

ANNEX II
SCHEDULE OF KOREA

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.3)
Performance Requirements (Article 11.9)

Description: Investment

1. Korea reserves the right to adopt, with respect to the establishment or acquisition of an investment, any measure that is necessary for the maintenance of public order pursuant to Article 4 of the *Foreign Investment Promotion Act* (2012) and Article 5 of the *Enforcement Decree of the Foreign Investment Promotion Act* (2012), provided that Korea promptly provides written notice to Australia that it has adopted such a measure and that the measure:

- (a) is applied in accordance with the procedural requirements set out in the *Foreign Investment Promotion Act* (2012), *Enforcement Decree of the Foreign Investment Promotion Act* (2012), and other applicable law;
- (b) is adopted or maintained only where the investment poses a genuine and sufficiently serious threat to the fundamental interests of society;
- (c) is not applied in an arbitrary or unjustifiable manner;
- (d) does not constitute a disguised restriction on investment; and
- (e) is proportional to the objective it seeks to achieve.

2. Without prejudice to any claim that may be submitted to arbitration pursuant to Article 11.16.1, a claimant may submit to arbitration under Section B

(Investor-State Dispute Settlement) of Chapter 11 (Investment) a claim that:

- (a) Korea has adopted a measure for which it has provided notice pursuant to paragraph 1; and
- (b) the claimant or, as the case may be, an enterprise of Korea that is a juridical person that the claimant owns or controls directly or indirectly, has incurred loss or damage by reason of, or arising out of, the measure.

In the event of such a claim, Section B of Chapter 11 shall apply, *mutatis mutandis*, and all references in Section B of Chapter 11 to a breach, or to an alleged breach, of an obligation under Section A of Chapter 11 shall be understood to refer to the measure, which would constitute a breach of an obligation under Section A of Chapter 11 but for this entry. However, no award may be made in favour of the claimant, if Korea establishes to the satisfaction of the tribunal that the measure satisfies all the conditions listed in subparagraphs (a) through (e) of paragraph 1.

3. This entry shall not apply to the extent that a measure referred to in paragraph 1 is subject to Chapter 8 (Financial Services).

Existing Measures:

Foreign Investment Promotion Act (Law No. 11535, December 11, 2012), Article 4

Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 24638, June 28, 2013), Article 5

Sector: All Sectors

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Investment

Korea reserves the right to adopt or maintain any measure with respect to the transfer or disposition of equity interests or assets held by state enterprises or governmental authorities.

Such a measure shall be implemented in accordance with the provisions of Chapter 19 (Transparency).

Notwithstanding Article 8.9.3, this entry shall not be treated as a non-conforming measure not subject to Article 8.2 (National Treatment).

This entry shall not apply to former private enterprises that are owned by the state as a result of corporate reorganisation processes.

For the purposes of this entry, a state enterprise shall include any enterprise created for the sole purpose of selling or disposing of equity interests or assets of state enterprise or governmental authorities.

Cross-Border Trade in Services and Investment

Without prejudice to Korea's commitments undertaken in Annex I and Annex II, Korea reserves the right to adopt or maintain any measure with respect to the transfer to the private sector of all or any portion of services provided in the exercise of governmental authority.

This entry shall not apply to a measure inconsistent with Article 7.2 (National Treatment) or 11.3 (National Treatment) to the extent that the measure affects the supply of express delivery services that the laws of Korea permit. This paragraph does not prevent Korea from establishing or maintaining a state enterprise.

Notwithstanding Article 8.9.3, this entry shall not be treated as a non-conforming measure not subject to Article 8.2 (National Treatment).

Existing Measures:

Financial Investment Services and Capital Markets Act
(Law No.11845, May 28, 2013), Article 168

Sector:	All sectors
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Market Access (Article 7.4) Local Presence (Article 7.5) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, or other movement of natural persons, including immigration, entry or temporary stay, subject to the provisions of Chapter 10 (Movement of Natural Persons).

