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NATIONAL TREATMENT FOR FOREIGN-CONTROLLED ENTERPRISES

DECISION OF THE COUNCIL
INCLUDING MEMBER COUNTRIES’ EXCEPTIONS TO NATIONAL TREATMENT

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Paris 1995

COMPLETE DOCUMENT AVAILABLE ON OLIS IN ITS ORIGINAL FORMAT
"National Treatment" is the commitment by a country to treat enterprises operating on its territory, but controlled by the nationals of another country, no less favourably than domestic enterprises in like situations. This commitment is enshrined in the Declaration on International Investment and Multinational Enterprises, adopted in 1976 by the Governments of the OECD Member countries. It is supported by follow-up procedures in an arrangement known as the OECD National Treatment instrument.

The National Treatment instrument’s follow-up procedures, which are designed to encourage the fullest possible application of National Treatment by Member countries, are set out in an OECD Council Decision of December 1991. The text of this Decision is reproduced in the present document, including in Annex A the full list of exceptions to National Treatment by country, accepted by the Council as of 22 May 1995.

This list includes all countries which have adhered to the Declaration on International Investment and Multinational Enterprises, as well as the related Decisions and Recommendations by the OECD Council, including the National Treatment instrument, namely the OECD Member countries and Hungary. This means that all references to Member countries in these instruments are deemed to include Hungary.

Since the publication of the previous list [OCDE/GD(94)54)] the exceptions of four Member countries have been comprehensively revised: Denmark, Finland, Norway and the United States.

Further information on the OECD’s National Treatment instrument is contained in the publication National Treatment for Foreign-Controlled Enterprises (OECD Publications, 1993). This publication includes detailed information on the exceptions to National Treatment of each country and on other measures that affect the activities of foreign-controlled enterprises. Another publication, The OECD Declaration and Decisions on International Investment and Multinational Enterprises: 1991 Review (OECD Publications, 1992) examines the experience in applying these instruments over the years preceding the review and reports on the ways the review has strengthened them.

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Third Revised Decision of the Council on National Treatment
(Adopted by the Council at its 772nd Session on
12, 13, 17 and 19 December 1991)

THE COUNCIL,

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960 and, in particular, to Articles 2 c), 2 d), 3 and 5 a) thereof;

Having regard to the Resolution of the Council of 13 December 1984 on the Terms of Reference of the Committee on International Investment and Multinational Enterprises [C(84)171(Final)];

Having regard to the Section on National Treatment of the Declaration by Governments of OECD Member countries of 21 June 1976 on International Investment and Multinational Enterprises [hereinafter called "the Declaration"];

Having regard to the Second Revised Decision of the Council of 17 May 1984 on National Treatment [C(84)91];

Having regard to the report by the Committee on International Investment and Multinational Enterprises on strengthening procedures under the National Treatment instrument [C(91)147]*;

Considering it appropriate to strengthen the procedures established within the Organisation for reviewing laws, regulations and administrative practices (hereinafter called "measures") which depart from National Treatment, as defined in the Declaration (hereinafter called "National Treatment");

On the proposal of the Committee on International Investment and Multinational Enterprises;

DECIDES:

The Second Revised Decision of the Council of 17 May 1984 on National Treatment [C(84)91] is repealed and replaced by the following:

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* This Report was not in General Distribution.
Article 1

NOTIFICATION

a. Members (1) shall notify the Organisation of all measures constituting exceptions to National Treatment within 60 days of their adoption and of any other measures which have a bearing on National Treatment. All exceptions shall be set out in Annex A to this Decision.

b. Members shall notify the Organisation within 60 days of their introduction of any modifications of the measures covered in paragraph (a).

c. The Organisation shall consider the notifications submitted to it in accordance with the provisions of paragraphs (a) and (b) with a view to determining whether each Member is meeting its commitments under the Declaration.

Article 2

EXAMINATION

a. The Organisation shall examine each exception lodged by a Member and other measures notified under Article 1 at intervals to be determined by the Organisation. These intervals shall, however, be not more than three years, unless the Council decides otherwise.

b. Each Member shall notify the Organisation prior to the periodic examination called for in paragraph (a), whether it desires to maintain any exception lodged by it under Article 1 and if so, state its reasons therefore.

c. The examinations provided for in paragraph (a) shall be directed at making suitable proposals designed to assist Members to withdraw their exceptions.

d. The examinations provided for in paragraph (a) shall be country reviews in which all of the exceptions lodged by a Member are covered in the same examination.

e. Notwithstanding paragraph (d), the examinations provided for in paragraph (a) may focus on specific types or groups of measures of particular concern, as and when determined by the Organisation.

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(1) For the purposes of this Decision, "Members" means all parties to the Decision.
Article 3

REFERENCE TO THE ORGANISATION

a. If a Member considers that another Member has, contrary to its undertakings with regard to National Treatment, retained, introduced or reintroduced measures and if it considers itself to be prejudiced thereby, it may refer to the Organisation.

b. The fact that the case is under consideration by the Organisation shall not preclude the Member which has referred to the Organisation from entering into bilateral discussion on the matter with the other Member concerned.

Article 4

COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES: GENERAL TASKS

a. The Committee on International Investment and Multinational Enterprises (hereinafter called "the Committee") shall consider all questions concerning the interpretation or implementation of the provisions of the Declaration or of Acts of the Council relating to National Treatment and shall report its conclusions thereon to the Council.

b. The Committee shall submit to the Council any appropriate proposals in connection with its tasks as defined in paragraph (a) and, in particular, with the abolishing of measures constituting exceptions to National Treatment.

Article 5

COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES: SPECIAL TASKS

a. The Committee shall:

   i) consider, in conformity with paragraphs (a) and (b) of Article 2, each exception notified to the Organisation and make, where appropriate, suitable proposals to assist Members to withdraw their exceptions;

   ii) consider, in accordance with Article 1, the notifications submitted to the Organisation;

   iii) consider references submitted to the Organisation in accordance with the provisions of Article 3;
iv) act as a forum for consultations, at the request of a Member, in respect of any matter related to the Declaration and its implementation.

b. The Committee may periodically invite the Business and Industry Advisory Committee to the OECD (BIAC) and the Trade Union Advisory Committee to the OECD (TUAC) to express their views on matters related to National Treatment and shall take account of such views in its reports to the Council.

Article 6

REVIEW OF THE DECISION

This Decision shall be reviewed within three years*.

Article 7

PARTICIPATION BY THE EUROPEAN ECONOMIC COMMUNITY

The present Decision, as well as any further Decision amending it, shall be open for accession by the European Economic Community. Such accession shall be notified to the Secretary-General of the Organisation.

* In February 1995, the Council agreed that no change of the Decision was necessary.
EXCEPTIONS TO NATIONAL TREATMENT

The following exceptions to National Treatment have been notified under Article 1 of the Decision as of 22 May 1995.
I. Investment by established foreign-controlled enterprises

(1) Trans-sectoral: In the following sectors -- rural properties, agriculture, forestry, fishing, resource processing, oil and gas, mining (excluding uranium), manufacturing, non-bank financial institutions, insurance, stockbroking, tourism (hotels and resorts), most other services -- proposals for the establishment of new businesses involving total investment of A$10 million or more and proposals for the acquisition of existing businesses with total assets valued at more than A$5 million (more than A$3 million if greater than half the assets of the businesses are attributable to rural land) are notifiable. Proposals where the target assets or the planned investment outlays are valued above these thresholds but below $A50 million will normally be approved without examination. Proposals where the valuation is $A50 million or more will be approved, unless judged by the government to be contrary to the national interest.

(2) Real estate: Authorisation requirement for all acquisitions of real estate unless exempt by regulation. Acquisitions of non-residential commercial real estate for development are normally approved, as are acquisitions of developed non-residential commercial real estate subject to such acquisitions being made with 50 per cent Australian equity participation; where Australian equity is not available, 100 per cent acquisitions by foreign interests are approved unless they are contrary to the national interest. Approval is also normally granted for residential land for development and for the acquisitions of dwellings (including condominiums), direct from a developer, either “off the plan”, while under construction or completed but never occupied provided that no more than 50 per cent of the total number of dwellings are sold to foreign investors. Foreign acquisitions of established residential real estate are not normally approved except in cases involving temporary residents who require accommodation for a period in excess of twelve months, subject to resale of the property upon departure. Foreign persons who are entitled to be permanently resident in Australia are not required to seek approval to acquire any form of residential real estate. Foreign acquisition of residential real estate (including condominiums) within a designated Integrated Tourist Resort (ITR) is exempt from authorisation.

