



MODIFICATIONS OF COUNTRIES' POSITIONS UNDER THE CODES OF LIBERALISATION OF CAPITAL MOVEMENTS AND CURRENT INVISIBLE OPERATIONS AND THE NATIONAL TREATMENT

**UPDATED COUNTRY LISTS OF MEASURES REPORTED
FOR TRANSPARENCY, OTHER THAN EXCEPTIONS UNDER
THE NATIONAL TREATMENT INSTRUMENT**

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Investment Division

AUSTRALIA

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Defence: Defence procurement *projects* may have requirements which involve contractors in using and storing material (i.e. documents or equipment) to which access must be controlled on national security grounds.

Defence technologies: In addition to the above security requirements, some special conditions may apply to a very limited range of selected Australian developed defence technologies under the Australian Ownership and Control of Information (AOCI) policy. Essentially the policy calls for access to designated Australian technologies to be restricted to Australian controlled corporate environments.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

a. Investment by established foreign controlled enterprises.

None.

b. Corporate organisation

Maritime transport: Capital grants made under the Ships Capital Grants Act are only available to Australian flag vessels. Eligible vessels must meet a number of criteria including that they be Australian flag vessels; the grants are available for new ships.

Foreign Aid: Eligibility for access to funds under AIDAB's non Government Organisation Co-operation Program is restricted to identifiably Australian voluntary, non-for-profit organisations incorporated in Australia. Under the Development Import Finance Facility (DIFF) administered by the Australian International Development Assistance Bureau (AIDAB) grants of aid funds

may be made to assist developing countries undertaken high priority public sector projects. DIFF offers of funding may be sought by Australian firms proposing to provide goods and services exported from Australia, an Australian firm being defined as an enterprise incorporated in Australia and carrying on business in Australia.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

a. Investment by established foreign controlled enterprises.

Western Australia

Real Estate: The Real Property (Foreign Governments) Act 1931 prevents the Government of a foreign State or Minister or member of any such Government from owning land exceeding 2 hectares without the approval of the Western Australian Parliament. For properties of small size than 2 hectares, the Minister for Lands must approve all purchases by such Governments or individual.

Queensland

Real estate/reporting requirement: Foreign persons or companies acquiring or disposing of an interest in Queensland land or changing their nationality or the land description are required to notify details to the Queensland Register.

Authority: Foreign ownership of Land Register Act 1988.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions¹

At the level of national government

I. Public monopolies

- Postal services (standard letters and telegraph services);
- Basic public switched telecommunication services, leased circuits and mobile telephone services;
- International communications;
- Domestic satellite system;
- Water distribution;
- Passenger rail services;
- International aviation (non-charter services).

II. Private or mixed (public/private) monopolies

None.

III. Concessions

None.

At the level of territorial subdivisions

I. Public monopolies

Distribution of selected primary products (e.g. wheat) in some states.

II. Private or mixed (public/private monopolies)

None.

III. Concessions

None.

¹ None of the sectors reported here are motivated by public order and essential security interests.

AUSTRIA

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Manufacturing/Defence: Trade license for the production of defence material entails citizenship requirements concerning the ownership or membership of the board of directors, and the companies must have a domestic headquarters in Austria.

Authority: Ministry of Economics and Labour, section 141 of the "Gewerbeordnung" (Trade Regulation Act).

Defence: The import, export and transit of defence material are subject to authorisation by the Federal Government.

Authority: Ministry of Economics and Labour; Federal Law Gazette No. 540 introduced in 1977 Act 358, as amended September 17 1982.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

Post (for pieces weighing up to 50 grams);

II. Private or mixed (public/private) monopolies

None.

III. Concessions

- Interregional distribution of electricity;
- Transport by air, rail, bus, pipeline;
- Retail sale of pharmaceutical products;
- Gaming, casinos, lotteries, etc;
- Mobile phone;
- Radio and television broadcasting (private license obtainable from a regulator).

At the level of territorial subdivisions

None.

BELGIUM

A. Measures Reported for Transparency at the Level of National Government

I. *Measures based on public order and essential security considerations*

None.

II. *Other measures reported for transparency*

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. *Public monopolies*

- Telephone, telegraph and postal services (certain postal services are run by resident and non-resident private undertakings);
- National railways;
- Construction and operation of airports.

II. *Private or mixed (public/private) monopolies*

None.

III. *Concessions*

- Transportation of gas;
- Exploration and exploitation of oil and gas.

At the level of territorial subdivisions

I. *Public monopolies*

None.

II. *Private or mixed (public/private monopolies)*

None.

III. Concessions

- Distribution of electricity;
- Local railway and public transport services;
- Mines/Bituminous coal.

CANADA

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign-controlled enterprises

Trans-sectoral: The Investment Canada Act (Part IV.1 Investments Injurious to National Security) allows the Canadian government to review foreign investment that could be injurious to national security. Under this Part of the Act, if national security threats associated with investments in Canada by non-Canadians are identified, primarily by Canada's security and intelligence agencies, they will be brought to the attention of the Minister of Industry. Once identified, the Minister of Industry, after consultation with the Minister of Public Safety and Emergency Preparedness is responsible for deciding whether to refer these investments to the Governor in Council (GIC). The GIC is responsible for determining whether a review should be ordered. Once the GIC orders a review, the Minister of Industry, after consultation with the Minister of Public Safety and Emergency Preparedness, conducts the review and, if required, submits a report to the GIC with recommendations. The GIC has the authority to take any measures in respect of the investment that it considers advisable to protect national security.

Authority: Investment Canada Act as amended in March 2009.

b. Corporate organisation

None.

c. Government purchasing

Canada has agreed to apply the procurement provisions of the North American Free Trade Agreement and the World Trade Organization Agreement. These agreements provide exceptions for procurements that are related to 'public order' and 'national security'. In Canada, government contracting is conducted in a manner that must stand the test of public scrutiny in matters of prudence and probity, facilitate access, encourage competition and reflect fairness in the spending of public funds. However, non-competitive sourcing strategies can be justified for procurements related to public order and national security. In such cases, the provisions of the trade agreements and the Government Contracts Regulations related to invoking the 'exceptions' must be complied with.

Authority: Canada's trade agreements, Government Contracts Regulations and Treasury Board Contracting Policy.

d. Official aids and subsidies

None.

II. *Other measures reported for transparency*

a. *Investment by established foreign controlled enterprises.*

Services: The Canada Business Corporations Act permits corporations to constrain the issue, transfer, or ownership of shares to Canadians for the express purpose of qualifying under the law of Canada or its provinces. For example, share constraints apply to the acquisition of participation in financial intermediaries and in newspaper publishing and broadcasting. These measures are not retroactive and apply equally to foreign and domestic controlled corporations.

Authority: Canada Business Corporations Act.

Corporate nationality requirements: The Canada Business Corporations Act requires that at least twenty-five percent of the directors of a corporation must be resident Canadians. However, if a corporation has less than four directors, at least one director must be a resident Canadian. If a corporation engages in a prescribed business sector or if a corporation, by an Act of Parliament or by regulation, is required to maintain a specified level of Canadian ownership or control, then a majority of the directors must be resident Canadians. Prescribed sectors include uranium mining; book publishing or distribution; book sales, where the sale of books is the primary part of the corporation's business; and film or video distribution.

Authority: Canada Business Corporations Act.

Patent and trademark agencies: To become a licensed patent or trademark agency, a firm must have on staff a registered agent. Only Canadians or permanent residents of Canada can become registered patent or trademark agents. For the presentation and prosecution of applications for patents or trade-marks before the Patent Office or Trade-Mark Office, a patent agent or trademark agent must be resident of Canada and registered by the Patent Office or Trade-Mark Office. A registered patent agent or trade-mark agent who is not a resident of Canada must appoint a registered patent or trade-mark agent who is resident in Canada as an associate to prosecute an application for a patent or trade-mark.