Sector:	All Sectors
Obligations Concerned:	<p>National Treatment (Articles 7.2 and 11.3)</p> <p>Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)</p> <p>Market Access (Article 7.4)</p> <p>Local Presence (Article 7.5)</p> <p>Performance Requirements (Article 11.9)</p> <p>Senior Management and Boards of Directors (Article 11.10)</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any measure with respect to the defense industry.</p> <p>Foreign investors (stipulated in Article 2 of the <i>Foreign Investment Promotion Act</i>) who intend to acquire the outstanding shares of a defense industry company (enterprises stipulated in Article 3 of the <i>Defense Acquisition Program Act</i>) other than the newly issued ones shall obtain a prior permission from the Minister of Trade, Industry and Energy.</p>
Existing Measures:	<p><i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 6</p> <p><i>Defense Acquisition Program Act</i> (Law No. 11713, March 23, 2013), Article 35</p>

Sector: Acquisition of Land

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

Korea reserves the right to adopt or maintain any measure with respect to the acquisition of land by foreign persons, except that a juridical person shall continue to be permitted to acquire land where the juridical person:

- (a) is not deemed foreign under Article 2 of the *Foreigner's Land Acquisition Act*, and
- (b) is deemed foreign under the *Foreigner's Land Acquisition Act* or is a branch of a foreign juridical person subject to approval or notification in accordance with the *Foreigner's Land Acquisition Act*, if the land is to be used for any of the following legitimate business purposes:
 - (i) land used for ordinary business activities;
 - (ii) land used for housing for senior management; and
 - (iii) land used for fulfilling land-holding requirements stipulated by pertinent laws.

Korea reserves the right to adopt or maintain any measure with respect to the acquisition of farmland by foreign persons.

Existing Measures: *Foreigner's Land Acquisition Act* (Law No. 11690, March 23, 2013), Articles 2 through 6

Farmland Act (Law No. 11694, March 23, 2013), Article 6

Sector:	Firearms, Swords, Explosives, and Similar Items
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the firearms, swords, explosives, gas sprays, electric shocks, and crossbows sector, including the manufacture, use, sale, storage, transport, import, export, and possession of firearms, swords, explosives, gas sprays, electric shocks or crossbows.

Sector: Disadvantaged Groups

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure that accords rights or preferences to socially or economically disadvantaged groups, such as the disabled, persons who have rendered distinguished services to the state, and ethnic minorities.

Sector:	State-Owned National Electronic/Information System
Obligations Concerned:	<p>National Treatment (Articles 7.2 and 11.3)</p> <p>Local Presence (Article 7.5)</p> <p>Performance Requirements (Article 11.9)</p> <p>Senior Management and Boards of Directors (Article 11.10)</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any measure affecting the administration and operation of any state-owned electronic information system that contains proprietary government information or information gathered pursuant to the regulatory functions and powers of the government.</p> <p>This entry shall not apply to payment and settlement systems related to financial services.</p>

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Market Access (Article 7.4) Local Presence (Article 7.5) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for public purposes: income security or insurance; social security or insurance; social welfare; public training; public utilities; public transport; public housing; health; and child care.

Sector:	All Sectors
Obligations Concerned:	Market Access (Article 7.4)
Description:	<u>Cross-Border Trade in Services</u>

Korea reserves the right to adopt or maintain any measure that is not inconsistent with Korea's obligations under Article XVI of GATS as set out in Korea's Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/ 48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1).

For the purposes of this entry only, Korea's Schedule is subject to the following modifications:

- (a) for any sector and sub-sector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that does not list Market Access as one in the Obligations Concerned element, "None" is inscribed in the Market Access column for modes 1, 2, and 3, and "Unbound except as indicated in the Horizontal commitments section" is inscribed for mode 4;
- (b) for any sector and sub-sector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that lists a limitation to the Market Access obligation, that limitation is inscribed in the Market Access column with regard to the appropriate mode of supply; and
- (c) for any sector and sub-sector listed in Appendix II-A, Korea's Schedule is modified as indicated in the Appendix II-A.

These modifications shall not affect any limitation relating to sub-paragraph (f) of paragraph 2 of Article XVI of GATS inscribed in the Market Access column of Korea's Schedule.

For greater certainty, an entry of "None" in the Market Access column of Korea's Schedule shall not be

construed to alter the application of Article 7.5 (Local Presence) as modified by Article 7.6 (Non-Conforming Measures).

Sector: All Sectors

Obligations Concerned: Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.

Sector:	Communication Services – Broadcasting Services
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any measure that accords differential treatment to persons of other countries due to the application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services.</p>

Sector:	Transportation Services – Railroad Transportation
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving railroad transportation.

