

ANNEX I

Reservations for Existing Measures

Schedule of Canada – Explanatory Notes

1. Canada's Schedule to this Annex sets out, pursuant to Articles 8.9.1 and 9.6.1, Canada's existing measures that do not conform with some or all of the obligations imposed by:

- (a) Article 8.3 (National Treatment) or 9.2 (National Treatment);
- (b) Article 8.4 (Most-Favoured-Nation Treatment) or 9.3 (Most-Favoured-Nation Treatment);
- (c) Article 8.7 (Senior Management and Boards of Directors);
- (d) Article 8.8 (Performance Requirements);
- (e) Article 9.4 (Market Access); or
- (f) Article 9.5 (Local Presence).

2. Each reservation sets out the following elements:

- (a) **Sector** refers to the general sector in which the reservation is taken;
- (b) **Sub-sector** refers, where applicable, to the specific sector in which the reservation is taken;
- (c) **Industry Classification** refers, where applicable, to the activity covered by the reservation according to industry classification codes;
- (d) **Type of Reservation** specifies the obligation referred to in paragraph 1 for which a reservation is taken;

- (e) **Measures**¹ identifies the laws, regulations, or other measures, as qualified, where indicated, by the **Description** element, for which the reservation is taken. A measure cited in the **Measures** element:
 - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
 - (ii) includes a subordinate measure adopted or maintained under the authority of and consistent with the measure; and
- (f) **Description** sets out the non-conforming aspects of the measure for which the reservation is taken.

3. In the interpretation of a reservation, all elements of the reservation, with the exception of Industry Classification, shall be considered. A reservation shall be interpreted in light of the relevant Articles of the Chapters against which the reservation is taken. To the extent that:

- (a) the **Measures** element is qualified by a liberalisation commitment from the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and
- (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless a discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. In accordance with Articles 8.9.1(a) and 9.6.1(a), and subject to Articles 8.9.1(c) and 9.6.1(c), the Articles of this Agreement specified in the **Type of Reservation** element of a reservation do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that reservation.

5. Where Canada maintains a measure that requires a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a reservation for that measure taken with respect to Article 9.2 (National Treatment), 9.3 (Most-Favoured-Nation Treatment), 9.4 (Market Access) or 9.5 (Local Presence) shall operate as a reservation with respect to Article 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), or 8.8 (Performance Requirements) to the extent of that measure.

¹ For greater certainty, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in Articles 8.9.1 and 9.6.1.

6. For greater certainty, National Treatment (Article 9.2) and Local Presence (Article 9.5) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 9.5) need not be reserved against National Treatment (Article 9.2).

7. For purposes of this Annex:

CPC means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No.77, Provisional Central Product Classification, 1991; and

SIC means Standard Industrial Classification numbers as set out in Statistics Canada, Standard Industrial Classification, fourth edition, 1980.

ANNEX I

Schedule of Canada

Sector:	All Sectors
Sub-sector:	
Industry Classification:	
Type of Reservation:	National Treatment (Article 8.3) Senior Management and Boards of Directors (Article 8.7) Performance Requirements (Article 8.8)
Measures:	<i>Investment Canada Act</i> , R.S.C. 1985, c. 28 (1st Supp.) <i>Investment Canada Regulations</i> , SOR/85-611, as qualified by paragraphs 8 through 12 of the Description element
Description:	Investment 1. Under the <i>Investment Canada Act</i> , the following acquisitions of Canadian businesses by a non-Canadian are subject to review by the Director of Investments: (a) a direct acquisition of a Canadian business with assets of Can\$5 million or more; (b) an indirect acquisition of a Canadian business with assets of Can\$50 million or more; and

(c) an indirect acquisition of a Canadian business with assets between Can\$5 million and Can\$50 million that represent more than 50 percent of the value of the assets of all the entities the control of which is being acquired, directly or indirectly, in the transaction in question.

2. For the purposes of this reservation:

“non-Canadian” means an individual, government or agency thereof or an entity that is not Canadian; and

“Canadian” means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the *Investment Canada Act*.

3. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada’s cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor-in-Council authorises a review in the public interest.