Authority: Patent Act, R.S. 1985, c. P-4; Patent rules, S.O.R./96-423; Trade-marks Act, R.S.C. 1985, c. T-13, Trade-marks Regulations, S.O.R./96-195.

b. *Corporate organisation*

Customs brokerages: To become a licensed customs brokerage, a firm must be incorporated in Canada, and a majority of its directors must be citizens or permanent residents of Canada. Only citizens or permanent residents of Canada can become licensed customs brokers.

Authority: Customs Act 1986.

c. *Government purchasing*

None.

B. *Measures Reported for Transparency at the Level of Territorial Subdivisions*

a. *Investment by established foreign controlled enterprises.*

Manitoba

Agriculture: Restrictions on the ownership of farm land for non-Manitoba residents.

b. Corporate organisation

Alberta, British Columbia, Ontario

Financial Services: Residence/citizenship requirements for directors.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Post Office (elements of mail services);
- Hydroelectricity;
- Distribution of electricity.

II. Private or mixed (public/private) monopolies

None.

III. Concessions

None.

At the level of territorial subdivisions

I. Public monopolies

Distribution of liquor.

II. Private or mixed (public/private monopolies)

- Auto insurance and health programmes (in some provinces);
- Telephone services (in the Territories).

III. Concessions

None.

CZECH REPUBLIC

A. Measures Reported for Transparency at the Level of National Government

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

Railway transport

II. Private or mixed (public/private) monopolies

None.

III. Concessions

Minerals, natural medicinal springs including mineral water.

At the level of territorial subdivisions

None.

DENMARK

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Defence: Authorisation must be given from the Ministry of Justice for foreign ownership of enterprises involved in the production of defence material to exceed 40 per cent, or for foreign capital to hold more than 20 per cent of the voting rights in such enterprises.

Authority: Law 503, 7 June 2006.

b. Corporate organisation

Defence: All company directors and at least 80 per cent of the board members must be Danish citizens, unless derogation is granted by the Ministry of Justice.

Authority: Law 503, 7 June 2006.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Postal service concerning letters weighing less than 50 grams;
- Radio and television broadcasting (national level).

II. Private or mixed (public/private) monopolies

None.

III. Concessions

- Radio and television (local);
- Telephone services;
- Distribution of electricity, gas, water;
- Rail transportation;
- Bus transportation.

At the level of territorial subdivisions

None.

FINLAND

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Defence: Restrictions on the transfer of influence in any organizations or business undertakings that produce defence material or provide for the purposes of military national defence vital ancillary services or goods such as maintenance, research, development services or spare parts.

Authority: Act on the Monitoring of Foreigners' Corporate Acquisitions in Finland.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

a. Investment by established foreign-controlled enterprises

Trans-sectoral: Restrictions on the right of establishment and the right to provide services by natural persons who do not enjoy regional citizenship in Åland, or by any legal person, without permission of the competent authorities of the Åland Islands.

Authority: Act on the Autonomy of Åland.

Real Estate: Restrictions on the right for natural persons who do not enjoy regional citizenship in Åland, as well as for legal persons, to acquire and hold real property on the Åland Islands without permission of the competent authorities of the islands.

Authority: Act on the Acquisition of Real Property in Åland.

b. *Corporate organisation*

Limited liability companies: The managing director and at least one member of the board must be residents of an EC state, unless the National Board of Patents and Registration grants an exemption. At least one of the natural person auditors of limited liability companies or branches of foreign enterprises has to be EC resident.

Authority: Companies Act.

Commercial savings and co-operative banks: The managing director and at least one of the founders and one member of the board of directors must be an EC resident (an exception may be granted if prudential requirements are met).

Non-EC credit institutions: The signatory for the branch must be Finnish resident, unless the Financial Supervisory Authority grants an exemption.

Insurance companies: The managing director and at least one of the founders and members of the board of directors (and, in case the insurance company has a supervisory board, one member of the board) of an insurance company must have his or her place of residence in an EC country, unless the Financial Supervisory Authority has granted an exemption.

Pension funds: The founder must have an EC nationality or must be an EC undertaking and must have the place of residence in an EC country, unless the Financial Supervisory Authority has granted an exemption.

Insurance funds: One of the founders must have an EC nationality, must be an EC undertaking or be a foundation whose home member state is an EC country, unless the Ministry of Social Affairs and Health has granted an exemption.

Pension funds or insurance funds: At least one of the members of the board of directors and their substitutes must have their place of residence in an EC state, unless the Financial Supervisory Authority has granted an exemption. The general agent of a pension fund and the managing director of an insurance fund must have his or her place of residence in an EC country, unless the Financial Supervisory Authority has granted an exemption.

Statutory employee pension insurance undertakings: The managing director and at least half of the promoters and members of the board of directors and of the supervisory board must have their place of residence in an EC country, unless the Financial Supervisory Authority has granted an exemption. In the case of promoters, the exemption is granted by the Ministry of Social Affairs and Health.

c. *Government purchasing*

None.

d. *Official aids and subsidies*

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Rail transport services;
- Football pools, state lotteries with money prizes and totaliser;
- Trade and distribution of liquor.

II. Private or mixed (public/private) monopolies

Social security insurance.

III. Concessions

None.

At the level of territorial subdivisions

None.

FRANCE

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign-controlled enterprises

Manufacturing – Aerospace construction: The French government reserves the right to restrict the conditions governing the creation, expansion or operation of foreign-controlled enterprises engaging in aerospace construction.

Activities affecting the public order, public security and national defence interests. Prior governmental approval is required for foreign-controlled enterprises to invest in the following areas: activities related to interception and detection of communication; evaluation and certification of security systems; activities related to dual-use technologies; cryptology; activities by enterprises privy to classified defence information; production and trade in arms, munitions, gunpowder and explosives for military purposes as well as war materiel; activities by enterprises having concluded research or supply contracts with the Ministry of Defence; research, development and production of means of protection against the illicit use, through terrorist activities, of pathogenous or toxic agents as well as their health impacts; money gambling and casinos.

Authority: Code Monétaire et Financier, Articles L151-3 and R153-2; Decree No. 2005-1739 of 30 December 2005.

Nuclear energy: The creation of a nuclear power station is subject to prior approval (by a decree of the Prime Minister taken on the basis of a report by the Ministers responsible for nuclear safety).

Authority: Law 2006-686, 13 June 2006.

b. Corporate organisation

Agriculture: By law, the directors of agricultural co-operatives must be chosen from among their members and be French nationals, or nationals of an EEA Member State, or nationals of a country with which France has a reciprocity agreement, unless an exemption has been granted by the Minister for Agriculture with the recommendation of the Central Accreditation Commission.

Authority: Article R 524-1 and L 529-2 of the Rural Code.

Press agencies: Only nationals of EC and EEA member countries can be appointed administrators of the Agence France-Presse.

Authority: Article 8, Decree of 9 March 1957.

c. *Government purchasing*

None.

d. *Official aids and subsidies*

None.

II. *Other measures reported for transparency*

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. *Public monopolies*

- Railway passenger transport;
- Retail sale of manufactured tobacco is state controlled through commercial intermediaries;
- Gunpowder and explosives;
- Collection, transport and distribution of items of correspondence weighing less than 50 grams and whose postage does not exceed 2½ times the base tariff (to be eliminated from 1 January 2011).

II. *Private or mixed (public/private) monopolies*

None.

III. *Concessions*

- Cable networks;
- Mining.

At the level of territorial subdivisions

I. *Public monopolies*

None.

II. *Private or mixed (public/private) monopolies*

None.

III. Concessions

A number of public services may be offered as concessions. Practices differ across geographic regions and levels of local government, but some of the most commonly concessioned activities are:

- bus transportation;
- water, heating and sanitary services;
- television cable networks;
- GSM licences;
- sport facilities;
- car parks.

