

Annex 3

**ANNEXES
SERVICES AND INVESTMENT**

Annex I

SCHEDULE OF GUATEMALA

EXPLANATORY NOTE

1. The Schedule of Guatemala to this Annex sets out, pursuant to Articles 9.13 (Non-Conforming Measures) and 10.6 (Non-Conforming Measures), Guatemala's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 9.3 (National Treatment) or 10.2 (National Treatment);
- (b) Article 9.4 (Most-Favored-Nation Treatment) or 10.3 (Most-Favored-Nation Treatment);
- (c) Article 10.4 (Market Access);
- (d) Article 10.5 (Local Presence);
- (e) Article 9.9 (Performance Requirements); or
- (f) Article 9.10 (Senior Management and Boards of Directors).

2. Each Schedule entry sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Obligation Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 9.13.1(a) (Non-Conforming Measures) and 10.6.1(a) (Non-Conforming Measures), does not apply to the non-conforming aspects of the law, regulation, or other measures, as set out in paragraph 3;
- (c) **Level of Government** indicates the level of government maintaining the listed measure(s);
- (d) **Measures** identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the **Measures** element:
 - 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

- (e) **Description** sets out commitments, if any, for liberalization on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the existing measures for which the entry is made.

3. In the interpretation of a Schedule entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions of the Chapters against which the entry is made. To the extent that:

- (a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and
- (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. In accordance with Articles 9.13.1 (a) (Non-Conforming Measures) and 10.6.1(a) (Non-Conforming Measures) and subject to Articles 9.13.1(c) and 10.6.1(c), the Articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measures identified in the **Measures** element of that entry.

5. Where Guatemala maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article 10.2 (National Treatment), 10.3 (Most-Favored-Nation Treatment), or 10.5 (Local Presence) shall operate as a Schedule entry with respect to Article 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment), or 9.9 (Performance Requirements) to the extent of that measure.

1. Sector:	All Sectors
Subsector:	
Obligations Concerned:	National Treatment (Article 10.2) Most-Favored-Nation Treatment (Article 10.3)
Level of Government:	Central
Measures:	Decree No. 24-99, <i>Ley del Fondo de Tierras</i> (Law of the Land Fund) and its reforms, Article 20. <i>Punto Resolutivo</i> No. 41-2011 of the <i>Consejo Directivo del Fondo de Tierras, Reglamento de Beneficiarios y Beneficiarias del Programa de Acceso a la Tierra del Fondo de Tierras</i> (Resolution No. 41-2011 of the Governing Council of the Land Fund, Regulation of the Land Access Program's Beneficiaries of the Land Fund), Article 4.
Description:	<u>Cross- Border Trade in Services:</u> Only Guatemalans of origin may be beneficiaries to access land owned individually or collectively.

2. Sector:	All Sectors
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	Decree No. 49-79, <i>Ley de Titulación Supletoria</i> (Supplementary Qualification Law), Article 3.
Description:	<p><u>Investment:</u></p> <p>Only Guatemalans can obtain <i>titulación supletoria</i> (supplementary qualification) of real estate located within 15 kilometers of the borders and coastline. If it is about a juridical person, the individuals who form it must all be Guatemalans.</p>

3. Sector:	All Sectors
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	<p><i>Constitución Política de la República de Guatemala</i> (Political Constitution of the Republic of Guatemala), Article 122.</p> <p>Decree No. 126-97, <i>Ley Reguladora de las Áreas de Reservas Territoriales del Estado de Guatemala</i> (Regulatory Law of the Areas of Territorial Reserves of the State of Guatemala) and its reforms, Article 5.</p>
Description:	<p><u>Investment:</u></p> <p>The State reserves the domain of a land strip of 3 kilometers along the oceans, counted from the top line of tides; 200 meters around the shores of lakes; 100 meters on either side of navigable riverbanks; 50 meters around the origin of fountains and springs that provide water for populations.</p> <p>The following reservations are excepted:</p> <p>a) properties or real estate located in urban zones; and b) real estate that has rights registered in <i>Registro General de la Propiedad</i> (General Property Registry), prior to March 1, 1956.</p> <p>Foreigners will need authorization from the Executive Branch, to acquire real estate or real estate covered by the exceptions of the two preceding subparagraphs.</p>

