

ANNEX II

SCHEDULE OF THE UNITED STATES

Sector: Communications

Sub-Sector:

Obligations Concerned: National Treatment (Articles 14.4 and 15.3)
Most-Favored-Nation Treatment (Articles 14.5 and 15.4)

Description: Investment and Cross-Border Trade in Services

With respect to Canada, the United States reserves the right to:

- (a) adopt or maintain any measure that accords differential treatment to persons of other countries due to application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services; and
- (b) prohibit a person of a Party from offering DTH or DBS television and digital audio services into the territory of the United States unless that person establishes that the Party of which it is a person:
 - (i) permits U.S. persons to obtain a license for such services in that Party in similar circumstances; and
 - (ii) treats the supply of audio or video content originating in the Party no more favorably than the supply of audio or video content originating in a non-Party or any other Party.

Existing Measures:

Sector: Communications - Cable Television

Sub-Sector:

Obligations Concerned: National Treatment (Article 14.4)
Senior Management and Boards of Directors (Article 14.11)

Description: Investment

The United States reserves the right to adopt or maintain any measure that prohibits a person of a Party from owning or operating a cable television system in the territory of the United States unless that person establishes that the Party:

- (a) permits U.S. persons to own or operate such systems in the territory of the Party under similar circumstances; and
- (b) treats the supply of video content originating in the Party no more favorably than the supply of content of any other Party or non-Party.

A measure may be deemed to treat content of a Party more favorably if it applies preferential treatment on the basis that the director, producer, publisher, actors, or owner of such content is a person of that Party, or the production, editing or distribution of such content took place in the territory of that Party, or on any other basis that affords protection to local production.

Existing Measures:

Sector: Social Services

Sub-Sector:

Obligations Concerned: National Treatment (Articles 14.4 and 15.3)
Most-Favored-Nation Treatment (Articles 14.5 and 15.4)
Performance Requirements (Article 14.10)
Senior Management and Boards of Directors (Article 14.11)
Local Presence (Article 15.6)

Description: Investment and Cross-Border Trade in Services

The United States 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.

Existing Measures:

Sector: Minority Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Articles 14.4 and 15.3)
Performance Requirements (Article 14.10)
Senior Management and Boards of Directors (Article 14.11)
Local Presence (Article 15.6)

Description: Investment and Cross-Border Trade in Services

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.*

Sector: Transportation

Sub-Sector:

Obligations Concerned: National Treatment (Articles 14.4 and 15.3)
Most-Favored-Nation Treatment (Articles 14.5 and 15.4)
Performance Requirements (Article 14.10)
Senior Management and Boards of Directors (Article 14.11)
Local Presence (Article 15.6)

Description: Investment and Cross-Border Trade in Services

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 or control of, and operation of vessels engaged 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. However, the treatment provided to a Party in (b) is conditional upon obtaining comparable market access in these sectors from that Party:

- (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, §§ 19 and 27, 46 U.S.C. §§ 12101, 12118, 12120, 12132, 12139, 12151, 42101-42109, 55102, 55105-55110, 55115-55119, 58108
Waiver of the Navigation and Vessel-Inspection Laws, 46 U.S.C. § 501
Shipping Act of 1916, 46 U.S.C. §§ 50501, 56101, 57109, 50111
Merchant Marine Act of 1936, 46 U.S.C. §§ 109, 114, 50111, 50501, 53101 note, 53301-53312, 53501-53517, 53701-53718, 53721-53725, 53731-53735, 55304-55305, 57101-57104, 57301-57308
Merchant Ship Sales Act of 1946, 50 U.S.C. App. 1738
 46 U.S.C. §§ 55109, 55111, 55118, 60301-60302, 60304-60306, 60312, 80104
 46 U.S.C. §§ 12101 *et seq.*, 12112, 12121, and 31301 *et seq.*
 46 U.S.C. § 8904
Passenger Vessel Services Act, 46 U.S.C. § 55103
 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)

