

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

1.

Sector: All Sectors

Obligations Concerned: Local Presence

Level of Government: Central

Measures: Código de Comercio, Art. 469, 471 y 474 de 1971
Cross-Border Services

Description: A juridical person organized under the laws of another country with its principle domicile in a foreign country, must establish, at least as a branch in Colombia in order to develop a concession obtained from the Colombian State.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

2.

Sector: All Sectors

Obligations Concerned: National Treatment

Level of Government: Central

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

Investment

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

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

3.

Sector: All Sectors
Obligations Concerned: National Treatment
Level of Government: Central
Measures: Ley 226 de 1995, Art. 3 y 11
Investment

If the State decides to sell all or part of its interest in an enterprise to a person other than a Colombian state enterprise or other Colombian government entity, it shall first offer such interest exclusively and under the conditions established in article 11 of Ley 226 de 1995, to:

- (a) current, pensioned and former employees (other than former employees terminated for just cause) of the enterprise and of other enterprises owned or controlled by the enterprise;
- (b) associations of employees and former employees of the enterprise;
- (c) employee unions;
- (d) federations and confederations of trade unions;
- (e) fund employees (“fondos de empleados”);
- (f) pension and severance funds; and
- (g) cooperative entities.

Description:

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

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

4.

Sector: All Sectors
Obligations Concerned: Local Presence, National Treatment
Level of Government: Central
Measures: Ley 915 de 2004, Art. 5
Cross-Border Services

Description:

Only national and juridical persons with their main office in the free port of San Andrés, Providencia y Santa Catalina may supply services in that region.

For greater certainty, this measure does not affect the cross-supply of services as defined in Article 11.14.1 (a) and (b).

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

5.

Sector:

Public Accountants

Obligations

National Treatment, Local Presence

Concerned:

Level of

Central

Government:

Measures:

Ley 43 de 1990, Art. 3 Par. 1

Resolución No. 160 de 2004, Art. 2 Parágrafo y Art. 6

Cross-Border Services

Description:

Only persons registered with the Junta Central de Contadores may practice as accountants. A foreign national must have been domiciled continuously in Colombia for at least three years prior to the registration request and demonstrate accounting experience carried out in Colombian territory for a period of not less than one year. This experience may be acquired while engaging in public accounting studies or thereafter.

For natural persons, the term "domiciled" implies being a resident and having the intention of permanence.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

6.

Sector: **Research and Development Services**

Obligations Concerned: National Treatment

Level of Government: Central

Measures: Decreto 309 de 2000, Art. 7

Cross-Border Services

Description:

Any foreign natural or juridical person planning to undertake scientific research into biological diversity in the territory of Colombia must involve one or more Colombian researchers in the research or analysis of the results of such research.

For greater certainty, this measure does not require or prohibit foreign persons and Colombian researchers from reaching agreement with respect to the rights to the research or analysis.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

7.

Sector: **Fishing and related activities**
Obligations Concerned: National Treatment (10.3, 11.2), Most Favored Nation Treatment (11.3), Local Presence (11.5)
Level of Government: Central
Measures: Decreto 2256 de 1991, Art. 27, 28 y 67
Acuerdo 005 de 2003, Sección II y VII
Cross-Border Services and Investment

Only Colombian nationals may engage in artisanal fishing.

Description:

The operation of foreign flag vessels engaged in fishing and related activities in Colombian territorial waters, may only be done through association with a Colombian enterprise that owns a permit. In this case, the cost of a permit and fishing license, is greater for foreign flagged vessels than for Colombian flagged vessels. This restriction does not apply with respect to a country which is a party to a bilateral agreement with Colombia that includes fishing related activities.²

² The United States and Colombia signed the Vazquez – Saccio Treaty that includes issues related to fishing on September of 1972.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

8.

Sector:

Services directly incidental to exploration and exploitation of minerals and hydrocarbon

**Obligations
Concerned:**

National Treatment, Local Presence

**Level of
Government:**

Central

Measures:

Ley 685 de 2001, Art. 19 y 20

Decreto legislativo 1056 de 1953, Art. 10

Código de Comercio, Art. 471 y 474 de 1971

Cross-Border Services

Description:

To supply services directly related to the exploration and exploitation of minerals and hydrocarbons in Colombia, a juridical person organized under the law of a foreign country must establish a branch, affiliate company or subsidiary in Colombia.

The previous paragraph does not apply to service suppliers engaged in those services for less than one year.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

9.