(3) Air transport: Cabotage reserved to national airlines.

(4) Air transport: Generally, a foreign international airline operating services to Australia may only own a 25 per cent interest in a domestic carrier, and in aggregate such investments are limited to 40 per cent in total of any domestic carrier. Other foreign investors may acquire up to 100 per cent of a domestic carrier or establish a new aviation business. Foreign ownership of Australia’s International flag carrier, Qantas, is not to exceed 35 per cent, and no single foreign interest can exceed 25 per cent of equity of Qantas.

(5) Newspapers: Restrictions on participation by foreign interest in mass circulation newspapers. All proposals to establish or acquire a newspaper require authorisation. Foreign interests may not normally establish ethnic newspapers unless there is a substantial involvement by the ethnic community and effective control of editorial policy.

(6) Radio and television: A "foreign person" may not be in a position to exercise control of a television licence, or have company interest in such a licence exceeding 15 per cent individually, and two or more foreign persons must not have company interests in such a licence exceeding 20 per cent in aggregate. Proposals for foreign investment in radio which fall within the scope of the Foreign Acquisitions and Takeovers Act are considered on a case-by-case basis.
Maritime transport: In order to be registered as an Australian flag vessel, a ship needs to be majority-owned by an Australian national (i.e. an Australian citizen, a body corporate established by or under a law of the Commonwealth or of a State Territory; or the Commonwealth or a State of Territory).

Telecommunications: Foreign investment in Australia’s second telecommunications carrier limited to 49 per cent of the share capital.

II. Official aids and subsidies

Films: Financial assistance and tax incentives for production granted only to films without excessive non-Australian content and official co-productions. Nationality and residence of persons making the films, of owners of the production entity and of owners of the copyright in the film are factors used in assessing Australian content. New investment in eligible Australian films qualifies for an immediate deduction, with all returns treated as income. Tax concessions available for taxpayers who are residents of Australia for income tax purposes, irrespective of whether they are foreign-controlled.

Foreign aid: Eligibility for Australian International Development Assistance Bureau service contract restricted to enterprises with a beneficial Australian shareholding of not less than 51 per cent.

III. Tax obligations
None.

IV. Government purchasing
None.

V. Access to local finance
None.
AUSTRALIA

Exceptions by Territorial Subdivisions

I. Investment by established foreign-controlled enterprises

(1) Western Australia

Agricultural: Authorisation requirements for transfer of pastoral leases to ensure majority Australian ownership.

(2) Western Australia

Casinos: Foreign ownership of a casino limited to 40 per cent.

(3) Western Australia

Fishing: Foreign ownership in rock lobster processing is limited to 20 per cent; restrictions are placed on non-residents becoming directors or office bearers in corporations undertaking rock lobster processing.

(4) Tasmania

Casinos: Foreign shareholdings in casinos limited to 38 per cent.

(5) Queensland

Real estate: Foreign persons or companies are not permitted to have more than a 50 per cent interest in any of Queensland’s offshore islands.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) *Air transport:* Cabotage reserved to national airlines.

(2) *Maritime transport/fishing:* Requirements to obtain the national flag: citizenship, residence in Austria, and more than 75 per cent local ownership. The flag is required for registration of vessels.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
AUSTRIA

Exceptions by Territorial Subdivisions

I. Investment by established foreign-controlled enterprises

(1) Real estate: Authorisation requirement for acquisition of real estate.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
BELGIUM

I. Investment by established foreign-controlled enterprises

(1) **Financial services**: Prior authorisation by the Ministry of Finance required for public issues, offers for sale on the security market, listing on stock exchanges and other financial instruments created by a private person, a company or an institution under non-EC control, as well as offers for sale of Belgian securities by a private person, a company or an institution under non-EC control.

(2) **Air transport**: The national flag (i) is given to private aircraft totally owned by Belgians domiciled in Belgium or to companies organised under Belgian law which are owned and organised by Belgians, and (ii) may be given, following a government decision, to aircraft not fulfilling the above conditions, where account is taken of the criteria establishing an effective link.

(3) **Air transport**: The transfer of shares in SABENA may be made only to physical or moral persons of Belgian or Congolese nationality. There is an ongoing liberalisation process aimed at modifying the legal status of SABENA.

(4) **Air transport**: In derogation of the exclusive right given to SABENA, the authorisation to conduct regular air transport of persons, postal goods and merchandise in Belgian territory (national and international services) may also be accorded to other air transport services when such transport begins and ends within EC territory, except for transport between the major international airports. This authorisation may only be accorded to companies established under Belgian law which are majority owned and effectively controlled by Belgians and, unless duly authorised, which use aircraft flying the Belgian flag.

(5) **Maritime transport**: The King, in line with the practice of major maritime countries, determines the conditions of ship registration [the right to fly the national flag].

(6) **Inland waterways**: The right to carry out transport of goods and persons between two points on the inland waterways covered by the Revised Convention for the navigation on the Rhine is reserved to vessels owned by either nationals of Contracting States of that Convention or Member States of the EC, or companies based on the territory of any of these States, which are owned in majority and controlled by nationals of these States.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

(7) **Public works**: Contracts for public works when 25 per cent or more is financed or subsidised by the state or another public authority can only be awarded to the following: (1) private persons, who must be of Belgian nationality or from another EC Member state, and must be established
within the EC; (2) companies, which must be organised in conformity with Belgian legislation or that of another EC Member state, and must either have their central administration or principal establishment within the EC or must have their headquarters within the Community, on the condition that their activity has an effective link with the economy of an EC Member state.

(8) Public markets: Restrictions concerning access to public contracts in the area of development co-operation.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) Trans-sectoral: For non-US investors, the review thresholds for direct acquisitions of Canadian businesses are C$ 5 million in assets, and C$ 50 million in assets for indirect acquisitions. As a result of the Canada-US Free Trade Agreement, the threshold for US investors has been raised for direct acquisitions to C$ 150 million (1992 constant dollars) in assets, and there is no longer a review of indirect acquisitions. Exceptions to the thresholds of US investors include cultural industries, transport, financial sectors, uranium, and oil and gas. Review requirements may also apply to specific acquisitions or new businesses in activities related to Canada’s cultural identity or national identity.

(2) Oil and gas: 50 per cent minimum Canadian ownership requirement for production licenses on Canada lands for discoveries made after 1st March 1982 (offshore, the Yukon and Northwest Territories).

(3) Uranium: 51 per cent minimum Canadian ownership requirement at the final production stage in individual uranium mining properties. Less than 51 per cent Canadian ownership permitted if an individual project is in fact Canadian-controlled. Cabinet can grant exemptions where Canadian partners cannot be found.

(4) Fishing: There is no limit on foreign ownership of fish processing companies that do not hold fishing licences. Canadian fish processing companies which have more than 49 per cent foreign ownership are not permitted to hold Canadian commercial fishing licences. Fish harvesting firms with foreign participation are subject to the same rules and policies as wholly Canadian-owned firms (e.g. Canadian registry and Canadian crews for licensed fishing vessels).

(5) Banking: Non-US foreign bank subsidiaries’ assets are limited to 12 per cent of total domestic assets of all banks. There is also a 25 per cent limit on the collective non-US foreign ownership of Schedule I banks (i.e. widely held Canadian-controlled commercial banks). Non-US foreign bank subsidiaries must obtain ministerial approval to open more than one branch.

(6) Life insurance, trust, loan, investment companies: Non-US foreign acquisition of a federally chartered Canadian-controlled company is limited to 10 per cent, individually, and 25 per cent, collectively, of any class of shares.

(7) Air transport: In order to obtain operating authority as a Canadian company, an airline must be 75 per cent owned by nationals and controlled in fact by nationals. Unless they are Canadian, airlines may not undertake the following activities: (1) cabotage; (2) international scheduled air services reserved by bilateral air agreements to "Canadian" airlines; (3) international non-scheduled air services from a base in Canada; (4) specialty air services.

(8) Maritime transport: Cabotage, in general, reserved to Canadian flag vessels.

(9) Maritime activities: Non-national vessels are not permitted to engage in certain offshore activities in coastal waters (e.g. dredging-salvage).

(10) Road transport: Cabotage reserved to national firms.

(11) Broadcasting and cable television: 20 per cent foreign ownership limitation for broadcasting and cable television broadcasting.
(12) **Book publishing/distribution:** Canadian-controlled joint venture requirement for investment in Canadian-controlled businesses or in the establishment of new businesses. In extraordinary circumstances an exception to the limitation on the acquisition of an existing Canadian-controlled business by a non-Canadian investor may be considered. Investment in foreign-controlled businesses in Canada is allowed where review determines the investment likely to be of net benefit to Canada.

