

Annex I  
Reservations for Measures referred to  
in paragraph 1 of Article 6

1. The Schedule of a Contracting Party sets out, pursuant to paragraph 1 of Article 6, the reservations taken by that Contracting Party with respect to existing measures that do not conform with obligations imposed by:

- (a) Article 2 (National Treatment);
- (b) Article 3 (Most Favored Nation Treatment);
- (c) Article 5 (Performance Requirements); or
- (d) Article 10 (Senior Management and Boards of Directors).

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, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Measures" identifies the existing laws, regulations or other measures 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; and
- (f) "Description" sets out, with regard to the obligations referred to in paragraph 1, the non-conforming aspects of the existing measures for which the reservation is taken.

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 this Agreement against which the reservation is taken. The "Measures" element shall prevail over all other elements.

4. For the purposes of this Annex,

- (a) the term "JSIC" means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on November 6, 2007;
- (b) the term "CPC" means the Provisional Central Product Classification (Statistical paper Series M, No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991); and
- (c) the term "ISIC" means the International Standard Industrial Classification of All Economic Activities adopted, at its seventh session on August 27, 1948 and revised on May 22, 1989, by the Economic and Social Council of the United Nations.

Section 1  
Schedule of Japan

1 Sector: Finance

Sub-Sector: Banking

Industry Classification: JSIC 622 Banks, except central bank

JSIC 631 Financial institutions for small-businesses

Type of Reservation: National Treatment (Article 2)

Measures: Deposit Insurance Law (Law No. 34 of 1971), Article 2

Description: The deposit insurance system only covers financial institutions which have their head offices within the jurisdiction of Japan. The deposit insurance system does not cover deposits taken by branches of foreign banks.

2 Sector: Heat Supply

Sub-Sector:

Industry JSIC 3511 Heat Supply  
Classification:

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in heat supply industry in Japan.

3 Sector: Information and Communications

Sub-Sector: Telecommunications

Industry Classification: JSIC 3700 Head offices primarily engaged in managerial operations

JSIC 3711 Regional telecommunications, except wire broadcast telephones

JSIC 3731 Services incidental to telecommunications

Type of Reservation: National Treatment (Article 2)

Senior Management and Boards of Directors (Article 10)

Measures: Law Concerning Nippon Telegraph and Telephone Corporation (Law No. 85 of 1984), Articles 6 and 10

Description: 1. Nippon Telegraph and Telephone Corporation may not enter the name and address in its register of shareholders if the aggregate of the ratio of the voting rights directly and/or indirectly held by the persons set forth in subparagraphs (a) through (c) reaches or exceeds one third:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign government or its representative; and
- (c) a foreign legal person or a foreign entity.

2. Any natural person who does not have Japanese nationality may not assume the office of director or auditor of Nippon Telegraph and Telephone Corporation, Nippon Telegraph and Telephone East Corporation and Nippon Telegraph and Telephone West Corporation.

4 Sector: Information and Communications

Sub-Sector: Telecommunications and Internet Based Services

Industry Classification: JSIC 3711 Regional telecommunications, except wire broadcast telephones

JSIC 3712 Long-distance telecommunications

JSIC 3719 Miscellaneous fixed telecommunications

JSIC 3721 Mobile telecommunications

JSIC 401 Internet based services

Note: The activities covered by the reservation under JSIC 3711, 3712, 3719, 3721 or 401 are limited to the activities which are subject to the registration obligation under Article 9 of the Telecommunications Business Law (Law No. 86 of 1984).

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in telecommunications business and internet based services in Japan.

5 Sector: Manufacturing

Sub-Sector: Drugs and Medicines Manufacturing

Industry Classification: JSIC 1653 Biological preparations

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in biological preparations manufacturing industry in Japan. For greater certainty, "biological preparations manufacturing industry" deals with economic activities in an establishment which mainly produces vaccine, serum, toxoid, antitoxin and some preparations similar to the aforementioned products, or blood products.

6	Sector:	Manufacturing	
	Sub-Sector:	Leather and Leather Products Manufacturing	
	Industry Classification:	JSIC 1189	Textile apparel and accessories, n.e.c.
		JSIC 1694	Gelatine and adhesives
		JSIC 192	Rubber and plastic footwear and its findings
		JSIC 2011	Leather tanning and finishing
		JSIC 2021	Mechanical leather products, except gloves and mittens
		JSIC 2031	Cut stock and findings for boots and shoes
		JSIC 2041	Leather footwear
		JSIC 2051	Leather gloves and mittens
		JSIC 2061	Baggage
		JSIC 207	Handbags and small leather cases
		JSIC 2081	Fur skins
		JSIC 2099	Miscellaneous leather products
		JSIC 3253	Sporting and athletic goods

Note 1: The activities covered by the reservation under JSIC 1189 or 3253 are limited to the activities related to leather and leather products manufacturing.

Note 2: The activities covered by the reservation under JSIC 1694 are limited to the activities related to animal glue (nikawa) and gelatine manufacturing.

Type of  
Reservation:

National Treatment (Article 2)

Measures:

Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description:

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in leather and leather products manufacturing industry in Japan.

7 Sector: Matters Related to the Nationality of  
a Ship

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Senior Management and Boards of  
Directors (Article 10)

Measures: Ship Law (Law No. 46 of 1899),  
Article 1

Description: The Japanese nationality shall be  
given to a ship whose owner is a  
Japanese national, or a company  
established under Japanese law, of  
which all the representatives and not  
less than two-thirds of the  
executives administering the affairs  
are Japanese nationals.

8 Sector: Mining

Sub-Sector:

Industry Classification: JSIC 05 Mining and quarrying of stone and gravel

Type of Reservation: National Treatment (Article 2)

Measures: Mining Law (Law No. 289 of 1950), Chapters 2 and 3

Description: Only a Japanese national or a Japanese legal person may have mining rights or mining lease rights.