4. An investment subject to review under the *Investment Canada Act* may not be implemented unless the Minister responsible for the *Investment Canada Act* advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with 6 factors described in the Act, summarised as follows:

(a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the use of parts, components and services produced in Canada and on exports

- (b) the degree and significance of participation by Canadians in the investment;
- (c) the effect of the investment on productivity, industrial efficiency, technological development and product innovation in Canada;
- (d) the effect of the investment on competition within an industry or industries in Canada;
- (e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic and cultural policy objectives enunciated by the government or legislature of any province likely to be significantly affected by the investment; and
- (f) the contribution of the investment to Canada's ability to compete in world markets.

5. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit undertakings to the Minister in connection with a proposed acquisition that is the subject of review. In the event that an applicant fails to comply with an undertaking, the Minister may seek a court order directing compliance or any other remedy authorised under the *Investment Canada Act*.

6. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review as described above must notify the Director of Investments.

7. The Director of Investments will review an “acquisition of control”, as defined in the *Investment Canada Act*, of a Canadian business by an investor of Korea if the value of the gross assets of the Canadian business is not less than the applicable threshold.
8. The higher review threshold, calculated as set out in paragraph 13, does not apply to an acquisition in the cultural businesses sector.
9. Notwithstanding the definition of “investor of a Party” in Article 8.45, only investors who are nationals of Korea or entities controlled by nationals of Korea as provided for in the *Investment Canada Act* may benefit from the higher review threshold.
10. An indirect “acquisition of control” of a Canadian business by an investor of Korea in a sector other than those sectors identified in paragraph 8 is not reviewable.
11. Notwithstanding Article 8.8 (Performance Requirements), Canada may impose requirements or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct or operation of an investment of an investor of Korea or of a non-Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of an acquisition of an investment under the *Investment Canada Act*.

12. Except for requirements, commitments or undertakings relating to technology transfer as set out in paragraph 11 of this reservation, Article 8.8 (Performance Requirements) applies to requirements, commitments or undertakings imposed or enforced under the *Investment Canada Act*. Article 8.8 (Performance Requirements) shall not apply to any requirement, commitment or undertaking imposed or enforced in connection with a review under the *Investment Canada Act* to locate production, carry out research and development, employ or train workers, or construct or expand particular facilities, in Canada.

13. For an investor of Korea, the applicable threshold for review is Can\$354 million for 2014. In January of each subsequent year the amount will be determined by the Minister using the following formula:

$$\text{Annual Adjustment} = \frac{\text{Current Nominal GDP at Market Prices}}{\text{Previous Year Nominal GDP at Market Prices}} \times \text{amount determined for previous year}$$

“Current Nominal GDP at Market Prices” means the average of the Nominal Gross Domestic Products at Market Prices for the most recent 4 consecutive quarters.

“Previous Year Nominal GDP at Market Prices” means the average of the Nominal Gross Domestic Products at Market Prices for the 4 consecutive quarters for the comparable period in the year preceding the year used in calculating the Current Nominal GDP at Market Prices.

For the above-mentioned purposes, the amounts will be rounded to the nearest million dollars.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Article 8.3)

Senior Management and Boards of Directors (Article 8.7)

Measures: As set out in the **Description** element.

Description: **Investment**

1. Canada or a province or territory, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets and on the ability of owners of such interests or assets to control a resulting enterprise by investors of Korea or of a non-party or their investments. With respect to such a sale or other disposition, Canada or a province or territory may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

2. For the purposes of this reservation:

(a) a “measure” adopted or maintained after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes a limitation on the ownership of equity interests or assets or imposes a nationality requirement described in this reservation is an existing measure; and

- (b) “state enterprise” means an enterprise owned or controlled through ownership interests by Canada or a province or territory, and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Sector:	All Sectors
Sub-sector:	
Industry Classification:	
Type of Reservation:	National Treatment (Article 8.3)
Measures:	<p><i>Canada Business Corporations Act</i>, R.S.C. 1985, c. C-44</p> <p><i>Canada Business Corporations Regulations, 2001</i>, SOR/2001-512</p> <p><i>Canada Cooperatives Act</i>, S.C. 1998, c.1</p> <p><i>Canada Cooperatives Regulations</i>, SOR/99-256</p>
Description:	<p>Investment</p> <p>1. A corporation may place constraints on the issue, transfer and ownership of shares in a federally incorporated corporation. The object of those constraints is to permit a corporation to meet Canadian ownership or control requirements, under certain laws set out in the <i>Canada Business Corporations Regulations, 2001</i>, in sectors where Canadian ownership or control is required as a condition to receive licences, permits, grants, payments or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.</p>