4. Sector:	All Sectors
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	<p><i>Constitución Política de la República de Guatemala</i> (Political Constitution of the Republic of Guatemala), Article 123.</p> <p>Decree No. 126-97, <i>Ley Reguladora de las Áreas de Reservas Territoriales del Estado de Guatemala</i> (Regulatory Law of the Areas of Territorial Reserves of the State of Guatemala) and its reforms, Article 5.</p>
Description:	<p><u>Investment:</u></p> <p>Only Guatemalans by birth and enterprises 100 percent owned by Guatemalans by birth may own or possess real estate property located within 15 kilometers of the borders.</p> <p>Foreign nationals may, however, own or possess urban real estate and real estate for which rights were registered in <i>Registro General de la Propiedad</i> (General Property Registry) registered before March 1, 1956 within the 15-kilometer area.</p> <p>Only the State may give real estate leases located within the areas of territorial reserve of the State to natural or juridical persons. In the case of juridical persons, they must be legally constituted in Guatemala.</p>

5. Sector:	All Sectors
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	Decree No. 2-70, <i>Código de Comercio de Guatemala</i> (Guatemala's Commercial Code) and its reforms, Article 215.
Description:	<p><u>Investment:</u></p> <p>In order for an enterprise constituted under foreign law and subject to establishment in Guatemala, in any form, it must allocate an assigned amount of capital for its operations in Guatemala and constitute a bond in favor of third parties in an amount not less than the equivalent in quetzales of US\$ 50,000, which must remain in effect for the duration of the enterprise's operation in Guatemala.</p> <p>For greater certainty, the requirement of a bond is not to be construed to prevent an enterprise organized under the laws of a foreign country from establishing in Guatemala.</p> <p>For greater certainty, this reservation applies only for foreign companies' branches and agencies.</p>

6. Sector:	Forestry
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	<i>Constitución Política de la República de Guatemala</i> (Political Constitution of the Republic of Guatemala), Article 126.
Description:	<p><u>Investment:</u></p> <p>The exploitation of all forest resources and their renewal shall correspond exclusively to Guatemalan individuals or juridical persons.</p>

7. Sector:	Professional Services
Subsector:	Notaries
Obligations Concerned:	Most-Favored-Nation Treatment (Article 10.3) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	<i>Constitución Política de la República de Guatemala</i> (Political Constitution of the Republic of Guatemala), Article 145. Decree No. 314, <i>Código de Notariado</i> (Notary Code) and its reforms, Article 2.
Description:	<u>Cross-Border Trade in Services:</u> To practice as a notary public, an individual must be a Guatemalan by birth domiciled in Guatemala. It is also considered that nationals by birth to those Republics that constituted the Federation of Central America are Guatemalans of origin, if they acquire domicile in Guatemala and declare to the competent authority their desire to be Guatemalans. In this case they may retain their nationality of origin, without prejudice to what is established in treaties or Central American agreements.

8. Sector:	Professional Services
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Local Presence (Article 10.5)
Level of Government	Central
Measures:	Decree No. 2-70, <i>Código de Comercio de Guatemala</i> (Guatemala's Commercial Code) and its reforms, Article 213.
Description:	<p><u>Investment and Cross-Border Trade in Services:</u></p> <p>The operation of foreign companies that engage in the supply of professional service that requires a legally recognized university degree, title or diploma for their practice is prohibited.</p> <p>It is understood that a foreign company is one that is constituted in a foreign country.</p>

9. Sector:	Performing Arts
Subsector:	Show Business Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2)
Level of Government:	Central
Measures:	<p>Decree No. 574, <i>Ley de Espectáculos Públicos</i> (Law of Public Spectacles) and its reforms, Articles 36, 37 and 49.</p> <p><i>Acuerdo Ministerial</i> (Ministerial Agreement) No. 1106-2008 from the <i>Ministerio de Cultura y Deportes</i> (Ministry of Culture and Sports), Articles 2 and 4.</p>
Description:	<p><u>Investment and Cross-Border Trade in Services:</u></p> <p>Persons or companies interested in presenting individual artist or artistic groups either national or foreign in Guatemala with profit or charitable purposes, must send a request with at least 15 days in advance to the <i>Dirección de Espectáculos Públicos de la Dirección General de las Artes del Ministerio de Cultura y Deportes</i> (Direction of Public Spectacles of the General Arts of Direction of the Ministry of Culture and Sports).</p> <p>The <i>Ministerio de Cultura y Deportes</i> (Ministry of Culture and Sports), can authorize the presentation, non-for-profit groups or foreign artists sponsored by Diplomatic Representations and Cultural Centers organized for cultural exchange in accordance to the agreements signed with Guatemala.</p> <p>In mixed performances, made up of one or more films and variety shows, preference will be given to Guatemalans if the circumstance of the cast, schedule, and contract allow it.</p>