(13) **Film distribution:** Canadian-controlled joint venture requirement for investment in Canadian-controlled businesses; investment in foreign-controlled businesses is subject to government discretion; investment to establish new businesses must be directly linked to the importation and distribution of proprietary products (i.e. the importer must own world rights of the film/video or be a major investor in the product).

(14) **Telecommunications:** Those telecommunications common carriers authorised to operate in Canada are subject to a foreign ownership restriction where at least 80 per cent of prescribed interests in the corporation are owned and controlled by Canadians.

II. **Official aids and subsidies**

(15) **Trans-sectoral:** Non-resident foreign corporations and partnerships with foreign partners cannot qualify for certain special status corporations like Investment Corporations. To qualify for such status, corporations may be required to be incorporated in Canada. However, there are generally no limitations on foreign ownership.

(16) **Agriculture:** The benefits of the federal/provincial price stabilisation agreements on pork, lamb and several specialty crops are restricted to Canadian citizens or permanent residents, or in case of corporations, to those whose partners, shareholders or members are at least 50 per cent Canadian citizens or permanent residents. These corporations must also be at least 50 per cent beneficially owned by Canadians or permanent residents. Cattle operations with foreign ownership (in whole or in part) are now allowed in Canada to receive benefits from the stabilisation programmes.

III. **Tax obligations**

(17) **Trans-sectoral:** Lower federal tax rates apply to a limited amount of the active business income of small Canadian-controlled private corporations. Such corporations may also be eligible for enhanced tax credits for research and development or industrial expenditures.

IV. **Government purchasing**

(18) **Consultancy:** 51 per cent minimum Canadian ownership required for eligibility for contracts with the Canadian International Development Agency.

V. **Access to local finance**

None.
CANADA

Exceptions by Territorial Subdivisions

I. Investment by established foreign-controlled enterprises

Alberta, British Columbia, Saskatchewan

Trans-sectoral: Foreign ownership restrictions or residency requirements apply to the purchase or lease of Crown land.

Nova Scotia

Real estate: Disclosure requirement for non-resident holdings of land.

Alberta

Real estate: Restrictions on the purchase of privately owned, non-urban real estate for foreign citizens and foreign-controlled corporations.

British Columbia

Forestry: Canadian citizenship or permanent residency is required of all applicants seeking to obtain a woodlot license.

British Columbia

Fishing: Nationality requirement to obtain a fish buyer’s license.

British Columbia

Mining: Citizenship requirement to obtain a free miner certificate.

Nova Scotia

Oil and gas: Canadian ownership requirements for oil and gas production licences.

Quebec

Films: Nationality/residency requirements for film distributor’s license.

Alberta, Ontario

Financial services: Foreign ownership limitations for trust companies (Alberta and Ontario), and loan companies, mortgage broking, and collection agencies (Ontario).

Ontario, Quebec

Insurance: Foreign ownership limits for licensing.
Ontario

*Publishing*: Foreign ownership limitation on paperback and periodical distribution firms: 25 per cent in total, 10 per cent per individual.

II. **Official aids and subsidies**

Nova Scotia

*Financial services*: The province provides loans to small businesses in fisheries, farming and venture enterprises. These loans are generally restricted to provincial corporations whose shares are majority-owned by residents. In the event of privately owned firms, Canadian citizenship as well as residency is generally required.

Alberta, Saskatchewan

*Agriculture*: Various income support programmes provide financial assistance to farmers. These programmes include loans or loan guarantees, revenue insurance, crop price stability, and rebates for such items as fuel and fertilisers. Eligibility is generally restricted to Canadian citizens or landed immigrants normally resident in the province.

Quebec

*Books, recording industry, video industry*: Nationality, residence and foreign ownership requirements for financial aid granted by the government.

Alberta

*Financial services*: Priority for loans and assistance given to enterprises owned and operated by Canadian citizens resident in the province.

III. **Tax obligations**

Ontario, Quebec

*Agricultural and recreational land*: Land transfer taxes/duties in Quebec and Ontario (for agricultural and recreational land) higher for non-residents than for residents. A "non-resident" corporation is defined according to ownership of its shareholdings or occupancy of directors’ positions by non-resident individuals.

IV. **Government purchasing**

Ontario

*Advertising*: Under administrative guidelines, administrative contracts are only awarded to wholly owned Canadian companies.

V. **Access to local finance**

None.
DENMARK

I. Investment by established foreign-controlled enterprises

(1) Air transport: Cabotage reserved to national carriers.

(2) Air transport: Licence to operate an airline is granted only to companies majority-owned by Danish nationals.

(3) Air transport: An aircraft may not be registered in Denmark unless it is predominantly owned by Danish nationals or by companies or other entities controlled by Danish nationals.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
FINLAND

I. Investment by established foreign-controlled enterprises

(1) **Trans-sectoral**: Acquisition of shares giving more than one-third of the voting rights in a major Finnish enterprises (i.e. with more than 1 000 employees or with a turnover exceeding 1 000 million Finnish markka or with a balance sheet total exceeding 1 000 million Finnish markka) to a single foreign owner, which requires prior confirmation by the Ministry of Trade and Industry; the confirmation can be denied only if an important national interest would be jeopardised.

(2) **Air transport**: Air cabotage reserved to national carriers.

(3) **Air transport**: Government authorisation is required to engage in commercial aviation.

(4) **Maritime transport**: Cabotage reserved to national flag.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
FRANCE

I. Investment by established foreign-controlled enterprises

(1) Trans-sectoral: Direct investment by enterprises controlled by non-resident physical persons is subject to foreign investment regulations when the share of capital or voting rights held by such persons, or by French enterprises under foreign control, exceeds 33.33 per cent. For publicly quoted French companies, the threshold is 20 per cent.

Direct investment by enterprises controlled by physical persons resident in the EC are free, following verification of their Community status, after a delay of 15 days.

Direct investors established in the EC may benefit from "Permanent Community status", under which prior notification is not required.

Direct investment, under 50 million francs in French enterprises with a turnover not exceeding 500 million francs, by enterprises controlled by persons of non-EC origin are free. The Minister of Finance has a 15-day period in which to verify that these conditions are met.

Direct investment of 50 million francs and above or investment concerning resident enterprises with a turnover exceeding 500 million francs by enterprises controlled by persons of non-EC origin, or by affiliates in France of such enterprises, require authorisation by the Minister of Finance. This authorisation is deemed granted after a period of one month unless the right of postponement is exercised.

(2) Agriculture: National treatment is not applicable to nationals of non-EC countries or to groups of companies majority controlled by such nationals who wish to undertake an agricultural enterprise. The acquisition of vineyards is subject to notification or, as necessary, authorisation.

(3) Banking, financial services, accounting and legal services: National treatment may be applied to non-EC companies in banking, securities broking, accounting and legal services on the basis of reciprocity.

(4) Insurance: Enterprises with head offices in non-EC countries must obtain a license to operate in France. The license is granted only for types of insurance underwritten by the enterprise concerned in its country of origin.

(5) Air transport: Cabotage reserved to transporters established in France.

(6) Air transport: Non-EC transport companies are subject to nationality conditions for access to transportation activities and the exercise of traffic rights.

(7) Maritime transport: Without authorisation, non-EC enterprises may not establish shipping operations or have a controlling or participating interest in a shipping company.

(8) Maritime transport: In order to be registered in France, ships must either: (a) be owned by physical persons and be owned at least 50 per cent by nationals, or (b) be owned by moral persons headquartered in French territory.

(9) Maritime transport: Maritime cabotage reserved to national flag.

(10) Inland waterways: The right to carry out transport of goods and persons between two points on the inland waterways covered by the Revised Convention for the navigation on the Rhine is
reserved to vessels owned by either nationals of Contracting States of that Convention or Member States of the EC, or companies based in the territory of any of these States, which are owned in majority and controlled by nationals of these States.

(11) **Road transport:** Road transport and vehicle rental activities are permitted for non-EC companies on the basis of reciprocity.

(12) **Road transport:** The activity of transport commissioner may not be conducted by non-EC citizens, except on the basis of reciprocity.

(13) **Publishing:** Without clauses of national assimilation or reciprocity, foreigners may not acquire, directly or indirectly, more than 20 per cent of the social capital or voting rights of enterprises which publish in the French language.