Authority: Ordinance of 17 June 2004 on Public-Private Partnerships.

GERMANY

A. Measures Reported for Transparency at the Level of National Government

a. *Investment by established foreign-controlled enterprises*

Trans-sectoral: The Federal Ministry of Economics and Technology may, within a period of three months following the conclusion of a contract to acquire direct or indirect ownership of 25% or more in a company, examine the purchase of such a company by a non-EC or non-EEA resident to determine whether the purchase will jeopardise the public policy or public security of the Federal Republic of Germany in the sense of Article 46 para. 1 and Article 58 para. 1 of the EC treaty. If the Federal Ministry of Economics and Technology decides to examine the acquisition of the company within the stipulated period, it issues an administrative act informing the purchaser accordingly and the purchaser is required to send all the documentation concerning the acquisition to the Ministry. After receiving the documentation, the Ministry has two months to prohibit the acquisition or to issue orders, following the Federal Government's consent. The contract remains valid throughout the examination procedure. The investor may request a legally binding certificate of non-objection from the Federal Ministry of Economics and Technology prior to the acquisition. The certificate of non-objection is deemed to have been issued if the Ministry does not launch a formal review within one month of receiving the application for the certificate.

Authority: Thirteenth Act amending the Foreign Trade and Payments Act and the Foreign Trade and Payments Regulation as of 18 April 2009.

Defence: A foreign national or foreign company is obliged to notify to the Federal Ministry of Economics and Technology an acquisition of 25 % or more of a German company which manufactures war weapons according to the War Weapons Control Act or, tank engines or is involved in crypto-technology. Within one month after receiving the notification the Ministry of Economics and Technology may prohibit the acquisition in order to safeguard essential security interests of the Federal Republic of Germany.

Authority: Trade and Payments Ordinance § 52, as of July 2004.

b. *Corporate organisation*

None.

c. *Government purchasing*

None.

d. *Official aids and subsidies*

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Telecommunication – Since 1998, telecommunication markets have been opened up to competition. Free access to all markets is granted except in the mobile communication sector (licence required due to limited resources);
- Post – Since 1998, postal policy in Germany has been characterised by a step-by step opening up to competition on the letter mail services. The incumbent company (Deutsche Post AG) has an exclusive licence under the Postal Act. At present the Deutsche Post AG has the exclusive privilege of conveying letters up to 100 gram of weight under this licence. Since the beginning of 2006, maximum weight for reserved services has been 50 gram per letter. The licence is expiring 31 December 2007;
- Inland waterways;
- Employment services (labour exchange);
- Lotto.

II. Private or mixed (public/private) monopolies

None.

III. Concessions

- Radio and television broadcasting (in all federal states – *Länder* – which have jurisdiction in this matter, private broadcasting companies need a license. Companies which must be incorporated in Germany, have to meet certain obligations. Foreign-owned and domestic companies are treated alike; the board of directors or the management may be residents or non-residents);
- Long distance freight transport on road is subject to a licensing requirement;
- Passenger transport on regular schedules by bus is subject to a licensing requirement;
- Lotteries and totalisers.

At the level of territorial subdivisions

None.

GREECE

A. Measures Reported for Transparency at the Level of National Government

I. *Measures based on public order and essential security considerations*

None.

II. *Other measures reported for transparency*

a. *Investment by established foreign-controlled enterprises*

None.

b. *Corporate organisation*

Banking: The majority of the members of the governing board of a bank must have Greek or other EC nationality and be permanent residents of Greece.

c. *Government purchasing*

None.

d. *Official aids and subsidies*

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. *Public monopolies*

- Rail transport;
- Import and distribution of gas;
- Lotteries.

II. *Private or mixed (public/private) monopolies*

Local bus transportation on regular routes.

III. Concessions

- Operation of sea and airports;
- Lotteries, football pools and casinos.

At the level of territorial subdivisions

None.

HUNGARY

A. Measures Reported for Transparency at the Level of National Government

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. *Public monopolies*

- Postal services reserved for the universal service provider (items of correspondence and direct mail of a weight not exceeding 50gr provided that the fee for the service is less than two and a half times the fee for the item of correspondence in the first weight step of the fastest standard category within the universal range of services; postal services related to official documents);

Authority: Act CI of 2003 on the Post.

- Air navigation services;

Authority: Decree No. 45 of 2001 (XII.20.) of KöViM (Minister of Transport and Water Management).

- Maintenance and management of the national railway infrastructure;

Authority: Act CLXXXIII of 2005 on Rail Transportation.

II. *Private or mixed (public/private) monopolies*

- Public utility wholesale of electricity; supply of electricity in the public utility system; operation of the transmission system of the electricity grid

Authority: Act CX of 2001 on Electric Energy.

- Public utility wholesale of natural gas; supply of natural gas in the public utility system; distribution of natural gas through distribution pipeline networks;

Authority: Act XLII of 2003 on Natural Gas;

- Scheduled passenger road transportation by bus;
Authority: Act XXXIII of 2004 on Scheduled Passenger Transportation by Bus.
- Rail transportation of passengers.
Authority: Act CLXXXIII of 2005 on Rail Transportation.

III. Concessions

- National public roads and related engineering structures, canals and regional public utilities;
- Local public roads and engineering structures forming part of the assets of local governments and the operation of local public utilities;
- Mining research and exploitation and related secondary activities;
- Conveyance and storage of products through pipelines;
- Production and sale of radioactive materials;
- Scheduled passenger road transportation by trolley-bus;
- Organisation of gambling, betting, lotteries and other similar activities.

*Authority: Act XVI of 1991 on Concessions.**

* These activities may be open to the private sector on a National Treatment basis under the Hungarian Law on Concessions.

ICELAND

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

None.

II. Other measures reported for transparency

a. Investment by established foreign controlled enterprises

None.

b. Corporate organisation

Trans-sectoral: The majority of the founders of limited liability companies must be resident in Iceland for at least one year prior to the foundation of the company. The majority of the board of directors and the managing director of a limited liability company that has been established and is operating in Iceland must be residents. The Minister of Commerce may grant exceptions to these requirements and has done so generally for citizens of OECD member countries. These rules apply to all sectors unless superseded by sector-specific rules.

Authority: Acts on limited liability companies.

Newspaper and magazine publishing: The editor must be an Icelandic resident citizen.

Maritime transport: Ownership of Icelandic flag vessels must be through an enterprise incorporated in Iceland.

c. Government purchasing

None.

d. Official Aids and Subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Postal services;
- Distribution of alcoholic beverages.

II. Private or mixed (public/private) monopolies

None.

III. Concessions

None.

At the level of territorial subdivisions

I. Public monopolies

None.

II. Private or mixed (public/private monopolies)

None.

III. Concessions

- Local electricity utilities have the exclusive right to distribute electricity in their respective areas;
- Local authorities have the exclusive right to operate local central heating utilities in their respective areas but they may transfer the monopoly to another provider;
- One company is designated by the Minister of Industry to undertake all transmission of electricity.

IRELAND

A. Measures Reported for Transparency at the Level of National Government

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Postal services;
- Telecommunication services;
- Water, electricity, gas distribution;
- Railways.

II. Private or mixed (public/private) monopolies

- Air services;
- Maritime transport.

III. Concessions

None.

At the level of territorial subdivisions

None.

ITALY

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

None.

II. Other measures reported for transparency at the level of national government

a. Investment by established foreign-controlled enterprises

None.

b. Corporate organisation

Air transport: Foreign-controlled enterprises, regardless of the degree of control, may register their aircraft in the national Register on the condition that national interests predominate in their administration and management. Such is the case when the majority of directors, including the chairman and his deputy, as well as two-thirds of the members of the board of directors, are Italian nationals.

Authority: Article 143 of the Navigation Code.