2. The *Canada Cooperatives Act* provides that constraints may be placed on the issue or transfer of investment shares of a cooperative to a person not resident in Canada, to permit cooperatives to meet Canadian ownership requirements to obtain a licence to carry on a business, to become a publisher of a Canadian newspaper or periodical or to acquire investment shares of a financial intermediary and in sectors where Canadian ownership or control is a required condition to receive licences, permits, grants, payments and other benefits. Where the ownership or control of investment shares would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the *Canada Cooperatives Act* provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.

3. For the purposes of this reservation Canadian means “Canadian” as defined in the *Canada Business Corporations Regulations, 2001* or in the *Canada Cooperatives Regulations*.

Sector:	All Sectors
Sub-sector:	
Industry Classification:	
Type of Reservation:	Senior Management and Boards of Directors (Article 8.7)
Measures:	<p><i>Canada Business Corporations Act</i>, R.S.C. 1985, c. C-44</p> <p><i>Canada Business Corporations Regulations</i>, 2001, SOR/2001-512</p> <p><i>Canada Cooperatives Act</i>, S.C. 1998, c.1</p> <p><i>Canada Cooperatives Regulations</i>, SOR/99-256</p> <p><i>Canada Corporations Act</i>, R.S.C. 1970, c. C-32</p> <p>Special Acts of Parliament incorporating specific companies</p>

Description:**Investment**

1. The *Canada Business Corporations Act* requires, for most federally incorporated corporations, that 25 percent of directors be resident Canadians and, if such corporations have fewer than four directors, at least one director must be a resident Canadian. As provided in the *Canada Business Corporations Regulations, 2001*, a simple majority of resident Canadian directors is required for corporations in the following sectors: uranium mining; book publishing or distribution; book sales, if the sale of books is the primary part of the corporation's business, and film or video distribution. Similarly, corporations that, by an Act of Parliament or Regulation, are individually subject to minimum Canadian ownership requirements are required to have a majority of resident Canadian directors.
2. For the purposes of the *Canada Business Corporations Act*, "resident Canadian" means an individual who is a Canadian citizen ordinarily resident in Canada, a citizen who is a member of a class set out in the *Canada Business Corporations Regulations, 2001*, or a permanent resident as defined in the *Immigration and Refugee Protection Act* other than a permanent resident who has been ordinarily resident in Canada for more than 1 year after becoming eligible to apply for Canadian citizenship.
3. In the case of a holding corporation, not more than 1/3 of the directors need be resident Canadians if the earnings in Canada of the holding corporation and its subsidiaries are less than 5 percent of the gross earnings of the holding corporation and its subsidiaries.

4. The *Canada Cooperatives Act* requires that not less than two-thirds of the directors be members of the cooperative. At least 25 percent of directors of a cooperative must be resident in Canada; if a cooperative has only three directors, at least one director must be resident in Canada.

5. For the purposes of the *Canada Cooperatives Act*, a resident of Canada is defined in the *Canada Cooperatives Regulations* as an individual who is a Canadian citizen and who is ordinarily resident in Canada; a Canadian citizen who is ordinarily resident in Canada and who is a member of a class set out in the *Canada Cooperatives Regulations*, or a permanent resident as defined in the *Immigration and Refugee Protection Act* other than a permanent resident who has been ordinarily resident in Canada for more than one year after becoming eligible to apply for Canadian citizenship.

6. Under Part IV of the *Canada Corporations Act*, a simple majority of the elected directors of a Special Act corporation must be resident in Canada and citizens of a Commonwealth country. This requirement applies to every joint stock company incorporated subsequent to 22 June 1869 by any Special Act of Parliament.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Article 8.3)

Measures: *Citizenship Act*, R.S.C. 1985, c. C-29

Foreign Ownership of Land Regulations, SOR/79-416

Description: **Investment**

1. The *Foreign Ownership of Land Regulations* are made pursuant to the *Citizenship Act* and the *Agricultural and Recreational Land Ownership Act*, RSA 1980, c. A-9. In Alberta, an ineligible person or foreign-owned or -controlled corporation may only hold an interest in controlled land consisting of a maximum of 2 parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purposes of this reservation:

“ineligible person” means:

- (a) a natural person who is not a Canadian citizen or permanent resident;
- (b) a foreign government or foreign government agency; or
- (c) a corporation incorporated in a country other than Canada;

“controlled land” means land in Alberta but does not include:

- (a) land of the Crown in right of Alberta;
- (b) land within a city, town, new town, village or summer village; and
- (c) mines or minerals.