(14) **Telecommunications:** Telecommunication networks open to public use may only be established by the state operator. The Minister for Telecommunications may authorise a person other than the state operator to operate a radio-electric network with a view to provide telecommunication services. However, without a reciprocity clause, a foreign person may not own, directly or indirectly, more than 20 per cent of the social capital or voting rights of enterprises which have been granted an authorisation. These requirements do not apply to physical or moral persons of EC origin.

(15) **Radio and television:** Without a reciprocity clause, nationals of OECD countries not members of the EC may not hold, directly or indirectly, more than 20 per cent of the capital or voting rights of a company which has been granted a license for radio and television broadcasting in the French language.

(16) **Tourism:** A travel agents license may be awarded to non-EC OECD nationals on the basis of reciprocity.

### II. Official aids and subsidies

None.

### III. Tax obligations

None.

### IV. Government procurement

None.

### V. Access to local finance

None.
GERMANY

I. Investment by established foreign-controlled enterprises

(1) *Air transport:* Licence to operate an air transport enterprise is granted only to companies majority-controlled by German nationals.

(2) *Air transport:* Cabotage reserved, in principle, to national airlines.

(3) *Maritime transport:* Registration in the German Ship Register is reserved to ships owned by German nationals or companies controlled by nationals, domiciled in Germany. Flag is required to engage in marine cabotage and fishing within territorial waters.

(4) *Inland waterways:* The right to carry out transport of goods and persons between two points on the inland waterways covered by the Revised Convention for the navigation on the Rhine is reserved to vessels owned by either nationals of Contracting States of that Convention or Member States of the EC, or companies based on the territory of any of these States, which are owned in majority and controlled by nationals of these States.

II. Official aids and subsidies

(5) *Trans-sectoral:* Branches of enterprises that are not established as legally independent companies are excluded from the provision of financial assistance or guarantees in some sectors.

(6) *Manufacturing-Shipping:* The financial assistance programme to the German shipping industry provides for funds to be granted only to the owners of German flag ships.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
GREECE

I. Investment by established foreign-controlled enterprises

(1) *Real estate*: Non-EC controlled enterprises are not allowed to acquire land rights in border areas. The prohibition applied to border land acquisition by non-EC enterprises may be waived by means of a decision by the Minister of National Defence.

(2) *Mining*: Concession required for mining and mineral rights for non-EC controlled enterprises.

(3) *Air transport*: Ownership in Greek airline companies is limited to 49 per cent of the capital for non-EC controlled enterprises. Cabotage is reserved to national airline companies.

(4) *Television and radio*: Non-EC foreign-controlled enterprises may hold up to 25 per cent of capital in television (including cable television) operators, and up to 49 per cent of capital in radio operators.

(5) *Maritime transport and fishing*: Non-EC ownership of Greek flag vessels including fishing vessels is limited to 49 per cent. Cabotage is reserved to national flag vessels, including also voyages with legs in foreign ports.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) Real property: Foreign-owned enterprises need a licence for purchasing properties other than for operational purposes specified in the Company Statute.

(2) Agricultural land: Enterprises partly or wholly owned by foreigners may not purchase agricultural land.

(3) Air transport: A licence for domestic transport of persons and goods may be granted to companies with Hungarian majority both in terms of capital and management control.

(4) Inland waterways: Shipping licences may be granted to Hungarian nationals or enterprises with majority Hungarian ownership.

(5) Gambling: Cash-winning slot-machines may only be operated by a gambling casino, or a business organisation founded exclusively for this purpose, which is in 100 per cent Hungarian ownership.

II. Official aids and subsidies

(6) Preferential credit facilities and credit guarantees for promoting small enterprises may be reserved to Hungarian nationals and companies with majority Hungarian ownership.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
ICELAND

I. Investment by established foreign-controlled enterprises

(1) **Trans-sectoral:** Authorisation requirement for investment by a single investor exceeding ISK 250 million; and for investment in aquaculture, communications, manufacturing other than power intensive industries, trade and services, where total non-resident ownership exceeds 25 per cent. Foreign investment is accepted under reciprocity conditions. Authorisation may be refused if foreign investment is deemed to "seriously reduce competition" or to have an "undesirable effect on the Icelandic Economy".

(2) **Trans-sectoral:** Investment by foreign states or state-owned enterprises is prohibited unless an authorisation is granted.

(3) **Real estate:** Foreign investment -- other than for direct business use -- is restricted, with the exception of acquisitions by limited liability companies in which non-residents do not own more than 20 per cent of the capital and do not hold a majority of the total voting power.

(4) **Fishing and whaling:** Foreign investment in companies engaged in fishing and in companies applying for a licence to carry out whaling within the Icelandic territorial waters is prohibited.

(5) **Primary fish processing:** Foreign investment in primary fish processing (i.e. excluding retail packaging and later stages of preparation of fish products for distribution and consumption) is prohibited. No foreign ownership limitations apply to further fish processing.

(6) **Natural resources:** Foreign ownership of the exploitation rights of hydro and geothermal energy and investment in energy production and distribution by foreign persons is prohibited.

(7) **Banking:** Foreign investment in Icelandic banks limited to 25 per cent of the capital stock.

(8) **Air transport:** Foreign investment in air transport companies limited to 49 per cent of capital stock.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
IRELAND

I. Investment by established foreign-controlled enterprises

(1) *Air transport:* Cabotage is generally reserved to airlines licensed in the state, and direct investment in air transport by non-EC states or nationals of non-EC states may be restricted.

(2) *Fishing:* Registration of fishing vessels requires ownership by citizens or companies from an EC Member State and a license to fish within Irish fishing limits. The acquisition by non-EC nationals of sea fishing vessels registered in Ireland may be restricted.

(3) *Land for agricultural purposes:* Acquisition by non-EC nationals of land for agricultural purposes may be restricted.

(4) *Flour milling activities:* Investment in flour milling activities by enterprises controlled by non-EC nationals may be restricted.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
ITALY

I. Investment by established foreign-controlled enterprises

(1) Fishing: Fishing in territorial waters reserved to nationals.

(2) Air transport: Cabotage is reserved to national companies unless international conventions on air transport services state otherwise.

Companies from EC countries are authorised to undertake cabotage that represents an extension of an international service.

(3) Air transport: Registration of aircraft is reserved for Italian citizens, the State, Provinces, State authorities and institutions, and companies headquartered in Italy, with at least two-thirds of the share capital owned by Italian citizens. Air transport companies holding licences issued in Italy are subject to the nationality requirements established by Regulation 2407/92, which provides for the control of enterprises by EC States or Community citizens.

(4) Air transport: Non-national airlines are not permitted to establish their own ground handling facilities in airports which are either directly managed by the State or awarded in partial concession to companies with essentially public capital.

(5) Maritime transport: Maritime cabotage as well as maritime services of port areas are reserved for Italian- and Community-owned ships. Cabotage between islands remains exclusively reserved to Italian ships.

II. Official aids and subsidies

(6) Films: Aids, subsidies and credit facilities are available for Italian film production or co-production with foreign-controlled enterprises from countries with co-production agreements. Credit facilities may also be awarded for the distribution of films by Italian-owned companies. EC companies are assimilated to Italian companies.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. **Investment by established foreign-controlled enterprises**

1. **Land**: Reciprocity conditions may apply for the acquisition of land by foreign-controlled enterprises.

2. **Agriculture, forestry, fisheries**: Foreign-controlled enterprises may be restricted from engaging in agriculture, forestry, and fisheries.

3. **Mining**: Foreign-controlled enterprises may be restricted from engaging in mining.

4. **Oil industry**: Foreign-controlled enterprises may be restricted from engaging in oil industry, including development, refining, sales and stockpiling.

5. **Leather and leather products manufacturing**: Foreign-controlled enterprises may be restricted from engaging in leather and leather products manufacturing.

6. **Financial services**: Reciprocity conditions apply to the acquisition of membership of a stock exchange by foreign securities companies.

7. **Air transport**: A license to operate an air transport business may be granted only to enterprises where less than one-third of the voting rights are held by non-Japanese nationals and none of its’ representatives and less than one-third of members of the board of directors are non-Japanese. Cabotage and other domestic services using aircraft are reserved to national airlines.

II. **Official aids and subsidies**

None.

III. **Tax obligations**

None.

IV. **Government purchasing**

None.

V. **Access to local finance**

None.
LUXEMBOURG

I. Investment by established foreign-controlled enterprises

(1) *Air transport/Land transport:* Some restrictions may apply to regular scheduled air transport and public transport.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) **Trans-sectoral**: Acquisitions of Mexican-controlled enterprises exceeding a total of 49 per cent of the equity of the Mexican enterprise are subject to review if the total value of the assets of the enterprise to be acquired exceeds US$25 million or such other amount as may be determined annually by the National Foreign Investment Commission.

