

ANNEX II

SCHEDULE OF CHILE

Sector: All

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)

Description: Investment

Chile reserves the right to adopt or maintain any measure relating to the ownership or control of land within five kilometres of the coastline that is used for agricultural activities. Such measure could include a requirement that the majority of each class of stock of a Chilean juridical person that seeks to own or control such land be held by Chilean persons or by persons residing in Chile for 183 days or more per year.

Existing Measures: Decree Law 1.939, Official Gazette, November 10, 1977, Rules for acquisition, administration and disposal of State owned assets, Title I (*Decreto Ley 1.939, Diario Oficial, noviembre 10, 1977, Normas sobre adquisición, administración y disposición de bienes del Estado, Título I*)

Sector: All

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.11)

Description: Investment

In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset and on the right of foreign investors or their investments to control any State company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and members of the board of directors.

A “State company”¹ shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the entry into force of this Agreement for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise or governmental entity.

Existing Measures:

¹ A list of existing state enterprises in Chile can be found on the following website: <http://www.dipres.gob.cl>.

Sector: All

Sub-Sector:

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description: Investment and Cross-Border Trade in Services

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

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any 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:

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| Sector: | Communications |
| Sub-Sector: | One way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services; and limited telecommunication services |
| Obligations Concerned: | National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Local Presence (Article 10.6) |
| Description: | <u>Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure related to cross-border trade in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services; and limited telecommunication services. |
| Existing Measures: | Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI (<i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i>) |

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| Obligations Concerned: | National Treatment (Article 9.4) Most-Favoured-Nation Treatment (Article 9.5) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) |
| Description: | <u>Investment</u> Chile reserves the right to adopt or maintain any measure related to the investors of another Party or to their investments in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services; and limited telecommunication services. |
| Existing Measures: | Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI (<i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i>) |

Sector: Issues Involving Minorities

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.

Existing Measures:

Sector: Issues Involving Indigenous Peoples

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure according rights or preferences to indigenous peoples.

Existing Measures:

Sector: Education

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to:

- (a) investors and an investment of an investor of another Party in education; and
- (b) natural persons who supply educational services in Chile.

Subparagraph (b) includes teachers and auxiliary personnel supplying educational services in pre-school, kindergarten, special education, elementary, secondary or higher education, professional, technical or university education, and all other persons that supply services related to education, including sponsors of educational institutions of any kind, schools, lyceums, academies, training centres, professional and technical institutes or universities.

This reservation does not apply to investors and an investment of an investor of another Party in kindergarten, pre-school, elementary or secondary private education institutions, that do not receive public resources, or to the supply of services related to second-language training, corporate, business, and industrial training and skill upgrading, which include consulting services relating to technical support, advice, curriculum, and programme development in education.

Existing Measures:

Sector: Government Finances

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)

Description: Investment

Chile reserves the right to adopt or maintain any measure related to the acquisition, sale or disposal by another Party's nationals of bonds, treasury securities or any other type of debt instruments issued by the Central Bank of Chile (*Banco Central de Chile*) or the Government of Chile. This entry is not intended to affect the rights of another Party's financial institutions (banks) established in Chile to acquire, sell or dispose of such instruments when required for the purposes of regulatory capital.

Existing Measures:

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| Sector: | Fisheries |
| Sub-Sector: | Fishing related activities |
| Obligations Concerned: | National Treatment (Article 9.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4) |
| Description: | <p><u>Investment and Cross-Border Trade in Services</u></p> <p>Chile reserves the right to control the activities of foreign fishing, including fish landing, first landing of fish processed at sea and access to Chilean ports (port privileges).</p> <p>Chile reserves the right to control the use of beaches, land adjacent to beaches (<i>terrenos de playas</i>), water-columns (<i>porciones de agua</i>) and sea-bed lots (<i>fondos marinos</i>) for the issuance of maritime concessions. For greater certainty, “maritime concessions” do not cover aquaculture.</p> |
| Existing Measures: | <p>Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II, III, IV and V (<i>Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación Títulos I, II, III, IV y V</i>)</p> <p>D.F.L. 340, Official Gazette, April 6, 1960, about Maritime Concessions (<i>D.F.L. 340, Diario Oficial, abril 6, 1960, sobre Concesiones Marítimas</i>)</p> <p>Supreme Decree 660, Official Gazette, November 28, 1988, Maritime Concession Act (<i>Decreto Supremo 660, Diario Oficial, noviembre 28, 1988, Reglamento de Concesiones Marítimas</i>)</p> <p>Supreme Decree 123 of the Ministry of Economic Affairs, Development and Reconstruction, Vice-Ministry of Fishing, Official Gazette, August 23, 2004, On Use of Ports (<i>Decreto Supremo 123 del Ministerio de Economía, Fomento y Reconstrucción, Subsecretaría de Pesca, Diario Oficial, agosto 23, 2004, Sobre Uso de Puertos</i>)</p> |

Sector: Arts and Cultural Industries

Sub-Sector:

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any existing or future bilateral or multilateral international agreement, with respect to arts and cultural industries, such as audio-visual cooperation agreements.