9 Sector: Oil Industry

Sub-Sector:

Industry Classification:	JSIC 053	Crude petroleum and natural gas production
	JSIC 1711	Petroleum refining
	JSIC 1721	Lubricating oils and greases (not made in petroleum refineries)
	JSIC 1741	Paving materials
	JSIC 1799	Miscellaneous petroleum and coal products
	JSIC 4711	Ordinary warehousing
	JSIC 4721	Refrigerated warehousing
	JSIC 5331	Petroleum
	JSIC 6051	Petrol stations (gasoline service stations)
	JSIC 6052	Fuel stores, except gasoline service stations
	JSIC 9299	Miscellaneous business services, n.e.c.

Note 1: The activities covered by the reservation under JSIC 1741, 1799, 4711, 4721 or 6052 are limited to the activities related to oil industry.

Note 2: The activities covered by the reservation under JSIC 9299 are limited to the activities related to liquefied petroleum gas industry.

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in oil industry in Japan. All organic chemicals such as ethylene, ethylene glycol and polycarbonates are outside the scope of the oil industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investment in the manufacture of these products.

10 Sector: Agriculture, Forestry and Fisheries, and Related Services (except Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf provided for in the reservation No. 8 in the Schedule of Japan in Annex II)

Sub-Sector:

Industry Classification:	JSIC 01	Agriculture
	JSIC 02	Forestry
	JSIC 03	Fisheries, except aquaculture
	JSIC 04	Aquaculture
	JSIC 6324	Agricultural cooperatives
	JSIC 6325	Fishery and fishery processing cooperatives
	JSIC 871	Agriculture, forestry and fisheries cooperative associations, n.e.c.

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in agriculture, forestry and fisheries, and related services (except fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf provided for in the reservation No. 8 in the Schedule of Japan of Annex II) in Japan.

11 Sector: Security Guard Services

Sub-Sector:

Industry JSIC 9231 Guard services  
Classification:

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in security guard services in Japan.

12 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4600 Head offices primarily engaged in managerial operations

JSIC 4611 Air transport

Type of Reservation: National Treatment (Article 2)

Most Favored Nation Treatment (Article 3)

Senior Management and Boards of Directors (Article 10)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Description: 1. The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in air transport business in Japan.

2. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting air transport business as a Japanese air carrier is not granted to the following natural persons or entities applying for the permission:

(a) a natural person who does not have Japanese nationality;

(b) a foreign country, or a foreign public entity or its equivalent;

- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event an air carrier falls into a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the air carriers.

3. A Japanese air carrier or a company having substantial control over such air carrier, such as a holding company, may reject the request from a natural person or an entity set forth in subparagraphs 2(a) through (c), who owns equity investments in such air carrier or company, to enter its name and address in the register of shareholders, in the event such air carrier or company falls into a legal person referred to in subparagraph 2(d) by accepting such request.

4. Foreign air carriers are required to obtain permission of the Minister of Land, Infrastructure, Transport and Tourism to conduct international air transport business.

5. Permission of the Minister of Land, Infrastructure, Transport and Tourism is required for the use of foreign aircraft for air transport of passengers or cargoes to and from Japan for remuneration.

6. A foreign aircraft may not be used for a flight between points within Japan.

13 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4600 Head offices primarily engaged in managerial operations

JSIC 4621 Aircraft service, except air transport

Type of Reservation: National Treatment (Article 2)

Senior Management and Boards of Directors (Article 10)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Description: 1. The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in aerial work business in Japan.

2. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting aerial work business is not granted to the following natural persons or entities applying for the permission:

(a) a natural person who does not have Japanese nationality;

(b) a foreign country, or a foreign public entity or its equivalent;

(c) a legal person or other entity constituted under the laws of any foreign country; and

- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event a person conducting aerial work business falls into a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the person conducting aerial work business.

3. A foreign aircraft may not be used for a flight between points within Japan.

14 Sector: Transport

Sub-Sector: Air Transport (Registration of Aircraft in the National Register)

Industry Classification:

Type of Reservation: National Treatment (Article 2)  
Senior Management and Boards of Directors (Article 10)

Measures: Civil Aeronautics Law (Law No. 231 of 1952), Chapter 2

Description: 1. An aircraft owned by any of the following natural persons or entities may not be registered in the national register:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. A foreign aircraft may not be registered in the national register.

15 Sector: Transport

Sub-Sector: Freight Forwarding Business  
(excluding freight forwarding  
business using air transportation)

Industry Classification: JSIC 4441 Collect-and-deliver  
freight transport

JSIC 4821 Deliver freight  
transport, except  
collect-and-deliver  
freight transport

Type of Reservation: National Treatment (Article 2)

Most Favored Nation Treatment  
(Article 3)

Senior Management and Boards of  
Directors (Article 10)

Measures: Freight Forwarding Business Law (Law  
No. 82 of 1989), Chapters 2 through 4

Enforcement Regulation of Freight  
Forwarding Business Law (Ministerial  
Ordinance of the Ministry of  
Transport No. 20 of 1990)

Description: The following natural persons or  
entities are required to be  
registered with, or to obtain  
permission or approval of, the  
Minister of Land, Infrastructure,  
Transport and Tourism for conducting  
freight forwarding business using  
international shipping. Such  
registration shall be made, or such  
permission or approval shall be  
granted, on the basis of reciprocity:

- (a) a natural person who does not  
have Japanese nationality;
- (b) a foreign country, or a foreign  
public entity or its equivalent;
- (c) a legal person or other entity  
constituted under the laws of  
any foreign country; and

- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

16 Sector: Transport

Sub-Sector: Freight Forwarding Business (only freight forwarding business using air transportation)

Industry Classification: JSIC 4441 Collect-and-deliver freight transport

JSIC 4821 Deliver freight transport, except collect-and-deliver freight transport

Type of Reservation: National Treatment (Article 2)

Most Favored Nation Treatment (Article 3)

Senior Management and Boards of Directors (Article 10)

Measures: Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2 through 4

Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport No. 20 of 1990)

Description: 1. The following natural persons or entities may not conduct freight forwarding business using air transportation between points within Japan:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and

- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. The natural persons or entities referred to in subparagraphs 1(a) through (d) are required to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism for conducting freight forwarding business using international air transportation. Such registration shall be made, or such permission or approval shall be granted, on the basis of reciprocity.