(2) **Real estate**: Acquisition of land used for agriculture, livestock or forestry purposes is not permitted. However, "T" shares which represent the value of such land may be purchased by foreign-controlled enterprises up to 49 per cent of the value of the land.

(3) **Oil and gas**: Only Mexican nationals and Mexican companies with a foreigner exclusion clause may engage in retail trade in gasoline and distribution of liquefied petroleum gas. Participation in the supply of fuels and lubricants for ship, aircraft and railroad equipment may not exceed a total of 49 per cent of equity. Investment in the construction of oil pipelines and other derivative products and oil and gas drilling exceeding a total of 49 per cent may be authorised up to 100 per cent.

(4) **Fishing**: Foreign investment is permitted up to a total of 49 per cent of equity in fishing, other than aquaculture, in coastal waters or fresh waters or in the Exclusive Economic Zone.

(5) **Auto parts**: Foreign investment is permitted up to 49 per cent of equity in the auto parts industry. 100 per cent ownership is allowed with respect to investors that qualify as "national suppliers". As of 1 January 1999, foreign investment will be free.

(6) **Financial institutions**: Investment is not permitted, except with respect to: a) ownership up to a total of 30 per cent of common stock in financial holding companies, commercial banks and, provided an authorisation is granted, in securities firms and securities specialists; b) ownership up to a total of 49 per cent of common stock in limited scope financial institutions, securities advisory companies and managing companies of investment companies, and, provided an authorisation is granted, in insurance companies, financial leasing companies, factoring companies, general deposit warehouses, bonding companies and foreign exchange firms, and up to 49 per cent of the fixed stock of investment companies; c) ownership up to 100 per cent of common stock in credit information institutions and securities rating agencies, provided an authorisation is granted; and d) ownership of at least 99 per cent of the common stock in an affiliate of the following type: bonding companies, general deposit warehouses, foreign exchange firms, securities specialists and managing companies of investment companies, and of the fixed stock in investment companies, by foreign financial institutions engaged in the same general type of activities, provided an authorisation is granted. Acquisition by foreign financial institutions of other financial institutions established in Mexico is subject to an authorisation requirement. Affiliates of foreign financial intermediaries established in Mexico are not allowed to open subsidiaries, agencies or branches in another country. Until 1 January 2000, affiliates of foreign financial institutions are not allowed to issue subordinated debt, except for debentures acquired by the parent company.

(7) **Air transport and related services**: Foreign investment is not permitted except for participation up to a total of 25 per cent in national air transport, aerotaxi and specialised air services, and the administration of air terminals where participation may be authorised up to 100 per cent.

(8) **Land transportation and related services**: Foreign investment is not permitted except for participation up to a total of 49 per cent of equity in railroad services. Foreign investment will
be allowed in international ground transportation of passengers, tourism and loading within Mexico up to a total of 49 per cent as of 18 December 1995, up to 51 per cent as of 1 January 2001 and up to 100 per cent as of 1 January 2004.

(9) **Maritime transport and related services:** Foreign investment is not permitted except for participation up to a total of 49 per cent of equity in interior navigation and coastal sailing -- other than tourist cruises and the exploitation of dredges and other naval devices for ports -- in integral port administration and port pilot services for interior navigation; and, provided an authorisation is granted, in foreign commerce shipping and port services pertaining to interior navigation.

(10) **Radio and television broadcasting (excluding cable television):** These activities are reserved to Mexican nationals and Mexican companies with a foreigner exclusion clause.

(11) **Telecommunication services and cable television:** Foreign investment is permitted up to 49 per cent of equity in cable television, basic telephone, videotext and enhanced packet switching services, and cellular telephony where foreign investment may be authorised up to 100 per cent. Investment in videotext and enhanced packet switching will be free as of 1 July 1995.

(12) **Newspapers:** Foreign investment in newspapers for exclusive internal circulation may not exceed a total of 49 per cent of equity.

(13) **Construction:** Foreign investment in construction activities may be authorised above a total of 49 per cent, and will be free as of 1 January 1999.

(14) **Legal services:** Foreign investment in law firms may be authorised above a total of 49 per cent of equity.

(15) **Education services:** Foreign investment may be authorised above a total of 49 per cent of equity.

II. **Official aids and subsidies**

(16) Special credits for small-scale enterprises qualifying under the micro-industry programme are available only to Mexican-controlled enterprises.

III. **Tax obligations**

None.

IV. **Government purchasing**

None.

V. **Access to local finance**

None.
I. Investment by established foreign-controlled enterprises

(1) Financial services: Reciprocity requirements may be in force for institutions from non-EC countries for lead-managers of Guilder-denominated issues.

(2) Air transport: Generally, nationality and ownership requirements apply for license to operate an airline.

(3) Air transport: Cabotage reserved to national airlines.

(4) Maritime transport: National flag is reserved for ships owned by nationals or by companies incorporated under Dutch law, established in the Kingdom, and having their actual place of business in the Netherlands.

(5) Inland waterways: The right to carry out transport of goods and persons between two points on the inland waterways covered by the Revised Convention for the navigation on the Rhine is reserved to vessels owned by either nationals of Contracting States of that Convention or Member States of the EC, or companies based on the territory of any of these States, which are owned in majority and controlled by nationals of these States.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
NEW ZEALAND

I. Investment by established foreign-controlled enterprises

(1) **Trans-sectoral**: A foreign-controlled enterprise already established in New Zealand requires authorisation from the Overseas Investment Commission: 1) to establish a new business where the total expenditure to be incurred exceeds NZ$ 10 million; 2) for acquisition or control of 25 per cent or more of any class of shares or voting power in a New Zealand company where either the total consideration payable or the total assets of the business being acquired exceed NZ$ 10 million; 3) for all acquisition of assets and of share participation exceeding 25 per cent regardless of their value, in specified sensitive sectors (currently broadcasting, commercial fishing, and rural land).

(2) **Rural land**: Specific provisions pertaining to the acquisition of rural land: foreigners wishing to purchase rural land must demonstrate that the acquisition will give rise to significant benefits to New Zealand. There are no restrictions as to a specific maximum level of allowable foreign ownership.

(3) **Fishing**: Purchase of fishing quota is restricted to enterprises where 75 per cent or more of the voting rights are held by New Zealand residents.

(4) **Air transport**: Air New Zealand privatisation includes a 35 per cent foreign ownership limit. The sale of Air New Zealand entailed the establishment of three classes of shares: "A" shares available to New Zealand nationals only; "B" shares limited to 35 per cent of total equity and available to overseas persons; and the "Kiwi" shares held by the New Zealand government. The company’s articles of association cannot be amended without the consent of the holders of the "Kiwi" share.

(5) **Air transport**: Substantial ownership and effective control of international airlines operating scheduled services to/from New Zealand to be vested in the designating country under the respective bilateral agreements or nationals of that country.

(6) **Telecommunications**: No single foreign investor or consortium may hold more than 49.9 per cent of the total voting shares without the approval of, and other than on terms specified by, the Crown as holder of the "Kiwi" share.

II. Official aids and subsidies

(7) **Audio-visual**: Payment of subsidies for production, distribution, exhibition and broadcasting of audio-visual works are limited to New Zealand persons and companies.

III. Tax obligations

(8) **Trans-sectoral**: Branches of foreign companies operating in New Zealand subject to: 1) a higher rate of income tax; 2) non-resident withholding tax imposed on certain classes of payments to non-residents; 3) assessment of taxable income from films, insurance, and shipping.

(9) **Mining**: Mining income of a non-resident mineral mining operator is taxed at a flat rate being the prevailing non-resident company rate. Non-resident mineral mining operators may not offset mineral mining losses against non-mining income.
IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) **Real estate:** Acquisition of, and certain leasing rights to secondary residences by enterprises registered in Norway in which non-residents have a dominating influence, is subject to authorisation.

(2) **Mining:** The right to explore minerals is reserved to Norwegian nationals and enterprises with an entirely Norwegian board and registered office in Norway.

(3) **Fishing:** As a general rule, processing, packing or re-loading fish, crustaceans and molluscs or parts and products of these, is not allowed on a foreign-controlled vessel inside the fishing limits or the Norwegian Exclusive Economic Zone.

(4) **Fishing:** To obtain ownership, or part in, registered fishing vessel, a 60 per cent Norwegian ownership is required.