Sector: Environmental Services – Treatment and Supply Services for Potable Water; Collection and Treatment Services for Municipal Sewage; Collection, Transportation, and Disposal Services for Municipal Refuse; Sanitation and Similar Services; Nature and Landscape Protection Services (Except for Environmental Impact Assessment Services)

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the following environmental services: treatment and supply of potable water; collection and treatment of municipal sewage; collection, transportation, and disposal of municipal refuse; sanitation and similar services; and nature and landscape protection services (except for environmental impact assessment services).

This entry shall not apply to the supply of the aforementioned services pursuant to a contract between private parties, to the extent that private supply of such services is permitted under relevant laws and regulations.

Sector:	Atomic Energy – Nuclear Power Generation: Manufacturing and Supply of Nuclear Fuel; Nuclear Materials; Radioactive Waste Treatment and Disposal (including treatment and disposal of spent and irradiated nuclear fuel); Radioisotope and Radiation Generation Facilities; Monitoring Services for Radiation; Services Related to Nuclear Energy; Planning, Maintenance and Repair Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the atomic energy industry.

Sector: Energy Services – Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales; and Electricity Business

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to electric power generation, transmission, distribution and sales.

Any such measure shall not decrease the level of foreign ownership permitted in the electric power industry as provided by the entry in Korea's Schedule to Annex I related to Energy Industry – Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales.

Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with Article 11.9.1(f).

Sector:	Energy Services – Gas industry
Obligations Concerned:	<p>National Treatment (Articles 7.2 and 11.3)</p> <p>Performance Requirements (Article 11.9)</p> <p>Senior Management and Boards of Directors (Article 11.10)</p> <p>Local Presence (Article 7.5)</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any measure with respect to the import and wholesale distribution of natural gas and the operation of terminals and the national high pressure pipeline network.</p> <p>Any such measure shall not decrease the level of foreign ownership permitted in the gas industry as provided by the entry in Korea's Schedule to Annex I related to Energy Industry – Gas Industry.</p>

Sector: Distribution Services – Commission Agents’ Services, Wholesaling and Retailing of Agricultural Raw Materials and Live Animals (*nongchuksan mul*)

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to:

- (a) commission agents’ services of agricultural raw materials, live animals, food products, beverages;
- (b) wholesale trade services of grain, meat, poultry, grain powder, red ginseng, fertilisers; and
- (c) retail services of rice, ginseng and red ginseng.

Sector:	Transportation Services – Passenger Road Transportation Services (Taxi Services and Scheduled Passenger Road Transportation Services)
Obligations Concerned:	<p>National Treatment (Articles 7.2 and 11.3)</p> <p>Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)</p> <p>Performance Requirements (Article 11.9)</p> <p>Senior Management and Boards of Directors (Article 11.10)</p> <p>Local Presence (Article 7.5)</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any measure with respect to taxi services and scheduled passenger road transportation services.</p>

Sector: Transportation Services – Freight Road Transportation Services (excluding Road Transportation Services Related to Courier Services)

Obligations Concerned: Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to freight road transportation services excluding road transportation of containerised freight (excluding cabotage) by international shipping companies and road transportation services related to courier services.

Sector:	Transportation Services – Internal Waterways Transportation Services and Space Transportation Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to internal waterways transportation services and space transportation services.

Sector: Transportation Services – Storage and Warehousing Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to storage and warehousing services related to agricultural, fishery and livestock products.

Sector: Communication Services – Non-monopoly Postal Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to:

- (a) the supply of support services to postal offices by military service personnel or other personnel of equivalent status; and
- (b) Minister of Science, ICT and Future Planning not needing authorisation from the Minister of Land, Infrastructure and Transport in determining the total number of vehicles that may belong to the Ministry of Science, ICT and Future Planning and allocating the vehicles to postal offices.

The Korean Postal Authority reserves exclusive rights for collecting, processing and delivering domestic and international letters.

The exclusive rights of the Korean Postal Authority include the right of access to its postal network and operation thereof.

