Annex 602.3: Reservations and Special Provisions

Reservations

1. The Mexican State reserves to itself the following strategic activities, including investment in such activities and the provision of services in such activities:

   a) exploration and exploitation of crude oil and natural gas; refining or processing of crude oil and natural gas; and production of artificial gas, basic petrochemicals and their feedstocks and pipelines;

   b) foreign trade; transportation, storage and distribution, up to and including the first hand sales of the following goods:

      (i) crude oil,

      (ii) natural and artificial gas,

      (iii) goods covered by this Chapter obtained from the refining or processing of crude oil and natural gas, and

      (iv) basic petrochemicals;

   c) the supply of electricity as a public service in Mexico, including, except as provided in paragraph 5, the generation, transmission, transformation, distribution and sale of electricity; and

   d) exploration, exploitation and processing of radioactive minerals, the nuclear fuel cycle, the generation of nuclear energy, the transportation and storage of nuclear waste, the use and reprocessing of nuclear fuel and the regulation of their applications for other purposes and the production of heavy water.

In the event of an inconsistency between this paragraph and another provision of this Agreement, this paragraph shall prevail to the extent of that inconsistency.

2. Pursuant to Article 1101(2), (Investment-Scope and Coverage), private investment is not permitted in the activities listed in paragraph 1. Chapter Twelve (CrossBorder Trade in Services) shall only apply to activities involving the provision of services covered in paragraph 1 when Mexico permits a contract to be granted in respect of such activities and only to the extent of that contract.

Trade in Natural Gas and Basic Petrochemicals

3. Where end-users and suppliers of natural gas or basic petrochemical goods consider that cross-border trade in such goods may be in their interests, each Party shall permit such end-users and suppliers, and any state enterprise of that Party as may be required under its domestic law, to negotiate supply contracts.

Each Party shall leave the modalities of the implementation of any such contract to the endusers, suppliers, and any state enterprise of the Party as may be required under its domestic law, which may take the form of individual contracts between the state enterprise and each of the other entities. Such contracts may be subject to regulatory approval.

Performance Clauses

4. Each Party shall allow its state enterprises to negotiate performance clauses in their service contracts.

Activities and Investment in Electricity Generation Facilities

5. a) Production for Own Use

   An enterprise of another Party may acquire, establish, and/or operate an electrical generating facility in Mexico to meet the enterprise's own supply needs. Electricity generated in excess of such needs must be sold to the Federal Electricity Commission (Comisión Federal de Electricidad) (CFE) and CFE shall purchase such electricity under terms and conditions agreed to by CFE and the enterprise.

   b) Co-generation

   An enterprise of another Party may acquire, establish, and/or operate a co-generation facility in Mexico that generates electricity using heat, steam or other energy sources associated with an industrial process. Owners of the industrial facility need not be the owners of the co-generating facility. Electricity generated in excess of the industrial facility's supply requirements must be sold to CFE and CFE shall purchase such electricity under terms and conditions agreed to by CFE and the enterprise.
c) Independent Power Production

An enterprise of another Party may acquire, establish, and/or operate an electricity generating facility for independent power production (IPP) in Mexico. Electricity generated by such a facility for sale in Mexico shall be sold to CFE and CFE shall purchase such electricity under terms and conditions agreed to by CFE and the enterprise. Where an IPP located in Mexico and an electric utility of another Party consider that cross-border trade in electricity may be in their interests, each relevant Party shall permit these entities and CFE to negotiate terms and conditions of power purchase and power sale contracts. The modalities of implementing such supply contracts are left to the end users, suppliers and CFE and may take the form of individual contracts between CFE and each of the other entities. Each relevant Party shall determine whether such contracts are subject to regulatory approval.