ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Musicians and Artists

Obligations Concerned
National Treatment (Article 11.2)
Most Favorited Nation Treatment (Article 11.3)

Measures:
Ley de Promoción a las Expresiones Artísticas Nacionales y de Protección a los Artísticos Nicaragüenses. Ley No. 215, publicada en La Gaceta No. 134 del 17 de julio de 1996.

Description:
Cross-Border Trade in Services

Foreign artists or musical bands may perform in Nicaragua solely by means of a prior contract.

Foreign artists performing shows or reviews of a commercial nature shall include in their program a Nicaraguan artist or group that performs similar shows.

Foreign artists or artistic groups not wishing to include a national artist in their program must pay 1% of the show’s net receipts to the Nicaraguan Institute of Culture, unless the foreign artists’ or groups’ country of origin does not levy such tax on Nicaraguan artists or artistic groups.

Foreigners selected for the design and construction of public, pictorial, or sculptural monuments erected in Nicaragua, shall do so in association with national artists.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Tourism – Hotels, Restaurants, Tour Guides and other tourism-related activities.

Affected Obligations: National Treatment (Article 11.2)
Local Presence (Article 11.5)

Measures:
- Regulations governing Tour Operators of Nicaragua, Article 5, paragraph d); published in La Gaceta No. 100 of 29 May 2001.
- Regulations to Law No. 298, Decree No. 64-98, published in La Gaceta No. 190 of 09 October 1998.

Description: Cross-Border Trade in Services

To supply tourism services in Nicaragua:

(a) an enterprise organized under the laws of a foreign country must be established in Nicaragua; and

(b) a foreign national must reside in Nicaragua or appoint a legal representative in Nicaragua.

This paragraph does not apply to the supply of tourism services during a cruise.
ANNEX I: NON-CONFORMING MEASURES
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Tour Guides must be Nicaraguan nationals.
ANNEX I: NON-CONFORMING MEASURES
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Sector: Services Related to Construction

Obligations Concerned: National Treatment (Article 11.2)
Local Presence (Article 11.5)

Measures: Ley General de Construcción

Description: Cross-Border Trade in Services

To supply construction services in Nicaragua:

(a) an enterprise organized under the laws of a foreign country
must be established in Nicaragua; and

(b) a foreign national must reside in Nicaragua or appoint a legal
representative in Nicaragua.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Production and Sale of fireworks, firearms and cartridges, hunting, shooting, shooting ranges, and firearm collectors.

Affected Obligation: National Treatment (Article 11.2)
Local Presence (Article 11.5)


Description: Cross-Border Trade in Services

To market fireworks, firearms, cartridges, hunting, shooting, shooting ranges, and firearm collectors:

(a) an enterprise organized under the laws of a foreign country must be established in Nicaragua; and

(b) a foreign national must reside in Nicaragua or appoint a legal representative in Nicaragua.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Private Security Services

Affected Obligations: National Treatment (Article 11.2)
Local Presence (Article 11.5)


Description: Cross-Border Trade in Services

An enterprise must be established in Nicaragua to operate a private security guard company. Natural persons serving as armed guards must be nationals of Nicaragua.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Radio Broadcast, Free Television Reception

Affected Obligation: National Treatment (Article 11.2 and x4)

Measures:
- Regulations on Television Broadcasting Services. Administrative Agreement No. 07-97, Published in La Gaceta No. 228, on November 28, 1997.

Description: Investment and Cross-Border Trade in Services

A license for operating free over the air television and radio broadcast services (known under Nicaraguan law as public communication media) shall only be granted to Nicaraguan persons. In the case of enterprises, Nicaraguan nationals must own 51% of the capital.
### ANNEX I: NON-CONFORMING MEASURES

**NICARAGUA**

**Sector:** Communications—Professional Radio and Television Broadcast Services

**Affected Obligations:**
- National Treatment (Article 11.2)
- Most Favored Nation Treatment (Article 11.3)

**Measures:** Decree No. 66, published in *La Gaceta* No. 256 on November 10, 1972.

**Description:** Cross-Border Trade in Services

Enterprises that supply radio and television broadcast companies services in Nicaragua shall only use the professional services of announcers who are Nicaraguan nationals for narration, commentary, and live broadcast in sports or commercial programs.

Notwithstanding the foregoing, foreign nationals will be allowed to serve as announcers if the laws of their own countries allow Nicaraguan nationals to supply such services.

The provisions of this measure shall not apply to the broadcast of programs by foreign announcers when the transmission of such programs is aimed exclusively at other countries.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Electricity Distribution and Generation

Affected Obligations: Local Presence (Article 11.5)
                                 National Treatment (Article 11.2)


Description: Cross-Border Trade in Services

In order to engage in the generation and distribution of electricity an enterprise must be established in Nicaragua.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Energy—Hydrocarbons

Affected Obligations: Local Presence (Article 11.5)


Description: Cross-Border Trade in Services

An enterprise that both explores for and extracts or processes hydrocarbons must be established in Nicaragua.

