

ANNEX II
SCHEDULE OF THE UNITED STATES

Sector: Communications

Obligations Concerned: Most-Favored-Nation Treatment (Articles 11.4 and 12.3)

Description: Cross-Border Services and Investment

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.

* In applying such a reciprocity measure, the FCC determines whether another country accords effective competitive opportunities to U.S. service suppliers. In making that determination the FCC considers whether that country accords no less favorable treatment to U.S. service suppliers than domestic service suppliers and does not limit the number of service suppliers in its market, among other factors.

Sector: Social Services

Obligations Concerned: National Treatment (Articles 11.3 and 12.2)
Most-Favored-Nation Treatment (Articles 11.4 and 12.3)
Local Presence (Article 12.5)
Performance Requirements (Article 11.8)
Senior Management and Boards of Directors (Article 11.9)

Description: Cross-Border Services and Investment

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 (Articles 11.3 and 12.2) Local Presence (Article 12.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)
Description:	<u>Cross-Border Services and Investment</u> 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 <i>Alaska Native Claims Settlement Act</i> .
Existing Measures:	<i>Alaska Native Claims Settlement Act</i> , 43 U.S.C. § 1606(f) and (h)

Sector:	Maritime Transportation Services and Operation of U.S.-flagged Vessels
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Local Presence (Article 12.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)
Description:	<p><u>Cross-Border Services and Investment</u></p> <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;¹

¹ The Federal Maritime Commission (FMC) is an independent agency of the U.S. government responsible for the regulation of the U.S. foreign commerce. The FMC is authorized, by section 19 of the Merchant

- (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 Korea:

- (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. For greater certainty, measures relating to the landside aspects of port activities are subject to the application of Article 23.2 (Essential Security).

Marine Act of 1920, to implement countermeasures to address the practices of a foreign government that create unfavorable conditions in U.S. foreign shipping trades. The FMC also has authority, under the Foreign Shipping Practices Act of 1988, to investigate and impose countermeasures when it finds any laws, rules, regulations, etc., of foreign governments, or practices of foreign maritime service suppliers, result in conditions

that adversely affect the operations of U.S. carriers in the U.S. oceanborne trade, and such conditions do not exist for foreign carriers of that country under U.S. law or as a result of U.S. maritime service suppliers.

Countermeasures available to the FMC include canceling and/or suspending tariffs and service contracts, imposing fees per voyage, instructing other U.S. agencies to deny entry or refuse clearance of a vessel at U.S. ports, and taking any other measures the Federal Maritime Commission deems appropriate to address the practices in question.

Existing Measures:

Merchant Marine Act of 1920, §§ 19 and 27, now codified at 46 U.S.C. §§ 12101, 12120, 12132, 42101-42109, 55102, 55105-55108, 55110, 55115-55117, 55119

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

Shipping Act of 1916, 46 U.S.C. §§ 50501, 56101, 57109

Merchant Marine Act of 1936, 46 U.S.C. App. §§ 1151 et seq., 1171 et seq., and 46 U.S.C. §§ 50111, 53301-53312, 53701-53717, 53721-53725, 53731-53735, 55304, 55305, 57101, 57104, 57301-57308

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

46 U.S.C. §§ 55109, 55111, 55118, 60301, 60302, 60304-60306, 60312, 80104

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. § 55103

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. §§ 40701-40706, 41107-41109

The Foreign Shipping Practices Act of 1988, 46 U.S.C. §§ 42301 et seq.

Merchant Marine Act, 1920, 46 U.S.C. §§ 50101 et seq.

Shipping Act of 1984, 46 U.S.C. §§ 40101 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. § 55114

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: Market Access (Article 12.4)

Description: Cross-Border Services

The United States reserves the right to adopt or maintain any measure that is not inconsistent with the United States' obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3).

For purposes of this entry only, the U.S. Schedule of Specific Commitments is modified as indicated in Appendix II-A.

Sector: All

Obligations Concerned: Most-Favored-Nation Treatment (Articles 11.4 and 12.3)

Description: Cross-Border Services and Investment

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 Agreement.

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 Agreement involving:

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

APPENDIX II-A

For the following Sectors, U.S. obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3) are improved as described.