Existing Measures: *Postal Services Act* (Law No. 11690, March 23, 2013)

Military Service Act (Law No. 11849, June 4, 2013)

Regulations on Management of Common-Purpose Motor Vehicles (Presidential Decree No. 24425, March 23, 2013)

Sector:	Communication Services – Broadcasting Services
Obligations Concerned:	<p>National Treatment (Articles 7.2 and 11.3)</p> <p>Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)</p> <p>Performance Requirements (Article 11.9)</p> <p>Senior Management and Boards of Directors (Article 11.10)</p> <p>Market Access (Article 7.4)</p> <p>Local Presence (Article 7.5)</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any measure relating to broadcasting services.</p> <p>Korea shall ensure that this entry is not inconsistent with the Communications Services – Broadcasting Services entry in Korea’s Schedule to Annex I.</p>
Existing Measures:	<p><i>Broadcasting Act</i> (Law No. 12093, August 13, 2013), Articles 8, 9, 69 through 72, 78 and 78-2</p> <p><i>Enforcement Decree of the Broadcasting Act</i> (Presidential Decree No. 24763, September 26, 2013), Articles 14, 50 through 58, 60 and 61-3</p>

Sector: Communication Services – Broadcasting and Telecommunications Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Market Access (Article 7.4)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to subscription-based video services.

For the purposes of this entry, “subscription-based video services” means subscription-based video services that are supplied to end-users over dedicated transmission capacity that the supplier owns or controls (including by leasing) and includes IPTV and Interactive Broadcasting.

Existing Measures: *Internet Multimedia Broadcasting Act* (Law No. 11690, March 23, 2013), Articles 4, 7, 9, 18 and 21

Enforcement Decree of the Internet Multimedia Broadcasting Act (Presidential Decree No. 24445, March 23, 2013), Article 20

Sector:	Communication Services – Broadcasting and Audio-Visual Services
Obligations Concerned:	Most Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9)
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any preferential co-production arrangement for film or television productions. Official co-production status, which may be granted to a co-production produced under such a co-production arrangement, confers national treatment on works covered by a co-production arrangement.</p>
Existing Measures:	<p><i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 11902, July 16, 2013)</p> <p><i>Notice on Programming</i> (Korean Broadcasting Commission Notice No. 2008-135, December 31, 2008)</p>

Sector: Communication Services – Broadcasting and Audio-Visual Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure setting criteria for determining whether broadcasting or audio-visual programs are Korean.

Korea shall ensure that this entry is not inconsistent with the Communications Services – Broadcasting Services entry in Korea’s Schedule to Annex I or the Communications Services – Broadcasting and Telecommunications Services entry in Korea’s Schedule to Annex II.

Existing Measures: *Act on Promotion of Motion Pictures and Video Products* (Law No. 11902, July 16, 2013), Articles 27 and 40

Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products (Presidential Decree No. 24036, August 13, 2012), Articles 10 and 19

Enforcement Regulations of the Act on Promotion of Motion Pictures and Video Products (Ordinance of the Ministry of Culture, Sports and Tourism No.128, August 17, 2012)

Notice on Programming (Korean Broadcasting Commission Notice No. 2008-135, December 31, 2008)

Sector: Business Services – Real Estate Services (not including Real Estate Brokerage and Appraisal Services)

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services, except for brokerage and appraisal services.

Sector: Business Services – Insolvency and Receivership Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to insolvency and receivership services.

Korea reserves the right to adopt or maintain any measure with respect to corporate restructuring services, including corporate restructuring companies, corporate restructuring partnerships, and corporate restructuring vehicles.

For greater certainty, this entry shall not be construed to negatively affect current legitimate investment banking services subject to rights and obligations under Chapter 8 (Financial Services).

Sector:	Digital Audio or Video Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9) Local Presence (Article 7.5)
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt any measure to ensure that, upon a finding by the Government of Korea that Korean digital audio or video content or genres thereof is not readily available to Korean consumers, access to such content is not unreasonably denied to Korean consumers. With respect to digital audio or video services targeted at Korean consumers, Korea reserves the right to adopt any measure to promote the availability of such content.</p> <p>Any measure adopted pursuant to the paragraph above shall be implemented in accordance with the provisions of Chapter 19 (Transparency), as well as Article 7.8 (Transparency in Developing and Applying Regulations), as applicable, be based on objective criteria, and be no more trade-restrictive or burdensome than necessary.</p> <p>For the purposes of this entry, “digital audio or video service” means a service that provides streaming audio content, films or other video downloads or streaming video content regardless of the type of transmission (including through the Internet), but does not include broadcasting services as defined by the <i>Broadcasting Act</i> at the time of signature of this Agreement or subscription-based video services as defined in the Communications Services – Broadcasting and Telecommunications Services entry in Korea’s Schedule to Annex II.</p>
Existing Measures:	<i>Contents Industry Promotion Act</i> (Law No. 11690, March 23, 2013)

Sector: Business Services – Cadastral Surveying Services and Cadastral Map-Making Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to cadastral surveying services and cadastral map related services.