Maritime transport: Foreign-controlled companies, regardless of the level of control, may have their ships entered in the national register on the condition that there is a predominance of national interests in their administration and direction. This is defined as arising when the majority of administrators, including the president and his deputy, as well as the majority of the board of directors, are Italian.

Authority: Article 143 of the Navigation Code.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Postal services and telecommunications
- Distribution of electricity, gas, water and nuclear energy
- Railways

II. Private or mixed (public/private) monopolies

None.

III. Concessions

Television broadcasting at the national level (local broadcasting open to foreign investment).

At the level of territorial subdivisions

I. Public monopolies

- Local community public services
- Lotteries etc.

II. Private or mixed (public/private monopolies)

None.

III. Concessions

None.

JAPAN

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Trans-sectoral: Specific investment plans of foreign controlled enterprises could be altered or suspended when national security, public order or public safety is deemed threatened in such industrial sectors as aircraft, arms, dual-use technologies, nuclear energy, space, electricity utility, gas utility, vaccine, security guard and telecommunications and broadcasting services.

Authority: Foreign Exchange and Foreign Trade Law, Article 27-1, 1949, as amended by Cabinet in September 2007.

Broadcasting (except Cable Television and Broadcast on Telecommunications Services): Foreigners or foreign-controlled enterprises are not granted licenses to operate broadcasting stations, nor are they approved as broadcasters. Enterprises are considered as foreign-controlled if any of their executive directors is a foreigner or if no less than one-fifth (in the case of terrestrial broadcasting stations, including indirect investment) or one-third ("facility-supplying broadcasters") of voting rights in the aggregate are owned by foreigners.

Authority: Radio Law (1950), Broadcast Law (1950) as amended in April 2008.

b. Corporate organisation

Telecommunications: Board members and auditors in NTT and the Regional Companies are required to have Japanese nationality.

Authority: The Law Concerning Nippon Telegraph and Telephone Corporation, etc, 1984.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency at the Level of National Government

a. Investment by established foreign controlled enterprises.

None.

b. Corporate organisation

Maritime transport: In order to obtain the national flag, companies must be headquartered in Japan and their partners (unlimited partnership) and two thirds or more of their managing directors must be nationals. Without the national flag, vessels may not engage in cabotage.

Authority: Ship Law.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

Tobacco manufacturing.

II. Private or mixed (public/private) monopolies

None.

III. Concessions

None.

At the level of territorial subdivisions

None.

KOREA

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Trans-sectoral: The National Government has a right to deny acceptance of a foreign investment if there is clear evidence that this investment would hinder the maintenance of essential public interests. When the National Government decides to restrict a foreign investment, the categories of business and the contents of restriction shall be announced by the notification of the Minister of Knowledge Economy.

Air transport: Air traffic control is reserved to the national Government.

Telecommunications: Radar service and missile guidance services are reserved to the national Government.

b. Corporate organisation

Air transport: The Chief Executive of a Korean airline company must have Korean citizenship.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

LUXEMBOURG

A. Measures Reported for Transparency at the Level of National Government

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Postal services;
- Telecommunications (infrastructure, basic services);
- Import of electricity and natural gas;
- Railways (infrastructure).

II. Private or mixed (public/private) monopolies

None.

III. Concessions

- Radio and television broadcasting (national);
- Satellite broadcasting;
- Distribution of electricity and natural gas (national);
- Lotteries and casinos.

At the level of territorial subdivisions

I. Public monopolies

Water distribution.

II. Private or mixed (public/private monopolies)

None.

III. Concessions

Radio and television broadcasting (local).

MEXICO

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Trans-sectoral: The Foreign Investment Law (FIL) stipulates that a favorable resolution by the National Commission on Foreign Investment is required for foreign investment to participate in a percentage higher than 49% in some economic activities and companies (Article 8). The activities include: (1) port services in order to allow ships to conduct inland navigation operation, such as towing, mooring and barging; (2) shipping companies engaged in the exploitation of ships solely for high-seas traffic; (3) concessionaire or permissionaire companies of air fields for public service; (4) private education services of pre-school, elementary, middle school, high school, college or any combination; (5) legal services; (6) credit information companies; (7) securities rating institutions; (8) insurance agents; (9) cellular telephony; (10) construction of pipelines for the transportation of petroleum and products derived therefrom; (11) drilling of petroleum and gas wells; and (12) construction, operation and exploitation of general railways, and public services of railway transportation. The Commission has the authority and powers to resolve on the terms and conditions for the participation of foreign investment in activities or acquisitions with specific regulation, pursuant to Articles 8 and 9 of the FIL (Article 26). And, for reasons of national security, the Commission may prevent acquisitions by foreign investment (Article 30).

Defence: Sale or manufacture of firearms, cartridges, artificial explosives and fireworks.

Authority: Foreign Investment Law; Firearms and Explosives Federal Law.

b. Corporate organisation

Finance: The majority of the members of the board of directors and the general directors of an affiliate of a foreign financial institution must be Mexican residents.

Finance: The chief executive and the directors representing stock series "A" and "B" of financial holding companies in commercial banks controlled by Mexican nationals must be Mexicans. Members of the board of directors, officials and representatives of securities intermediaries that are registered with the National Registry of Securities and Intermediaries and are controlled by Mexican nationals must be Mexican nationals or residents.

Trans-sectoral: The chief executives of state majority-owned enterprises must be Mexican nationals.

Authority: FIL; Credit Institutions Law.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

The following activities are reserved to the State:

- Petroleum, other hydrocarbons and basic petrochemicals;
- Generation, transmission and supply of electricity as a public service;
- Nuclear power and treatment of radioactive minerals;
- Telegraph and postal services, and radiotelegraphy;
- Control, supervision and surveillance of ports, airports and heliports;
- Issuance of bills and minting coinage.

II. Private or mixed (public/private) monopolies

None.

III. Concessions

a. Activities subject to a special foreign investment regime:

- Bus and truck station administration and auxiliary services;
- Management and provision of port-related services;
- Loading and unloading services relating to water transport;
- Air navigation services and airport and heliport administration services and aircraft repair activities;
- Road and bridge administration services and auxiliary services;
- Construction and operation of marine and river works and shipyard;
- Operation of non-energy pipelines;
- Exploitation of water resources;
- Mining;

- Radio and television broadcasting;
- Forestry and hunting.

b. Other activities:

- All public services;
- Public property exploitation, other than the above-mentioned;
- Education;
- Exploitation of all kinds of inventions;
- Public commercial and industrial services.

Authority: Mexican Constitution; General Means of Communication Law; National Goods General Law; Water Federal Law; Radio and Television General Law; Education Law; Hunting Federal Law; Fisheries Law.

At the level of territorial subdivisions

None.

NETHERLANDS

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

None.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Transmission system operation and distribution system operation of electricity and gas grids, gas and water;
- Railway passenger services provided by the Dutch railways.

II. Private or mixed (public/private) monopolies

- Radio and television broadcasting facilities (broadcasting itself is not subject to monopoly);
- Public bus transport.

III. Concessions

National passenger services railways.

At the level of territorial subdivisions

Some provisional projects to get experience with concessions by local authorities for local railway passenger services.

NEW ZEALAND

A. Measures Reported for Transparency at the Level of National Government

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

Railways: Toll Holdings has exclusive rights to use the rail track for freight services until 2070. Other operators are involved in passenger services in some areas.

II. Private or mixed (public/private) monopolies

None.

III. Concessions

None.

At the level of territorial subdivisions

None.

NORWAY

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign-controlled enterprises

Defence: Foreign-controlled enterprises operating in Norway may not be granted a contract or sub-contract involving classified information, except under special arrangements to be determined on a case by case basis.

Authority: Regulations of July 2001 and September 2004.

