

ANNEX I (NAFTA)

Reservations for Existing Measures and Liberalization Commitments

1. The Schedule of a Party sets out, pursuant to Articles 1108(1) (Investment), 1206(1) (Cross-Border Trade in Services) and 1409(4) (Financial Services), the reservations taken by that Party with respect to existing measures that do not conform with obligations imposed by:

- (a) Article 1102, 1202 or 1405 (National Treatment),
- (b) Article 1103, 1203 or 1406 (Most-Favored-Nation Treatment),
- (c) Article 1205 (Local Presence),
- (d) Article 1106 (Performance Requirements), or
- (e) Article 1107 (Senior Management and Boards of Directors),

and, in certain cases, sets out commitments for immediate or future liberalization.

2. Each reservation sets out the following elements:

- (a) **Sector** refers to the general sector in which the reservation is taken;
- (b) **Sub-Sector** refers to the specific sector in which the reservation is taken;
- (c) **Industry Classification** refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;
- (d) **Type of Reservation** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- (e) **Level of Government** indicates the level of government maintaining the measure for which a reservation is taken;
- (f) **Measures** identifies the laws, regulations or other measures, as qualified, where indicated, by the **Description** element, for which the reservation is taken. 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;
- (g) **Description** sets out commitments, if any, for liberalization on the date of entry into force of this Agreement, and the remaining non-conforming aspects of the existing measures for which the reservation is taken; and

(h) **Phase-Out** sets out commitments, if any, for liberalization after the date of entry into force of this Agreement.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapters against which the reservation is taken. To the extent that:

(a) the **Phase-Out** element provides for the phasing out of non-conforming aspects of measures, the **Phase-Out** element shall prevail over all other elements;

(b) 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

(c) 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. 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 reservation for that measure taken with respect to Article 1202, 1203 or 1205 or Article 1404, 1405 or 1406 shall operate as a reservation with respect to Article 1102, 1103 or 1106 to the extent of that measure.

5. For purposes of this Annex:

CMAP means Clasificación Mexicana de Actividades y Productos (CMAP) numbers as set out in Instituto Nacional de Estadística, Geografía e Informática, *Clasificación Mexicana de Actividades y Productos*, 1988;

concession means an authorization provided by the State to a person to exploit a natural resource or provide a service, for which Mexican nationals and Mexican enterprises are granted priority over foreigners;

CPC means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, *Provisional Central Product Classification*, 1991;

foreigners' exclusion clause means the express provision in an enterprise's by-laws stating that the enterprise shall not allow foreigners, directly or indirectly, to become partners or shareholders of the enterprise;

international cargo means goods that have an origin or destination outside the territory of a Party;

Mexican enterprise means an enterprise constituted under the law of Mexico; and

SIC means:

(a) with respect to Canada, Standard Industrial Classification (SIC) numbers as set out in Statistics Canada, *Standard Industrial Classification*, fourth edition, 1980; and

(b) with respect to the United States, Standard Industrial Classification (SIC) numbers as set out in the United States Office of Management and Budget, *Standard Industrial Classification Manual*, 1987.

Schedule of Canada

Sector:	Agriculture
Sub-Sector:	
Industrial Classification:	
Type of Reservation :	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Farm Credit Act</i> , R.S.C. 1985, c. F2 <i>Farm Credit Regulations</i> , C.R.C. 1978, c. 644
Description:	<u>Investment</u> Loans by the Farm Credit Corporation may be made only to: (a) individuals who are Canadian citizens or permanent residents; (b) farming corporations controlled by Canadian citizens or permanent residents; or (c) cooperative farm associations, all members of which are Canadian citizens or permanent residents.
Phase-Out:	None

Sector:	All Sectors
Sub-Sector:	
Industrial Classification:	
Type of Reservation:	National Treatment (Article 1102) Performance Requirements (Article 1106) Senior Management and Boards of Directors (Article 1107)
Level of Government:	Federal
Measures:	<i>Investment Canada Act</i> , R.S.C. 1985, c. 28 (1st Supp.) <i>Investment Canada Regulations</i> , SOR/85-611
Description:	As qualified by paragraphs 8 through 12 of the Description element <u>Investment</u> 1. Under the <i>Investment Canada Act</i> , the following acquisitions of Canadian businesses by "non-Canadians" are subject to review by Investment Canada: (a) all direct acquisitions of Canadian businesses with assets of C\$5 million or more; (b) all indirect acquisitions of Canadian businesses with assets of C\$50

million or more; and

(c) indirect acquisitions of Canadian businesses with assets between C\$5 million and C\$50 million that represent more than 50 percent of the value of the assets of all the entities the control of which is being acquired, directly or indirectly, in the transaction in question.

2. A "non-Canadian" is an individual, government or agency thereof or an entity that is not "Canadian".

"Canadian" means a Canadian citizen or permanent resident, government in Canada or agency thereof or Canadian-controlled entity as provided for in the *Investment Canada Act*.

3. In addition, specific acquisitions or new businesses in designated types of business activities relating to Canada's cultural heritage or national identity, which are normally notifiable, may be reviewed if the Governor in Council authorizes a review in the public interest.

4. An investment subject to review under the *Investment Canada Act* may not be implemented unless the Minister responsible for the *Investment Canada Act* advises the applicant that the

investment is likely to be of net benefit to Canada. Such a determination is made in accordance with six factors described in the Act, summarized as follows:

(a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the utilization of parts, components and services produced in Canada, and on exports from Canada;

(b) the degree and significance of participation by Canadians in the investment;

(c) the effect of the investment on productivity, industrial efficiency, technological development and product innovation in Canada;

(d) the effect of the investment on competition within any industry or industries in Canada;

(e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic and cultural policy objectives enunciated

by the government or legislature of any province likely to be significantly affected by the investment; and

(f) the contribution of the investment to Canada's ability to compete in world markets.

5. In making a net benefit determination, the Minister, through Investment Canada, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit undertakings to the Minister in connection with any proposed acquisition which is the subject of review. In the event of noncompliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorized under the Act.

6. Non-Canadians who establish or acquire Canadian businesses, other than those described above, must notify Investment Canada.

7. Investment Canada will review an "acquisition of control", as defined in the *Investment Canada Act*, of a Canadian business by an investor of Mexico or of the United States if the value of the gross assets of the Canadian business is not less

than the applicable threshold.

8. The review threshold applicable to investors of Mexico or of the United States, calculated as set out in the **Phase-Out** element, is higher than those described in paragraph 1. However, this higher review threshold does not apply in the following sectors: uranium production and ownership of uranium producing properties; oil and gas; financial services; transportation services; and cultural businesses.

9. Notwithstanding the definition of "investor of a Party" in Article 1139, only investors who are nationals, or entities controlled by nationals as provided for in the *Investment Canada Act*, of Mexico or of the United States may benefit from the higher review threshold.

10. An indirect "acquisition of control" of a Canadian business by an investor of Mexico or of the United States is not reviewable.

11. Notwithstanding Article 1106(1), Canada may impose requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, conduct or operation of an investment of an investor of another Party or of a non-Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in

Canada, in connection with the review of an acquisition of an investment under the *Investment Canada Act*.

12. Except for requirements, commitments or undertakings relating to technology transfer as set out in paragraph 11, Article 1106(1) shall apply to requirements, commitments or undertakings imposed or enforced under the *Investment Canada Act*. Article 1106(1) shall not be construed to apply to any requirement, commitment or undertaking imposed or enforced in connection with a review under the *Investment Canada Act*, to locate production, carry out research and development, employ or train workers, or to construct or expand particular facilities, in Canada.

Phase-Out:

For investors of Mexico or of the United States, the applicable threshold for the review of a direct acquisition of control of a Canadian business will be:

(a) for the 12-month period beginning on the date of entry into force of this Agreement, the monetary amount as determined in accordance with Annex 1607.3 of the *Canada - United States Free Trade Agreement*; and

(b) beginning one year after the date of entry into force of this Agreement, the

monetary amount for the preceding year multiplied by an annual adjustment representing the increase in nominal Gross Domestic Product, as set out below.

The calculation of the annual adjustment will be determined in January of each year after 1994 using the most recently available data published by Statistics Canada and using the following formula:

Annual Adjustment =

Current nominal GDP at market prices

Previous year nominal GDP at market prices

"Current nominal GDP at market prices" means the arithmetic mean of the nominal Gross Domestic Product at market prices for the most recent four consecutive quarters (seasonally adjusted at annual rates).

"Previous year nominal GDP at market prices" means the

arithmetic mean of the nominal Gross Domestic Product at market prices for the four consecutive quarters (seasonally adjusted at annual rates) for the comparable period in the year preceding the year used in calculating the "current nominal GDP at market prices".

The amounts determined in this manner will be rounded to the nearest million dollars.



Sector: All Sectors
Sub-Sector:
Industrial Classification:
Type of Reservation: National Treatment (Article 1102)
Senior Management and Boards of Directors (Article 1107)
Level of Government: Federal
Provincial
Measures: As set out in the **Description** element
Description: Investment

Canada or any province, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets, and on the ability of owners of such interests or assets to control any resulting enterprise, by

investors of another Party or of a non-Party or their investments. With respect to such a sale or other disposition, Canada or any province may adopt or maintain any measure relating to the nationality of senior management or members of the board of directors.

For purposes of this reservation:

(a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets or imposes nationality requirements described in this reservation shall be deemed to be an existing measure; and

(b) "state enterprise" means an enterprise owned or controlled through ownership interests by Canada or a province and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or

governmental entity.

Phase-Out: None



Sector: All Sectors

Sub-Sector:

Industrial Classification:

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Canada Business Corporations Act*, R.S.C. 1985, c. C44

Canada Corporations Act, R.S.C. 1970, c. C32

Canada Business Corporations Act Regulations, SOR/79-316

Description: Investment

"Constraints" may be placed on the issue, transfer and ownership of shares in federally incorporated corporations. The object is to permit corporations to meet Canadian ownership requirements, under certain laws set out in the *Canada Business Corporations Act Regulations*, in sectors where ownership is required as a condition to operate or to receive licenses, permits, grants, payments or other benefits. In order to maintain certain "Canadian" ownership levels, a corporation is permitted to sell shareholders' shares without the consent of

those shareholders, and to purchase its own shares on the open market. "Canadian" is defined in the *Canada Business Corporations Act Regulations*.

Phase-Out: None



Sector: All Sectors

Sub-Sector:

Industrial Classification:

Type of Reservation: Senior Management and Boards of Directors (Article 1107)

Level of Government: Federal

Measures: *Canada Business Corporations Act*, R.S.C. 1985, c. C-44

Canada Business Corporations Act Regulations, SOR/79-316

Canada Corporations Act, R.S.C. 1970, c. C-32

Special Acts of Parliament incorporating specific companies

Description: Investment

The *Canada Business Corporations Act* requires that a simple majority of the board of directors, or of a committee thereof, of a federally-incorporated corporation be resident Canadians. For purposes of the Act, "resident Canadian" means an individual who is a

Canadian citizen ordinarily resident in Canada, a citizen who is a member of a class set out in the *Canada Business Corporations Act Regulations*, or a permanent resident as defined in the *Immigration Act* other than one who has been ordinarily resident in Canada for more than one year after he became eligible to apply for Canadian citizenship.

In the case of a holding corporation, not more than one-third of the directors need be resident Canadians if the earnings in Canada of the holding corporation and its subsidiaries are less than five percent of the gross earnings of the holding corporation and its subsidiaries.