10. Sector:	Tour Services
Subsector:	Tour Guides
Obligations Concerned:	National Treatment (Article 10.2) Local Presence (Article 10.5) Market Access (Article 10.4)
Level of Government:	Central
Measures:	<i>Acuerdo No. 187-2007-D from Instituto Guatemalteco de Turismo (INGUAT) (Guatemalan Tourism Institute), Regulaciones para Inscripción y Funcionamiento de Guías Turísticas (Regulations for Inscription and Operation of Tour Guides) and its reforms, Articles 3 and 7.</i>
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>The activity of the tourist guide may only be exercised by a person who has the corresponding accreditation, duly authorized by <i>INGUAT</i>.</p> <p>To be a community tourist guide, the person is required to be Guatemalan.</p> <p>To exercise as a local tourist guide, whether general, specialized, or with specific qualifications, the person is required to be a resident in the country.</p> <p>Only Guatemalans by birth or nationals of a foreign country that are residents in Guatemala may provide tour guide services in Guatemala.</p>

11. Sector:	Business Services
Subsector:	Customs Agents
Obligations Concerned:	National Treatment (Article 10.2) Most-Favored-Nation Treatment (Article 10.3) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	<p><i>Código Aduanero Uniforme Centroamericano (CAUCA)</i> (Central American Uniform Customs Code), approved by <i>Consejo de Ministros de Integración Económica</i> (Council of Ministers of Economic Integration), through Resolution No. 223 - 2008 (COMIECO-XLIX), Article 22.</p> <p><i>Reglamento al Código Aduanero Uniforme Centroamericano (RECAUCA)</i> (Regulations of the Central American Uniform Customs Code), approved by <i>Consejo de Ministros de Integración Económica</i> (Council of Ministers of Economic Integration), through Resolution No. 224 - 2008 (COMIECO-XLIX), Article 76.</p>
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>The natural person who has an interest having authorization as a customs agent must have the nationality of any of the signatory States of <i>CAUCA</i> and must be domiciled in the country where the person practices this activity.</p> <p>Juridical persons who have an interest in having authorization as a customs clearance agency must be domiciled in the country where their activities take place.</p>

12. Sector:	Construction Services and Engineering Services
Subsector:	
Obligations Concerned:	Most-Favored-Nation Treatment (Article 10.3) Market Access (Article 10.4)
Level of Government:	Central
Measures:	<i>Tratado General de Integración Económica Centroamericana</i> (General Treaty on Central American Economic Integration), Article XVI.
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>The contracting States shall grant the same treatment as national companies, to enterprises of other contracting States engaged in the construction of roads, bridges, dams, irrigation systems, electrification, housing and other works aimed to the development of the Central American economic infrastructure.</p>

13. Sector:	Passenger Transportation and Freight by Road
Subsector:	
Obligations Concerned:	Most-Favored-Nation Treatment (Article 10.3) Market Access (Article 10.4)
Level of Government:	Central
Measures:	<p>Decree No. 253, <i>Ley de Transportes</i> (Transport Law) and its reforms, Article 4.</p> <p><i>Protocolo al Tratado General de Integración Económica Centroamericana</i> (Protocol to the General Treaty on Central American Economic Integration), Articles 15 and 28.</p> <p><i>Acuerdo Gubernativo</i> (Government Agreement) No. 135-94 <i>Reglamento del Servicio de Transportes de Equipos de Carga</i> (Regulation of Cargo Transport Services) and its reforms, Articles 3, 9 and 10.</p> <p><i>Acuerdo Gubernativo</i> (Government Agreement) No. 379-2010 <i>Reglamento para el Control de Pesos y Dimensiones de Vehículos Automotores y sus Combinaciones</i> (Regulations for the Control of Weights and Dimensions of Motor Vehicles and their Combinations) and its reforms, Article 8.</p>
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>Individual or juridical persons, both national and foreign, may provide passengers and freight public transportation services; however, no motor vehicle with foreign license plates or registration will be able to transport passengers and commercial freight between different destinations within national territory.</p> <p>An exception to the aforementioned prohibition applies to trailers and semi-trailers registered in any Central American country that can temporarily enter another country and that has a destination in one of the countries in the region.</p>