Transport: Restrictions on the transport of classified military-sensitive goods.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

a. Investment by established foreign-controlled enterprises

None.

b. Corporate organisation

Trans-sectoral: Certain Norwegian laws, notably the Companies Act, require that the manager and at least one-half of the board members shall be domiciled in the European Economic Area and have resided there for at least two years.

Authority: Companies Act, and other laws.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Electricity transmission and distribution;
- Lotteries with money prizes and betting on sports events;
- Alcoholic beverages (sales and retailing subject to license from the local authorities).

II. Private or mixed (public/private) monopolies

- First-hand sales of the predominant part of the landings of fish;
- Postal services (for letters weighing less than 100 grams).

III. Concessions

- Distribution of water, gas, electricity;
- Bus transportation (on regular routes);
- Air transportation between destinations in Norway and destinations outside the EU/EEA Area;
- Railway transportation (Authorisation Regulations of 5 February 2003, section 2-1 and 2-2, cf. EEA-agreement Annex XIII No. 37 and No. 42a);
- Telephone (only mobile communications systems);
- Postal services;
- Sale of fish products (According to the Act relating to export of fish and fish products of 1 July 1991, the authorities may decide to centralise the sale of specific fish products or the sale of fish products to a certain market if the market situation justifies such restrictions).

At the level of territorial subdivisions

I. Public monopolies

None.

II. Private or mixed (public/private monopolies)

Bait for fishing purposes (concerns only the three northern counties of Norway: Norland, Troms and Finnmark).

III. Concessions

- Radio and television broadcasting;
- Distribution of pharmaceutical products (local);
- Sale and retailing of alcoholic beverages at the local level.

POLAND

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Real estate: Foreign-controlled enterprises require authorisation for the acquisition of real estate in border areas.

Authority: Act on acquisition of real estate by *foreign* parties (Journal of Acts, 24/1920, item 202; last amended in 1996).

Airports: Foreign-controlled enterprises require authorisation for the investment in an enterprise managing an airport and enterprises with foreign participation are not allowed to *establish* an airport.

Authority: Aviation Act as amended in 1996; Decree of the Minister of Transport concerning civil airports (Journal of Acts 37/1964, item 237).

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

a. Investment by established foreign controlled enterprises

None.

b. Corporate organisation

Broadcasting: The majority of the members of the Supervisory Board of a broadcasting company must be resident Polish citizens.

Authority: Act on broadcasting of 1992 (Journal of Acts 101/2001, item 1114 with amendments).

Telecommunications: The majority of the members of the Supervisory Board of a telecommunications company must be resident Polish citizens.

Authority: Act on telecommunication (Journal of Acts 86/1991, item 504).

Press: The editor in chief of a newspaper must be a Polish citizen.

Authority: Press Act (Journal of Acts 5/1984, item 24).

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

None.

PORTUGAL

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Maritime transport: Maritime cabotage between the Portuguese mainland and the Azores and between the Azores reserved to the national flag.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Postal communications;
- Production and distribution of water for public use;
- Basic sanitation;
- Rail transport (exploited as a public service);
- Operation of sea and air ports;

II. Private or mixed (public/private) monopolies

War material industries.

III. Concessions

- Telecommunications (as a public service);
- Exploitation of subsoil and natural resources;
- Petrochemical industries.

At the level of territorial subdivisions

None.

SLOVAK REPUBLIC

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

None.

II. Other measures reported for transparency

a. Investment by established foreign controlled enterprises

None.

b. Corporate organisation

Foreign natural persons entrusted to represent the entrepreneur have to submit a permit to stay in the Slovak Republic.

Auditing: The majority of the members of the Board of auditing companies established in the Slovak Republic must be auditors registered in the Slovak Chamber of Auditors or a similar register in an OECD Member country.

Authority: Law No. 73/1992 Coll. on Auditing Services and the Slovak Chamber on Auditors.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

SPAIN

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Defence: Participation, direct or indirect, by foreign investors in Spanish companies whose activities are related to defence (i.e. production and commerce of weapons and war materials) is subject to authorisation.

Authority: Foreign Investment Law; RD 664/1999; Arms regulations; RD 2179/81.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Certain postal services;
- Distribution of electricity (high tension) and gas in rural areas;
- Railways;
- Nuclear-waste disposal industries.

II. *Private or mixed (public/private) monopolies*

- Certain categories of insurance (compulsory travellers' insurance, official motor vehicle third party insurance, insurance on extraordinary risk);
- Distribution of tobacco;
- Distribution of petroleum products.

III. *Concessions*

- Private TV broadcasting;
- Regular road transport;
- National lotteries.

At the level of territorial subdivisions

None.

SWEDEN

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Defence: A government permit is required for both foreign-controlled and domestic enterprises to produce war munitions in Sweden. In practice, a foreign-controlled enterprise is allowed to produce war munitions only to a small extent. Only companies with a clause in their articles of association restricting foreign ownership to 20 per cent of the votes and 40 per cent of the capital can normally obtain a permit to manufacture defence material and war munitions.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Television and radio broadcasting;
- Mail distribution;
- Football pools, state lotteries with money prizes and horse betting;
- Import and sale of alcoholic beverages;

- Retail sale of pharmaceutical products;

II. Private or mixed (public/private) monopolies

None.

III. Concessions

- Wire Services;
- Pipelines for natural gas and oil.

At the level of territorial subdivisions

I. Public monopolies

Regional and local scheduled passenger traffic.

II. Private or mixed (public/private monopolies)

None.

III. Concessions

- Regional and local passenger traffic;
- Local distribution of electricity (high voltage).

SWITZERLAND

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

None.

II. Other measures reported for transparency

a. Investment by established foreign-controlled enterprises

None.

b. Corporate organisation

Trans-sectoral: A person domiciled in Switzerland shall be able to represent a legal person. A member of the governing body of the legal person or another person with the right to represent the legal person may fulfil this obligation. Further requirements on the domicile in Switzerland may exist on a sectoral or cantonal level.

Authority: Law RS 220 (1 January 2008).

Hiring services: The person responsible for the management of a business offering hiring services must be a Swiss citizen or have a permanent residence in Switzerland. Special requirements apply to EU and EFTA citizens.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

a. Investment by established foreign-controlled enterprises

Cantons

Oil and gas: An inter-cantonal agreement among ten cantons requires that a concession for the production of petroleum be accorded only to companies where Swiss participation is at least 75 per cent.

b. Corporate organisation

None.

c. *Government purchasing*

None.

d. *Official aids and subsidies*

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. *Public monopolies*

- Part of postal services;
- Scheduled passenger transport services by boat, car, cable car or other means (concessions may be granted to private firms);
- Railways (concessions may be granted to private firms);
- Manufacture of distilled beverages.

II. *Private or mixed (public/private) monopolies*

- Radio and television broadcasting (concession may be granted to private firms);
- Air security services.

III. *Concessions*

As well as the concession schemes mentioned under the headings of public, mixed and private monopolies, other business are subject to authorisation or the granting of a concession. They include trade in arms and explosives and the purchase and sale of melted-down precious metals.

At the level of territorial subdivisions

I. *Public monopolies*

Cantonal monopolies on fishing, hunting, mining, salt, fire and natural damage insurance on buildings, transmission and distribution of electricity, notaries, gas meters, environmental services (potable water, waste management), outdoor advertising, casinos and lotteries, etc.

II. *Private or mixed (public/private monopolies)*

None.

III. *Concessions*

None.

TURKEY

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Manufacturing – Petroleum: No real or legal person acting for or on behalf of financial or beneficial interests of a foreign state may hold petroleum right or conduct any business activity related with petroleum without the authorisation of the Council of Ministers. Petroleum related activities can be carried out through locally incorporated stock companies or Turkish branches of stock companies incorporated abroad.

Authority: Articles 6 and 12 of the Petroleum Law No. 6326.