Sector:	All Sectors
Sub-sector:	
Industry Classification:	
Type of Reservation:	National Treatment (Article 8.3)
Measures:	<p><i>Air Canada Public Participation Act</i>, R.S.C. 1985, c. 35 (4th Supp.)</p> <p><i>Canadian Arsenal Limited Divestiture Authorization Act</i>, S.C. 1986, c. 20</p> <p><i>Eldorado Nuclear Limited Reorganization and Divestiture Act</i>, S.C. 1988, c. 41</p> <p><i>Nordion and Theratronics Divestiture Authorization Act</i>, S.C. 1990, c. 4</p>
Description:	<p>Investment</p> <p>1. A “non-resident” or “non-residents” may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. If there are limits on the percentage that an individual Canadian investor can own, these limits also apply to non-residents. The restrictions are as follows:</p> <ul style="list-style-type: none"> • Air Canada: 25 percent in the aggregate; • Cameco Limited (formerly Eldorado Nuclear Limited): 15 percent per non-resident natural person, 25 percent in the aggregate; • Nordion International Inc.: 25 percent in the aggregate;

- Theratronics International Limited: 49 percent in the aggregate; and
- Canadian Arsenals Limited: 25 percent in the aggregate.

2. For the purposes of this reservation, “non-resident” includes:

- (a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;
- (b) a corporation incorporated, formed or otherwise organised outside Canada;
- (c) the government of a foreign State or a political subdivision of a government or foreign State , or a person empowered to perform a function or duty on behalf of such a government;
- (d) a corporation that is controlled directly or indirectly by a person or an entity referred to in subparagraphs (a) through (c);
- (e) a trust:
 - (i) established by a person or an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada, or
 - (ii) in which a person or an entity referred to in subparagraphs (a) through (d) has more than 50 percent of the beneficial interest; and
- (f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Sector:	All Sectors
Sub-sector:	
Industry Classification:	
Type of Reservation:	Local Presence (Article 9.5)
Measure:	<i>Export and Import Permits Act</i> , R.S.C. 1985, c. E-19
Description:	Cross-Border Trade in Services Only a natural person ordinarily resident in Canada, an enterprise with its head office in Canada or a branch office in Canada of a foreign enterprise may apply for and be issued an import or export permit or transit authorisation certificate for a good or related service subject to controls under the <i>Export and Import Permits Act</i> .

Sector:	Business Service Industries
Sub-sector:	Customs Brokers
Industry Classification:	SIC 7794 Customs Brokers CPC 749 Other supporting and auxiliary transport services
Type of Reservation:	National Treatment (Article 9.2) Local Presence (Article 9.5) Senior Management and Boards of Directors (Article 8.7)
Measures:	<i>Customs Act</i> , R.S.C. 1985, c. 1 (2 nd Supp.) <i>Customs Brokers Licensing Regulations</i> , SOR/86-1067
Description:	Cross-Border Trade in Services and Investment To be a licensed customs broker in Canada: (a) a natural person must be a Canadian national; (b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and (c) a partnership must be composed of persons who are Canadian nationals, or corporations incorporated in Canada with a majority of their directors being Canadian nationals.

Sector:	Business Service Industries
Sub-sector:	Duty Free Shops
Industry Classification:	SIC 6599 Other Retail Stores, Not Elsewhere Classified (limited to duty free shops) CPC 631, 632 (limited to duty-free shops)
Type of Reservation:	National Treatment (Articles 8.3 and 9.2) Local Presence (Article 9.5)
Measures:	<i>Customs Act</i> , R.S.C. 1985, c. 1 (2nd Supp.) <i>Duty Free Shop Regulations</i> , SOR/86-1072
Description:	<p>Cross-Border Trade in Services and Investment</p> <p>1. To be a licensed duty free shop operator at a land border crossing in Canada, a natural person must:</p> <ul style="list-style-type: none"> (a) be a Canadian national; (b) be of good character; (c) be principally resident in Canada; and (d) have resided in Canada for at least 183 days of the year preceding the year of application for the licence. <p>2. To be a licensed duty free shop operator at a land border crossing in Canada, a corporation must:</p> <ul style="list-style-type: none"> (a) be incorporated in Canada; and

- (b) have all of its shares beneficially owned by Canadian nationals who meet the requirements of paragraph 1.