14. Sector:	Passenger and Cargo Transportation
Subsector:	Passenger and Cargo Ground Transportation
Obligations Concerned:	Most-Favored-Nation Treatment (Article 10.3) Market Access (Article 10.4)
Level of Government:	Central
Measures:	<i>Tratado Multilateral de Libre Comercio e Integración Económica Centroamericana</i> (Central American Multilateral Agreement on Free Trade and Economic Integration), Article XV.
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>Ground vehicles registered in one of the contracting States shall enjoy in the territory of other States, during its temporary permanency, the same treatment as those enrolled in the country of visit.</p> <p>The companies involved in the signatory countries that provide services of automotive transportation of passengers and goods in the designated countries of Central America, will receive national treatment in the territories of other States; however, it is forbidden to grant cabotage between the contracting States.</p>

15. Sector:	Transportation
Subsector:	Cargo Ground Transportation Services
Obligations Concerned:	Most-Favored-Nation Treatment (Article 10.3) Market Access (Article 10.4)
Level of Government:	Central
Measures:	Resolution No. 65-2001, approved by the <i>Consejo de Ministros Responsables de la Integración Económica y Desarrollo Regional</i> (Council of Ministers Responsible of Economic Integration and Regional Development).
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>A mechanism is established for the reciprocal and non-discriminatory treatment for the service of international ground transportation between Guatemala, Costa Rica, El Salvador, Honduras, Nicaragua and Panama, which includes the following:</p> <p>(a) freedom of transit on their territory for ground transportation cargo of goods from Panama to any Central American country, and from any country of Central America to Panama; and</p> <p>(b) freedom of transit involves the guarantee of free competition in hiring transportation without prejudice to the country of origin or destination and the guarantee of national treatment to the transportation of all the countries in the territory of any of the countries.</p>

16. Sector:	Postal Services
Subsector:	
Obligations Concerned:	Market Access (Article 10.4) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	<p>Decree No. 650, <i>Código Postal de la República de Guatemala</i> (Postal Code of the Republic of Guatemala) and its reforms, Article 41 from the Constitutional President of the Republic of Guatemala.</p> <p><i>Acuerdo Gubernativo</i> (Government Agreement) No. 289-89, <i>Reglamento para el Servicio Público de Transporte y Entrega de Correspondencia Postal Prestado por Particulares</i> (Regulation for the Public Transport Service and Delivery of Postal Correspondence, provided by Individuals) and its reforms, Article 1.</p>
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>No enterprise, corporation or individual may perform mail service with regards to correspondence by means of letters and telegrams without explicit concession from the executive branch, under the condition that it determines.</p> <p>The <i>Ministerio de Comunicaciones, Infraestructura y Vivienda</i> (Ministry of Communications, Infrastructure and Housing), notwithstanding the requirements established in <i>Código Postal de la República de Guatemala</i> (Postal Code of the Republic of Guatemala) and <i>Reglamento para el Servicio Público de Transporte y Entrega de Correspondencia Postal Prestado por Particulares</i> (Regulation for the Public Transport Service and Delivery of Postal Correspondence, provided by Individuals), can grant concessions to individuals for the provision of transportation and delivery services for postal correspondence.</p>

Annex II

SCHEDULE OF GUATEMALA

EXPLANATORY NOTE

1. The Schedule of Guatemala of this Annex sets out, pursuant to Articles 9.13 (Non-Conforming Measures) and 10.6 (Non-Conforming Measures), the specific sectors, sub-sectors, or activities for which Guatemala may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:
 - (a) Article 9.3 (National Treatment) or 10.2 (National Treatment);
 - (b) Article 9.4 (Most-Favored-Nation Treatment) or 10.3 (Most-Favored-Nation Treatment);
 - (c) Article 10.4 (Market Access);
 - (d) Article 10.5 (Local Presence);
 - (e) Article 9.9 (Performance Requirements); or
 - (f) Article 9.10 (Senior Management and Boards of Directors).
2. Each Schedule entry sets out the following elements:
 - (a) **Sector** refers to the sector for which the entry is made;
 - (b) **Obligation Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 9.13.2 (Non-Conforming Measures) and 10.6.2 (Non-Conforming Measures), do not apply to sectors, subsectors, or activities set out in the Schedule;
 - (c) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and
 - (d) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.
3. In accordance with Articles 9.13.2 and 10.6.2, 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.

