

CA1
EA
92N54
V. III
DOCS

.62447605(E) v.3

NON - CIRCULATING 7
CONSULTER SUR PLACE

NORTH AMERICAN FREE TRADE AGREEMENT

PART III

Dept. of External Affairs
Min. des Affaires extérieures

OCT 8 1992

RETURN TO DEPARTMENTAL LIBRARY
RETOURNER A LA BIBLIOTHEQUE DU MINISTRE

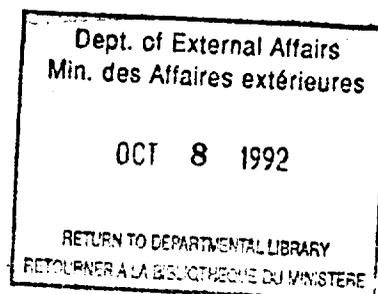
October 7, 1992

Canada

PART III

NORTH AMERICAN FREE TRADE AGREEMENT

43-263-961.



- Text prepared October 7, 1992 -



(Publié également en français)

October 7, 1992

Annex I

1. The Schedule of a Party sets out, pursuant to Articles 1108(1), 1206(1) and 1409(4), the reservations taken by that Party with respect to existing non-conforming measures that derogate from an obligation relating to:

- (a) national treatment, pursuant to Article 1102 (Investment), 1202 (Cross-Border Trade in Services) or 1405 (Financial Services),
- (b) most-favored-nation treatment, pursuant to Article 1103 (Investment), 1203 (Cross-Border Trade in Services) or 1406 (Financial Services),
- (c) local presence, pursuant to Article 1205 (Cross-Border Trade in Services),
- (d) performance requirements, pursuant to Article 1106 (Investment), or
- (e) nationality requirements for senior management or members of boards of directors, pursuant to Article 1107 (Investment),

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

5. For purposes of this Annex:

CMAF means *Clasificación Mexicana de Actividades y Productos (CMAF)* 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.

October 7, 1992

Annex I
Schedule of Canada

Sector: Agriculture

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Farm Credit Act*, R.S.C. 1985, c. F-2

Farm Credit Regulations, C.R.C. 1978, c. 644

Description: Investment

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

October 7, 1992

Annex I - Canada

- Sector:** All Sectors
- Sub-Sector:**
- Industry Classification:**
- Type of Reservation:** National Treatment (Article 1102)
Performance Requirements (Article 1106)
Senior Management (Article 1107)
- Level of Government:** Federal
- Measures:** *Investment Canada Act*, R.S.C. 1985, c. 28
(1st Supp.)

Investment Canada Regulations, SOR/85-611
- Description:** As qualified by paragraphs 8 through 12 of the Description element
- Investment
1. Under the *Investment Canada Act*, 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 1138, 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:

$$\text{Annual Adjustment} = \frac{\text{Current nominal GDP at market prices}}{\text{Previous year nominal GDP at market prices}}$$

"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.

October 7, 1992

Annex I - Canada

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)
Senior Management (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

October 7, 1992

Annex I - Canada

- (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

October 7, 1992

Annex I - Canada

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

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

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

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:

Industry Classification:

Type of Reservation: Senior Management (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.

October 7, 1992

Annex I - Canada

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:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Citizenship Act*, R.S.C. 1985, c. C-29
Foreign Ownership of Land Regulations, SOR/79-416

Description: 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

October 7, 1992

Annex I - Canada

(c) mines or minerals.

Phase-Out:

None

Sector: All Sectors

Sub-Sector:

Industry 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 "non-resident" may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For each company the restrictions are 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

"Non-resident" 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 non-residents as defined in any of paragraphs (a) through (c);
- (e) a trust
 - (i) established by a non-resident 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 non-residents 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

October 7, 1992

Annex I - Canada

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: Local Presence (Article 1205)

Level of Government: Federal

Measures: *Export and Import Permits Act*, R.S.C. 1985, c. E-19

Description: Cross-Border Services

Only individuals ordinarily resident in Canada, enterprises having their head office in Canada or branch offices in Canada of a foreign enterprise may apply for and be issued import or export permits or a transit authorization certificate for goods and related services subject to controls under the *Export and Import Permits Act*.

Phase-Out: None

Sector: Automotive

Sub-Sector:

Industry Classification:

Type of Reservation: Performance Requirements (Article 1106)

Level of Government: Federal

Measures: *Canada - United States Free Trade Agreement Implementation Act, S.C. 1988, c. 65*

Description: Investment

Canada may grant waivers of customs duties conditioned, explicitly or implicitly, on the fulfillment of performance requirements by those manufacturers of automotive goods:

- (a) 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 (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.

October 7, 1992

Annex I - Canada

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: *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.)
Duty Free Shop Regulations, SOR/86-1072

Description: Cross-Border Services and Investment

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.

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

- (a) be incorporated in Canada; and

October 7, 1992

Annex I - Canada

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

Phase-Out:

None

October 7, 1992

Annex I - Canada

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: *Cultural Property Export and Import Act*, R.S.C. 1985, c. C-51

Description: Cross-Border Services

Only a "resident of Canada" or an "institution" in Canada may be designated as an "expert examiner" of cultural property for purposes of the *Cultural Property Export and Import Act*. 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, Not Elsewhere Classified (limited to patent agency)
Type of Reservation:	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).

October 7, 1992

Annex I - Canada

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: *Trade-Marks Act*, R.S.C. 1985, c. T-13
Trade-Marks Regulations, C.R.C. 1978, c. 1559

Description: Cross-Border Services

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 added to the register of trade-mark agents.

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: 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: *Canada Petroleum Resources Act*, R.S.C. 1985, c. 36 (2nd Supp.)

Territorial Lands Act, R.S.C. 1985, c. T-7

Public Lands Grants Act, R.S.C. 1985, c. P-30

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

Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Canada Oil and Gas Land Regulations, 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

October 7, 1992

Annex I - Canada

Resources is satisfied that the Canadian ownership rate of the interest-owner 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: *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*

Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

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

Measures implementing Yukon Oil and Gas Accord

Measures implementing Northwest Territories Oil and Gas Accord

As qualified by paragraphs 5 and 6 of the **Description** element

Description: Cross-Border Services and Investment

1. Under the *Canada Oil and Gas Operations Act*, 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.

October 7, 1992

Annex I - Canada

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

October 7, 1992

Annex I - Canada

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

Description: 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-26.

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:	<i>Investment Canada Act</i> , R.S.C. 1985, c. 28 (1st Supp.) <i>Investment Canada Regulations</i> , SOR/85-611 <i>Policy on Non-Resident Ownership in the Uranium Mining Sector</i> , 1987
Description:	<u>Investment</u> Ownership by "non-Canadians", as defined in the <i>Investment Canada Act</i> , 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 "Canadian-controlled" as defined in the <i>Investment Canada Act</i> . 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 non-Canadians, made prior to December 23, 1987 and that are beyond the permitted ownership level, may remain in place. No increase in non-Canadian ownership is permitted.
Phase-Out:	None

October 7, 1992

Annex I - Canada

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: *Coastal Fisheries Protection Act*, R.S.C. 1985, c. C-33
Fisheries Act, R.S.C. 1985, c. F-14
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

October 7, 1992

Annex I - Canada

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: *Coastal Fisheries Protection Act*, R.S.C. 1985, c. C-33

Description: Cross-Border Services

Under the *Coastal Fisheries Protection Act*, 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

October 7, 1992

Annex I - Canada

Sector: 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 (Article 1107)

Level of Government: Federal

Measures: *National Transportation Act, 1987, R.S.C. 1985, c. 28 (3rd Supp.)*
Aeronautics Act, R.S.C. 1985, c. A-2
Air Regulations, C.R.C. 1978, c. 2
Aircraft Marking and Registration Regulations, SOR/90-591

Description:

Investment

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) "non-scheduled 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 in accordance with a public interest test.

"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 "non-Canadian" 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 (Article 1107)
Level of Government:	Federal
Measures:	<i>Aeronautics Act</i> , R.S.C. 1985, c. A-2 <i>Air Regulations</i> , C.R.C. 1978, c. 2 <i>Aircraft Marking and Registration Regulations</i> , SOR/90-591 As qualified by paragraph 2 of the Description element
Description:	<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.

October 7, 1992

Annex I - Canada

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: *Aeronautics Act, R.S.C., 1985, c. A-2*

Airworthiness Manual, chapters 573 and 575, made under the authority of Air Regulations, C.R.C. 1978, c. 2

Agreement Concerning Airworthiness Certification, Exchange of Letters between Canada and the United States, dated August 31, 1984, CTS 1984/26

Description: Cross-Border Services

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

October 7, 1992

Annex I - Canada

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: *Motor Vehicle Transport Act, 1987, R.S.C. 1985, c. 29 (3rd Supp.), Parts I and II*
National Transportation Act, 1987, R.S.C. 1985, c. 28 (3rd Supp.), Part IV
Customs Tariff, R.S.C. 1985, c. 41 (3rd Supp.)

Description: Cross-Border Services
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

October 7, 1992

Annex I - Canada

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: *Canada Shipping Act*, R.S.C. 1985, c. S-9, Part II

Description: Cross-Border Services

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-10.

Phase-Out: None

October 7, 1992

Annex I - Canada

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: *Canada Shipping Act, R.S.C. 1985, c. S-9, Part II*

Description: Cross-Border Services

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

October 7, 1992

Annex I - Canada

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

October 7, 1992

Annex I - Canada

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: *Shipping Conference Exemption Act, 1987, R.S.C. 1985, c. 17 (3rd Supp.)*

Description: Cross-Border Services

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

October 7, 1992

Annex I - Canada

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: *Coasting Trade Act*, S.C. 1992, c. 31

Description: Cross-Border Services

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

October 7, 1992

**Annex I
Schedule of Mexico**

Sector: All Sectors

Sub-Sector:

Industry 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

Description: Investment

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

October 7, 1992

Annex I - Mexico

Sector: All Sectors

Sub-Sector:

Industry Classification:

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, Capítulos I, III, IV; Título IV; Título V; Título VIII, Capítulos I-V; Título IX, Capítulos I, II, III

As qualified by the **Description** element

Description: 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.

The Comisión Nacional de Inversiones Extranjeras may impose performance requirements that are not prohibited by Article 1106.

Phase-Out: None

Sector: All Sectors

Sub-Sector:

Industry Classification:

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-V; Título IX, Capítulos I, II, III

As qualified by the Description element

Description: Investment

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 ten 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 rates, 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.

Oct
Sect
Sub
Ind
Typ
Lev
Me
Des
Ph

October 7, 1992

Annex I - Mexico

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)
Senior Management (Article 1107)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 25*

Ley General de Sociedades Cooperativas, Título I, Capítulo I; Título II, Capítulo II

Description: Investment

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 in that enterprise.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: All Sectors

Sub-Sector:

Industry 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

October 7, 1992

Annex I - Mexico

Sector: Agriculture, Livestock, Forestry and Lumber Activities

Sub-Sector: Agriculture, Livestock or Forestry

Industry Classification: CMAP 1111 Agriculture
CMAP 1112 Livestock
CMAP 1200 Forestry and Felling Trees

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 27*
Ley Agraria, Títulos V, VI

Description: Investment
Only Mexican nationals or Mexican enterprise may own land for agriculture, livestock or forestry purposes. That enterprise 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

October 7, 1992

Annex I - Mexico

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, 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> 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

October 7, 1992

Annex I - Mexico

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 right holder has granted the license ("derechos") to broadcast or distribute by cable such programming.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

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, high-definition television and cable television)

Type of Reservation: National Treatment (Article 1202)
Performance Requirements (Article 1106)

Level of Government: Federal

Measures: *Ley Federal de Radio y Televisión, Título IV, Capítulo III*
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
Reglamento del Servicio de Televisión por Cable, Capítulo VI

Description: Cross-Border Services and Investment
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.

October 7, 1992

Annex I - Mexico

The majority of personnel involved in the production and performance of a live broadcast programming activity must be 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

October 7, 1992

Annex I - Mexico

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: *Ley Federal de Radio y Televisión, Título IV, Capítulo III*
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
Reglamento del Servicio de Televisión por Cable, Capítulo VI

Description: Cross-Border Services and Investment
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

October 7, 1992

Annex I - Mexico

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

As qualified by the Description element

Description: Investment

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.

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

October 7, 1992

Annex I - Mexico

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: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*
Ley de Vías Generales de Comunicación, 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

October 7, 1992

Annex I - Mexico

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: *Ley de la Industria Cinematográfica*
Reglamento de la Ley de la Industria Cinematográfica
As qualified by the Description element

Description: Cross-Border Services and Investment
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.

Phase-Out: None

Sector:	Communications
Sub-Sector:	Telecommunications (Enhanced or Value-Added Services)
Industry Classification:	CMAP 720006 Other Telecommunications Services (limited to enhanced or value-added 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, Libro I, Capítulo III</i> <i>Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI</i> <i>Reglamento de Telecomunicaciones, 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> As qualified by paragraphs 2 and 4 of the Description element
Description:	<u>Cross-Border Services</u> 1. A provider of enhanced or value-added 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 value-added 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 value-added 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.

October 7, 1992

Annex I - Mexico

Sector: Communications

Sub-Sector: Transportation and Telecommunications

Industry Classification: CMAP 7200 Communications (including telecommunications and postal services)
CMAP 7100 Transportation
CMAP 9411 Radio and Television

Type of Reservation: National Treatment (Articles 1102)

Level of Government: Federal

Measures: *Ley de Vías Generales de Comunicación*, Libro I, Capítulos III, V
Ley Federal de Radio y Televisión, Título III, Capítulos I, II
Reglamento del Servicio de Televisión por Cable, Capítulo II
Reglamento de Telecomunicaciones, Capítulo III

DESCRIPTION: Investment
Foreign governments and foreign state enterprises or their investments may not invest, directly or indirectly, in Mexican enterprises engaged in communications, transportation, radio and television, and other general means of communication ("vías generales de comunicación") activities, as defined in the *Ley de Vías Generales de Comunicación*.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Construction

Sub-Sector:

Industry Classification:	CMAP 501101	Residential or Housing Construction
	CMAP 501102	Non-residential 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

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

October 7, 1992

Annex I - Mexico

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:

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 that performs construction activities as set out in the **Industry Classification** element.

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 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.

October 7, 1992

Annex I - Mexico

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

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 Trabajos Petroleros

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

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: Investment

Risk-sharing contracts are prohibited.

October 7, 1992

Annex I - Mexico

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 "non-risk 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.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

Sector: Educational Services

Sub-Sector: Private Schools

Industry Classification:

CMAP 921101	Private Preschool Educational Services
CMAP 921102	Private Primary School Educational Services
CMAP 921103	Private Secondary School Educational Services
CMAP 921104	Private 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:

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

Ley Para la Coordinación de la Educación Superior, Capítulo II

Ley Federal de Educación, Capítulo III

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: 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

October 7, 1992

Annex I - Mexico

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

October 7, 1992

Annex I - Mexico

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

Ley Orgánica de Petróleos Mexicanos y Organismos Subsidiarios

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, Capítulos I, II, III, V; Título IX, Capítulo I

Description: Investment

Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may engage in the distribution, transportation, storage, or sale of liquefied petroleum gas and the installation of fixed deposits.

Phase-Out: None

October 7, 1992

Annex I - Mexico

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: *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

Reglamento de la Ley 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: CMAP 130011 Fishing on the High Seas
CMAP 130012 Coastal Fishing
CMAP 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, Capítulo 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

October 7, 1992

Annex I - Mexico

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 enterprise.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

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 Trucks 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 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.

October 7, 1992

Annex I - Mexico

Sector: Manufacture of Goods

Sub-Sector: Automotive Industry

Industry Classification:

CMAP 383103	Manufacturing of Parts and Accessories for Electrical Automotive Systems
CMAP 3841	Automotive Industry
CMAP 384121	Manufacture and Assembly of Car and Truck Bodies and Tows
CMAP 384122	Manufacture of Car and Trucks 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: Performance Requirements (Article 1106)

Level of Government: Federal

Measures: *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 Description element

Description: Investment

As set out in Annex 300-A

Phase-Out: As set out in Annex 300-A

Sector: Manufacture of Goods

Sub-Sector: Maquiladora Industry

Industry 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 its 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 year after the date of entry into force of this Agreement, 70 percent of the total value of its annual exports in the previous year;

October 7, 1992

Annex I - Mexico

- (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:

Industry 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*

Decreto para el Fomento y Operación de las Empresas Altamente Exportadoras, ("ALTEX Decree")

Description: Investment

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.

October 7, 1992

Annex I - Mexico

Sector: Manufacture of Goods

Sub-Sector:

Industry 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 with the exportation of goods, 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 process 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 process 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.

October 7, 1992

Annex I - Mexico

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 (Article 1107)

Level of Government: Federal

Measures: *Ley Federal de Armas de Fuego y Explosivos, Título III, Capítulo I*

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

Reglamento de la Ley Federal de Armas de Fuego y Explosivos, 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

Description: Investment

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:	<i>Ley Minera</i> , Capítulos I, II	

October 7, 1992

Annex I - Mexico

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 only 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.

October 7, 1992

Annex I - Mexico

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

As qualified by the Description element

Description: 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 five days a week.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Professional, Technical and Specialized Services

Sub-Sector: Medical Doctors

Industry Classification: CMAP 9231 Private Medical, Odontological and Veterinary Services (limited to medical and odontological services)

Type of Reservation: National Treatment (Article 1202)

Level of Government: Federal

Measures: *Ley Federal del Trabajo, Capítulo I*

Description: Cross-Border Services
Only Mexican nationals licensed as doctors in the territory of Mexico may provide in-house medical services in Mexican enterprises.