To conduct studies of hydrocarbons such as geological or geophysical studies, drafting topographic maps, seismic, or geochemical studies, a foreign national must designate a legal representative permanently domiciled in Nicaragua.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Extraction of Metallic and Non-Metallic Minerals

Obligations Concerned: Local Presence (Article 11.5)


Description: Cross-Border Trade in Services

To obtain a mining concession for exploration for metallic and nonmetallic minerals in Nicaragua:

(a) an enterprise organized under the laws of a foreign country must be established in Nicaragua; and

(b) a foreign national must reside in Nicaragua or appoint a legal representative in Nicaragua.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Fishing and Aquaculture and Activities related to fishing

Obligations Concerned: National treatment (Article 11.2)
Performance requirements (Article X7)
Local presence (Article 11.5)


Ministerial Agreement No. 014-2001

Description: Investment and Cross-Border Trade in Services

A foreign vessel may capture shrimp or lobster in the territorial waters of Nicaragua in the Caribbean Sea or Pacific Ocean only if it flies the Nicaraguan flag.

An enterprise must be established in Nicaragua in order to obtain a commercial fishing license.

A minimum of 75% of the personnel on board a vessel engaged in commercial fishing in Nicaraguan territorial waters must be Nicaraguan nationals. The captain and engineer are not included in this percentage.

Processing and packing for export of fishing products captured in Nicaraguan territorial waters shall be carried out in enterprises in Nicaragua.

Only Nicaraguan nationals may engage in artisinal fishing as a family enterprise for subsistence.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Land Transportation

Affected Obligations: National Treatment (Article 11.2)
Most Favored Nation Treatment (Article 11.3)
Local Presence (Article 11.5)


Description: Cross-Border Trade in Services

To supply point-to-point land transportation of cargo or passengers within Nicaragua, an enterprise must be established in Nicaragua.

An enterprise organized under the laws of a foreign country may supply international land transportation of cargo or passengers to the extent that a specific agreement between such country and Nicaragua provides for reciprocal treatment of enterprises organized under the laws of Nicaragua. Notwithstanding the foregoing, only Nicaraguan persons may supply collective land transportation services in the interior of Nicaragua.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Maritime Transportation

Affected Obligations: National Treatment (Article 11.2)


Description: Investment and Cross-Border Trade in Services

In order to operate as a shipowner or shipping enterprise in Nicaragua, a natural person must be a Nicaraguan national and an enterprise must be established in Nicaragua.

To operate as a shipping agent, general shipping agent, or shipping consignment agent, a natural person must be a Nicaraguan national, and an enterprise must be established in Nicaragua.

Only a Nicaraguan nationals or an enterprise established in Nicaragua may obtain a route concession to engage in maritime transportation.

Cabotage is reserved exclusively for enterprises established in Nicaragua.

Only Nicaraguan nationals may be named as official pilots for any port in Nicaragua.

A branch of an enterprise organized under the law of a country other than Nicaragua must be established in Nicaragua in order to engage in loading and unloading and transferring cargo between ships and trucks.
ANNEX I: NON-CONFORMING MEASURES
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Sector: Ports

Affected Obligations: Market Access (Article 11.4)

Measures: Decree No. 480 de 1980.
Decree No. 35-95 1995.
Decree No. 12-99 1999.

Description: Cross-Border Services

The administration and operation of the existing ports of national interest (Corinto, Sandino, San Juan del Sur, Cabezas, El Rama and El Bluff) is reserved to the National Port Company (EPN).
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Air Transportation—Repair and Maintenance Services, Specialty Air Services

Affected Obligations: National Treatment (Articles 11.2 and X4)
Most Favored Nation Treatment (Article 11.3)
Local Presence (Article 11.5)
Senior Management and Boards of Directors (Article X11)


Description: Cross-Border Trade in Services

1. The authorization of the General Director of Civil Aviation is required to supply specialty air services and aircraft repair services in the territory of Nicaragua.

In order to perform private, for-profit air services, an entity must be a natural or legal Nicaraguan person. For greater certainty, private air services include:

(a) Air-related tasks such as aero-topography, aero-photography, commercial advertising, and other similar tasks.

(b) Agricultural fumigation services.

(c) Industrial activities other than public transportation.

(d) Kinetic civil aviation applications, such as educational flights, the determination of hurricane trajectories, fumigation flights, and migratory ships, and other similar applications.

Flight personnel who participate in aviation activities for agricultural purposes within national territory must be Nicaraguan nationals. Similarly, aircraft used for such purposes must be licensed in Nicaragua.