1. Sector:	All Sectors
Subsector:	
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Level of Government:	Central
Description:	<p><u>Investment and Cross-Border Trade in Services:</u></p> <p>Guatemala reserves, vis-à-vis Korea, 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.</p> <p>Guatemala 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:</p> <ul style="list-style-type: none"> (a) aviation; (b) fisheries; (c) maritime matters, including salvage; or (d) railroad transportation.

2. Sector:	Maritime Transportation
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Local Presence (Article 10.5) Performance Requirements (Article 9.9) Senior Management and Boards of Directors (Article 9.10)
Level of Government	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure related to the provision of maritime transportation services.

3. Sector:	Matters Related to Disadvantaged Minorities and Indigenous Peoples
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Local Presence (Article 10.5) Performance Requirements (Article 9.9) Senior Management and Boards of Directors (Article 9.10)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure that grants rights or preferences to socially or economically disadvantaged minorities and indigenous peoples.

4. Sector:	Social Services
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Local Presence (Article 10.5) Performance Requirements (Article 9.9) Senior Management and Boards of Directors (Article 9.10)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure with regards to the execution of public order laws and social re-adaptation supply services as well as the following services, to the extent that they are social services that are established or maintained for public purposes, including but not limited to: insurance and income security, social security services, social welfare, public education, public training, child health and assistance.

5. Sector:	Fisheries and Fisheries-related services
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Performance Requirements (Article 9.9)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measures related to artisanal fishing.

6. Sector:	Professional Services
Subsector:	
Obligations Concerned:	National Treatment (Article 10.2) Most-Favored-Nation Treatment (Article 10.3) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>Guatemala reserves the right to adopt or maintain any measure that restricts the cross-border supply of professional services.</p> <p>Guatemala reiterates the acquired rights and obligations from the <i>Convenio sobre el Ejercicio de Profesiones Universitarias y Reconocimiento de Estudios Universitarios</i> (Agreement on the Practice of University Professions and the Recognition of University Studies).</p>

7. Sector:	Transportation Services by Road
Subsector:	
Obligations Concerned:	National Treatment (Article 10.2) Most-Favored-Nation Treatment (Article 10.3) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<u>Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure that restricts the cross-border supply of services in the sector of goods transportation services by road.

8. Sector:	Telecommunications
Subsector:	
Obligations Concerned:	Local Presence (Article 10.5)
Level of Government:	Central
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>Guatemala reserves the right to adopt or maintain any measure in relation to the granting of a concession for the installation, operation and exploitation of public telecommunications services.</p>

9. Sector:	Cultural Industries
Subsector:	
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Level of Government:	Central
Description:	<p><u>Investment and Cross-Border Trade in Services:</u></p> <p>Guatemala reserves the right to adopt or maintain any measure that grants preferential treatment to persons (natural or juridical) from other countries in accordance to any existent or future bilateral or multilateral international agreement with regards to cultural industries, including audiovisual cooperation agreements.</p>

10. Sector:	Craftworks
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Performance Requirements (Article 9.9)
Level of Government	Central
Description:	<p><u>Investment and Cross-Border Trade in Services:</u></p> <p>Guatemala reserves the right to adopt or maintain any measure with regards to the design, distribution, retail sale or exhibition of craftworks that are identified as Guatemalan craftworks.</p> <p>The performance requirements shall be in all cases compatible with the Agreement on Trade-Related Investment Measures (TRIMs), which is part of the WTO Agreement.</p>

11. Sector:	Energy sector
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Local Presence (Article 10.5) Performance Requirements (Article 9.9) Senior Management and Boards of Directors (Article 9.10)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to maintain or adopt any measure with respect to the energy sector.

12. Sector:	Arms and Explosives
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure with respect to arms and explosives.