Air transport: Cabotage is reserved to national aircraft which are defined as aircraft owned by associations or companies formed in accordance with Turkish laws and regulations, with the majority of managerial staff and representatives of Turkish nationality and with the voting majority held by partners of Turkish nationality.

Authority: Articles 31 and 49 of Civil Aviation Law No. 2920.

Maritime transport: Cabotage is reserved to Turkish citizens and/or ships flying the national flag. Ships belonging to legal persons set up in accordance with Turkish laws, with the majority of managerial staff and representatives of Turkish nationality and with the voting majority held by partners of Turkish nationality are accepted as Turkish and have the right to fly the Turkish flag.

Authority: Cabotage Act No. 815 and Turkish Trade Law No. 6762.

Real Estate: Companies operating in accordance with Law 4875 (Foreign Direct Investment Law) can generally acquire real estate needed for their activities. However, they need prior authorization for acquiring real property in some areas due to national security concerns.

Authority: Military restricted region and security regions law No. 2565 and Article 35 of the Land Registry Law No. 2644.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

a. Investment by established foreign controlled enterprises

Radio and TV broadcasting: Twenty-five per cent foreign ownership limitation for radio and/or TV broadcasting.

Authority: Law No. 3984 on Establishment and Broadcasting of Radios and Televisions.

Fishing: Foreign persons cannot fish within the fishing area defined in the 1st or the 4th Article of Law on Territorial Waters or in the internal waters.

Authority: Law No. 1380 on Marine Products amended by Article 2 of Law No. 4970 dated 22 July 2003.

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

- Postal services (all the open and closed letters and postcards constituting any kind of correspondence, without any weight limit. Courier companies may supply freely services that are not covered by postal monopoly, such as pick-up and delivery of parcels and packages);
- Railways;
- Airports;*
- Public utilities;
- Lotteries (except lotteries for goods),** football pools;
- Import, export, distribution of alcoholic beverages (except wine and beer);

* Investment in airports and armaments is open to private investors provided that an authorisation has been granted.

** By Law No. 4971 passed on 15 August 2003, a license to organise lotteries, for a period of not more than 10 years, has been granted to the private sector.

- Import/distribution of tobacco (the government may grant authorisation to private companies under certain circumstances);
- Armaments, * explosives, gun powder.

II. Private or mixed (public/private) monopolies

None.

III. Concessions

None.

At the level of territorial subdivisions

None.

UNITED KINGDOM

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Aerospace / Defence: The Articles of Association of BAE Systems plc and Rolls Royce plc include a 15% limit on the percentage of shares that can be held by an individual foreign shareholder or individual foreign shareholders acting in concert.

Authority: The Articles of Association of BAE Systems plc and Rolls-Royce plc.

Energy: The Articles of Association of British Energy require the consent of the Secretary of State for Trade and Industry and the Secretary of State for Scotland for a third party to purchase more than 15% of British Energy's issued shares and for the disposal of any of British Energy's nuclear power stations. Consent can only be withheld on national security grounds.

Authority: The Articles of Association of British Energy.

Manufacturing: The Industry Act (1975) gives the Secretary of State for Trade and Industry the powers necessary to prohibit a proposed transfer of control of an important UK manufacturing undertaking to a non-resident where the transfer is considered contrary to the interests of the UK or a substantial part of it. If it is considered that the national interest cannot appropriately be protected in any other way, property in such a proposal or completed transfer may be compulsorily acquired against compensation. Both prohibition and vesting orders are subject to Parliamentary approval. These powers have not been used hitherto.

Authority: The Industry Act (1975).

Maritime transport: Importation and exportation of certain military freight of a sensitive nature reserved to the national flag.

Authority: Administrative/security policy.

Merger Control: The Enterprise Act (2002) provides for the regulatory control of mergers. It includes provision for the Secretary of State for Trade and Industry to require an investigation into public interest concerns he considers may be raised by a merger – subject to the stated concern being one or more of the Public Interest Considerations that have been specified under Section 58 of the Act and approved by Parliament. Where such an investigation subsequently finds that the merger operates against the stated public interest consideration, the Secretary of State may take any of the remedial measures specified in Schedule 7 to the Act. Such measures might include blocking the merger altogether or allowing it to proceed subject to certain conditions.

Authority: The Enterprise Act (2002).

b. Corporate organisation

Aerospace/Defence: The Articles of Association of BAE Systems plc and Rolls-Royce plc provide citizenship requirements for the companies' directors and Chief Executive.

The Articles of Association of Rolls-Royce plc provide that disposals of (i) the whole or a material part of the company's nuclear business, or (ii) of the Group as a whole, require the consent of the Special Shareholder. In addition, a proposal for the voluntary winding-up or dissolution of Rolls-Royce plc requires the consent of the Special Shareholder.

Defence: Special shares are held in the following organisations: Rosyth Royal Dockyard Limited, Devonport Royal Dockyard Limited, BAES (Marine) Limited, the Atomic Weapons Establishment plc and QinetiQ establishments.

Under the Articles of Association, the special shareholder has a variety of rights relating to such issues as citizenship requirements for the company directors; control over the percentages of individual and/or foreign owned shares, and the voluntary windup, dissolution, or disposal of any strategic assets.

Authority: The Articles of Association of the above companies.

c. Government purchasing

Defence: In a limited number of cases, foreign controlled enterprises operating in the United Kingdom may not be granted defence procurement contracts, where overriding security reasons apply.

d. Official aids and subsidies

None.

II. Other measures reported for transparency

a. Investment by established foreign controlled enterprises.

Maritime transport: A ship cannot be deemed to be a "British" flag ship unless a majority interest in it is owned by British subjects or bodies incorporated under and subject to the laws of the U.K., a Crown Dependency or a Dependent Territory.

Authority: Merchant Shipping Act (1894).

b. Corporate organisation

None.

c. Government purchasing

None.

d. Official aids and subsidies

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

None.

At the level of territorial subdivisions

I. Public monopolies

Water distribution (Scotland) and subject to price regulation.

II. Private or mixed (public/private monopolies)

None.

III. Concessions

None.

UNITED STATES

A. Measures Reported for Transparency at the Level of National Government

I. Measures based on public order and essential security considerations

a. Investment by established foreign controlled enterprises

Trans-sectoral: Under the US Omnibus Trade and Competitiveness Act, the President has the power to block a foreign acquisition which threatens to impair the national security. The President may use this power only if the President finds, after an investigation, that ; 1) there is credible evidence leading him to believe that the foreign interest might take action that threatens to impair the national security, and 2) other provisions of law (e.g. antitrust laws, Export Administration Act, Defence Production Act, International Trade in Armaments Regulations) other than the International Emergency Economic powers Act do not in his judgement provide adequate and appropriate authority to protect the national security.

Authority: Defence Production Act (1950), Section 721, as added by §5021 of the Omnibus Trade and Competitiveness Act (1988), and as amended by §837 of the National Defence Authorisation Act for Fiscal Year 1993. 50 U.S.C. App. 2170 and by the Foreign Investment and National Security Act (2007), Pub. L. 110-49.

Air transport: Cabotage reserved to national airlines at least 75 per cent owned by US citizens. Also, there are citizenship requirements for management and board of directors.

Authority: Federal Aviation Act (1958). 49 U.S.C. 41703.

Maritime services: Foreign-controlled enterprises may not engage in dredging or salvaging.

Authority: Act of May 28, 1906, Section 1, as amended (46 U.S.C. App. 292).

Maritime transport: Foreign-controlled enterprises may not acquire, mortgage or charter vessels owned by a US citizen, documented under US law, or last documented under US law without the approval of the Secretary of Transportation. In times of war or national emergency this provision extends to shipyard facilities and controlling interests in corporations owning such facilities or US flag vessels.

Authority: 46 U.S.C. App. 1241, 1241-1.

