

Annex 6
referred to in Chapters 8 and 9

Reservations for Existing Measures

1. The Schedule of a Party sets out, pursuant to paragraph 1 of Article 79 and paragraph 1 of Article 110, the reservations taken by that Party with respect to existing measures that do not conform with obligations imposed by:
 - (a) Article 73 or 107;
 - (b) Article 74 or 108;
 - (c) Article 77;
 - (d) Article 78; or
 - (e) Article 109.

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, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
 - (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
 - (e) "Level of Government" indicates the level of government maintaining the measure for which the reservation is taken;
 - (f) "Measures" identifies the existing laws, regulations or other measures 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; and
- (g) "Description" sets out, with regard to the obligations referred to in paragraph 1, the non-conforming aspects of the existing measures for which the reservation is taken.

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, and the "Measures" element shall prevail over all other elements.

4. In accordance with subparagraph 1(a) of Article 79 and subparagraph 1(a) of Article 110, the obligations specified in the "Type of Reservation" element do not apply to the laws, regulations or other measures identified in the "Measures" element.

5. Where a Party maintains a measure that requires that a service supplier be a natural person or resident of that Party as a condition to the supply of a service in its Area, a reservation for that measure taken with respect to Article 107, 108 or 109 shall operate as a reservation with respect to Article 73, 74 or 77 to the extent of that measure.

6. For the purposes of this Annex:

- (a) the term "JSIC" means Japan Standard Industrial Classification set out by the Statistics Bureau, Ministry of Internal Affairs and Communications, and revised on March 7, 2002; and
- (b) the term "CPC" means the Provisional Central Product Classification (Statistical paper Series M, No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

Schedule of Japan

| | | | |
|---|--------------------------|---|---------------------------------|
| 1 | Sector: | Automobile Maintenance Business | |
| | Sub-Sector: | Motor Vehicle Disassembling Repair Business | |
| | Industry Classification: | JSIC 86 | Automobile maintenance services |
| | Type of Reservation: | Local Presence (Article 109) | |
| | Level of Government: | Central Government | |
| | Measures: | Road Vehicle Law (Law No. 185 of 1951), Chapter 6 | |
| | Description: | Cross-Border Trade in Services | |
| | | A person who intends to conduct motor vehicle disassembling repair businesses is required to establish a workplace in Japan, and to obtain an approval of the Director-General of the District Transport Bureau having jurisdiction over the district where the workplace is located. | |

2 Sector: Business Services

Sub-Sector:

Industry Classification: JSIC 9051 Private employment services

JSIC 9095 Worker dispatching services

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Employment Security Law (Law No. 141 of 1947), Chapter 3

Law Concerning Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers (Law No. 88 of 1985), Chapter 2

Port Labor Law (Law No. 40 of 1988), Chapter 4

Mariner's Employment Security Law (Law No. 130 of 1948), Chapter 3

Law Concerning the Improvement of Employment of Construction Workers (Law No. 33 of 1976), Chapters 5 and 6

Description: Cross-Border Trade in Services

A person who intends to supply the following services for enterprises in Japan is required to have an establishment in Japan, and to obtain permission from, or to submit notification to, the competent authority, as applicable:

(a) private job placement services including fee-charging job placement services for construction workers; or

- (b) worker dispatching services including stevedore dispatching services, mariner dispatching services and work opportunities securing services for construction workers.

| | | | |
|---|--------------------------|---|--|
| 3 | Sector: | Construction | |
| | Sub-Sector: | | |
| | Industry Classification: | JSIC 06 | Construction work, general, including public and private construction work |
| | | JSIC 07 | Construction work by specialist contractor, except equipment installation work |
| | | JSIC 08 | Equipment installation work |
| | Type of Reservation: | Local Presence (Article 109) | |
| | Level of Government: | Central Government | |
| | Measures: | Construction Business Law (Law No. 100 of 1949), Chapter 2 | |
| | | Law Concerning Recycling of Construction Materials (Law No. 104 of 2000), Chapter 5 | |
| | Description: | Cross-Border Trade in Services | |
| | | <p>1. A person who intends to conduct construction business is required to establish a place of business in Japan, and to obtain permission from the Minister of Land, Infrastructure and Transport or from the prefectural governor having jurisdiction over the district where the place of business is located.</p> <p>2. A person who intends to conduct demolition work business is required to establish a place of business in Japan, and to be registered with the prefectural governor having jurisdiction over the district where the place of business is located.</p> | |

4 Sector: Credit Management and Collection Business

Sub-Sector:

Industry Classification: JSIC 6619 Miscellaneous financial auxiliaries

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Special Measures Law Concerning Credit Management and Collection Business (Law No. 126 of 1998), Articles 3 and 4

Description: Cross-Border Trade in Services

Only a company limited by shares ("kabushiki-gaisha") incorporated under Japanese law may conduct credit management and collection business in Japan, provided that such company is permitted to do so by the Minister of Justice. Such company is required to establish a place of business in Japan.

5 Sector: Heat Supply

Sub-Sector:

Industry Classification: JSIC 3511 Heat supply

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order of Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in the heat supply industry in Japan.

6 Sector: Information and Communications

Sub-Sector: Telecommunications

Industry Classification: JSIC 3721 Regional telecommunications, except wired broadcast telephones

JSIC 3741 Services incidental to telecommunications

Type of Reservation: National Treatment (Article 73)

Senior Management and Boards of Directors (Article 78)

Level of Government: Central Government

Measures: Law Concerning Nippon Telegraph and Telephone Corporation (Law No. 85 of 1984), Articles 6 and 10

Description: Investment

1. Nippon Telegraph and Telephone Corporation may not enter the name and address in its register of shareholders if the aggregate of the ratio of the voting rights directly and/or indirectly held by the persons set forth in subparagraphs (a) through (c) reaches or exceeds one third:

(a) a natural person who does not have Japanese nationality;

(b) a foreign government or its representative; and

(c) a foreign legal person or a foreign entity.

2. Any natural person who does not have Japanese nationality may not assume the office of director or auditor of Nippon Telegraph and Telephone Corporation, Nippon Telegraph and Telephone East Corporation and Nippon Telegraph and Telephone West Corporation.

7 Sector: Information and Communications

Sub-Sector: Telecommunications and Internet Based Services

Industry Classification: JSIC 3721 Regional telecommunications, except wired broadcast telephones

JSIC 3722 Long-distance telecommunications

JSIC 3729 Miscellaneous fixed telecommunications

JSIC 3731 Mobile telecommunications

JSIC 4011 Internet based services

Note: The activities covered by the reservation under JSIC 3721, 3722, 3729, 3731 or 4011 are limited to the activities which are subject to the registration obligation under Article 9 of the Telecommunications Business Law (Law No. 86 of 1984).

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in telecommunications business and internet based services in Japan.

8 Sector: Manufacturing

Sub-Sector: Drugs and Medicines Manufacturing

Industry Classification: JSIC 1763 Biological preparations

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in biological preparations manufacturing industry in Japan. For greater certainty, "biological preparations manufacturing industry" deals with economic activities in establishment which mainly produces vaccine, serum, toxoid, antitoxin and some preparations similar to the aforementioned products, or blood products.

| | | |
|---|-----------------------------|---|
| 9 | Sector: | Manufacturing |
| | Sub-Sector: | Leather and Leather Products Manufacturing |
| | Industry Classification: | <p>JSIC 1257 Fur apparel and apparel accessories</p> <p>JSIC 1259 Textile apparel and accessories, n.e.c.</p> <p>JSIC 1794 Gelatine and adhesives</p> <p>JSIC 202 Rubber and plastic footwear and its findings</p> <p>JSIC 21 Manufacture of leather tanning, leather products and fur skins</p> <p>JSIC 3234 Sporting and athletic goods</p> <p>Note 1: The activities covered by the reservation under JSIC 1259 or 3234 are limited to the activities related to leather and leather products manufacturing.</p> <p>Note 2: The activities covered by the reservation under JSIC 1794 are limited to the activities related to animal glue (nikawa) and gelatine manufacturing.</p> |
| | Type of Reservation: | National Treatment (Article 73) |
| | Level of Government: | Central Government |
| | Measures: | <p>Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27</p> <p>Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3</p> |

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in leather and leather products manufacturing industry in Japan.

10 Sector: Matters Related to the Nationality
of a Ship

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 73)
Senior Management and Boards of
Directors (Article 78)

Level of
Government: Central Government

Measures: Ship Law (Law No. 46 of 1899),
Article 1

Description: Investment

The Japanese nationality shall be
given to a ship whose owner is a
Japanese national, or a company
established under Japanese law, of
which all the representatives and not
less than two-thirds of the
executives administering the affairs
are Japanese nationals.

11 Sector: Measuring Services

Sub-Sector:

Industry Classification: JSIC 902 Commodity inspection service

JSIC 903 Surveyor certification

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Measurement Law (Law No. 51 of 1992), Chapters 3, 5, 6 and 8

Regulations on Measurement Law (Ministerial Ordinance of the Ministry of International Trade and Industry No. 69 of 1993)

Ministerial Ordinance for Designated Inspection Body, Designated Verification Body, Designated Measurement Certification Inspection Body, and Specified Measurement Certification Accreditation Body (Ministerial Ordinance of the Ministry of International Trade and Industry No. 72 of 1993)

Description: Cross-Border Trade in Services

1. A person who intends to supply services of conducting the periodic inspection of specified measuring instruments is required to establish a legal person in Japan, and to be designated by the prefectural governor having jurisdiction over the district where the person intends to conduct such inspection, or by the mayor of a designated city or the chief of a designated ward or village in case the place where the person intends to conduct such inspection is located within the district of such designated city, ward or village.

2. A person who intends to supply services of conducting the verification of specified measuring instruments is required to establish a legal person in Japan, and to be designated by the Minister of Economy, Trade and Industry.

3. A person who intends to conduct measurement certification business, including specified measurement certification business, is required to have an establishment in Japan, and to be registered with the prefectural governor having jurisdiction over the district where the establishment is located.