Phase-Out: None

Sector: Professional, Technical and Specialized Services

Sub-Sector: Specialized Personnel

Industry Classification: CMAP 951012 Customs Brokers and Representation Agency Services (limited to shippers' export declarations)

Type of Reservation: National Treatment (Article 1202)

Level of Government: Federal

Measures: *Ley Aduanera*, Título IX, Capítulo Unico

Description: Cross-Border Services

A shipper's export declaration must be processed by a Mexican national licensed as a customs broker ("agente aduanal") or by a representative ("apoderado aduanal") employed by the exporter and authorized by the Secretaría de Hacienda y Crédito Público for this purpose.

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

October 7, 1992

Annex I - Mexico

Sector: Professional, Technical and Specialized Services

Sub-Sector: Professional Services

Industry Classification: CMAP 9510 Professional, Technical and Specialized Services
(limited to professional services)

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal and State

Measures: *Ley Reglamentaria del Artículo 5o. Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal, Capítulo III, Sección Tercera, Capítulos IV, V*

Ley General de Población, Título III, Capítulo III

Reglamento de la Ley Reglamentaria del Artículo 5o. Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal, Capítulo III

Description: Cross-Border Services

Only Mexican nationals may be licensed in professions that require a professional license ("cédula profesional").

An "inmigrado" or an "inmigrante" may seek a judicial order to obtain such a license.

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). On removal of these requirements, a foreign professional will be required to have an address in Mexico.

With respect to legal services, see Schedule of Mexico, Annex I, page I-M-46, Schedule of Mexico Annex II, page II-M-10, and Schedule of Mexico, Annex VI, page VI-M-2.

Sector: Professional, Technical and Specialized Services

Sub-Sector: Professional Services

Industry Classification: CMAP 951002 Legal Services (including foreign legal consultancy)

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Ley Reglamentaria del Artículo 5o. Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal, Capítulo I, Capítulo III, Sección III*

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

Reglamento de la Ley Reglamentaria del Artículo 5o. Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal, Capítulos I, II, V

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 the Description element

Description: Cross Border Services and Investment

Except as provided for in this reservation, only lawyers licensed in Mexico may have an ownership interest in a law firm established in the territory of Mexico.

Lawyers licensed in a Canadian province that permits partnerships between those lawyers and lawyers licensed in

October 7, 1992

Annex I - Mexico

Mexico will be permitted to form partnerships with lawyers licensed in Mexico.

The number of lawyers licensed in Canada serving as partners, and their ownership interest in the partnership, may not exceed the number of lawyers licensed in Mexico serving as partners, and their ownership interest in the partnership. A lawyer licensed in Canada may not practice or advise on Mexican law.

A law firm established by a partnership of lawyers licensed in Canada and lawyers licensed in Mexico may hire lawyers licensed in Mexico as employees.

Lawyers licensed in Canada will be subject to Schedule of Mexico, Annex VI, page VI-M-2.

Lawyers licensed in the United States will be subject to Schedule of Mexico, Annex II, page II-M-10 and Schedule of Mexico, Annex VI, page VI-M-2.

Phase-Out:

None

Sector: Professional, Technical and Specialized Services

Sub-Sector: Professional Services

Industry Classification: CMAP 951003 Accounting and Auditing Services (limited to accounting services)

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Código Fiscal de la Federación, Título III*
Reglamento del Código Fiscal de la Federación, Capítulo II

Description: Cross-Border Services
Only Mexican nationals who are licensed as accountants in Mexico are authorized to perform audits for tax purposes on behalf of:

- (a) state enterprises;
- (b) enterprises that are authorized to receive tax-deductible donations;
- (c) enterprises with income, capital stock, number of employees and operations above levels specified annually by the Secretaría de Hacienda y Crédito Público; or
- (d) enterprises undergoing a merger or divestiture.

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). On removal of these requirements, a foreign professional will be required to have an address in Mexico.

October 7, 1992

Annex I - Mexico

- Sector:** Professional, Technical and Specialized Services
- Sub-Sector:** Specialized Services (Commercial Public Notaries)
- Industry Classification:**
- Type of Reservation:** National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)
- Level of Government:** Federal
- Measures:** *Código de Comercio*, Libro I, Título III
- 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 II, Capítulo I
- Description:** Cross-Border Services
1. Only a Mexican national by birth may be licensed to be a commercial public notary ("corredor público").
 2. A commercial public notary may not have a business affiliation with any person for the provision of commercial public notary services.
- Phase-Out:**
1. 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). On removal of these requirements, a foreign professional will be required to have an address in Mexico.
 2. None

Sector: Professional, Technical and Specialized Services

Sub-Sector: Specialized Services

Industry Classification: CMAP 951001 Public Notary

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)

Level of Government: Federal and State

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

Leyes del Notariado para los Estados de: Aguascalientes, Baja California, Baja California Sur, Campeche, Coahuila, Colima, Chiapas, Chihuahua, Distrito Federal, Durango, Guanajuato, Guerrero, Hidalgo, Jalisco, México, Michoacán, Morelos, Nayarit, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatán and Zacatecas.

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: Cross-Border Services and Investment

Only Mexican nationals by birth may be granted a fiat ("patente") to be public notaries ("notarios públicos").

A public notary may not have a business affiliation with any person for the provision of public notary services.

Phase-Out: None

Sector:	Professional, Technical and Specialized Services
Sub-Sector:	Professional Services
Industry Classification:	CMAP 951023 Other Professional Services (limited to private veterinary services)
Type of Reservation:	National Treatment (Article 1202)
Level of Government:	Federal
Measures:	<i>Ley de Sanidad Fitopecuaria de los Estados Unidos Mexicanos, Título II, Capítulo IV</i> <i>Reglamento de Control de Productos Químico-Farmacéuticos, Biológicos, Alimenticios, Equipos y Servicios para Animales, Capítulos IV, V</i>
Description:	<u>Cross-Border Services</u> For enterprises that manage chemical, pharmaceutical and biological goods for application to animals, only a Mexican national may be: (a) a veterinarian responsible for management of such goods; or (b) a licensed professional responsible for laboratories of such enterprises.
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). On removal of these requirements, a foreign professional will be required to have an address in Mexico.

October 7, 1992

Annex I - Mexico

Sector: Retail Commerce

Sub-Sector: Sale of Non-Food Products in Specialized Establishments

Industry Classification: CMAP 623087 Sale of Firearms, Cartridges and Ammunition
CMAP 612024 Wholesale Commerce, not Elsewhere Classified (limited to firearms, cartridges and ammunition)

Type of Reservation: National Treatment (Article 1102)
Senior Management (Article 1107)

Level of Government: Federal

Measures: *Ley Federal de Armas de Fuego y Explosivos, Título III, Capítulo I*
Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI
Reglamento de la Ley Federal de Armas de Fuego y Explosivos, 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

Description: Investment
Investors of another Party or their investments may only own, directly and indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico that sells firearms, cartridges and ammunition.
No foreign national may appoint or be appointed a member of

October 7, 1992

Annex I - Mexico

the board of directors or managing officer of such an enterprises.

Phase-Out:

None

Sector: Religious Services

Sub-Sector:

Industry Classification: CMAP 929001 Religious Services

Type of Reservation: Senior Management (Article 1107)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Ley de Asociaciones Religiosas y Culto Privado*, Título II,
Capítulos I, II

Description: Cross-Border Services

Religious associations must be associations constituted in accordance with the *Ley de Asociaciones Religiosas y Cultos Privados*.

Investment

Representatives of religious associations in Mexico must be Mexican nationals.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Services to Agriculture

Sub-Sector:

Industry Classification: CMAP 971010 Supply of Agricultural Services

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Sanidad Fitopecuaria de los Estados Unidos Mexicanos, Título II

Ley de Nacionalidad y Naturalización, Capítulo IV

Reglamento de la Ley de Sanidad Fitopecuaria de los Estados Unidos Mexicanos, Capítulo VII

Description: Cross-Border Services

A concession granted by the Secretaría de Agricultura y Recursos Hidráulicos is required to spray pesticides.

Only Mexican nationals or Mexican enterprises may obtain such a concession.

Phase-Out: Six years after the date of entry into force of this Agreement, the requirement of a concession will be replaced with a permit requirement and the citizenship requirement will be eliminated.

Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: CMAP 713001 Transportation Services on
Mexican-Registered Aircraft
CMAP 713002 Air Taxi Transportation Services

Type of Reservation: National Treatment (Article 1102)
Senior Management (Article 1107)

Level of Government: Federal

Measures: *Ley de Vías Generales de Comunicación*, Libro IV, Capítulo I,
X, XI

*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

As qualified by the Description element

Description: Investment

Investors of another Party or their investments may only own, directly or indirectly, up to 25 percent of the voting interest in an enterprise established or to be established in the territory of Mexico that provides commercial air services on Mexican-registered aircraft. The chairman and at least two-thirds of the board of directors and two-thirds of managing officers of such an enterprise must be Mexican nationals.

Only Mexican nationals and Mexican enterprises with 75 percent of the voting interest owned or controlled by Mexican nationals

and with the chairman and at least two-thirds of the managing officers of such an enterprise Mexican nationals, may register aircraft in Mexico.

Only Mexican-registered aircraft may provide the following commercial air transport services:

(a) "domestic services" (air services between points, or from and to the same point, in the territory of Mexico, or between a point in the territory of Mexico and a point not in the territory of another country);

(b) "scheduled international services" (scheduled air services between a point in the territory of Mexico and a point in the territory of another country) where those services have been reserved to Mexican carriers under existing or future bilateral agreements; and

(c) "non-scheduled international services" (non-scheduled air services between a point in the territory of Mexico and a point in the territory of another country) where those services have been reserved to Mexican carriers under existing or future bilateral agreements.

Phase-Out:

None

Sector: Transportation

Sub-Sector: Specialty Air Services

Industry Classification:

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)
Senior Management (Article 1107)

Level of Government: Federal

Measures: *Ley de Vías Generales de Comunicación*, Libro I, Capítulos I, II, III; Libro IV, Capítulo XII

As qualified by paragraphs 2, 3 and 4 of the Description element

Description: Cross-Border Services

1. A permit issued by the Secretaría de Comunicaciones y Transportes (SCT) is required to provide all specialty air services in the territory of Mexico.
2. A person of Canada or the United States may obtain such a permit to provide flight training, forest fire-management, fire-fighting, glider towing, and parachute jumping services in Mexico, subject to compliance with Mexican safety requirements.
3. Such a permit may not be issued to a person of Canada or the United States to provide aerial advertising, aerial sightseeing, aerial construction, heli-logging, inspection and surveillance, mapping, photography, surveying and aerial spraying services.

Investment

4. Investors of another Party or their investments may only

own, directly or indirectly, up to 25 percent of the voting interests in an enterprise established or to be established in the territory of Mexico that provides specialty air services in Mexican-registered aircraft. The chairman and at least two-thirds of the board of directors and two-thirds of managing officers of such an enterprise must be Mexican nationals. Only Mexican nationals and Mexican enterprises with 75 percent of the voting interest owned or controlled by Mexican nationals and with the chairman and at least two-thirds of the managing officers of such an enterprise Mexican nationals, may register aircraft in Mexico.

Phase-Out:

Cross-Border Services

A person of Canada or the United States will be allowed to obtain a permit by SCT to provide, subject to compliance with Mexican safety requirements, the following specialty air services:

- (a) three years after the date of entry into force of this Agreement, aerial advertising, aerial sightseeing services, aerial construction and heli-logging; and
- (b) six years after the date of entry into force of this Agreement, inspection and surveillance, mapping, photography, surveying and aerial spraying services.

Investment

None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: CMAP 384205 Aircraft Building, Assembly and Repair
(limited to aircraft repair)

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro IV, Capítulo XV

Ley de Nacionalidad y Naturalización, Capítulo IV

Reglamento de Talleres Aeronáuticos, Capítulo I

Description: Cross-Border Services

A concession granted by the Secretaría de Comunicaciones y Transportes is required to establish and operate, or operate, an aircraft repair facility. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: CMAP 973301 Air Navigation Services
CMAP 973302 Airport and Heliport Administration Services

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro IV, Capítulo IX

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

Ley de Nacionalidad y Naturalización, 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

Description: Cross-Border Services

A concession granted by the Secretaría de Comunicaciones y Transportes is required to construct and operate, or operate, airports and heliports and to provide air navigation services. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Investment

October 7, 1992

Annex I - Mexico

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 following activities:

- (a) construction and operation of airports or heliports;
- (b) operation of airports or heliports; or
- (c) provision of air navigation services.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CMAP 973101 Bus and Truck Station Administration and Ancillary Services (main bus and truck terminals and bus and truck stations)

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Ley de Vías Generales de Comunicación*, Libro I, Capítulo I, II, III; Libro II, Título II, Capítulos I, II; Título III, Capítulo Unico

Reglamento para el Aprovechamiento del Derecho de Vía de las Carreteras Federales y Zonas Aledañas, Capítulos II, IV

Reglamento del Servicio Público de Autotransporte Federal de Pasajeros, Capítulo III, IV

As qualified by paragraph 1 of the Description element

Description: Cross-Border Services

1. A permit issued by the Secretaría de Comunicaciones y Transportes is required to establish, or operate, a bus or truck station or terminal. Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may obtain such a permit.

Investment

2. Investors of another Party or their investments may not own, directly or indirectly, ownership interest in an enterprise established or to be established in the territory of Mexico

October 7, 1992

Annex I - Mexico

engaged in the establishment or operation of bus or truck stations or terminals.

Phase-Out:

Cross-Border Services

Three years after the date of signature of this Agreement, such a permit may be obtained by Mexican nationals and Mexican enterprises.

Investment

With respect to an enterprise established or to be established in the territory of Mexico engaged in the establishment or operation of bus or truck station or terminals, investors of another Party or their investments may, directly or indirectly:

- (a) only own three years after the date of signature of this Agreement, up to 49 percent of the ownership interest in the enterprise;
- (b) only own seven years after the date of entry into force of this Agreement, up to 51 percent of the ownership interest in the enterprise; and
- (c) own ten years after the date of entry into force of this Agreement, 100 percent of the ownership interest in the enterprise.

October 7, 1992

Annex I - Mexico

Sector:	Transportation
Sub-Sector:	Land Transportation
Industry Classification:	CMAP 711101 Railway Transport Services (limited to railway crew)
Type of Reservations	National Treatment (Article 1202)
Level of Reservations	Federal
Measures:	<i>Ley Federal del Trabajo, Capítulo I</i>
Description:	<u>Cross-Border Services</u> Railway crew members must be Mexican nationals.
Phase-Out	None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CMAP 973102 Road and Bridge Administration Services and Ancillary Services

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro II, Título II, Capítulo II; Título III, Capítulo Unico

Ley de Nacionalidad y Naturalización, Capítulo IV

Description: Cross-Border Services

A concession granted by the Secretaría de Comunicaciones y Transportes is required to provide road and bridge administration services and ancillary services. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CMAP 711312 Urban and Suburban Passenger Transportation Service by Bus
CMAP 711315 Collective Automobile Transportation Service
CMAP 711316 Established Route Automobile Transportation Service
CMAP 711317 Automobile Transportation Services from a Specific Station
CMAP 711318 School and Tourist Transportation Services (limited to school transportation services)

Type of Reservation: National Treatment (Article 1102, 1202)

Level of Government: Federal

Measures: *Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera*, Capítulos I, II, III, V, VI
Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro II, Título II, Capítulo II
Ley de Nacionalidad y Naturalización, 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
Reglamento del Servicio Público de Autotransporte Federal de Pasajeros, Capítulo II

Description: Cross-Border Services and Investment
Only Mexican nationals and Mexican enterprises with a

October 7, 1992

Annex I - Mexico

foreigners' exclusion clause may provide local bus services, school bus services and taxi and other collective transportation services.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CMAP 711201 Road Transport Services for Construction Materials
CMAP 711202 Road Transport Moving Services
CMAP 711203 Other Services of Specialized Cargo Transportation
CMAP 711204 General Trucking Services
CMAP 711311 Inter-City Busing Services
CMAP 711318 School and Tourist Transportation Services (limited to tourist transportation services)

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Memorandum de Entendimiento entre los Estados Unidos Mexicanos y los Estados Unidos de Norteamérica para la promoción de Servicios de Transporte Turístico de Ruta Fija, 3 de diciembre de 1990*

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro II, Título II, Capítulo II; Título III, Capítulo Unico

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

As qualified by paragraphs 1 and 3 of the Description element

Description:

Cross-Border Services

1. A permit issued by the Secretaría de Comunicaciones y Transportes is required to provide inter-city bus services, tourist transportation services or truck services for the transportation of goods or passengers to or from the territory of Mexico.
2. Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may provide such services.
3. Notwithstanding paragraph 2, a person of Canada or the United States will be permitted to provide international charter or tour bus services into the territory of Mexico.
4. Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause, using Mexican-registered equipment and drivers who are Mexican nationals, may provide bus or truck services for the transportation of goods or passengers between points in the territory of Mexico.

Investment

5. Investors of another Party or their investments may not own directly or indirectly, an ownership interest in an enterprise established or to be established in the territory of Mexico engaged in bus or truck transportation services as set out in the Industry Classification element.