Under the *Canada Corporations Act*, a simple majority of the elected directors of a Special Act corporation must be resident in Canada and citizens of a Commonwealth country. This requirement applies to every joint stock company incorporated subsequent to June 22, 1869 by any Special Act of Parliament.

Phase-Out: None



Sector: All Sectors

Sub-Sector:

Industrial Classification:

Type of Reservation: National Treatment (Article 1102)
Level of Government: Federal
Measures: *Citizenship Act*, R.S.C. 1985, c. C29

Description: *Foreign Ownership of Land Regulations*, SOR/79-416
Investment

The *Foreign Ownership of Land Regulations* are made pursuant to the *Citizenship Act* and the Alberta *Agricultural and Recreational Land Ownership Act*. In Alberta, an ineligible person or foreign-owned or controlled corporation may only hold an interest in controlled land consisting of not more than two parcels containing, in the aggregate, not more than 20 acres. An "ineligible person" is:

- (a) an individual who is not a Canadian citizen or permanent resident;
- (b) a foreign government or agency thereof; or
- (c) a corporation incorporated elsewhere than in Canada.

"Controlled land" means land in Alberta but does not include:

- (a) land other than land owned by the Crown;

(b) land within a city,
town, new town,
village or summer
village; and

(c) mines or minerals.

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industrial Classification:

Type of Reservation: National Treatment (Article
1102)

Level of Government: Federal

Measures: *Air Canada Public
Participation Act, R.S.C.
1985, c. 35 (4th Supp.)*

*Canada Development
Corporation Reorganization
Act, S.C. 1985, c. 49*

*Petro-Canada Public
Participation Act, S.C. 1991,
c. 10*

*Canadian Arsenals Limited
Divestiture Authorization
Act, S.C. 1986, c. 20*

*Cooperative Energy Act, S.C.
1980/81/82/83, c. 108*

*Eldorado Nuclear Limited
Reorganization and
Divestiture Act, S.C. 1988, c.
41*

*Nordion and Theratronics
Divestiture Authorization
Act, S.C. 1990, c. 4*

Description:

Investment

A "nonresident" may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For each company the restriction is as follows:

Air Canada: 25 percent
Canada Development Corporation: 25 percent
Petro-Canada Inc: 25 percent
Canadian Arsenals Limited: 25 percent
Eldorado Nuclear Limited: 5 percent
Nordion Limited: 25 percent
Theratronics Limited: 49 percent
Cooperative Energy Corporation: 49 percent

"Nonresident" generally means:

(a) an individual, other than a Canadian citizen, who is not ordinarily resident in Canada;

(b) a corporation incorporated, formed or otherwise organized outside Canada;

(c) the government of a foreign state or any political subdivision thereof, or a person empowered to perform a function or duty on behalf of such a government;

(d) a corporation that is controlled directly

or indirectly by nonresidents as defined in any of paragraphs (a) through (c) ;

(e) a trust

(i) established by a nonresident as defined in any of paragraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of individuals a majority of whom are residents, or

(ii) in which nonresidents as defined in any of paragraphs (a) through (d) have more than 50 percent of the beneficial interest; or

(f) a corporation that is controlled directly or indirectly by a trust referred to in paragraph (e).

Phase-Out:

None



Sector:	All Sectors
Sub-Sector:	
Industrial Classification:	
Type of Reservation:	Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Export and Import Permits Act</i> , R.S.C. 1985, c. E-19
Description:	<u>Cross-Border Services</u> Only individuals ordinarily resident in Canada, enterprises having their head offices in Canada or branch offices in Canada of foreign enterprises may apply for and be issued import or export permits or transit authorization certificates for goods and related services subject to controls under the <i>Export and Import Permits Act</i> .
Phase-Out:	None



Sector:	Automotive
Sub-Sector:	
Industrial Classification:	
Type of Reservation:	Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<i>Canada - United States Free Trade Agreement Implementation Act</i> , S.C. 1988, c. 65

Description:

Investment

Canada may grant waivers of customs duties conditioned, explicitly or implicitly, on the fulfillment of performance requirements:

(a) to those manufacturers of automotive goods set out in Part One of Annex 1002.1 of the *Canada - United States Free Trade Agreement*, in accordance with the headnote to that Part; and

(b) for the applicable periods specified in Article 1002(2) and (3) of the *Canada - United States Free Trade Agreement* to those manufacturers of automotive goods set out in Parts Two and Three, respectively, of Annex 1002.1 of that Agreement.

Phase-Out:

(a) None

(b) For Part Two, until January 1, 1998; and for Part Three, until January 1, 1996 or such earlier date specified in existing agreements between Canada and the recipient of the waiver.

Sector:	Business Service Industries
Sub-Sector:	Customs Brokerages and Brokers
Industry Classification:	SIC 7794 - Customs Brokers
Type of Reservation:	National Treatment (Article 1202) Local Presence (Article 1205) Senior Management and Boards of Directors (Article 1107)
Level of Government:	Federal
Measures:	<i>Customs Act</i> , R.S.C. 1985, c. 1 (2nd Supp.) <i>Customs Brokers Licensing Regulations</i> , SOR/86-1067
Description:	<u>Cross-Border Services and Investment</u> To be a licensed customs broker or brokerage in Canada: (a) an individual must be a Canadian citizen or permanent resident; (b) a corporation must be incorporated in Canada with a majority of its directors being Canadian citizens or permanent residents; and (c) a partnership must be composed of persons who are Canadian citizens or permanent residents, or corporations incorporated in Canada with a

majority of their directors being Canadian citizens or permanent residents.

An individual who is not a licensed customs broker but who transacts business as a customs broker on behalf of a licensed customs broker or brokerage must be a Canadian citizen or permanent resident.

Phase-Out:

None. Subject to discussion by the Parties five years after the date of entry into force of this Agreement.

Sector:	Business Service Industries
Sub-Sector:	Duty Free Shops
Industry Classification:	SIC 6599 - Other Retail Stores, Not Elsewhere Classified (limited to duty free shops)
Type of Reservation:	National Treatment (Articles 1102, 1202) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Customs Act</i> , R.S.C. 1985, c. 1 (2nd Supp.) <i>Duty Free Shop Regulations</i> , SOR/86-1072
Description:	<u>Cross-Border Services and Investment</u> 1. To be a licensed duty free shop operator at a land border crossing in Canada, an

individual must:

(a) be a Canadian citizen or permanent resident;

(b) be of good character;

(c) be principally resident in Canada; and

(d) have resided in Canada for at least 183 days of the year preceding the year of application for the license.

2. To be a licensed duty free shop operator at a land border crossing in Canada, a corporation must:

(a) be incorporated in Canada; and

(b) have all of its shares beneficially owned by Canadian citizens or permanent residents who meet the requirements of paragraph 1.

Phase-Out: None

Sector: Business Service Industries
Sub-Sector: Examination Services relating to the Export and Import of Cultural Property
Industry Classification: SIC 999 - Other Services,

	Not Elsewhere Classified (limited to cultural property examination services)
Type of Reservation:	Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Cultural Property Export and Import Act</i> , R.S.C. 1985, c. C-51
Description:	<u>Cross-Border Services</u> Only a "resident of Canada" or an "institution" in Canada may be designated as an "expert examiner" of cultural property for purposes of the <i>Cultural Property Export and Import Act</i> . A "resident" of Canada is an individual who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains one or more establishments in Canada to which employees employed in connection with the business of the corporation ordinarily report for work. An "institution" is an institution that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes and that conserves objects and exhibits them.
Phase-Out:	None

Sector:	Business Service Industries
Sub-Sector:	Patent Agents and Agencies
Industry Classification:	SIC 999 - Other Services,

Type of Reservation:	Not Elsewhere Classified (limited to patent agency) National Treatment (Article 1202) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Patent Act</i> , R.S.C. 1985, c. P-4 <i>Patent Rules</i> , C.R.C. 1978, c. 1250 <i>Patent Cooperation Treaty Regulations</i> , SOR/89-453
Description:	<u>Cross-Border Services</u> To represent persons in the presentation and prosecution of applications for patents or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the Patent Office. A registered patent agent who is not resident in Canada must appoint a registered patent agent who is resident in Canada as an associate to prosecute an application for a patent. An enterprise may be added to the patent register provided that it has at least one member who is also on the register.
Phase-Out:	Citizenship and permanent residency requirements are subject to removal within two years of the date of entry into force of this Agreement in accordance with Article 1210(3).

Sector:	Business Service Industries
Sub-Sector:	Trade-Mark Agents
Industry Classification:	SIC 999 - Other Services, Not Elsewhere Classified (limited to trade-mark agency)
Type of Reservation:	National Treatment (Article 1202) Most-Favored-Nation Treatment (Article 1203) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Trade-Marks Act</i> , R.S.C. 1985, c. T-13 <i>Trade-Marks Regulations</i> , C.R.C. 1978, c. 1559
Description:	<u>Cross-Border Services</u> To represent persons in the presentation and prosecution of applications for trade- marks or in other business before the Trade-Mark Office, a trade-mark agent must be resident in Canada and registered by the Trade- Mark Office. A registered trade-mark agent who is not resident in Canada must appoint a registered trade-mark agent who is resident in Canada as an associate to prosecute an application for a trade-mark. Trade-mark agents who are resident, and are registered (in good standing), in a Commonwealth country or the United States may be

Phase-Out:

added to the register of trademark agents.

Citizenship and permanent residency requirements are subject to removal within two years of the date of entry into force of this Agreement in accordance with Article 1210(3).

Sector:	Energy
Sub-Sector:	Oil and Gas
Industry Classification:	SIC 071 - Crude Petroleum and Natural Gas Industries
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Canada Petroleum Resources Act</i> , R.S.C. 1985, c. 36 (2nd Supp.) <i>Territorial Lands Act</i> , R.S.C. 1985, c. T7 <i>Public Lands Grants Act</i> , R.S.C. 1985, c. P30 <i>Canada Newfoundland Atlantic Accord Implementation Act</i> , S.C. 1987, c. 3 <i>Canada Nova Scotia Offshore Petroleum Resources Accord Implementation Act</i> , S.C. 1988, c. 28 <i>Canada Oil and Gas Land Regulations</i> , C.R.C. 1978, c. 1518

Description:

Investment

This reservation applies to production licenses issued with respect to "frontier lands" and "offshore areas" (areas not under provincial jurisdiction) as defined in the applicable measures.

Persons who hold oil and gas production licenses or shares therein for discoveries made after March 5, 1982 must be Canadian citizens ordinarily resident in Canada, permanent residents or corporations incorporated in Canada. No production license may be issued for discoveries made after March 5, 1982 unless the Minister of Energy, Mines and Resources is satisfied that the Canadian ownership rate of the interestowner in relation to the production license on the date of issuance would not be less than 50 percent. "Interest-owner" is defined in the *Canada Petroleum Resources Act* to mean "the interest holder who owns an interest or the group of interest holders who hold all the shares of an interest".

The Canadian ownership requirements for oil and gas production licenses for discoveries made prior to March 5, 1982, are set out in the *Canada Oil and Gas Land Regulations*.

Phase-Out:

None



Sector:	Energy
Sub-Sector:	Oil and Gas
Industry Classification:	SIC 071 - Crude Petroleum and Natural Gas Industries
Type of Reservation:	Performance Requirements (Article 1106) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Canada Oil and Gas Production and Conservation Act, R.S.C. 1985, c. O-7, as amended by Canada Oil and Gas Operations Act, S.C. 1992, c. 35</i> <i>Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28</i> <i>Canada - Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3</i> Measures implementing Yukon Oil and Gas Accord Measures implementing Northwest Territories Oil and Gas Accord
Description:	<u>Cross-Border Services and Investment</u> 1. Under the <i>Canada Oil and Gas Operations Act</i> , the approval of the Minister of Energy, Mines and Resources of a "benefits plan" is required to receive authorization to proceed with any oil and gas development project.