4. A person who intends to supply services of conducting the inspection of specified measuring instruments used for the measurement certification is required to establish a legal person in Japan, and to be designated by the prefectural governor having jurisdiction over the district where the person intends to conduct such inspection.

5. A person who intends to supply services of conducting the accreditation for a person engaged in specified measurement certification business is required to establish a legal person in Japan, and to be designated by the Minister of Economy, Trade and Industry.

6. A person who intends to supply services of conducting the calibration of measuring instruments is required to establish a legal person in Japan, and to be designated by the Minister of Economy, Trade and Industry.

12 Sector: Medical, Health Care and Welfare

Sub-Sector:

Industry Classification: JSIC 7599 Miscellaneous social insurance, social welfare and care services

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Law Concerning Collection of Labour Insurance Premium (Law No. 84 of 1969), Chapter 4

Enforcement Regulations for the Law Concerning Collection of Labour Insurance Premium (Ministerial Ordinance of the Ministry of Labour No. 8 of 1972)

Description: Cross-Border Trade in Services

Only an association of business proprietors or a federation of such associations approved by the Minister of Health, Labour and Welfare under the laws and regulations of Japan may conduct labor insurance businesses entrusted by business proprietors. An association which intends to conduct such labor insurance businesses under the laws and regulations of Japan is required to establish an office in Japan, and to obtain the approval of the Minister of Health, Labour and Welfare.

13 Sector: Mining

Sub-Sector:

Industry Classification: JSIC 05 Mining

Type of Reservation: National Treatment (Articles 73 and 107)

Local Presence (Article 109)

Level of Government: Central Government

Measures: Mining Law (Law No. 289 of 1950), Chapters 2 and 3

Description: Investment and Cross-Border Trade in Services

Only a Japanese national or a Japanese legal person may have mining rights or mining lease rights.

| | | |
|----|--------------------------|---|
| 14 | Sector: | Oil Industry |
| | Sub-Sector: | |
| | Industry Classification: | <p>JSIC 053 Crude petroleum and natural gas production</p> <p>JSIC 181 Petroleum refining</p> <p>JSIC 182 Lubricating oils and greases (not made in petroleum refineries)</p> <p>JSIC 1841 Paving materials</p> <p>JSIC 1899 Miscellaneous petroleum and coal products</p> <p>JSIC 4711 Warehousing</p> <p>JSIC 4721 Refrigerated warehousing</p> <p>JSIC 5231 Petroleum (wholesale trade)</p> <p>JSIC 6031 Petrol stations (gasoline service stations)</p> <p>JSIC 6032 Fuel stores, except gasoline service stations</p> <p>JSIC 9099 Miscellaneous business services, n.e.c.</p> <p>Note 1: The activities covered by the reservation under JSIC 1841, 1899, 4711, 4721 or 6032 are limited to the activities related to oil industry.</p> <p>Note 2: The activities covered by the reservation under JSIC 9099 are limited to the activities related to liquefied petroleum gas industry.</p> |
| | Type of Reservation: | National Treatment (Article 73) |

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in oil industry in Japan. All organic chemicals such as ethylene, ethylene glycol and polycarbonates are outside the scope of the oil industry. Therefore, the prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

15 Sector: Agriculture, Forestry and Fisheries, and Related Services (except fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf provided for in the reservation No. 8 in Schedule of Japan in Annex 7)

Sub-Sector:

| | | |
|-----------------------------|-----------|---|
| Industry Classification: | JSIC 01 | Agriculture |
| | JSIC 02 | Forestry |
| | JSIC 03 | Fisheries |
| | JSIC 04 | Aquaculture |
| | JSIC 6224 | Agricultural cooperatives |
| | JSIC 6225 | Fishery and fishery processing cooperatives |
| | JSIC 791 | Agriculture, forestry and fisheries cooperative associations, n.e.c. |

Type of
Reservation: National Treatment (Article 73)

Level of
Government: Central Government

Measures: Foreign Exchange and Foreign Trade
Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct
Investment (Cabinet Order No. 261 of
1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in agriculture, forestry and fisheries, and related services (except fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf provided for in the reservation No. 8 in Schedule of Japan in Annex 7) in Japan.

16 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8011 Lawyers' offices

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Lawyers Law (Law No. 205 of 1949), Chapters 3, 4, 4-2 and 5

Description: Cross-Border Trade in Services

A natural person who intends to supply legal services is required to be qualified as attorney at law under the laws and regulations of Japan ("Bengoshi"), and to establish an office within the district of the local bar association to which the natural person belongs.

An enterprise which intends to supply legal services is required to establish a law firm under the laws and regulations of Japan ("Bengoshi-Hojin").

17 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8011 Lawyers' offices

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Law on Special Measures Concerning the Handling of the Legal Business by Foreign Legal Consultant (Law No. 66 of 1986), Chapter 4

Description: Cross-Border Trade in Services

A natural person who intends to supply foreign legal consultant services is required to be qualified as foreign legal consultant under the laws and regulations of Japan ("Gaikokuho-Jimu-Bengoshi"), and to establish an office within the district of the local bar association to which the natural person belongs.

A foreign legal consultant under the laws and regulations of Japan is required to stay in Japan for not less than 180 days per year.

18 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8012 Patent attorneys' offices

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Patent Attorney Law (Law No. 49 of 2000), Chapters 6 and 8

Description: Cross-Border Trade in Services

An enterprise which intends to supply patent attorney services is required to establish a patent business corporation under the laws and regulations of Japan ("Tokkyo-Gyoumu-Hojin").

19 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8021 Notaries public's and judicial scriveners' offices

Type of Reservation: National Treatment (Article 107)
Local Presence (Article 109)

Level of Government: Central Government

Measures: Notary Law (Law No. 53 of 1908), Chapters 2 and 3

Description: Cross-Border Trade in Services

Only a Japanese national may be appointed as a notary in Japan.

The notary is required to establish an office in the place designated by the Minister of Justice.

20 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8021 Notaries public's and judicial scriveners' offices

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Judicial Scrivener Law (Law No. 197 of 1950), Chapters 3, 4, 5 and 7

Description: Cross-Border Trade in Services

A natural person who intends to supply judicial scrivener services is required to be qualified as judicial scrivener under the laws and regulations of Japan ("Shiho-Shoshi"), and to establish an office within the district of the judicial scrivener association to which the natural person belongs.

An enterprise which intends to supply judicial scrivener services is required to establish a judicial scrivener corporation under the laws and regulations of Japan ("Shiho-Shoshi-Hojin").

21 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8031 Certified public accountants' offices

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Certified Public Accountant Law (Law No. 103 of 1948), Chapters 5-2 and 7

Description: Cross-Border Trade in Services

An enterprise which intends to supply auditing services is required to establish an audit corporation under the laws and regulations of Japan ("Kansa-Hojin").

22 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8032 Auditors' offices

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Certified Public Tax Accountant Law (Law No. 237 of 1951), Chapters 3, 4, 5-2, 6 and 7

Enforcement Regulation on Certified Public Tax Accountant Law (Ministerial Ordinance of the Ministry of Finance No. 55 of 1951)

Description: Cross-Border Trade in Services

A natural person who intends to supply certified public tax accountant services is required to be qualified as certified public tax accountant under the laws and regulations of Japan ("Zeirishi"), and to establish an office within the district of certified public tax accountant association to which the natural person belongs.

An enterprise which intends to supply certified public tax accountant services is required to establish a certified public tax accountant corporation under the laws and regulations of Japan ("Zeirishi-Hojin").

23 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8051 Architectural design services

JSIC 8097 Certified real estate appraisers

JSIC 8098 Administrative scriveners' offices

JSIC 8099 Professional services, n.e.c.

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Architect and/or Building Engineer Law (Law No. 202 of 1950), Chapter 5

Description: Cross-Border Trade in Services

An architect and/or building engineer, qualified as such under the laws and regulations of Japan ("Kenchikushi"), or a person employing such an architect and/or building engineer, who intends to conduct business of design, superintendence of construction work, administrative work related to construction work contracts, supervision of building construction work, survey and evaluation of buildings, and representation in procedure under the laws and regulations concerning construction, upon request from others for remuneration, is required to establish an office in Japan.

24 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8092 Certified social insurance and labor consultants' offices

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Certified Social Insurance and Labour Consultant Law (Law No. 89 of 1968), Chapters 2-2, 4-2 and 4-3

Description: Cross-Border Trade in Services

A natural person who intends to supply social insurance and labor consultant services is required to be qualified as a certified social insurance and labor consultant under the laws and regulations of Japan ("Shakai-Hoken-Romushi"), and to establish an office in Japan.

An enterprise which intends to supply social insurance and labor consultant services is required to establish a certified social insurance and labor consultant corporation under the laws and regulations of Japan ("Shakai-Hoken-Romushi-Hojin").

25 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8098 Administrative scriveners' office

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Administrative Scrivener Law (Law No. 4 of 1951), Articles 6, 6-2, 8 and 19

Description: Cross-Border Trade in Services

A natural person who intends to supply administrative scrivener services is required to be qualified as administrative scrivener under the laws and regulations of Japan ("Gyousei-Shoshi"), and to establish an office within the district of the administrative scrivener association to which the natural person belongs.

26 Sector: Professional Services

Sub-Sector:

Industry Classification: JSIC 8099 Professional services, n.e.c.

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Land and House Surveyor Law (Law No. 228 of 1950), Chapters 3, 4, 5 and 7

Description: Cross-Border Trade in Services

A natural person who intends to supply land and house surveyor services is required to be qualified as land and house surveyor under the laws and regulations of Japan ("Tochi-Kaoku-Chosashi"), and to establish an office within the district of the land and house surveyor association to which the natural person belongs.

An enterprise which intends to supply land and house surveyor services is required to establish a land and house surveyor corporation under the laws and regulations of Japan ("Tochi-Kaoku-Chosashi-Hojin").