13. Sector:	Environmental Services - Treatment and Supply Services for Potable Water; Collection and Treatment Services for Municipal Sewage; Collection, Transportation, and Disposal Services for Municipal Refuse; Sanitation and Similar Services; Nature and Landscape Protection Services (Except for Environmental Impact Assessment Services)
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Performance Requirements (Article 9.9) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<p><u>Investment and Cross-Border Trade in Services:</u></p> <p>Guatemala reserves the right to adopt or maintain any measure with respect to the following environmental services: treatment and supply of potable water; collection and treatment of municipal sewage; collection, transportation, and disposal of municipal refuse; sanitation and similar services; and nature and landscape protection services (except for environmental impact assessment services).</p>

14. Sector:	Transportation Services - Storage and Warehousing Services
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2)
Level of Government:	Central
Description:	<p><u>Investment and Cross-Border Trade in Services:</u></p> <p>Guatemala reserves the right to adopt or maintain any measure with respect to storage and warehousing services related to agricultural, fishery, and livestock products.</p>

15. Sector:	Communication Services - Broadcasting Services
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Performance Requirements (Article 9.9) Senior Management and Boards of Directors (Article 9.10) Market Access (Article 10.4) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure relating to broadcasting services.

16. Sector:	Business Services - Services Incidental to Agriculture, Hunting, Forestry, and Fishing
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Performance Requirements (Article 9.9) Senior Management and Boards of Directors (Article 9.10) Market Access (Article 10.4) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, fishing, hunting and livestock, including genetic improvement and artificial insemination.

17. Sector:	Social Services
Subsector:	Human Health Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Performance Requirements (Article. 9.9) Senior Management and Boards of Directors (Article 9.10) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure with respect to human health services.

18. Sector:	Recreational, Cultural, and Sporting Services - Motion Picture Promotion, Advertising, or Post-Production Services
Subsector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Performance Requirements (Article 9.9) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<u>Investment and Cross-Border Trade in Services:</u> Guatemala reserves the right to adopt or maintain any measure with respect to motion picture promotion, advertising, or post-production services.

19. Sector:	Other Recreational Services
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Description:	<u>Investment:</u> Guatemala reserves the right to adopt or maintain any measure with respect to tourism in rural areas.

20. Sector:	Business Services
Subsector:	
Obligations Concerned:	National Treatment (Article 10.2) Local Presence (Article 10.5)
Level of Government:	Central
Description:	<p><u>Cross-Border Trade in Services:</u></p> <p>Guatemala reserves the right to adopt or maintain any measure with respect to the exportation and re-exportation of controlled commodities, software, and technology.</p>

21. Sector:	All Sector
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3) Performance Requirements (Article 9.9)
Level of Government:	Central
Description:	<p><u>Investment:</u></p> <p>Guatemala reserves the right to adopt, with respect to the establishment or acquisition of an investment, any measure that is necessary for the maintenance of public order provided that such measure is not applied in an arbitrary or unjustifiable manner, does not constitute a disguised restriction on investment and is proportionate to the objective it seeks to achieve.</p>

Annex III

SCHEDULE OF GUATEMALA

EXPLANATORY NOTE

1. The Schedule of Guatemala to Annex III sets out:
 - (a) headnotes that limit or clarify the commitments of Guatemala with respect to the obligations described in clauses (i)-(v) of subparagraph (b), and in subparagraph (c);
 - (b) in Section A, pursuant to Article 11.9 (Non-Conforming Measures), the existing measures of Guatemala that do not conform to some or all of the obligations imposed by:
 - (i) Article 11.2 (National Treatment);
 - (ii) Article 11.3 (Most-Favored-Nation Treatment);
 - (iii) Article 11.4 (Market Access for Financial Institutions);
 - (iv) Article 11.5 (Cross-Border Trade); or
 - (v) Article 11.8 (Senior Management and Boards of Directors); and
 - (c) in Section B, pursuant to Article 11.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which Guatemala may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 11.2, 11.3, 11.4, 11.5, or 11.8.
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 obligation(s) referred to in subparagraph 1(b) that, pursuant to Article 11.9, do not apply to the listed measure(s);