Phase-Out:

Cross-Border Services

A person of Canada or of the United States will be permitted to provide:

- (a) three years after the date of signature of this Agreement, cross-border truck services to or from the territory of border states (Baja California, Chihuahua, Coahuila, Nuevo León, Sonora and Tamaulipas), and such a person will be permitted to enter and depart Mexico through

different ports of entry in such states;

- (b) three years after the date of entry into force of this Agreement, cross-border scheduled bus services to or from the territory of Mexico; and
- (c) six years after the date of entry into force of this Agreement, cross-border truck services to or from the territory of Mexico.

Three years after the date of signature of this Agreement, only Mexican nationals and Mexican enterprises, using Mexican-registered equipment and drivers who are Mexican nationals, may provide bus or truck services for the transportation of international cargo or passengers between points in the territory of Mexico. For domestic cargo, paragraph 4 of the Description element will continue to apply.

Investment

With respect to an enterprise established or to be established in the territory of Mexico providing inter-city bus services, tourist transportation services, or truck services for the transportation of international cargo between points in the territory of Mexico, investors of another Party or their investments may, directly or indirectly:

- (a) only own, three years after the date of signature of this Agreement, up to 49 percent of ownership interest in such an enterprise;
- (b) only own, seven years after the date of entry into force of this Agreement, up to 51 percent of the ownership interest in such an enterprise; and
- (c) own, ten years after the date of entry into force of this Agreement, 100 percent of the ownership interest in such an enterprise.

October 7, 1992

Annex I - Mexico

Investors of another Party or their investments may not own, directly or indirectly, an ownership interest in an enterprise providing truck services for the carriage of domestic cargo.

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Land Transportation and Water Transportation

Industry Classification: CMAP 501421 Marine and River Works
CMAP 501422 Construction of Roads for Land Transportation

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro II, Título II, Capítulo II; Libro III, Capítulos II, XV

Ley de Nacionalidad y Naturalización, Capítulo IV

Description: Cross-Border Services

A concession granted by the Secretaría de Comunicaciones y Transportes is required to construct and operate, or operate, marine or river works or roads for land transportation. Such a concession may be granted only to Mexican nationals and Mexican enterprises.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Non-Energy Pipelines

Industry Classification:

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*
Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III
Ley Federal de Aguas, Título I, Capítulo I
Ley de Nacionalidad y Naturalización, Capítulo IV

Description: Cross-Border Services
A concession granted by the Secretaría de Comunicaciones y Transportes is required to construct and operate, or operate, pipelines carrying goods other than energy or basic petrochemicals. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Specialized Personnel

Industry Classification: CMAP 951012 Customs Brokers

Type of Reservation: National Treatment (Article 1102)

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley Aduanera, Título II, Capítulo Unico

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: Investment

Investors of another Party or their investments may not own, directly or indirectly, an ownership interest in a customs broker enterprise ("agencia aduanal").

Phase-Out: None

Sector:	Transportation
Sub-Sector:	Water Transportation
Industry Classification:	CMAP 1300 Fishing
Type of Reservation:	National Treatment (Article 1202) Most-Favored-Nation Treatment (Article 1203) Local Presence (Article 1205)
Level of Government:	Federal
Measures:	<i>Constitución Política de los Estados Unidos Mexicanos, Artículo 32</i> <i>Ley de Pesca, Capítulos I, II</i> <i>Ley de Navegación y Comercio Marítimos, Libro II, Título Unico, Capítulo I</i> <i>Ley de Nacionalidad y Naturalización, Capítulo IV</i> <i>Reglamento de la Ley de Pesca, Capítulo I, III, IV, V, VI, IX, XV</i>
Description:	<u>Cross-Border Services</u> A concession granted, or permit issued, by the Secretaría de Pesca is required to engage in fishing activities in "Mexican jurisdictional waters". Only Mexican nationals and Mexican enterprises, using Mexican-flagged vessels, may obtain such a concession or permit. Permits may exceptionally be issued to persons operating vessels flagged in a foreign country that provides equivalent treatment to Mexican-flagged vessels to engage in fishing activities in the Exclusive Economic Zone. Only Mexican nationals and Mexican enterprises may obtain authorization from the Secretaría de Pesca for deep sea fishing

October 7, 1992

Annex I - Mexico

on Mexican-flagged vessels, fixed rigging installations, recollection from the natural milieu of larvae, post-larvae, eggs, seeds or fingerlings, for research or aquaculture purposes, introduction of live species into "Mexican jurisdictional waters", and for educational fishing in accordance with the programs of fishing educational institutions.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: CMAP 384201 Shipbuilding and Ship Repair

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)
Performance Requirements (Article 1107)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro III, Capítulo XV

Ley para el Desarrollo de la Marina Mercante, Capítulo IV

Ley de Nacionalidad y Naturalización, Capítulo IV

Description: Cross-Border Services

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

Cross-Border Services and Investment

For the owner of a Mexican-flagged vessel to be eligible for government cargo preferences, subsidies and tax benefits granted under the *Ley para el Desarrollo de la Marina Mercante*, that owner must carry out repair and maintenance operations in shipyards and repair facilities in the territory of Mexico.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification:

CMAP 712011	International Maritime Transportation Services
CMAP 712012	Cabotage Maritime Services
CMAP 712013	International and Cabotage Towing Services
CMAP 712022	Internal Port Water Transportation Services
CMAP 712021	River and Lake Transportation Services

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Senior Management (Article 1106)

Level of Government: Federal

Measures:

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II y III; Libro III, Capítulos I-XV

Ley para el Desarrollo de la Marina Mercante, Capítulos I, III

Ley de Navegación y Comercio Marítimos, Libro II, Título Unico, Capítulos I, III

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

October 7, 1992

Annex I - Mexico

Description:

Cross-Border Services and Investment

Maritime cabotage services, including off-shore maritime services, are reserved to Mexican-flagged vessels. A waiver may be granted by the Secretaría de Comunicaciones y Transportes where Mexican-flagged vessels are not able to provide such services. Only Mexican-flagged vessels may transport cargo owned by the Federal Government.

Foreign-flagged vessels may provide international maritime services in the territory of Mexico on the basis of reciprocity with the relevant country. Only Mexican-flagged towing vessels may provide towing services from Mexican ports to foreign ports. Where such towing vessels are not able to provide such services, the Secretaría de Comunicaciones y Transportes may provide a permit to foreign-flagged towing vessels. Only a Mexican national or a Mexican enterprise with a foreigners' exclusion clause may own vessels registered and flagged as Mexican. All members of the board of directors and managers of such enterprise must be Mexican nationals.

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 the 49 percent of the ownership interest in an enterprise established or to be established in the territory of Mexico operating foreign-flagged vessels providing international maritime transport services.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: CMAP 973203 Maritime and Inland (Lake and Rivers)
Ports Administration

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Ley de Navegación y Comercio Marítimos, Libro II, Capítulo II*
Ley de Vías Generales de Comunicación, Libro III, Capítulo XI

Description: Cross-Border Services
All port workers must be Mexican nationals.

Phase-Out: None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: CMAP 973201 Loading and Unloading Services Related to Water Transportation (includes operation and maintenance of docks; loading and unloading of vessels at shore-side; marine cargo handling; operation and maintenance of piers; ship and boat cleaning; stevedoring; transfer of cargo between ships and trucks, trains, pipelines and wharves; waterfront terminal operations)

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *Ley de Navegación y Comercio Marítimos*, Libro I, Título Unico, Capítulo I; Libro II, Título II

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

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro III, 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

Reglamento del Servicio de Maniobras en las Zonas Federales de Puertos, Libro I, Título Unico, Capítulo I; Libro II, Título Unico, Capítulo II, Sección A; Libro IV, Título Unico

Reglamento para el Uso y Aprovechamiento del Mar Territorial, Vías Navegables, Playas, Zona Federal Marítimo Terrestre y

October 7, 1992

Annex I - Mexico

Terrenos Ganados al Mar, Capítulo II, Sección II

As qualified by the Description element

Description:

Investment

Prior approval of the Comisión Nacional de Inversiones Extranjeras is only 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 providing to third persons the following services: operation and maintenance of docks; loading and unloading of vessels at shore-side; marine cargo handling; operation and maintenance of piers; ship and boat cleaning; stevedoring; transfer of cargo between ships and trucks, trains, pipelines and wharves; and waterfront terminal operations.

Phase-Out:

None

October 7, 1992

Annex I - Mexico

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: CMAP 973201 Loading and Unloading Services Related to Water Transportation (includes operation and maintenance of docks; loading and unloading of vessels at shore-side; marine cargo handling; operation and maintenance of piers; ship and boat cleaning; stevedoring; transfer of cargo between ships and trucks, trains, pipelines and wharves; waterfront terminal operations)

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Level of Government: Federal

Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Navegación y Comercio Marítimos, Libro I, Título Unico, Capítulo I; Libro II, Título II

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro III, Capítulo II

Ley de Nacionalidad y Naturalización, Capítulo IV

Reglamento del Servicio de Maniobras en las Zonas Federales de Puertos, Libro I, Título Unico, Capítulo I, Libro II, Título Unico, Capítulo II, Sección A; Libro IV, Título Unico

Reglamento para el Uso y Aprovechamiento del Mar Territorial, Vías Navegables, Playas, Zona Federal Marítimo Terrestre y Terrenos Ganados al Mar, Capítulo II, Sección II

October 7, 1992

Annex I - Mexico

Description: Cross-Border Services

A concession granted by the Secretaría de Comunicaciones y Transportes is required to construct and operate, or operate, maritime and inland port terminals, including docks, cranes and related facilities. Only Mexican nationals and Mexican enterprises may obtain such a concession.

A permit issued by the Secretaría de Comunicaciones y Transportes is required to provide stevedoring and warehousing services. Only Mexican nationals and Mexican enterprises may obtain such a permit.

Phase-Out: None

October 7, 1992

Annex I
Schedule of the United States

Sector: Energy

Sub-Sector: Atomic Energy

Industry 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

October 7, 1992

Annex I - United States

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 Trading Company Act of 1982*, 15 U.S.C. §§ 4011-4021
15 C.F.R. Part 325

Description: Cross-Border Services

Title III of the *Export Trading Company Act of 1982* 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

October 7, 1992

Annex I - United States

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

October 7, 1992

Annex I - United States

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

October 7, 1992

Annex I - United States

Sector: Communications

Sub-Sector: Telecommunications (Enhanced or Value-Added Services)

Industry Classification: CPC 7523 Data and Message Transmission Services
CPC 75299 Other Telecommunications Services Not
Elsewhere Classified (limited to enhanced or
value-added services)

Type of Reservation: National Treatment (Article 1102)

Level of Government: Federal

Measures: *F.C.C. Decision, International Communications Policies
Governing Designation of Recognized Private Operating
Agencies, 104 F.C.C. 2d 208, n. 123, n. 126 (1986)*

47 C.F.R. § 64.702 (definition of enhanced or value-added
services)

Description: Investment

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.

Phase-Out: None

October 7, 1992

Annex I - United States

Sector: Manufacturing

Sub-Sector: Agricultural Chemicals

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

Type of Reservation: National Treatment (Article 1102)

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

October 7, 1992

Annex I - United States

Sector: Mining

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)

Level of Government: Federal

Measures: *Mineral Lands Leasing Act of 1920*, 30 U.S.C. Chapter 3A

43 C.F.R. § 3102

43 C.F.R. § 2882.2-1

10 U.S.C. § 7435

Description: Investment

Under the *Mineral Lands Leasing Act of 1920*, 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.

October 7, 1992

Annex I - United States

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

October 7, 1992

Annex I - United States

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

October 7, 1992

Annex I - United States

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).

October 7, 1992

Annex I - United States

Sector: Public Administration

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)

Measures: 22 U.S.C. §§ 2194(a) and (b) and 2198(c)

Level of Government: Federal

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

October 7, 1992

Annex I - United States

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 U.S.C. App. §§ 1354, 1421-1430
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 (Article 1107)
Level of Government:	Federal
Measures:	<i>Federal Aviation Act of 1958, 49 U.S.C. App. Ch. 20</i>
Description:	<p><u>Investment</u></p> <p>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.</p> <p>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.</p> <p>Under the <i>Federal Aviation Act of 1958</i>, a "citizen of the United States" means:</p> <ul style="list-style-type: none">(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 U.S.C. App. § 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 case-by-case 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

October 7, 1992

Annex I - United States

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 (Article 1107)

Level of Government: Federal

Measures: *Federal Aviation Act of 1958*, 49 U.S.C. App. 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, heli-logging, 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 U.S.C. App. § 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 case-by-case 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

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 heli-logging;
- (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

October 7, 1992

Annex I - United States

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
As qualified by paragraph 2 of the Description element

Description:

Cross-Border Services

1. Operating authority from the Interstate Commerce Commission (ICC) is required to provide interstate or cross-border 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 cross-border 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 in 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 within the ICC Border Commercial Zones.
4. A person providing bus or truck services between points in the United States is required to use U.S.-registered and either U.S.-built or duty-paid equipment.

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, cross-border 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, cross-border scheduled bus services; and
- (c) six years after the date of entry into force of this Agreement, cross-border 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 distribution 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.

October 7, 1992

Annex I - United States

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: Cross-Border Services and Investment

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.

October 7, 1992

Annex I - United States

Sector: All Sectors

Sub-Sector:

Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)

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

October 7, 1992

Annex I - United States

Sector: Waste Management

Sub-Sector:

Industry Classification: SIC 4952 Sewerage System

Type of Reservation: Performance Requirements (Article 1106)

Measures: *Clean Water Act*, 33 U.S.C. §§ 1251 et seq.

Description: Investment

The *Clean Water Act* 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

October 7, 1992

Annex II

1. The Schedule of a Party sets out, pursuant to Articles 1108(3) and 1206(3), the reservations taken by that Party with respect to specific sectors, sub-sectors or activities for which it may maintain existing, non-conforming measures or adopt new or more restrictive measures. Such measures may derogate from an obligation relating to:

- (a) national treatment, pursuant to Article 1102 (Investment) or 1202 (Cross-Border Trade in Services);
- (b) most-favored-nation treatment, pursuant to Article 1103 (Investment) or 1203 (Cross-Border Trade in Services);
- (c) local presence, pursuant to Article 1205 (Cross-Border Trade in Services);
- (d) performance requirements, pursuant to Article 1106 (Investment); or
- (e) nationality requirements for senior management or members of boards of directors, pursuant to Article 1107 (Investment).

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 2 for which a 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 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 purposes of this Annex:

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

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; 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.

October 7, 1992

**Annex II
Schedule of Canada**

Sector: Aboriginal Affairs

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)
Performance Requirements (Article 1106)
Senior Management (Article 1107)

Description: Investment and Cross-Border Services

Canada reserves the right to adopt or maintain any measure denying investors of another Party and their investments, or service providers of another Party, any rights or preferences provided to aboriginal peoples.

Existing Measures: *Constitution Act, 1982*, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11

October 7, 1992

Annex II - Canada

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)

Description: Investment

Canada and each province reserve the right to adopt or maintain any measure relating to residency requirements for the ownership by investors of another Party, or their investments, of oceanfront land.

Existing Measures:

October 7, 1992

Annex II - Canada

Sector: Communications

Sub-Sector: Telecommunications Transport Networks and Services, Radio Communications and Submarine Cables

Industry Classification: CPC 752 Telecommunications Services

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

Description: Investment

Canada reserves the right to adopt or maintain any measure relating to investment in telecommunications transport networks and telecommunications transport services, radio communications and submarine cables, including ownership restrictions and measures concerning corporate officers and directors and place of incorporation.

This reservation does not apply to providers of enhanced or value-added services whose underlying telecommunications transmission facilities are leased from providers of public telecommunications transport networks.

Existing Measures: *Bell Canada Act*, S.C. 1987, c. 19

British Columbia Telephone Company Special Act, S.C. 1916, c. 66

Teleglobe Canada Reorganization and Divestiture Act, S.C. 1987, c. 12

Telesat Canada Reorganization and Divestiture Act, S.C. 1991, c. 52

Radiocommunication Act, R.S.C. 1985, c. R-2

October 7, 1992

Annex II - Canada

Telegraphs Act, R.S.C. 1985, c. T-5

Telecommunications Policy Framework, 1987

October 7, 1992

Annex II - Canada

Sector: Communications

Sub-Sector: Telecommunications Transport Networks and Services, Radio Communications and Submarine Cables

Industry Classification: CPC 752 Telecommunications Services (not including enhanced or value-added services)

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

Description: Cross-Border Services

Canada reserves the right to adopt or maintain any measure relating to radio communications, submarine cables and the provision of telecommunications transport networks and telecommunications transport services. These measures may apply to such matters as market entry, spectrum assignment, tariffs, intercarrier agreements, terms and conditions of service, interconnection between networks and services, and routing requirements that impede the provision on a cross-border basis of telecommunications transport networks and telecommunications transport services, radio communication and submarine cables.

Telecommunications transport services typically involve the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information, whether or not such services are offered to the public generally. These services include voice and data services by wire, radio communication or any other electromagnetic means of transmission.

This reservation does not apply to measures relating to the cross-border provision of enhanced or value-added services.

Existing Measures:

Bell Canada Act, S.C. 1987, c. 19

October 7, 1992

Annex II - Canada

British Columbia Telephone Company Special Act, S.C. 1916, c. 66

Railway Act, R.S.C. 1985, c. R-3

Radiocommunication Act, R.S.C. 1985, c. R-2

Telegraphs Act, R.S.C. 1985, c. T-5

Telecommunications Policy Framework, 1987

Telecommunications Decisions, C.R.T.C., including (85-19), (90-3), (91-10), (91-21), (92-11) and (92-12)

October 7, 1992

Annex II - Canada

Sector: Government Finance
Sub-Sector: Securities
Industry Classification: SIC 8152 Finance and Economic Administration

Type of Reservation: National Treatment (Article 1102)

Description: Investment

Canada reserves the right to adopt or maintain any measure relating to the acquisition, sale or other disposition of bonds, treasury bills or other kinds of debt securities issued by the Government of Canada, a province or local government by nationals of another Party.