27 Sector: Real Estate

Sub-Sector:

Industry Classification: JSIC 6811 Sales agents of buildings and houses

JSIC 6812 Land subdividers and developers

JSIC 6821 Real estate agents and brokers

JSIC 6941 Real estate managers

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Building Lots and Buildings Transaction Business Law (Law No. 176 of 1952), Chapter 2

Real Estate Syndication Law (Law No. 77 of 1994), Chapter 2

Law Concerning Improving Management of Condominiums (Law No. 149 of 2000), Chapter 3

Description: Cross-Border Trade in Services

1. A person who intends to conduct building lots and buildings transaction business is required to establish an office in Japan, and to obtain license from the Minister of Land, Infrastructure and Transport or from the prefectural governor having jurisdiction over the district where the office is located.
2. A person who intends to conduct real estate syndication business is required to establish an office in Japan, and to obtain permission from the competent Minister or from the prefectural governor having jurisdiction over the district where the office is located.

3. A person who intends to conduct condominiums management business is required to establish an office in Japan, and to be registered in the list maintained by the Ministry of Land, Infrastructure and Transport.

28 Sector: Real Estate Appraisal Services

Sub-Sector:

Industry Classification: JSIC 8097 Certified real estate appraisers

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Law Concerning the Appraisal of Real Estate (Law No. 152 of 1963), Chapter 3

Description: Cross-Border Trade in Services

A person who intends to supply real estate appraisal services is required to establish an office in Japan, and to be registered in the list maintained by the Ministry of Land, Infrastructure and Transport or the prefecture having jurisdiction over the district where the office is located.

29 Sector: Seafarers

Sub-Sector:

Industry Classification: JSIC 031 Marine fisheries
 JSIC 451 Oceangoing transport
 JSIC 452 Coastwise transport

Type of Reservation: National Treatment (Article 107)

Level of Government: Central Government

Measures: Mariners Law (Law No. 100 of 1947), Chapter 4

The 9th Basic Plan for Employment Measures (Cabinet Decision, August 13, 1999)

Official Notification of the Director General of Seafarers Department, Maritime Technology and Safety Bureau of the Ministry of Transport, No. 115, 1990

Official Notification of the Director General of Seafarers Department, Maritime Technology and Safety Bureau of the Ministry of Transport, No. 327, 1990

Official Notification of the Director General of Maritime Bureau of the Ministry of Land, Infrastructure and Transport, No. 153, 2004

Description: Cross-Border Trade in Services

Foreign nationals employed by Japanese enterprises except for the seafarers referred to in the relevant official notifications may not work on the vessels flying the Japanese flag.

30 Sector: Security Guard Services

Sub-Sector:

Industry Classification: JSIC 9061 Guard services

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in security guard services in Japan.

31 Sector: Services Related to Occupational Safety and Health

Sub-Sector:

Industry Classification: JSIC 7722 Vocational guidance centers

JSIC 8099 Professional services, n.e.c.

JSIC 9021 Commodity inspection services

JSIC 9032 Environmental surveying certification

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Industrial Safety and Health Law (Law No. 57 of 1972), Chapters 5 and 8

Regulation Concerning Registered Inspection Agency and Other Related Agencies (Ministerial Ordinance of the Ministry of Labour No. 44 of 1972)

Working Environment Measurement Law (Law No. 28 of 1975), Chapters 2 and 3

Enforcement Regulation of the Working Environment Measurement Law (Ministerial Ordinance of the Ministry of Labour No. 20 of 1975)

Description: Cross-Border Trade in Services

A person who intends to supply inspection or verification services for working machines, skill training course and other related services in connection with occupational safety and health, or working environment measurement services is required to be resident or to establish an office in Japan, and to be registered with the Minister of Health, Labour and Welfare or Director-General of the Prefectural Labour Bureau.

32 Sector: Surveying Services

Sub-Sector:

Industry Classification: JSIC 8052 Surveying services

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Survey Law (Law No. 188 of 1949), Chapter 6

Description: Cross-Border Trade in Services

A person who intends to supply surveying services is required to establish a place of business in Japan, and to be registered with the Minister of Land, Infrastructure and Transport.

33 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4611 Air transport

Type of Reservation: National Treatment (Article 73)
Most-Favored-Nation Treatment (Article 74)
Senior Management and Boards of Directors (Article 78)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3
Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Description: Investment

1. The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in air transport business in Japan.
2. Permission of the Minister of Land, Infrastructure and Transport for conducting air transport business as a Japanese air carrier is not granted to the following natural persons or entities applying for the permission:
 - (a) a natural person who does not have Japanese nationality;
 - (b) a foreign country, or a foreign public entity or its equivalent;

- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event an air carrier becomes a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the air carriers.

3. Japanese air carriers or the companies having substantial control over the air carriers, such as holding companies, may reject the request from a natural person or an entity set forth in subparagraphs 2(a) through (c), who owns equity investments in such air carriers or companies, to enter its name and address in the register of shareholders, in the event such air carriers or companies become natural persons or entities referred to in subparagraph 2(d) by accepting such request.

4. Foreign air carriers are required to obtain permission of the Minister of Land, Infrastructure and Transport to conduct international air transport business.

5. Permission of the Minister of Land, Infrastructure and Transport is required for the use of foreign aircraft for air transportation of passengers or cargoes to and from Japan for remuneration.

6. A foreign aircraft may not be used for a flight between points within Japan.

34 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4621 Aircraft service, except air transport

Type of Reservation: National Treatment (Articles 73 and 107)

Senior Management and Boards of Directors (Article 78)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Description: Investment and Cross-Border Trade in Services

1. The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in aerial work business in Japan.
2. Permission of the Minister of Land, Infrastructure and Transport for conducting aerial work business is not granted to the following natural persons or entities applying for the permission:
 - (a) a natural person who does not have Japanese nationality;
 - (b) a foreign country, or a foreign public entity or its equivalent;
 - (c) a legal person or other entity constituted under the laws of any foreign country; and

- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event a person conducting aerial work business becomes a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the person conducting aerial work business.

3. A foreign aircraft may not be used for a flight between points within Japan.

35 Sector: Transport

Sub-Sector: Air Transport (Registration of Aircraft in the National Register)

Industry Classification:

Type of Reservation: National Treatment (Article 73)
Senior Management and Boards of Directors (Article 78)

Level of Government: Central Government

Measures: Civil Aeronautics Law (Law No. 231 of 1952), Chapter 2

Description: Investment

1. An aircraft owned by any of the following natural persons or entities may not be registered in the national register:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. A foreign aircraft may not be registered in the national register.

36 Sector: Transport

Sub-Sector: Customs Brokerage

Industry Classification: JSIC 4899 Miscellaneous services incidental to transport

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Customs Brokerage Law (Law No. 122 of 1967), Chapter 2

Description: Cross-Border Trade in Services

A person who intends to conduct customs brokerage business is required to have a place of business in Japan, and to obtain permission of the Director-General of Customs having jurisdiction over the district where the person intends to conduct customs brokerage business.

37 Sector: Transport

Sub-Sector: Freight Forwarding Business
(excluding freight forwarding
business using air transportation)

Industry Classification: JSIC 4441 Collect-and-deliver
freight transport

JSIC 4821 Deliver freight
transport, except
collect-and-deliver
freight transport

Type of Reservation: National Treatment (Articles 73 and
107)

Most-Favored-Nation Treatment
(Articles 74 and 108)

Senior Management and Boards of
Directors (Article 78)

Local Presence (Article 109)

Level of Government: Central Government

Measures: Freight Forwarding Business Law (Law
No. 82 of 1989), Chapters 2, 3 and 4

Enforcement Regulation of Freight
Forwarding Business Law (Ministerial
Ordinance of the Ministry of
Transport No. 20 of 1990)

Description: Investment and Cross-Border Trade in
Services

1. The following natural persons or
entities are required to be
registered with, or to obtain
permission or approval of, the
Minister of Land, Infrastructure and
Transport for conducting freight
forwarding business using
international shipping. Such
registration shall be made, or such
permission or approval shall be
granted, on the basis of reciprocity:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. A person who intends to conduct freight forwarding business is required to establish an office in Japan, and to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure and Transport.

38 Sector: Transport

Sub-Sector: Freight Forwarding Business (only freight forwarding business using air transportation)

Industry Classification: JSIC 4441 Collect-and-deliver freight transport

JSIC 4821 Deliver freight transport, except collect-and-deliver freight transport

Type of Reservation: National Treatment (Article 73)

Most-Favored-Nation Treatment (Article 74)

Senior Management and Boards of Directors (Article 78)

Level of Government: Central Government

Measures: Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2, 3 and 4

Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport No. 20 of 1990)

Description: Investment

1. The following natural persons or entities may not conduct freight forwarding business using air transportation between points within Japan:

(a) a natural person who does not have Japanese nationality;

(b) a foreign country, or a foreign public entity or its equivalent;

(c) a legal person or other entity constituted under the laws of any foreign country; and

- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. The natural persons or entities referred to in subparagraphs 1(a) through (d) are required to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure and Transport for conducting freight forwarding business using international air transportation. Such registration shall be made, or such permission or approval shall be granted, on the basis of reciprocity.

39 Sector: Transport

Sub-Sector: Railway Transport

Industry Classification: JSIC 42 Railway transport
 JSIC 4851 Railway facilities services

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in railway transport industry in Japan. The manufacture of vehicles, parts and components for the railway transport industry is not included in railway transport industry. Therefore, the prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

40 Sector: Transport

Sub-Sector: Road Passenger Transport

Industry Classification: JSIC 4311 Common omnibus operators

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in omnibus industry in Japan. The manufacture of vehicles, parts and components for omnibus industry is not included in omnibus industry. Therefore, the prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

41 Sector: Transport

Sub-Sector: Road Transport

Industry Classification: JSIC 43 Road passenger transport
 JSIC 44 Road freight transport

Type of Reservation: Local Presence (Article 109)

Level of Government: Central Government

Measures: Road Transport Law (Law No. 183 of 1951), Chapter 2
 Trucking Business Law (Law No. 83 of 1989), Chapter 2

Description: Cross-Border Trade in Services

A person who intends to conduct passenger motor transport business or trucking business is required to establish a place of business in Japan, and to obtain permission of the Minister of Land, Infrastructure and Transport.

