

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

LIST OF GUATEMALA
Annex I

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: *Decreto No. 118-96 que reforma los Decretos No. 38-71 y 48-72, Artículos 1 y 2*

Description: Investment

Only the following persons may be granted title to, may rent, or use state-owned lands in the Department of El Petén:

- (1) Guatemalan nationals who do not own rural real estate anywhere in the country that exceeds 45 hectares; and
- (2) Guatemalan nationals who do not own industrial, mining, or commercial enterprises.

Enterprises owned 100% by Guatemalan nationals that meet the requirements set out in the preceding paragraph may be granted title to, may rent, or use state-owned lands in the Department of El Petén.

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Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 10.3)
Level of Government:	Central
Measures:	<i>Ley de Titulación Supletoria, Decreto 49-79, Artículo 2</i>
Description:	<u>Investment</u> Only Guatemalan nationals and enterprises majority-owned by Guatemalan nationals, may take adverse possession of real estate.

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Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 10.3)
Level of Government:	Central
Measures:	<i>Constitución Política de la República de Guatemala, Artículo 122</i> <i>Ley Reguladora de las Áreas de Reservas Territoriales del Estado de Guatemala, Decreto 126-97, Artículo 5</i>
Description:	<u>Investment</u> Non Guatemalan nationals require an authorization from the “ <i>Oficina de Control de Areas de Reserva del Estado</i> ” to acquire ownership of: (a) real estate located in (urban zones) (cities and towns); and (b) real estate for which rights were registered in the General Property Registry before March 1, 1956 in the following locations: (i) a 3-kilometer-long strip of land along the ocean; (ii) 200 meters around the lakeshores; (iii) 100 meters on either side of the navigable rivers; and (iv) 50 meters around any spring that serves as a source of water for the population.

Under the “Ley Reguladora de las Áreas de Reservas Territoriales del Estado de Guatemala”, only the Government may rent real estate described in (a) or (b).

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Obligations Concerned:	National Treatment (Article 10.3)
Level of Government:	Central
Measures:	<i>Constitución Política de la República de Guatemala, Artículo 123</i>
Description:	<u>Investment</u> Only Guatemalan nationals by birth and enterprises 100% owned by Guatemalan nationals may own or possess real estate located within 15 kilometers of the borders Non-Guatemalan persons may, however, own or possess urban real estate and real estate for which rights were registered in the General Property Registry before March 1, 1956 within the 15 kilometer area.

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Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: *Código de Comercio, Decreto 2-70 y sus reformas, contenidas en el Decreto 62-95, Artículo 215*

Description: Investment

In order for an enterprise organized under foreign law to be established in Guatemala, in any form, it must allocate an assigned amount of capital for its operations in Guatemala, and execute a guarantee in favor of third parties in an amount not less than the equivalent in quetzales of US\$ 50,000, which must remain in effect for the duration of the enterprise's operation in Guatemala.

The amount of the guarantee will be determined by the Registro Mercantil based on, among other factors, the amount of the investment.

For greater certainty, this measure shall not be used to prevent a non-Guatemalan enterprise from establishing in Guatemala.

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Sector:	Forestry
Obligations Concerned:	National Treatment (Article 10.3)
Level of Government:	Central
Measures:	<i>Constitución Política de la República de Guatemala, Artículo 126</i>
Description:	<u>Investment</u> Only Guatemalan nationals and enterprises organized under Guatemalan law may exploit and renew forestry resources.

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Sector: Professional Services -Notary Publics

Obligations Concerned: National Treatment (Article 11.2)
Local Presence (Article 11.5)

Level of Government: Central

Measures: *Código de Notariado, Decreto 314, Art. 2*

Description: Cross-Border Trade in Services

To practice as a notary public, an individual must be a Guatemalan national, domiciled in Guatemala.

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Sector: Professional Services

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: *Código de Comercio, Decreto 2-70, Artículo 213*

Description: Investment

An enterprise organized under non-Guatemalan law that provides professional services requiring a legally recognized university degree, certificate, or diploma may not be established in Guatemala.

However, a foreign enterprise providing such services may provide such services in Guatemala through a contract or other relationship with an enterprise established in Guatemala.

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Sector:	Performing arts
Obligations Concerned:	National Treatment (Article 11.2) Local Presence (Article 11.5)
Level of Government:	Central
Measures:	<i>Ley de Espectáculos Públicos, Decreto 574, Artículos 36, 37 y 49</i> <i>Acuerdo Ministerial No. 592-99 del Ministerio de Cultura y Deportes</i>
Description:	<u>Cross-Border Trade in Services</u> Prior authorization from the Performing Arts Administration is required to contract with foreign groups, companies, or artists. In order for international artists or artist groups to perform in Guatemala, they must have a consent letter from any of the legally recognized artist Unions in the country. In mixed performances, made up of one or more films or variety shows, preference will be given to national elements if the circumstances of the cast, schedule, and contract so allow.

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Sector:	Tour guides
Obligations Concerned:	National Treatment (Article 11.2) Local Presence (Article 11.5)
Level of Government:	Central
Measures:	<i>Funcionamiento de Guías de Turismo, Acuerdo No.219-87, Artículo 6, del Instituto Guatemalteco de Turismo -INGUAT-</i>
Description:	<u>Cross-Border Trade in Services</u> Only Guatemalan nationals and non-Guatemalan nationals that are residents in Guatemala may provide tour guide services in Guatemala.

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Sector: Specialty Air Services

Obligations Concerned: Most Favored Nation Treatment (Article 11.3)

Level of Government: Central

Measures: *Ley de Aviación Civil, Decreto 93-2000 del Congreso, Artículo 24*

Description: Cross-Border Trade in Services

In order to perform aeronautical duties on board foreign aircraft, individuals are required to have a certificate, license, or the equivalent, accepted by the General Civil Aeronautics Administration, or issued pursuant to international agreements to which Guatemala is a party, and under conditions of reciprocity.

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Sector: Specialty air services

Obligations Concerned: National Treatment (11.2)

Level of Government: Central

Measures: *Ley de Aviación Civil, Decreto 93-2000, Artículo 62.*

Description: Cross-Border Trade in Services

In the operation of specialty air services by national operators, all personnel performing aeronautical duties on board the aircraft must be Guatemalan. However, the *Dirección General de Aeronáutica Civil* may authorize foreign nationals to perform such duties for a period not to exceed three months, counting from the date of authorization.

The *Dirección General de Aeronáutica Civil* may extend this period if it determines that there are no such trained personnel in Guatemala.

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Sector:	Air Transportation
Obligations Concerned:	National Treatment (Article 10.3) Boards of Directors and Senior Management (Article 10.10)
Level of Government:	Central
Measures:	<i>Ley de Aviación Civil, Decreto 93-2000, Artículo 71.</i>
Description:	<p><u>Investment</u></p> <p>Only a Guatemalan national or an enterprise organized under Guatemalan law may operate commercial air transportation in Guatemala.</p> <p>Commercial air transportation includes all domestic air transport of passengers, mail, or cargo For these purposes, an enterprise organized under Guatemalan law must meet the following requirements:</p> <ul style="list-style-type: none">(a) the enterprise must have its principal place of business in Guatemala; and(b) at least one-half of the directors, managers, and individuals who have responsibilities for control and direction of the enterprise must be Guatemalan nationals or have a permanent address in the country.

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