For greater certainty, government supported subsidy programmes for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

For the purposes of this entry, “arts and cultural industries” includes:

- (a) books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;
- (b) recordings of movies or videos;
- (c) music recordings in audio or video format;
- (d) printed music scores or scores readable by machines;
- (e) visual arts, artistic photography and new media;
- (f) performing arts, including theatre, dance and circus arts; and
- (g) media services or multimedia.

Existing Measures:

Sector: Entertainment, Audio-visual and Broadcasting Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to:

- (a) the organisation and presentation in Chile of concerts and musical performances;
- (b) the distribution or display of movies or videos; and
- (c) radio broadcasts aimed at the public in general, as well as all radio, television and cable television-related activities, satellite programming services and broadcasting networks.

Notwithstanding the above, Chile shall extend to the persons and investors of another Party, and their investments, treatment no less favourable than that Party accords persons and investors of Chile, and their investments.

Existing Measures:

Sector: Social Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to the supply of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and child care.

Existing Measures:

Sector: Environmental Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure imposing the requirement that the production and distribution of drinking water, the collection and disposal of waste water and sanitation services, such as sewage systems, waste disposal and waste water treatment may only be supplied by juridical persons incorporated under Chilean law or created in accordance with the requirements established by Chilean law.

This entry shall not apply to consultancy services retained by the said juridical persons.

Existing Measures:

Sector: Construction Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to the supply of construction services by foreign juridical persons or legal entities.

These measures may include requirements such as residency, registration or any other form of local presence, or the obligation of giving financial security for work as a condition for the supply of construction services.

Existing Measures:

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| Sector: | Transportation |
| Sub-Sector: | International road transportation |
| Obligations Concerned: | National Treatment (Article 9.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4) Local Presence (Article 10.6) |
| Description: | <p><u>Investment and Cross-Border Trade in Services</u></p> <p>Chile reserves the right to adopt or maintain any measure relating to the international land transportation of cargo or passengers in border areas.</p> <p>Additionally, Chile reserves the right to adopt or maintain the following limitations for the supply of international land transportation from Chile:</p> <ul style="list-style-type: none"> (a) the service supplier must be a Chilean natural or juridical person; (b) the service supplier must have a real and effective domicile in Chile; and (c) in the case of juridical persons, the service supplier must be legally constituted in Chile and more than 50 per cent of its capital stock must be owned by Chilean nationals and its effective control must be by Chilean nationals. |
| Existing Measures: | |

Sector: Transportation Services

Sub-Sector: Road transportation services

Obligations Concerned: National Treatment (Article 10.3)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that authorises only Chilean natural or juridical persons to supply land transportation of persons or merchandise inside the territory of Chile (cabotage). For this, the enterprises shall use vehicles registered in Chile.

Existing Measures:

Sector: All

Obligations Concerned: Market Access (Article 10.5)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to Article 10.5 (Market Access), except for the following sectors and sub-sectors subject to the limitations and conditions listed below:²

Legal services:

(1) and (3) None, except in the case of receivers in bankruptcy (*síndicos de quiebra*) who must be duly authorised by the Ministry of Justice (*Ministerio de Justicia*), and they can only work in the place where they reside.

(2) None.

(4) No commitments, except as indicated in Labour Code restriction.

Accounting, auditing, and bookkeeping services:

(1) and (3) None, except the external auditors of financial institutions must be inscribed in the Register of External Auditors of the Superintendencia of Banks and Financial Institutions (*Superintendencia de Bancos e Instituciones Financieras*) and in the Superintendencia of Securities and Insurance (*Superintendencia de Valores y Seguros*). Only firms legally incorporated in Chile as partnerships (*sociedades de personas*) or associations (*asociaciones*), and whose main line of business is auditing services, may be inscribed in the Register.

(2) None.

(4) No commitments, except as indicated in Labour Code restriction.

Taxation Services:

(1), (2), and (3): None.

(4) No commitments, except as indicated in Labour Code restriction.

² For greater certainty, nothing in this entry shall be construed to prevent the adoption or maintenance of any measure regarding the supply of a financial service by a covered investment that is not a covered investment in a financial institution.

