

## Annex 9

### APPENDIX 7 TO ANNEX XVIII

### REFERRED TO IN ARTICLE 5.4

### RESERVATIONS BY GUATEMALA

#### GUATEMALA

<b>Sector:</b>	All sectors
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Article 122 <i>Constitución Política de la República de Guatemala</i>
<b>Succinct description of the measure:</b>	<p>Foreign nationals require an authorization from the <i>Oficina de Control de Areas de Reserva del Estado</i> to acquire ownership of the following state-owned land:</p> <ul style="list-style-type: none"><li>(a) real estate located in urban zones; and</li><li>(b) real estate for which rights were registered in the General Property Registry before March 1, 1956 in the following locations:<ul style="list-style-type: none"><li>(i) a 3 - kilometer- long strip of land along the ocean;</li><li>(ii) 200 meters around the lakeshores;</li><li>(iii) 100 meters on either side of the navigable rivers; and</li><li>(iv) 50 meters around any spring that serves as a source of water for the population.</li></ul></li></ul> <p>Only the Government may rent state-owned land described above to enterprises organized under Guatemalan law.</p>

## GUATEMALA

<b>Sector:</b>	All sectors
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Article 123, <i>Constitución Política de la República de Guatemala</i> Article 5, <i>Ley Reguladora de las Áreas de Reservas Territoriales del Estado de Guatemala</i> , Decree Number 126-97
<b>Succinct description of the measure:</b>	Only Guatemalans by birth and companies owned one hundred percent by Guatemalans by birth can be owners or possessing national lands located within fifteen kilometers from the border.  Foreigners may, however, owning or possessing urban property or property rights of the State, registered with the <i>Registrar General</i> of the Property, prior to 1 March 1956 within fifteen kilometers of the border.

## GUATEMALA

<b>Sector:</b>	All sectors
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Not applicable
<b>Succinct description of the measure:</b>	Guatemala reserves the right to adopt or maintain any measure with respect to subsidies.

## GUATEMALA

<b>Sector:</b>	Energy sector
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Not applicable
<b>Succinct description of the measure:</b>	Guatemala reserves the right to maintain or adopt any measure with respect to the energy sector.

## GUATEMALA

<b>Sector:</b>	Minority Affairs and Native Groups
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Not applicable
<b>Succinct description of the measure:</b>	Guatemala reserves the right to adopt or maintain any measure that grants rights or preferences, including natural resources, to a socially or economically disadvantage minority or to native groups.

## GUATEMALA

<b>Sector:</b>	Forestry
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Article 126, <i>Constitución Política de la República de Guatemala</i> .
<b>Succinct description of the measure:</b>	Only Guatemalan nationals or enterprises organized under Guatemalan law may exploit and renew forestry resources.

## GUATEMALA

<b>Sector:</b>	Arms and Explosives
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Not applicable
<b>Succinct description of the measure:</b>	Guatemala reserves the right to adopt or maintain any measure with respect to the arms and explosives.

## GUATEMALA

<b>Sector:</b>	All Sectors
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Article 215, <i>Código de Comercio</i> , Decree Number 2-70 and its amendments contained Decree Number 62-95.
<b>Succinct description of the measure:</b>	<p>A company constituted under foreign laws, can be established in Guatemala in any form, but shall constitute a capital allocated to its operations in Guatemala, and a bond in favour of a third party for an amount not less than the equivalent in quetzales of US\$ 50,000, which shall remain in force for as long as that company is operating in Guatemala.</p> <p>The exact amount of the bond will be determined by the Register of Companies based inter alia on the amount of the investment.</p> <p>For greater certainty, the requirement of a bond should not to be viewed as an impediment to a company organized under the laws of a foreign country, to settle in Guatemala.</p>



## GUATEMALA

<b>Sector:</b>	Fisheries
<b>Sub-sector:</b>	Fishing artisanal and small-scale
<b>Legal source or authority of the measure:</b>	Article 20, <i>Ley General de Pesca y Acuicultura</i> , Decree Number 80-2002
<b>Succinct description of the measure:</b>	(a) The commercial fishing artisanal and small-scale is exclusively reserved for the Guatemalans.  (b) Guatemala reserves the right to adopt or maintain any measure with respect to the fishing artisanal and small-scale. <sup>1</sup>

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<sup>1</sup> Under Guatemala law, fishing artisanal means: Activity carried out without boats or boats between zero point forty-six (0.46) tonnes and zero point ninety-nine (0.99) net registered tonnage (NRT) can be performed in tidelands, lakes, gaps, rivers and sea. Small-scale commercial fishing means: Activity that is performed with boats from one (1) and one point ninety-nine (1.99) net registered tonnage (NRT).

## GUATEMALA

<b>Sector:</b>	All Sectors
<b>Sub-sector:</b>	-
<b>Legal source or authority of the measure:</b>	Not applicable
<b>Succinct description of the measure:</b>	Economic activities considered as public utilities may be subject to a public monopoly or to exclusive rights granted to natural persons or juridical persons, public or private.

## GUATEMALA

<b>Sector:</b>	All Sectors
<b>Sub-sector:</b>	
<b>Legal source or authority of the measure:</b>	Article 13, <i>Código de Trabajo</i> , Decree Number 1441.
<b>Succinct description of the measure:</b>	<p>Every employer is prohibited to employ less than 90 percent of Guatemalan workers and pay them less than 85 percent of the total wages earned in their respective business unless otherwise provided under special laws.</p> <p>Both proportions may change:</p> <p>(a) If so require obvious reasons of protecting and promoting the national economy, or lack of Guatemalans technicians in a particular activity or defending national workers to demonstrate their abilities. In all these circumstances, the Executive Branch, through agreement reasoned issued through the Ministry of Labor and Social Security, both ratios may decrease by up to 10 per cent each and for a period of five years for each company, or increase them to eliminate the participation of foreign workers.</p> <p>In the case the Ministry authorizes the reduction of rates expressed before, it should require companies to prepare Guatemalan technicians in the branch of their activities within that purpose was granted; and</p> <p>(b) When authorized and controlled immigration occur by the Executive Branch or contracted by the same, and entering or have entered the country to work in the establishment or development of settled agriculture or livestock, welfare institutions or cultural character; or in the case of Central American origin. In all these circumstances, the scope of the respective modification should be given the discretion of the Executive Branch, but the agreement that was handed down through the Ministry of Labor and Social Security must clearly state the reasons, limit and duration of the change is made.</p> <p>For the purposes of the first paragraph, fractions should not be taken into account, and when the total number of employees does not exceed five, four of them shall be Guatemalan.</p> <p>The provision of this measure does not apply to managers, administrators, supervisors and general managers of companies.</p> <p>For greater certainty this clause applies to foreign workers under an employment relationship in the host country and</p>

	without prejudice of the commitments made under Article 5.5.
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