2. A "benefits plan" is a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan. The Act permits the Minister to impose an additional requirement on the applicant, as part of the benefits plan, to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in any proposed work referred to in the benefits plan.

3. The *Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada - Newfoundland Atlantic Accord Implementation Act* have the same requirement for a benefits plan but also require that the benefits plan ensure that:

(a) prior to carrying out any work or activity in the offshore area, the corporation or other body submitting the plan establish in the applicable province an office where appropriate levels of decision-making are

to take place;

(b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and

(c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality and delivery.

4. The Boards administering the benefits plan under these Acts may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in any proposed work or activity referred to in the plan.

5. In addition, Canada may impose any requirement or enforce any commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

6. Provisions similar to those

set out above will be included in laws or regulations to implement the Yukon Oil and Gas Accord and Northwest Territories Oil and Gas Accord which for purposes of this reservation shall be deemed, once concluded, to be existing measures.

Phase-Out: None

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Sector: Energy

Sub-Sector: Oil and Gas

Industry Classification: SIC 071 - Crude Petroleum and Natural Gas Industries

Type of Reservation: Performance Requirements (Article 1106)

Level of Government: Federal

Measures: *Canada - Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3*

Description: *Hibernia Development Project Act, S.C. 1990, c. 41*
Investment

Pursuant to the *Hibernia Development Project Act*, Canada and the "Hibernia Project Owners" may enter into agreements whereby the Project Owners undertake to perform certain work in Canada and Newfoundland and to use their "best efforts" to achieve specific Canadian and Newfoundland "target levels" in relation to the provisions of any "benefit plan" required under the

*Canada-Newfoundland
Atlantic Accord
Implementation Act.*
"Benefits plans" are further
described in Schedule of
Canada, Annex I, page I-C-
25.

In addition, Canada may
impose in connection with
the Hibernia project any
requirement or enforce any
commitment or undertaking
for the transfer of technology,
a production process or other
proprietary knowledge to a
national or enterprise in
Canada.

Phase-Out: None

▲
Sector: Energy
Sub-Sector: Uranium
Industry Classification: SIC 0616 - Uranium Mines
Type of Reservation: National Treatment (Article
1102)
Most-Favored-Nation
Treatment (Article 1103)
Level of Government: Federal
Measures: *Investment Canada Act,*
R.S.C. 1985, c. 28 (1st Supp.)

*Investment Canada
Regulations, SOR/85-611*

*Policy on NonResident
Ownership in the Uranium
Mining Sector, 1987*
Description: Investment

Ownership by "non-
Canadians", as defined in the

Investment Canada Act, of a uranium mining property is limited to 49 percent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact "Canadiancontrolled" as defined in the *Investment Canada Act*.

Exemptions from the policy are permitted, subject to approval of the Governor in Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by nonCanadians, made prior to December 23, 1987 and that are beyond the permitted ownership level, may remain in place. No increase in nonCanadian ownership is permitted.

Phase-Out: None

Sector:	Fisheries
Sub-Sector:	Fish Harvesting and Processing
Industry Classification:	SIC 031 - Fishing Industry
Type of Reservation:	National Treatment (Article 1102) Most-Favored-Nation Treatment (Article 1103)
Level of Government:	Federal
Measures:	<i>Coastal Fisheries Protection Act</i> , R.S.C. 1985, c. C33 <i>Fisheries Act</i> , R.S.C. 1985, c.

F14

Coastal Fisheries Protection Regulations, C.R.C. 1978, c. 413

Policy on Foreign Investment in the Canadian Fisheries Sector, 1985

Commercial Fisheries Licensing Policy

Description:

Investment

Under the *Coastal Fisheries Protection Act*, foreign fishing vessels are prohibited from entering Canada's Exclusive Economic Zone except under authority of a license or under treaty.

"Foreign" vessels are those which are not "Canadian" as defined in the *Coastal Fisheries Protection Act*.

Under the *Fisheries Act*, the Minister of Fisheries and Oceans has discretionary authority with respect to the issuance of licenses.

Fish processing enterprises that have a foreign ownership level of more than 49 percent are prohibited from holding Canadian commercial fishing licenses.

Phase-Out:

None



Sector:

Fisheries

Sub-Sector:

Fishing-Related Services

Industry Classification:

SIC 032 - Services Incidental

	to Fishing
Type of Reservation:	National Treatment (Article 1202) Most-Favored-Nation Treatment (Article 1203)
Level of Government:	Federal
Measures:	<i>Coastal Fisheries Protection Act</i> , R.S.C. 1985, c. C-33
Description:	<u>Cross-Border Services</u> Under the <i>Coastal Fisheries Protection Act</i> , the Department of Fisheries and Oceans is responsible for controlling the activities of foreign fishing vessels in Canada's Exclusive Economic Zone, including access to Canadian ports (port privileges). In general, the Department grants such port privileges, including the purchase of fuel and supplies, ship repair, crew exchanges and transshipment of fish catches, only to fishing vessels from a country with which it has favorable fishery relations, based primarily on adherence by that country to Canadian and international conservation practices and policies. Exceptions to this general rule are permitted in cases of emergency ("force majeure") and where the specific provisions of bilateral fisheries treaties apply.
Phase-Out:	None



Transportation

Sub-Sector:	Air Transportation
Industry Classification:	SIC 451 - Air Transport Industries
Type of Reservation:	National Treatment (Article 1102) Most-Favored-Nation Treatment (Article 1103) Senior Management and Boards of Directors (Article 1107)
Level of Government:	Federal
Measures:	<i>National Transportation Act, 1987, R.S.C. 1985, c. 28 (3rd Supp.)</i> <i>Aeronautics Act, R.S.C. 1985, c. A2</i> <i>Air Regulations, C.R.C. 1978, c. 2</i> <i>Aircraft Marking and Registration Regulations, SOR/90-591</i>
Description:	<u>Investment</u> Only "Canadians" may provide the following commercial air transportation services: (a) "domestic services" (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country) ; (b) "scheduled international services" (scheduled air services between a

point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future bilateral agreements; and

(c) "nonscheduled international services" (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the *National Transportation Act, 1987*.

"Canadian" is defined in the *National Transportation Act, 1987* to mean a Canadian citizen or permanent resident, a government in Canada or agent thereof or any other person or entity that is controlled in fact by, and of which at least 75 percent of the voting interests are owned and controlled by, persons otherwise meeting these requirements.

Regulations made under the *Aeronautics Act* also require that a Canadian air carrier operate Canadian-registered aircraft. To be qualified to register aircraft in Canada, a carrier must be a Canadian citizen or permanent resident, or a corporation incorporated

and having its principal place of business in Canada, its chief executive officer and not fewer than two-thirds of its directors as Canadian citizens or permanent residents and not less than 75 percent of its voting interest owned and controlled by persons otherwise meeting these requirements. In addition, all commercial air services in Canada require a Canadian operating certificate to ensure their safety and security. An operating certificate for the provision of services restricted to Canadian carriers is issued only to qualified persons.

A corporation incorporated in Canada but that does not meet the Canadian ownership and control requirements may only register a private aircraft when the corporation is the sole owner of the aircraft. The regulations also have the effect of limiting "nonCanadian" corporations operating foreign-registered private aircraft within Canada to the carriage of their own employees.

For specialty air services, see Schedule of Canada, Annex II, page II-C-10.

Phase-Out:

None



Sector:	Transportation
Sub-Sector:	Air Transportation
Industry Classification:	SIC 4513 - Non-Scheduled Air Transport, Specialty, Industry
Type of Reservation:	National Treatment (Articles 1102, 1202) Local Presence (Article 1205) Senior Management and Boards of Directors (Article 1107)
Level of Government:	Federal
Measures:	<i>Aeronautics Act, R.S.C.</i> 1985, c. A-2 <i>Air Regulations, C.R.C.</i> 1978, c. 2 <i>Aircraft Marking and Registration Regulations,</i> SOR/90-591 <i>Foreign Air Carrier Certification Manual, TP</i> 11524, and the <i>Personnel Licensing Handbook, TP 193</i> (Department of Transport)
Description:	As qualified by paragraph 2 of the Description element <u>Cross-Border Services</u> 1. An operating certificate issued by the Department of Transport is required to provide specialty air services in the territory of Canada. The Department of Transport will issue an operating certificate to a person applying for authority to provide specialty air services, subject to compliance by that person with Canadian safety requirements. An operating certificate for the provision of aerial construction, heli- logging, aerial inspection,

aerial surveillance, flight training, aerial sightseeing, and aerial spraying services is not issued to a person that is not Canadian as provided for in the applicable regulations. For investment, see Schedule of Canada, Annex II, page II-C-10.

2. A person of Mexico or of the United States may obtain an operating certificate, subject to compliance by that person with Canadian safety requirements, for the provision of aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing and parachute jumping services.

Phase-Out:

Cross-Border Services

A person of Mexico or of the United States will be permitted to obtain an operating certificate, subject to compliance by that person with Canadian safety requirements, for the provision of the following specialty air services:

(a) two years after the date of entry into force of this Agreement, aerial construction and heli-logging services;

(b) three years after the date of entry into force of this Agreement, aerial inspection, aerial surveillance, flight training, and aerial sightseeing services;

and

(c) six years after the date of entry into force of this Agreement, aerial spraying services.

▲

Sector:	Transportation
Sub-Sector:	Air Transportation
Industry Classification:	SIC 4523 - Aircraft Servicing Industry SIC 3211 - Aircraft and Aircraft Parts Industry
Type of Reservation:	Most-Favored-Nation Treatment (Article 1203) Local Presence (1205)
Level of Government:	Federal
Measures:	<i>Aeronautics Act, R.S.C. 1985, c. A-2</i> <i>Airworthiness Manual, chapters 573 and 575, made under the authority of Air Regulations, C.R.C. 1978, c. 2</i> <i>Agreement Concerning Airworthiness Certification, Exchange of Letters between Canada and the United States, dated August 31, 1984, CTS 1984/26</i>
Description:	<u>Cross-Border Services</u> Aircraft repair, overhaul or maintenance activities required to maintain the airworthiness of Canadian-registered aircraft must be performed by Canadian-

certified persons (approved maintenance organizations and aircraft maintenance engineers). Certifications are not provided for persons located outside Canada, except sub-organizations of approved maintenance organizations that are themselves located in Canada.

Pursuant to an airworthiness agreement between Canada and the United States, Canada recognizes the certifications and oversight provided by the United States for all repair, overhaul and maintenance facilities and individuals performing the work located in the United States.