Maritime transport: Cabotage reserved to ships owned by US citizens or companies with minimum 75 per cent ownership by US citizens.

Authority: Jones Act, Section 27 of the Merchant Marine Act (1920).

Maritime transport: Products exported pursuant to US Government loan for this purpose restricted to national flag.

Authority: 46 U.S.C. App. 1241, 1241-1.

Maritime transport: Transport of military supplies and personal effects of military and civilian employees reserved to national flag.

Authority: Cargo Preference Act of 1904 (10 U.S.C. 2631).

Radio and television, communications: For radio, broadcasting, and telephone companies in regard to common carrier radio licences, US enterprises with foreign ownership exceeding 20 per cent, aliens, and foreign corporations may not be granted the relevant licence. When a corporation is directly or indirectly controlled by another corporation, the Federal Communications Commission may refuse to approve a licence if more than a 25 per cent interest in the controlling company is foreign and if the Commission finds it in the public interest to do so. There are additional restrictions on the nationality of management that apply in the case of broadcasting companies, and telephone companies having a common carrier radio licence.

Authority: Communications Act of 1934. 47 U.S.C. §§151 et seq., see particularly §§310(b).

b. Corporate organisation

Communications: Under a 1984 law, the Department of Commerce is authorised to award a contract, through a competitive process, to a "United States private sector party" for the marketing of data from the government-owned "Landsat" system, as well as for the development and operation of a new civil and remote sensing system. A firm's eligibility for the contract awarded is predicated upon its key management and a majority of its Directors being US citizens, as well as it having a US corporate headquarters and having filed a US tax return in previous years.

Authority: Land Remote Sensing Commercialisation Act 1984. 15 U.S.C. §§4212, 4222.

c. Government purchasing

Defence: Foreign-controlled enterprises operating in the United States may not be granted a contract or subcontract involving classified information, except under special arrangements to be determined on a case-by-case basis.

Authority: US Dept. of Defence Regulation 5200.22-R, Sect. II; Executive Order 10865, 12064.

Air transport: Foreign-controlled carriers cannot compete for Federal Government contracts for international air carriage of persons or property, except in limited instances between two foreign points.

Authority: Federal Aviation Act (1958).

d. Official aids and subsidies

Maritime transport: Foreign-controlled enterprises may not: 1) obtain loan guarantees or tax deferment benefits for the financing or re-financing of the cost of purchasing, constructing or

operating commercial vessels or gear, or obtain war risk insurance; 2) sell obsolete vessels to the Secretary of Transportation in exchange for credit towards new vessels; 3) hold a preferred ship mortgage (however foreign-controlled corporations may have a preferred ship mortgage as long as a US citizen trustee holds the mortgage for their benefit); 4) purchase vessels converted by the government for commercial use or surplus war-built vessels at a special statutory sales price; 5) obtain construction-differential or operating-differential subsidies for vessel construction or operation.

Authority: Merchant Marine Act (1936), Merchant Ship Sales Act (1946).

II. Other measures reported for transparency at the Level of National Government

a. Investment by established foreign controlled enterprises

Trans-sectoral: To engage in certain activities, a foreign-controlled enterprise operating in the United States must meet certain requirements relating to the form of its business organisation. For example, a foreign-controlled enterprise must incorporate under the laws of one of the States of the United States in order to obtain licences to: 1) construct dams, reservoirs, power facilities and transmission lines; or 2) mine uranium. Similar state-level measures exist in some states.

Authority: 16 U.S.C. §797.

b. Corporate organisation

Energy: There are corporate organisation requirements, defining "US citizen", for a licence to own, construct or operate: (1) an ocean thermal energy conversion (OTEC) facility located in US territorial waters, documented under US laws, or connected to the US by pipeline or cable; or (2) a moving OTEC plant ship wherever located. The president or other executive officer and the chairman of the board of directors must be US citizens and the board of directors must have no more foreign citizens servicing as directors than a minority of the number necessary to constitute a quorum. In addition, there is a reciprocity provision for plant ships in the Ocean Thermal Energy Conversion Act.

Authority: Ocean Thermal Energy Conversion Act (1980). Section 1. 42 U.S.C. §9111, 42 U.S.C. §9102(18).

Banking: A majority of the directors of a national bank that is an affiliate or subsidiary of a foreign bank must be US citizens.

Authority: The National Bank Act. 12 U.S.C. §72.

Customs brokerages: To obtain a licence to operate a customs brokerage, one officer or partner of a firm must be a licensed customs broker and a US citizen.

Authority: Tariff Act (1930), 19 U.S.C. §1641(b).

c. Government purchasing

None.

B. Measures Reported for Transparency at the Level of Territorial Subdivisions

a. Investment by established foreign controlled enterprises

Ohio

Agricultural Land: Reporting requirements: Non-resident, non-US citizens foreign governments and entities controlled by foreigners organised in/or having their principal place of business in foreign nations and holding an interest in agricultural land, must file a disclosure statement with the state.

Authority: Revised Statutes, Chapter 442.

Nebraska

Agriculture: Neither foreign nor out-of-state firms may engage in farming or ranching.

Authority: Constitution of Nebraska, Article 12, paragraph 8 (1).

Illinois, Massachusetts, Florida, South Dakota

Fishing: These states regulate in some way commercial fishing by vessels owned by out-of-state residents. Most such states distinguish between state and out-of-state residents. For example, regarding commercial freshwater fishing, an alien or other non-resident must pay \$500 for a permit, while a comparable licence fee for a resident is \$40. In a few states foreigners' operations are regulated explicitly.

Hawaii

Hunting and Fishing: Only resident of the state may obtain a licence for the purpose of importing game birds for a private or commercial shooting game preserve.

Authority: Revised Statutes, Section 183D-34, 35.

Rhode Island, Connecticut

Manufacturing – Public Utilities: Rhode Island: No public utility shall sell its product in the State unless it has received a certificate from the State. The certificate shall only be given to a resident and citizen of the state or an association, all of whose members are residents and citizens of the state, or to a corporation created by a special act of the General Assembly.

Connecticut: Out-of-state electric companies must notify State officials and fulfil certain requirements before owning and operating an electric utility.

Authority: Rhode Island: Section 39-3-1, -2. Connecticut: General Statute, Section 16-246C (1989).

Connecticut, Guam, Oregon

Banking:

Connecticut: In order to acquire a Connecticut banking institution, all-out-of-state banks must meet prudential requirements and be from jurisdictions which allow Connecticut banks to acquire domestic banks on terms no less restrictive than imposed by Connecticut.

Guam: Non-territory banks received branch privileges similar to those given to a Guam bank in their jurisdiction.

Oregon: To hold property in trust, out-of-state banking firms must be incorporated or domiciled in a jurisdiction that allows Oregon banks to hold property in trust. A grandfather clause applies.

Authority: Connecticut: General Statutes Sec. 36-35; Public Act 90-2. Guam: Civil Code. Oregon: Revised Statutes, Section 713.010-.110.

Rhode Island

Banking – Asset requirements: A building and loan association incorporated out-of-state must have assets over US \$100 000.

Authority: Statute, Section 19-24-1 to 6.

Minnesota, South Dakota, Massachusetts, Nebraska, New Jersey, New York, Pennsylvania, Rhode Island, Texas, Virginia

Banking – Authorisation/Notification:

Minnesota: Non-resident (foreign and out-of-state) banks must be chartered under the laws of Minnesota to do business.

South Dakota: Special requirements apply to the acquisition of shares in a bank by out-of-state bank holding companies. An out-of-state bank may not acquire shares, whereas a foreign bank not established in another state is considered as a South Dakota bank for the purpose of acquiring shares.

Massachusetts: Out-of-state banks must file a certificate to transact business, as do banks from other New England state.

Nebraska: All State chartered banks doing business in the State must be organised under Nebraska laws. Banks organised under 12 USC 21 et. seq. are not bound by this requirement.