42 Sector: Transport

 Sub-Sector: Services Incidental to Transport

 Industry
 Classification:

 Type of National Treatment (Article 107)
 Reservation: Local Presence (Article 109)

 Level of Central Government
 Government:

 Measures: Pilotage Law (Law No. 121 of 1949),
 Chapters 2 and 3

 Description: Cross-Border Trade in Services

 Only a Japanese national may become a
 pilot in Japan.

 Pilots directing ships in the same
 pilotage district are required to
 establish a pilot association for the
 pilotage district.

43 Sector: Transport

 Sub-Sector: Water Transport

 Industry JSIC 451 Oceangoing transport
Classification:

 Type of National Treatment (Article 107)
Reservation:
 Most-Favored-Nation Treatment
 (Article 108)

 Level of Central Government
Government:

 Measures: Law Concerning Special Measures
 against Unfavorable Treatment to
 Japanese Oceangoing Ship Operators by
 Foreign Government (Law No. 60 of
 1977)

 Description: Cross-Border Trade in Services

 Chilean oceangoing ship operators may
 be restricted or prohibited from
 entering Japanese ports or from
 loading and unloading cargoes in
 Japan in cases where Japanese
 oceangoing ship operators are
 prejudiced by Chile.

44 Sector: Transport

Sub-Sector: Water Transport

Industry Classification: JSIC 452 Coastwise transport
 JSIC 453 Inland water transport
 JSIC 4542 Coastwise ship leasing

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: Investment

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in water transport industry in Japan. For greater certainty, "water transport industry" refers to oceangoing/seagoing transport, coastwise transport (i.e. maritime transport between ports within Japan), inland water transport and ship leasing industry. However, oceangoing/seagoing transport industry and ship leasing industry excluding coastwise ship leasing industry are exempted from the prior notification requirement.

45 Sector: Transport

Sub-Sector: Water Transport

Industry
Classification:

Type of
Reservation: National Treatment (Articles 73 and
107)

Most-Favored-Nation Treatment
(Articles 74 and 108)

Level of
Government: Central Government

Measures: Ship Law (Law No. 46 of 1899),
Article 3

Description: Investment and Cross-Border Trade in
Services

Unless otherwise specified in laws
and regulations of Japan or
international agreements to which
Japan is a party, ships not flying
the Japanese flag are prohibited from
entering Japanese ports which are not
open to foreign commerce and from
carrying cargoes or passengers
between Japanese ports.

46 Sector: Vocational Skills Test

Sub-Sector:

Industry
Classification:

Type of
Reservation: Local Presence (Article 109)

Level of
Government: Central Government

Measures: Human Resources Development Promotion
Law (Law No. 64 of 1969), Chapter 5

Description: Cross-Border Trade in Services

An enterprise which intends to carry out the vocational skills test for workers is required to establish an office in Japan, and to be designated by the Minister of Health, Labour and Welfare.

47 Sector: Water Supply and Waterworks

Sub-Sector:

Industry Classification: JSIC 3611 Water for end users,
except industrial users

Type of Reservation: National Treatment (Article 73)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade
Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct
Investment (Cabinet Order No. 261 of
1980), Article 3

Description: Investment

The prior notification requirement
under the Foreign Exchange and
Foreign Trade Law applies to foreign
investors who intend to make
investments in water supply and
waterworks industry in Japan.

48 Sector: Wholesale and Retail Trade

 Sub-Sector: Livestock

 Industry JSIC 5119 Miscellaneous
Classification: agricultural, animal and
 poultry farm and aquatic
 products

 Type of Local Presence (Article 109)
Reservation:

 Level of Central Government
Government:

 Measures: Livestock Dealer Law
 (Law No. 208 of 1949), Article 3

 Description: Cross-Border Trade in Services

 A person who intends to conduct
 livestock trading business is
 required to be resident in Japan, and
 to obtain a license from the
 prefectural governor having
 jurisdiction over the place of
 residence. For greater certainty,
 "livestock trading" means the trading
 or exchange of livestock, or the good
 offices for such trading or exchange.

Schedule of Chile

- 1 Sector: All Sectors
- Sub-Sector:
- Industry
Classification:
- Type of
Reservation: National Treatment (Article 73)
- Level of
Government: National
- Measures: Decree Law 1939, Official Gazette,
November 10, 1977, Rules for
acquisition, administration and
disposal of State owned assets, Title
I (*Decreto Ley 1939, Diario Oficial,
noviembre 10, 1977, Normas sobre
adquisición, administración y
disposición de bienes del Estado,
Título I*)
- Decree with Force of Law (D.F.L.) 4
of the Ministry of Foreign Affairs,
Official Gazette, November 10, 1967
(*Decreto con Fuerza de Ley (D.F.L.) 4
del Ministerio de Relaciones
Exteriores, Diario Oficial, noviembre
10, 1967*)
- Description: Investment
- Chile may only dispose of the
ownership or other rights over "State
land" to Chilean natural or juridical
persons, unless the applicable legal
exceptions, such as in Decree Law
1939 (*Decreto Ley 1939*), apply.
"State land" for these purposes
refers to State owned land up to a
distance of 10 kilometers from the
border and up to a distance of 5
kilometers from the coastline.

Corporeal immovable property situated in areas declared "the borderland zone" by virtue of D.F.L 4 of the Ministry of Foreign Affairs, 1967 (*D.F.L. 4 del Ministerio de Relaciones Exteriores, 1967*) may not be acquired, either as property or in any other title, by (1) natural persons with nationality of a neighboring country; (2) juridical persons with their principal seat in a neighboring country; (3) juridical persons with 40 percent or more of capital owned by natural persons with nationality of a neighboring country; or (4) juridical persons effectively controlled by such natural persons. Notwithstanding the foregoing, this limitation may not apply if an exemption is granted by a Supreme Decree (*Decreto Supremo*) of the President of the Republic based on considerations of national interest.

2 Sector: All Sectors

Sub-Sector:

Industry
Classification:

Type of Reservation: National Treatment (Article 107)
Local Presence (Article 109)

Level of Government: National

Measures:

D.F.L. 1 of the Ministry of Labor and Social Welfare, Official Gazette, January 24, 1994, Labor Code, Preliminary Title, Book I, Chapter III (*D.F.L. 1 del Ministerio del Trabajo y Previsión Social, Diario Oficial, enero 24, 1994, Código del Trabajo, Título preliminar, Libro I, Capítulo III*)

D.F.L. 2 of the Ministry of Labor and Social Welfare, Official Gazette, October 29, 1967, Article 5, letter c) (*D.F.L. 2 del Ministerio del Trabajo y Previsión Social, Diario Oficial, octubre 29, 1967, artículo 5, letra c*)

Civil Code, Article 16, paragraph 3 (*Código Civil, artículo 16, inciso 3°*)

Description: Cross-Border Trade in Services

A minimum of 85 percent of employees who work for the same employer shall be Chilean natural persons. This rule applies to employers with more than 25 employees under a contract of employment (*contrato de trabajo*). Expert technical personnel who cannot be replaced by Chilean personnel shall not be subject to this provision, as determined by the Directorate of Labor (*Dirección del Trabajo*).

An employee shall be understood to mean any natural person who supplies intellectual or material services, under dependency or subordination, pursuant to a contract of employment.

The person acting as employer shall constitute a representative or mandatary in Chile, with residence and domicile within the territory of Chile, with enough empowerment and authority to respond for the obligations imposed by the labor and social security law to such contract, as well as for the sanctions that might be applied.

The said representative or mandatary shall be responsible for keeping and maintaining all labor and social security documentation related to an employee, in order to allow for legal supervision, as well as to withhold, declare or pay the social security obligations of the said employee.

3 Sector: Communications

Sub-Sector: Basic National or International Long-Distance Telecommunications Services and Intermediate Services; Supplementary Telecommunications Services; and Limited Telecommunications Services

Industry Classification:

Type of Reservation: National Treatment (Article 73)

Level of Government: National

Measures: Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II and III (*Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II y III*)

Description: Investment

A concession granted by means of a Supreme Decree 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 organized according to Chilean law shall be eligible for such concession.

An official decision issued by the Vice-Ministry 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. The said decision refers to the compliance with the technical standards established by the Vice-Ministry of Telecommunications and non-alteration of the essential technical features of networks or of the permissible technological or the basic service modalities provided through them.

A permit issued by the Vice-Ministry of Telecommunications 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.

4 Sector: Communications

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Articles 73 and
107)

Most-Favored-Nation Treatment
(Articles 74 and 108)

Performance Requirements (Article 77)

Senior Management and Boards of
Directors (Article 78)

Local Presence (Article 109)

Level of
Government: National

Measures: Law 18.838, Official Gazette,
September 30, 1989, National
Television Council, Titles I, II and
III (*Ley 18.838, Diario Oficial,
septiembre 30, 1989, Consejo Nacional
de Televisión, Títulos I, II y III*)

Law 18.168, Official Gazette, October
2, 1982, General Telecommunications
Law, Titles I, II and III (*Ley
18.168, Diario Oficial, octubre 2,
1982, Ley General de
Telecomunicaciones, Títulos I, II y
III*)

Law 19.733, Official Gazette, June 4,
2001, Law on Liberties of Opinion and
Information and the Exercise of
Journalism, Titles I and III (*Ley
19.733, Diario Oficial, junio 4,
2001, Ley sobre las Libertades de
Opinión e Información y Ejercicio del
Periodismo, Títulos I y III*)

Description: Investment and Cross-Border Trade in
Services

The owner of a social communication medium such as sound and image transmissions or a national news agency, shall in the case of a natural person have a duly established domicile in Chile and in the case of a juridical persons shall be constituted with domicile in Chile or have an agency authorized to operate within the national territory. Only Chilean nationals may be president, administrators or legal representatives of the juridical person. In the case of public radio broadcasting services, the board of directors may be integrated by foreigners only if they do not represent the majority. The legally responsible director and the person who subrogates him/her must be Chilean with domicile and residence in Chile.