- (d) **Level of Government** indicates the level of government maintaining the listed measure(s);
 - (e) **Measures** identifies the law, regulations or other measures for which the entry is made. A measure cited in the **Measures** element:
 - (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;
 - (f) **Description** provides a general, nonbinding description of the measures.
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 obligation(s) referred to in subparagraph 1(c) that, pursuant to Article 11.9, do not apply to the sectors, subsectors, or activities listed 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. In the interpretation of a non-conforming measure in Section A, all elements of the non-conforming measures listing shall be considered. A non-conforming measure shall be interpreted in the light of the relevant provisions of the Financial Services Chapter with respect to which the non-conforming measure is taken. To the extent that:
- (a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, if any, or a Specific Commitment from an Annex to the Financial Services Chapter, the **Measures** element as so qualified shall prevail over all other elements; and

- (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of the discrepancy.
- 5. For entries in Section B, in accordance with Article 11.9, 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 Guatemala maintains a measure that requires that a service supplier be a citizen, permanent resident or resident of its territory as a condition to the provision of a service in its territory, a listing for that measure taken in Annex III with respect to Article 11.2, 11.3, 11.4, or 11.5 shall operate as a non-conforming measure with respect to Articles 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment) and 9.9 (Performance Requirements), to the extent of that measure.
- 7. Appendix III-A refers to certain measures that the Parties consider to be not inconsistent with Article 11.2 (National Treatment) or 11.4 (Market Access for Financial Institutions) or that are subject to Article 11.10 (Exceptions).

Headnotes:

- 1. Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in Sections A and B below.
- 2. To clarify Guatemala's commitment with respect to Article 11.4, juridical persons supplying financial services and constituted under the laws of Guatemala are subject to non-discriminatory limitations on juridical form.¹

¹ For example, in Guatemala, the sociedades de responsabilidad limitada, sociedades en comandita simple, sociedades en comandita por acciones and sociedad colectiva are not acceptable juridical forms for financial institutions. Subsidiaries must be established as Sociedades Anónimas (stock companies). This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of another Party between branches, representative offices and subsidiaries.

APPENDIX III-A

CERTAIN MEASURES NOT INCONSISTENT WITH ARTICLES 11.2 OR 11.4, OR SUBJECT TO ARTICLE 11.10.

In accordance with Article 11.10 (Exceptions), Guatemala reaffirms that nothing in this Agreement prevents it from adopting or maintaining measures for prudential reasons.

Without prejudice to Article 11.10 (Exceptions), any measure that Guatemala adopts or maintains in its legislation that is equivalent or has an effect equivalent to the measures set forth in Appendix III-A of Korea, shall not be construed to be inconsistent with Article 11.2 or 11.4. Any revision, amendment or modification to such measures or related legislation shall not be construed to be inconsistent with Article 11.2 or 11.4 to the extent that it does not conflict with the spirit of the original measure.

Section A

1. Sector:	Financial Services
Subsector:	Banking
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government	Central
Measures:	Decree No. 19-2002 and its regulations, <i>Ley de Bancos y Grupos Financieros</i> (Law of Banks and Financial Groups) approved on April 29 th , 2002, and its reforms, Articles 6, 7, 18, 26, 64 and 65.
Description:	<p>A foreign bank may operate in Guatemala through:</p> <ul style="list-style-type: none"> (a) The establishment of branches in Guatemala, and (b) The registry of representative offices only for the promotion of business and granting of financing in the national territory. <p>For the administration of foreign bank branches, it won't be necessary that an administration council administers them, but they will have one or more administrators domiciled in the country.</p> <p>Foreign nationals and enterprises organized under the laws of foreign countries (including banks) may also establish a bank in Guatemala in the form of a stock company (<i>Sociedad Anónima</i>).</p> <p>Operations of foreign bank branches are limited to the amount of net worth capital (shareholders' equity) related to their exposure to credit, market, and other risks. This amount may not be less than 10 percent of assets and contingencies, weighted in accordance with their risk, pursuant to general regulations issued by the Monetary Board (<i>Junta Monetaria</i>).</p>

2. Sector:	Financial Services
Subsector:	Banking
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	Decree No. 19-2002, <i>Ley de Bancos y Grupos Financieros</i> (Law of Banks and Financial Groups), approved on April 29, 2002 and its reforms, Article 70.
Description:	When a branch of a foreign bank presents a capital shortfall, the <i>Superintendencia de Bancos</i> (Superintendency of Banks) will communicate this information to the headquarters, who will have to resolve the capital shortfall within 30 days. National banks will have a longer period of time and may take other measures to remedy the shortfall in question.