Sector/Subsector	Market Access Improvements
Foreign Legal Consulting Services	<p>Insert new commitments for the following states: Louisiana, New Mexico: No limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."</p> <p>Arizona, Indiana, Massachusetts, North Carolina, Utah: No limitations modes 1-2; for mode 3 "in-state law office required," and mode 4 "Unbound, except as indicated in the horizontal section. Additionally, an in-state law office required."</p> <p>Missouri: No limitations modes 1-2; for mode 3 "Association with in-state law office required," and mode 4 "Unbound, except as indicated in the horizontal section. Additionally, association with an in-state law office required."</p>
Accounting, Auditing and Bookkeeping Services	<p>Modify mode 3 limitation as follows: Sole proprietorships or partnerships are limited to persons licensed as accountants, except in Iowa where accounting firms must incorporate</p> <p>Modify mode 4 limitation as follows: In addition, an in-state office must be maintained for licensure in to receive a license to perform audits in: . . .</p>
Engineering Services Integrated Engineering Services	Replace existing description of Mode 4 with "Unbound, except as indicated in the horizontal section."
Research and development services: R&D services on natural sciences, social sciences and humanities, and interdisciplinary R&D services, excluding R&D financed in whole or in part by public funds	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Technical testing and analysis services, other than government-mandated services or services financed in whole or in part by public funds	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Other business services, except for convention services. (Delete "Translation and interpretation services only)."	Insert new commitments for all "Other business services" with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Express Delivery Services (as defined in the FTA annex)	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Other Delivery Services	Insert new commitments with modes 1 and 3 limited as follows: "None, except unbound for services supplied by the U.S. Postal Service in accordance with a universal service obligation as provided under domestic law ² or the Universal Postal Union Acts, no limitations on mode 2, and mode 4 "Unbound, except as indicated in the horizontal section."
Higher Education Services (except flying instruction) ³	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."

² Under U.S. law, the universal service obligation requires the U.S. Postal Service to receive, transmit, and deliver throughout the United States written and printed matter, parcels, and like materials.

³ For transparency purposes, individual U.S. institutions maintain autonomy in admission policies, in setting tuition rates, and in the development of curricula or course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established. In some jurisdictions, accreditation of institutions or programs may be required. Institutions maintain autonomy in selecting the jurisdiction in which they will operate, and institutions and programs maintain autonomy in choosing to meet standards set by accrediting organizations as well as to continue accredited status. Accrediting organizations maintain autonomy in setting accreditation standards. Tuition rates vary for in-state and out-of-state residents. Additionally, admissions policies include considerations of equal opportunity for students (regardless of race, ethnicity, or gender), as permitted by domestic law, as well as recognition by regional, national, and/or specialty organizations; and required standards must be met to obtain and maintain accreditation. To participate in the U.S. student loan program, foreign institutions established in the United States are subject to the same requirements as U.S. institutions.

Sector/Subsector	Market Access Improvements
<p>Motion Picture & Video Tape Home Video Entertainment Production and Distribution</p> <p>Promotion or advertising services</p> <p>Motion picture or video tape⁴ production services</p> <p>Motion picture or video tape⁴ distribution services</p> <p>Other services in connection with motion pictures and video tape⁴ production and distribution</p> <p>Motion Picture Projection Services</p> <p>Radio and Television Services</p> <p>Radio and Television Distribution Services</p> <p>Other services in connection with motion pictures and video tape⁴ production and distribution⁵</p>	<p>Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."</p>
<p>Environmental Services</p> <p>Wastewater Management, excluding Water for Human Use (Wastewater services (contracted by private industry))</p> <p>Solid/hazardous waste management (contracted by private industry)</p> <p>Refuse disposal services</p> <p>Sanitation and Similar Services</p> <p>Protection of ambient air and climate (Services to reduce exhaust gases and other emissions to improve air quality)</p> <p>Remediation and cleanup of soil and water (Treatment, remediation of contaminated/ polluted soil and water)</p> <p>Noise and vibration abatement (Noise abatement services)</p> <p>Protection of biodiversity and landscape (Nature and landscape protection services)</p> <p>Other environmental and ancillary services (Other services not classified elsewhere)</p>	<p>Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."</p>
<p>Physical well-being services^{6 7}</p>	<p>Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."</p>
<p>Road freight transport</p>	<p>Insert new commitments for domestic transportation with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."</p>
<p>Cargo-handling services,</p>	<p>Insert new commitments with no limitations for modes 1-3</p>

⁴ For purposes of clarity, this class refers to theatrical and non-theatrical motion pictures, whether provided on fixed media or electronically.

⁵ For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

⁶ For transparency purposes, this subsector includes physical well-being services such as delivered by, inter alia, fitness centers, spas, salons, massage (excluding therapeutic massage), and ayurvedics. This subsector does not include regulated medical services.

⁷ For greater certainty, nothing in this commitment authorizes the provision of unregulated substances or affects the ability of state authorities to regulate substances that may be affiliated with these services.

Sector/Subsector	Market Access Improvements
Storage and warehouse services, and Freight transport agency services, except maritime or air transport services	and mode 4 "Unbound, except as indicated in the horizontal section."