Requests for public radio broadcasting concessions submitted by juridical persons in which foreigners hold an interest exceeding 10 percent of the capital shall be granted only if proof is previously provided verifying that similar rights and obligations as those that the applicants will enjoy in Chile are granted to Chilean nationals in their country of origin.

The National Television Council may establish, as a general requirement, that programs broadcasted through public (open) television channels include up to 40 percent of Chilean production.

Only juridical persons duly constituted in Chile and having domicile in Chile may be the titleholders or make use of permits for limited radio broadcasting telecommunications services. Only Chilean nationals may be president, managers or legal representatives of the juridical person.

Only juridical persons duly constituted in Chile and having domicile in Chile may be the titleholders or make use of permits for limited cable television or microwave television services. Only Chilean nationals may be president, directors, managers, administrators or legal representatives of the juridical person.

5 Sector: Energy

Sub-Sector:

Industry Classification: CPC 12 Crude petroleum and gas natural

CPC 13 Uranium and thorium ores

CPC 14 Metal ores

CPC 16 Other minerals

Type of Reservation: National Treatment (Article 73)

Performance Requirements (Article 77)

Level of Government: National

Measures: Political Constitution of the Republic of Chile, Chapter III (*Constitución Política de la República de Chile, Capítulo III*)

Law 18.097, Official Gazette, January 21, 1982, Constitutional Organic Law on Mining Concessions, Titles I, II and III (*Ley 18.097, Diario Oficial, enero 21, 1982, Orgánica Constitucional sobre Concesiones Mineras, Títulos I, II y III*)

Law 18.248, Official Gazette, October 14, 1983, Mining Code, Titles I and II (*Ley 18.248, Diario Oficial, octubre 14, 1983, Código de Minería, Títulos I y II*)

Law 16.319, Official Gazette, October 23, 1965, Creates the Chilean Nuclear Energy Commission, Titles I, II and III (*Ley 16.319, Diario Oficial, octubre 23, 1965, crea la Comisión Chilena de Energía Nuclear, Títulos I, II y III*)

Description: Investment

The exploration, exploitation, and treatment (*beneficio*) of liquid or gaseous hydrocarbons, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined, in each case by a Supreme Decree of the President of the Republic. For greater certainty, it is understood that the term "treatment(*beneficio*)" shall not include the storage, transportation, or refining of the energy material referred to in this paragraph.

The production of nuclear energy for peaceful purposes may only be carried out by the Chilean Nuclear Energy Commission (*Comisión Chilena de Energía Nuclear*) or, with its authorization, jointly with third persons. Should the Commission grant such an authorization, it may determine the terms and conditions thereof.

6 Sector: Mining

Sub-Sector:

Industry Classification: CPC 13 Uranium and thorium ores
CPC 14 Metal ores
CPC 16 Other minerals

Type of Reservation: National Treatment (Article 73)
Performance Requirements (Article 77)

Level of Government: National

Measures: Political Constitution of the Republic of Chile, Chapter III
(*Constitución Política de la República de Chile, Capítulo III*)

Law 18.097, Official Gazette, January 21, 1982, Constitutional Organic Law on Mining Concessions, Titles I, II and III (*Ley 18.097, Diario Oficial, enero 21, 1982, Orgánica Constitucional sobre Concesiones Mineras, Títulos I, II y III*)

Law 18.248, Official Gazette, October 14, 1983, Mining Code, Titles I and III (*Ley 18.248, Diario Oficial, octubre 14, 1983, Código de Minería, Títulos I y III*)

Law 16.319, Official Gazette, October 23, 1965, Creates the Chilean Nuclear Energy Commission, Titles I, II and III (*Ley 16.319, Diario Oficial, octubre 23, 1965, crea la Comisión Chilena de Energía Nuclear, Títulos I, II y III*)

Description: Investment

The exploration, exploitation, and treatment (*beneficio*) of lithium, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined, in each case by a Supreme Decree of the President of the Republic.

Chile has the right of first refusal, at the customary market prices and terms, for the purchase of mineral products from mining operations in Chile when thorium or uranium are contained in significant amounts therein.

For greater certainty, Chile may demand that producers separate from mining products the portion of:

- (1) liquid or gaseous hydrocarbons;
- (2) lithium;
- (3) deposits of any kind existing in sea waters subject to national jurisdiction; and
- (4) deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only,

that exists, in significant amounts, in such mining products and that can be economically and technically separated, for delivery to or for sale on behalf of the State. For these purposes, "economically and technically separated" means that the costs incurred to recover the four types of substances referred to above through a sound technical procedure, and to commercialize and deliver those substances shall be lower than their commercial value.

Extracted natural atomic materials and lithium, and their concentrates, derivatives, and compounds, cannot be subject to any kind of juridical acts, unless executed or entered into by the Chilean Nuclear Energy Commission (*Comisión Chilena de Energía Nuclear*), or with its prior authorization. Should the Commission grant an authorization, it shall determine, in turn, the conditions granted therein.

7 Sector: Fisheries

Sub-Sector: Aquaculture

Industry Classification: CPC 04 Fish and other fishing products

Type of Reservation: National Treatment (Article 73)

Level of Government: National

Measures: Law 18.892, Official Gazette, January 21, 1992, General Law on Fisheries and Aquiculture, Titles I and VI (*Ley 18.892, Diario Oficial, enero 21, 1992, Ley General de Pesca y Acuicultura, Títulos I y VI*)

Description: Investment

A concession or authorization is required for the use of beaches, land adjacent to beaches (*terrenos de playas*), water-columns (*porciones de agua*), and sea-bed lots (*fondos marinos*) to engage in aquaculture activities.

Only Chilean natural or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may hold an authorization or concession to carry out aquaculture activities.

8 Sector: Fisheries

Sub-Sector:

Industry Classification: CPC 04 Fish and other fishing products

Type of Reservation: National Treatment (Articles 73 and 107)

Most-Favored-Nation Treatment (Articles 74 and 108)

Senior Management and Boards of Directors (Article 78)

Local Presence (Article 109)

Level of Government: National

Measures: Law 18.892, Official Gazette, January 21, 1992, General Law on Fisheries and Aquiculture, Titles I, III, IV and IX (*Ley 18.892, Diario Oficial, enero 21, 1992, Ley General de Pesca y Acuicultura, Títulos I, III, IV y IX*)

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I and II (*Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación, Títulos I y II*)

Description: Investment and Cross-Border Trade in Services

A permit issued by the Vice-Ministry of Fishing (*Subsecretaría de Pesca*) is required in order to harvest and catch hydrobiological species in internal waters, in the territorial sea, and in the exclusive economic zone.

Only Chilean natural persons or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may hold permits to harvest and catch hydrobiological species.

Only Chilean vessels are permitted to fish in internal waters, in the territorial sea, and in the exclusive economic zone. "Chilean vessels" are those defined in the Navigation Law (*Ley de Navegación*). Access to industrial extractive fishing activities shall be subject to prior registration of the vessel in Chile.

Only a Chilean natural or juridical person may register a vessel in Chile. Such juridical person must be constituted in Chile with principal domicile and real and effective seat in Chile. The president, manager, and the majority of the directors or administrators must be Chilean natural persons. In addition, more than 50 percent of its equity capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person with ownership participation in another juridical person that owns a vessel has to comply with all the requirements mentioned above.

A joint ownership (*comunidad*) may register a vessel if (1) the majority of the joint ownership is Chilean with domicile and residency in Chile; (2) the administrators are Chilean natural persons; and (3) the majority of the rights of the joint ownership (*comunidad*) belong to a Chilean natural or juridical person. For these purposes, a juridical person with ownership participation in a joint ownership (*comunidad*) that owns a vessel has to comply with all the requirements mentioned above.

An owner (natural or juridical person) of a fishing vessel registered in Chile prior to June 30, 1991 shall not be subject to the nationality requirement mentioned above.

In cases of reciprocity granted to Chilean vessels by any other country, fishing vessels specifically authorized by the maritime authorities pursuant to powers conferred by law may be exempted from the requirements mentioned above on equivalent terms provided to Chilean vessels by that country.

Access to small-scale fishing (*pesca artesanal*) activities shall be subject to registration in the registry for small-scale fishing (*Registro de Pesca Artesanal*). Registration for small-scale fishing (*pesca artesanal*) is only granted to Chilean natural persons and foreign natural persons with permanent residency, or a Chilean juridical person constituted by the aforementioned persons.

9 Sector: Sports, Industrial Fishing and Hunting, and Recreational Services

Sub-Sector:

Industry Classification: CPC 881 Services incidental to agriculture, hunting and forestry

CPC 882 Services incidental to fishing

CPC 96499 Other recreational services n.e.c.

Type of Reservation: Local Presence (Article 109)

Level of Government: National

Measures: Law 17.798, Official Gazette, October 21, 1972, Title I (*Ley 17.798, Diario Oficial, octubre 21, 1972, Título I*)

Supreme Decree 77 of the Ministry of National Defense, Official Gazette, August 14, 1982 (*Decreto Supremo 77 del Ministerio de Defensa Nacional, Diario Oficial, agosto 14, 1982*)

Description: Cross-Border Trade in Services

Any person who owns guns, explosives, or similar substances must register with the appropriate authority in its domicile, for which purpose a request shall be submitted to the General Directorate for National Mobilization of the Ministry of National Defense (*Dirección General de Movilización Nacional del Ministerio de Defensa Nacional*).

Any natural or juridical person registered as an importer of fireworks may request authorization for importation and entrance thereof into Chile from Group No. 3 of the General Directorate for National Mobilization and may keep stocks of the said elements for sale to persons holding authorization to stage pyrotechnical shows.

The Supervisory Authority (*Autoridad Fiscalizadora*) shall only authorize pyrotechnical shows if a report is available with regard to the installation, development, and security measures for the show, which must be signed and approved by a fireworks programmer registered in the national registries of the General Directorate for National Mobilization or by a professional certified by the said General Directorate.