Phase-Out: None

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Sector: Transportation
Sub-Sector: Land Transportation
Industry Classification: SIC 456 - Truck Transport Industries
SIC 4572 - Interurban and Rural Transit Systems Industry
SIC 4573 - School Bus Operations Industry
SIC 4574 - Charter and Sightseeing Bus Services Industry
Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Measures:	<i>Motor Vehicle Transport Act</i> , 1987, R.S.C. 1985, c. 29 (3rd Supp.), Parts I and II
	<i>National Transportation Act</i> , 1987, R.S.C. 1985, c. 28 (3rd Supp.), Part IV
	<i>Customs Tariff</i> , R.S.C. 1985, c. 41 (3rd Supp.)
Description:	<u>Cross-Border Services</u> Only persons of Canada, using Canadian-registered and either Canadian-built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of Canada.
Phase-Out:	None


Sector:	Transportation
Sub-Sector:	Water Transportation
Industry Classification:	SIC 4541 - Freight and Passenger Water Transport Industry SIC 4542 - Ferry Industry SIC 4543 - Marine Towing Industry SIC 4549 - Other Water Transport Industries SIC 4553 - Marine Salvage Industry SIC 4559 - Other Service Industries Incidental to Water Transport
Type of Reservation:	National Treatment (Article 1202) Most-Favored-Nation Treatment (Article 1203) Local Presence (Article

	1205)
Level of Government:	Federal
Measures:	<i>Canada Shipping Act, R.S.C.</i> 1985, c. S-9, Part II
Description:	<u>Cross-Border Services</u> To register a vessel in Canada for purposes of providing international maritime transportation services, the owner of that vessel must be: (a) a Canadian citizen or a citizen of a Commonwealth country; or (b) a corporation incorporated under the laws of, and having its principal place of business in, Canada or a Commonwealth country. For domestic maritime transportation services (cabotage), see Schedule of Canada, Annex II, page II-C-11.
Phase-Out:	None



Sector:	Transportation
Sub-Sector:	Water Transportation
Industry Classification:	SIC 4541 - Freight and Passenger Water Transport Industry SIC 4542 - Ferry Industry

	SIC 4543 - Marine Towing Industry SIC 4549 - Other Water Transport Industries SIC 4553 - Marine Salvage Industry SIC 4554 - Piloting Service, Water Transport Industry SIC 4559 - Other Service Industries Incidental to Water Transport
Type of Reservation:	National Treatment (Article 1202) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Canada Shipping Act, R.S.C. 1985, c. S-9, Part II</i>
Description:	<u>Cross-Border Services</u> Masters, mates, and engineers must be certified by the Department of Transport as ship's officers while engaged on a Canadian-registered vessel. Only Canadian citizens or permanent residents may be certified as ship's officers.
Phase-Out:	None

	
Sector:	Transportation
Sub-Sector:	Water Transportation
Industry Classification:	SIC 4554 - Piloting Service, Water Transport Industry
Type of Reservation:	National Treatment (Article 1202) Local Presence (Article 1205)
Level of Government:	Federal

Measures: *Pilotage Act*, R.S.C. 1985, c. P-14

General Pilotage Regulations, C.R.C. 1978, c. 1263

Atlantic Pilotage Authority Regulations, C.R.C. 1978, c. 1264

Laurentian Pilotage Authority Regulations, C.R.C. 1978, c. 1268

Great Lakes Pilotage Regulations, C.R.C. 1978, c. 1266

Pacific Pilotage Regulations, C.R.C. 1978, c. 1270

Description: Cross-Border Services

Subject to Schedule of Canada, Annex II, page II-C-14, a license issued by the Department of Transport is required to provide pilotage services in the territory of Canada. Only Canadian citizens or permanent residents may obtain such a license. A permanent resident of Canada who has been issued a pilot's license must become a Canadian citizen within five years of receipt of the license in order to retain it.

Phase-Out: None



Sector: Transportation

Sub-Sector:	Water Transportation
Industry Classification:	SIC 454 - Water Transport Industries
Type of Reservation:	Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Shipping Conferences Exemption Act, 1987, R.S.C. 1985, c. 17 (3rd Supp.)</i>
Description:	<u>Cross-Border Services</u> Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.
Phase-Out:	None

Sector:	Transportation
Sub-Sector:	Water Transportation
Industry Classification:	SIC 4541 - Freight and Passenger Water Transport Industry SIC 4542 - Ferry Industry SIC 4543 - Marine Towing Industry
Type of Reservation:	Most-Favored-Nation Treatment (Article 1203)
Level of Government:	Federal
Measures:	<i>Coasting Trade Act, S.C. 1992, c. 31</i>
Description:	<u>Cross-Border Services</u>

The prohibitions under the *Coasting Trade Act*, set out in Schedule of Canada, Annex II, page II-C-11, do not apply to any vessel that is owned by the U.S. Government when used solely for the purpose of transporting goods owned by the U.S. Government from the territory of Canada to supply Distant Early Warning sites.

Phase-Out: None

Schedule of Mexico

Sector: All Sectors

Sub-Sector:

Industrial Classification:

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 27*

Ley de Nacionalidad y Naturalización, Capítulos IV, VI

Ley Orgánica de la Fracción I del Artículo 27 de la Constitución

Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, IV, V

Reglamento de la Ley para Promover la Inversión

*Mexicana y Regular la
Inversión Extranjera*, Título
I; Título II, Capítulos I, II;
Título III, Capítulo III; Título
VI; Título VIII, Capítulo IV
Investment

Description:

Foreign nationals or foreign enterprises, or Mexican enterprises without a foreigners' exclusion clause, may not acquire property rights ("dominio directo") over land and water in a 100-kilometer strip along the country's borders or in a 50-kilometer strip inland from its coasts (the Restricted Zone). Lease of land for more than 10 years is deemed to be an acquisition.

Foreign nationals, foreign enterprises or Mexican enterprises may acquire "Certificados de Participación Inmobiliaria" (CPI's). CPI's grant the beneficiaries the right to use and enjoy property and to receive the profits that it may obtain from the profitable use of property.

CPI's are issued by a Mexican credit institution that has been granted authorization to acquire through trust the title to real estate intended for industrial and tourism activities in the Restricted Zone for a period not to exceed 30 years. The trust is renewable if:

- (a) the beneficiaries of the trust that is to be extinguished or terminated will be the beneficiaries of the

new trust;

(b) the new trust is to be executed under the same terms and conditions as the trust that is to be extinguished or terminated, in respect of the purposes of the trust, the use of the property and its characteristics;

(c) the respective permits are requested within a period of 360 to 181 days preceding the termination or extinction of the trust; and

(d) the provisions of the *Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera* are observed.

Phase-Out: None



Sector: All Sectors

Sub-Sector:

Industrial Classification:

Type of Reservation:

Level of Government: National Treatment (Article 1102)
Federal

Measures: *Ley para Promover la*

Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulos I, III, IV; Título IV; Título V; Título VIII, Capítulos I-V; Título IX, Capítulos I, II, III

Description:

As qualified by the **Description** element
Investment

The Comisión Nacional de Inversiones Extranjeras, in order to evaluate applications submitted for its consideration (acquisitions or establishment of investments in restricted activities as set out in this Schedule), shall take into account the following criteria:

- (a) its effects on employment and training;
- (b) its technological contribution; or
- (c) in general, its contribution to increase Mexican industrial productivity and competitiveness.

Phase-Out:

The Comisión Nacional de Inversiones Extranjeras may impose performance requirements that are not prohibited by Article 1106.
None



Sector:	All Sectors
Sub-Sector:	
Industrial Classification:	
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera</i> , Capítulos I, II, III, V, VI <i>Reglamento de la Ley Para Promover la Inversión Mexicana y Regular la Inversión Extranjera</i> , Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I-V; Título IX, Capítulos I, II, III
Description:	As qualified by the Description element <u>Investment</u> The Comisión Nacional de Inversiones Extranjeras will only review direct or indirect acquisitions by an investor of another Party of more than 49 percent of the ownership interest in a Mexican enterprise in an unrestricted sector, that is directly or indirectly owned or controlled by Mexican nationals, if the value of the gross assets of the Mexican enterprise is not less than the applicable threshold.

Phase-Out:

For investors and investments of investors of Canada or the United States, the applicable threshold for the review of an acquisition of a Mexican enterprise will be:

(a) US\$25 million, for the three-year period beginning on the date of entry into force of this Agreement;

(b) US\$50 million, for the three-year period beginning three years after the date of entry into force of this Agreement;

(c) US\$75 million, for the three-year period beginning six years after the date of entry into force of this Agreement; and

(d) US\$150 million, beginning nine years after the date of entry into force of this Agreement.

Beginning one year after the date of entry into force of this Agreement, each of these thresholds will be adjusted annually for cumulative inflation from the date of entry into force of this Agreement, based on the implicit price deflator for U.S. Gross Domestic Product (GDP) or any successor index published by the Council of Economic Advisors in "Economics Indicators".

The value of a threshold adjusted for cumulative inflation up to January of

each year following 1994 shall be equal to the original value of the threshold multiplied by the following ratio:

(a) the implicit GDP price deflator or any successor index published by the Council of Economic Advisors in "Economic Indicators", current as of January of that year; to

(b) the implicit GDP price deflator or any successor index published by the Council of Economic Advisors in "Economic Indicators", current as of the date of entry into force of this Agreement,

provided that the implicit GDP price deflators under paragraphs (a) and (b) have the same base year.

The resulting adjusted threshold will be rounded to the nearest million dollars.

Beginning 10 years after the date of entry into force of this Agreement, the threshold will be adjusted annually by the rate of growth of the nominal Mexican GDP, as published by the Instituto Nacional de Estadística, Geografía e Informática. Whenever the U.S. dollar amount calculated for the threshold is, at the prevailing market exchange

rate, equal to or higher than the amount calculated pursuant to Schedule of Canada, Annex I, page I-C-2, the calculation of the applicable threshold will be made according to the rules established therein. In no case will the threshold, as converted into U.S. dollars, exceed that of Canada.



Sector:	All Sectors
Sub-Sector:	
Industrial Classification:	
Type of Reservation:	National Treatment (Article 1102) Senior Management and Boards of Directors (Article 1107)
Level of Government:	Federal
Measures:	<i>Constitución Política de los Estados Unidos Mexicanos, Artículo 25</i> <i>Ley General de Sociedades Cooperativas, Título I, Capítulo I; Título II, Capítulo II</i>
Description:	<u>Investment</u> No more than 10 percent of the persons participating in a Mexican cooperative production enterprise may be foreign nationals. No foreign national may engage in general administrative functions or perform managerial activities

Phase-Out: in that enterprise.
None



Sector: All Sectors

Sub-Sector:

Industrial Classification:

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Ley Federal para el Fomento de la Microindustria,*
Capítulos I, II, III


Description: Investment


Only Mexican nationals may apply for a license ("cédula") to qualify as a microindustry enterprise.

Mexican "microindustry enterprises" may not have foreign persons as partners.

The *Ley Federal para el Fomento de las Microindustria* defines "microindustry enterprise" as including enterprises with up to fifteen workers and with sales of amounts periodically determined by the Secretaría de Comercio y Fomento Industrial.

