

Annex I

SCHEDULE OF EL SALVADOR

EXPLANATORY NOTE

1. The Schedule of El Salvador to this Annex sets out, pursuant to Articles 9.13 (Non-Conforming Measures) and 10.6 (Non-Conforming Measures), El Salvador's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Articles 9.3 (National Treatment) or 10.2 (National Treatment);
- (b) Articles 9.4 (Most-Favored-Nation Treatment) or 10.3 (Most-Favored-Nation Treatment);
- (c) Article 10.5 (Local Presence);
- (d) Article 9.9 (Performance Requirements);
- (e) Article 9.10 (Senior Management and Boards of Directors); or
- (f) Article 10.4 (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 9.13 (Non-Conforming Measures) and 10.6 (Non-Conforming Measures), do not apply to the listed measure(s);
- (c) **Level of Government** indicates the level of government maintaining the listed 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 existing measures for which the entry is made.

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 provisions 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 9.13 (Non-Conforming Measures) and 10.6 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to 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 10.2 (National Treatment), 10.3 (Most-Favored-Nation Treatment), or 10.5 (Local Presence) shall operate as a Schedule entry with respect to Article 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment), or 9.9 (Performance Requirements) to the extent of that measure.

6. For greater certainty, Article 10.4 (Market Access) refers to non-discriminatory measures.

1. Sector:	Duty-Free Commercial Centers and Establishments
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	Constitution of the Republic of El Salvador, Article 95 (Constitución de la República de El Salvador, Artículo 95). Law Governing the Establishment of Duty-free Stores at the Maritime Ports of El Salvador, Article 5 (Ley para el Establecimiento de Tiendas Libres en los Puertos Marítimos de El Salvador, Artículo 5).
Description:	<u>Investment and Cross- Border Trade in Services</u> Only Salvadoran nationals born in El Salvador and enterprises organized under Salvadoran law may apply for a permit to establish duty-free commercial centers or establishments in El Salvador`s seaports. However, an enterprise organized under Salvadoran 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. Permits to organize centers or establishments in the seaports of the country granted by Ministry of Finance (Ministerio de Hacienda). The location of the pavilions for this purpose will be decided by The Autonomous Executive Port Commission (Comisión Ejecutiva Portuaria Autónoma) (CEPA)

2. Sector:	Performing Arts
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	Central
Measures:	<p>Migration Law, Articles 62-A and 62-B. (Ley de Migración, Artículos 62-A y 62-B).</p> <p>Legislative Decree Number 382, May 29th, 1970, published in the Official Gazette Number 64, Volume 227, April 10 th, 1970 (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).</p> <p>Executive Decree Number 16, May 12th, 1970, published in Official Gazette Number 87, Volume 227, May 18 th, 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).</p>
Description:	<p><u>Cross- Border Trade in Services</u></p> <p>No foreign artist may give paid performances of any kind without the prior express authorization of the Ministry of Government and Territory Development (Ministerio de Gobernación y Desarrollo Territorial), 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 percent of the gross income likely to be earned in the country.</p> <p>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.</p> <p>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.</p>

	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.
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3. Sector:	Circuses
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	Central
Measures:	<p>Migration Law, Article 62- C (Ley de Migración, Artículo 62-C).</p> <p>Decree Number 122, November 4th, 1988, published in the Official Gazette Number 219, Volume 301, November 25 th, 1988, Article 3 (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).</p> <p>Legislative Decree Number 382, May 29 th, 1970, published in the Official Gazette Number 64, Volume 227, April 10 th, 1970 (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).</p> <p>Decree Number 193, March 8 th, 1989, published in Official Gazette Number 54, Volume 302, March 17 th, 1989, Articles 1 and 2 (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).</p> <p>Regulations for the Application of Legislative Decrees 122 and 193 Concerning Circuses Companies, Articles 1 and 2 (Reglamento para la Aplicación de los Decretos Legislativos 122 y 193 Relativos a Empresas Circenses, Artículos 1 y 2).</p>

