

ANNEX II

SCHEDULE OF COLOMBIA

1. **Sector:** Certain Sectors
- Subsector:**
- Obligations Concerned:** Market Access (Article 9.6)
- Description:** Cross-Border Trade in Services
- Colombia reserves the right to adopt or maintain any measure in the following sectors:
- (a) investigation and security services;
 - (b) research and development services;
 - (c) the establishment of exclusive areas for services incidental to energy distribution in order to ensure universal service;
 - (d) distribution, wholesale and retail services in sectors in which the government establishes a monopoly, pursuant to *Article 336 of the Constitución Política de Colombia*, the revenue of which is dedicated for public or social services. As of the date of signing of this Agreement, Colombia has in place monopolies only with respect to liquor and gambling;
 - (e) primary and secondary education services, and, with respect to higher education, requirements relating to the specific type of legal entity that may supply such services;
 - (f) environmental services established or maintained for a public purpose;

- (g) health related and social services, and professional services related to health;
- (h) libraries, archives and museums;
- (i) sporting and other recreational services;
- (j) the number of concessions and the total number of operations for road transportation passenger services; passenger and freight rail transportation services; pipeline transport; services auxiliary to all modes of transport, and other transport services.

For greater certainty, no measure shall be inconsistent with Colombia's obligations under Article XVI of GATS.

Existing Measures

2. Sector:	All Sectors
Subsector:	
Obligations Concerned:	National Treatment (Article 8.5)
Description:	<p><u>Investment</u></p> <p>Colombia reserves the right to adopt or maintain any measure related to ownership of real property by foreigners in border regions, national coasts, or insular territory of Colombia.</p> <p>For purposes of this reservation:</p> <ul style="list-style-type: none"> a) border region means a zone of two kilometers in width, parallel to the national border line; b) national coast means a zone of two kilometers in width, parallel to the line of the highest tide; and c) insular territory means islands, islets, keys, headlands, and shoals that are part of the territory of Colombia.

Existing Measures

3. **Sector:** All Sectors
- Subsector:**
- Obligations Concerned:** Most Favored Nation Treatment (Article 8.6 and 9.4)
- Description:** Investment and Cross-Border Trade in Services
- Colombia 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.
- Colombia 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; and
 - (c) maritime matters, including salvage.
- Existing Measures:**

4.	Sector:	Social Services
	Subsector:	
	Obligations Concerned:	National Treatment (Article 8.5 and 9.3) Most Favored Nation Treatment (Article 8.6 and 9.4) Market Access (Article 9.6) Local Presence (Article 9.5) Performance Requirements (Article 8.9) Senior Management and Board of Directors (Article 8.10)
	Description:	<u>Investment and Cross-Border Trade in Services</u> Colombia 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: social re-adaptation, income security or insurance, social security, social welfare, public training and education, health, and child care. For greater certainty, the social security system (<i>Sistema de Seguridad Social Integral</i>) of Colombia is currently comprised of the following mandatory systems: pensions (<i>Sistema General de Pensiones</i>), health insurance (<i>Sistema General de Seguridad Social en Salud</i>), workers compensation (<i>Sistema General de Riesgos Profesionales</i>), and severance pay (<i>Régimen de Cesantía y Auxilio de Cesantía</i>).
	Existing Measures:	

5. **Sector:** Issues Related to Minorities and Ethnic Groups
- Subsector:**
- Obligations Concerned:** National Treatment (Article 8.5 and 9.3)
Most Favored Nation Treatment (Article 8.6 and 9.4)
Market Access (Article 9.6)
Local Presence (Article 9.5)
Performance Requirements (Article 8.9)
Senior Management and Board of Directors (Article 8.10)
- Description:** Investment and Cross-Border Trade in Services
- Colombia reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities and ethnic groups, including with respect to the communal lands held by ethnic groups in accordance with *Art. 63 of the Constitución Política de Colombia*. The ethnic groups in Colombia are: indigenous and ROM (*gypsy*) people, Afro-Colombian communities and the Raizal community of the Archipelago of San Andres, Providencia, and Santa Catalina.
- Existing Measures:**