17 Sector: Transport

Sub-Sector: Railway Transport

Industry Classification: JSIC 421 Railway transport  
 JSIC 4851 Railway facilities services

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in railway transport industry in Japan. The manufacture of vehicles, parts and components for the railway transport industry is not included in railway transport industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

18    Sector:                    Transport

      Sub-Sector:                Road Passenger Transport

      Industry                    JSIC 4311            Common omnibus operators

      Classification:

      Type of                      National Treatment (Article 2)

      Reservation:

      Measures:                    Foreign Exchange and Foreign Trade  
  Law (Law No. 228 of 1949), Article 27

  Cabinet Order on Foreign Direct  
  Investment (Cabinet Order No. 261 of  
  1980), Article 3

      Description:                 The prior notification requirement  
  under the Foreign Exchange and  
  Foreign Trade Law applies to foreign  
  investors who intend to make  
  investments in omnibus industry in  
  Japan. The manufacture of vehicles,  
  parts and components for omnibus  
  industry is not included in omnibus  
  industry. Therefore, prior  
  notification under the Foreign  
  Exchange and Foreign Trade Law is not  
  required for the investments in the  
  manufacture of these products.

19 Sector: Transport

Sub-Sector: Water Transport

Industry Classification: JSIC 452 Coastwise transport  
 JSIC 453 Inland water transport  
 JSIC 4542 Coastwise ship leasing

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in water transport industry in Japan. For greater certainty, "water transport industry" refers to oceangoing/seagoing transport, coastwise transport (i.e. maritime transport between ports within Japan), inland water transport and ship leasing industry. However, oceangoing/seagoing transport industry and ship leasing industry excluding coastwise ship leasing industry are exempted from the prior notification requirement.

20 Sector: Transport

Sub-Sector: Water Transport

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment  
(Article 3)

Measures: Ship Law (Law No. 46 of 1899),  
Article 3

Description: Unless otherwise specified in laws  
and regulations of Japan, or  
international agreements to which  
Japan is a party, ships not flying  
the Japanese flag are prohibited from  
entering Japanese ports which are not  
open to foreign commerce and from  
carrying cargoes or passengers  
between Japanese ports.

21 Sector: Water Supply and Waterworks

Sub-Sector:

Industry Classification: JSIC 3611 Water for end users,  
except industrial users

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Exchange and Foreign Trade  
Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct  
Investment (Cabinet Order No. 261 of  
1980), Article 3

Description: The prior notification requirement  
under the Foreign Exchange and  
Foreign Trade Law applies to foreign  
investors who intend to make  
investments in water supply and  
waterworks industry in Japan.



2    Sector:                    All Sectors

      Sub-Sector:

      Industry  
      Classification:

      Type of                    National Treatment (Article 2)  
      Reservation:

      Measures:                Decreto 2080 de 2000, Art. 26 and 27

      Description:              Foreign investors may make portfolio  
   investments in securities in Colombia  
   only through a foreign capital  
   investment fund (*fondo de inversión  
   de capital extranjero*).

3 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Senior Management and Boards of  
Directors (Article 10)

Measures: As set out in the Description  
element, including Articles 3, 11 of  
*Ley 226 de 1995*.

Description: Colombia, 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  
Japan or of a non-Contracting Party  
or their investments. With respect to  
such a sale or other disposition,  
Colombia may adopt or maintain any  
measure relating to the nationality  
of senior management or members of  
the board of directors.

Relevant existing legislation  
concerning this non-conforming  
measure includes *Ley 226 de 1995*. In  
this respect, if Colombia decides to  
sell all or part of its interest in  
an enterprise to a person other than  
a Colombian state enterprise or other  
Colombian government entity, it shall  
first offer such interest  
exclusively, and under the conditions  
established in article 11 of *Ley 226  
de 1995*, to:

current, pensioned, and former employees (other than former employees terminated for just cause) of the enterprise and of other enterprises owned or controlled by the enterprise;  
associations of employees and former employees of the enterprise;  
employee unions;  
federations and confederations of trade unions;  
employee funds ("fondos de empleados");  
pension and severance funds; and  
cooperative entities<sup>1</sup>

However, once such interest has been transferred or sold, Colombia does not reserve the right to control any subsequent transfer or other disposal of such interest.

For purposes of this reservation:

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  
"state enterprise" means an enterprise owned or controlled through ownership interests by Colombia 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.

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<sup>1</sup> For greater certainty, *Ley 454 de 1998* establishes the type of cooperative entities existing in Colombia. There are "cooperativas de ahorro y crédito", "cooperativas financieras" and "cooperativas multiactivas o integrales".

4 Sector: Fishing and Services Related to Fishing

Sub-Sector: Other Business Services  
Fishing, aquaculture and service activities incidental to fishing

Industry Classification: CPC 882 Services incidental to fishing  
ISIC 0501 Fishing

Type of Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment (Article 3)

Measures: Decreto 2256 de 1991, Art. 27, 28 and 67  
Acuerdo 005 de 2003, Sección II and VII

Description: A foreign flagged vessel may obtain a permit and engage in commercial fishing and related activities in Colombian territorial waters only in association with a Colombian enterprise that owns a permit. In this case, the costs of the permit and fishing license are higher for foreign-flagged vessels than for Colombian-flagged vessels.