3. Sector:	Financial Services
Subsector:	Banking
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	<p>Decree No. 25-79, <i>Ley Orgánica del Crédito Hipotecario Nacional de Guatemala</i> (Organic Law of the Mortgage Credit National Bank of Guatemala) approved on May 3, 1979 and its reforms;</p> <p>Decree No. 46-72, <i>Ley Orgánica de la Corporación Financiera Nacional</i> (Organic Law of the National Financial Corporation) approved on July 20, 1972 and its reforms;</p> <p>Decree No. 1448, <i>Ley del Instituto de Fomento de Hipotecas Aseguradas</i> (Law of the Institute of Insured Mortgage Promotion) approved on June 7, 1961 and its reforms.</p>
Description:	The government may grant certain guarantees and advantages only to state-owned financial institutions, in accordance with the specific laws that regulate the operations of those financial institutions.

4. Sector:	Financial Services
Subsector:	Banking
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	Decree-Law No. 208, <i>Ley de Sociedades Financieras Privadas</i> (Law of Private Financial Companies) approved on May 12, 1964 and its reforms, Articles 1 and 2.
Description:	To operate in Guatemala, private financial companies that are banking institutions and act as specialized financial intermediaries in investment banking operations must be established as <i>Sociedades Anónimas</i> (Stock Companies).

5. Sector:	Financial Services
Subsector:	Insurance
Obligations Concerned:	National Treatment (Article 11.2) Cross-Border Trade (Article 11.5)
Level of Government:	Central
Measures:	Decree No. 25-2010 and its regulations, <i>Ley de la Actividad Aseguradora</i> (Law on Insurance Activity) approved on July 14, 2010 and its reforms, Articles 6, 7, 19, 60 and 61.
Description:	<p>A foreign insurance or foreign reinsurance company can operate in Guatemala through the constitution of branches in Guatemala, whose authorization will be granted by the <i>Junta Monetaria</i> (Monetary Board).</p> <p>Insurance or reinsurance companies, whether private or national, must be constituted and organized as <i>Sociedades Anónimas</i> (Stock Companies) under general legislation of the Republic of Guatemala to have the function as insurance or reinsurance company, and their shares may be owned by local or foreign persons.</p> <p>For greater certainty, only individual or juridical persons authorized by law, can offer, promote and sell insurances or carry out any other insurance intermediation activity within the territory of Guatemala.</p>

6. Sector:	Financial Services
Subsector:	Insurances
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	Decree No. 25-2010, <i>Ley de la Actividad Aseguradora</i> (Law on Insurance Activity), approved on July 14, 2010 and its reforms, Article 68.
Description:	When a branch of a foreign insurance or reinsurance company presents a capital or investment shortfall, the <i>Superintendencia de Bancos</i> (Superintendency of Banks) will communicate this information to the headquarters, who will have to resolve the capital shortfall within 30 days. National insurance or reinsurance company will have a longer period of time and may take other measures to remedy the shortfall in question.

Section B

7. Sector:	Financial Services
Subsector:	All Subsectors other than Banking and Insurances
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Description:	Guatemala reserves the right to adopt or maintain measures requiring the incorporation in Guatemala of foreign financial institutions, other than those seeking to operate as banks or insurance companies within Guatemala.

8. Sector:	Financial Services
Subsector:	
Obligations Concerned:	National Treatment (Article 9.3 and Article 10.2) Most-Favored-Nation Treatment (Article 9.4 and Article 10.3)
Level of Government:	Central
Description:	Guatemala reserves the right to adopt or maintain different requirements for the supply of insurance services in which national or foreign actuarial may intervene. Only individual or juridical persons authorized by the <i>Superintendencia de Bancos</i> (Superintendency of Banks) can supply actuarial services.

9. Sector:	Financial Services
Subsector:	Banking
Obligations Concerned:	National Treatment (Article 9.3, Article 10.2 and Article 11.2) Most-Favored-Nation Treatment (Article 9.4, Article 10.3 and Article 11.3) Senior Management and Boards of Directors (Article 9.10 and Article 11.8)
Level of Government:	Central
Description:	Guatemala, within the reciprocity framework, reserves the right to adopt or maintain any measure about the nationality of the legal representative from banking institutions and insurance companies that asks for authorization to operate the company in Guatemala, whose headquarters is established in Korea.