Sector: Business and Environmental Services – Examination, Certification, and Classification of Agricultural Raw Materials and Live Animals (*nong chuk san mul*)

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to examination, certification and classification of agricultural raw materials and live animal products.

Sector: Business Services – Services Incidental to Agriculture, Hunting, Forestry, and Fishing

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, and livestock, including genetic improvement, artificial insemination, rice and barley polishing, and activities related to a rice processing complex.

Korea reserves the right to adopt or maintain any measure with respect to the supply of services incidental to agriculture, hunting, forestry, and fishing by the Agricultural Cooperatives, the Forestry Cooperatives, and the Fisheries Cooperatives.

Sector: Fishing

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

Korea reserves the right to adopt or maintain any measure with respect to fishing activities in Korea's territorial waters and Exclusive Economic Zone.

Sector:	Publishing of Newspapers
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the publishing (including printing and distribution) of newspapers.
Existing Measures:	<i>Act on the Promotion of Newspapers, Etc.</i> (Law No. 11690, March 23, 2013) <i>Enforcement Decree of Act on the Promotion of Newspapers, Etc.</i> (Presidential Decree No. 22151, May 4, 2010)

Sector: Education Services – Pre-Primary, Primary, Secondary, Higher and Other Education

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to pre-primary, primary, and secondary education; health and medicine-related higher education; higher education for prospective pre-primary, primary, and secondary teachers; professional graduate education in law; distance education at all education levels (except adult education services, provided that such services do not confer academic credit, diplomas or degrees); and other education services.

Sector:	Social Services – Human Health
Obligations Concerned:	<p>National Treatment (Articles 7.2 and 11.3)</p> <p>Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)</p> <p>Market Access (Article 7.4)</p> <p>Performance Requirements (Article 11.9)</p> <p>Senior Management and Boards of Directors (Article 11.10)</p> <p>Local Presence (Article 7.5)</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Korea reserves the right to adopt or maintain any measure with respect to human health.</p>
Existing Measures:	<p>Legislation listed below, or replacement legislation, including its enforcement decrees, enforcement regulations, and other subsidiary regulations, is part of examples for transparency. This reservation includes any other matters with regard to human health not listed herein;</p> <p><i>National Health Promotion Act</i></p> <p><i>National Nutrition Management Act</i></p> <p><i>Public Health and Medical Services Act</i></p> <p><i>Act on the Establishment and Operation of National Medical Centers</i></p> <p><i>Act on the Organization of the Korean National Red Cross</i></p> <p><i>Act on the Establishment and Management of Local Medical Centers</i></p> <p><i>Framework Act on Health and Medical Services</i></p> <p><i>Medical Service Act</i></p> <p><i>National Health Insurance Act</i></p> <p><i>Act on the Transplant of Internal Organs, etc.</i></p> <p><i>Bioethics and Safety Act</i></p> <p><i>Act on Cord Blood Management and Research</i></p> <p><i>Blood Management Act</i></p> <p><i>Pharmaceutical Affairs Act</i></p> <p><i>Emergency Medical Service Act</i></p> <p><i>Act on Remedies for Injuries from Medical Malpractice and Mediation of Medical Disputes</i></p> <p><i>Medical Technicians, etc. Act</i></p> <p><i>Mental Health Act</i></p> <p><i>Act on the Prevention and Control of Infectious Diseases</i></p> <p><i>Quarantine Act</i></p>

Tuberculosis Prevention Act
Cancer Control Act
Act on the Prevention of Acquired Immunodeficiency Syndrome
Act on the Promotion of Korean Medicine and Pharmaceuticals
Health Functional Foods Act
Agricultural and Marine Product Quality Control Act
Act on the Control of Narcotics, etc.
Framework Act on Food Safety
Food Sanitation Act
Laboratory Animal Act
Special Act on Safety Control of Children's Dietary Life
Medical Devices Act
Safety, Management, etc. of Human Tissue Act
Livestock Products Sanitary Control Act
Cosmetics Act
National Sports Promotion Act

Sector: Health Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Market Access (Article 7.4)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to: the collection of blood and its components; the distribution of blood and blood products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood products and services.