The Foreign Shipping Practices Act of 1988, 46 U.S.C. §§ 306, 41108, 42101, 42301-42307
Merchant Marine Act, 1920, 46 U.S.C. §§ 50101, 50302, 53101 note, 57108
Shipping Act of 1984, 46 U.S.C. §§ 305-306, 40101 note, 40101-40104, 40301-40307, 40501-40503, 40701-40706, 40901-40904, 41101-41109, 41301-41309, 42101, 42301-42307
Exports of Alaskan North Slope Oil, 104 P. L. 58, Title II; 109 Stat. 557, 560-63; codified at 30 U.S.C. §§ 185(s), 185 note
 Limitations on performance of longshore work by alien crewmen, 8 U.S.C. § 1288
Maritime Transportation Security Act of 2002, P. L. 107-295, § 404; 116 Stat. 2064, 2114-15, codified at 46 U.S.C. § 55112
Nicholson Act, 46 U.S.C. § 55114
Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, P. L. 100-239; 101 Stat. 1778, codified in part at 46 U.S.C. §§ 108, 2101, 2101 note, 12113
 43 U.S.C. § 1841
 22 U.S.C. § 1980
 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 Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq.*
 Equipment and Repair of Vessels, 19 U.S.C. § 1466
North Pacific Anadromous Stocks Act of 1992, P. L. 102-567; *Oceans Act of 1992*, P. L. 102-587
Tuna Convention Act, 16 U.S.C. §§ 951 *et seq.*
South Pacific Tuna Act of 1988, 16 U.S.C. §§ 973 *et seq.*
Northern Pacific Halibut Act of 1982, 16 U.S.C. §§ 773 *et seq.*
Atlantic Tunas Convention Act, 16 U.S.C. §§ 971 *et seq.*
Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. §§ 2431 *et seq.*
Pacific Salmon Treaty Act of 1985, 16 U.S.C. §§ 3631 *et seq.*
American Fisheries Act, 46 U.S.C. § 12113 and 46 U.S.C. § 31322

Sector: Land Transportation

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.3)
Most-Favored-Nation Treatment (Article 15.4)
Local Presence (Article 15.6)

Description: Cross Border Trade in Services

Notwithstanding the entry at ANNEX I – UNITED STATES – 9, the United States reserves the right to adopt or maintain limitations on grants of authority for persons of Mexico to provide cross-border long-haul truck services in the territory of the United States outside the border commercial zones if the United States determines that limitations are required to address material harm or the threat of material harm to U.S. suppliers, operators, or drivers.¹ The United States may only adopt such limitations on existing grants of authority if it determines that a change in circumstances warrants the limitation² and if the limitation is required to address material harm.³ The Parties shall meet no later than five years after the entry into force of this agreement to exchange views on the operation of this entry.

Existing Measures:

¹ For purposes of this entry, “material harm” means a significant loss in the share of the U.S. market for long-haul truck services held by persons of the United States caused by or attributable to persons of Mexico.

² For greater certainty, a substantial increase in services supplied by the grantee may constitute a change in circumstances.

³ The Parties confirm their shared understanding that current operations under existing grants of authority as of the date of entry into force of this Agreement are not causing material harm.

Sector: Betting and Gambling

Sub-Sector:

Obligations Concerned: National Treatment (Articles 14.4 and 15.3)
Performance Requirements (Article 14.10)
Senior Management and Boards of Directors (Article 14.11)
Market Access (Article 15.5)
Local Presence (Article 15.6)

Description: Investment and Cross-Border Trade in Services

The United States reserves the right to adopt or maintain any measure relating to betting and gambling services.

Existing Measures:

Sector: All

Sub-Sector:

Obligations Concerned: Market Access (Article 15.5)

Description: Cross-Border Trade in Services

The United States reserves the right to adopt or maintain any measure that is not inconsistent with the United States' obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3).

For purposes of this entry only, the U.S. Schedule of Specific Commitments is modified as indicated in Appendix II-A.

Existing Measures:

Sector: All

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Articles 14.5 and 15.4)

Description: Investment and Cross-Border Trade in Services

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

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

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

Existing Measures:

Appendix II-A

For the following Sectors, U.S. obligations under Article XVI of the GATS as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3) are improved as described.