If the flag of a foreign-flagged vessel is that of a country that is a party to another bilateral agreement with Colombia, the terms of that other bilateral agreement shall determine whether or not the requirement to associate with a Colombian enterprise that owns a permit applies.

5 Sector: Private Security and Surveillance Services

Sub-Sector: Other Business Services

Industry Classification: CPC 873 Investigation and security

Type of Reservation: National Treatment (Article 2)

Measures: *Decreto 356 de 1994*, Art. 8, 12, 23 and 25

Description: Partners or members of private security and surveillance services enterprises must be Colombian nationals.

Enterprises established prior to February 11, 1994 with foreign members or foreign capital may not increase the participation of foreign members. Cooperatives organized before that date may retain their juridical form.

6 Sector: Journalism

Sub-Sector: News agency services

Industry Classification: CPC 6921 news agency services to newspapers and periodicals

Type of Reservation: Senior Management and Board of Directors (Article 10)

Measures: Ley 29 de 1944, Art. 13

Description: The director or general manager of a newspaper published in Colombia that focuses on Colombian politics must be a Colombian national.

7 Sector: Domiciliary Public Services

Sub-Sector:

Industry  
Classification:

Type of Reservation: National Treatment (Article 2)

Measures: *Ley 142 de 1994*, Artículos 1, 17, 18, 19 and 23

*Código de comercio*, Art. 471 and 472

Description: An enterprise in which a locally organized community holds a controlling interest shall be given a preference over enterprises with otherwise equivalent bids in the granting of a concession or license for the provision of domiciliary public services to that community.

For the purposes of this reservation entry, domiciliary public services include the provision of water, sewage, refuse disposal, electric power, combustible gas distribution, and basic public-switched telephone services (PSTN) and any activities supplemental thereto. Activities supplemental to basic public-switched telephone services means long-distance public telephone and fixed wireless local loop telephone services in rural areas, but does not include commercial mobile telephone services.

8 Sector: Cinematography

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Performance Requirements (Article 5)

Measures: Ley 814 de 2003, Art. 5, 14, 15, 18 y  
19

Description: The exhibition and distribution of  
foreign films is subject to the  
Cinematographic Development Fee,  
which is set at 8.5 per cent of the  
monthly net income derived from such  
exhibition and distribution.

The fee applied to an exhibitor is  
reduced to 2.25 percent, when a  
foreign movie is exhibited together  
with a Colombian short film.

Until 2013, the fee applied to a  
distributor is reduced to 5.5 percent  
if, during the preceding year, the  
percentage of Colombian full-length  
films it distributed to cinemas and  
other exhibitors equaled or exceeded  
the target percentage set by the  
government.

9 Sector: Radio Broadcasting Services

Sub-Sector:

Industry  
Classification:

Type of Reservation: Senior Management and Board of Directors (Article 10)

Measures: Ley 80 de 1993, Art. 35  
Decreto 1447 de 1995, Art. 7, 9 y 18

Description: The directors of informative or journalist programs must be a Colombian national.

- 10 Sector: Free-to-air Television  
Audio-Visual Production Services
- Sub-Sector:
- Industry  
Classification:
- Type of Reservation: National Treatment (Article 2)  
Performance Requirements (Article 5)
- Measures: Ley 014 de 1991, Art. 37  
Ley 680 de 2001, Art. 1 y 4  
Ley 335 de 1996, Art. 13 y 24  
Ley 182 de 1995, Art. 37 numeral 3,  
Art. 47 y Art. 48  
Acuerdo 002 de 1995, Art. 10  
parágrafo  
Acuerdo 023 de 1997, Art. 8 Parágrafo  
Acuerdo 024 de 1997, Art. 6 y 9  
Acuerdo 020 de 1997, Art. 3 y 4
- Description: Foreign equity in any enterprise  
holding a free-to-air television  
concession is limited to 40 percent.
- National Television  
Suppliers (operators and/or persons  
granted the right to use programming  
slots) of free-to-air national  
television services must broadcast  
nationally produced programming on  
each channel as follows:
- (a) a minimum of 70 per cent between  
19:00 hours and 22:30 hours,
  - (b) a minimum of 50 per cent between  
22:30 hours and 24:00 hours,
  - (c) a minimum of 50 per cent between  
10:00 hours and 19:00 hours,
  - (d) a minimum of 60 per cent for  
Saturdays, Sundays, and holidays  
between 19:00 hours and 22:30  
hours

Regional and Local Television

Regional television may be supplied only by state-owned entities. Suppliers of regional and local free-to-air television services must broadcast a minimum of 50 percent nationally produced programming on each channel.

11 Sector: Subscription Television  
Audio-visual Production Services

Sub-Sector:

Industry  
Classification:

Type of Reservation: Performance Requirements (Article 5)

Measures: Ley 680 de 2001, Art. 4 y 11  
Ley 182 de 1995, Art. 42  
Acuerdo 014 de 1997, Art.14, 16 y 30  
Ley 335 de 1996, Art. 8  
Acuerdo 032 de 1998, Art. 7 y 9

Description: Enterprises that supply subscription television services must make available to subscribers, at no additional cost, those free-to-air Colombian national, regional, and municipal television channels available in the authorized area of coverage. The transmission of regional and municipal channels will be subject to the technical capacity of the subscription television operator.

Suppliers of satellite subscription television only have the obligation of including in their basic programming the transmission of the public interest channels of the Colombian State. When rebroadcasting free-to-air programming subject to a domestic content quota, a subscription television provider may not modify the content of the original signal.