<p>Description:</p>	<p><u>Cross- Border Trade in Services</u></p> <p>Foreign circuses or other similar shows must pay to the relevant circus union a performance fee equal to 2.5 percent of the gross income likely to be earned daily from ticket sales. The fee must be paid in full through the withholding system.</p> <p>All foreign circuses must be authorized by the appropriate Ministry and once authorized, notify the Salvadoran Association of Circuses Entrepreneurs (Asociación Salvadoreña de Empresarios Circenses) (ASEC) and pay ASEC 3 percent of the gross income earned from ticket sales for each performance, as well as 10 percent of total earnings from sales to the audience, inside the circus, of flags, caps, tee shirts, balloons, photographs and other paraphernalia. The foreign circus shall pay an adequate amount as a security deposit to ASEC.</p> <p>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.</p> <p>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.</p>
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4. Sector:	Performing Arts
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	Central
Measures:	<p>Decree of the provisions to regulate the exploitation of works of an intellectual nature by means of public communication and the participation of Salvadoran artists in public shows, Legislative Decree Number 239, June 9 th, 1983, published in the Official Gazette Number 111, Volume 279, June 15th, 1983 (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).</p> <p>Decree Number 18, Replacement of Articles 1 and 4 of Legislative Decree Number 239, June 9 th, 1983, published in Official Gazette Number 7, Volume 282, January 10 th, 1984 (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).</p>
Description:	<p><u>Cross- Border Trade in Services</u></p> <p>In the case of public performances involving the live participation of artists of any kind, the participation of Salvadoran nationals shall be equivalent to 20 percent of the number of participating foreigners.</p>

5. Sector:	Air Services- Aircraft Repair and Maintenance Services During which an Aircraft is Withdrawn from Service.
Obligations Concerned:	National Treatment (Article 10.2) Most-Favored-Nation Treatment (Article 10.3)
Level of Government:	Central
Measures:	Civil Aviation Organization Act, Articles 39 and 40 (Ley Orgánica de Aviación Civil, Artículos 39 y 40). Technical Regulation of the Civil Aviation Organization Act (Reglamento Técnico de la Ley Orgánica de Aviación Civil), Articles 138 and 140.
Description:	<u>Cross- Border Trade in Services</u> 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.

6. Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 9.3) Most-Favored-Nation Treatment (Article 9.4)
Level of Government:	Central
Measures:	Constitution of the Republic of El Salvador, Articles 95 and 109. (Constitución de la República de El Salvador, Artículos 95 y 109),
Description:	<p><u>Investment</u></p> <p>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 Salvadoran persons to own rural land, except in the case of land to be used for industrial plants.</p> <p>An enterprise organized under Salvadoran 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.</p>

7. Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 10.2) Most- favored- Nation Treatment (Article 10.3)
Level of Government:	Central
Measures:	Labor Law, Articles 7 and 10 (Código de Trabajo, Artículos 7 y 10).
Description:	<p><u>Cross- Border Trade in Services</u></p> <p>Every employer is obliged to compose its personnel with at least 90 per cent of Salvadoran employees. Under special circumstances the Ministry of Labor and Social Welfare (Ministerio de Trabajo y Previsión Social) may authorize the employment of more foreign employees, when these are difficult or impossible to be substituted by Salvadorans. In such circumstance, the employers are obliged to train Salvadoran personnel under the supervision and control of the mentioned Ministry, during a period no longer than five years.</p>

8. Sector:	Cooperative Production Societies
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	Regulation of the General Law of Cooperative Associations Title VI, Chapter I, Article 84 (Reglamento de la Ley General de Asociaciones Cooperativas Título VI, Capítulo I, Artículo 84)
Description:	<u>Investment</u> In cooperative production societies, at least 75 percent of the total number of partners must be Salvadoran persons.