Phase-Out: None

 Sector:	Agriculture, Livestock, Forestry and Lumber Activities
Sub-Sector:	Agriculture, Livestock or Forestry
Industry Classification:	CMAP 1111 - Agriculture CMAP 1112 - Livestock and Game (limited to livestock) CMAP 1200 - Forestry and Felling Trees
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Constitución Política de los Estados Unidos Mexicanos, Artículo 27</i>
Description:	<i>Ley Agraria, Títulos V, VI</i> <u>Investment</u> Only Mexican nationals or Mexican enterprises may own land for agriculture, livestock or forestry purposes. Such enterprises must issue a special type of share ("T" shares) representing the value of that land at the time of its acquisition. Investors of another Party or their investments may only own up to 49 percent of "T" shares.
Phase-Out:	None

 Sector:	Communications
Sub-Sector:	Entertainment Services (Broadcasting, Multipoint

	Distribution Systems (MDS) and Cable Television)
Industry Classification:	CMAP 941104 - Private Production and Transmission of Radio Programs (limited to production and transmission of radio programs, MDS and uninterrupted music) CMAP 941105 - Private Services of Production, Transmission and Retransmission of Television Programming (limited to production, transmission and retransmission of television programming, MDS, direct broadcasting systems and high-definition television and cable television)
Type of Reservation:	National Treatment (Article 1202) Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<i>Ley Federal de Radio y Televisión</i> , Título IV, Capítulo III <i>Reglamento de la Ley Federal de Radio y Televisión y de la Ley de la Industria Cinematográfica Relativo al Contenido de las Transmisiones de Radio y Televisión</i> , Título III <i>Reglamento del Servicio de Televisión por Cable</i> , Capítulo VI
Description:	<u>Cross-Border Services and Investment</u> For the protection of copyrights, the holder of a concession for a commercial broadcast station or for a cable television system is required to obtain an authorization from the

Secretaría de Gobernación to import in any form radio or television programming for broadcast or cable distribution within the territory of Mexico.

The authorization will be granted if the application for authorization includes documentation showing that the copyright holder has granted the license ("derechos") to broadcast or distribute by cable such programming.

Phase-Out: None

Sector: Communications

Sub-Sector: Entertainment Services (Broadcasting, Multipoint Distribution Systems (MDS) and Cable Television)

Industry Classification: CMAP 941104 - Private Production and Transmission of Radio Programs (limited to production and transmission of radio programs, MDS and uninterrupted music)

CMAP 941105 - Private Services of Production, Transmission and Retransmission of Television Programming (limited to production, transmission and retransmission of television programming, MDS, direct broadcasting systems, highdefinition television and cable television)

Type of Reservation: National Treatment (Article

	1202) Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<i>Ley Federal de Radio y Televisión, Título IV, Capítulo III</i>
	<i>Reglamento de la Ley Federal de Radio y Televisión y de la Ley de la Industria Cinematográfica Relativo al Contenido de las Transmisiones de Radio y Televisión, Título III</i>
	<i>Reglamento del Servicio de Televisión por Cable, Capítulo VI</i>
Description:	<u>Cross-Border Services and Investment</u>
	The use of the Spanish language is required for the broadcast, cable or multipoint distribution system distribution of radio or television programming, except when the Secretaría de Gobernación authorizes the use of another language.
	A majority of the time of each day's live broadcast programs must feature Mexican nationals.
	A radio or television announcer or presenter who is not a Mexican national must obtain an authorization from the Secretaría de Gobernación to perform in Mexico.
Phase-Out:	None

Sector:	Communications
Sub-Sector:	Entertainment Services (Broadcasting, Multipoint Distribution Systems (MDS) and Cable Television)
Industry Classification:	CMAP 941105 - Private Services of Production, Transmission and Retransmission of Television Programming (limited to broadcasting, cable television and MDS)
Type of Reservation:	National Treatment (Article 1202) Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<i>Ley Federal de Radio y Televisión, Título IV, Capítulo III</i> <i>Reglamento de la Ley Federal de Radio y Televisión y de la Ley de la Industria Cinematográfica Relativo al Contenido de las Transmisiones de Radio y Televisión, Título III</i> <i>Reglamento del Servicio de Televisión por Cable, Capítulo VI</i>
Description:	<u>Cross-Border Services and Investment</u> The use of the Spanish language or Spanish subtitles is required for advertising broadcast or otherwise distributed in the territory of Mexico. Advertising included in programs transmitted directly from outside the territory of Mexico may not be

distributed in those programs when they are retransmitted in the territory of Mexico.

Phase-Out: None

Sector: Communications

Sub-Sector: Entertainment Services
(Cable Television)

Industry Classification: CMAP 941105 - Private Services of Production, Transmission and Retransmission of Television Programming (limited to cable television)

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Ley Federal de Radio y Televisión*, Título III, Capítulos I, II, III

Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI

Reglamento del Servicio de Televisión por Cable, Capítulo II

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I

Description:	As qualified by the Description element <u>Investment</u>
Phase-Out:	Investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise, established or to be established in the territory of Mexico, that owns or operates a cable television system or provides cable television services. None. Subject to discussion by the Parties five years after the date of entry into force of this Agreement.

Sector:	Communications
Sub-Sector:	Entertainment Services (Cable Television)
Industry Classification:	CMAP 941105 - Private Services of Production, Transmission and Retransmission of Television Programming (limited to cable television)
Type of Reservation:	National Treatment (Article 1202) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Constitución Política de los Estados Unidos Mexicanos</i> , Artículo 32 <i>Ley de Vías Generales de Comunicación</i> , Libro I, Capítulo III

*Ley de Nacionalidad y
Naturalización, Capítulo IV*

*Ley Federal de Radio y
Televisión, Título III,
Capítulos I, II, III*

*Reglamento del Servicio de
Televisión por Cable,
Capítulo II*

Description:

Cross-Border Services

A concession granted by the Secretaría de Comunicaciones y Transportes is required to construct and operate, or to operate, a cable television system. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Phase-Out:

None

Sector:	Communications
Sub-Sector:	Entertainment Services (Cinema)
Industry Classification:	CMAP 941103 - Private Exhibition of Films
Type of Reservation:	National Treatment (Article 1202) Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<i>Ley de la Industria Cinematográfica</i> <i>Reglamento de la Ley de la Industria Cinematográfica</i>

Description:	As qualified by the Description element <u>Cross-Border Services and Investment</u>
Phase-Out:	Thirty percent of the screen time of every theater, assessed on an annual basis, may be reserved for films produced by Mexican persons either within or outside the territory of Mexico. None

Sector:	Communications
Sub-Sector:	Telecommunications (Enhanced or ValueAdded Services)
Industry Classification:	CMAP 720006 - Other Telecommunications Services (limited to enhanced or valueadded services)
Type of Reservation:	National Treatment (Articles 1102, 1202) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Ley de Vías Generales de Comunicación</i> , Libro I, Capítulo III <i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera</i> , Capítulos I, II, III, V, VI <i>Reglamento de Telecomunicaciones</i> ,

Capítulo IV

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I

As qualified by paragraphs 2 and 4 of the **Description** element

Description:

Cross-Border Services

1. A provider of enhanced or valueadded services must obtain a permit issued by the Secretaría de Comunicaciones y Transportes.
2. Persons of Canada or the United States may provide all enhanced or valueadded services, except videotext or enhanced packet switching services, without the need to establish local presence.
3. Videotext and enhanced packet switching services may not be provided on a Cross-Border basis.

Investment

4. Investors of another Party or their investments may own 100 percent of the ownership interest in an enterprise, established or to be established in the territory of Mexico, that provides any enhanced or valueadded service, other than videotext or enhanced packet switching services.

5. Investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise, established or to be established in the territory of Mexico, that provides videotext or enhanced packet switching services.

Phase-Out:

Cross-Border Services

Beginning July 1, 1995, a person of Canada or the United States may provide videotext or enhanced packet switching services on a cross-border basis without the need to establish a local presence in the territory of Mexico.

Investment

Beginning July 1, 1995, investors of another Party or their investments may own 100 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico that provides videotext or enhanced packet switching services.



Sector:

Communications


Sub-Sector:

Transportation and
Telecommunications

Industry Classification:

CMAA 7200 -
Communications (including
telecommunications and
postal services)

Type of Reservation:	CMAP 7100 - Transportation National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Ley de Vías Generales de Comunicación</i> , Libro I, Capítulos III, V
Description:	<i>Reglamento de Telecomunicaciones</i> , Capítulo III <u>Investment</u> Foreign governments and foreign state enterprises or their investments may not invest, directly or indirectly, in Mexican enterprises engaged in communications, transportation and other general means of communication ("vías generales de comunicación") activities, as defined in the <i>Ley de Vías Generales de Comunicación</i> .
Phase-Out:	None

 Sector:	Construction
Sub-Sector:	
Industry Classification:	CMAP 501101 - Residential or Housing Construction CMAP 501102 - Nonresidential Construction CMAP 501200 - Construction of Urbanization Projects CMAP 501311 - Construction of Industrial Plants

CMAP 501312 -
Construction of Electricity
Generation Plants
CMAP 501321 -
Construction and
Maintenance of Electricity
Conduction Lines and
Networks
CMAP 501411 - Mounting or
Installing Concrete Structures
CMAP 501412 - Mounting or
Installing Metallic Structures
CMAP 501421 - Marine and
River Works
CMAP 501422 -
Construction of Routes for
Land Transportation
CMAP 502001 - Hydraulic
and Sanitation Installations in
Buildings
CMAP 502002 - Electrical
Installations in Buildings
CMAP 502003 -
Telecommunications
Installations
CMAP 502004 - Other
Special Installations
CMAP 503001 - Earth
Movements
CMAP 503002 - Cement
Works
CMAP 503003 -
Underground Excavations
CMAP 503004 - Underwater
Works
CMAP 503005 - Installation
of Signs and Warnings
CMAP 503006 - Demolition
CMAP 503007 -
Construction of Water
Purification or Treatment
Plants
CMAP 503009 - Drilling
Water Wells
CMAP 503010 -
Construction Activities, Not
Elsewhere Classified
National Treatment (Article
1102)

Type of Reservation:

Level of Government:	Federal
Measures:	<p><i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI</i></p> <p><i>Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I</i></p>
Description:	<p><u>Investment</u></p> <p>Prior approval of the Comisión Nacional de Inversiones Extranjeras is required for investors of another Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico that performs construction activities as set out in the Industry Classification element.</p>
Phase-Out:	<p>Subject to Schedule of Mexico, Annex I, page I-M-4, five years after the date of entry into force of this Agreement, investors of another Party and their investments may own 100 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico without prior approval of the Comisión Nacional de Inversiones Extranjeras.</p>

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Sector:	Construction
Sub-Sector:	
Industry Classification:	CMAP 501322 - Construction of Means for the Transportation of Petroleum and its Derivatives (limited to specialized contractors only) CMAP 503008 - Petroleum and Gas, Exploration and Drilling Works and Services (limited to specialized contractors only)
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Constitución Política de los Estados Unidos Mexicanos, Artículo 27</i> <i>Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo</i> <i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI</i> <i>Reglamento de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo , Capítulos I, V, IX, XII</i> <i>Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título</i>

Description:	<p>IX, Capítulo I <u>Investment</u></p> <p>Risksharing contracts are prohibited.</p> <p>Prior approval of the Comisión Nacional de Inversiones Extranjeras is required for investors of another Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico involved in "nonrisk-sharing" contracts for the exploration and drilling works of petroleum and gas wells and the construction of means for the transportation of petroleum and its derivatives. See also Schedule of Mexico, Annex III, page III-M-1.</p>
Phase-Out:	None

Sector:	Educational Services
Sub-Sector:	Private Schools
Industry Classification:	<p>CMAF 921101 - Private Preschool Educational Services</p> <p>CMAF 921102 - Private Primary School Educational Services</p> <p>CMAF 921103 - Private Secondary School Educational Services</p> <p>CMAF 921104 - Private</p>

	Middle High (Preparatory) School Educational Services CMAP 921105 - Private Higher School Educational Services CMAP 921106 - Private Educational Services that Combine Preschool, Primary, Secondary, Middle High and Higher School Instruction
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI</i> <i>Ley para la Coordinación de la Educación Superior, Capítulo II</i> <i>Ley Federal de Educación, Capítulo III</i> <i>Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I</i>
Description:	<u>Investment</u> Prior approval of the Comisión Nacional de Inversiones Extranjeras is required for investors of another Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico that provides preschool, primary,

secondary, preparatory,
higher, worker or peasant, or
"normal" educational
services.