(5) **Fishing:** Foreign-controlled enterprises may not fish with trawls from Norwegian vessels.

(6) **Banking:** Establishment of subsidiaries of foreign-owned banks may be subject to a reciprocity requirement. The establishment of branches of foreign banks is not permitted.

(7) **Insurance:** Reciprocity conditions may apply for the granting of authorisation to foreign insurance companies.

(8) **Air transport:** Cabotage reserved to national airlines.

(9) **Maritime transport:** As a general rule, 60 per cent Norwegian ownership is required for ship registration in the ordinary Norwegian Ship Register. A limited company must also be headquartered in Norway. In the Norwegian International Ship Register, a ship with more than 40 per cent foreign ownership must be operated by a Norwegian ship-owning company, or by a Norwegian management company, with head office in Norway. If the ship is registered directly in the NIS by a foreign company, a Norwegian representative is required.

(10) **Maritime transport:** Licensing requirement for scheduled maritime transport of persons.

(11) **Road transport:** In general, cabotage reserved to national hauliers.

(12) **Broadcasting:** Foreign ownership of nationally operating Norwegian broadcasting corporations is limited to one third of the corporation’s share capital.

II. Official aids and subsidies

None.

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1 Draft legislation to terminate the prohibition of foreign bank branches was submitted to Parliament in early 1995.
III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
PORTUGAL

I. Investment by established foreign-controlled enterprises

(1) *Trans-sectoral:* In general, all investments are subject to prior notification. The sale between non-residents of shares in foreign investment operations is subject to a simple registration, *a posteriori,* when: 1) the parties concerned are nationals and residents of the EC; 2) the acquisition of such shares does not exceed 20 per cent of the capital of the company or does not imply effective control or a strengthening of decision making power. Authorisation may be required for investments by non-EC companies.

(2) *Air transport:* Establishment in regular domestic and international air transport unless through national companies, engaged in this activity on an exclusive basis, which are headquartered in Portugal and where the majority of capital and the management control belong to national entities. These restrictions are applied without prejudice to EC law.

(3) *Maritime transport:* Regular internal maritime transport is reserved to companies registered as shipowners. To become a shipowner, a company must be owned by a majority of Portuguese entities and must possess their own fleet; at least one vessel of this fleet must navigate under the Portuguese flag. Vessels can only be registered in Portugal if they are owned by national companies. These restrictions are applied without prejudice to EC law.

(4) *Television:* 15 per cent foreign ownership limitation for non-EC enterprises in any one individual operator.

(5) *Telecommunications:* Direct or indirect participation by non-EC foreign investors (physical or moral persons) in the capital of complementary telecommunication operators may not exceed 25 per cent.

(6) *New credit institutions:* Creation of a new credit institution or a new financial company owned or controlled by non-EC investors may be restricted.

II. Official aids and subsidies

(7) *Film production:* Financial assistance and subsidies are awarded to the production of Portuguese films or to co-productions between national producers and producers of countries with a co-production agreement, under certain conditions (composition of social capital and guarantees).

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) Trans-sectoral: Government approval required for investment undertaken by enterprises controlled by non-EC states, non-EC public entities or non-EC public enterprises.

(2) Banking: National treatment may be applied to non-EC subsidiaries and branches of Foreign Credit Institutions (FCIs) on the basis of reciprocity.

Until the EC second Banking Directive comes into effect in 1993, there are temporary limitations on affiliates of FCIs regarding the number of agencies, and the access to local finance outside the inter-bank money market. As of 1 January 1993, all operational limitations on branches and financing of FCIs will be lifted.

(3) Financial services: Foreign investment in registered securities brokers and dealers by non-EC companies is subject to a reciprocity requirement. Stock exchange membership by securities brokers and dealers in which non-EC residents have a holding is subject to reciprocity.

(4) Air transport: Cabotage reserved to national airlines.

(5) Air transport: Enterprises controlled by non-EC residents must obtain government authorisation to invest in air transport companies.

(6) Broadcasting: Foreign participation, direct or indirect, in a radio or television broadcaster by non-EC companies is subject to authorisation, and, in any event, any individual investor, whether it is national or foreign, may not exceed 25 per cent of the paid up capital.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) Real estate: Aliens and foreign corporations must have a special permit to acquire real property according to the Law on Foreign Acquisition of Real Property. Permission is not required for real property for commercial use in industry, including mining, or for rent as offices, commercial premises or blocks of residential flats.

(2) Fishing: A legal entity, owned up to 50 per cent or more by foreign citizens, is subject to permission for having the right to pursue commercial fishing activities in Swedish waters without holding a private fishing right.

(3) Financial services: In principle, permit to engage in credit information activities is not granted to foreign companies, or to Swedish corporations not having a foreigner’s clause in their articles of association.

(4) Air transport: Cabotage reserved to national airlines.

(5) Air transport: Foreign enterprises may be restricted from access to international air routes unless bilateral intergovernmental agreements provide otherwise.

(6) Maritime transport: Cabotage is reserved to vessels flying the national flag.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) Banking and financial services: Investment by foreign-controlled enterprises are subject to reciprocity conditions.

(2) Air transport: The commercial transport of persons and goods by foreign-controlled enterprises is regulated by international agreements. In the absence of these, it is possible to permit foreign enterprises to exploit certain routes for commercial transport and to authorise commercial flights by foreigners outside these routes. An authorisation may be refused if the service offered is not consistent with essential Swiss interests or if reciprocity is not accorded.

(3) Air transport: The business transport of people or goods between two points in Switzerland is reserved to Swiss companies.

(4) Air transport: An aircraft may be registered in Switzerland if it is owned by Swiss citizens, or by foreigners resident in Switzerland using an aircraft from Switzerland, or if it is owned by companies in Swiss hands.

(5) Air transport: Non-national airlines not permitted to establish ground-handling facilities.

(6) Inland waterways: To be registered in Switzerland and to transport persons and goods between two points on the Rhine, a vessel must be owned by Swiss citizens resident in Switzerland, or by companies in Swiss hands, headquartered in Switzerland. Nationals of states party to the Revised Convention for the Navigation on the Rhine of 17th October 1868, and Member States of the EC, are assimilated as Swiss.

(7) Films: Only Swiss-controlled companies authorised to distribute films in Switzerland.

II. Official aids and subsidies

(8) Films: Contributions to the cost of film production and assistance to quality films are only awarded to films produced by companies under Swiss control and for films produced in co-production with foreign interests, as long as Swiss participation is at least equivalent to that of foreign interests. If Swiss participation is less important, the foreign state should ensure reciprocity or be linked to Switzerland by a co-production agreement.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
SWITZERLAND

Exceptions by Territorial Subdivisions

I. Investment by established foreign-controlled enterprises

(1) Trans-sectoral: Acquisition of real property by foreign-controlled enterprises subject to an authorisation requirement by Cantons.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) **Trans-sectoral:** Authorisation requirement for investment in new activities (by wholly owned enterprises or joint venture) in a different line of business and for participation or take-over of existing established enterprises.

(2) **Mining:** Foreign-controlled enterprises must invest through locally incorporated enterprises.

(3) **Banking:** Authorisation requirement to found a bank or establish a branch of foreign bank.

(4) **Banking:** The number of branches of foreign banks may not exceed five (two in Istanbul and one in each other city). A minimum of $10 million of additional capital is required for the first branch. Reciprocity conditions apply.

(5) **Insurance:** Reciprocity conditions apply.

(6) **Air transport:** Licences to operate airlines are only granted to companies majority controlled by Turkish nationals.

(7) **Maritime transport:** Establishment and operation of a yacht harbour facility is permitted to companies or associations which obtain the necessary licences from the Ministry of Tourism, formed in accordance with Turkish laws and regulations, and which are in partnership with Turkish nationals and/or Turkish establishments.

(8) **Real estate/Retail trade:** Foreign-controlled enterprises are prohibited from engaging in real estate trading, except for acquisitions related to their permitted operations. Foreign-controlled enterprises are in general not permitted to engage in retail trade.

(9) **Education:** Established foreign-controlled enterprises may not set up education institutions (except colleges and universities) unless all students are of foreign nationality.

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.
UNITED KINGDOM

I. Investment by established foreign-controlled enterprises

(1) Banking: Reciprocity conditions for foreign-owned institutions, which are U.K. based and which have the capacity in the U.K. to act as an issuing house, to be eligible to lead-manage sterling issues.

(2) Banking, insurance, and financial services: Reciprocity conditions may apply for persons "connected with" a foreign country but carrying on, or intending to carry on, investment in these areas.