Investment

2. Only an enterprise organized under Nicaraguan law may be granted a license to engage in specialty air services or aircraft repair services. Nicaraguan nationals must own at least 51% of the capital, and have effective control of such an enterprise, and Nicaraguan nationals must control its administration.
ANNEX I: NON-CONFORMING MEASURES
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Only Nicaraguan nationals and enterprises organized under Nicaraguan law may engage in private, for-profit specialty air services.

Only Nicaraguan nationals may engage in paid national aeronautics activity in Nicaragua. In the absence of such personnel, the Ministry of Transportation may allow foreign pilots or other technical personnel to engage in such activities, in which case the Ministry of Transportation must give preference to persons who are nationals of the following countries: Honduras, El Salvador, Guatemala and Costa Rica.
ANNEX I: NON-CONFORMING MEASURES
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Sector: Professional Services

Affected Obligations: National Treatment (Article 11.2)
Most Favored Nation Treatment (Article 11.3)
Local Presence (Article 11.5)


Description: Cross-Border Trade in Services

A foreign professional may practice in Nicaragua in a form and subject to the same conditions that are permitted for Nicaraguans in the country of origin of such professional.

Nicaragua agrees that if a jurisdiction in a foreign country allows Nicaraguan nationals to apply for and receive the licenses or certificates necessary to practice a profession in such jurisdiction, a foreign national with a license or certificate to practice the profession in such jurisdiction shall also be allowed to apply for and receive any license or certificate necessary to practice in Nicaragua.

In addition, the relevant professional association in Nicaragua will recognize a license granted by a foreign jurisdiction, and allow the holder of that license to register with the association and practice the profession in Nicaragua based on the foreign license, in the following cases:

(a) no academic institution in Nicaragua offers a course of study that would allow the practice of the profession in Nicaragua;

(b) the holder of the license is a recognized expert in the profession; or

(c) allowing the professional to practice in Nicaragua will, through training, demonstration, or other such opportunity, further the development of the profession in Nicaragua.
DRAFT
Subject to Legal Review for Accuracy, Clarity, and Consistency
January 28, 2004

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NICARAGUA

Sector: Public Accounting and Auditing

Obligations Concerned: National Treatment (Article 11.2)
Local Presence (Article 11.5)

Measures: Law to exercise as a public Accountant. Law No. 6 published in La Gaceta on April 30, 1959.

Description: Cross-Border Trade in Services

Foreign public accounting firms, auditors and accountants, either as individuals or enterprises may exercise their profession in Nicaragua, or other related activity, through an authorized Nicaraguan public accounting firm or association.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Professional Services - Notary Publics

Obligations Concerned:
National Treatment (Article 11.2)
Most Favored Nation Treatment (Article 11.3)


Description: Cross-Border Trade in Services

Public notaries must be Nicaraguan citizens authorized by the Supreme Court of Justice in order to practice their profession.

Central American citizens authorized to act as attorneys in the Republic may also obtain this authorization after residing in Nicaragua at least five years, provided they are allowed to exercise their profession as public notaries in their own countries, and that Nicaraguans are authorized to act as public notaries in their respective countries.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Customs Brokers

Affected Obligations: National Treatment (Article 11.2)
Most Favored Nation Treatment (Article 11.3)
Local Presence (Article 11.5)


Description: Investment and Cross Border Services

A customs broker must be a Nicaraguan national or a national of a country that permits Nicaraguan nationals to serve as customs brokers.

An enterprise operating as a customs broker in Nicaragua must be established in Nicaragua and at least one official of the customs enterprise must have a valid license.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Scientific Research Services

Affected Obligation: Local Presence (Article 11.5)


Description: Cross-Border Trade in Services

Any holder of a foreign license that wishes to engage in scientific research activities related to natural resources must have a legal representative in Nicaragua during the entire time the research is being conducted.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Regime on Free Zones, and Regime on Active Improvement

Affected Obligations: Performance Requirements (Article X10)


Regulations to the Decree on Industrial Export Free Zones, Decree No. 31-92 published in La Gaceta No.112 on June 12, 1992.

Description: Investment

An enterprise authorized to operate in a free zone may introduce up to 40 percent of its production by volume into the territory of Nicaragua after payment of duties and taxes. Nicaragua will apply this measure consistent with its obligations under the World Trade Organization Agreement on Subsidies and Countervailing Measures.
ANNEX I: NON-CONFORMING MEASURES
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Sector: Telecommunications

Affected Obligations: Market Access (Article 11.4)
National Treatment (Article 11.2)

Measures: Law Amending Law No. 210, Law Incorporating Private
Individuals in Operating and Expanding Public
Telecommunications Services, Law No. 293 published in La

Description: Investment and Cross-Border Trade in Services

Foreign nationals may own up to 40% of the share capital in the
Nicaraguan Telecommunications Company (ENITEL).