Existing Measures: *Financial Administration Act, R.S.C. 1985, c. F-11*

October 7, 1992

Annex II - Canada

Sector: Minority Affairs

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)
Performance Requirements (Article 1106)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

Canada reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.

Existing Measures:

October 7, 1992

Annex II - Canada

Sector: Social Services

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Article 1203)
Local Presence (Article 1205)
Senior Management (Article 1107)

Description: Investment and Cross-Border Services

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

Existing Measures:

October 7, 1992

Annex II - Canada

Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: SIC 4513 Non-Scheduled Air Transport, Specialty, Industry

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

Description: Investment

Canada reserves the right to adopt or maintain any measure that restricts the acquisition or establishment of an investment in Canada for the provision of specialty air services to a Canadian national 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 nationals, and not less than 75 percent of its voting interest owned and controlled by persons otherwise meeting these requirements.

Existing Measures: *Aeronautics Act*, R.S.C. 1985, c. A-2

Air Regulations, C.R.C. 1978, c. 2

Aircraft Marking and Registration Regulations, SOR/90-591

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 4552	Harbour and Port Operation Industries (limited to berthing, bunkering and other vessel operations in a port)
SIC 4553	Marine Salvage Industry
SIC 4554	Piloting Service, Water Transport Industry

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)
Performance Requirements (Article 1106)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

Canada reserves the right to adopt or maintain any measure relating to investment in or provision of maritime cabotage services, including:

- (a) the transportation of goods or passengers by vessel between points in the territory of Canada and in its Exclusive Economic Zone;
- (b) with respect to waters above the continental shelf, the transportation of goods or passengers in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf; and
- (c) the engaging by vessel in any maritime activity of a commercial nature in the territory of Canada and in its

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 4551	Marine Cargo Handling Industry
SIC 4552	Harbour and Port Operation 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: Most-Favored-Nation Treatment (Article 1203)

Description: Cross-Border Services

Canada reserves the right to adopt or maintain any measure relating to the implementation of agreements, arrangements and other formal or informal undertakings with other countries with respect to maritime activities in waters of mutual interest in such areas as pollution control (including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality, pilotage, salvage, drug abuse control and maritime communications.

Existing Measures: *United States Wreckers Act*, R.S.C. 1985, c. U-3

Various agreements and arrangements, including:

- (a) Memorandum of Arrangements on Great Lakes Pilotage;
- (b) Canada - United States Joint Marine Pollution Contingency Plan;

October 7, 1992

Annex II - Canada

- (c) Agreement with the United States on Loran "C" Service on the East and West Coasts; and
- (d) Denmark - Canada Joint Marine Pollution Circumpolar Agreement.

October 7, 1992

**Annex II
Schedule of Mexico**

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102, 1202)

Description: Cross-Border and Investment

Mexico reserves the right to adopt or maintain any measure restricting the acquisition, sale or other disposition of bonds, treasury bills or any other kind of debt security issued by the federal, state or local governments, except with respect to ownership by "a financial institution of another Party", as defined in Chapter Fourteen (Financial Services).

Existing Measures:

October 7, 1992

Annex II - Mexico

Sector: Communications

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

Industry Classification: CMAP 941104 Private Production and Transmission of Radio Programs (limited to transmission of radio programs, MDS and uninterrupted music)
CMAP 941105 Private Services of Production, Transmission and Retransmission of Television Programming (limited to transmission and retransmission of television programs, MDS, and high-definition television)

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

Mexico reserves the right to adopt or maintain any measure relating to investment in, or provision of, broadcasting, multipoint distribution systems, uninterrupted music and high-definition television services. This reservation does not apply to measures relating to the production, sale or licensing of radio or television programming.

Existing Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Vías Generales de Comunicación

Ley Federal de Radio y Televisión

Ley Para Promover la Inversión Mexicana y Regular la Inversión Extranjera

October 7, 1992

Annex II - Mexico

Sector: Communications

Sub-Sector: Telecommunications

Industry Classification: CMAP 720006 Other Telecommunications Services (limited to aeronautical mobile and fixed services)

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)

Description: Cross-Border Services and Investment

Mexico reserves the right to adopt or maintain any measure relating to investment in, or provision of, air traffic control, aeronautical meteorology, aeronautical telecommunications, and other telecommunications services relating to air navigation services.

Existing Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 32*

Ley de Vías Generales de Comunicación

Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera

Decreto que Crea el Organismo Desconcentrado "Servicios a la Navegación en el Espacio Aéreo Mexicano" (SENEAM), 3 de octubre de 1978

Sector:	Communications								
Sub-Sector:	Telecommunications Transport Networks								
Industry Classification:	<table> <tr> <td>CMAP 720003</td> <td>Telephone Services</td> </tr> <tr> <td>CMAP 720004</td> <td>Telephone Booth Services</td> </tr> <tr> <td>CMAP 720006</td> <td>Other Telecommunications Services (not including enhanced or value-added services)</td> </tr> <tr> <td>CMAP 502003</td> <td>Telecommunications Installations</td> </tr> </table>	CMAP 720003	Telephone Services	CMAP 720004	Telephone Booth Services	CMAP 720006	Other Telecommunications Services (not including enhanced or value-added services)	CMAP 502003	Telecommunications Installations
CMAP 720003	Telephone Services								
CMAP 720004	Telephone Booth Services								
CMAP 720006	Other Telecommunications Services (not including enhanced or value-added services)								
CMAP 502003	Telecommunications Installations								
Type of Reservation:	<p>National Treatment (Articles 1102, 1202) Most-Favored-Nation Treatment (Articles 1103, 1203) Local Presence (Article 1205)</p>								
Description:	<p><u>Cross-Border Services and Investment</u></p> <p>Mexico reserves the right to adopt or maintain any measure relating to investment in, or provision of, telecommunications transport networks and telecommunications transport services. Telecommunications transport networks include the facilities to provide telecommunications transport services such as local basic telephone services, long-distance telephone services (national and international), rural telephone services, cellular telephone services, telephone booth services, satellite services, trunking, paging, mobile telephony, maritime telecommunications services, air telephone, telex, and data transmission services. Telecommunications transport services typically involve the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information, whether or not such services are offered to the public generally.</p>								
Existing Measures:	<p><i>Constitución Política de los Estados Unidos Mexicanos, Artículo 32</i></p> <p><i>Ley de Vías Generales de Comunicación</i></p>								

October 7, 1992

Annex II - Mexico

*Ley para Promover la Inversión Mexicana y Regular la
Inversión Extranjera*

Reglamento de Telecomunicaciones

Sector:	Communications and Transportation								
Sub-Sector:	Postal Services, Telecommunications and Railroads								
Industry Classification:	<table> <tr> <td>CMAP 720001</td> <td>Postal Services</td> </tr> <tr> <td>CMAP 720005</td> <td>Telegraph Services, Radiotelegraph Services, Wireless Telegraphy</td> </tr> <tr> <td>CMAP 720006</td> <td>Other Telecommunications Services (limited to satellite communications)</td> </tr> <tr> <td>CMAP 711101</td> <td>Railway Transportation Services (limited to operation, administration and control of traffic within the Mexican railway system, supervision and management of railway rights-of-way, construction, operation, and maintenance of basic railway infrastructure)</td> </tr> </table>	CMAP 720001	Postal Services	CMAP 720005	Telegraph Services, Radiotelegraph Services, Wireless Telegraphy	CMAP 720006	Other Telecommunications Services (limited to satellite communications)	CMAP 711101	Railway Transportation Services (limited to operation, administration and control of traffic within the Mexican railway system, supervision and management of railway rights-of-way, construction, operation, and maintenance of basic railway infrastructure)
CMAP 720001	Postal Services								
CMAP 720005	Telegraph Services, Radiotelegraph Services, Wireless Telegraphy								
CMAP 720006	Other Telecommunications Services (limited to satellite communications)								
CMAP 711101	Railway Transportation Services (limited to operation, administration and control of traffic within the Mexican railway system, supervision and management of railway rights-of-way, construction, operation, and maintenance of basic railway infrastructure)								
Type of Reservation:	<p>National Treatment (Article 1202) Most-Favored-Nation Treatment (Article 1203) Local Presence (Article 1205)</p>								
Description:	<p><u>Cross-Border Services</u></p> <p>Mexico reserves the right to adopt or maintain any measure related to the provision of postal services (operation, administration and organization of first class mail), telegraph services, radiotelegraphy services, satellite communications services (establishment, ownership and operation of satellite systems, and establishment, ownership and operation of earth stations with international links), and railroad services (operation, administration and control of traffic within the Mexican railway system, supervision and management of railway rights-of-way, construction, operation, and maintenance of basic railway infrastructure).</p>								
Existing Measures:	<i>Constitución Política de los Estados Unidos Mexicanos, Artículo 28</i>								

October 7, 1992

Annex II - Mexico

Ley de Vías Generales de Comunicación

Ley Orgánica de Ferrocarriles Nacionales de México

Ley del Servicio Postal Mexicano

October 7, 1992

Annex II - Mexico

Sector: Energy

Sub-Sector: Petroleum and Other Hydrocarbons
Basic Petrochemicals
Electricity
Nuclear Power
Treatment of Radioactive Minerals

Industry Classification:

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

Description: Cross-Border Services

Subject to Annex 602.3 of this Agreement, Mexico reserves the right to adopt or maintain any measure related to services associated with energy and basic petrochemical goods.

Existing Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículos 27, 28*

Ley Reglamentaria del Artículo 27 Constitucional en Materia de Energía Nuclear

Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo y sus reglamentos

Ley Orgánica de Petróleos Mexicanos y Organismos Subsidiarios

October 7, 1992

Annex II - Mexico

Sector: Minority Affairs

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1202)
Local Presence (Article 1205)

Description: Cross-Border Services

Mexico reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged groups.

Existing Measures: *Constitución Política de los Estados Unidos Mexicanos, Artículo 4*

October 7, 1992

Annex II - Mexico

Sector: Professional, Technical and Specialized Services

Sub-Sector: Professional Services

Industry Classification: CMAP 951002 Legal Services (including foreign legal consultancy)

Type of Reservation: National Treatment (Article 1102, 1202)
Most-Favored-Nation Treatment (Article 1103, 1203)
Local Presence (Article 1205)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

Subject to Schedule of Mexico, Annex VI, page VI-M-2, Mexico reserves the right to adopt or maintain any measure relating to the provision of legal services and foreign legal consultancy services by persons of the United States.

Existing Measures: *Ley Reglamentaria del Artículo 5o. Constitucional, relativo al ejercicio de las profesiones en el Distrito Federal*

Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera

October 7, 1992

Annex II - Mexico

Sector: Social Services

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102, 1202)
Local Presence (Article 1205)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

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

Existing Measures: *Constitución Política de los Estados Unidos Mexicanos,*
Artículos 4, 17, 18, 25, 26, 28, 123

Sector:	Transportation
Sub-Sector:	Specialized Personnel
Industry Classification:	CMAP 951023 Other Specialized Services (limited to ship captains (capitanes); aircraft pilots (pilotos); ship masters (patrones); ship machinists (maquinistas); ship mechanics (mecánicos); airport administrators (comandantes de aeródromos); harbor masters (capitanes de puerto); harbor pilots (pilotos de puerto); customs brokers (agentes aduanales); crew on Mexican-flagged vessels or aircraft (personal que tripule cualquier embarcación o aeronave con bandera o insignia mercante mexicana))
Type of Reservation:	National Treatment (Article 1202) Most-Favored-Nation Treatment (Article 1203) Local Presence (Article 1205)
Description:	<u>Cross-Border Services</u> Only Mexican nationals by birth may serve as: (a) captains, pilots, ship masters, machinists, mechanics and crew members manning vessels or aircraft under the Mexican flag; (b) harbor pilots, harbor masters and airport administrators; and (c) customs brokers.
Existing Measures:	<i>Constitución Política de los Estados Unidos Mexicanos</i> , Artículo 32

October 7, 1992

Annex II
Schedule of United States

Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)

Description: Investment

The United States and each state reserve the right to adopt or maintain any measure relating to residency requirements for the ownership by investors of Canada, or their investments, of oceanfront land.

Existing Measures:

October 7, 1992

Annex II - United States

Sector: Communications

Sub-Sector: Cable Television

Industry Classification: CPC 753 Radio and Television Cable Services

Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)

Description: Investment

Subject to Article 2106, the United States reserves the right to adopt or maintain any measure that accords equivalent treatment to persons of any country that limits ownership by persons of the United States in an enterprise engaged in the operation of a cable television system in that country.

Existing Measures: None

October 7, 1992

Annex II - United States

Sector: Communications

Sub-Sector: Telecommunications Transport Networks and Services and Radio Communications

Industry Classification: CPC 752 Telecommunications Services (not including the enhanced or value-added services)
CPC 7543 Connection Services
CPC 7549 Other Telecommunications Services Not Elsewhere Classified (limited to Telecommunications Transport Networks and Services)

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

The United States reserves the right to adopt or maintain any measure relating to investment in, or the provision of, telecommunications transport networks, telecommunications transport services or radio communications. These measures may apply to such matters as market entry, spectrum assignment, tariffs, intercarrier agreements, terms and conditions of service, and interconnection between networks and services. Telecommunications transport services typically involve the real-time transmission of customer-supplied information between two or more points without end-to-end change in the form or content of the customer's information, whether or not such services are offered to the public generally. These services include voice and data services provided by any electromagnetic means. Radio communications include all communications by radio, including broadcasting. This reservation does not apply to measures relating to enhanced or value-added services or to the production, sale or licensing of radio or television programming.

October 7, 1992

Annex II - United States

Existing Measures:

Communications Act of 1934, 47 U.S.C. §§ 151 et seq., see particularly §§ 310(a), (b) (radio licenses for common carrier, aeronautical en route, aeronautical fixed, and broadcasting services)

F.C.C. Decision, International Competitive Carrier, 102 F.C.C. 2d 812 (1985)

Submarine Cable Landing Act, 47 U.S.C. § 34-9, see particularly § 35 (undersea cables)

Communications Satellite Act of 1962, 47 U.S.C. §§ 701-57

Telegraph Act, 47 U.S.C. § 17 (telegraph cables serving Alaska)

Children's Television Act of 1990, 47 U.S.C. § 303a

Television Program Improvement Act of 1990, 47 U.S.C. § 303c

October 7, 1992

Annex II - United States

Sector: Social Services

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

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

Existing Measures:

October 7, 1992

Annex II - United States

Sector: Minority Affairs

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 1102, 1202)
Local Presence (Article 1205)
Performance Requirements (Article 1106)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

The United States reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities, including corporations organized under the laws of the State of Alaska in accordance with the *Alaska Native Claims Settlement Act*.

Existing Measures: *Alaska Native Claims Settlement Act*, 43 U.S.C. §§ 1601 et seq.

October 7, 1992

Annex II - United States

Sector: Professional Services

Sub-Sector: Legal Services

Industry Classification: SIC 8111 Legal Services

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

Subject to Schedule of the United States, Annex VI, page VI-U-3, the United States reserves the right to adopt or maintain any measure relating to the provision of legal services, including foreign legal consultancy services, by persons of Mexico.

Existing Measures:

October 7, 1992

Annex II - United States

Sector: Publishing

Sub-Sector: Newspaper Publishing

Industry Classification: SIC 2711 Newspapers: Publishing, or Publishing and Printing

Type of Reservation: National Treatment (Article 1102)
Most-Favored-Nation Treatment (Article 1103)

Description: Investment

Subject to Article 2106, the United States reserves the right to adopt or maintain any measure that accords equivalent treatment to persons of any country that limits ownership by persons of the United States in an enterprise engaged in the publication of daily newspapers primarily written for audiences and distributed in that country.

For purposes of this reservation, daily newspapers are newspapers published at least five days each week.