(3) Financial services: Reciprocity conditions may apply as part of the recognition procedures for foreign exchanges and clearing houses with foreign headquarters.

(4) Air transport: In general, registration of aircraft reserved to government, citizens of the Commonwealth or Republic of Ireland, British protected persons, bodies incorporated and having their principal place of business in part of the Commonwealth and firms carrying on business in Scotland.

(5) Air transport: Air transport licences may not be granted to applicants if they are not United Kingdom nationals or bodies incorporated in the United Kingdom (or certain overseas territories) and controlled by United Kingdom nationals unless the Secretary of State consents to the grant of a license.

(6) Air transport: Cabotage reserved to national airlines.

(7) Air transport: The Articles of Association of British Airways empower the imposition of a restriction on the number of foreign held shares. These provisions may not restrict the foreign shareholding to less than 25 per cent of the ordinary voting equity.

(8) Maritime transport: In order to obtain the national flag, fishing vessels must be at least 75 per cent owned by British individuals and/or by companies which are at least 75 per cent owned by British citizens in all cases resident and domiciled in the U.K.; vessels must be managed, directed and controlled from within the U.K. Without the national flag, vessels may not fish against the U.K. quotas under the Common Fisheries Policy.

(9) Inland waterways: The right to carry out transport of goods and persons between two points on the inland waterways covered by the Revised Convention for the navigation on the Rhine is reserved to vessels owned by either nationals of Contracting States of that Convention or Member States of the EC, or companies based on the territory of any of these States, which are owned in majority and controlled by nationals of these States.

(10) Radio and television: The following are disqualified from being licensees of the Independent Television Commission and Radio Authority: (1) Individuals who are neither European Community nationals ordinarily resident there nor (whatever nationality) resident in the U.K.; (2) Bodies corporate which are neither formed under the law of an EC country, having their registered head office or principal place of business within the EC, nor incorporated in the U.K.; and (3) Bodies corporate not ordinarily resident in the U.K. or the EC. However, investment by such individual bodies up to, but not including, control will be allowed.
II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

(11) Consultancy: Restrictions on the appointment of consultants under the Overseas Aid Programme. Restrictions on the appointment of consultants under the Overseas Aid Programme. The following criteria apply: (1) The firm must carry on business in the United Kingdom, or be a projection in the developing country concerned of such a firm. Carrying on business in the United Kingdom means having a headquarters organisation and associated facilities there, and not merely a registered office or accommodation address; (2) The firm must be willing to accept in sterling in London all payments due under contractual arrangements between the firms and the Ministry of overseas Development; (3) If the firm is a partnership, the majority of the partners must be United Kingdom citizens; (4) The staff, or the majority of the staff, who will perform the consultancy services must be United Kingdom citizens; (5) If the firm is organised as a company, United Kingdom citizens must have unrestricted control of the company.

V. Access to local finance

None.
I. Investment by established foreign-controlled enterprises

(1) *Fishing*: Foreign-controlled enterprises may not engage in certain fishing operations involving coastwise trade. In addition, foreigners may not hold more than a minority of shares comprising ownership in companies owning vessels which operate in US fisheries. Also, corporate organisation requirements pertain to the registration of flag vessels for fishing in the US exclusive economic zone.

(2) *Fishing*: Foreign-flag vessels may not fish or process fish in the 200 nautical mile US exclusive economic zone except under the terms of a Governing International Fisheries Agreement (GIFA), or other agreement consistent with US law.

(3) *Mining, oil and gas*: The Mineral Leasing Act (1920) makes public lands available for leasing only to citizens of the United States, associations of such citizens, or corporations organised under the laws of the United States, with respect to acquiring rights of way for oil pipelines, or leases or interests therein for mining coal, oil or certain other minerals. Non-US citizens may, however, own a 100 per cent interest in a US corporation that acquires a right-of-way for oil or gas pipelines across onshore federal lands, or that acquires a lease to develop mineral resources on on-shore federal lands, unless the foreign investor’s home country denies similar or like privileges for the mineral or access in question to US citizens or corporations, as compared with the privileges it accords to its own citizens or corporations or to the citizens or corporations of other countries.

(4) *Atomic energy production*: Aliens and entities owned, controlled or dominated by aliens or foreign governments may not engage in operations involving the utilisation of atomic energy. This restriction applies primarily to nuclear reactors and reprocessing plants extracting plutonium.

(5) *Banking*: As of August 1989, the Federal Reserve may refuse to designate as a primary dealer a foreign-controlled commercial or investment bank, if the government of the home country of the foreign bank denies national treatment to US-owned banks for government securities operations. Denial of the primary dealer designation means that the Federal Reserve, at its initiative, will no longer deal with that firm in the conduct of monetary policy. The firm, at its initiative can continue unencumbered to purchase US Government securities in government auctions.

(6) *Air transport*: Cabotage and exercise of US international air route rights are reserved to national airlines controlled by US citizens, and owned 75 per cent or more (voting stock) by US citizens.

(7) *Air transport*: *freight forwarding and charter activities*: A reciprocity test on air freight forwarding and air charter activities applies any time a foreign-owned firm seeks authority to provide indirect air transportation either by cross-border or establishment for US-originating traffic. If a favourable determination is made by the Department of Transportation, indefinite registration is granted to the applicant, and subsequent applications of the same nationality are routinely approved.

(8) *Maritime transport*: The Federal Maritime Commission is authorised to take unilateral action when a foreign government, foreign carrier or other persons providing maritime-related services engages in activity that adversely affect US carriers in US ocean-borne trade; creates conditions unfavourable to shipping in the foreign trade; or unduly impairs access by US-flag vessels to trade between foreign ports. Sanctions proposed under these statutes most frequently affect the
cross-border provision of services, however sanctions could affect a foreign-owned investment established in the US (e.g. revocation of freight forwarders’ licenses, suspension of preferential terminal leases).

(9) **Telecommunications**: Foreign-controlled enterprises and all other foreigners may not hold in aggregate more than 20 per cent ownership in the Communication Satellite Corporation.

(10) **Telecommunications**: The Federal Communications Commission (FCC), under delegated authority from the President of the United States with concurrence of the State Department, is authorised to issue licenses to land or operate in the United States any submarine cable directly or indirectly connecting the United States with any foreign country. Under the Submarine Cable Landing Licence Act of 1921, the FCC may withhold or revoke licences if such action will assist, inter alia, in securing cable landing rights for US citizens in foreign countries.

II. **Official aids and subsidies**

(11) **Trans-sectoral**: Eligibility for Overseas Private Investment Corporation (OPIC) insurance and guarantees for investments in eligible developing countries is limited to entities organised in the US and substantially (more than 50 per cent) beneficially owned by United States citizens, or to foreign entities at least 95 per cent owned by US citizens.

(12) **Trans-sectoral**: To receive financial assistance under the Advanced Technology Program, a company must show that its participation will be in the economic interests of the United States, as evidenced by investments in the United States in research, development and manufacturing, and be a US-owned company or a company incorporated in the United States whose parent is incorporated in a country which (1) affords to US-owned companies opportunities comparable to those afforded to any other company to participate in such joint ventures; (2) affords US-owned companies local investment opportunities comparable to those afforded any other company; (3) affords adequate and effective intellectual property rights of US-owned firms.

(13) **Trans-sectoral**: To participate in the Technology Reinvestment Project (TRP), a company must conduct a significant level of its research, development, engineering, and manufacturing activities in the United States, or is US-owned company. A foreign-owned firm may be eligible if its parent company is incorporated in a country whose government encourages US-owned firms’ participation in R&D consortia to which that government provides funding, and affords effective intellectual property rights for US companies.

(14) **Energy**: To receive financial assistance under the Energy Policy Act, a company must show that its participation will be in the economic interests of the United States, as evidenced by investments in the United States in research, development and manufacturing, and be a US-owned company or a company incorporated in the United States whose parent is incorporated in a country which (1) affords to US-owned companies opportunities comparable to those afforded to any other company to participate in such joint ventures; (2) affords US-owned companies local investment opportunities comparable to those afforded any other company; (3) affords adequate and effective intellectual property rights of US-owned firms.

(15) **Agriculture**: Foreign-controlled US enterprises cannot obtain special government emergency loans for agricultural purposes.
III. Tax obligations

None.

IV. Government purchasing

(16) Technical services contracting: Restrictions on eligibility for consideration by the US Agency for International Development as a contractor.

