

## Reservations for Existing Measures and Liberalization Commitments

1. The Schedule of a Party sets out, pursuant to Articles 1108(1) (Investment), 1206(1) (Cross-Border Trade in Services) and 1409(4) (Financial Services), the reservations taken by that Party with respect to existing measures that do not conform with obligations imposed by:

- (a) Article 1102, 1202 or 1405 (National Treatment),
- (b) Article 1103, 1203 or 1406 (Most-Favored-Nation Treatment),
- (c) Article 1205 (Local Presence),
- (d) Article 1106 (Performance Requirements), or
- (e) Article 1107 (Senior Management and Boards of Directors),

and, in certain cases, sets out commitments for immediate or future liberalization.

2. Each reservation sets out the following elements:

- (a) **Sector** refers to the general sector in which the reservation is taken;
- (b) **Sub-Sector** refers to the specific sector in which the reservation is taken;
- (c) **Industry Classification** refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;
- (d) **Type of Reservation** specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- (e) **Level of Government** indicates the level of government maintaining the measure for which a reservation is taken;
- (f) **Measures** identifies the laws, regulations or other measures, as qualified, where indicated, by the **Description** element, for which the reservation is taken. 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;
- (g) **Description** sets out commitments, if any, for liberalization on the date of entry into force of this Agreement, and the remaining non-conforming aspects of the existing measures for which the reservation is taken; and
- (h) **Phase-Out** sets out commitments, if any, for liberalization after the date of entry into force of this Agreement.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapters against which the reservation is taken. To the extent that:

- (a) the **Phase-Out** element provides for the phasing out of non-conforming aspects of measures, the **Phase-Out** element shall prevail over all other elements;
- (b) 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
- (c) 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. Where a Party 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 reservation

for that measure taken with respect to Article 1202, 1203 or 1205 or Article 1404, 1405 or 1406 shall operate as a reservation with respect to Article 1102, 1103 or 1106 to the extent of that measure.

5. For purposes of this Annex:

**CMAP** means Clasificación Mexicana de Actividades y Productos (CMAP) numbers as set out in Instituto Nacional de Estadística, Geografía e Informática, *Clasificación Mexicana de Actividades y Productos*, 1988;

**concession** means an authorization provided by the State to a person to exploit a natural resource or provide a service, for which Mexican nationals and Mexican enterprises are granted priority over foreigners;

**CPC** means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, *Provisional Central Product Classification*, 1991;

**foreigners' exclusion clause** means the express provision in an enterprise's by-laws stating that the enterprise shall not allow foreigners, directly or indirectly, to become partners or shareholders of the enterprise;

**international cargo** means goods that have an origin or destination outside the territory of a Party;

**Mexican enterprise** means an enterprise constituted under the law of Mexico; and

**SIC** means:

(a) with respect to Canada, Standard Industrial Classification (SIC) numbers as set out in Statistics Canada, *Standard Industrial Classification*, fourth edition, 1980; and

(b) with respect to the United States, Standard Industrial Classification (SIC) numbers as set out in the United States Office of Management and Budget, *Standard Industrial Classification Manual*, 1987.