Existing Measures:

Sector:	Transportation	
Sub-Sector:	Water Transportation	
Industry Classification:	SIC 091	Commercial Fishing (limited to fishing vessels and fishing operations within the Exclusive Economic Zone)
	SIC 1629	Heavy Construction, Not Elsewhere Classified (limited to marine dredging)
	SIC 4412	Deep Sea Foreign Transportation of Freight (limited to promotional programs for U.S.-flagged vessels)
	SIC 4424	Deep Sea Domestic Transportation of Freight (includes coastwise transportation of freight, deep sea domestic freight transportation, intercoastal transportation of freight, water transportation of freight to noncontiguous territories)
	SIC 4432	Freight Transportation on the Great Lakes and St. Lawrence Seaway
	SIC 4449	Water Transportation of Freight, Not Elsewhere Classified (includes canal barge operations, canal freight transportation, intracoastal freight transportation, lake freight transportation except on the Great Lakes, log rafting and towing, river freight transportation except on the St. Lawrence Seaway, transportation of freight on bays and sounds of the oceans)
	SIC 4481	Deep Sea Transportation of Passengers, Except by Ferry (limited to promotional programs for U.S.-flagged vessels)
	SIC 4482	Ferries
	SIC 4489	Water Transportation of Passengers, Not Elsewhere Classified (includes airboats, swamp buggy rides, excursion boat operations, passenger water transportation on rivers and canals, sightseeing boats, water taxis)
	SIC 4491	Marine Cargo Handling (limited to crew activities aboard vessels transporting supplies and cargo within U.S. territorial waters and longshore work

performed by crew affected by reciprocity restrictions)
SIC 4492 Towing and Tugboat Services
SIC 4499 Water Transportation Services, Not Elsewhere Classified (limited to cargo salvaging, chartering of commercial boats, lighterage, bunkering, marine salvage, pilotage, steamship leasing, cable laying)

Type of Reservation: National Treatment (Articles 1102, 1202)
Most-Favored-Nation Treatment (Articles 1103, 1203)
Local Presence (Article 1205)
Performance Requirements (Article 1106)
Senior Management (Article 1107)

Description: Cross-Border Services and Investment

The United States reserves the right to adopt or maintain any measure relating to the provision of maritime transportation services and the operation of U.S.-flagged vessels, including the following:

- (a) requirements for investment in, ownership and control of, and operation of vessels and other marine structures, including drill rigs, in maritime cabotage services, including maritime cabotage services performed in the domestic offshore trades, the coastwise trades, U.S. territorial waters, waters above the continental shelf and in the inland waterways;
- (b) requirements for investment in, ownership and control of, and operation of U.S.-flagged vessels in foreign trades;
- (c) requirements for investment in, ownership and control of, and operation of vessels engaging in fishing and related activities in U.S. territorial waters and the Exclusive Economic Zone;

- (d) requirements related to documenting a vessel under the U.S. flag;
- (e) promotional programs, including tax benefits, available for shipowners, operators and vessels meeting certain requirements;
- (f) certification, licensing and citizenship requirements for crew members on U.S.-flagged vessels;
- (g) manning requirements for U.S.-flagged vessels;
- (h) all matters under the jurisdiction of the Federal Maritime Commission;
- (i) negotiation and implementation of bilateral and other international maritime agreements and understandings;
- (j) limitations on longshore work performed by crew members;
- (k) tonnage duties and light money assessments for entering U.S. waters; and
- (l) certification, licensing and citizenship requirements for pilots performing pilotage services in U.S. territorial waters.

The following activities are not included in this reservation:

- (a) vessel construction and repair; and
- (b) landside aspects of port activities, including operation and maintenance of docks, loading and unloading of vessels directly to or from land, marine cargo handling, operation and maintenance of piers, ship cleaning, stevedoring, transfer of cargo between vessels and trucks, trains, pipelines and wharves, waterfront terminal operations, boat cleaning, canal operation, dismantling of

vessels, operation of marine railways for drydocking, marine surveyors, except cargo, marine wrecking of vessels for scrap and ship classification societies.

Existing Measures:

Merchant Marine Act of 1920, § 27, 46 App. U.S.C. § 876 and §§ 883 et seq.

Jones Act Waiver Statute, 64 Stat 1120, 46 U.S.C. App., note preceding Section 1

Shipping Act of 1916, 46 U.S.C. App. §§ 802 and 808

Merchant Marine Act of 1936, 46 U.S.C. App. §§ 1151 et seq., 1160-61, 1171 et seq., 1241(b), 1241-1, 1244, and 1271 et seq.

Merchant Ship Sales Act of 1946, 50 U.S.C. App. § 1738

46 App. U.S.C. §§ 121, 292 and 316

46 U.S.C. §§ 12101 et seq. and 31301 et seq.

46 U.S.C. §§ 8904 and 31328(2)

Passenger Vessel Act, 46 App. U.S.C. § 289

42 U.S.C. §§ 9601 et seq.; 33 U.S.C. §§ 2701 et seq.; 33 U.S.C. §§ 1251 et seq.

46 U.S.C. §§ 3301 et seq., 3701 et seq., 8103 and 12107(b)

Shipping Act of 1984, 46 App. U.S.C. §§ 1708 and 1712

Nicholson Act, 46 App. U.S.C. §§ 251

Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, 46 U.S.C. § 2101 and 46 U.S.C. § 12108

43 U.S.C. § 1841

October 7, 1992

Annex II - United States

22 U.S.C. § 1980

Intercoastal Shipping Act, 46 U.S.C. App. § 843

46 U.S.C. § 9302, 46 U.S.C. § 8502; Agreement Governing the Operation of Pilotage on the Great Lakes, Exchange of Notes at Ottawa, August 23, 1978, and March 29, 1979, TIAS 9445

Magnuson Fisheries Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq.*

19 U.S.C. § 1466

October 7, 1992

**Annex III
Schedule of Mexico**

A. Activities Reserved to the Mexican State

Mexico reserves the right to perform exclusively, and to refuse to permit the establishment of investments in, the following activities:

1. Petroleum, Other Hydrocarbons and Basic Petrochemicals

(a) Description of activities

- (i) exploration and exploitation of crude oil and natural gas; refining or processing of crude oil and natural gas; and production of artificial gas, basic petrochemicals and their feedstocks and pipelines; and**
- (ii) foreign trade; transportation, storage and distribution up to and including first hand sales of the following goods: crude oil; natural and artificial gas; goods covered by Chapter Six (Energy and Basic Petrochemicals) obtained from the refining or processing of crude oil and natural gas; and basic petrochemicals.**

(b) Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 27 y 28

Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo

Ley Orgánica de Petróleos Mexicanos y Organismos Subsidiarios

2. Electricity

- (a) Description of activities: the supply of electricity as a public service in Mexico, including, the generation, transmission, transformation, distribution and sale of electricity.**

(b) Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 27, 28

Ley del Servicio Público de Energía Eléctrica

3. Nuclear Power and Treatment of Radioactive Minerals

(a) Description of activities: exploration, exploitation and processing of radioactive minerals, the nuclear fuel cycle, the generation of nuclear energy, the transportation and storage of nuclear wastes, the use and reprocessing of nuclear fuels and the regulation of their applications for other purposes and the production of heavy water.

(b) Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 27, 28

Ley Reglamentaria del Artículo 27 Constitucional en Materia de Energía Nuclear

4. Satellite Communications

(a) Description of activities: the establishment, operation and ownership of satellite systems and earth stations with international links.

(b) Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 28

Ley de Vías Generales de Comunicación

5. Telegraph Services

Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 28

Ley de Vías Generales de Comunicación

6. Radiotelegraph Services

Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 28

Ley de Vías Generales de Comunicación

7. Postal Services

(a) Description of activities: operation, administration and organization of first class mail.

(b) Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 28

Ley del Servicio Postal Mexicano

8. Railroads

(a) Description of activities: operation, administration and control of traffic within the Mexican railway system; supervision and management of railway right-of-way; operation, construction and maintenance of basic railway infrastructure.

(b) Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 28

Ley Orgánica de Ferrocarriles Nacionales de México

9. Issuance of Bills (currency) and Minting of Coinage

Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 25, 28

Ley Orgánica del Banco de México

Ley Orgánica de la Casa de Moneda de México

10. Control, Inspection and Surveillance of Maritime and Inland Ports

Measures:

Ley de Navegación y Comercio Marítimos, Artículos 43, 47

Ley de Vías Generales de Comunicación, Artículo 272

11. Control, Inspection and Surveillance of Airports and Heliports

Measures:

Ley de Vías Generales de Comunicación, Artículo 327

The legal citations are provided for transparency purposes. A measure cited in the Measures category includes any subordinate measure adopted or maintained under the authority of and consistent with the measures.

B. Deregulation of Activities Reserved to the State

1. The activities set out in Section A are reserved to the Mexican State, and private equity investment is prohibited under Mexican Law. Where Mexico allows private investment to participate in such activities through service contracts, concessions, lending arrangements or any other type of contractual arrangement, such participation shall not be construed to affect the State's reservation of those activities.
2. If Mexican law is amended to allow private equity investment in an activity set out in Section A, Mexico may impose restrictions on foreign investment participation notwithstanding Article 1102, and describe them in Annex I. Mexico may also impose derogations from Article 1102 on foreign equity investment participation when selling an asset or ownership interest in an enterprise engaged in activities set out in Section A, and describe them in Annex I.

October 7, 1992

Annex III - Mexico

C. Activities Formerly Reserved to the Mexican State

Where an activity was reserved to the Mexican State on January 1, 1992 and is not reserved to the Mexican State on entry into force of this Agreement, Mexico may restrict the initial sale of a state-owned asset or an ownership interest in a state enterprise that performs that activity to enterprises with majority ownership by Mexican nationals, as defined by the Mexican Constitution. For a period not to exceed three years from the initial sale, Mexico may restrict the transfer of such asset or ownership interest to other enterprises with majority ownership by Mexican nationals, as defined by the Mexican Constitution. On expiration of the three year period, the obligations of national treatment set out in Article 1102 (National Treatment) apply. This provision is subject to Article 1108 (Reservations and Exceptions).

October 7, 1992

**Annex IV
Schedule of Canada**

Canada takes an exception to Article 1103 for all bilateral or multilateral international agreements in force or signed prior to the date of entry into force of this Agreement.

For international agreements in force or signed after the date of entry into force of this Agreement, Canada takes an exception to Article 1103 for those agreements involving:

- (a) aviation;
- (b) fisheries;
- (c) maritime matters, including salvage; or
- (d) telecommunications transport networks and telecommunications transport services (this exception does not apply to measures covered by Chapter Thirteen (Telecommunications)).

With respect to state measures not yet set out in Annex I pursuant to Article 1108(2), Canada takes an exception to Article 1103 for international agreements signed within two years of the date of entry into force of this Agreement.

For greater certainty, Article 1103 does not apply to any current or future foreign aid program to promote economic development, such as those governed by the Energy Economic Cooperation Program with Central America and the Caribbean (Pacto de San José) and the OECD Agreement on Export Credits.

October 7, 1992

**Annex IV
Schedule of Mexico**

Mexico takes an exception to Article 1103 for all bilateral or multilateral international agreements in force or signed prior to the date of entry into force of this Agreement.

For international agreements in force or signed after the date of entry into force of this Agreement, Mexico takes an exception to Article 1103 only for those agreements involving:

- (a) aviation;
- (b) fisheries;
- (c) maritime matters, including salvage; or
- (d) telecommunications transport networks and telecommunications transport services (this exception does not apply to measures covered by Chapter Thirteen (Telecommunications) or to the production, sale or licensing of radio or television programming).

With respect to state measures not yet set out in Annex I pursuant Article 1108(2), Mexico takes an exception to Article 1103 for international agreements signed within two years of the date of entry into force of this Agreement.

For greater certainty, Article 1103 does not apply to any current or future foreign aid programs to promote economic development, such as those governed by the Energy Economic Cooperation Program with Central America and the Caribbean (Pacto de San José) and the OECD Agreement on Export Credits.

October 7, 1992

ANNEX IV
Schedule of the United States

The United States takes an exception to Article 1103 for all bilateral or multilateral international agreements in force or signed prior to the date of entry into force of this Agreement.

For international agreements in force or signed after the date of entry into force of this Agreement, the United States takes an exception to Article 1103 for those agreements involving:

- (a) aviation;
- (b) fisheries;
- (c) maritime matters, including salvage; or
- (d) telecommunications transport networks and telecommunications transport services (this exception does not apply to measures covered by Chapter Thirteen (Telecommunications) or the production, sale or licensing of radio or television programming).

With respect to state measures not yet set out in Annex I pursuant to Article 1108(2), the United States takes an exception to Article 1103 for international agreements signed within two years of the date of entry into force of this Agreement.

For greater certainty, Article 1103 does not apply to any current or future foreign aid program to promote economic development, such as those governed by the Energy Economic Cooperation Program with Central America and the Caribbean (Pacto de San José) and the OECD Agreement on Export Credits.

October 7, 1992

Annex V

1. The Schedule of a Party sets out the non-discriminatory quantitative restrictions maintained by that Party pursuant to Article 1207.
2. Each entry sets out the following elements:
 - (a) **Sector** refers to the general sector in which the quantitative restriction is maintained;
 - (b) **Sub-Sector** refers to the specific sector in which the quantitative restriction is maintained;
 - (c) **Industry Classification** refers, where applicable, to the activity covered by the quantitative restriction according to domestic industry classification codes;
 - (d) **Level of Government** indicates the level of government maintaining the quantitative restriction;
 - (e) **Measures** identifies the measures under which the quantitative restriction is maintained; and
 - (f) **Description** sets out the scope of the sector, sub-sector or activities covered by the quantitative restriction.
3. For purposes of this Annex:

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

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; 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

October 7, 1992

Annex V

- (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.

October 7, 1992

Annex V
Schedule of Canada

Sector: Communications

Sub-Sector: Postal Services

Industry Classification: SIC 4841 Postal Service Industry

Level of Government: Federal

Measures: *Canada Post Corporation Act, R.S.C. c. C-10*
Letter Definition Regulations, SOR/83-481

Description: Canada Post Corporation has the exclusive privilege to collect, transmit and deliver "letters", as defined in the *Letter Definition Regulations*, addressed in Canada, and its consent is required for other persons to sell stamps.

October 7, 1992

Annex V - Canada

Sector: Communications

Sub-Sector: Radio Communications

Industry Classification: CPC 752 Telecommunications

Level of Government: Federal

Measures: *Radiocommunication Act, R.S.C. 1985, c. R-2*

Description: A person that proposes to operate a private radio transmission system must obtain a license from the Department of Communications. The issuance of such a license is subject to spectrum availability and policies regarding its use. In general, priority is given to the use of the spectrum for the purpose of developing non-private networks.

October 7, 1992

Annex V - Canada

Sector: Energy

Sub-Sector: Electricity Transmission

Industry Classification: SIC 4911 Electric Power Systems Industry

Level of Government: Federal

Measures: *National Energy Board Act, R.S.C. 1985, c. N-7*

Description: The approval of the National Energy Board is required for the construction and operation of international electricity transmission lines.

Sector: Energy

Sub-Sector: Oil and Gas Transportation

Industry Classification: SIC 461 Pipeline Transport Industry

Level of Government: Federal

Measures: *National Energy Board Act*, R.S.C. 1985, c. N-7

Description: The approval of the National Energy Board (NEB) is required for the construction and operation of all interprovincial or international pipelines for the transmission of oil or gas. A public hearing must be held and a certificate of public convenience and necessity issued where the pipeline in question is longer than 40 kilometers. Pipelines shorter than 40 kilometers may be authorized by an order without a public hearing. All modifications to and extensions of pipelines must be approved by the NEB.

All tolls for the transmission of oil and gas on NEB-regulated pipelines and all tariff matters must be filed with or approved by the NEB. A public hearing may be held to consider toll and tariff matters.

October 7, 1992

Annex V - Canada

Sector: Food, Beverage and Drug Industries

Sub-Sector: Liquor, Wine and Beer Stores

Industry Classification: 6021 Liquor Stores
6022 Wine Stores
6023 Beer Stores

Level of Government: Federal

Measures: *Importation of Intoxicating Liquors Act*, R.S.C. 1985, c. I-3

Description: The *Importation of Intoxicating Liquors Act* gives each provincial government an import monopoly on any intoxicating liquors entering its territory.

October 7, 1992

Annex V - Canada

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: SIC 457 Public Passenger Transit Systems

Level of Government: Federal (administration delegated to provinces)

Measures: *National Transportation Act, 1987, R.S.C. 1985, c. 28 (3rd Supp.)*

Description: Provincial transport boards have been delegated the authority to permit persons to provide extra-provincial (inter-provincial and cross-border) bus services in their respective provinces on the same basis as local bus services. All provinces, except New Brunswick, Prince Edward Island and Yukon, permit the provision of local and extra-provincial bus services on the basis of a public convenience and necessity test.

October 7, 1992

Annex V
Schedule of Mexico

Sector: Communications

Sub-Sector: Telecommunications

Industry Classification: CMAP 720006 Other Telecommunications Services
(limited to private networks)

Level of Government: Federal

Measures: *Ley de Vías Generales de Comunicación, Libro I, Capítulo III*
Reglamento de Telecomunicaciones, Capítulo II, Capítulo IV

Description: Resale of circuit capacity of a private network may not exceed 30 percent of such capacity.

October 7, 1992

Annex V - Mexico

Sector: Private Educational Services

Sub-Sector:

Industry Classification:

CMAP 921101	Private Preschool Educational Services
CMAP 921102	Private Primary School Educational Services
CMAP 921103	Private Secondary School Educational Services
CMAP 921104	Private 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

Level of Government: Federal and State

Measures:

Constitución Política de los Estados Unidos Mexicanos, Artículos 3, 5

Ley Federal de Educación Capítulos I, II, III y IV

Ley para la Coordinación de la Educación Superior, Capítulos I y II

Ley Reglamentaria del Artículo 5o. Constitucional relativo al Ejercicio de las Profesiones en el Distrito Federal, Capítulos I, III, Secciones I, III

Reglamento de la Ley Reglamentaria del Artículo 5o. Constitucional relativo al Ejercicio de las Profesiones en el Distrito Federal, Capítulo V

Description: For the provision of primary, secondary, "normal" or worker or peasant educational services, prior and express authorization granted by the Secretaría de Educación Pública or the state

October 7, 1992

Annex V - Mexico

competent authority is required. Such authorization is granted or canceled on a case-by-case basis in accordance with public convenience and necessity, at the discretion of the Secretaría de Educación Pública or the state competent authority.

No legal remedy is available under Mexican law for the denial or revocation of such authorization.

October 7, 1992

Annex V - Mexico

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CMAP 973103 Vehicle Parking Services (parking and garage services)
CMAP 973104 Weight Scale Services for Transportation
CMAP 973105 Towing Services for Vehicles
CMAP 973106 Other Services Related to Land Transportation (not mentioned in CMAP 9731, 7112 and 7113)

Level of Government: Federal

Measures: *Ley de Vías Generales de Comunicación*

Description: A permit issued by the Secretaría de Comunicaciones y Transportes is required to provide services related to land transportation.