Sector/Subsector	Market Access Improvements
Foreign Legal Consulting Services	Insert new commitments for the following states: Louisiana, New Mexico: No limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”. Arizona, Indiana, Massachusetts, North Carolina, Utah: No limitations modes 1-2; for mode 3 “in-state law office required”, and mode 4 “Unbound, except as indicated in the horizontal section. Additionally, an in-state law office required”. Missouri: No limitations modes 1-2; for mode 3 “Association with in-state law office required”, and mode 4 “Unbound, except as indicated in the horizontal section. Additionally, association with an in-state law office required”.
Accounting, Auditing, and Bookkeeping Services	Modify mode 3 limitation as follows: Sole proprietorships or partnerships are limited to persons licensed as accountants, except in Iowa where accounting firms must incorporate Modify mode 4 limitation as follows: In addition, an in-state office must be maintained for licensure in to receive a license to perform audits in:
Engineering Services Integrated Engineering Services	Replace existing description of Mode 4 with “Unbound, except as indicated in the horizontal section”.
Research and development services: R&D services on natural sciences, social sciences and humanities, and interdisciplinary R&D services, excluding R&D financed in whole or in part by public funds	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Technical testing and analysis services, other	Insert new commitments with no limitations for

Sector/Subsector	Market Access Improvements
than government-mandated services or services financed in whole or in part by public funds	modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Other business services: Other	Insert new commitments for “Other” under “Other business services” with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Express Delivery Services	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Other Delivery Services	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Multi-channel video services over provider-owned cable systems	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Information services (the offering of a capability for generating, acquiring, storing transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing)	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Higher Education Services (except flying instruction) ⁴	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Motion Picture & Video Tape Home Video Entertainment Production and Distribution Promotion or advertising services Motion picture or video tape ⁵ production	Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.

⁴ For transparency purposes, individual U.S. institutions maintain autonomy in admission policies, in setting tuition rates, and in the development of curricula or course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established. In some jurisdictions, accreditation of institutions or programs may be required. Institutions maintain autonomy in selecting the jurisdiction in which they will operate, and institutions and programs maintain autonomy in choosing to meet standards set by accrediting organizations as well as to continue accredited status. Accrediting organizations maintain autonomy in setting accreditation standards. Tuition rates may vary for in-state and out-of-state residents. Additionally, admissions policies include considerations of equal opportunity for students (regardless of race, ethnicity, or gender), as permitted by domestic law, as well as recognition by regional, national, or specialty organizations; and required standards must be met to obtain and maintain accreditation. To participate in the U.S. student loan program, foreign institutions established in the United States are subject to the same requirements as U.S. institutions.

⁵ For purposes of clarity, this class refers to theatrical and non-theatrical motion pictures, whether provided on fixed media or electronically.

Sector/Subsector	Market Access Improvements
services Motion picture or video tape⁵ distribution services Other services in connection with motion pictures and video tape⁵ production and distribution Motion Picture Projection Services Radio and Television Services Radio and Television Distribution Services Other services in connection with motion pictures and video tape⁵ production and distribution⁶	
Environmental Services Wastewater Management, excluding Water for Human Use (Wastewater services (contracted by private industry)) Solid/hazardous waste management (contracted by private industry) Refuse disposal services Sanitation and Similar Services Protection of ambient air and climate (Services to reduce exhaust gases and other emissions to improve air quality) Remediation and cleanup of soil and water (Treatment, remediation of contaminated/polluted soil and water) Noise and vibration abatement (Noise abatement	Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.

⁶ For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

Sector/Subsector	Market Access Improvements
services) Protection of biodiversity and landscape (Nature and landscape protection services) Other environmental and ancillary services (Other services not classified elsewhere)	
Physical well-being services ^{7, 8}	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Road freight transport	Insert new commitments for domestic transportation with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.
Cargo-handling services, Storage and warehouse services, and Freight transport agency services, except maritime or air transport services	Insert new commitments with no limitations for modes 1-3 and mode 4 “Unbound, except as indicated in the horizontal section”.

⁷ For transparency purposes, this subsector includes physical well-being services such as delivered by, *inter alia*, fitness centers, spas, salons, massage (excluding therapeutic massage), and ayurvedics. This subsector does not include regulated medical services.

⁸ For greater certainty, nothing in this commitment authorizes the provision of unregulated substances or affects the ability of state authorities to regulate substances that may be affiliated with these services.