Sector: **Private security and surveillance services**

Obligations Concerned: National Treatment, Market Access

Level of Government: Central

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

Cross-Border Services and Investment

Description:

Only enterprises organized under Colombian law as limited liability companies or as private security and surveillance services cooperatives organized as specialized associative enterprise, may provide private security and surveillance services in Colombia. Partners or members of such enterprises must be Colombian nationals.

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

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

10.

Sector:

Journalism

Obligations

Senior Management and Board of Directors

Concerned:

Level of

Central

Government:

Measures:

Ley 29 de 1944 Art. 13

Investment

Description:

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

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

11.

Sector: **Travel and Tourism Agents**
Obligations Concerned: National Treatment, Local Presence
Level of Government: Central
Measures: Ley 32 de 1990, Art. 5
Decreto 502 de 1997, Art. 1 al 7

Cross-Border Services

Foreigners not domiciled in Colombia may not provide travel and tourism agent services within the territory of Colombia.

Description:

For greater certainty, this entry does not apply to tour guide services, nor does it affect the cross-border supply of services as defined in Article 11.14.1 (a) and (b).

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

12.

Sector: **Public notaries and register services**

Obligations Concerned: National Treatment, Market Access

Level of Government: Central

Measures: Decreto ley 960 de 1970, Art. 123, 124, 126, 127 y 132
Decreto ley 1250 de 1970, Art. 60

Cross-Border Services

Only Colombian nationals may be notaries and/or registrars.

Description: The establishment of new notaries is subject to an economic needs test that takes into account the population of the relevant area, the necessity of the services, and communication facilities, among other factors.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

13.

Sector: **Domiciliary public services**
Obligations Concerned: Market Access, Local Presence, National Treatment
Level of Government: Central
Measures: Ley 142 de 1994, Artículos 1, 17, 18, 19 y 23
Código de comercio, Art. 471 y 472

Cross-Border Services and Investment

Domiciliary public service enterprises must be organized under Colombian law and domiciled in Colombia as a share company (sociedad por acciones), except in the case of decentralized entities that take the form of a commercial and industrial enterprise of the State, whose corporate objective is the supply of a domiciliary public service under the “Empresas de Servicios Públicos” or “E.S.P.” regime.

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

Description:

In public bids carried under the same conditions for all bidders to award concessions or licenses for the provision of domiciliary public services to locally organized communities, enterprises where those communities hold controlling interest shall be preferred over an otherwise equal bid.

Two years after the entry into force of this agreement, and upon request of a Party, Colombia shall consult with that Party to consider whether:

- a) any part of this measure shall be modified; or
- b) any sector may be deleted from this measure.

If, as a result of consultations under this paragraph, the Parties agree that this non-conforming measure should be modified, then on approval by the Parties and in accordance with Article XX (Amendments), the Annex shall be modified.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

14.

Sector: Electric energy
Obligations Concerned: Market Access
Level of Government: Central
Measures: Ley 143 de 1994, Art. 74
Cross-Border Services

Description:

Only enterprises organized under Colombian law before July 12, 1994, may continue to engage in more than one of the following activities at the same time: generation, distribution and transmission of electric energy. For greater certainty, an enterprise organized under Colombian law may not engage in marketing (comercialización) and transmission of electric energy.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

15.

Sector:	Customs Activities
Obligations Concerned:	Local Presence
Level of Government:	Central
Measures:	Decreto 2685 de 1999 Art. 74 y 76 <u>Cross-Border Services</u>

Description:

In order to carry out activities of customs intermediation, intermediation for postal services and mensajería especializada¹ (including express delivery), deposit of merchandise, transportation of merchandise under the customs control, international cargo agent, and to act as a Permanent Customs Users and Highly Exporting Users, a person must be domiciled in Colombia or have a domiciled representative legally responsible for their activities in Colombia .

¹ “Servicio de mensajería especializada” means the class of postal services supplied independently of the official postal networks for national and international mail, that requires the application and adoption of special characteristics, for the receipt, collection, and personal delivery of mail and other postal objects, transported by land and air, within or from the national territory.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

16.

Sector: Postal and mensajería especializada¹ services

Obligations Concerned: Local Presence

Level of Government: Central

Measures: Decreto 229 de 1995, Art. 14 y Art. 17 numeral 2

Cross-Border Services

Description: Only juridical persons organized under Colombian law may supply postal services and mensajería especializada in Colombia.

¹.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

17.