Phase-Out: None

Sector: Energy

Sub-Sector: Petroleum Products

Industry Classification: CMAP 623050 - Retail Sales
of Liquefied Petroleum Gas
(LPG)

Type of Reservation: National Treatment (Article
1102)

Level of Government: Federal

Measures: *Ley Reglamentaria del
Artículo 27 Constitucional en
el Ramo del Petróleo*

*Ley para Promover la
Inversión Mexicana y
Regular la Inversión
Extranjera, Capítulos I, II,
III, V, VI*

*Reglamento de la Ley
Reglamentaria del Artículo
27 Constitucional en el Ramo
del Petróleo, Capítulos I, IX,
XII*

*Reglamento de la
Distribución de Gas,
Capítulos I, II*

*Reglamento de la Ley para
Promover la Inversión
Mexicana y Regular la
Inversión Extranjera, Título
I; Título II, Capítulo I; Título
IV; Título V; Título VIII,*

Description:	Capítulos I, II, III, V; Título IX, Capítulo I <u>Investment</u>
Phase-Out:	None

Sector:	Energy
Sub-Sector:	Petroleum Products
Industry Classification:	CMAP 626000 - Retail Outlets of Gasoline and Diesel (including lubricants, oils and additives for resale in these retail outlets)
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI</i> <i>Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I</i> <i>Reglamento de la Ley</i>

*Reglamentaria del Artículo
27 Constitucional en el Ramo
del Petróleo, Capítulos I, II,
III, V, VII, IX, XII*

As qualified by the
Description element

Description:

Investment

Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may acquire, establish or operate retail outlets engaged in the sale or distribution of gasoline, diesel, lubricants, oils or additives.

Phase-Out:

None



Sector:

Fishing

Sub-Sector:

Industry Classification:

CMAF 130011 - Fishing on
the High Seas
CMAF 130012 - Coastal
Fishing
CMAF 130013 - Fresh Water
Fishing

Type of Reservation:

National Treatment (Article
1102)
Most-Favored-Nation
Treatment (Article 1103)

Level of Government:

Federal

Measures:

Ley de Pesca, Capítulos I, II,
IV

*Ley de Navegación y
Comercio Marítimos*, Libro
II, Título Unico, Capítulo V

Ley Federal del Mar, Título

I, Capítulo I

Ley Federal de Aguas

*Ley para Promover la
Inversión Mexicana y
Regular la Inversión
Extranjera, Capítulos I, II,
III, V, VI*

*Reglamento de la Ley para
Promover la Inversión
Mexicana y Regular la
Inversión Extranjera, Título
I; Título II, Cap ED;tulo I;
Título IV; Título V; Título
VIII, Capítulos I, II, III, V;
Título IX, Capítulo I*

*Reglamento de la Ley de
Pesca, Capítulos I, II, III, V,
VI, IX, XV*

Description:

Investment

With respect to an enterprise established or to be established in the territory of Mexico performing coastal fishing, fresh water fishing and fishing in the Exclusive Economic Zone, investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in such an enterprise.

With respect to an enterprise established or to be established in the territory of Mexico performing fishing on the high seas, prior approval of the Comisión Nacional de Inversiones Extranjeras is required for investors of another Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in such an

Phase-Out: enterprise.
None

Sector: Manufacturing and Assembly
of Goods

Sub-Sector: Auto Parts Industry

Industry Classification: CMAP 383103 -
Manufacturing of Parts and
Accessories for Electrical
Automotive Systems
CMAP 384121 -
Manufacture and Assembly
of Car and Truck Bodies and
Tows
CMAP 384122 -
Manufacture of Car and
Truck Motors and their Parts
CMAP 384123 -
Manufacture of Car and
Truck Transmission System
Parts
CMAP 384124 -
Manufacture of Car and
Truck Suspension System
Parts
CMAP 384125 -
Manufacture of Car and
Truck Brake System Parts
and Accessories
CMAP 384126 -
Manufacture of Other Car
and Truck Parts and
Accessories

Type of Reservation: National Treatment (Article
1102)

Level of Government: Federal

Measures: *Ley para Promover la
Inversión Mexicana y
Regular la Inversión
Extranjera, Capítulos I, II,*

III, V, VI

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I

Decreto para el Fomento y Modernización de la Industria Automotriz ("Auto Decree")

Acuerdo que Determina Reglas para la Aplicación del Decreto para el Fomento y Modernización de la Industria Automotriz

As qualified by the
Description element

Description:

Investment

1. Investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an "enterprise of the autoparts industry", as defined in Annex 300-A, established or to be established in the territory of Mexico.


2. Investors of another Party or their investments that qualify as "national suppliers", as defined in Annex 300-A, may own 100 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico and that engages in the supply of specified autoparts to producers of motor vehicles.

3. Investors of another Party or their investments may own up to 100 percent of the ownership interest in an enterprise producing autoparts established or to be established in the territory of Mexico, provided that the enterprise does not register with the Secretaría de Comercio y Fomento Industrial for purposes of the Auto Decree nor receive benefits under the Auto Decree. After the five-year transition period set out in the **Phase-Out** element, such firms shall be eligible to register or to receive benefits set forth in the Auto Decree as modified by Appendix 300-A.2 provided that such enterprise meets the requirements set out therein for national supplier or "enterprise of the autoparts industry" status.

Phase-Out:

Five years after the date of entry into force of this Agreement, investors of another Party or their investments may own 100 percent of the ownership interest in any enterprise of the autoparts industry established or to be established in the territory of Mexico.

See Schedule of Mexico, Annex I, page I-M-33.

 Sector:	Manufacture of Goods
Sub-Sector:	Automotive Industry
Industry Classification:	<p>CMAP 383103 - Manufacturing of Parts and Accessories for Electrical Automotive Systems</p> <p>CMAP 3841 - Automotive Industry</p> <p>CMAP 384121 - Manufacture and Assembly of Car and Truck Bodies and Tows</p> <p>CMAP 384122 - Manufacture of Car and Truck Motors and their Parts</p> <p>CMAP 384123 - Manufacture of Car and Truck Transmission System Parts</p> <p>CMAP 384124 - Manufacture of Car and Truck Suspension System Parts</p> <p>CMAP 384125 - Manufacture of Car and Truck Brake System Parts and Accessories</p> <p>CMAP 384126 - Manufacture of Other Car and Truck Parts and Accessories</p>
Type of Reservation:	Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<p><i>Decreto para el Fomento y Modernización de la Industria Automotriz ("Auto Decree")</i></p> <p><i>Acuerdo que Determina Reglas para la Aplicación del Decreto para el Fomento y Modernización de la Industria Automotriz</i></p> <p>As qualified by Description element</p>

Description: Investment

As set out in Annex 300-A

Phase-Out: As set out in Annex 300A

Sector: Manufacture of Goods

Sub-Sector: Maquiladora Industry

Industrial Classification:

Type of Reservation: Performance Requirements
(Article 1106)

Level of Government: Federal

Measures: *Ley Aduanera*, Título IV,
Capítulos I, III; Título V,
Capítulo II; Título VI

*Decreto para el Fomento y
Operación de la Industria
Maquiladora de Exportación*
("Maquiladora Decree")

As qualified by the
Description element

Description: Investment

Persons authorized by the
Secretaría de Comercio y
Fomento Industrial to operate
under the Maquiladora
Decree may not sell to the
domestic market more than
55 percent of the total value
of their annual exports in the
previous year.

Phase-Out: Sales of a maquiladora to the
domestic market may not
exceed:

(a) one year after the
date of entry into
force of this

Agreement, 60
percent of the total
value of its annual
exports in the
previous year;
(b) two years after the
date of entry into
force of this
Agreement, 65
percent of the total
value of its annual
exports in the
previous year;

(c) three years after
the date of entry into
force of this
Agreement, 70
percent of the total
value of its annual
exports in the
previous year;

(d) four years after the
date of entry into
force of this
Agreement, 75
percent of the total
value of its annual
exports in the
previous year;

(e) five years after the
date of entry into
force of this
Agreement, 80
percent of the total
value of its annual
exports in the
previous year; and

(f) six years after the
date of entry into
force of this
Agreement, 85
percent of the total
value of its annual
exports in the
previous year.

Seven years after the date of entry into force of this Agreement, sales of a maquiladora to the domestic market will not be subject to any percentage requirement.



Sector:	Manufacture of Goods
Sub-Sector:	
Industrial Classification:	
Type of Reservation:	Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<i>Ley Reglamentaria del Artículo 131 de la Constitución Política de los Estados Unidos Mexicanos en Materia de Comercio Exterior, Capítulo I</i> <i>Decreto para el Fomento y Operación de las Empresas Altamente Exportadoras, ("ALTEX Decree")</i>
Description:	<u>Investment</u> 1. "Direct exporters", as defined in the ALTEX Decree, authorized by the Secretaría de Comercio y Fomento Industrial to operate under that decree must export at least 40 percent of their total sales or US\$2,000,000. 2. "Indirect exporters", as defined in ALTEX Decree, authorized by the Secretaría de Comercio y Fomento Industrial to operate under

that decree must export at least 50 percent of their total sales.

Phase-Out:

Seven years after the date of entry into force of this Agreement, "direct and indirect exporters" will not be subject to the percentage requirements set out in the **Description** element.



Sector:

Manufacture of Goods

Sub-Sector:

Industrial Classification:

Type of Reservation:

Performance Requirements
(Article 1106)

Level of Government:

Federal

Measures:

*Ley Reglamentaria del
Artículo 131 de la
Constitución Política de los
Estados Unidos Mexicanos
en Materia de Comercio
Exterior, Capítulo I*

*Ley Aduanera, Título III,
Capítulo IV; Título IV,
Capítulos I, III*

*Decreto que Establece
Programas de Importación
Temporal para Producir
Artículos de Exportación,
("PITEX Decree")*

Description:

Investment

Persons authorized by the Secretaría de Comercio y Fomento Industrial to operate under the PITEX Decree are

required to export at least:

(a) 30 percent of their total production in order to be permitted to temporarily import duty-free

(i) machinery, equipment, instruments, molds and durable tools used in the manufacturing process, and equipment used to handle materials directly related to the exportation of goods, and

(ii) devices, equipment, accessories or other items related to the production of exported goods, including those used for research, industrial security, quality control, communication, training of personnel, informatics and environmental purposes; and

(b) 10 percent of their total production or

US\$500,000 in order to be permitted to temporarily import duty-free

(i) raw materials, parts and components totally used in the production of exported goods,

(ii) packages, bottles, containers and trailer's containers which are totally used to contain exported goods, and

(iii) fuel, lubricants, auxiliary materials, reparation tools and equipment consumed in the production of exported goods.

Phase-Out:

Seven years after the date of entry into force of this Agreement, such persons will not be subject to the percentage requirements set out in the **Description** element.

Sector:	Manufacture of Goods
Sub-Sector:	Artificial Explosives, Fireworks, Firearms and Cartridges
Industry Classification:	CMAP 352236 - Manufacturing of Artificial Explosives and Fireworks CMAP 382208 - Manufacturing of Firearms and Cartridges
Type of Reservation:	National Treatment (Article 1102) Senior Management and Boards of Directors (Article 1107)
Level of Government:	Federal
Measures:	<i>Ley Federal de Armas de Fuego y Explosivos, Título III, Capítulo I</i> <i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI</i> <i>Reglamento de la Ley Federal de Armas de Fuego y Explosivos, Capítulo IV</i> <i>Reglamento de la Ley Para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I, Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I</i>
Description:	<u>Investment</u> Investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in the territory of

Mexico that manufactures artificial explosives and fireworks, firearms, cartridges and ammunition.