Sector:	Business Service Industries
Sub-sector:	Examination Services relating to the Export and Import of Cultural Property
Industry Classification:	<p>SIC 999 Other Services, Not Elsewhere Classified (limited to cultural property examination services)</p> <p>CPC 96321 Museum services except for historical sites and buildings (limited to cultural property examination services)</p> <p>CPC 87909 Other business services n.e.c. (limited to cultural property examination services)</p>
Type of Reservation:	Local Presence (Article 9.5)
Measure:	<i>Cultural Property Export and Import Act</i> , R.S.C. 1985, c. C-51
Description:	<p>Cross-Border Trade in Services</p> <ol style="list-style-type: none"> 1. Only a resident of Canada or an institution in Canada may be designated as an expert examiner of cultural property for the purposes of the <i>Cultural Property Export and Import Act</i>. 2. For the purposes of this reservation: <ul style="list-style-type: none"> “institution” means an entity that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes and that conserves objects and exhibits them; “resident of Canada” means a natural person who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains an establishment in Canada to which employees employed in connection with the business of the corporation ordinarily report for work.

Sector:	Business Service Industries
Sub-sector:	Patent Agents
Industry Classification:	SIC 999 Other Services, Not Elsewhere Classified (limited to patent agency) CPC 8921 Patents
Type of Reservation:	National Treatment (Article 9.2) Local Presence (Article 9.5)
Measures:	<i>Patent Act</i> , R.S.C. 1985, c. P-4 <i>Patent Rules</i> , SOR/96-423
Description:	Cross-Border Trade in Services To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the Patent Office.

Sector:	Business Service Industries
Sub-sector:	Trade-mark Agents
Industry Classification:	SIC 999 Other Services, Not Elsewhere Classified (limited to trade-mark agency) CPC 8922 Trademarks
Type of Reservation:	National Treatment (Article 9.2) Local Presence (Article 9.5)
Measures:	<i>Trade-marks Act</i> , R.S.C. 1985, c. T-13 <i>Trade-marks Regulations</i> , SOR/96-195; SOR/2007-91, s.1
Description:	Cross-Border Trade in Services To represent a person in the prosecution of an application for a trade-mark or in other business before the Trade-Mark Office, a trade-mark agent must be resident in Canada and registered by the Trade-marks Office.

Sector:	Energy
Sub-sector:	Oil and Gas
Industry Classification:	SIC 071 Crude Petroleum and Natural Gas Industries CPC 883 Services incidental to mining
Type of Reservation:	National Treatment (Article 8.3)
Measures:	<i>Canada Petroleum Resources Act</i> , R.S.C. 1985, c. 36 (2 nd Supp.) <i>Territorial Lands Act</i> , R.S.C. 1985, c. T-7 <i>Federal Real Property and Federal Immovables Act</i> , S.C. 1991, c. 50 <i>Canada-Newfoundland Atlantic Accord Implementation Act</i> , S.C. 1987, c. 3 <i>Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act</i> , S.C. 1988, c. 28
Description:	Investment 1. This reservation applies to production licences issued for “frontier lands” and “offshore areas” (areas not under provincial jurisdiction) as defined in the applicable measures. 2. A person who holds an oil and gas production licence or shares therein must be a corporation incorporated in Canada.