Existing Measures: *Act on the Organization of the Korean National Red Cross*
Blood Management Act
Pharmaceutical Affairs Act

Sector:	Recreational, Cultural, and Sporting Services – Motion Picture Promotion, Advertising or Post-Production Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to motion picture promotion, advertising or post-production services.
Existing Measures:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 11902, July 16, 2013) <i>Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products</i> (Presidential Decree No. 24036, August 13, 2012)

Sector: Recreational, Cultural, and Sporting Services – Museum and Other Cultural Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the conservation, reconstruction, and restoration of cultural heritage and properties, including the excavation, appraisal or dealing of cultural heritage and properties.

Existing Measures: *Cultural Heritage Protection Act* (Law No.11228, January 26, 2012)

Enforcement Decree of the Cultural Heritage Protection Act (Presidential Decree No. 23862, June 19, 2012)

Archeological Heritage Protection and Survey Act (Law No. 10882, July 21, 2011)

Enforcement Regulations of the Archeological Heritage Protection and Survey Act (Ordinance of the Ministry of Culture, Sports and Tourism No. 78, February 16, 2011)

Act on the Cultural Heritage Repair, Etc (Law No. 11530, December 11, 2012)

Sector: Other Recreational Services

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

Korea reserves the right to adopt or maintain any measure with respect to tourism in rural, fishery and agricultural sites.

Sector:	Legal Services – Foreign Legal Consultants
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u>

1. Korea reserves the right to adopt or maintain any measures¹ including but not limited to:

- (a) restrictions on certification, approval, registration, admission, and supervision of, and any other requirements with respect to, any persons who have obtained qualification in a foreign country equivalent to that of *byeon-ho-sa* (Korean-licensed lawyers) or foreign law firms supplying any type of legal services in Korea²;
- (b) restrictions on any persons who have obtained qualification in a foreign country equivalent to that of *byeon-ho-sa* (Korean-licensed lawyers) or foreign law firms entering into partnerships, commercial associations, affiliations, or any other type of relationship regardless of legal form, with *byeon-ho-sa* (Korean-licensed lawyers), Korean law firms, *beop-mu-sa* (Korean-certified judicial scriveners), *byeon-ri-sa* (Korean-licensed patent attorneys), *gong-in-hoe-gye-sa* (Korean-certified public accountants), *se-mu-sa* (Korean-certified tax accountants), or *gwan-se-sa* (Korean customs brokers)³;
- (c) restrictions on any persons who have obtained qualification in a foreign country equivalent to that of *byeon-ho-sa* (Korean-licensed lawyers)

¹ For greater certainty, commercial presence is required for temporary entry.

² For greater certainty, it also includes deciding on whether to permit the provision of such type of legal services in Korea.

³ For greater certainty, it also includes deciding on whether to permit the entrance into such relationship in Korea.

or foreign law firms hiring *byeon-ho-sa* (Korean-licensed lawyers), *beop-mu-sa* (Korean-certified judicial scriveners), *byeon-ri-sa* (Korean-licensed patent attorneys), *gong-in-hoe-gye-sa* (Korean-certified public accountants), *se-mu-sa* (Korean-certified tax accountants), or *gwan-se-sa* (Korean customs brokers) in Korea⁴; and

- (d) restrictions on senior management and the board of directors of legal entities supplying foreign legal consulting services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

- (a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement, Australian law firms to establish representative offices (Foreign Legal Consultant offices or FLC offices) in Korea, and lawyers licensed in Australia to provide legal advisory services regarding the laws of the jurisdiction in which they are licensed and public international law as foreign legal consultants in Korea.
- (b) no later than two years after the date this Agreement enters into force, Korea shall allow FLC offices, subject to certain requirements consistent with this Agreement, to enter into specific cooperative agreements with Korean law firms in order to be able to jointly deal with cases where domestic and foreign legal issues are mixed, and to share profits derived from such cases.
- (c) no later than five years after the date this agreement enters into force, Korea shall allow Australian law firms to establish, subject to certain requirements consistent with this Agreement, joint venture firms with Korean law firms. Korea may impose restrictions on the proportion of voting shares or equity

⁴ For greater certainty, it also includes deciding on whether to permit the establishment of such employment relationship in Korea

interests of the joint venture firms. For greater certainty, such joint ventures may, subject to certain requirements, employ Korean-licensed lawyers as partners or associates.