No foreign national may appoint or be appointed a member of the board of directors or an officer of such an enterprise.

Phase-Out: None

Sector: Mining

Sub-Sector: Extraction and Exploitation of Minerals

Industry Classification: CMAP 210000 - Exploitation of Mineral Carbon
CMAP 231000 - Extraction of Minerals Containing Iron
CMAP 232001 - Extraction of Minerals Containing Gold, Silver and other Precious Minerals and Metals
CMAP 232002 - Extraction of Mercury and Antimony
CMAP 232003 - Extraction of Industrial Minerals Containing Lead and Zinc
CMAP 232004 - Extraction of Minerals Containing Copper
CMAP 232006 - Extraction of other Metallic Minerals not containing Iron
CMAP 291001 - Extraction of Sand and Gravel
CMAP 291002 - Extraction of Marble and other Gravels for Construction
CMAP 291003 - Exploitation of Feldspar

CMAP 291004 - Extraction of Kaolin, Clay and Refractory Minerals
CMAP 291005 - Extraction of Limestones
CMAP 291006 - Exploitation of Gypsum
CMAP 292001 - Extraction of Barium Oxide
CMAP 292002 - Extraction of Phosphoric Rock
CMAP 292003 - Extraction of Fluorite
CMAP 292004 - Extraction of Sulphur
CMAP 292005 - Extraction of other Minerals in order to Obtain Chemicals
CMAP 292006 - Extraction of Salt
CMAP 292007 - Extraction of Graphite
CMAP 292008 - Extraction of other Non-Metallic Minerals

Type of Reservation:

National Treatment (Article 1102)

Level of Government:

Federal

Measures:

Ley Minera, Capítulos I, II

Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI

Reglamento de la Ley Minera

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I, Título IV; Título V; Título VIII; Título IX, Capítulo I

As qualified by the **Description** element


Description:

Investment

Prior approval of the Comisión Nacional de Inversiones Extranjeras is required for investors of another Party or their investments to own, directly or indirectly, more than 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in the extraction or exploitation of any mineral.

Phase-Out:

Subject to Schedule of Mexico, Annex I, page I-M-4, five years after the date of entry into force of this Agreement, investors of another Party or their investments may own 100 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in extraction or exploitation of any mineral, without the prior approval of the Comisión Nacional de Inversiones Extranjeras.

 Sector:	Printing, Editing and Associated Industries
Sub-Sector:	Newspaper Publishing
Industry Classification:	CMAP 342001 - Newspaper Publishing
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal

Measures:

Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I

Description:

As qualified by the **Description** element

Investment

Investors of another Party or their investments may own, directly or indirectly, 100 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in the simultaneous printing and distribution in the territory of Mexico of a daily newspaper that is published outside of the territory of Mexico.

Investors of another Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in the printing or publication of daily newspapers written primarily for a Mexican audience and distributed in the territory of Mexico.

For purposes of this reservation, daily newspapers are those published at least

Phase-Out: five days a week.
None

Schedule of the United States

Sector: Energy
Sub-Sector: Atomic Energy
Industrial Classification:
Type of Reservation: National Treatment (Article 1102)
Level of Government: Federal
Measures: *Atomic Energy Act of 1954*, 42 U.S.C. §§ 2011 et seq.
Description: Investment

A license is required for any person in the United States to transfer, manufacture, produce, use or import any facilities that produce or use nuclear materials. Such a license may not be issued to any entity known or believed to be owned, controlled or dominated by an alien, a foreign corporation or a foreign government (42 U.S.C. §§ 2133, 2134). The issuance of a license is also prohibited for "production or utilization facilities" for such uses as medical therapy or research and development activities to any corporation or other entity owned, controlled or dominated by one of the foreign persons described above (42 U.S.C. § 2134(d)).

Phase-Out: None




Sector:	Business Services
Sub-Sector	Export Intermediaries
Industry Classification:	SIC 7389 - Business Services, Not Elsewhere Classified
Type of Reservation:	National Treatment (Article 1202) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Export Trading Company Act of 1982</i> , 15 U.S.C. §§ 4011-4021 15 C.F.R. Part 325
Description:	<u>Cross-Border Services</u> Title III of the <i>Export Trading Company Act of 1982</i> authorizes the Secretary of Commerce to issue "certificates of review" with respect to export conduct. The Act provides for the issuance of a certificate of review where the Secretary determines, and the Attorney General concurs, that the export conduct specified in an application will not have the anticompetitive effects proscribed by the Act. A certificate of review limits the liability under federal and state antitrust laws in engaging in the export conduct certified. Only a "person" as defined by the Act can apply for a certificate of review. "Person" means "an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local

government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between such persons."

A foreign national or enterprise may receive the protection provided by a certificate of review by becoming a "member" of a qualified applicant. The regulations define "member" to mean "an entity (U.S. or foreign) that is seeking protection under the certificate with the applicant. A member may be a partner in a partnership or a joint venture; a shareholder of a corporation; or a participant in an association, cooperative, or other form of profit or nonprofit organization or relationship, by contract or other arrangement."

Phase-Out: None

 **Sector:** Business Services
Sub-Sector: Export Intermediaries
Industry Classification: SIC 7389 - Business Services, Not Elsewhere Classified
Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)
Level of Government: Federal

Measures: *Export Administration Act of 1979, Pub. L. 96-72, as amended*

Export Administration Regulations, 15 C.F.R. Parts 768 through 799

Description: Cross-Border Services

With some limited exceptions, the export from the United States of all commodities, and all technical data, requires either a general license or a validated license or other authorization granted by the Office of Export Licensing, U.S. Department of Commerce. A general license requires no application or documentation and is generally available for use by all persons.

An application for a validated license may be made only by a person subject to the jurisdiction of the United States who is in fact the exporter, or by his duly authorized agent. An application may be made on behalf of a person not subject to the jurisdiction of the United States by an authorized agent in the United States, who then becomes the applicant.

Phase-Out: None

▲
Sector: Communications
Sub-Sector: Telecommunications
(Enhanced or Value-Added Services)
Industry Classification: CPC 7523 - Data and

	<p>Message Transmission Services CPC 75299 - Other Telecommunications Services Not Elsewhere Classified (limited to enhanced or value-added services)</p>
Type of Reservation:	National Treatment (Article 1102)
Level of Government:	Federal
Measures:	<p><i>F.C.C. Decision, <u>International Communications Policies Governing Designation of Recognized Private Operating Agencies</u>, 104 F.C.C. 2d 208, n. 123, n. 126 (1986)</i></p> <p>47 C.F.R. § 64.702 (definition of enhanced or value-added services)</p>
Description:	<p><u>Investment</u></p> <p>If a U.S.-based foreign-owned enhanced service provider obtains voluntary Recognized Private Operating Agency certification from the U.S. Department of State for purposes of negotiating operating agreements with governments other than the U.S. Government, it must submit copies of all operating agreements granted to it by foreign governments and evidence of any refusal of a foreign government to grant it an operating agreement. For purposes of this rule, a service provider is generally considered to be "foreign owned" if 20 percent or more of its stock is owned by persons who are not U.S. citizens.</p>

Phase-Out: None

▲

Sector: Manufacturing

Sub-Sector: Agricultural Chemicals

Industry Classification: SIC 2879 - Pesticides and Agricultural Chemicals, Not Elsewhere Classified

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Federal Insecticide, Fungicide and Rodenticide Act*, 7 U.S.C. §§ 136 et seq.

Description: Investment

The Administrator of the Environmental Protection Agency may not knowingly disclose information submitted by an applicant or registrant under the *Federal Insecticide, Fungicide and Rodenticide Act*, without consent, to any foreign or multinational business or entity, or any employee or agent of such business or entity, engaged in the production, sale or distribution of pesticides in countries other than the United States or to any person who intends to deliver such data to that business, entity, employee or agent (7 U.S.C. § 136h(g)).

Phase-Out: None

▲

Sector: Mining

Sub-Sector:

Industrial Classification:

Type of Reservation:	National Treatment (Article 1102) Most-Favored-Nation Treatment (Article 1103)
Level of Government:	Federal
Measures:	<i>Mineral Lands Leasing Act of 1920</i> , 30 U.S.C. Chapter 3A 43 C.F.R. § 3102 43 C.F.R. § 2882.2-1 10 U.S.C. § 7435
Description:	<u>Investment</u> Under the <i>Mineral Lands Leasing Act of 1920</i> , aliens and foreign corporations may not acquire rights-of-way for oil or gas pipelines, or pipelines carrying products refined from oil and gas, across on-shore federal lands or acquire leases or interests in certain minerals on on-shore federal lands, such as coal or oil. Non-U.S. citizens may own a 100 percent interest in a domestic corporation that acquires a right-of-way for oil or gas pipelines across on-shore federal lands, or that acquires a lease to develop mineral resources on on-shore federal lands, unless the foreign investor's home country denies similar or like privileges for the mineral or access in question to U.S. citizens or corporations, as compared with the privileges it accords to its own citizens or corporations or to the citizens or corporations of other countries (30 U.S.C. §§ 181, 185(a)). Nationalization is not

considered to be denial of similar or like privileges.

Foreign citizens, or corporations controlled by them, are restricted from obtaining access to federal leases on Naval Petroleum Reserves if the laws, customs or regulations of their country deny the privilege of leasing public lands to citizens or corporations of the United States (10 U.S.C. § 7435).

Phase-Out: None

▲

Sector: Professional Services

Sub-Sector: Patent Attorneys and Patent Agents and other Practice before the Patent and Trademark Office

Industry Classification: SIC 7389 - Business Services, Not Elsewhere Classified
SIC 8111 - Legal Services

Type of Reservation: National Treatment (Article 1202)
Most-Favored-Nation Treatment (Article 1203)
Local Presence (Article 1205)

Level of Government: Federal

Measures: 35 U.S.C. Chapter 3 (practice before the U.S. Patent and Trademark Office)

37 C.F.R. Part 10
(representation of others before the U.S. Patent and Trademark Office)

Description: Cross-Border Services

As a condition to be registered to practice for others before the U.S. Patent

and Trademark Office
(USPTO) :

(a) a patent attorney must be a U.S. citizen or an alien lawfully residing in the United States (37 C.F.R. § 10.6(a)) ;

(b) a patent agent must be a U.S. citizen, an alien lawfully residing in the United States or a non-resident who is registered to practice in a country that permits patent agents registered to practice before the USPTO to practice in that country (37 C.F.R. § 10.6(c)) ; and

(c) a practitioner in trademark and non-patent cases must be an attorney licensed in the United States, a "grandfathered" agent, an attorney licensed to practice in a country that accords equivalent treatment to attorneys licensed in the United States, or an agent registered to practice in such a country (37 C.F.R. § 10.14(a) -(c)).

Phase-Out:

Citizenship and permanent residency requirements are subject to removal within two years of the date of entry into force of this Agreement in accordance with Article 1210(3).

