

**Annex II**  
**Non-Conforming Measures**  
**Schedule of Costa Rica**

**Explanatory Note**

1. The Schedule of a Party of this Annex sets out, pursuant to Article 10.7 (Non-Conforming Measures) of Chapter 10 (Trade in Services) and Article 11.13 (Non-Conforming Measures) of Chapter 11 (Investment), the reservations taken by a Party for sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 10.3 (National Treatment) of Chapter 10 (Trade in Services) or Article 11.4 (National Treatment) of Chapter 11 (Investment);
- (b) Article 10.4 (Most-Favoured-Nation Treatment) of Chapter 10 (Trade in Services) or Article 11.5 (Most-Favoured-Nation Treatment) of Chapter 11 (Investment);
- (c) Article 10.5 (Market Access) of Chapter 10 (Trade in Services);
- (d) Article 10.6 (Local Presence) of Chapter 10 (Trade in Services);
- (e) Article 11.8 (Performance Requirements) of Chapter 11 (Investment); or
- (f) Article 11.12 (Senior Management and Board of Directors) of Chapter 11 (Investment).

2. Each reservation in a Party's Schedule sets out the following elements:

- (a) **Sector** refers to the sector in which the reservation is made;
- (b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Article 10.7 (Non-Conforming Measures) of Chapter 10 (Trade in Services) and Article 11.13 (Non-Conforming Measures) of Chapter 11 (Investment), do not apply to the sectors, sub-sectors or activities listed in the reservation; and
- (c) **Description** sets out the scope of the sectors, sub-sectors, or activities covered by the reservation.

3. In accordance with Article 10.7 (Non-Conforming Measures) of Chapter 10 (Trade in Services) and Article 11.13 (Non-Conforming Measures) of Chapter 11 (Investment), the Articles of this Agreement specified in the

**Obligations Concerned** element of a reservation do not apply to the sectors, sub-sectors, and activities identified in the **Description** element of that reservation.

4. In the interpretation of a reservation, all elements of the reservation shall be considered. The **Description** element shall prevail over all other elements.

<b>Sector:</b>	All
<b>Obligations Concerned:</b>	Most-Favoured-Nation Treatment
<b>Description:</b>	<p><u>Trade in Services and Investment:</u></p> <p>Costa Rica reserves the right to adopt or maintain any measure that accords differential treatment to countries under:</p> <p>(a) Any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>(b) Any international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none"> <li>i. air services;</li> <li>ii. fisheries;</li> <li>iii. maritime and ports and auxiliary services to maritime and ports;</li> <li>iv. land transport;</li> <li>v. postal and courier services;</li> <li>vi. telecommunications services;</li> <li>vii. e-commerce; and</li> <li>viii. environment.</li> </ul>

<b>Sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to any power that may be obtained from public waters within the national territory; deposits of coal, wells and deposits of oil and any other hydrocarbons, as well as any deposits of radioactive minerals existing within the national territory; and wireless services. They may be exploited only by the public administration or by private parties, in accordance with the law or under a special concession granted for a limited time and on the basis of conditions and stipulations to be established by the Legislative Assembly.

<b>Sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence
<b>Description:</b>	<u>Trade in Services:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, or other movement of natural persons, including immigration, entry or temporary stay.

<b>Sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  If the Costa Rican legislation is modified to allow the investment of private capital in economic activities or services reserved to the State, Costa Rica reserves the right to adopt or maintain any measure with respect to foreign investment participation in such activities or services.

<b>Sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment Senior Management and Board of Directors
<b>Description:</b>	<u>Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to the senior management, boards of directors and other related positions within the public institutions and public enterprises that are reserved to Costa Rican nationals.

<b>Sector:</b>	Social Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  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.



<b>Sector:</b>	Minority Affairs and Native Groups
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure that grants rights or preferences to social or economic groups under disadvantage or to native groups.

<b>Sector:</b>	Public Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to economic activities or services considered as public services in accordance with the Costa Rican legislation <sup>1</sup> .

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<sup>1</sup> "Public services" include: electric energy supply, including generation, transmission, distribution and commercialization; supply of sewage and water services which includes drinkable water, collection, treatment and evacuation of sewage, residual and pluvial waters, as well as the installation, operation, and maintenance of hydrant services; fuel supply derivatives from hydrocarbons, including petroleum, asphalts, gas and naphthas, destined to supply national demand in distribution stations, as well as the derivatives from petroleum, asphalts, gas and naphthas destined to the final consumer; irrigation and drainage; remunerated public transport of persons, except for the air transportation; maritime and air services in national ports; freight transport by railroad; recollection and treatment of solid and industrial wastes; social services of postal communication; and any other services that, given their importance for the sustainable development of the country, are qualified and regulated as such by the Legislative Assembly.

<b>Sector:</b>	Cultural Industries
<b>Obligations Concerned:</b>	Most-Favoured-Nation Treatment
<b>Description:</b>	<p><u>Trade in Services and Investment:</u></p> <p>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.</p> <p>Cultural industries means persons engaged in any of the following activities:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(b) Production, distribution, sale, or display of recordings of movies or videos;</li> <li>(c) Production, distribution, sale, or display of music recordings in audio or video format;</li> <li>(d) Production, distribution, or sale of printed music scores or scores readable by machines; or</li> <li>(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.</li> </ul>

<b>Sector:</b>	Electric Energy
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to electric energy, including generation, transmission, processing, distribution and marketing.

<b>Sector:</b>	Fisheries and Services Incidental to Fishing
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to fisheries and services incidental to fishing.

<b>Sector:</b>	Lottery, Betting and Gambling
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to lottery, betting and gambling.

<b>Sector:</b>	Railroads, Ports and Airports
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to railroads, ports and airports.

<b>Sector:</b>	Natural Resources
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to natural resources, including conservation, management, protection, exploration, extraction and exploitation.



<b>Sector:</b>	Crude Oil and its Derivatives
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to importation, refining, wholesale and retail distribution of crude oil and its derivatives.

<b>Sector:</b>	Environmental Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to environmental services.

<b>Sector:</b>	Land Planning and Development
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to land planning and development, including land zoning, land use and urban planning policies.

<b>Sector:</b>	Postal Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to postal services.

<b>Sector:</b>	Telecommunications, Audiovisual and Advertising Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to telecommunications; audiovisual, including broadcasting; and advertising services.

<b>Sector:</b>	Arms and Explosives
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to arms and explosives. The manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives are regulated for protection of security interest.

<b>Sector:</b>	Investigation and Security Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to investigation and security services.

<b>Sector:</b>	Air Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to air services, including freight and passengers transportation.



<b>Sector:</b>	Maritime and Internal Waterways Transport Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to maritime and internal waterways transport services, including freight and passengers.

<b>Sector:</b>	Services Auxiliary of all Modes of Transport
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence Performance Requirements Senior Management and Board of Directors
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to the following services auxiliary of all modes of transport: cargo handling services; storage and warehousing services; supporting services for railway, road, water, and air transport; freight transport agency services; and other auxiliary transport services.

<b>Sector:</b>	Passenger Land Transportation Services
<b>Obligations Concerned:</b>	National Treatment Most-Favoured-Nation Treatment Market Access Local Presence
<b>Description:</b>	<u>Trade in Services and Investment:</u>  Costa Rica reserves the right to adopt or maintain any measure with respect to passenger land transportation services which are not considered public transport services.