3. Korea shall maintain, at a minimum, the measures adopted to implement its commitments in paragraph 2.

For the purposes of this entry, “Australian law firm” means a law firm organised under Australian law and headquartered in Australia.

Sector:	Professional Services – Foreign Chartered Accountants
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u>

1. Korea reserves the right to adopt or maintain any measures, including but not limited to:

- (a) restrictions on certified public accountants or accounting corporations registered under foreign laws hiring *gong-in-hoe-gye-sa* (Korean-certified public accountants);
- (b) restrictions on foreign-certified public accountants providing auditing services in Korea; and
- (c) restrictions on senior management and the board of directors of legal entities supplying certified public accountancy services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

- (a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement:
 - (i) Australian certified public accountants registered in Australia or accounting corporations organised under Australian law to supply accounting consulting services relating to Australian or international accounting laws and standards through offices established in Korea; and
 - (ii) Australian certified public accountants registered in Australia to work in *hoe-gye-beop-in* (Korean accounting corporations);

(b) no later than five years after the date this Agreement enters into force, Korea shall allow Australian certified public accountants registered in Australia to invest in any *hoe-gye-beop-in* (Korean accounting corporations), subject to certain requirements consistent with this Agreement, provided that:

(i) *gong-in-hoe-gye-sa* (Korean registered certified public accountants) shall own more than 50 per cent of the voting shares or equity interest of the *hoe-gye-beop-in*, and

(ii) any single Australian certified public accountants registered in Australia owns less than 10 per cent of the voting shares or equity interests of the *hoe-gye-beop-in*.

3. Korea shall maintain, at a minimum, the measures adopted to implement its commitments in paragraph 2.

For the purposes of this entry:

(a) an “Australian certified public accountant registered in Australia” means an Australian accounting with the qualification of Certified Practising Accountant or Chartered Accountant; and

(b) an “Australian accounting corporation” means an accounting corporate entity or partnership organised under Australian law and headquartered in Australia.

Sector: Professional Services – Foreign Certified Tax Accountants

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Local Presence (Article 7.5)
Senior Management and Boards of Directors (Article 11.10)

Description: Cross-Border Trade in Services and Investment

1. Korea reserves the right to adopt or maintain any measures, including but not limited to:

- (a) restrictions on certified tax accountants or tax agency corporations registered under foreign laws hiring *se-mu-sa* (Korean-certified tax accountants) or *gong-in-hoe-gye-sa* (Korean-certified public accountants);
- (b) restrictions on foreign-certified tax accountants providing tax reconciliation services and tax representative services in Korea; and
- (c) restrictions on senior management and the board of directors of legal entities supplying certified tax accountancy services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

- (a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement:
 - (i) the establishment of offices in Korea by Australian certified tax accountants registered in Australia or tax agency corporations organised under Australian laws to provide tax consulting services with respect to Australian or international tax laws and taxation system; and
 - (ii) Australian certified tax accountants registered in Australia to work in *se-mu-*

beop-in (Korean tax agency corporations).

- (b) no later than five years after this Agreement enters into force, Korea shall allow Australian certified tax accountants registered in Australia to invest in any *se-mu-beop-in* (Korean tax agency corporations), subject to certain requirements consistent with this Agreement, provided that:

- (i) *se-mu-sa* (Korean-certified tax accountants) shall own more than 50 per cent of the voting shares or equity interests of the *se-mu-beop-in*; and
- (ii) any single Australian certified tax accountant registered in Australia owns less than 10 per cent of the voting shares or equity interests of these *se-mu-beop-in*.

3. Korea shall maintain, at a minimum, the measures adopted to implement its commitments in paragraph 2.

For the purposes of this entry:

- (a) an “Australian certified tax accountant registered in Australia” means an Australian tax accountant with the qualification of Certified Practising Accountant or Chartered Accountant; and
- (b) an “Australian tax agency corporation” means a tax agency corporation or partnership organised under Australian law and headquartered in Australia.