Sector:

Public Administration

Sub-Sector:

Industrial Classification:

Type of Reservation:

National Treatment (Article 1102)

Level of Government: Most-Favored-Nation Treatment (Article 1103)
Measures: Federal
22 U.S.C. §§ 2194(a) and (b) and 2198(c)
Description: Investment
The Overseas Private Investment Corporation insurance and loan guarantees are not available to certain aliens, foreign enterprises or foreign-controlled domestic enterprises.
Phase-Out: None

▲
Sector: Transportation
Sub-Sector: Air Transportation
Industry Classification: SIC 3721 - Aircraft Repair and Rebuilding on a Factory Basis
SIC 4581 - Aircraft Repair (Except on a Factory Basis)
Type of Reservation: Most-Favored-Nation Treatment (Article 1203)
Level of Government: Federal
Measures: 49 App. U.S.C. §§ 1354, 14211430
14 C.F.R. §§ 43 and 145
Agreement Concerning Airworthiness Certification, Exchange of Letters between the United States and Canada dated August 31, 1984, TIAS 11023, as amended
Description: Cross-Border Services
For aircraft repair, overhaul or maintenance activities performed outside the territory of the United States,

during which an aircraft is withdrawn from service, U.S. measures require that, in order to perform work on U.S.registered aircraft, foreign air repair stations must be certified by the Federal Aviation Administration with continuing oversight provided by the Federal Aviation Administration.

Pursuant to an airworthiness agreement between the United States and Canada, the United States recognizes the certifications and oversight provided by Canada for all repair and maintenance facilities and individuals performing the work located in Canada.

Phase-Out: None

▲

Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: SIC 4512 - Air Transportation Scheduled
SIC 4513 - Air Courier Services
SIC 4522 - Air Transportation Non-scheduled

Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)
Senior Management and Boards of Directors (Article 1107)

Level of Government: Federal

Measures: *Federal Aviation Act of 1958*, 49 App. U.S.C. Ch. 20

Description: Investment

Only air carriers that are "citizens of the United States" may operate aircraft in domestic air service (cabotage) and may provide international scheduled and non-scheduled air service as U.S. air carriers.

U.S. citizens also have blanket authority to engage in indirect air transportation activities (air freight forwarding and charter activities other than as actual operators of the aircraft). In order to conduct such activities, non-U.S. citizens must obtain authority from the Department of Transportation. Applications for such authority may be rejected for reasons relating to the failure of effective reciprocity, or if the Department of Transportation finds that it is in the public interest to do so.

Under the *Federal Aviation Act of 1958*, a "citizen of the United States" means:

- (a) an individual who is a U.S. citizen;
- (b) a partnership in which each member is a U.S. citizen; or
- (c) a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, and at least 75 percent of the voting interest in the corporation is owned or controlled by U.S. citizens

(49 App. U.S.C. § 1301(16)).

In addition, this statutory requirement has historically been interpreted by the Department of Transportation (and the Civil Aeronautics Board before it) to require that an air carrier in fact be under the actual control of U.S. citizens. The Department of Transportation makes this determination on a casebycase basis, and has provided guidance as to certain lines of demarcation. For example, total foreign equity investment of up to 49 percent (with a maximum of 25 percent being voting stock), by itself, is not construed as indicative of foreign control. See Department of Transportation Order 91-1-41, January 23, 1991.

Phase-Out: None

▲
Sector: Transportation
Sub-Sector: Air Transportation
Industry Classification: SIC 0721 - Crop Planting, Cultivating, and Protecting (limited to aerial dusting and spraying, dusting crops, with or without fertilizing, spraying crops, with or without fertilizing)
SIC 0851 - Forestry Services (limited to aerial fire fighting)
SIC 4522 - Air Transportation, Nonscheduled (limited to air taxi services, sightseeing airplane services)

SIC 7319 - Advertising, Not Elsewhere Classified (limited to aerial advertising, sky writing)
SIC 7335 - Commercial Photography (limited to aerial photographic service, except mapmaking)
SIC 7389 - Business Services, Not Elsewhere Classified (limited to mapmaking, including aerial; pipeline and powerline inspection services; and firefighting service, other than forestry)
SIC 7997 - Membership Sports & Recreation Clubs (limited to aviation clubs, membership)
SIC 8299 - Schools & Education Services, Not Elsewhere Classified (limited to flying instruction)
SIC 8713 - Surveying Services (limited to aerial surveying)

Type of Reservation:

National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)
Senior Management and Boards of Directors (Article 1107)

Level of Government:

Federal

Measures:

Federal Aviation Act of 1958,
49 App. U.S.C. Ch. 20

14 C.F.R. § 375

As qualified by paragraph 2
of the **Description** element

Description:

Cross-Border Services

1. Authorization from the

Department of Transportation is required for the provision of specialty air services in the territory of the United States.

A person of Canada or Mexico that provides aerial construction, helilogging, aerial sightseeing, flight training, aerial inspection and surveillance and aerial spraying services may not be authorized to provide those services if there is inadequate reciprocity on the part of the country of the applicant, or if approval would otherwise not be in the public interest.

2. A person of Mexico or Canada may obtain such authorization to provide, subject to compliance by that person with U.S. safety regulations, aerial mapping, aerial surveying, aerial photography, forest fire management, fire fighting, aerial advertising, glider towing and parachute jumping.

Investment

3. "Foreign civil aircraft" require authority from the Department of Transportation to conduct specialty air services in the territory of the United States. "Foreign civil aircraft" are aircraft of foreign registry or aircraft of U.S. registry that are owned, controlled or operated by persons who are not citizens or permanent residents of the United States (14 C.F.R. § 375.1). Under the *Federal Aviation Act of 1958*, a "citizen of the United States"

means:

- (a) an individual who is a U.S. citizen;
- (b) a partnership in which each member is a U.S. citizen; or
- (c) a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, and at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens (49 App. U.S.C. § 1301(16)).

In addition, this statutory requirement has historically been interpreted by the Department of Transportation (and the Civil Aeronautics Board before it) to require that an air carrier in fact be under the actual control of U.S. citizens. The Department of Transportation makes this determination on a casebycase basis, and has provided guidance as to certain lines of demarcation. For example, total foreign equity investment of up to 49 percent (with a maximum of 25 percent being voting stock), by itself, is not construed as indicative of foreign control. See Department of Transportation Order 91-1-41, January 23, 1991.

Phase-Out:

Cross-Border Services

A person of Canada or Mexico will be permitted to obtain, subject to compliance with U.S. safety requirements, authorization to provide the following specialty air services in the territory of the United States:

(a) two years after the date of entry into force of this Agreement, aerial construction and helilogging;

(b) three years after the date of entry into force of this Agreement, aerial sightseeing, flight training and aerial inspection and surveillance services; and

(c) six years after the date of entry into force of this Agreement, aerial spraying services.

Investment: None

▲
Sector: Transportation
Sub-Sector: Land Transportation
Industry Classification: SIC 4213 - Trucking, Except Local
SIC 4215 - Courier Services, Except by Air
SIC 4131 - Intercity and Rural Bus Transportation
SIC 4142 - Bus Charter Service, Except Local
SIC 4151 - School Buses

	(limited to interstate transportation not related to school activity)
Type of Reservation:	National Treatment (Articles 1102, 1202) Most-Favored-Nation Treatment (Articles 1103, 1203) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	49 U.S.C. § 10922(l) (1) and (2) 49 U.S.C. § 10530(3) 49 U.S.C. §§ 10329, 10330 and 11705 19 U.S.C. § 1202 49 C.F.R. § 1044 Memorandum of Understanding Between the United States of America and the United Mexican States on Facilitation of Charter/Tour Bus Service, December 3, 1990
Description:	As qualified by paragraph 2 of the Description element <u>Cross-Border Services</u> 1. Operating authority from the Interstate Commerce Commission (ICC) is required to provide interstate or cross-border for hire bus or truck services in the territory of the United States. A moratorium remains in place on new grants of operating authority for persons of Mexico. 2. The moratorium does not apply to the provision of

crossborder charter or tour bus services.

3. Under the moratorium, persons of Mexico without operating authority may operate only within ICC Border Commercial Zones, for which ICC operating authority is not required. Persons of Mexico providing truck services, including for hire, private, and exempt services, without operating authority are required to obtain a certificate of registration from the ICC to enter the United States and operate to or from the ICC Border Commercial Zones. Persons of Mexico providing bus services are not required to obtain an ICC certificate of registration to provide these services to or from the ICC Border Commercial Zones.

4. Only persons of the United States, using U.S.registered and either U.S.-built or dutypaid trucks or buses, may provide truck or bus service between points in the territory of the United States.

Investment

5. The moratorium has the effect of being an investment restriction because enterprises of the United States providing bus or truck services that are owned or controlled by persons of Mexico may not obtain ICC operating authority.

Phase-Out:

Cross-Border Services

A person of Mexico will be permitted to obtain operating

authority to provide:

(a) three years after the date of signature of this Agreement, crossborder truck services to or from border states (California, Arizona, New Mexico and Texas), and such persons will be permitted to enter and depart the territory of United States through different ports of entry;

(b) three years after the date of entry into force of this Agreement, crossborder scheduled bus services; and

(c) six years after the date of entry into force of this Agreement, crossborder truck services.

Investment


A person of Mexico will be permitted to establish an enterprise in the United States to provide:

(a) three years after the date of signature of this Agreement, truck services for the transportation of international cargo between points in the United States; and

(b) seven years after

the date of entry into force of this Agreement, bus services between points in the United States.

The moratorium will remain in place on grants of authority for the provision of truck services by persons of Mexico between points in the United States for the transportation of goods other than international cargo.

	
Sector:	Transportation Services
Sub-Sector:	Customs Brokers
Industry Classification:	SIC 4731 - Arrangement of Transportation of Freight and Cargo
Type of Reservation:	National Treatment (Articles 1102, 1202) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	19 U.S.C. § 1641(b)
Description:	<u>Cross-Border Services and Investment</u>

A customs broker's license is required to conduct customs business on behalf of another person. Only U.S. citizens may obtain such a license. A corporation, association or partnership established under the law of any state may receive a customs broker's license if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's

license.
Phase-Out: None. Subject to discussion by the Parties five years after the date of entry into force.

▲
Sector: All Sectors
Sub-Sector:
Industrial Classification:
Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)
Level of Government: Federal
Measures: *Securities Act of 1933*, 15 U.S.C. §§ 77C(b), 77f, 77g, 77h, 77j and 77s(a)

17 C.F.R. §§ 230.251 and 230.405

Securities Exchange Act of 1934, 15 U.S.C. §§ 78l, 78m, 78o(d) and 78w(a)

17 C.F.R. § 240.12b-2
Description: Investment

Foreign firms, except for certain Canadian issuers, may not use the small business registration forms under the *Securities Act of 1933* to register securities that the firms issue or qualify to use the less costly standards under the rules.
Phase-Out: None

▲
Sector: Waste Management
Sub-Sector:
Industry Classification: SIC 4952 - Sewerage System

Type of Reservation:	Performance Requirements (Article 1106)
Level of Government:	Federal
Measures:	<i>Clean Water Act</i> , 33 U.S.C. §§ 1251 <u>et seq.</u>
Description:	<u>Investment</u> The <i>Clean Water Act</i> authorizes grants for the construction of treatment plants for municipal sewage or industrial waste. Grant recipients may be privately-owned enterprises. The Act provides that grants shall be made for treatment works only if such articles, materials and supplies as have been manufactured, mined or produced in the United States will be used in the treatment works. The Administrator of the Environmental Protection Agency has authority not to apply this provision, for example, if the cost of the articles in question is unreasonable (33 U.S.C. § 1295).
Phase-Out:	None