9. Sector:	Communications Services- Advertising and Promotional Services for Radio and Television
Obligations Concerned:	National Treatment (Article 10.2) Most-Favored-Nation Treatment (Article 10.3)
Level of Government:	Central
Measures:	<p>Decree of the provisions to regulate the exploitation of works of an intellectual nature by means of public communication and the participation of Salvadoran artists in public shows. Legislative Decree Number 239, June 9 th, 1983, published in the Official Gazette Number 111, Volume 279, June 15th, 1983, Article 4 (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, Artículo 4).</p> <p>Decree Number 18, Substitution of Articles 1 and 4 of Legislative Decree Number 239, June 9 th, 1983, published in Official Gazette Number 7, Volume 282, January 10, 1984 (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).</p>

Description:	<p><u>Cross- Border Trade in Services</u></p> <p>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 enterprises organized under Salvadoran law.</p> <p>A commercial advertisement produced or recorded by an enterprise organized under the law of another Central American Party may be used in the Salvadoran media, as long as similar treatment is extended by that Party to commercial advertisements produced or recorded in El Salvador.</p> <p>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 which it will be collected by the National Council of Advertising (Consejo Nacional de la Publicidad) who may evaluate the implementation of this provision.</p>
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10. Sector:	Professional Services: Custom Agents
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Level of Government:	Central
Measures:	Regulation of the Central American Uniform Customs Code, Article 76 (Reglamento del Código Aduanero Uniforme Centroamericano, Artículo 76).
Description:	<u>Investment and Cross- Border Trade in Services</u> Only nationals of the Central American countries may work as customs agents.

11. Sector:	Transport Services: Maritime Transport Services
Obligations Concerned:	National Treatment (Article 10.2) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	<p>Maritime Law, Articles 42 and 53 (Ley General Marítimo Portuaria, Artículos 42 y 53).</p> <p>Regulations for the Navigation of Vessels and Authorizations of Seafarers, Article 32 (Reglamento para la Navegación de Buques y Autorizaciones de Gente de Mar, Artículo 32).</p> <p>Labor Law, Articles 7 and 10 (Código de Trabajo, Artículos 7 y 10).</p>
Description:	<p><u>Cross- Border Trade in Services</u></p> <p>The navigation and coasting trade between ports of the Republic, are reserved for national flag vessels. This does not apply between Central American ports. A foreign vessel could do the same, subject to the conditions imposed to national flag vessels, according to national laws. To consider a foreign vessel as a national flag vessel, it must meet the following conditions and requirements:</p> <p>(a) be registered;</p> <p>(b) use the national flag;</p> <p>The owner of a boat that wants to enroll, must be domiciled in the Republic. If the owner is a corporation, it must be constituted under national law, or if it has been constituted abroad, it has to establish a branch in El Salvador, or any other kind of permanent representation in accordance with the national law.</p> <p>Foreign ships may be registered in the Salvadoran Maritime Registry (Registro Marítimo Salvadoreño) (REMS), provided they have previously canceled their registration in the country of shipping.</p> <p>No person can be part of the crew of ships or naval devices registered in the REMS, or exercise any profession, trade or</p>

	occupation in the port jurisdiction, or activity regulated or controlled by the Maritime Port Authority (Autoridad Marítima Portuaria), if not authorized by it or registered in the respective section of REMS.
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12. Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 9.3) Most-Favored-Nation Treatment (Article 9.4)
Level of Government:	Central
Measures:	Constitution of the Republic of El Salvador, Articles 95 and 115 (Constitución de la República de El Salvador, Artículos 95 y 115); Investment Law, Legislative Decree Number 732, Article 7 (Ley de Inversiones, Decreto Legislativo número 732, Artículo 7); and Code of Commerce, Article 6 (Código de Comercio, Artículo 6).
Description:	<u>Investment</u> Only the following persons may engage in small scale commerce, industry, and the supply of services in El Salvador: (a) Salvadoran nationals born in El Salvador; and (b) nationals of Central American Parties. An enterprise organized under Salvadoran 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 to engage in small scale commerce, industry, and the supply of services (“small scale enterprise”). For purposes of this entry, a small scale enterprise is an enterprise with a capitalization not greater than 200,000 U.S. dollars.

13. Sector:	Communications Services: Television and Radio Broadcasting Services
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	Telecommunications Law, Article 123 (Ley de Telecomunicaciones, Artículo 123).
Description:	<u>Investment</u> Concessions and licenses for free reception broadcasting services shall only be granted to Salvadoran nationals born in El Salvador or enterprises organized under Salvadoran law whose equity capital is at least 51 percent owned by Salvadoran persons.