For the production and execution of pyrotechnical shows, the presence of at least a fireworks expert handler registered with the General Directorate shall be required.

10 Sector: Specialized Services

Sub-Sector: Customs Agents (*Agentes de Aduana*)
and Brokers (*Despachadores de Aduana*)

Industrial Classification: CPC 748 Freight transport agency services

CPC 749 Other supporting and auxiliary transport services

Type of Reservation: National Treatment (Article 107)

Local Presence (Article 109)

Level of Government: National

Measures: D.F.L. 30 of the Ministry of Finance, Official Gazette, April 13, 1983, Book IV (*D.F.L. 30 del Ministerio de Hacienda, Diario Oficial, abril 13, 1983, Libro IV*)

D.F.L. 2 of the Ministry of Finance, 1998 (*D.F.L. 2 del Ministerio de Hacienda, 1998*)

Description: Cross-Border Trade in Services

Only Chilean natural persons may act as customs brokers (*Despachadores de Aduana*) or agents (*Agentes de Aduana*).

11 Sector: Specialized Services

Sub-Sector: Private Armed Security Guards

Industry Classification: CPC 873 Investigation and security services

Type of Reservation: National Treatment (Article 107)

Level of Government: National

Measures: Decree 1.773 of the Ministry of Interior, Official Gazette, November 14, 1994 (*Decreto 1.773 del Ministerio del Interior, Diario Oficial, noviembre 14, 1994*)

Description: Cross-Border Trade in Services

Only Chilean nationals may provide services as private armed security guards.

12 Sector: Business Services

Sub-Sector: Research Services

Industry Classification: CPC 851 Research and experimental development services on natural sciences and engineering

CPC 853 Interdisciplinary research and experimental development services

CPC 882 Services incidental to fishing

Type of Reservation: National Treatment (Article 107)

Level of Government: National

Measures: Supreme Decree 711 of the Ministry of National Defense, Official Gazette, October 15, 1975 (*Decreto Supremo 711 del Ministerio de Defensa Nacional, Diario Oficial, octubre 15, 1975*)

Description: Cross-Border Trade in Services

Foreign natural and juridical persons intending to conduct research in the Chilean 200-mile maritime zone shall be required to submit a request six months in advance to the Chilean Army Hydrographic Institute (*Instituto Hidrográfico de la Armada de Chile*) and shall comply with the requirements established in the corresponding regulation.

13 Sector: Business Services

Sub-Sector: Research Services

Industry Classification: CPC 851 Research and experimental development services on natural sciences and engineering

CPC 853 Interdisciplinary research and experimental development services

CPC 8675 Engineering related scientific and technical consulting services

Type of Reservation: National Treatment (Article 107)

Level of Government: National

Measures: D.F.L. 11 of the Ministry of Economic Affairs, Development and Reconstruction, Official Gazette, December 5, 1968 (*D.F.L. 11 del Ministerio de Economía, Fomento y Reconstrucción, Diario Oficial, diciembre 5, 1968*)

Decree 559 of the Ministry of Foreign Affairs, Official Gazette, January 24, 1968 (*Decreto 559 del Ministerio de Relaciones Exteriores, Diario Oficial, enero 24, 1968*)

D.F.L. 83 of the Ministry of Foreign Affairs, Official Gazette, March 27, 1979 (*D.F.L. 83 del Ministerio de Relaciones Exteriores, Diario Oficial, marzo 27, 1979*)

Description: Cross-Border Trade in Services

Natural persons representing foreign juridical persons, or natural persons residing abroad, intending to perform explorations for work of a scientific or technical nature, or mountain climbing, in areas that are adjacent to Chilean borders shall apply for the appropriate authorization through a Chilean consul in the country of domicile of the natural person. The Chilean consul shall then send such application directly to the National Directorate of Borders and Frontiers of the State (*Dirección Nacional de Fronteras y Límites del Estado*). The Directorate may order that one or more Chilean natural persons working in the appropriate related activities shall join the explorations in order to become acquainted with the studies to be undertaken.

The Operations Department of the National Directorate of Borders and Frontiers of the State (*Departamento de Operaciones de la Dirección Nacional de Fronteras y Límites del Estado*) shall decide and announce whether it authorizes or rejects geographic or scientific explorations to be carried out by foreign juridical or natural persons in Chile. The National Directorate of Borders and Frontiers of the State shall authorize and will supervise all explorations involving work of a scientific or technical nature, or mountain climbing, that foreign juridical persons or natural persons residing abroad intend to carry out in areas adjacent to Chilean borders.

14 Sector: Business Services

Sub-Sector: Research in Social Sciences

Industry Classification: CPC 86751 Geological, geophysical and other scientific prospecting services

Type of Reservation: National Treatment (Article 107)

Level of Government: National

Measures: Law 17.288, Official Gazette, February 4, 1970, Title V (*Ley 17.288, Diario Oficial, febrero 4, 1970, Título V*)

Supreme Decree 484 of the Ministry of Education, Official Gazette, April 2, 1991 (*Decreto Supremo 484 del Ministerio de Educación, Diario Oficial, abril 2, 1991*)

Description: Cross-Border Trade in Services

Foreign juridical or foreign natural persons intending to perform excavations, surveys, probing, and/or collect anthropological, archeological, or paleontological material must apply for a permit from the National Monuments Council (*Consejo de Monumentos Nacionales*). In order to obtain the permit, the person in charge of the research must be engaged by a reliable foreign scientific institution and must be working in collaboration with a Chilean governmental scientific institution or a Chilean university.

The aforementioned permit can be granted to (1) Chilean researchers having the pertinent scientific background in archeology, anthropology, or paleontology, duly certified as appropriate, and also having a research project and due institutional sponsorship; and (2) foreign researchers, provided that they are engaged by a reliable scientific institution and that they work in collaboration with a Chilean governmental scientific institution or a Chilean university. Museum directors or curators acknowledged by the National Monuments Council (*Consejo de Monumentos Nacionales*), professional archeologists, anthropologists, or paleontologists, as appropriate, and the members of the Chilean Society of Archeology (*Sociedad Chilena de Arqueología*) shall be authorized to perform salvage-related works. Salvage-related works involve the urgent recovery of data or archeological, anthropological, or paleontological artifacts or species threatened by imminent loss.

15 Sector: Business Services

Sub-Sector: Printing, Publishing, and Other Related Industries

Industry Classification:

Type of Reservation: National Treatment (Articles 73 and 107)

Most-Favored-Nation Treatment (Articles 74 and 108)

Senior Management and Boards of Directors (Article 78)

Local Presence (Article 109)

Level of Government: National

Measures: Law 19.733, Official Gazette, June 4, 2001, Law on Liberties of Opinion and Information and the Exercise of Journalism, Titles I and III (*Ley 19.733, Diario Oficial, junio 4, 2001, Ley sobre las Libertades de Opinión e Información y Ejercicio del Periodismo, Títulos I y III*)

Description: Investment and Cross-Border Trade in Services

The owner of a social communication medium such as newspapers, magazines, or regularly published texts whose publishing address is located in Chile, or a national news agency, shall in the case of a natural person have a duly established domicile in Chile and, in the case of a juridical person, shall be constituted with domicile in Chile or have an agency authorized to operate within the national territory. Only Chilean nationals may be president, administrators, or legal representatives of the juridical person. The director legally responsible and the person who replaces him or her must be Chilean with domicile and residence in Chile.

16 Sector: Professional Services

Sub-Sector: Professional, Technical, and Specialized Services

Industry Classification: CPC 86211 Financial auditing services

Type of Reservation: National Treatment (Article 107)
Local Presence (Article 109)

Level of Government: National

Measures: Law 18.046, Official Gazette, October 22, 1981, Corporations Law, Title V (*Ley 18.046, Diario Oficial, octubre 22, 1981, Ley de Sociedades Anónimas, Título V*)

Supreme Decree 587 of the Ministry of Finance, Official Gazette, November 13, 1982, Corporations Act (*Decreto Supremo 587 del Ministerio de Hacienda, Diario Oficial, noviembre 13, 1982, Reglamento de Sociedades Anónimas*)

Decree Law 1.097, Official Gazette, July 25, 1975, Titles I, II, III and IV (*Decreto Ley 1.097, Diario Oficial, julio 25, 1975, Títulos I, II, III y IV*)

Decree Law 3.538, Official Gazette, December 23, 1980, Titles I, II, III and IV (*Decreto Ley 3.538, Diario Oficial, diciembre 23, 1980, Títulos I, II, III y IV*)

Circular 2.714, October 6, 1992;
Circular 1, January 17, 1989;
Chapter 19 Updated Collection,
Superintendency of Banks and
Financial Institutions Norms on
External Auditors (*Circular 2.714,*
octubre 6, 1992; Circular 1, enero 17,
1989; Capítulo 19 de la Recopilación
Actualizada de Normas de la
Superintendencia de Bancos e
Instituciones Financieras sobre
auditores externos)

Circulars 327, June 29, 1983 and 350,
October 21, 1983, Superintendency of
Stock Corporations and Insurance
Companies (*Circulares 327, junio 29,*
1983 y 350, octubre 21, 1983, de la
Superintendencia de Valores y
Seguros)

Description: Cross-Border Trade in Services

External auditors of financial institutions must be registered in the Registry of External Auditors kept by the Superintendency of Banks and Financial Institutions (*Superintendencia de Bancos e Instituciones Financieras*) and the Superintendency of Stock Corporations and Insurance Companies (*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 Registry.