The Nicaraguan Telecommunications Company (ENITEL) has an
exclusive regime for providing basic telephone services, including
local telephone service, national and international long distance,
supply of television and telegraph links, pursuant to what is
established in its concession contract. ENITEL exclusivity will end
according to Nicaraguan law or concession but in any event no later
than April 13, 2005.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Development of maps

Affected Obligations: Market Access (Article 11.4)


Description: Cross-Border Trade in Services

The developing, drafting, editing, and publishing official, regional, property, urban, and rural maps, as well as thematic maps and hydrographical, nautical, and aeronautical charts of Nicaragua in different scales is reserved to the Nicaraguan Institute for Territorial Studies.
ANNEX I: NON-CONFORMING MEASURES
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Affected Obligation: Market Access (Article 11.4)

Measures: Law Creating the Nicaraguan Water and Sanitary Sewerage Authority (ENACAL) Law No. 276, Published in La Gaceta No. 12 on January 20, 1998.

Law on the Suspension of Concessions No. 440, published in La Gaceta No. 498 of 2003

Description: Cross-Border Trade in Services

For greater certainty, the establishment, construction, and development of public works for the supply and distribution of drinking water, and collecting and disposing of wastewater may only be performed by ENACAL.

The Nicaraguan Company for Aqueducts and Sanitary Sewerage (ENACAL) is the State entity responsible for investigating, exploring, developing, and exploiting the water resources necessary to provide potable water and to dispose of liquid residue, and has the following functions:

(a) To capture, treat, conduct, store, distribute, and sell potable water; and to gather, treat and finally dispose of liquid residue.

(b) To purchase natural water, purchase and sell potable water, as well as to commercialize the services of collection, treatment and final disposal of liquid residue.

(c) Take all necessary measures so that the release of treated liquid residue minimizes the environmental impact.

(d) Develop the Company’s Expansion Plan for the short, medium and long terms.

(e) Any other activity required for its development.
ANNEX I: NON-CONFORMING MEASURES
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Sector: Airports

Affected Obligation: Market Access (Article 11.4)

Measures: Law on the International Airports Administration, Decree No.1292 published on August 16, 1983 in *La Gaceta* No.186

Description: Cross-Border Trade in Services

The International Airport Administration (EAAI) is responsible for establishing, operating, exploiting, administering, carrying out works and providing services in airports.
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Nicaragua

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Sector: Administration and distribution of lotteries

Affected Obligations: Market Access (Article 11.4)


Description: Cross-Border Services

Only the National Lottery, a State-owned company, may perform activities of administering and distributing lotteries.
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Public Communications Services

Affected Obligations: Market Access (Article 11.4)


Description: Cross-Border Services

The issuance, finance, and marketing of postal stamps, as well as the usage of franking machines and other analogous systems, is reserved to the Nicaraguan Postal Service (*Correos de Nicaragua*).
ANNEX I: NON-CONFORMING MEASURES
NICARAGUA

Sector: Various

Obligation Concerned: Market Access (Article 11.4)

Measures: Certain Measures Existing and In Force on January 1, 2004

Description: Cross-Border Services

Nicaragua reserves the right to maintain market access restrictions in accordance with the following paragraphs.

1. Sectors other than computer services, construction, energy services, professional services, land transport, audiovisual, telecommunications, express delivery, and sectors including Nicaragua schedule of specific commitments with respect to Article XVI of the GATS:

   (a) Subject to subparagraph (b) and (c), Nicaragua may list any measure existing and in force on January 1, 2004, unless another Party objects on the grounds that it has a substantial trade interest in the sector and that listing the measure would have a significant adverse effect on that interest.

   (b) Where a Party objects in accordance with subparagraph (a), the Parties shall consult to determine whether the measure may be listed. Upon agreement, Nicaragua may list the measure.

   (c) Nicaragua must identify such measure by March 1, 2004, and any measures must be listed no later than March 25, 2004.

2. Computer services, construction, energy services, professional services, and land transport sectors:

   (a) Nicaragua has until January 5, 2004, to identify any non-conforming measures in the computer services, construction, energy services, professional services, and land transport sectors.

   (i) The Parties shall consult with Nicaragua to reach final agreement by January 13, 2004, on whether each such
ANNEX I: NON-CONFORMING MEASURES
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(b) measure may be listed. Upon agreement, Nicaragua may list the measure.

3. Audiovisual, telecommunications, express delivery, and sectors included in Nicaragua’s schedule of specific commitments with respect to Article XVI of the GATS:

Nicaragua may not list non-conforming measures in these sectors pursuant to this entry.