Sector: Telecommunications services
Obligations Concerned: Local Presence, Market Access, National Treatment
Level of Government: Central
Measures: Ley 671 de 2001
Decreto 1616 de 2003, Art. 13 y 16
Decreto 2542 de 1997, Art. 2
Decreto 2926 de 2005, Art. 2
Cross-Border Services

Only enterprises organized under Colombian law may receive concessions for the supply of telecommunications services within Colombia.

Description: Until July 31 of 2007, concessions for the routing of long distance international traffic shall only be granted to facilities based-suppliers

For greater certainty, Colombia may grant licenses to provide long distance basic switched telecommunications services on less favorable terms, with respect only to payment and duration, than those provided to Colombia Telecomunicaciones S.A. E.S.P. under article 2 of Decree 2542 of 1997, articles 13 and 16 of Decree 1616 of 2003 and Decree 2926 of 2005.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

18.

Sector:

Cinematography

Obligations

National Treatment, Performance Requirements

Concerned:

Level of

Central

Government:

Measures:

Ley 814 de 2003, Art. 5 Parágrafo primero, Art.14, 15, 18 y 19

Cross Border Services and Investment

The Cinematographic Development Fee, equivalent to 8.5 per cent of the monthly net income derived from exhibition and distribution of movies, is subject to the following exemptions:

(a) no Fee is applied to the exhibition or distribution of a Colombian movie;

Description:

(b) the exhibition Fee will be reduced by six percentage point to 2.25 per cent when a movie is shown in tandem with a National short (film); and

(c) until the year 2013, a distributor who, in any given year, distributes for cinemas a percentage of national movies equal to or exceeding the percentage set for the exhibition of national movies in cinemas and exhibition rooms, will have his fee for the following year reduced by three percentage points to 5.5 per cent.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

19.

Sector:

Radio broadcasting services

Obligations

National Treatment, Local Presence, Market Access

Concerned:

Level of

Central

Government:

Measures:

Ley 80 de 1993, Art. 35

Ley 74 de 1966, Art. 7

Decreto 1447 de 1995, Art. 7, 9 y 18

Cross-Border Services

Description:

A concession to supply radio broadcasting services may only be granted to Colombian nationals or to juridical persons organized under Colombian law. The number of concessions to provide radio broadcasting services is subject to an economic needs test in accordance with the objective selection criteria set forth by law.

The directors of news or informational programs must be Colombian nationals.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

20.

Sector: **Free-to-air television**
Obligations Concerned: National Treatment, Local Presence, Performance Requirements, Market Access
Level of Government: Central
Measures:

Ley 014 de 1991, Art. 37
Ley 680 de 2001, Art. 1 y 4
Ley 335 de 1996, Art. 13 y 24
Ley 182 de 1995, Art. 37 numeral 3, Art. 47 y Art. 48
Acuerdo 002 de 1995, Art. 10 parágrafo
Acuerdo 023 de 1997, Art. 8 Parágrafo
Acuerdo 024 de 1997, Art. 6 y 9
Acuerdo 020 de 1997, Art. 3 y 4

Cross-Border Services and Investment

Only Colombian nationals or juridical persons organized under Colombian law may be granted concessions to provide free-to-air television services.

The concessionaries of privately operated national television channels must be organized as corporations (“sociedades anónimas”).

The number of concessions to provide free-to air national and local coverage for-profit television services is subject to an economic needs test in accordance with the objective selection criteria set forth by law.

Description: Foreign equity in enterprises holding free to air television concessions is limited to 40 percent.

National Television

Suppliers (operators and space concessionaries) of free-to-air national television services must broadcast nationally produced programming on each channel as follows:

- 1) a minimum of 70 per cent between 19:00 hours and 22:30 hours,
- 2) a minimum of 50 per cent between 22:30 hours and 24:00 hours
- 3) a minimum of 50 per cent between 10:00 hours and 19:00 hours
- 4) a minimum of 50 per cent for Saturdays, Sundays, and holidays during the hours described in subparagraphs 1, 2,

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

and 3 until January 31, 2009, after which date the minimum for those days and hours will be reduced to 30 per cent.

Regional and local Television

Regional television may only be supplied by state-owned entities.

Suppliers of regional and local free-to-air television services must broadcast a minimum of 50 per cent nationally produced programming on each channel.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

21.