October 7, 1992

Annex V
Schedule of United States

Sector: Communications

Sub-Sector: Telecommunications (Radio Communications)

Industry Classification: CPC 752 Telecommunications Services

Level of Government: Federal

Measures: *Communications Act of 1934*, 47 U.S.C. §§ 151 et seq.

Description: Any person wishing to engage in communications by radio within the United States and between the United States and points outside the United States must obtain a license from the Federal Communications Commission (FCC) for the use, but not the ownership, of all channels of radio communications. Such a license shall not be construed to create any right beyond the terms, conditions and periods of the license.

The *Communications Act of 1934* requires the FCC, in granting radio station licenses, to determine if such a license would serve the public interest, convenience and necessity and empowers the FCC to impose conditions pursuant to this determination. The FCC must deny applications for radio licenses where it is unable to find that such grant would serve the public interest, convenience and necessity.

Sector: Communications

Sub-Sector: Cable Television Services

Industry Classification: CPC 753 Radio and Television Cable Services

Level of Government: Federal

Measures: *Communications Act of 1934, 47 U.S.C. §§ 151 et seq.*
Federal Communications Commission Rules, §§ 76.501, 74.931(e)(5), 63.54 and 21.912
47 C.F.R. §§ 76.501, 74.931(e)(5), 63.54 and 21.912

Description: A cable television system is not allowed to carry any television broadcast signal if the cable system owns, operates, controls or has an interest in a television broadcast station whose Grade B contour overlaps the service area of such cable system (§ 76.501(a)).

A cable television system may directly or indirectly own, operate, control or have an interest in a national television network, such as ABC, CBS or NBC, only if such system does not pass more than:

- (a) 10 percent of homes passed on a nationwide basis when aggregated with all other cable systems in which the network holds such a cognizable interest; and
- (b) 50 percent of homes passed within any one Arbitron Area of Dominant Influence (ADI), except that a cable television system facing a competing system will not be counted toward this 50 percent limit

(§ 76.501(b)).

A cable television company may not lease excess transmission time or capacity from a licensee of an Instructional Television Fixed Service (ITFS) station (television services intended for use in educational institutions) if the ITFS station is located within 20 miles of that cable television company's franchise area (§ 74.931(e)(5)).

A telephone common carrier may not engage in the provision (for example, ownership, control or production) of video programming to the viewing public in its telephone service area, but may distribute such programming on a common carrier basis and may only have up to a five percent non-controlling financial interest in video programmers (§ 63.54(a)).

A telephone common carrier may not provide channels of communications or pole line conduit space, or other rental arrangements to any entity that is directly or indirectly owned, operated or controlled by, or under common control with, such telephone common carrier, where such facilities or arrangements are to be used for, or in connection with, the provision of video programming to the viewing public in the telephone service area of the telephone common carrier (§ 63.54(b)).

In cable television franchise areas served by a single cable operator, that operator may not be authorized to use frequencies assigned to the Multichannel Multipoint Distribution Service (MMDS) (the 2150-2165 MHz and 2596-2644 MHz bands), if a portion of an MMDS station's protected service area lies within that cable television operator's franchise area (§ 21.912).

October 7, 1992

Annex V - United States

Sector: Energy

Sub-Sector: Natural Gas Transportation

Industry Classification: SIC 4922 Natural Gas Transmission
SIC 4923 Natural Gas Transmission and Distribution
SIC 4924 Natural Gas Distribution

Measures: 15 U.S.C. § 717f

18 C.F.R. § 157

Description:

A natural gas company, or a person that will be a natural gas company upon completion of proposed construction or extension of transportation facilities, is required to obtain a certificate of public convenience and necessity to construct, extend, acquire or operate such facilities. In addition, a certificate is required to transport or sell for resale natural gas in interstate commerce.

The Federal Energy Regulatory Commission (FERC) is required to hold hearings on applications for permanent certificates and to give interested persons notice of such hearings. Notices of applications are published in the *Federal Register*.

The FERC does not require a certificate of public convenience and necessity for certain replacement construction, maintenance, emergency facilities, auxiliary installations and certain types of taps.

Natural gas services for drilling oil wells or for testing or purging new natural gas pipeline facilities are exempt from the certificate requirement.

Certain "emergency" sales, transportation or exchanges are exempt from the certificate requirement. Where a certificate is required, the FERC may grant a temporary certificate for sale or transportation in emergency circumstances, pending the determination on a permanent certificate.

October 7, 1992

Annex V - United States

Sector: Postal Services

Sub-Sector:

Industry Classification: SIC 4311 United States Postal Service

Level of Government: Federal

Measures: 39 U.S.C. §§ 401 et seq.

18 U.S.C. § 1693

39 C.F.R. §§ 310 and 320

Description: The U.S. Postal Service is generally authorized to "receive, transmit, and deliver throughout the United States, its territories and possessions . . . written and printed matter, parcels and like materials." The Postal Service also has the exclusive authority to "provide and sell postage stamps."

A carrier other than the U.S. Postal Service may carry letters if, among other things, each letter is enclosed in an envelope, proper postage has been paid in stamps, the stamp is canceled by the sender and the carrier endorses the envelope.

The postal regulations define "letters" to exclude telegrams, books and magazines, and other materials. The regulations also permit letters to be carried accompanying cargo, by the sender, by others without compensation and by special messengers. The Postal Service has suspended its regulations with respect to private "express mail" services.

October 7, 1992

Annex V - United States

Sector: Recreation

Sub-Sector: National Parks Concessions

Industry Classification: SIC 7999 Amusement and Recreation Services, Not Elsewhere Classified

Level of Government: Federal

Measures: 16 U.S.C. §§ 20 and 20a

Description: A concession is required to operate hotels, restaurants, gift shops, snack bars, equipment rentals, horseback riding services, guide services, fishing guide services, mountain climbing services, bus transportation and other services in U.S. national parks. The National Park Service regulates all aspects of these services, including building specifications, rates for the services, and hours of operation.

The National Park Service awards concessions only where they are determined to be "necessary and appropriate". In developing its plans for the operation of a national park, the Park Service determines what operations, including concessions, are "necessary and appropriate". As a result of this determination, the Park Service may determine that a given concession is not needed.

October 7, 1992

Annex VI

1. The Schedule of a Party sets out the commitments to liberalize non-discriminatory measures undertaken by that Party pursuant to Article 1208.
2. Each commitment sets out the following elements:
 - (a) **Sector** refers to the general sector in which the commitment to liberalize is undertaken;
 - (b) **Sub-Sector** refers to the specific sector in which the commitment to liberalize is undertaken;
 - (c) **Industry Classification** refers, where applicable, to the activity covered by the non-discriminatory measure to be liberalized according to domestic industry classification codes;
 - (d) **Level of Government** indicates the level of government maintaining the non-discriminatory measure to be liberalized;
 - (e) **Measures** identifies the non-discriminatory measures to be liberalized; and
 - (f) **Description** sets out the commitment undertaken by the Party to liberalize a non-discriminatory measure.
3. In the interpretation of a commitment, all elements of the commitment shall be considered. The **Description** element shall prevail over all other elements.
4. 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;

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; and

October 7, 1992

Annex VI

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.

October 7, 1992

**Annex VI
Schedule of Canada**

Sector: Professional Services

Sub-Sector: Lawyers

Industry Classification: SIC 7761 Offices of Lawyers and Notaries

Level of Government: Provincial

Measures:

Ontario: *Law Society Act*, R.S.O. 1980, c. 233

British Columbia: *Legal Profession Act*, S.B.C. 1987, c. 25

Saskatchewan: *Legal Profession Act*, S.Sask. 1990, c. L-10.1

Description: Lawyers authorized to practice in Mexico or the United States and law firms headquartered in Mexico or the United States will be permitted to provide foreign legal consultancy services, and to establish for that purpose, in British Columbia, Ontario and Saskatchewan, and in any other province that so permits by the date of entry into force of this Agreement.

October 7, 1992

**Annex VI
Schedule of Mexico**

Sector: Communications

Sub-Sector: Entertainment Services (Cinema)

Industry Classification: CMAP 941102 Private Services of Distribution and Films Rental

Measures: *Ley de la Industria Cinematográfica*
Reglamento de la Ley de la Industria Cinematográfica

Description: Cross-Border Services

A "distributor" of films produced outside of Mexico is required to provide to the Cineteca Nacional no more than one copy of two film titles for each five film titles imported by the distributor into Mexico.

- Sector:** Professional, Technical and Specialized Services
- Sub-Sector:** Professional Services
- Industry Classification:** CMAP 951002 Legal Services (limited to foreign legal consultancy)
- Level of Government:** Federal and State
- Measures:**
- Description:**
1. Mexico will ensure that:
 - (a) a lawyer authorized to practice in a province of Canada or a state of the United States who seeks to practice as a foreign legal consultant in Mexico will be granted a license to do so if lawyers licensed in Mexico are accorded equivalent treatment in such province or state; and
 - (b) a law firm headquartered in a province of Canada or a state of the United States that seeks to establish in Mexico to provide legal services through licensed foreign legal consultants will be authorized to do so if law firms headquartered in Mexico are accorded equivalent treatment in such province or state.
 2. Mexico will, pursuant to paragraph 1(a), deny benefits to foreign lawyers employed by or associated with foreign legal consultancy firms established in Mexico, pursuant to paragraph 1(b), if such lawyers are not authorized to practice in a province of Canada or a state of the United States that authorizes lawyers licensed in Mexico to practice as foreign legal consultants in its territory.
 3. Subject to paragraphs 1 and 2, Mexico will adopt measures regarding the practice of foreign legal consultants in the territory of Mexico, including matters related to association with and hiring of lawyers licensed in Mexico.

October 7, 1992

Annex VI - Mexico

Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification:

CMAP 711201	Road Transport Services for Construction Materials
CMAP 711202	Road Transport Moving Services
CMAP 711203	Other Services of Specialized Cargo Transportation
CMAP 711204	General Trucking Services
CMAP 711311	Inter-City Busing Services
CMAP 711318	School and Tourist Transportation Services (limited to tourist transportation services)

Measures:

Description:

An enterprise authorized in Mexico to provide bus or truck transportation services may use equipment of its own, leased vehicles with an option to purchase (financial leasing), leased vehicles (operational leasing), or short-term rental vehicles.

Federal measures will be established in relation to leasing and rental operations.

October 7, 1992

Annex VI
Schedule of United States

Sector: Communications

Sub-Sector: Broadcasting

Industry Classification: CPC 7524 Program Transmission Services

Level of Government: Federal

Measures: *Communications Act of 1934*, 47 U.S.C. §§ 309, 325

Description: The United States will ensure that in considering applications for a grant of authority to transmit programming to foreign stations for retransmission into the United States under section 325 of the *Communications Act of 1934* (the Act), the Federal Communications Commission (FCC) will not consider the nationality of the affected stations for the purpose of favoring a U.S. station that is competing with a Mexican station for affiliation with a U.S. programmer. Rather, the FCC will apply the criteria for the grant of such a permit in the same manner as they would be applied to a domestic broadcast station application under section 309 of the Act.

In addition, the term of the section 325 permit shall be extended from one year to five years in all situations where it can be assured that the retransmitting station is and will be in full compliance with applicable treaties. In assessing the public interest, convenience and necessity required by the Act for the grant of authorization under section 325, the primary criterion will be avoiding the creation or maintenance of electrical interference to U.S. broadcast stations that violates applicable treaty provisions. In evaluating this and any other criterion permitted under section 309, the United States will ensure that the section 325

October 7, 1992

Annex VI - United States

process is not conducted in a manner that would constitute an unnecessary restriction on trade.

October 7, 1992

Annex VI - United States

Sector: Professional Services

Sub-Sector: Legal Services

Industry Classification: SIC 8111 Legal Services

Level of Government: State

Measures:

Alaska Bar R. 44.1

California R. Ct. 988

Connecticut Pract. Book § 24A

D.C. Ct. App. R. 46(c)(4) (Washington, D.C.)

Rules Regulating the Florida Bar, Chapter 16, as adopted in Amendment to Rules Regulating the Florida Bar, _____ Fla. L. Weekly _____, 1992 Fla. LEXIS 1398 (Case No. 79,288, decided on July 23, 1992)

Rules and Regulations of the State Bar of Georgia, Part II, Rule 2-101, Part D

Hawaii Sup. Ct. R. 14

Illinois Rev. Stat. Ch. 110A, par. 712 (Sup. Ct. R. 712)

Michigan Bd. of Law Examiners R. 5(E)

New Jersey Sup. Ct. R. 1:21-9

New York Admn. Code tit. 22, Section 521

Ohio Sup. Ct. R. for the Government of the Bar XI

October 7, 1992

Annex VI - United States

Rules Regulating Admission to Practice Law in
Oregon, Chapter 10

Texas R. Governing Admission to the Bar of Texas
XVI

Wash. R. of Ct. 14

Description:

Lawyers authorized to practice in Canada or Mexico and law firms headquartered in Canada or Mexico will be permitted to provide foreign legal consultancy services, and to establish for that purpose, in Alaska, California, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Illinois, Michigan, New Jersey, New York, Ohio, Oregon, Texas and Washington, or in any other state that so permits by the date of entry into force of this Agreement.

October 6, 1992 5:48am

Annex VII

1. Section A of the Schedule of a Party sets out the reservations taken by that Party, pursuant to Article 1409(1), with respect to existing non-conforming measures that derogate from an obligation relating to Articles 1403 through 1408.
2. Each reservation in Section A 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 the reservation is taken;
 - (e) **Level of Government** indicates the level of government maintaining the measure for which the reservation is taken;
 - (f) **Measures** identifies the laws, regulations or other measures, as qualified 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 references, if any, for liberalization on the date of entry into force of this Agreement pursuant to other sections of a Party's Schedule to this Annex, 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 Chapter against which the reservation is taken. To the extent that:

- (a) the **Phase-Out** element provides for the phasing out of the non-conforming aspects of measures, the **Phase-Out** element shall prevail over all other elements;
- (b) the **Measures** element is qualified by a specific reference in 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. Section B of the Schedule of a Party sets out reservations taken by the Party, pursuant to Article 1409(2), for non-conforming measures the Party may adopt or maintain that derogate from an obligation relating to Articles 1403 through 1408.

5. Section C of the Schedule of a Party sets out the commitments to liberalize measures undertaken by that Party pursuant to Article 1409(3).

6. 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;

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; and

SIC means:

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

October 6, 1992 12:14am

Annex VII

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

October 7, 1992

**Annex VII
Section A
Schedule of Canada**

Sector: Financial Services

Sub-Sector: Insurance

Industrial Classification:

Type of Reservation: Article 1404 (Cross-Border Trade)

Level of Government: Federal

Measures: *Insurance Companies Act, S.C. 1991, c. 47*
Reinsurance (Canadian Companies) Regulations, SOR/92-298
Reinsurance (Foreign Companies) Regulations, SOR/92-596

Description: The purchase of reinsurance services by a Canadian insurer, other than a life insurer or a reinsurer, from a non-resident reinsurer is limited to no more than 25 percent of the risks undertaken by the insurer purchasing the reinsurance.

Phase-Out: None

Section B

1. Canada reserves the right to derogate from Article 1405(1) for the securities sector. With respect to this Article, Canada reserves the right to adopt or maintain measures affecting cross-border trade in securities services that are more restrictive than existing such measures.

2. For purposes of restrictions that limit foreign ownership of Canadian-controlled financial institutions, and for purposes of restrictions on total domestic assets of foreign bank subsidiaries in Canada, Canada reserves the right to adopt or maintain measures that require an enterprise of another Party be controlled by one or more residents of the other Party in order to be entitled to the benefits of this Chapter. For these purposes:

- (a) an enterprise controlled by one or more residents of another Party means controlled, directly or indirectly, by such residents;
- (b) an enterprise that is a body corporate is controlled by one or more persons if
 - (i) securities of the enterprise to which are attached more than 50 percent of the votes that may be cast to elect directors of the enterprise are beneficially owned by the person or persons and the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the enterprise, and
 - (ii) the person or persons has or have, directly or indirectly, control in fact of the enterprise;
- (c) an enterprise that is an unincorporated entity is controlled by one or more persons if
 - (i) more than 50 percent of ownership interests, however designated, into which the enterprise is divided is beneficially owned by the person or persons and the person or persons is or are able to direct the business and affairs of the enterprise, and
 - (ii) the person or persons has or have, directly or indirectly, control in fact of the enterprise;
- (d) a limited partnership is controlled by the general partner;

October 7, 1992

Annex VII(B) - Canada

- (e) ordinarily resident in a country generally means sojourning in that country for a period of, or periods the aggregate of which is, 183 days or more during the relevant year; and
- (f) a person ordinarily resident in another Party means
 - (i) in the case of an enterprise, an enterprise legally constituted or organized under the laws of that Party and controlled, directly or indirectly, by one or more individuals of that Party described in clause (ii), and
 - (ii) in the case of an individual, an individual who is ordinarily resident in the territory of that Party.

October 7, 1992

Annex VII(C)-Canada

Section C

1. For purposes of restrictions that limit foreign ownership of Canadian-controlled financial institutions and for purposes of limitations on total domestic assets of foreign bank subsidiaries in Canada, Canada shall give to Mexico the same treatment that Canada gives under the *Bank Act*, the *Insurance Companies Act (Canada)*, the *Trust and Loan Companies Act (Canada)*, and the *Investment Companies Act*, to United States residents and to institutions controlled by United States residents.

