

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 6 January 2006

ANNEX III
SCHEDULE OF PERU
NON-CONFORMING MEASURE WITH REGARD TO FINANCIAL SERVICES

Introductory Note for the Schedule of Peru

1. The Schedule of Peru to this Annex sets out:
 - (a) headnotes that limit or clarify the commitments of Peru with respect to the obligations described in subparagraph (b)(i) through (v) and in subparagraph (c),
 - (b) in Section A, pursuant to Article 12.9 (Non-Conforming Measures), the existing measures of Peru that do not conform with some or all of the obligations imposed by:
 - (i) Article 12.2 (National Treatment);
 - (ii) Article 12.3 (Most-Favored-Nation Treatment);
 - (iii) Article 12.4 (Market Access for Financial Institutions);
 - (iv) Article 12.5 (Cross-Border Trade); or
 - (v) Article 12.8 (Senior Management and Boards of Directors), and
 - (c) in Section B, pursuant to Article 12.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which Peru may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 12.2, 12.3, 12.4, 12.5, or 12.8.
2. Each entry in Section A sets out the following elements:
 - (a) **Sector** refers to the general sector for which the entry is made;
 - (b) **Subsector** refers to the specific sector for which the entry is made;
 - (c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1(b) that, pursuant to Article 12.9.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 4;
 - (d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);
 - e) **Measures** identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the **Measures** element:

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- (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
 - (f) **Description** provides a general, non-binding description of the measure for which the entry is made.
3. Each entry in Section B sets out the following elements:
- (a) **Sector** refers to the general sector for which the entry is made;
 - (b) **Subsector** refers to the specific sector for which the entry is made;
 - (c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1(c) that, pursuant to Article 12.9.2, do not apply to the sectors, subsectors, or activities scheduled in the entry;
 - (d) **Level of Government** indicates the level of government maintaining the listed measure(s); and
 - (e) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry.
4. For entries in Section A, in accordance with Article 12.9.1(a), and subject to Article 12.9.1(c), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of a law, regulation, or other measure identified in the **Measures** element of that entry, except to the extent that such non-conforming aspects are inconsistent with a Specific Commitment in Annex 12.15.
5. For entries in Section B, in accordance with Article 12.9.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors, and activities identified in the **Description** element of that entry.
6. Where Peru maintains a measure that requires that a service supplier be a citizen, permanent resident, or resident of its territory as a condition to the supply of a service in its territory, a Schedule entry for that measure taken with respect to Article 12.2, 12.3, 12.4, or 12.5 shall operate as a Schedule entry with respect to Article 10.3 (Investment National Treatment), 10.4 (Investment Most-Favored-Nation Treatment), or 10.8 (Investment Performance Requirements) to the extent of that measure.

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WITH RESPECT TO FINANCIAL SERVICES

Headnotes

1. Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
2. To clarify the commitment of Peru with respect to Article 12.4 (Market Access for Financial Institutions), juridical persons supplying financial services constituted under the laws of Peru are subject to non-discriminatory limitations on juridical form.¹
3. Article 12.9.1(c) (Non-Conforming Measures) shall not apply to those non-conforming measures relating to Article 12.4(b) (Market Access for Financial Institutions).

¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for financial institutions in Peru. This headnote is not itself intended to affect, or otherwise limit, a choice by an investor of the other Party between branches and subsidiaries.