(17) Air transport: Foreign-controlled carriers cannot compete for Federal Government contract for the international air carriage of persons or property: (1) between the United States and foreign points to the extent service by US carriers is available; and (2) between two foreign points to the extent service by US carriers is reasonably available. These prohibitions may be waived in instance where reciprocal national treatment has been negotiated on the basis of an exchange of rights or benefits of similar magnitude.

V. Access to local finance

None.
UNITED STATES

Exceptions by Territorial Subdivisions

I. Investment by established foreign-controlled enterprises


Limitations on the foreign ownership of agricultural land: The following states, in addition to those noted below, have some sort of restriction on aliens owning land: California, Illinois, Kansas, Nevada, New Hampshire, New Jersey, New York, and North Carolina.

Iowa: A non-resident alien, a foreign government, or business incorporated in a foreign country or majority owned directly or indirectly by non-resident aliens, may not purchase or acquire agricultural land, with certain exceptions. Agricultural land acquired under the exceptions is subject to reporting requirements.

Minnesota: Only US citizens, permanent resident aliens, and business entities whose stock and beneficial ownership are at least 80 per cent held by US citizens or permanent resident aliens may own agricultural land.

Missouri: Non US citizens and businesses in which non-US citizens own a controlling interest may not own agricultural land unless the non-US citizen is a resident in the US. No corporation, Missouri or out-of-state, may engage in agriculture after 1975.

North Dakota: A non-US or non-Canadian citizen who is not a resident alien in the US may not hold agricultural land.

Pennsylvania: Foreign governments and non-resident non US citizens may not hold more than 100 acres of agricultural land.

South Dakota: Foreign governments and non-resident, non-US citizens may not hold more than 160 acres of agricultural land. No in or out-of-state corporation may own agricultural land.

Guam, Indiana, Oklahoma, South Carolina, Wisconsin, Wyoming, Florida, Hawaii, Idaho, Kentucky, Mississippi, Montana, Oregon

These states have some limitation on the ownership of real property and preference in the access to - or ownership of land

1) Real property: Limitation on the ownership of real property

Guam: Alien owned businesses may only own or rent land through Guam corporations.

Indiana: Limits amount of land held by aliens. Resident and non-resident aliens may acquire real estate but must dispose of any land over 320 acres within five years of acquiring it, or the excess acreage will escheat to the state.
Oklahoma: Non-US citizens may not own real estate, in the state, with certain exceptions.

South Carolina: Non-US citizens or corporations controlled by non-US citizens may not hold more than 500,000 acres of land.

Wisconsin: Non-US citizens not resident in the US, corporations with more than 20 per cent of their stock owned by them and non-US corporations may not hold more than 640 acres of land.

Wyoming: A non-resident not eligible for citizenship may not hold real property except for personal use and not exceeding one acre.

2) Preference in the access to/or ownership of land

Florida: Non-immigrant visa holders do not receive a homestead exemption.

Hawaii: Citizens and residents of Hawaii and US military war veterans receive preference in drawings from residential and agricultural leases of state lands. Residency requirements exist for aliens and stockholders of corporations and associations who wish to rent land in designated agricultural parks.

Idaho: State land may only be sold to US citizens.

Kentucky: Real estate owned by a non-resident alien may be escheated by the State eight years following its acquisition unless: a) the alien becomes a US citizen, b) they have declared their intent to become US citizens; or c) the corporations are organised under state law.

Mississippi: Non-resident aliens may not hold land longer than 20 years before becoming a US citizen except that they may acquire 320 acres for industrial development and 5 acres for residential purposes. Moreover, a non-resident alien may not purchase public land, except that they may purchase 320 acres of public land for industrial purposes and 5 acres for residential purposes.

Montana: State lands may only be sold to US citizens, those who have declared their intent to become US citizens or corporations organised under state law.

Oregon: State lands may only be sold to US citizens or those who have declared their intent to become US citizens.

Montana

Mining: Montana has a reciprocity test for coal leases on state owned land.

Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Maryland, Michigan, Minnesota, Mississippi, N. Carolina, Texas, Virginia, Washington, Wisconsin

Banking: operational restrictions

Alabama, Arkansas, Florida, Georgia, Minnesota, Mississippi, North Carolina, Virginia and Wisconsin effectively prohibit US affiliates of non-US banks from acquiring in-state banks by
requiring an acquiring bank to have its "home state" or "principal place of business" in a state of a regional banking pact where the majority of its consolidated deposits is located.

California: Deposit agencies of non-US banks are prohibited from accepting deposits other than from a foreign nation or a person domiciled in a foreign nation. State chartered banks and out-of-state US banks owned by non-US banks are treated differently than other California or US banks in acquisition of a California bank.

Connecticut: Banking corporations organised under the laws of another country cannot maintain an office in the State to solicit deposits or conduct a general banking business.

Delaware: Non-US banks may maintain only one office and may not act in a manner to attract customers from the general public. They may not act as a fiduciary of any sort nor accept deposits from US persons, unless they could do so if operating in the state as a federal agency under the International Banking Act.

Florida: Non-US banks may not establish full service branches or banks. Non-US bank agencies may not accept domestic deposits or act as fiduciary. Out-of-State banks may not establish full service branches.

Illinois: Banking corporations shall be licensed to transact business in the State. Non-US banks organised in a foreign country may have one bank office in the central Chicago business district.

Iowa: Banks organised under the laws of a foreign country or a part of the US not a state or DC may not acquire Iowa banks or bank holding companies.

Maryland: A person who is not a US citizen may not directly or indirectly control state savings and loan associations.

Mississippi: Upon approval and licensing by the State Banking Board, foreign banking corporations shall be limited to transactions that are clearly limited to and are usual in international or foreign business and financing international commerce, shall be unable to exercise fiduciary powers and unable to receive deposits. For a foreign banking corporation the first application fee shall be a minimum of two thousand five hundred dollars ($ 2 500) and a maximum of ten thousand dollars ($ 10 000), annual licence renewal shall be two hundred fifty dollars ($ 250).

North Carolina: A bank or bank holding company within the state can only be acquired by a bank holding company from the South Eastern Region (14 states and DC).

Texas: A foreign bank agency must be located in a county of at least 1.5 million people. Deposits can be accepted and loans made only through the bank, not the agency.

Washington: Non-US bank branches may not have more than one office in the state. Branches are effectively prohibited from accepting initial deposits of less than $100 000 from US citizens. Non-US banks may not hold real estate other than as a place of business or residence for its employees, incidental to its loan business. Non-US banks may not acquire already established financial institutions, nor shall their officers serve as directors. Non-US bank agencies are effectively limited to international business.
Banking: Reciprocity conditions

Florida: Establishment of an agency or representative office by non-US Bank is conditioned on reciprocity.

Illinois: Non-US bank corporations cannot be given a certificate of authority to transact business unless Illinois or other US banks are accorded similar privileges in the non-US bank’s home country, or pays a special $50 000 annual “reciprocal fee”.

New Jersey: Limits may be placed on the amount of a New Jersey bank that a non-US person owning more than 25 per cent of a non-US bank may acquire. Under special circumstances, a bank holding company organised out-of-state, but non-US owned, may acquire New Jersey banks or bank holding companies on a reciprocal basis.

Pennsylvania: The state banking department may deny to non-US banks permission to operate in the state in the absence of reciprocity for US banks in the country in which the non-US bank is domiciled.

Texas: An agency of a bank organised in a foreign country may be denied a licence to operate in Texas if that country denied Texas banks the ability to operate there, and if denial is in the public interest.

Insurance: licensing

These states do not issue a licence to foreign government owned or controlled insurance companies.

Insurance: reciprocity provisions.

These states have reciprocity laws enabling insurance Commissioners to retaliate against perceived unfair insurance trade rules in other countries.

Insurance: Surplus fund requirements.

US branches of non-US firms are required to maintain surplus funds in excess of deposits; these “trusteed surplus” funds are usually held in trust by either a state or a US-incorporated trustee such as a local bank or Port-of-Entry State bank.
II. Official aids and subsidies

Hawaii, North Carolina

_Agriculture:_ Hawaii, restricts State agricultural loans to Hawaii corporations with at least 75 per cent of each class of stock owned by US citizens who have resided in the state for five years. North Carolina excludes non-US citizens from its Farm Ownership Loan Program.

Florida

_Trans-sectoral:_ Foreign persons may not qualify for Small Business Administration loans.

III. Tax obligations

Montana

_Trans-sectoral:_ Small businesses with a non-resident shareholder may not take the Montana small business income tax credit.

IV. Government purchasing

None.

V. Access to local finance

None.