

Annex II

Explanatory Note

1. The Schedule of a Party to this Annex sets out, pursuant to Article 14 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 3 (National Treatment);
- (b) Article 4 (Most-Favored-Nation Treatment);
- (c) Article 8 (Performance Requirements); or
- (d) Article 9 (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) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to Article 14.2 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities scheduled in the entry;
- (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 Article 14.2 (Non-Conforming Measures), the articles of this Treaty 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.

Annex II
Schedule of Uruguay

Sector:	Road, Railway, Airport, and Port Services and Infrastructure
Obligations Concerned:	National Treatment (Article 3) Performance Requirements (Article 8) Senior Management and Boards of Directors (Article 9)
Description:	Uruguay reserves the right to adopt or maintain any measure with respect to the renewal or re-negotiation of existing concessions relating to road, railway, airport, or port services and infrastructure.

Sector: Water and Gas Distribution Services

Obligations Concerned: Performance Requirements (Article 8)

Description: Uruguay reserves the right to adopt or maintain any measure with respect to concessions relating to water and gas distribution services, as well as any renewals or re-negotiations of existing concessions relating to such services.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 3) Performance Requirements (Article 8) Senior Management and Boards of Directors (Article 9)
Description:	Uruguay reserves the right to adopt or maintain any measure that accords rights or preferences to minorities due to social or economic reasons.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 3) Performance Requirements (Article 8) Senior Management and Boards of Directors (Article 9)
Description:	<p>Uruguay reserves the right to adopt or maintain any measure that limits the transfer or disposal of any interest held in an existing state enterprise, such that only an Uruguayan national may obtain such interest. The limitation in the preceding sentence, however, pertains only to the initial transfer or disposal of such interest, and not to subsequent transfers or disposals.</p> <p>Uruguay reserves the right to adopt or maintain any measure that limits control of, or imposes requirements on, any new enterprise created by the transfer or disposal of any interest as described in the preceding paragraph, such as through measures relating to the structure of the board of directors, but not through limitations on the ownership of the interest transferred. Uruguay also reserves the right to adopt or maintain any measure related to the nationality of senior management and members of the board of directors in such new enterprise.</p> <p>The current subsectors in which there are monopoly state enterprises are:</p> <p>Oil refining and importation – <i>Administración Nacional de Combustibles, Alcohol y Portland (ANCAP)</i> Basic Telecommunications – <i>Administración Nacional de Telecomunicaciones (ANTEL)</i> Electricity Distribution – <i>Administración Nacional de Usinas y Transmisiones Eléctricas (UTE)</i> Water Distribution – <i>Administración de las Obras Sanitarias del Estado (OSE)</i></p>

Sector: Postal Services

Obligations Concerned: National Treatment (Article 3)

Description: Uruguay reserves the right to adopt or maintain any measure that restricts the receipt, processing, transport, or delivery of periodic invoices provided by state enterprises, including ANTEL (basic telecommunications), UTE (electricity distribution), and OSE (water distribution).

Sector:	Social Services
Obligations Concerned:	National Treatment (Article 3) Most-Favored-Nation Treatment (Article 4) Performance Requirements (Article 8) Senior Management and Boards of Directors (Article 9)
Description:	Uruguay reserves the right to adopt or maintain any measure with respect to the provision of law enforcement services, and the following services to the extent they are social services established or maintained for a public purpose: rehabilitation and social re-adaptation services, social security or unemployment benefits, social welfare, public education, public training, health, child care, public sewage services, and water supply services.

Sector: Traditional Events and Festivities

Obligations Concerned: National Treatment (Article 3)

Description: Uruguay reserves the right to adopt or maintain any measure with respect to the organization and development of events relating to popular national traditions, such as parades and *Carnaval*.

Sector:	Railway Transportation Services and Ancillary Services
Obligations Concerned:	Performance Requirements (Article 8)
Description:	Uruguay reserves the right for the <i>Ministerio de Transporte y Obras Públicas</i> to adopt or maintain performance requirements, provided that they are “adequate, transparent, and non-discriminatory” under Uruguayan law.
Existing Measures:	<i>Sector Ferroviaria – Marco Jurídico Regulatorio</i> , Ministerial Decree – Official Gazette No. 26.398 of December 5, 2003

Sector:	All Sectors
Obligations Concerned:	Most-Favored-Nation Treatment (Article 4)
Description:	<p>Uruguay 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 Treaty.</p> <p>Uruguay 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 Treaty involving:</p> <ul style="list-style-type: none">(a) aviation;(b) fisheries;(c) maritime matters, including salvage; or(d) telecommunications.