Existing Measures:

Certified Tax Accountant Act (Law No. 11610, January 1, 2013), Articles 6, 13, 16-3 and 20

Enforcement Decree of the Corporate Tax Act (Presidential Decree No. 24824, November 5, 2013), Article 97

Guidelines Governing the Work of Tax Agents, (Order of the National Tax Service No. 1761, August 24, 2009)
Articles 20 and 22

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 7.2) Local Presence (Article 7.5)
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>Korea reserves the right to adopt or maintain any measure with respect to the exportation and re-exportation of controlled commodities, software and technology.</p> <p>Only persons residing in Korea may apply for a license to export or re-export such commodities, software or technology.</p>
Existing Measures:	<p><i>Promotion of Atomic Energy Act</i> (Law No. 11714, March 23, 2013)</p> <p><i>Foreign Trade Act</i> (Law No. 11873, June 7, 2013)</p> <p><i>Notice on Exportation and Re-Exportation of Controlled Commodities</i> (Notice of the Ministry of Trade, Industry and Energy No. 2013-39, May 31, 2013)</p> <p><i>The Customs Act</i> (Law No. 11602, January 1, 2013)</p>

Sector: All Sectors

Obligations Concerned: National Treatment (Articles 11.3)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)

Description: Investment

Korea reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority, as that term is defined in Article 7.1.5, such as law enforcement and correctional services. This entry does not apply to:

- (a) an investor or covered investment that has entered into an agreement with Korea with respect to the supply of such services; or
- (b) a measure adopted or maintained by Korea to the extent that the measure is subject to Chapter 8 (Financial Services).

Sector: Transportation Services – Maritime Passenger Transportation and Maritime Cabotage

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Most-Favoured-Nation Treatment (Articles 7.3 and 11.4)
Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the provision of international maritime passenger transportation services, maritime cabotage, and the operation of Korean vessels, including the following measures:

A person that supplies international maritime passenger transportation services must obtain a license from the Minister of Oceans and Fisheries, which is subject to an economic needs test.

Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, maritime cabotage is reserved for Korean vessels, which are assumed to cover transportation of passengers or goods between a port or point located in the entire Korean peninsula and(or) any adjacent Korean islands and another port or point located in the entire Korean peninsula and(or) any adjacent Korean islands, including on its continental shelf as provided in the UN Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in the entire Korean peninsula and any adjacent Korean islands. “Korean vessel” means:

- (a) a vessel owned by the Korean Government, a state enterprise, or a subsidiary institutions of the Ministry of Oceans and Fisheries;
- (b) a vessel owned by a Korean national;
- (c) a vessel owned by an enterprise organised under the Korean Commercial Code; or

- (d) a vessel owned by an enterprise organised under foreign law that has its principal office in Korea and whose *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) is a Korean national. In the event there is more than one, all *dae-pyo-ja* must be Korean nationals.

For greater certainty, measures relating to the landside aspects of port activities are subject to the application of Article 22.2 (Essential Security).

APPENDIX II-A

For the following Sectors, Korea's obligations under Article XVI of the General Agreement on Trade in Services as set out in Korea's Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.

Sector/Sub-sector	Market Access Improvements
<p>Research and development services</p> <p>Research and development services on natural sciences</p> <p>Research and development services on social sciences and humanities</p> <p>Interdisciplinary research and development services</p>	<p>Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section." for mode 4.</p> <p>Modify mode 1 and 2 limitations from "Unbound" to "None".</p> <p>Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.</p>
Market research and public opinion polling services	Modify mode 1 and 2 limitations from "Unbound" to "None".
Services incidental to mining	Modify mode 1 and 2 limitations from "Unbound" to "None".
Packaging services	Modify mode 1 and 2 limitations from "Unbound" to "None".
Convention services other than convention agency services	Insert new commitments with "None" for mode 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.

For the following Sectors, Korea's obligations under Article XVI of the General Agreement on Trade in Services as set out in Korea's Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.

Sector/Sub-sector	Market Access Improvements
<p>Tourism and travel-related services</p> <p>Beverage serving services without entertainment</p> <p>Excluding rail and air transport-related facilities in beverage serving services without entertainment</p> <p>Tour operator services</p> <p>Tourist guide services</p>	<p>Insert new commitments with "Unbound*" for mode 1, "None" for mode 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.</p> <p>Insert new commitments with "None" for mode 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.</p> <p>Modify mode 3 from "Only travel agencies are allowed to supply tourist guide services" to "None".</p>