2. Canada shall exempt foreign bank subsidiaries in Canada controlled by Mexican residents from the requirement to obtain approval of the Minister of Finance prior to opening branches within Canada in the same manner as it exempts foreign bank subsidiaries in Canada controlled by United States residents.

**Annex VII
Section A
Schedule of Mexico**

Sector:	Financial Services
Sub-Sector:	Holding Companies (Sociedades Controladoras) Commercial Banks (Instituciones de Crédito)
Industry Classification:	Holding Companies (Not applicable) CMAP 811030 Commercial Banks
Type of Reservation:	Establishment of Financial Institutions (Article 1403) National Treatment (Article 1405)
Level of Government:	Federal
Measures:	<i>Ley para Regular las Agrupaciones Financieras,</i> Artículo 18 <i>Ley de Instituciones de Crédito,</i> Artículos 11, 15
Description:	Aggregate foreign investments in holding companies and in commercial banks are limited to 30 percent of common stock capital ("capital ordinario"). These percentage limits do not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under, Sections B and C of the Schedule of Mexico to Annex VII.
Phase-Out:	None

October 7, 1992

Annex VII(A) - Mexico

Sector: Financial Services

Sub-Sector: Securities Firms (Casas de Bolsa)
Securities Specialists (Especialistas Bursátiles)

Industry Classification: CMAP 812001 Securities Firms
Securities Specialists (Not
Applicable)

Type of Reservation: Establishment of Financial Institutions (Article 1403)
National Treatment (Article 1405)

Level of Government: Federal

Measures: *Ley del Mercado de Valores, Artículo 17-II*

Description: Aggregate foreign investments in securities firms and securities specialists are limited to 30 percent of capital ("capital social") and individual foreign investments are limited to 10 percent of capital, while individual investments by Mexicans may, with approval from the Secretaría de Hacienda y Crédito Público, rise to 15 percent of capital. These percentage limits do not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under, Sections B and C of the Schedule of Mexico to Annex VII.

Phase-Out: None

October 7, 1992

Annex VII(A) - Mexico

Sector: Financial Services

Sub-Sector: General Deposit Warehouses (Almacenes Generales de Depósito)
Financial Leasing Companies (Arrendadoras Financieras)
Financial Factoring Companies (Empresas de Factoraje Financiero)
Bonding Companies (Instituciones de Fianzas)

Industry Classification:

CMAP 811042	General Deposit Warehouses
CMAP 811043	Financial Leasing Companies
	Financial Factoring Companies
	(Not Applicable)
CMAP 813001	Bonding Companies

Type of Reservation: Establishment of Financial Institutions (Article 1403)
National Treatment (Article 1405)

Level of Government: Federal

Measures: *Ley General de Organizaciones y Actividades Auxiliares del Crédito*, Artículo 8-III-1

Ley Federal de Instituciones de Fianzas, Artículo 15-XIII

Description: Aggregate foreign investments in general deposit warehouses, financial leasing companies, financial factoring companies and bonding companies must be less than 50 percent of paid-in capital ("capital pagado"). These percentage limits do not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under, Section B of the Schedule of Mexico to Annex VII.

Phase-Out: None

October 7, 1992

Annex VII(A) - Mexico

Sector: Financial Services

Sub-Sector: Credit Unions (Uniones de Crédito)
Financial Agents (Comisionistas Financieros)
Foreign Exchange Firms (Casas de Cambio)

Industry Classification: CMAP 811041 Credit Unions
Financial Agents (Not
Applicable)
CMAP 811044 Foreign Exchange Firms

Type of Reservation: Establishment of Financial Institutions (Article 1403)
National Treatment (Article 1405)

Level of Government: Federal

Measures: *Ley General de Organizaciones y Actividades
Auxiliares del Crédito, Artículos 8-III-1, 82-III*

Ley de Instituciones de Crédito, Artículo 92

Reglas de la Secretaría de Hacienda y Crédito Público

Description: Foreign investments in credit unions, financial agents
and foreign exchange firms are not allowed. This
limitation does not apply to investments in foreign
financial affiliates as such term is defined in, and
subject to terms and conditions under, Section B of
the Schedule of Mexico to Annex VII.

Phase-Out: None

October 7, 1992

Annex VII(A) - Mexico

Sector:	Financial Services
Sub-Sector:	Development Banks (Bancos de Desarrollo)
Industry Classification:	CMAP 811021 Development Banks
Type of Reservation:	Establishment of Financial Institutions (Article 1403) National Treatment (Article 1405)
Level of Government:	Federal
Measures:	<i>Ley de Instituciones de Crédito, Artículo 33</i>
Description:	Foreign investments in development banks are not allowed.
Phase-Out:	None

October 7, 1992

Annex VII(A) - Mexico

Sector:	Financial Services
Sub-Sector:	Insurance Companies (Instituciones de Seguros)
Industry Classification:	CMAP 813002 Insurance Companies
Type of Reservation:	Establishment of Financial Institutions (Article 1403) National Treatment (Article 1405)
Level of Government:	Federal
Measures:	<i>Ley General de Instituciones y Sociedades Mutualistas de Seguros</i> , Artículo 29-I
Description:	Aggregate foreign investments in insurance companies must be less than 50 percent of paid-in capital ("capital pagado"). This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in Sections B and C of the Schedule of Mexico to Annex VII, or in insurance companies, in both cases subject to terms and conditions under Sections B and C of the Schedule of Mexico to Annex VII.
Phase-Out:	None

October 7, 1992

Annex VII(A) - Mexico

Sector: Financial Services

Sub-Sector: Holding Companies (Sociedades Controladoras)
Securities Firms (Casas de Bolsa)
Securities Specialists (Especialistas Bursátiles)
General Deposit Warehouses (Almacenes Generales de Depósito)
Financial Leasing Companies (Arrendadoras Financieras)
Financial Factoring Companies (Empresas de Factoraje Financiero)
Savings and Loan Companies (Sociedades de Ahorro y Préstamo)
Managing Companies of Investment Companies (Sociedades Operadoras de Sociedades de Inversión)
Investment Companies (Sociedades de Inversión)
Bonding Companies (Instituciones de Fianzas)
Insurance Companies (Instituciones de Seguros)

Industry Classification:

	Holding Companies (Not Applicable)
CMAP 812001	Securities Firms Securities Specialists (Not Applicable)
CMAP 811042	General Deposit Warehouses
CMAP 811043	Financial Leasing Companies Financial Factoring Companies (Not Applicable) Saving and Loans Companies (Not Applicable)
CMAP 812003	Managing Companies of Investment Companies
CMAP 812002	Investment Companies
CMAP 813001	Bonding Companies
CMAP 813002	Insurance Companies

Type of Reservation: Establishment of Financial Institutions (Article 1403)
National Treatment (Article 1405)

October 7, 1992

Annex VII(A) - Mexico

Level of Government:

Federal

Measures:

Ley para Regular las Agrupaciones Financieras,
Artículo 18

Ley del Mercado de Valores, Artículo 17-II

*Ley General de Organizaciones y Actividades
Auxiliares del Crédito,* Artículos 8-III-1, 38-G

Ley de Sociedades de Inversión, Artículos 9-III, 29-VI

Ley Federal de Instituciones de Fianzas, Artículo 15-
XIII

*Ley General de Instituciones y Sociedades
Mutualistas de Seguros,* Artículo 29-I

Description:

Foreign governments and foreign state enterprises may not invest, directly or indirectly, in holding companies, securities firms, securities specialists, general deposit warehouses, financial leasing companies, financial factoring companies, savings and loan companies, managing companies of investment companies, investment companies, bonding companies or insurance companies.

Phase-Out:

None

October 7, 1992

Annex VII(A) - Mexico

Sector:	Financial Services
Sub-Sector:	Commercial Banks (Instituciones de Crédito)
Industry Classification:	CMAP 811030 Commercial Banks
Type of Reservation:	Establishment of Financial Institutions (Article 1403) National Treatment (Article 1405)
Level of Government:	Federal
Measures:	<i>Ley de Instituciones de Crédito, Artículo 15</i>
Description:	Foreign entities that exercise governmental functions may not invest, directly or indirectly, in commercial banks.
Phase-Out:	None

October 7, 1992

Annex VII(A) - Mexico

Sector: Financial Services

Sub-Sector: Insurance

Industry Classification: CMAP 813002 Insurance

Type of Reservation: Cross-Border Trade (Article 1404)
National Treatment (Article 1405)

Level of Government: Federal

Measures: *Ley General de Instituciones y Sociedades Mutualistas de Seguros, Artículo 3*

Description: Mexico reserves its existing prohibitions and restrictions on cross-border trade in insurance services, which do not now include restrictions on the right of individuals to purchase, by physical mobility, life and health insurance. Mexico is not reserving its present restrictions with respect to the ability of residents of Mexico to purchase from cross-border insurance providers of another Party the following types of insurance:

- (a) tourist insurance (including travel accident and motor vehicle insurance for non-resident tourists, but not insurance of risks of liability to third parties) for individuals, purchased without solicitation via physical mobility of such individuals;
- (b) (1) cargo insurance to and from each Party, purchased without solicitation, for goods in international transit from point of origin to final destination, and

(2) insurance purchased without solicitation for a vehicle during the period of its use in

October 7, 1992

Annex VII(A) - Mexico

transportation of cargo (other than insurance of risks of liabilities to third parties), provided such vehicle is licensed and registered outside Mexico (including vehicles in maritime shipping, commercial aviation, space launching and freight (including satellites)); and

- (c) intermediary services incidental to (a) and (b) purchased without solicitation.

For greater clarity, this reservation does not apply to reinsurance.

Phase-Out:

None

October 7, 1992

Annex VII(A) - Mexico

Sector: Financial Services

Sub-Sector: Banking

Industry Classification: CMAP 811021 Development Banks
CMAP 811030 Commercial Banks

Type of Reservation: Establishment of Financial Institutions (Article 1403)
Cross-Border Trade (Article 1404)
National Treatment (Article 1405)

Level of Government: Federal

Measures: *Ley Orgánica de Nacional Financiera, Artículo 7*
Ley Orgánica del Banco Nacional del Ejército, la Fuerza Aérea y la Armada

Description: The following activities are reserved solely to Mexican development banks:

- (1) acting as custodians of securities and cash funds deposited by or in the administrative or judiciary authorities, and acting as custodian of goods that have been seized according to Mexican measures;
- (2) managing the savings funds, retirement plans and any other funds or property of the personnel of the Secretaría de la Defensa Nacional, Secretaría de Marina and the Mexican armed forces, and performing other financial activities pertaining to the financial resources of such personnel.

Phase-Out: None

Section B

ESTABLISHMENT AND OPERATION OF FINANCIAL INSTITUTIONS

Type of Reservation: Establishment of Financial Institutions (Article 1403)
 National Treatment (Article 1405)

1. The provisions of paragraphs 2 through 10 of this Section of the Schedule of Mexico shall apply during the transition period, except as otherwise specifically provided in paragraphs 9 and 10 of this Section of the Schedule of Mexico.

2. For the types of financial institutions listed in the chart in this paragraph, the maximum capital to be authorized by Mexico for a foreign financial affiliate, measured as a percentage of the aggregate capital of all financial institutions of the same type in Mexico, shall not exceed the percentage set forth in the chart in this paragraph:

<u>Type of Financial Institution</u>	<u>Maximum Individual Capital to be Authorized (Percentage of the Aggregate Capital of all Institutions of the same type)</u>
Commercial Banks	1.5%
Securities Firms	4.0%
Insurance Companies	
Casualty	1.5%
Life and Health	1.5%

In the case of an acquisition by an investor of another Party of a financial institution established in Mexico, the sum of the authorized capital of the acquired institution and the authorized capital of any foreign financial affiliate already controlled by the acquiror may not, at the time of acquisition or at any time thereafter during the transition period, exceed the applicable limit set forth in the chart in this paragraph.

This paragraph will not apply to new or existing Mexican insurance companies invested in by insurance investors of another Party (or their affiliates) pursuant to paragraph 7 of this Section or paragraph 4 of Section C of the Schedule of Mexico.

3. For purposes of the proper administration of the capital limits in this Section, the following provisions shall apply:

- (a) Each foreign financial affiliate shall have an authorized capital determined by Mexico, and the paid-in capital of such an institution shall not be less than that authorized at the time of approval of its establishment. After the time of establishment, Mexico may permit authorized capital to exceed paid-in capital. Authorized capital shall not be reduced by any measure of Mexico (other than prudential measures) below paid-in capital. The maximum size of the operations of each foreign financial affiliate shall be determined, on a national treatment basis, as a function of the lesser of its capital or its authorized capital.
- (b) Mexico reserves the right to impose limitations on transfers of assets or liabilities by foreign financial affiliates that have the effect of evading the capital limits set forth in the Schedule of Mexico. This subparagraph does not apply to bona fide transfers of funds to make overnight deposits or bona fide transfers of banking liabilities.

4. No foreign financial affiliate may issue subordinated debentures, other than to the investor of another Party that owns and controls the affiliate.

5. The aggregate of the authorized capital of all foreign financial affiliates of the same type, measured as a percentage of the aggregate capital of all financial institutions of such type in Mexico, shall not exceed the percentage set forth in the chart in this paragraph for that type of institution, except for insurance companies as set out in paragraph 6 of this Section. Beginning one year after the entry into force of this Agreement, these initial limits shall increase annually in equal increments so as to reach the final limits specified in the chart in this paragraph at the beginning of the last year of the transition period:

<u>Type of Financial Institution</u>	<u>Percentage of Total Capital</u>	
	<u>Initial Limit</u>	<u>Final Limit</u>
Commercial banks	8%	15%
Securities firms	10%	20%
Factoring companies	10%	20%
Leasing companies	10%	20%

Any capital in existence as of the date of signature of this Agreement of a foreign bank

branch established in Mexico prior to such date shall be excluded from each of the aggregate capital limits referred to in the Schedule of Mexico.

6. The aggregate of the authorized capital of all foreign insurance affiliates, measured as a percentage of the aggregate capital of all insurance companies in Mexico, shall not exceed the percentage set forth in the chart in this paragraph for the respective one-year periods beginning on each of the following dates:

<u>Date</u>	<u>Percentage of Total Capital</u>
January 1, 1994	6%
January 1, 1995	8%
January 1, 1996	9%
January 1, 1997	10%
January 1, 1998	11%
January 1, 1999	12%

If the entry into force of this Agreement occurs on a date prior to January 1, 1994, that date shall become the initial date for purposes of this chart, and each succeeding anniversary of the entry into force of this Agreement shall become the next succeeding date in this chart, with the percentages listed in this chart applying to each of the respective periods as so adjusted. If the entry into force of this Agreement occurs on a date after January 1, 1994, the dates and corresponding limits in this chart shall not be changed.

The individual and aggregate capital limits described in paragraphs 2 and 6 of this Section shall be measured separately (through separate accounting) for life and non-life insurance operations, but both types of insurance operations may be conducted either by a single or separate foreign financial affiliates.

7. An insurance investor of another Party may elect an alternative procedure for investment in Mexico through phasing-in an equity interest in a new or existing Mexican insurance company, and thereby exempt such Mexican company from the capital limits in paragraphs 2 and 6 of this Section. In order to qualify, the percentage of the Mexican insurance company's common voting stock that is owned by Mexican persons must not be less than the levels set forth in the chart in this paragraph for the respective one-year periods beginning on each of the following dates:

October 7, 1992

Annex VII(B) - Mexico

<u>Date</u>	<u>Mexican Interest</u>
January 1, 1994	70%
January 1, 1995	65%
January 1, 1996	60%
January 1, 1997	55%
January 1, 1998	49%
January 1, 1999	25%

If the entry into force of this Agreement occurs on a date prior to January 1, 1994, that date shall become the initial date for purposes of this chart, and each succeeding anniversary of the entry into force of this Agreement shall become the next succeeding date in this chart, with the percentages listed in this chart applying to each of the respective periods as adjusted. If the entry into force of this Agreement occurs on a date after January 1, 1994, the dates and corresponding limits in this chart shall nonetheless not be changed.

On and after January 1, 2000 (or, if the entry into force of this Agreement occurs on a date prior to January 1, 1994, on and after the sixth anniversary of such date), the percentage requirement of Mexican ownership set forth in this paragraph shall no longer apply.

This paragraph is further modified by paragraph 4 of Section C of the Schedule of Mexico to the extent set forth therein.

8. The aggregate assets of foreign financial affiliates that are limited scope financial institutions within the meaning of paragraph 2 of Section C of the Schedule of Mexico shall not exceed 3% of the sum of (1) the aggregate assets of all commercial banks in Mexico plus (2) the aggregate assets of all types of limited scope financial institutions in Mexico. Lending by affiliates of automobile manufacturing companies with respect to the manufacturers' vehicles shall not be subject to or taken into account in determining compliance with this 3% limit.

9. The limits in paragraphs 2, 5, 6 and 8 of this Section shall be removed at the end of the transition period. If the sum of the authorized capital of foreign financial affiliates, measured as a percentage of the aggregate capital of all financial institutions of such type in Mexico, reaches the percentage set forth in the chart in this paragraph for such type of institutions, then Mexico shall have the right, once during the four years following the end of the transition period, to freeze such aggregate capital percentage at its then-existing level:

Commercial banks	25%
Securities firms	30%

If applied, such a restriction will have a duration not to exceed a period of 3 years.