Architectural services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Engineering services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Integrated engineering services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Urban planning and landscape architectural services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Veterinary services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services provided by midwives, nurses, physiotherapists and paramedical personnel:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Computer and related services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Interdisciplinary research and development services, research and development services on natural sciences, and related scientific and technical consulting services:

(1) and (3) None, except: any exploration of a scientific or technical nature, or related to mountain climbing (*andinismo*), that legal or natural persons domiciled abroad intend to carry out in border areas need to be authorised and supervised by the Directorate of Borders and Frontiers (*Dirección de Fronteras y Límites del Estado*). The Directorate of Borders and Frontiers may stipulate that an

expedition include one or more representatives of relevant Chilean activities. These representatives would participate in and learn about the studies and their scope.

(2) None.

(4) No commitments, except as indicated in Labour Code restriction.

Research and development services on social sciences and humanities:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Real Estate services: involving owned or leased property or on a fee or contract basis:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Advertising services, market research and public opinion polling services, management consulting services, services related to management consulting, technical testing and analysis services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services related to agriculture, hunting and forestry:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services related to mining, placement and supply services of personnel, investigation and security services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Maintenance and repair of equipment (not including vessels, aircraft, or other transport equipment), building-cleaning services, photographic services, packing services, and convention services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Printing and publishing services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Courier services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

International long-distance telecommunications services:

(1), (2), (3) and (4) Chile reserves the right to adopt or maintain any measure that is not inconsistent with Chile's obligations under Article XVI of GATS.

Local basic telecommunication services and networks, intermediate telecommunications services, supplementary telecommunications services, and limited telecommunications services:

(1), (2) and (3) A concession granted by means of a Supreme Decree (*Decreto Supremo*) issued by the Ministry of Transport and Telecommunications (*Ministerio de Transportes y Telecomunicaciones*) shall be required for the installation, operation, and exploitation of public and intermediary telecommunications services in Chilean territory. Only juridical persons organised under the Chilean law shall be eligible for such concessions.

An official decision issued by the Undersecretariat of Telecommunications (*Subsecretaría de Telecomunicaciones*) shall be required to render Supplementary Telecommunications Services, consisting of additional services provided by hooking up equipment to public networks. Said decision refers to compliance with the technical standards established by the Undersecretariat of Telecommunications (*Subsecretaría de Telecomunicaciones*) and non-alteration of the essential technical features of networks or of the permissible technological or basic service

modalities provided through them.

A permit issued by the Undersecretariat of Telecommunications (*Subsecretaría de Telecomunicaciones*) shall be required for the installation, operation and development of limited telecommunications services.

International traffic shall be routed through the installations of a company holding a concession granted by the Ministry of Transport and Telecommunications (*Ministerio de Transporte y Telecomunicaciones*).

(4) No commitments, except as indicated in Labour Code restriction.

Commission agents services, wholesale trade services, retailing services, franchising and other distribution:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Environmental Services:

(1) and (3) None, solely for consultancy services.

(2) None.

(4) No commitments, except as indicated in Labour Code restriction.

Hotels and restaurants (including catering), travel agencies and tour operators services and tourist guide services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Sporting and other recreational services, excluding gambling and betting services:

(1), (2) and (3) None, except that a specific type of legal entity may be required for sporting organisations that develop professional activities. In addition, (a) it is not permitted to participate with more than one team in the same category of a sport competition; (b) specific regulations may be established on equity ownership in sporting companies; and (c) minimal capital requirements may be imposed.

(4) No commitments, except as indicated in Labour Code restriction.

Sports facility operation services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Road Transport: freight transportation, rental of commercial vehicles with operator; maintenance and repair of road transport equipment; supporting services for road transport services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services auxiliary to all transport: cargo handling services, storage and warehouse services, freight transport agency services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Pipeline transport: transportation of fuels and other goods:

(1), (2) and (3) None, except that the service has to be supplied by juridical persons established under Chilean law and the supply of the service may be subject to a concession on a national treatment basis.

(4) No commitments, except as indicated in Labour Code restriction.

Aircraft repair and maintenance services:

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Selling and marketing of air transport services, computer reservation systems (CRS) services, specialty air services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Airport operation services; ground handling services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

For the purposes of this entry:

(1) refers to the supply of a service from the territory of one Party into the territory of another Party;

(2) refers to the supply of a service in the territory of one Party to a person of another Party;

(3) refers to the supply of a service in the territory of a Party by an investor of another Party or by a covered investment; and

(4) refers to the supply of a service by a national of a Party in the territory of another Party.