17 Sector: Professional Services

Sub-Sector: Legal Services

Industry Classification: CPC 861 Legal services

Type of Reservation: National Treatment (Article 107)
Most-Favored-Nation Treatment (Article 108)

Level of Government: National

Measures: Tribunals Organic Code, Title XV
(*Código Orgánico de Tribunales, Título XV*)

Decree 110 of the Ministry of Justice, Official Gazette, March 20, 1979 (*Decreto 110 del Ministerio de Justicia, Diario Oficial, marzo 20, 1979*)

Law 18.120, Official Gazette, May 18, 1982 (*Ley 18.120, Diario Oficial, mayo 18, 1982*)

Agreement on Mutual Recognition of Examinations and Professional Degrees between Chile and Ecuador, Official Gazette, July 16, 1937 (*Convenio sobre mutuo reconocimiento de exámenes y de títulos profesionales entre Chile y Ecuador*)

Description: Cross-Border Trade in Services

Only Chilean natural persons shall be authorized to practice as lawyers (*abogados*).

Only lawyers (*abogados*) duly qualified to practice law shall be authorized to plead a case in Chilean courts and to file the first legal action or claim of each party. The following documents, among others, shall be drawn up solely by lawyers (*abogados*): drafting of articles of incorporation and amendments thereto; mutual termination of obligations or liquidation of corporations; liquidation of community property between spouses (*sociedad conyugal*); distribution of property; articles of incorporation of juridical persons, associations, water canal members (*asociaciones de canalistas*), and cooperatives associations (*cooperativas*); agreements governing financial transactions; corporate bond issuance agreements; and sponsoring applications for legal representation made by corporations and foundations.

Chile has a bilateral agreement with Ecuador, whereby Ecuadorian citizens holding a lawyers degree granted by a University in Ecuador are admitted to practice as lawyers (*abogados*) in Chile.

None of these measures apply to foreign legal consultants who practice or advise on the law of any country in which that consultant is authorized to practice as a lawyer.

18 Sector: Professional, Technical, and Specialized Services

Sub-Sector: Auxiliary Services in the Administration of Justice

Industry Classification: CPC 861 Legal services

Type of Reservation: National Treatment (Article 107)
Local Presence (Article 109)

Level of Government: National

Measures: Tribunals Organic Code, Titles XI and XII (*Código Orgánico de Tribunales, Títulos XI y XII*)

Real State Conservateur Registry Act, Titles I, II and III (*Reglamento del Registro Conservador de Bienes Raíces, Títulos I, II y III*)

Law 18.118, Official Gazette, May 22, 1982, Title I (*Ley 18.118, Diario Oficial, mayo 22, 1982, Título I*)

Decree 197 of the Ministry of Economic Affairs, Development and Reconstruction, Official Gazette, August 8, 1985 (*Decreto 197 del Ministerio de Economía, Fomento y Reconstrucción, Diario Oficial, agosto 8, 1985*)

Law 18.175, Official Gazette, October 28, 1982, Title III (*Ley 18.175, Diario Oficial, octubre 28, 1982, Título III*)

Description: Cross-Border Trade in Services

Justice ancillaries (*auxiliares de justicia*) must have their residence in the same city or place where the court house for which they render services is domiciled.

Public defenders (*defensores públicos*), public notaries (*notarios públicos*), and custodians (*conservadores*) shall be Chilean natural persons and fulfill the same requirements needed to become a judge.

Archivists (*archiveros*) and arbitrators at law (*arbitros de derecho*) must be lawyers (*abogados*) and, therefore, must be Chilean natural persons. Japanese lawyers may assist in arbitration when dealing with Japanese law and the private parties request it.

Only Chilean natural persons with the right to vote, and foreign natural persons with permanent residence and the right to vote, can act as process servers (*receptores judiciales*) and superior court attorneys (*procuradores del número*).

Only Chilean natural persons, foreign natural persons with permanent residence in Chile, or Chilean juridical persons may be auctioneers (*martilleros públicos*).

Receivers in bankruptcy (*síndicos de quiebra*) must have a professional or technical degree granted by a university or a professional or technical institute recognized by Chile. Receivers in bankruptcy must have at least three years of experience in the commercial, economic, or juridical field.

19 Sector: Transportation

Sub-Sector: Air Transportation

Industry Classification: CPC 734 Rental services of aircraft with operator

CPC 7469 Other supporting services for air transport

Type of Reservation: National Treatment (Articles 73 and 107)

Most-Favored-Nation Treatment (Articles 74 and 108)

Senior Management and Boards of Directors (Article 78)

Local Presence (Article 109)

Level of Government: National

Measures: Law 18.916, Official Gazette, February 8, 1990, Code of Aeronautics, Preliminary Title and Titles II and III (*Ley 18.916, Diario Oficial, febrero 8, 1990, Código Aeronáutico, Títulos Preliminar, II y III*)

Decree Law 2.564, Official Gazette, June 22, 1979, Commercial Aviation Norms (*Decreto Ley 2.564, Diario Oficial, junio 22, 1979, Normas sobre Aviación Comercial*)

Supreme Decree 624 of the Ministry of National Defense, Official Gazette, January 5, 1995 (*Decreto Supremo 624 del Ministerio de Defensa Nacional, Diario Oficial, enero 5, 1995*)

Law 16.752, Official Gazette, February 17, 1968, Title II (*Ley 16.752, Diario Oficial, febrero 17, 1968, Título II*)

Decree 34 of the Ministry of National Defense, Official Gazette, February 10, 1968 (*Decreto 34 del Ministerio de Defensa Nacional, Diario Oficial, febrero 10, 1968*)

Supreme Decree 102 of the Ministry of Transport and Telecommunications, Official Gazette, June 17, 1981 (*Decreto Supremo 102 del Ministerio de Transportes y Telecomunicaciones, Diario Oficial, junio 17, 1981*)

Supreme Decree 172 of the Ministry of National Defense, Official Gazette, March 5, 1974 (*Decreto Supremo 172 del Ministerio de Defensa Nacional, Diario Oficial, marzo 5, 1974*)

Supreme Decree 37 of the Ministry of National Defense, Official Gazette, December 10, 1991 (*Decreto Supremo 37 del Ministerio de Defensa Nacional, Diario Oficial, diciembre 10, 1991*)

Decree 234 of the Ministry of National Defense, Official Gazette, June 19, 1971 (*Decreto 234 del Ministerio de Defensa Nacional, Diario Oficial, junio 19, 1971*)

Description: Investment and Cross-Border Trade in Services

Only a Chilean natural or juridical person may register an aircraft in Chile. Such juridical person must be constituted in Chile with principal domicile and real and effective seat in Chile. In addition, a majority of its ownership must be held by Chilean natural or juridical persons, which in turn must comply with the aforementioned requisites.

The president, manager, majority of directors, and/or administrators of the juridical person must be Chilean natural persons.

A foreign registered private aircraft engaged in non-commercial activities may not remain in Chile more than 30 days from its date of entry into Chile, unless authorized by the General Directorate for Civil Aeronautics (*Dirección General de Aeronáutica Civil*).

In order to work as crew members on aircraft used by a Chilean aviation company, foreign aviation personnel shall be required first to obtain a Chilean license with the appropriate permits enabling them to discharge the pertinent duties.

Foreign aviation personnel shall be allowed to work in that capacity in Chile provided that Chilean civil aviation authorities validate the license or authorization granted by a foreign country. In the absence of an international agreement regulating such validation, the license or authorization shall be granted under conditions of reciprocity. In that case, proof shall be submitted showing that the licenses or authorizations were issued or validated by the pertinent authorities in the country where the aircraft is registered, that the documents are in force, and that the requirements for issuing or validating such licenses and authorizations meet or exceed the standards required in Chile for analogous cases.

Air transportation services may be provided by Chilean or foreign companies subject to the condition that, along the routes in which they operate, foreigners grant similar rights to Chilean aviation companies when so requested. The Civil Aviation Board (*Junta de Aeronáutica Civil*), by means of a substantiated resolution (*resolución fundada*), may terminate, suspend, or limit domestic traffic services (*cabotage*) or any other class of commercial aviation services carried out solely in Chilean territory by foreign companies or aircraft if in their country of origin the right to equal treatment for Chilean companies and aircraft is denied.

Foreign civil aircraft not engaging in commercial transport activities or non-scheduled commercial air transport intending to enter Chilean territory, including its territorial waters, to fly over Chile, and to make stop-overs for non-commercial purposes, shall be required to notify the General Directorate for Civil Aeronautics at least 24 hours in advance. Commercial traffic aircraft not operating on a regular basis shall not be allowed to carry passengers, cargo, or mail in Chilean territory without prior authorization by the Civil Aviation Board.

20 Sector: Transportation

Sub-Sector: Water Transport Services and Shipping

Industry Classification: CPC 721 Transport services by sea-going vessels

CPC 722 Transport services by non-sea-going vessels

Type of Reservation: National Treatment (Articles 73 and 107)

Most-Favored-Nation Treatment (Articles 74 and 108)

Senior Management and Boards of Directors (Article 78)

Local Presence (Article 109)

Level of Government: National

Measures: Decree Law 3.059, Official Gazette, December 22, 1979, Merchant Fleet Promotion Law, Titles I and II (*Decreto Ley 3.059, Diario Oficial, diciembre 22, 1979, Ley de Fomento a la Marina Mercante, Títulos I y II*)

Supreme Decree 24, Official Gazette, March 10, 1986, Act of Decree Law 3.059, Titles I and II (*Decreto Supremo 24, Diario Oficial, marzo 10, 1986, Reglamento del Decreto Ley 3.059, Títulos I y II*)

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II, III, IV and V (*Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación, Títulos I, II, III, IV y V*)

Supreme Decree 153, Official Gazette, March 11, 1966, Approves the Sea People, Fluvial and Lacustrine Personnel Registration General Act (*Decreto Supremo 153, Diario Oficial, marzo 11, 1966, Aprueba el Reglamento General de Matrícula del Personal de Gente de Mar, Fluvial y Lacustre*)

Code of Commerce, Book III, Titles I, IV and V (*Código de Comercio, Libro III, Títulos I, IV y V*)

Law 19.420, Official Gazette, October 23, 1995, Establishes incentives for the economic developments of the Provinces of Arica and Parinacota, and modifies the legal bodies indicated therein, Title Various Provisions (*Ley 19.420, Diario Oficial, octubre 23, 1995, Establece incentivos para el desarrollo económico de las provincias de Arica y Parinacota y modifica cuerpos legales que indica, Título Disposiciones Varias*)

Description: Investment and Cross-Border Trade in Services

Only a Chilean natural or juridical person may register a vessel in Chile. Such juridical person must be constituted with principal domicile and real and effective seat in Chile. The president, manager, and majority of the directors or administrators must be Chilean natural persons. In addition, more than 50 percent of its capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person with ownership participation in another juridical person that owns a vessel has to comply with all the aforementioned requisites.