10. Mexico may deny a license to establish a foreign financial affiliate during the transition period (and, in the case of paragraph 9 of this Section, during the additional periods described in that paragraph) if after such issuance the sum of the authorized capital of all foreign financial affiliates of the same type would exceed the applicable percentage limit for that type of institution in paragraph 5, 6, 8 or 9 of this Section.

11. The provisions of the following paragraphs 12 through 17 of this Section shall apply immediately upon the entry into force of this Agreement and at all times thereafter, except as otherwise specifically provided in such paragraphs. Any amendment or modification to a measure adopted or maintained pursuant to paragraphs 12 through 15 of this Section shall not decrease the conformity of the measure, as it existed immediately before such amendment or modification, with Articles 1403 through 1408 of this Agreement.

12. Mexico may require that a foreign financial affiliate (other than a foreign insurance affiliate) be wholly-owned by an investor of another Party (except for directors' nominal qualifying shares). Mexico may also restrict any foreign financial affiliate from establishing agencies, branches, or other direct or indirect subsidiaries in the territory of any other country.

13. Following the transition period, acquisition of a commercial bank established in Mexico, or of the assets or liabilities thereof, by an investor of another Party will only be authorized by Mexico, subject to reasonable prudential considerations on a case by case basis, if the sum of the capital of the acquired commercial bank and the capital of any foreign commercial bank affiliate already controlled by the acquiror would not exceed 4% of the aggregate capital of all commercial banks in Mexico.

14. Mexico may adopt measures that (i) limit eligibility to establish a foreign financial affiliate in Mexico to an investor of another Party that is, directly or through any of its affiliates, engaged in the same general type of financial services in the territory of the other Party; and (ii) limit such investor (together with its affiliates) to no more than one institution of the same type in Mexico. In determining what types of operations an investor of another Party is engaged in for purposes of the preceding sentence, all types of insurance shall be considered to be only one type of financial service; but both life and non-life insurance

operations may be conducted either by a single or separate foreign financial affiliates.

GOVERNMENTAL INSURANCE PROGRAMS

Type of Reservation: Establishment of Financial Institutions (Articles 1403)
 Cross-Border Trade (Article 1404)
 National Treatment (Article 1405)

15. The activities and operations of the existing Mexican governmental insurance programs conducted by Aseguradora Mexicana, S.A. or Aseguradora Hidalgo, S.A. (including insurance for government employees, agencies, instrumentalities and public entities) are excluded from Articles 1403, 1404 and 1405 for so long as such firm is controlled by the government of Mexico and for a commercially reasonable time after such governmental control ceases.

CROSS-BORDER TRADE

Type of Reservation: Cross-Border Trade (Article 1404)

16. In order to avoid impairment of the conduct of Mexico's monetary and exchange rate policies, cross-border financial service providers of another Party shall not be permitted to provide financial services into the territory of Mexico or to residents of Mexico, and residents of Mexico may not purchase financial services from cross-border financial service providers of another Party, if such transactions are denominated in Mexican pesos.

EXISTING OPERATIONS OF FOREIGN COMMERCIAL BANKS

Type of Reservation: Establishment of Financial Institutions (Article 1403)
 National Treatment (Article 1405)
 Most-Favored-Nation Treatment (Article 1406)
 New Financial Services and Data Processing (Article 1407)
 Senior Management and Boards of Directors (Article 1408)

17. The benefits of this Agreement shall not be extended to a foreign bank branch existing in Mexico on the date of entry into force of this Agreement. The existing legal regime will continue to apply to such a branch for so long as it operates in that form. Such a branch shall be permitted to convert to a subsidiary pursuant to the terms of this Schedule, and upon conversion shall be covered by this Agreement. In the event of conversion the existing

October 7, 1992

Annex VII(B) - Mexico

capital of such branch on the date of signature of this Agreement shall not be counted against such foreign commercial bank affiliate's individual capital limit, or the aggregate capital limits for commercial banks.

Section C

SPECIFIC COMMITMENTS

1. Mexico shall retain discretion to approve, on a case-by-case basis, any affiliation of a commercial bank or securities firm with a commercial or industrial corporation that is established in Mexico, if Mexico determines that such affiliation is harmless and, in the case of banking, either (a) not substantial, or (b) the financial-related activities of the commercial or industrial corporation account for at least 90 percent of its annual income worldwide, and the non-financial activities of such commercial or industrial corporation are of a type that Mexico determines to be acceptable. Affiliation with a non-resident commercial or industrial corporation that is not established in Mexico will not be a reason for denial of an application to establish or acquire a commercial bank or securities firm in Mexico.
2. Non-bank investors of another Party shall be permitted to establish one or more limited scope financial institutions in Mexico to provide separately consumer lending, commercial lending, mortgage lending or credit card services on terms no less favorable than those applied to like domestic firms under Mexican measures. Mexico may permit lending services closely related to the principal authorized business of a limited scope financial institution to be carried out by that institution. Such institutions shall be provided the opportunity to raise funds in the securities market for business operations subject to normal terms and conditions. Mexico may restrict such limited scope financial institutions from taking deposits.
3. Within two years of the entry into force of this Agreement, Mexico shall conduct a study of the desirability of and, if desirable, the possible methods of establishing limited scope securities firms which would have more limited powers than current securities firms. Such limited scope securities firms would be subject to differing capital requirements, depending on the type and extent of business conducted, that would permit lower minimum capital requirements than those currently applicable to Mexican securities firms. The basis of the study will be prudential considerations and opportunities for investment in the securities sector. As part of the second annual meeting of the Committee required under Article 1412, Mexico shall report to the other Parties on the outcome of the study, including any plans for the establishment of new categories of securities firms.
4. Notwithstanding paragraph 7 of Section B of the Schedule of Mexico, an insurance investor of another Party that together with its affiliates had as of July 1, 1992 an active

October 7, 1992

Annex VII(C) - Mexico

investment or ownership interest of 10% or more in a Mexican insurance company that was specifically approved by Mexico, may: (1) exercise any contract right or option in existence as of July 1, 1992 with respect to ownership interests in such Mexican insurance company; and (2) effective the earlier of January 1, 1996 or two years following the date of entry into force of this Agreement, acquire a controlling interest of up to 100% in such Mexican insurance company. Before the effective date described in clause (2) of the preceding sentence, an insurance investor of another Party (together with its affiliates) described in that sentence may exercise any existing contract right or option described in clause (1) of that sentence, and choose to expand its interest in such Mexican insurance company to the extent consistent with paragraph 7 of Section B of the Schedule of Mexico, or maintain its existing interest. Mexico shall maintain discretion to permit acceleration of the schedule for equity participation in a Mexican insurance company by an insurance investor of another Party described in the first sentence of this paragraph.

5. An investor of another Party that in accordance with Section B is authorized to and establishes or acquires a commercial bank or securities firm, respectively, in Mexico may also establish a financial holding company in Mexico, and thereby establish or acquire other types of financial institutions in Mexico, under the terms of Mexican measures.

6. Mexico shall administer its licensing and approval procedures during the transition period in a manner that does not deny the benefits of the liberalization of existing measures described in the Schedule of Mexico to enterprises of another Party ultimately controlled by nationals of that Party.

DEFINITIONS

For purposes of Sections B and C of the Schedule of Mexico:

capital means the following, as defined in Mexican measures, applied on a national treatment basis:

Type of Financial Institution	Concept of "Capital"
commercial banks	capital neto
securities firms	capital global
insurance companies	requerimiento bruto
casualty	de solvencia (allocation to casualty insurance)
life and health	requerimiento bruto
	de solvencia (allocation to life and health insurance)
factoring companies	capital contable
leasing companies	capital contable;

investor of another Party means an investor of another Party as defined in Article 1403(5);

foreign commercial bank affiliate means a foreign financial affiliate that is a commercial bank;

foreign financial affiliate means a financial institution established in Mexico and owned and controlled by an investor of another Party;

foreign insurance affiliate means a foreign financial affiliate that is an insurance company;

insurance investor of another Party means an investor of another Party that is an insurance company; and

transition period means the period beginning with the entry into force of this Agreement and ending on the earlier of i) January 1, 2000, or ii) six years from the entry into force of this Agreement.

October 7, 1992

**Annex VII
Section A
Schedule of the United States**

Sector: Financial Services

Sub-Sector: Banking

Industry Classification: SIC 6021 National Commercial Banks

Type of Reservation: Senior Management and Boards of Directors (Article 1408)

Level of Government: Federal

Measures: *The National Bank Act, 12 U.S.C. § 72*

Description: All directors of a national bank must be citizens of the United States. Because the chief executive officer of a national bank must be a director, the chief executive officer of a national bank must be a citizen of the United States. An exception exists for a national bank affiliated with or owned by a foreign bank. Such a bank need only have citizens constitute a simple majority of the board and thus need not employ citizens as its chief executive officer.

Two-thirds of the directors of a national bank must (i) have resided for one year prior to their election, and (ii) continue to reside, in the state in which the bank is located or within 100 miles of the bank.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking

Industry Classification: SIC 6021 National Commercial Banks
SIC 6022 State Commercial Banks
SIC 6029 Other Commercial Banks
SIC 6081 Branches and Agencies of Foreign Banks
SIC 6712 Bank Holding Companies
Foreign Banks (Not Applicable)

Type of Reservation: National Treatment (Article 1405)

Level of Government: Federal

Measures: *Bank Holding Company Act of 1956*, 12 U.S.C.
§ 1842(d)

International Banking Act of 1978, 12 U.S.C.
§ 3103(a)(5)

Description: Federal authorities may not approve the establishment of, or acquisition of an interest in, a bank subsidiary within a state ("the target state") by a foreign bank that has a full-service branch in the United States, unless the measures of the target state expressly permit such an establishment or acquisition by domestic bank holding companies with their principal place of banking operations (as that term is described under the *Bank Holding Company Act*) in the foreign bank's "home state" (as that term is defined in the *International Banking Act*).

Federal authorities also may not approve the establishment of, or acquisition of an interest in, a bank subsidiary within a state ("the target state") by a bank holding company, including a foreign bank, that has principal place of banking operations in another state, as defined under the *Bank Holding Company Act*, unless the measures of the target state expressly permit the establishment and acquisition by bank holding companies from

the state of the company's or bank's principal place of banking operations.

Due to these Federal measures and certain state measures, foreign banks with direct deposit-taking branches or bank subsidiaries in the United States are not permitted to establish or acquire interests in banks located in some states on the same basis as domestic bank holding companies from the state of the foreign bank's principal of banking operations or the foreign bank's home state. The following types of measures, inter alia, fall into this category:

- (a) foreign banks are expressly excluded from the authority to own banks under certain regional holding company laws;
- (b) foreign banks are implicitly excluded from the definition of an eligible owner under certain state laws that require a majority of a banking company's deposits to be in the United States, in a particular region of the United States, or in a particular state;
- (c) foreign banks that do not already own a banking subsidiary in the United States are interpreted as not qualifying as an eligible "bank holding company" entitled to own a bank; and
- (d) where a foreign bank's principal place of business is in a state which is different from its home state and the measures of the target state accord better treatment to bank holding companies from one of these states, the foreign bank will be subject to the more restrictive rule.

Phase-Out:

None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking

Industry Classification: SIC 6082 Foreign Trade and International Banking
Institutions

Type of Reservation: National Treatment (Article 1405)

Level of Government: Federal

Measures: *Federal Reserve Act*, 12 U.S.C. § 619

Description: Edge corporations (specialized international banking companies chartered under Federal law) may be owned by domestically-owned banks and bank holding companies, and by domestic non-bank companies willing to restrict their business activities to those closely related to banking. Foreign ownership of Edge corporations is limited to foreign banks and U.S. subsidiaries of foreign banks. Other foreign persons may neither directly nor indirectly own Edge corporations.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking

Industry Classification: SIC 6081 Branches of Foreign Banks

Type of Reservation: National Treatment (Article 1405)

Level of Government: Federal

Measures: *International Banking Act of 1978, 12 U.S.C. §3104(c)*

Description: In order to accept or maintain domestic retail deposit accounts having balances of less than \$100,000, a foreign bank must establish an insured banking subsidiary. This prohibition does not apply to a foreign bank branch that was engaged in insured deposit-taking activities on December 19, 1991.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking

Industry Classification: SIC 6081 Branches and Agencies of Foreign Banks

Type of Reservation: National Treatment (Article 1405)

Level of Government: Federal

Measures: *Federal Reserve Act*, 12 U.S.C. §§ 221, 302, 321

Description: Foreign banks with branches and agencies in the United States may not be members of the Federal Reserve System, and may thus not vote for directors of a Federal Reserve Bank.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking and Securities

Industry Classification: SIC 6021 National Commercial Banks
SIC 6022 State Commercial Banks
SIC 6029 Other Commercial Banks
SIC 6081 Branches and Agencies of Foreign Banks
SIC 6211 Security Brokers, Dealers and Flotation Companies

Type of Reservation: National Treatment (Article 1405)
Most-Favored-Nation Treatment (Article 1406)

Level of Government: Federal

Measures: The *Primary Dealers Act of 1988*, 22 U.S.C. §§ 5341-5342

Description: The *Primary Dealers Act of 1988* prohibits a foreign firm from being designated as a primary dealer in U.S. government debt obligations unless the home country of the foreign firm accords to U.S. firms the same competitive opportunities as are accorded to domestic firms in the underwriting and distribution of government debt instruments in the firm's home country.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking and Securities

Industry Classification: SIC 6289 Services Allied with the Exchange of Securities or
Commodities

Type of Reservation: Cross-Border Trade (Article 1404)
National Treatment (Article 1405)
Most-Favored-Nation Treatment (Article 1406)
Senior Management and Boards of Directors (Article 1408)

Level of Government: Federal

Measures: *Trust Indenture Act of 1939*, 15 U.S.C. § 77jjj(a)(1)

Description: Under the *Trust Indenture Act of 1939*, a foreign firm located outside the United States may be prohibited from acting as the sole trustee under an indenture for debt securities sold in the United States if U.S. institutional trustees cannot act as sole trustees for securities sold in the foreign firm's home country.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking and Securities

Industry Classification: SIC 6211 Security Brokers, Dealers and Flotation Companies

Type of Reservation: Most-Favored-Nation Treatment (Article 1406)

Level of Government: Federal

Measures: *Securities Exchange Act of 1934*, 15 U.S.C. § 78o(c)
17 C.F.R. § 240.15c3-3

Description: A broker-dealer that maintains its principal place of business in Canada may maintain its required reserves at a bank in Canada subject to supervision by an authority of Canada. A broker-dealer that maintains its principal place of business in any other foreign country must maintain reserves in the United States.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Commodity Futures and Options

Industry Classification: SIC 6221 Commodity Contracts Broker and Dealers
SIC 6231 Commodity Exchanges
SIC 6282 Investment Advice
SIC 6289 Services Allied with the Exchange of
Commodities

Type of Reservation: Cross-Border Trade (Article 1404)
New Financial Services and Data Processing (Article 1407)

Level of Government: Federal

Measures: *Commodity Exchange Act*, 7 U.S.C. §§ 2, 13-1

Description: Federal law prohibits the offer or sale of futures contracts on onions, options contracts on onions and options on futures contracts on onions in the United States and services related thereto.

Phase-Out: None

October 7, 1992

Annex VII(A) - United States

Sector:	Financial Services
Sub-Sector:	Insurance
Industry Classification:	SIC 6351 Surety Insurance
Type of Reservation:	Cross-Border Trade (Article 1405) National Treatment (Article 1405)
Level of Government:	Federal
Measures:	31 U.S.C. § 9304
Description:	Branches of foreign insurance companies are not permitted to provide surety bonds for U.S. Government contracts.
Phase-Out:	None

October 7, 1992

Annex VII(A) - United States

Sector: Financial Services

Sub-Sector: Banking and Securities

Industry Classification: SIC 6081 Branches and Agencies of Foreign Banks
SIC 6282 Investment Advice

Type of Reservation: National Treatment (Article 1405)

Level of Government: Federal

Measures: *Investment Advisers Act of 1940*, 15 U.S.C. §§ 80b-2, 80b-3

Description: Foreign banks are required to register as investment advisers under the *Investment Advisers Act of 1940* to engage in securities advisory services in the United States, while domestic banks are exempt from registration.

Phase-Out: None

October 6, 1992 12:59am

**Annex VII
Section B
Schedule of the United States**

The United States reserves the right to derogate from Articles 1404(1) and 1406 for the securities sector with respect to Canada. With respect to these Articles, the United States may adopt or maintain measures affecting cross-border trade in securities services that are more restrictive than measures existing on the date of entry into force of this Agreement.

October 6, 1992 12:59am

Annex VII
Section C
Schedule of the United States

The United States commits to permit an eligible *grupo financiero* that, in formation of the *grupo* in Mexico before the entry into force of this Agreement, lawfully acquires an eligible Mexican bank and a Mexican securities firm which owns or controls a securities company in the United States, to continue to engage through the U.S. securities company in the activities in which that securities company was engaged on the date of acquisition by the *grupo* for a time period of five years from the date of that acquisition. The U.S. securities company: (i) shall not be permitted to expand through acquisition in the United States during such period; and (ii) shall be subject to measures consistent with national treatment that restrict transactions between the company and its affiliates. For purposes of this paragraph: an "eligible *grupo financiero*" is a Mexican financial group that has not previously benefitted from this commitment; and an "eligible Mexican bank" means any Mexican *institución de crédito* that owned or controlled a subsidiary bank, or operated a branch or agency, in the United States on January 1, 1992.

LIBRARY E / BIBLIOTHEQUE A E

3 5036 20027434 1


60984 81800



Government
of Canada

Gouvernement
du Canada