Subscription television not including satellite

The concessionaire of subscription television that transmits commercials different from those of origin must comply with the minimum percentages of nationally produced programming required of suppliers of free-to-air national television services as described in the entry on free-to-air television and audio-visual production services of the schedule of Colombia of this Annex. Colombia interprets Article 16 of *Acuerdo 014 de 1997* as not requiring subscription television suppliers to comply with minimum percentages of nationally produced programming when commercials are inserted into programming outside the territory of Colombia. Colombia will continue to apply this interpretation, subject to Article 6.1 (d).

Suppliers of cable television services must produce and broadcast in Colombia a minimum of one hour of programming each day between 18:00 hours and 24:00 hours.

12 Sector: Waste-Related Services

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)

Measures: Decreto 2080 de 2000, Art. 6

Description: Foreign investment is not permitted  
in activities related to the  
processing, disposition, and disposal  
of toxic, hazardous or radioactive  
waste not produced in Colombia.

13 Sector: Transport services

Sub-Sector: Maritime Transportation  
Fluvial Transportation

Industry Classification: CPC 72 Water transport services

Type of Reservation: Performance Requirements (Article 5)  
Senior Management and Board of Directors (Article 10)

Measures: Decreto 804 de 2001, Art. 2 and 4 numeral 4  
Código de Comercio, Art. 1455  
Decreto Ley 2324 de 1984, Art. 99, 101 and 124  
Ley 658 de 2001, Art. 11  
Decreto 1597 de 1998, Art. 23

Description: In Colombian flag vessels and foreign-flagged vessels (except those relating to fishing) that operate in Colombian jurisdictional waters for a period of time longer than six months, continuous or discontinuous, from the date of the issuing of the respective permit, the captain, officials and at least 80 per cent of the rest of the crew must be Colombians.

14 Sector: Transport

Sub-Sector: Specialty Air Services

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment  
(Article 3)  
Performance Requirements (Article 5)

Measures: *Código de Comercio*, Artículos 1795 y  
1864

Description: Only Colombian nationals or juridical  
persons organized under Colombian law  
may own and maintain real and  
effective control of an airplane  
registered to supply specialty air  
services in Colombia.

All specialty air services companies  
established in Colombia as an agency  
or branch shall employ Colombian  
workers in a proportion of no less  
than 90 per cent for its operation in  
Colombia. This percentage shall not  
apply to foreign workers from  
countries that accord reciprocity to  
Colombian workers. The aeronautic  
authority may allow, under justified  
reasons and for the necessary time,  
the no application of the workforce  
limitation mentioned.

15 Sector: Finance

Sub-Sector: Financial Services. Banking and other financial services (excluding insurance)

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Measures: *Decreto 2419 de 1999, Art. 1 (en concordancia con la Ley 270 de 1996, Art. 203*

*Decreto 1065 de 1999, Art. 16).*

Description: The sums of money subject to court or police order, including *cauciones*<sup>2</sup>, and funds consigned under leases must be deposited in the *Banco Agrario de Colombia. S.A.*, which may derive a competitive advantage with respect to its overall operations from all or some portion of that exclusive right.

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<sup>2</sup> A *caución*, under Colombian law, is a deposit of money made under court order - for example, by a civil defendant in return for the court lifting an injunction won by the plaintiff against certain assets of the defendant.

16 Sector: Finance

Sub-Sector: Financial Services. Banking and other financial services (excluding insurance)

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Measures: Estatuto Orgánico del Sistema Financiero

Description: Colombia may grant advantages or exclusive rights to the following financial entities:

- *Fondo para el Financiamiento del Sector Agropecuario (FINAGRO);*
- *Banco Agrario de Colombia;*
- *Fondo Nacional de Garantías;*
- *Financiera Eléctrica Nacional (FEN);*
- *Financiera de Desarrollo Territorial (FINDETER);*
- *Fiduciaria La Previsora;*
- *Instituto Colombiano de Crédito Educativo y Estudios Técnicos en el Exterior (ICETEX);*
- *Banco de Comercio Exterior (BANCOLDEX);*
- *Fondo Financiero de Proyectos de Desarrollo (FONADE).*

The advantages or exclusive rights may include, but are not limited to, the following:<sup>3</sup>

- exemption from certain taxation;
- exemption from registration and periodic reporting requirements for the issuance of securities; and
- purchase by the government of Colombia, through any public entity of Colombia, of obligations issued by the entities listed above.

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<sup>3</sup> For greater certainty, and notwithstanding the location of this non-conforming measure within Annex I, the Parties understand that the advantages or exclusive rights that a Party may grant to the specified entities are not limited only to the cited examples.

Annex II  
Reservations for Measures referred to  
in paragraph 2 of Article 6

1. The Schedule of a Contracting Party sets out, pursuant to paragraph 2 of Article 6, the reservations taken by that Contracting Party with respect to specific sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 2 (National Treatment);
- (b) Article 3 (Most Favored Nation Treatment);
- (c) Article 5 (Performance Requirements); or
- (d) Article 10 (Senior Management and Boards of Directors).

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, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Description" sets out the scope of the sector, sub-sector or activities covered by the reservation; and
- (f) "Existing Measures" identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the reservation.

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

4. For the purposes of this Annex, the term "JSIC" means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on November 6, 2007.