6. Sector:	Cultural Industries and Activities
Subsector:	
Obligations Concerned:	National Treatment (Article 8.5 and 9.3) Most Favored Nation Treatment (Article 8.6 and 9.4)
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>For purposes of this entry, the term “cultural industries and activities” means:</p> <ul style="list-style-type: none"> (a) publication, distribution, or sale of books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing; (b) production, distribution, sale, or display of recordings of movies or videos; (c) production, distribution, sale, or display of music recordings in audio or video format; (d) production and presentation of performing arts; (e) production and exhibition of visual arts; (f) production, distribution, or sale of printed music scores or scores readable by machines; (g) design, production, distribution, and sale of handicrafts; (h) radiobroadcasts aimed at the public in general, as well as all radio, television, and cable television-related activities; satellite programming services; and broadcasting networks; or (i) design and creation of advertising contents.

Colombia reserves the right to adopt or maintain any measure according preferential treatment to persons of any other country pursuant to any agreement between Colombia and such other country containing specific commitments regarding cultural cooperation or co-production in cultural industries and activities.

For greater certainty, articles 8.5 and 9.3 (National Treatment) and 8.6 and 9.4 (Most Favored Nation Treatment) do not apply to “government support”¹.

Colombia may adopt or maintain any measure that accords a person of another Party treatment equivalent to that accorded by that other Party to Colombian persons in the audiovisual, publishing, or music sector.

Existing Measures:

¹ For purposes of this entry, “government support” means tax incentives, incentives for the reduction of mandatory contributions, government grants, government-supported loans, and guaranties, trusts, or insurance provided by a government, irrespective of whether a private entity is wholly or partially responsible for management of the government support.

7. **Sector:** Jewelry Design
Performing Arts
Music
Visual Arts
Audiovisuals
Publishing

Subsector:

Obligations Concerned: Performance Requirements (Article 8.9)
National Treatment (Article 8.5)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government support² for the development and production of jewelry design, performing arts, music, visual arts, audiovisuals and publishing on the achievement by the recipient of a given level or percentage of domestic creative content.

For greater certainty, this entry does not apply to advertising and performance requirements shall in all cases be consistent with the WTO Agreement on Trade Related Investment Measures.

Existing Measures:

² As defined in the Foot Note of entry 6.

8. **Sector:** Handicraft Industries

Subsector:

Obligations Concerned: National Treatment (Article 8.5 and 9.3)
Performance Requirements (Article 8.9)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure relating to the design, distribution, retailing, or exhibition of handicrafts that are identified as handicrafts of Colombia.

For greater certainty, performance requirements shall in all cases be consistent with the WTO Agreement on Trade-Related Investment Measures.

Existing Measures:

9. Sector:	Audiovisual Services
Subsector:	Advertising
Obligations Concerned:	National Treatment (Article 8.5 and 9.3) Performance Requirements (Article 8.9)
Description:	<u>Investment and Cross-Border Trade in Services</u>

Cinematographic Works

- (a) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed 15 per cent) of the total cinematographic works shown on an annual basis in cinemas or exhibition rooms in Colombia consist of Colombian cinematographic works. In establishing such a percentage, Colombia shall take into account national cinematographic production conditions, the existing exhibition infrastructure in the country, and attendance averages.

Cinematographic Works over Free-to-Air Television

- (b) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed 10 per cent) of the total cinematographic works shown on an annual basis on free-to-air television channels consist of Colombian cinematographic works. In establishing such a percentage, Colombia shall take into account the availability of national cinematographic works for free-to-air television. Such works will count towards the domestic content requirements applied to the channel as described in the entry on free-to-air television and audio-visual production services on pages 20 and 22 of Annex I.