Sector:	Ground Transportation
Obligations Concerned:	Most-Favored-Nation Treatment (Article 4)
Description:	Uruguay reserves the right to adopt or maintain any measure that accords differential treatment to <i>Mercado Común del Sur</i> (MERCOSUR) member countries under any bilateral or multilateral international agreement relating to ground transportation and entered into pursuant to its MERCOSUR commitments after the date of entry into force of this Treaty.

Annex II
Schedule of the United States

Sector:	Communications
Obligations Concerned:	Most-Favored-Nation Treatment (Article 4)
Description:	The United States reserves the right to 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.

Sector: Communications – Cable Television

Obligations Concerned: National Treatment (Article 3)
Most-Favored-Nation Treatment (Article 4)
Senior Management and Boards of Directors (Article 9)

Description: The United States reserves the right to adopt or maintain any measure that accords equivalent treatment to persons of any country that limits ownership by persons of the United States in an enterprise engaged in the operation of a cable television system in that country.

Sector: Social Services

Obligations Concerned: National Treatment (Article 3)
Most-Favored-Nation Treatment (Article 4)
Performance Requirements (Article 8)
Senior Management and Boards of Directors (Article 9)

Description: 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.

Sector: Minority Affairs

Obligations Concerned: National Treatment (Article 3)
Performance Requirements (Article 8)
Senior Management and Boards of Directors (Article 9)

Description: 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
Obligations Concerned:	National Treatment (Article 3) Most-Favored-Nation Treatment (Article 4) Performance Requirements (Article 8) Senior Management and Boards of Directors (Article 9)
Description:	<p>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:</p> <ul style="list-style-type: none"> (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 in (b) is conditional upon obtaining comparable market access in these sectors from Uruguay:

- (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. App. § 876 and §§ 883 et seq.

Jones Act Waiver Statute, 64 Stat 1120, 46 U.S.C. App., note preceding Section 1

Shipping Act of 1916, 46 U.S.C. App. §§ 802 and 808

Merchant Marine Act of 1936, 46 U.S.C. App. §§ 1151 et seq., 1160-61, 1171 et seq., 1241(b), 1241-1, 1244, and 1271 et seq.

Merchant Ship Sales Act of 1946, 50 U.S.C. App. § 1738

46 U.S.C. App. §§ 121, 292, and 316

46 U.S.C. §§ 12101 et seq. and 31301 et seq.

46 U.S.C. §§ 8904 and 31328(2)

Passenger Vessel Act, 46 U.S.C. App. § 289

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)
Shipping Act of 1984, 46 U.S.C. App. §§ 1708 and 1712
The Foreign Shipping Practices Act of 1988, 46 U.S.C. App. §
1710a
Merchant Marine Act, 1920, 46 U.S.C. App. §§ 861 et seq.
Shipping Act of 1984, 46 U.S.C. App. §§ 1701 et seq.
Alaska North Slope, 104 Pub. L. 58; 109 Stat. 557
Longshore restrictions and reciprocity, 8 U.S.C. §§ 1101 et seq.
Vessel escort provisions, Section 1119 of Pub. L. 106-554, as
amended
Nicholson Act, 46 U.S.C. App. § 251
Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987,
46 U.S.C. § 2101 and 46 U.S.C. § 12108
43 U.S.C. § 1841
22 U.S.C. § 1980
Intercoastal Shipping Act, 46 U.S.C. App. § 843
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.
19 U.S.C. § 1466
North Pacific Anadromous Stocks Convention Act of 1972, P.L.
102-587; *Oceans Act of 1992, Title VII*
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. § 12102(c) and 46 U.S.C.
§ 31322(a)

Sector: All

Obligations Concerned: Most-Favored-Nation Treatment (Article 4)

Description: 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 Treaty.

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 Treaty involving:

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