Section 1  
Schedule of Japan

1	Sector:	All Sectors
	Sub-Sector:	
	Industry Classification:	
	Type of Reservation:	National Treatment (Article 2)  Senior Management and Boards of Directors (Article 10)
	Description:	When transferring or disposing of its equity interests in, or the assets of, a state enterprise or a governmental entity, Japan reserves the right to:  (a) prohibit or impose limitations on the ownership of such interests or assets by investors of the Republic of Colombia or their investments;  (b) impose limitations on the ability of investors of the Republic of Colombia or their investments as owners of such interests or assets to control any resulting enterprise; or  (c) adopt or maintain any measure relating to the nationality of executives, managers or members of the board of directors of any resulting enterprise.
	Existing Measures:	

2 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Senior Management and Boards of  
Directors (Article 10)

Description: In the event where the supply of  
telegraph services, postal services  
and betting and gambling services,  
manufacture of tobacco products,  
manufacture of Bank of Japan notes,  
minting and sale of coinage in Japan,  
which are restricted to designated  
enterprises or governmental entities,  
are liberalized to those other than  
the designated enterprises or  
governmental entities, or in the  
event where such designated  
enterprises or governmental entities  
no longer operate on a non-commercial  
basis, Japan reserves the right to  
adopt or maintain any measure  
relating to those activities.

Existing  
Measures:

3 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Most Favored Nation Treatment  
(Article 3)

Description: 1. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement in force on, or signed prior to, the date of entry into force of this Agreement.

2. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement, other than the agreement referred to in paragraph 1, involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters including salvage.

Existing  
Measures:

4 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment  
(Article 3)

Description: National Treatment and Most Favored  
Nation Treatment may not be accorded  
to investors of the Republic of  
Colombia and their investments with  
respect to subsidies.

Existing  
Measures:

5 Sector: Aerospace Industry

Sub-Sector: Aircraft Industry

Space Industry

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)

Performance Requirements (Article 5)

Senior Management and Boards of  
Directors (Article 10)

Description: Japan reserves the right to adopt or  
maintain any measure relating to  
investment in aircraft industry and  
space industry.

Existing  
Measures: Foreign Exchange and Foreign Trade  
Law (Law No. 228 of 1949), Articles  
27 and 30

Cabinet Order on Foreign Direct  
Investment (Cabinet Order No. 261 of  
1980), Articles 3 and 5

6 Sector: Arms and Explosives Industry

Sub-Sector: Arms Industry

Explosives Manufacturing Industry

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)

Performance Requirements (Article 5)

Senior Management and Boards of  
Directors (Article 10)

Description: Japan reserves the right to adopt or  
maintain any measure relating to  
investment in arms industry and  
explosives manufacturing industry.

Existing  
Measures: Foreign Exchange and Foreign Trade  
Law (Law No. 228 of 1949), Articles  
27 and 30

Cabinet Order on Foreign Direct  
Investment (Cabinet Order No. 261 of  
1980), Articles 3 and 5

7 Sector: Energy

Sub-Sector: Electricity Utility Industry  
Gas Utility Industry  
Nuclear Energy Industry

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Performance Requirements (Article 5)  
Senior Management and Boards of  
Directors (Article 10)

Description: Japan reserves the right to adopt or  
maintain any measure relating to  
investment in the energy industry  
listed in the "Sub-Sector" element.

Existing  
Measures: Foreign Exchange and Foreign Trade  
Law (Law No. 228 of 1949), Articles  
27 and 30  
Cabinet Order on Foreign Direct  
Investment (Cabinet Order No. 261 of  
1980), Articles 3 and 5

8 Sector: Fisheries

Sub-Sector: Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf

Industry Classification: JSIC 031 Marine fisheries  
 JSIC 032 Inland water fisheries  
 JSIC 041 Marine aquaculture  
 JSIC 042 Inland water aquaculture  
 JSIC 8093 Recreational fishing guide business

Type of Reservation: National Treatment (Article 2)  
 Most Favored Nation Treatment (Article 3)  
 Performance Requirements (Article 5)  
 Senior Management and Boards of Directors (Article 10)

Description: Japan reserves the right to adopt or maintain any measure relating to investment in fisheries in the territorial sea, internal waters, exclusive economic zone and continental shelf of Japan.

For the purposes of this reservation, the term "fisheries" means the work of taking and cultivation of aquatic resources, including the following fisheries related activities:

- (a) investigation of aquatic resources without taking such resources;
- (b) luring of aquatic resources;
- (c) preservation and processing of fish catches;
- (d) transportation of fish catches and fish products; and

(e) provision of supplies to other vessels used for fisheries.

Existing  
Measures:

Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Law for Regulation of Fishing Operation by Foreign Nationals (Law No. 60 of 1967), Articles 3, 4 and 6

Law concerning the Exercise of Sovereign Rights concerning Fisheries in the Exclusive Economic Zones (Law No. 76 of 1996), Articles 4, 5, 7, 8, 9, 10, 11, 12 and 14

9 Sector: Information and Communications

Sub-Sector: Broadcasting Industry

Industry Classification: JSIC 380 Establishments engaged in administrative or ancillary economic activities

JSIC 381 Public broadcasting, except cablecasting

JSIC 382 Private-sector broadcasting, except cablecasting

JSIC 383 Cablecasting

Type of Reservation: National Treatment (Article 2)

Performance Requirements (Article 5)

Senior Management and Boards of Directors (Article 10)

Description: Japan reserves the right to adopt or maintain any measure relating to investment in broadcasting industry.

Existing Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Radio Law (Law No. 131 of 1950), Article 5

Broadcast Law (Law No. 132 of 1950), Articles 93, 116, 125, 159 and 161

10 Sector: Land Transaction

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment  
(Article 3)

Description: With respect to the acquisition or  
lease of land properties in Japan,  
prohibitions or restrictions may be  
imposed by Cabinet Order on foreign  
nationals or legal persons, where  
Japanese nationals or legal persons  
are placed under identical or similar  
prohibitions or restrictions in the  
foreign country.