Community Television³

- (c) Colombia reserves the right to adopt or maintain any measure requiring that a specified portion of weekly programming for community television (not to exceed 56 hours per week) consist of national programming produced by the community television operator.

Multichannel Free-to-Air Commercial Television

- (d) Colombia reserves the right to impose the minimum programming requirements appearing in the entry on free-to-air television and audio-visual production services on entry 20 of Annex I on multichannel free-to-air commercial television, except that such requirements may not be imposed on more than two channels or 25 per cent of the total number of channels (whichever is greater) made available by an individual service provider.

Advertising

- (e) Colombia reserves the right to adopt or maintain any measure requiring that a specific percentage (not to exceed 20 per cent) of total advertising orders placed annually with media services companies established in Colombia, other than newspapers, daily newspapers, and subscription services with headquarters outside Colombia, be produced and created in Colombia. Any such measure shall not apply to: (i) the advertisement in cinemas and exhibition rooms of upcoming movies; and, (ii) any media where the programming or content originates outside Colombia or to the rebroadcast or retransmission of such programming within Colombia.

Existing Measures:

³ As defined in Acuerdo 006 de 1999.

10. **Sector:** Traditional Expressions

Subsector:

Obligations Concerned: National Treatment (Article 8.5 and 9.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure according rights or preferences to local communities with respect to the support and development of expressions relating to intangible cultural patrimony declared pursuant to *Resolución No. 0168 of 2005*.

Any such measure shall not be inconsistent with the agreement of Trade-Related Aspects of Intellectual Property Rights (TRIPS) from the WTO.

Existing Measures:

11. **Sector:** Interactive Audio and Video Services

Subsector:

Obligations Concerned: National Treatment (Article 8.5 and 9.3)
Performance Requirements (Article 8.9)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain measures to ensure that, upon a finding by the Government of Colombia that Colombian audiovisual content is not readily available to Colombian consumers, access to Colombian audiovisual programming through interactive audio and/or video services is not unreasonably denied to Colombian consumers.

At least 90 days before any proposed measure is adopted, Colombia shall notify the other Parties of the proposed measure. The notification shall provide information with respect to the proposed measure, including information that forms the basis for the Government of Colombia's finding that Colombian audiovisual content is not readily available to Colombian consumers and a description of the proposed measure. Such measures must be consistent with Colombia's obligations under the GATS.

Existing Measures:

12. **Sector:** Professional Services

Subsector:

Obligations Concerned: National Treatment (Article 9.3)
Most-Favored-Nation Treatment (Article 9.4)
Local Presence (Article 9.5)
Market Access (Article 9.6)

Description: Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that would allow a professional, who is a national of the other Party to practice only to the extent that the other Party in which that professional conducts his or her primary practice affords treatment consistent with the obligations referenced in this entry to a Colombian national who otherwise satisfies the relevant authorization, licensing, or certification requirements to practice that profession. Notwithstanding the preceding sentence, Colombia shall permit such professionals who were practicing in its territory prior to the date of entry into force of this Agreement in accordance with Colombian law to continue practicing in accordance with the existing law.

For purposes of this entry, the Party in which a professional conducts his or her primary practice is the territory within which the professional was licensed to practice and actually practiced most frequently in the preceding 12-month period.

This measure does not apply to a country that has a bilateral agreement in force with Colombia regarding mutual recognition of professional degrees.

Existing Measures:

13. **Sector:** Road and River Transport

Subsector:

Obligations Concerned: Most Favored Nation Treatment (Article 9.4)

Description: Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement signed after the date of entry into force of this Agreement involving road and river transport services.

Existing Measures:

14. **Sector:** Selling and marketing of air transport services

Subsector:

**Obligations
Concerned:** National Treatment (Article 8.5 and 9.3)
Market Access (Article 9.6)
Local Presence (Article 9.5)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure regarding commissions and/or payments that transporters apply to travel agents and to intermediaries in general.

Existing Measures: