.
- (c) El Salvador must identify any such measures by March 1, 2004, and any measures must be listed no later than March 25, 2004.

2. Computer services, construction, energy services, professional services, and land transport sectors:

- (a) El Salvador has until January 5, 2004, to identify any non-conforming measures in the computer services, construction, energy services, professional services, and land transport sectors.
- (b) The Parties shall consult with El Salvador to reach final agreement by January 13, 2004, on whether each such measure may be listed. Upon agreement, El Salvador may list the measure.

3. Audiovisual, telecommunications, express delivery, and sectors included in El Salvador's schedule of specific commitments with respect to Article XVI of the GATS:

(a) El Salvador may not list non-conforming measures in these sectors pursuant to this entry.

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Sector: Energy

Obligation Concerned: Market Access (Article 11.4)

Measures: *Ley reguladora del deposito, transporte y distribución de productos de petróleo, Artículo 8*

Description : Cross-Border Services

The construction of a gas service station will not be authorized if it is not a prudent distance from another gas station, in order to avoid excessive concentration. A prudent distance is considered one of not less than 600 meters in an urban area, and 10 kilometers in a rural area. The 10 kilometer requirement also applies to one-way roads. For two-way roads containing medians, the distance will be measured on each side of the road independently.

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Sector: Land Transport

Obligation Concerned: Market Access (Article 11.4)

Measures: *Reglamento General de Transporte Terrestre, Título V, Artículos 29 y 30.*

Description : Cross-Border Services

Public passenger land transportation concessions for a specific route will be limited, subject to technical studies of the existing demand. Free public passenger land transportation is initially limited to one vehicle.