Existing  
Measures: Alien Land Law (Law No. 42 of 1925),  
Article 1

11 Sector: Public Law Enforcement and  
Correctional Services and Social  
Services

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment  
(Article 3)  
Performance Requirements (Article 5)  
Senior Management and Boards of  
Directors (Article 10)

Description: Japan reserves the right to adopt or  
maintain any measure relating to  
investments in public law enforcement  
and correctional services, and in  
social services such as income  
security or insurance, social  
security or insurance, social  
welfare, primary and secondary  
education, public training, health  
and child care.

Existing  
Measures:

Section 2  
Schedule of Colombia

1 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)

Description: Colombia reserves the right to adopt or maintain any measure related to ownership of real property by foreigners in border regions, national coasts, or insular territory of Colombia.

For purposes of this reservation:

- (a) border region means a zone of two kilometres in width, parallel to the national border line;
- (b) national coast means a zone of two kilometres in width, parallel to the line of the highest tide; and
- (c) insular territory means islands, islets, keys, headlands, and shoals that are part of the territory of Colombia.

Existing  
Measures:

2 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Most Favored Nation Treatment  
(Article 3)

Description: Colombia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Colombia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

- (a) aviation;
- (b) fisheries; and
- (c) maritime matters, including salvage.

Existing  
Measures:

3 Sector: Social Services

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment  
(Article 3)  
Performance Requirements (Article 5)  
Senior Management and Board of  
Directors (Article 10)

Description: Colombia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: social re-adaptation, income security or insurance, social security, social welfare, public training and education, health, and child care.

For greater certainty, the social security system (*Sistema de Seguridad Social Integral*) of Colombia is currently comprised of the following mandatory systems: pensions (*Sistema General de Pensiones*), health insurance (*Sistema General de Seguridad Social en Salud*), workers compensation (*Sistema General de Riesgos Profesionales*), and severance pay (*Régimen de Cesantía y Auxilio de Cesantía*).

Existing  
Measures:

4 Sector: Issues Related to Minorities and Ethnic Groups

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment (Article 3)  
Performance Requirements (Article 5)  
Senior Management and Board of Directors (Article 10)

Description: Colombia reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities and ethnic groups, including with respect to the communal lands held by ethnic groups in accordance with Art. 63 of the Constitución Política de Colombia. The ethnic groups in Colombia are: indigenous and Rom (gypsy) people, Afro-Colombian communities and the Raizal community of the Archipelago of San Andres, Providencia, and Santa Catalina.

Existing Measures:

5 Sector: Cultural Industries and Activities

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)  
Most Favored Nation Treatment  
(Article 3)

Description: For the purposes of this reservation,  
the term "cultural industries and  
activities" means:

- (a) publication, distribution, or  
sale of books, magazines,  
periodical publications, or  
printed or electronic  
newspapers, excluding the  
printing and typesetting of any  
of the foregoing;
- (b) production, distribution, sale,  
or display of recordings of  
movies or videos;
- (c) production, distribution, sale,  
or display of music recordings  
in audio or video format;
- (d) production and presentation of  
performing arts;
- (e) production and exhibition of  
visual arts;
- (f) production, distribution, or  
sale of printed music scores or  
scores readable by machines;
- (g) design, production,  
distribution, and sale of  
handicrafts; or
- (h) radiobroadcasts aimed at the  
public in general, as well as  
all radio, television, and cable  
television-related activities;  
satellite programming services;  
and broadcasting networks.

- (i) design and creation of advertising contents

Colombia reserves the right to adopt or maintain any measure according preferential treatment to persons of any other country pursuant to any agreement between Colombia and such other country containing specific commitments regarding cultural cooperation or co-production in cultural industries and activities.

For greater certainty, articles 2 and 3 do not apply to "government support"<sup>1</sup> for the promotion of cultural industries and activities.

Colombia may adopt or maintain any measure that accords a person of another Party treatment equivalent to that accorded by that other Party to Colombian persons in the audiovisual, publishing, or music sector.

Existing  
Measures:

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<sup>1</sup> For purposes of this entry, "government support" means tax incentives, incentives for the reduction of mandatory contributions, government grants, government-supported loans, and guaranties, trusts, or insurance provided by a government, irrespective of whether a private entity is wholly or partially responsible for management of the government support.

6 Sector: Jewelry Design  
Performing Arts  
Music  
Visual Arts  
Audiovisuals  
Publishing

Sub-Sector:

Industry  
Classification:

Type of Reservation: Performance Requirements (Article 5)

Description: Colombia reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government support<sup>2</sup> for the development and production of jewelry design, performing arts, music, visual arts, and publishing on the achievement by the recipient of a given level or percentage of domestic creative content.

For greater certainty, this reservation does not apply to advertising and performance requirements shall in all cases be consistent with the Agreement on Trade-Related Investment Measures in Annex 1A to the WTO Agreement.

Existing Measures:

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<sup>2</sup> As defined in the footnote to the previous entry.

7 Sector: Handicraft Industries

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Performance Requirements (Article 5)

Description: Colombia reserves the right to adopt or maintain any measure relating to the design, distribution, retailing, or exhibition of handicrafts that are identified as handicrafts of Colombia.

For greater certainty, performance requirements shall in all cases be consistent with the Agreement on Trade-Related Investment Measures in Annex 1A to the WTO Agreement.

Existing  
Measures:

8 Sector: Information and Communications

Sub-Sector: Audiovisual Services  
Advertising

Industry  
Classification:

Type of Reservation: Performance Requirements (Article 5)

Description: Cinematographic Works  
(a) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed 15 per cent) of the total cinematographic works shown on an annual basis in cinemas or exhibition rooms in Colombia consist of Colombian cinematographic works. In establishing such a percentage, Colombia shall take into account national cinematographic production conditions, the existing exhibition infrastructure in the country, and attendance averages.

