

Annex II

List of Panama

Sector: Social Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Local Presence (Article 11.4)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)
Market Access (Article 11.5)

Description: Cross-Border Services and Investment

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

Draft as of January 19, 2007
Subject to legal review for accuracy, clarity, and consistency.

Sector: Native Populations and Minorities

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most-Favored-Nation Treatment (Articles 10.4 and 11.3)
Local Presence (Article 11.4)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)

Description: Cross-Border Services and Investment

Panama reserves the right to adopt or maintain any measure denying to foreign investors and their investments or to foreign service suppliers any right or preference granted to minorities with social or economic disadvantages and native populations in their reservation areas.

Draft as of January 19, 2007
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Sector: Activities Related to the Panama Canal

Obligations Concerned: National Treatment (Article 10.3)
Performance Requirements (Article 10.9)
Senior Management and Boards of Directors (Article 10.10)
Local Presence (Article 11.4)
Market Access (11.5)

Description: Cross-Border Services and Investment

Panama reserves the right to adopt or maintain any measure related to the ownership of the Panama Canal and any juridical person that may succeed the Panama Canal Authority (“PCA”). A member of the board of directors of any such juridical person must be a Panamanian national.

The PCA may require that an enterprise operating in the Panama Canal be legally constituted under the law of Panama and enter into a joint venture or other legal entity with the PCA. The PCA may adopt or maintain any measure limiting the number of concessions operating in the Panama Canal.

The PCA may impose performance requirements consistent with Article 3 of the Acuerdo No. 82 (del 17 de Agosto de 2004) as a condition for the granting and maintaining of a compatibility license for activities in the Panama Canal Area as defined in Annex II of Law 21 of 1997.

The Panama Canal includes the aquatic route proper, as well as its anchorages, dock berths and entrances; lands and marine, lacustrine and fluvial waters; locks; auxiliary dams; docks; and water control structures.

Draft as of January 19, 2007
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Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)
Senior Management and Boards of Directors (Article 10.10)

Description: Investment

Panama reserves the right to limit the transfer or disposal of any interest held in an existing state enterprise, such that only nationals of Panama may receive such interest. However, the preceding sentence pertains only to the initial transfer or disposal of such interest, except as provided in Panama's Annex I entries on public utilities.

For greater certainty,

(1) where Panama transfers an interest in an existing state enterprise to another state enterprise, such transfer shall not be considered to be an initial transfer or disposal of the interest for purposes of the preceding paragraph; and

(2) where Panama transfers or disposes of an interest in an existing state enterprise in multiple phases, the preceding paragraph shall apply separately to each such phase.

If Panama transfers or disposes of an interest in an existing state enterprise as described in the first paragraph, Panama may adopt or maintain any measure related to the nationality of the senior management and members of the board of directors of an enterprise that receives such interest.

Draft as of January 19, 2007
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Sector: Construction Services

Obligations Concerned: National Treatment (11.2)
Local Presence (Article 11.4)

Description: Cross-Border Services

Panama reserves the right to adopt or maintain residency, registration or other local presence requirements, or to require a financial guarantee to the extent that it is necessary to ensure compliance with Panamanian law and private contractual obligations.

Draft as of January 19, 2007
Subject to legal review for accuracy, clarity, and consistency.

Sector: Fisheries and Services Incidental to Fishing

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

Description: Cross-Border Services and Investment

Panama reserves the right to adopt or maintain any measure relating to requirements for investments in, ownership or control of, and operation of vessels engaged in fishing and related activities in Panamanian jurisdictional waters.

Draft as of January 19, 2007
Subject to legal review for accuracy, clarity, and consistency.

Sector: All sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 10.4 and 11.3)

Description: Cross-Border Services and Investment

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

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

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

Draft as of January 19, 2007
Subject to legal review for accuracy, clarity, and consistency.

Sector: Public Supply of Potable Water

Obligations Concerned: Market Access (11.5)
Local Presence (11.4)

Description: Cross-Border Services

Panama reserves the right to adopt or maintain any measure in relation to the public supply of potable water.

For greater certainty, nothing in this reservation shall affect the ability of a foreign enterprise to supply bottled water.