New Jersey: Banks doing business in the State must be established in accordance with New Jersey State law.

New York: Non US Banks with world-wide assets of under \$500 million must apply for a licence to maintain a representative office. Those with over \$500 million assets need only register.

Pennsylvania: Non US Banks require written permission from the Department of Banking to establish offices.

Rhode Island: Building and loan associations must provide certain information to be licensed.

Texas: Agencies of bank corporations not organised in the US must register and obtain a licence from the State and may only maintain one office in the State.

Virginia: No foreign corporation that does not meet the requirements of Virginia law can engage in banking or in the trust business.

Most states (exceptions listed below)

Insurance – Demonstrated experience requirements: Most states require new applicants for insurance licences to have demonstrated up to five years of successful insurance experience in another jurisdiction before their application can be considered. Some states waive this requirement for companies that are newly incorporated in their state, judging the new applicant on the grounds of solvency and business experience in other fields. All states treat US branches admitted to the US market through their own state in the same manner as they treat locally incorporated companies. Firms incorporated in another state and US branches of non-US firms admitted to the US market through another US state are required to meet seasoning requirements that may have slightly longer time frames. Many states give insurance Commissioners the authority to modify or waive these requirements under certain conditions. The states which do not have such seasoning requirements are: Georgia, Idaho, Indiana, Louisiana, Michigan, Missouri, Montana, Nevada, Ohio, Oklahoma and Rhode Island. In addition, Oregon, Texas and Wisconsin impose seasoning requirements only as a matter of reciprocity, i.e. when the home state of the applying firm imposes such requirements.

California, Connecticut, Florida, Iowa, Kansas, Michigan, Montana, New Jersey, North Carolina, North Dakota, Oregon, Pennsylvania

Insurance – deposit requirements: The above states treat out-of-state firms (i.e. incorporated in another state or outside the US) differently from in-state firms with respect to deposit requirements:

California: Deposits for US branches are the same regardless of their port-of-entry state.

Connecticut: US branches must maintain assets in the US equal to their US liabilities, plus minimum capital and surplus requirements. Foreign and alien life insurance companies must maintain a surplus fund of not less than \$3 million.

Florida/Iowa/Louisiana/South Carolina: Deposit amounts are the same for domestic companies and US branches admitted to the US market through the state in question, but deposit amounts are different for foreign companies and US branches admitted through other states.

Kansas: US branches must have \$100 000 in excess of all their liabilities in the US for unpaid losses and other liabilities.

Michigan: Domestic companies must deposit \$300 000. US branches entered through Michigan must have trustee assets. Foreign companies and US branches that enter through other states are not required to make an additional deposit. However, they may be subject to retaliatory provisions.

Montana: Foreign and alien companies must maintain deposits that are four times higher than domestic ones. Non resident insurers which have transacted insurance for less than five years in the United States must maintain an additional surplus in Montana to do business in the state.

New Jersey: Deposits are the same for all non-life companies. For life and health companies, deposit amounts for domestic companies are different for those for foreign companies and US branches admitted through another state.

North Carolina: Deposit requirements are lower for domestic companies than for foreign and alien companies. US branches must also have total statutory deposits in the US equal to the normal capital required for admission into insurance business in the state.

North Dakota: foreign and alien companies must indicate the amount and location of deposits within the US.

Oregon: There are no deposit requirements for domestic companies. A \$100 000 to \$260 000 deposit is required for foreign and alien companies on some types of insurance.

Pennsylvania: Special capitalisation requirements apply to foreign life insurance companies.

Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Kansas, Maryland, Montana, Nevada, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, West Virginia, Washington, Wyoming.

Insurance – Licensing: These states do not issue a licence to any government owned insurance company. These restrictions apply to all out of State government owned companies, not solely those owned by foreign interests.

Illinois, Massachusetts, New Jersey, New York, Pennsylvania

Insurance – Reviews: These states issue continuous licences for insurance companies incorporated in their state but require periodic review for licences issued to other companies; in general, renewal is automatic unless a firm has unpaid premium taxes or other similar problems.

Some States

Maritime transport: Some states may restrict the operation of vessels by aliens (and out-of-state residents) through higher licence fees than those paid by state residents.

b. *Tax obligations*

Hawaii

Real Estate: As of January 1991, persons who are not residents of Hawaii and who sell Hawaii real property are subject to income tax withholding.

Authority: Act 213, Hawaii Sess. Laws.

Rhode Island

Banking: Building and loan associations incorporated out of state must pay a tax of 25 per cent of the difference between their deposits and investments in the state.

Authority: Statute 19.24.1 to 6.

c. *Corporate organisation*

Connecticut, Hawaii, Maryland, Michigan, Missouri, New Jersey, North Carolina, South Dakota

Banking: Residency requirements

Connecticut: At least three-quarters of the members of the governing board of a state bank and trust company must be residents of the state.

Hawaii: At least three of the directors of any bank must be residents of Hawaii at the time of their election and during their term of office.

Maryland: Only Maryland citizens who are US citizens may act as incorporators of state banks, trust companies, savings banks and savings and loan associations.

Michigan: Incorporators have to be US citizens.

Missouri: Non-resident (out-of-state and non-US) persons may not act as a trustee on a deed of trust or conveyance unless a qualified Missouri person is named as co-trustee.

New Jersey: The incorporators and directors of savings and loan associations organised in New Jersey must be US citizens.

North Carolina: Three-quarters of the directors of banks under state banking laws must be residents of North Carolina.

South Dakota: Three-quarters of a bank's board of directors must be US citizens. Moreover, the incorporators of a bank and the majority of the incorporators of a savings and loans association must reside in the state. Two-thirds of the bank's board of directors must be residents in the state and a majority must reside within 100 miles of the place of business. A majority of the board of a savings and loan association must be state residents.

Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, Wyoming

Insurance: In the states, the incorporators, officer and/or directors of companies incorporated in the state and/or entering through another must meet citizenship and/or residency requirements.

Florida

Trans-sectoral: Both Florida and out-of-state corporations that own real estate must maintain an office and registered agent in the state.

Authority: Florida State. 607.0505 (1989)

All states

Trans-sectoral – Registration, agent/office requirements: In conformity with the Model Business Corporation Act, all states, Puerto Rico and DC require out of jurisdiction corporations to obtain a certificate of authority to transact business in the jurisdiction. Arkansas, Kansas, Massachusetts, Nevada and Puerto Rico require certain filings by out of jurisdiction corporations,

but do not provide specifically for a certificate to be issued. All jurisdictions, except Connecticut, Puerto Rico, Massachusetts, Maryland, New York, Oregon, Pennsylvania and West Virginia require out of jurisdiction corporations to maintain a registered principal office and a registered agent in the state. Maryland, Puerto Rico and Virginia require the agent to be either an individual or an in-state corporation.

Authority: Model Business Corporation Act, annotated third addition.

d. Government purchasing

None.

C. Activities Covered by Public, Private, Mixed Monopolies or Concessions

At the level of national government

I. Public monopolies

Certain postal services (only the U.S. Postal Service may carry letters for compensation, except in special circumstances specified in postal regulations).

II. Private or mixed (public/private) monopolies

The Communication Satellite Corporation was established by the Communications Satellite Act of 1962 as a private corporation to establish and operate a commercial satellite system. Under the Act, not more than an aggregate of 20 per cent of the shares of its stock which are offered to the public may be held by aliens, foreign governments, or foreign-owned, registered or controlled corporations. However, other companies with the authorisation of the Federal Communications Commission may provide customised business international communications services by satellite.

III. Concessions

None.

At the level of territorial subdivisions

I. Public monopolies

None.

II. Private or mixed (public/private monopolies)

None.

III. Concessions

In some States there are activities subject to monopoly (e.g. public utilities, liquor sales) but the situation varies from state to state.