Cinematographic Works over Free-to-Air Television

(b) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed 10 per cent) of the total cinematographic works shown on an annual basis on free-to-air television channels consist of Colombian cinematographic works. In establishing such a percentage, Colombia shall take into account the availability of national cinematographic works for free-to-air television. Such works will count towards the domestic content requirements applied to the channel as described in the entry on free-to-air television and audiovisual production services of the schedule of Colombia in Annex I.

Community Television<sup>3</sup>

(c) Colombia reserves the right to adopt or maintain any measure requiring that a specified portion of weekly programming for community television (not to exceed 56 hours per week) consist of national programming produced by the community television operator.

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<sup>3</sup> As defined in Acuerdo 006 de 1999.

Multichannel Free-to-Air Commercial  
Television

- (d) Colombia reserves the right to impose the minimum programming requirements appearing in the entry on free-to-air television and audio-visual production services of the schedule of Colombia in Annex I on multichannel free-to-air commercial television, except that such requirements may not be imposed on more than two channels or 25 per cent of the total number of channels (whichever is greater) made available by an individual service provider.

Advertising

- (e) Colombia reserves the right to adopt or maintain any measure requiring that a specific percentage (not to exceed 20 per cent) of total advertising orders placed annually with media services companies established in Colombia, other than newspapers, daily newspapers, and subscription services with headquarters outside Colombia, be produced and created in Colombia. Any such measure shall not apply to: (i) the advertisement in cinemas and exhibition rooms of upcoming movies; and, (ii) any media where the programming or content originates outside Colombia or to the rebroadcast or retransmission of such programming within Colombia.

Existing  
Measures:

9 Sector: Traditional Expressions

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 2)

Description: Colombia reserves the right to adopt or maintain any measure according to rights or preferences to local communities with respect to the support and development of expressions relating to intangible cultural heritage declared pursuant to *Resolución No. 0168 de 2005*.

This intangible cultural heritage includes but is not limited to:

- (a) Languages and oral expressions;
- (b) Musical, dancing and sound expressions;
- (c) Ritual, scenic and ceremonial expressions, festive acts and traditional plays;
- (d) Knowledge, capabilities and techniques relating to the elaboration of objects, designs and corporal painting;
- (e) Social applications, knowledge and practices of the human being, nature and the universe;
- (f) Knowledge and practice relating to traditional juridical systems; and
- (g) Knowledge, practice and techniques relating to gastronomy.

Existing  
Measures:

10 Sector: Interactive Audio and Video Services

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Performance Requirements (Article 5)

Description: 1. Subject to paragraphs 2 and 3, Colombia reserves the right to adopt or maintain measures to ensure that, upon a finding by the Government of Colombia that Colombian audiovisual content is not readily available to Colombian consumers, access to Colombian audiovisual programming through interactive audio and/or video services is not unreasonably denied to Colombian consumers.

2. Colombia shall publish in advance any measure that it proposes to adopt addressing the unreasonable denial of access to Colombian consumers of Colombian audiovisual content through interactive audio and/or video services and shall provide interested persons a reasonable opportunity to comment on the proposed measure. At least 90 days before any proposed measure is adopted, Colombia shall notify the other Parties of the proposed measure. The notification shall provide information with respect to the proposed measure, including information that forms the basis for the Government of Colombia's finding that Colombian audiovisual content is not readily available to Colombian consumers and a description of the proposed measure. Such measures must be consistent with Colombia's obligations under the GATS.

3. Japan may request consultations with Colombia regarding the proposed measure. Colombia shall begin consultations with Japan within 30 days of the receipt of the request. Colombia may exercise its right under paragraph 1 only if, as a result of these consultations: (i) Japan agrees that Colombian audiovisual content is not readily available to Colombian consumers and that the proposed measure is based on objective criteria and has the least trade-restrictive impact possible; (ii) Colombia agrees that the measure would be applied only to a service supplied in Colombia by a company established in Colombia; and (iii) Japan and Colombia agree on trade-liberalizing compensation in the interactive audio and/or video services sector.

Existing  
Measures:

11 Sector: Finance

Sub-Sector: Financial Services

Industry  
Classification:

Type of  
Reservation: Most Favored Nation Treatment  
(Article 3)

Description: Colombia reserves the right to adopt or maintain any measure that accords treatment inconsistent with most-favored-nation treatment under any bilateral or multilateral international agreement in effect or signed before the date of entry into force of this Agreement.

In accordance with the prior paragraph, Colombia reserves the right to adopt or maintain any measure that accords treatment inconsistent with most-favored-nation treatment, for the purpose of complying with the Cartagena Agreement and judicial decisions of the Andean Community.

Existing  
Measures:

Annex III  
referred to in Article 11

1. The Contracting Parties confirm their shared understanding that paragraph 1 of Article 11 addresses the following two situations:

- (a) the first situation is direct expropriation, where investments are nationalized or otherwise directly expropriated through formal transfer of title or outright seizure; and
- (b) the second situation is indirect expropriation, where a measure or a series of measures of a Contracting Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

2. The determination of whether a government measure or a series of government measures of a Contracting Party, in a specific fact situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:

- (a) the economic impact of the government measure or series of government measures, although the fact that such measure or series of such measures has an adverse effect on the economic value of investments, standing alone, does not establish that an indirect expropriation has occurred;
- (b) the extent to which the government measure or series of government measures interferes with distinct and reasonable expectations arising out of investments;
- (c) the character of the government measure or series of government measures, including whether such measure is non-discriminatory; and
- (d) the objectives of the government measure or series of government measures including whether such measure is taken for legitimate public objectives.

3. Except in such circumstances as when a measure or a series of measures is so severe in the light of their purpose that they cannot be reasonably viewed as having been adopted and applied in good faith, non-discriminatory measures of a Contracting Party that are designed and applied to protect legitimate public welfare objectives in accordance with paragraph 1 of Article 15 do not constitute indirect expropriation.