A joint ownership (*comunidad*) may register a vessel if (1) the majority of the joint ownership is Chilean with domicile and residency in Chile; (2) the administrators are Chileans; and (3) the majority of the rights of the joint ownership belong to a Chilean natural or juridical person. For these purposes, a juridical person with ownership participation in a joint ownership (*comunidad*) that owns a vessel has to comply with all the aforementioned requisites to be considered Chilean.

Special vessels owned by foreign natural or juridical persons domiciled in Chile may under certain conditions be registered in the country. For these purposes, a special vessel does not include a fishing vessel. Foreign natural or juridical persons must meet the following conditions: (1) principal head office in Chile; or (2) undertaking a profession or commercial activity in a permanent way in Chile. The maritime authority may, for reasons of national security, impose certain special restrictions on the operation of these vessels.

The maritime authority may provide better treatment based on the principle of reciprocity.

Foreign vessels shall be required to use pilotage, anchoring, and harbor pilotage services when the maritime authorities so require. In tugging activities or other maneuvers performed in Chilean ports, only tugboats flying the Chilean flag shall be used.

Captains shall be required to be Chilean nationals and to be acknowledged as such by the pertinent authorities. Officers on Chilean vessels must be Chilean natural persons registered in the Officers' Registry (*Registro de oficiales*). Crewmembers of a Chilean vessel must be Chilean, have the permit granted by the Maritime Authority (*Autoridad Marítima*), and be registered in the respective Registry. Professional titles and licenses granted by a foreign country shall be considered valid for the discharge of officers' duties on national vessels pursuant to a substantiated resolution (*resolución fundada*) issued by the Director of the Maritime Authority.

Ship captains (*patrón de nave*) shall be Chilean nationals. A ship captain is a natural person who, pursuant to the corresponding title awarded by the Director of the Maritime Authority, is empowered to exercise command on smaller vessels and on certain special larger vessels.

Only Chilean nationals, or foreigners with domicile in Chile, shall be authorized to act as fishing boat captains (*patrones de Pesca*), machinists (*mecánicos-motoristas*), machine operators (*motoristas*), sea-faring fishermen (*marineros pescadores*), small-scale fishermen (*pescadores*), industrial or maritime trade technical employees or workers, and industrial and general ship service crews on fishing factories or fishing boats when so requested by ship operators (*armadores*) in order to initiate such work.

In order to fly the national flag, the ship captain (*patrón de nave*), officers, and crew must be Chilean nationals. Nevertheless, the General Directorate for the Maritime Territory and Merchant Fleet (*Dirección General del Territorio Marítimo y de Marina Mercantea*), on the basis of a substantiated resolution (*resolución fundada*), may authorize the hiring of foreign personnel, on a temporary basis if essential, with the exception of the captain, who, at all times, must be a Chilean national.

Only a Chilean natural or juridical person shall be authorized to work in Chile as a multimodal operator.

Cabotage shall be reserved for Chilean vessels. Cabotage shall include the ocean, river, or lake shipping of passengers and cargo between different points of the national territory and between such points and naval artifacts installed in territorial waters or in the exclusive economic zone.

Foreign merchant vessels may be able to participate in cabotage when cargo volumes exceed 900 tons, following a public tender called by the user with due anticipation. When the cargo volumes involved are equal to or less than 900 tons, and no vessels flying the Chilean flag are available, the Maritime Authority shall authorize embarking such cargo on foreign merchant vessels. The reservation of coastal trade to Chilean vessels shall not apply in the event of cargo coming from or destined for ports located in the Province of Arica (*Provincia de Arica*).

In the event that Chile should adopt, for reasons of reciprocity, a cargo reservation measure applicable to international cargo transportation between Chile and a non-Party, the reserved cargo shall be transported in Chilean-flag vessels or in vessels considered as such.

21 Sector: Transportation

Sub-Sector: Water Transport Services and Shipping

Industry Classification: CPC 721 Transport services by sea-going vessels

CPC 722 Transport services by non-sea-going vessels

Type of Reservation: National Treatment (Articles 73 and 107)

Senior Management and Boards of Directors (Article 78)

Local Presence (Article 109)

Level of Government: National

Measures: Code of Commerce, Book III, Titles I, IV and V (*Código de Comercio, Libro III, Títulos I, IV y V*)

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II and IV (*Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación, Títulos I, II y IV*)

Decree 90 of the Ministry of Labor and Social Welfare, Official Gazette, January 21, 2000 (*Decreto 90 del Ministerio de Trabajo y Previsión Social, Diario Oficial, enero 21, 2000*)

Decree 49 of the Ministry of Labor and Social Welfare, July 16, 1999 (*Decreto 49 del Ministerio de Trabajo y Previsión Social, Diario Oficial, julio 16, 1999*)

Labor Code, Book I, Title II, Chapter III, paragraph 2 (*Código del Trabajo, Libro I, Título II, Capítulo III, párrafo 2º*)

Description: Investment and Cross-Border Trade in Services

Shipping agents or representatives of ship operators, owners, or captains, whether they are natural or juridical persons, shall be required to be Chilean nationals.

Work of stowage and dockage performed by natural persons is reserved to Chileans who are duly accredited by the corresponding authority to carry out such work and have an office established in Chile.

Whenever these activities are carried out by juridical persons, they must be legally constituted in Chile and have their principal domicile in Chile. The chairman, administrators, managers, or directors must be Chilean. At least 50 percent of the corporate capital must be held by Chilean natural or juridical persons. Such enterprises shall designate one or more empowered agents, who will act in their representation and who shall be Chilean nationals.

Harbor workers shall pass a basic course on harbor security in a Technical Execution Office (*Organismo Técnico de Ejecución*) authorized by the National Bureau for Training and Employment (*Servicio Nacional de Capacitación y Empleo*), according to the norms established in the respective regulation.

Anyone unloading, transshipping, and, generally, using continental or insular Chilean ports, particularly for landing fish catches or processing fish catches on board, shall also be required to be a Chilean natural or juridical person.

22 Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CPC 712 Other land transport services

Type of Reservation: National Treatment (Article 107)
Most-Favored-Nation Treatment (Article 108)
Local Presence (Article 109)

Level of Government: National

Measures: Supreme Decree 212 of the Ministry of Transport and Telecommunications, Official Gazette, November 21, 1992 (*Decreto Supremo 212 del Ministerio de Transportes y Telecomunicaciones, Diario Oficial, noviembre 21, 1992*)

Decree 163 of the Ministry of Transport and Telecommunications, Official Gazette, January 4, 1985 (*Decreto 163 del Ministerio de Transportes y Telecomunicaciones, Diario Oficial, enero 4, 1985*)

Supreme Decree 257 of the Ministry of Foreign Affairs, Official Gazette, October 17, 1991 (*Decreto Supremo 257 del Ministerio de Relaciones Exteriores, Diario Oficial, octubre 17, 1991*)

Description: Cross-Border Trade in Services

Land transportation service providers shall register in the National Registry by submitting an application to the Regional Secretary of Transport and Telecommunications (*Secretaría Regional Ministerial del Ministerio de Transportes y Telecomunicaciones*). In the case of urban services, applicants shall submit the application to the Regional Secretary responsible for the area in which the service is to be provided and, in the case of rural and interurban services, in the region where the applicant is domiciled. The application shall provide the detailed information required by law, attaching thereto, among other documents, a properly certified photocopy of the National Identity Card and, in the case of juridical persons, the public instruments accrediting its constitution and name, and the domicile of its legal representative and documents evidencing such capacity.

Foreign natural and juridical persons qualified to provide international transportation services in Chilean territory cannot provide local transportation services or participate in any manner whatsoever in the said activities in the national territory.

Only companies with actual and effective domicile in Chile and organized under the laws of Chile, Argentina, Bolivia, Brazil, Peru, Uruguay, or Paraguay shall be authorized to provide international land transportation services between Chile and Argentina, Bolivia, Brazil, Peru, Uruguay, or Paraguay. Furthermore, to obtain an international land transport permit, in the case of foreign juridical persons, more than 50 percent of its corporate capital and effective control shall be held by nationals of Chile, Argentina, Bolivia, Brazil, Peru, Uruguay, or Paraguay.

23 Sector: Transportation

Sub-Sector: Land Transportation

Industry Classification: CPC 712 Other land transport services

Type of Reservation: National Treatment (Article 107)
Most-Favored-Nation Treatment (Article 108)

Level of Government: National

Measures: Law 18.290, Official Gazette, February 7, 1984, Title IV (*Ley 18.290, Diario Oficial, febrero 7, 1984, Título IV*)

Supreme Decree 485 of the Ministry of Foreign Affairs, Official Gazette, September 7, 1960, Geneva Convention (*Decreto Supremo 485 del Ministerio de Relaciones Exteriores, Diario Oficial, septiembre 7, 1960, Convención de Ginebra*)

Description: Cross-Border Trade in Services

Motor vehicles bearing foreign license plates that enter Chile on a temporary basis, pursuant to provisions set forth in the 1949 Geneva Convention on Road Traffic, shall circulate freely throughout the national territory for the period established therein, provided that they comply with the requirements established by Chilean law.

Holders of valid international driving licenses or certificates issued in a foreign country in accordance with the Geneva Convention may drive anywhere within the national territory. The driver of a vehicle bearing foreign license plates who holds an international driver's license shall present, upon request by the authorities, the documents certifying both the roadworthiness of the vehicle and the use and validity of his or her personal documents.