Sector:

Subscription television

Obligations

Local Presence, Performance Requirements, Market Access

Concerned:

Level of

Central

Government:

Measures:

Ley 680 de 2001. Art. 4 y 11

Ley 182 de 1995, Art. 42

Acuerdo 014 de 1997 Art.14, 16 y 30

Ley 335 de 1996, Art. 8

Acuerdo 032 de 1998, Art. 7 y 9

Cross-Border Services and Investment

Only juridical persons organized under Colombian law may supply subscription television services guaranteeing to subscribers the reception at not additional costs of those free to air Colombian national, regional and municipal television channels available in the authorized area of coverage. The transmission of regional and municipal channels will be subject to the technical capacity of the subscription television operator.

Suppliers of satellite subscription television only have the obligation of maintaining in its basic programming the transmission of the public interest channels of the State. Any domestic content quota imposed on a free to air channel subject to a rebroadcast requirement are applied to the rebroadcast channel respecting the original signal.

Description:

Subscription television not including satellite

The concessionaire of subscription television that transmits commercials different from those of origin, must comply with the minimum percentages of nationally produced programming required of suppliers of free-to-air national television services as described in the previous entry. Colombia interprets Article 16 of Acuerdo 014 de 1997 as not requiring subscription television suppliers to comply with minimum percentages of nationally produced programming when commercials are inserted into programming outside the territory of Colombia. Colombia will continue to apply this interpretation, subject to Article 11.6 (c).

There will be no restrictions on the number of subscription television concessions at the zonal, municipal and district level once the current concessions at those levels expire and in no case beyond 31 of October of 2011.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

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

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

22.

Sector: Community television

Obligations Concerned: Local Presence, Market Access

Level of Government: Central

Measures: Ley 182 de 1995, Art. 37 numeral 4

Acuerdo 006 de 1999, Art. 3 y 4

Cross-Border Services

Description: Community television services may only be supplied by organized communities legally constituted under Colombian law as foundations, cooperatives, associations or corporations governed by civil law.

For greater certainty, such services are supplied with restrictions with respect to area of coverage, number and type of channels, number of associates and under the modality of closed television.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

23.

Sector: Processing, disposition and disposal of toxic waste services

Obligations Concerned: National Treatment

Level of Government: Central

Measures: Decreto 2080 de 2000, Art. 6

Investment

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

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

24.

Sector: Transport

Obligations Concerned: Local Presence

Level of Government: Central

Measures: Ley 336 de 1996, Art. 9 y 10
Decreto 149 de 1999, Art. 5

Cross-Border Services

Suppliers of public services of transportation within the territory of Colombia must be enterprises organized under Colombian law and domiciled in Colombia.

Description:

Only foreign enterprises with an agent or representative domiciled in Colombia and legally responsible for its activities in Colombia, may provide multimodal transport services of cargo within and from the territory of Colombia.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

25.

Sector: Maritime and fluvial transport
Obligations Concerned: National Treatment, Local Presence
Level of Government: Central
Measures: Decreto 804 de 2001, Art. 2 y 4 Inciso 4
Código de Comercio de 1971 Art. 1455
Decreto 2324 de 1998, Art. 124
Ley 658 de 2001, Art. 11
Decreto 1597 de 1998, Art. 23

Cross-Border Services

Only enterprises organized under Colombian law using Colombian flag vessels may supply maritime and fluvial transport services between two points within the territory of Colombia (cabotage).

Description:

All foreign flagged vessels entering a Colombian port must have a domiciled representative legally responsible for their activities in Colombia .

The maritime and fluvial public service of pilots performing pilotage on territorial waters may only be supplied by Colombian nationals.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

26.

Sector:

Port services

Obligations

National Treatment, Local Presence, Market Access

Concerned:

Level of

Central

Government:

Measures:

Ley 1 de 1991, Art. 5.20 y Art. 6

Decreto 1423 de 1989, Art. 38

Cross-Border Services

The holder of a port concession must be organized under Colombian law as a Sociedad Anonima, whose corporate objective is the investment in construction, maintenance, and port administration.

Description:

Only Colombian flag vessels may supply port services in Colombian jurisdictional waters. However, in exceptional cases, the Dirección General Marítima may authorize supply of such services by foreign flag vessels if no Colombian vessel has the capacity to supply such service. The authorization will be issued for six months, but may be extended up to a total period of one year.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

27.

Sector: Specialty air services

Obligations Concerned: Local Presence, National Treatment

Level of Government: Central

Measures: Código de Comercio, Artículos 1795 y 1864

Cross-Border Services and Investment

Description:

Only Colombian nationals or juridical persons organized under Colombian law and domiciled in Colombia may supply specialty air services within the territory of Colombia.

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