Sector:	Energy
Sub-sector:	Oil and Gas
Industry Classification:	SIC 071 Crude Petroleum and Natural Gas Industries CPC 883 Services incidental to mining
Type of Reservation:	Performance Requirements (Article 8.8) Local Presence (Article 9.5)
Measures:	<p><i>Canada Oil and Gas Production and Conservation Act, R.S.C. 1985, c. O-7, as amended by the Canada Oil and Gas Operations Act, S.C. 1992, c. 35</i></p> <p><i>Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28</i></p> <p><i>Canada-Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3</i></p> <p>Measures implementing the Canada-Yukon Oil and Gas Accord, including the <i>Canada-Yukon Oil and Gas Accord Implementation Act, 1998, c.5, s. 20</i> and the <i>Oil and Gas Act, RSY 2002, c. 162</i></p> <p>Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or are adopted by Nunavut as the successor territories to the former Northwest Territories</p> <p>Measures implementing the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord</p>

Description:

Cross-Border Trade in Services and Investment

1. Under the *Canada Oil and Gas Operations Act*, a “benefits plan” must be approved by the Minister in order to be authorised to proceed with an oil and gas development project.
2. A “benefits plan” is a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in proposed work or activity referred to in the benefits plan.
3. The benefits plan contemplated by the *Canada Oil and Gas Operations Act* permits the Minister to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in proposed work referred to in the benefits plan.
4. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* are included in laws which implement the *Canada-Yukon Oil and Gas Accord*.
5. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* will be included in laws or regulations to implement the Northwest Territories Oil and Gas Accord and the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord. For the purposes of this reservation these accords shall be deemed, once concluded, to be existing measures.

6. The *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada-Newfoundland Atlantic Accord Implementation Act* have the same requirement for a benefits plan but also require that the benefits plan ensures that:

- (a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out work or an activity in the offshore area;
- (b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and
- (c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality and delivery.

7. The Boards administering the benefits plan under these Acts may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

Sector:	Energy
Sub-sector:	Oil and Gas
Industry Classification:	SIC 071 Crude Petroleum and Natural Gas Industries CPC 883 Services incidental to mining
Type of Reservation:	Performance Requirements (Article 8.8)
Measures:	<i>Canada-Newfoundland Atlantic Accord Implementation Act</i> , S.C. 1987, c. 3 <i>Hibernia Development Project Act</i> , S.C. 1990, c. 41
Description:	<p>Investment</p> <p>1. Under the <i>Hibernia Development Project Act</i>, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and to use their best efforts to achieve specific Canadian and Newfoundland target levels in relation to the provisions of a “benefits plan” required under the <i>Canada-Newfoundland Atlantic Accord Implementation Act</i>. “Benefits plans” are further described in the Schedule of Canada, Annex I at pages I-CA-25-27.</p> <p>2. In addition, Canada may impose in connection with the Hibernia project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a national or enterprise in Canada.</p>

Sector:	Energy
Sub-sector:	Uranium
Industry Classification:	SIC 0616 Uranium Mines CPC 883 Services incidental to mining
Type of Reservation:	National Treatment (Article 8.3) Most-Favoured-Nation Treatment (Article 8.4)
Measures:	<i>Investment Canada Act</i> , R.S.C. 1985, c. 28 (1 st Supp.) <i>Investment Canada Regulations</i> , SOR/85-611 <i>Non-Resident Ownership Policy in the Uranium Mining Sector</i> , 1987
Description:	Investment 1. Ownership by “non-Canadians”, as defined in the <i>Investment Canada Act</i> , of a uranium mining property is limited to 49 percent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact “Canadian controlled” as defined in the <i>Investment Canada Act</i> . 2. Exemptions from the policy are permitted, subject to approval of the Governor-in-Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by non-Canadians, made prior to December 23, 1987 and that are beyond the permitted ownership level, may remain in place. An increase in non-Canadian ownership is not permitted.

Sector:	Professional, Technical and Specialized Services
Sub-sector:	Professional Services
Industry Classification:	CPC 862 Auditing Services
Type of Reservation:	National Treatment (Article 9.2) Most-Favoured-Nation Treatment (Article 9.3) Local Presence (Article 9.5)
Measures:	<i>Bank Act</i> , S.C. 1991, c. 46 <i>Insurance Companies Act</i> , S.C. 1991, c. 47 <i>Cooperative Credit Associations Act</i> , S.C. 1991, c. 48 <i>Trust and Loan Companies Act</i> , S.C. 1991, c. 45
Description:	Cross-Border Trade in Services 1. Banks are required to have a firm of accountants to be auditors of the bank. A firm of accountants must be qualified as set out in the <i>Bank Act</i> . Among the qualifications required is that two or more members of the firm must be ordinarily resident in Canada and that the member of the firm jointly designated by the firm and the bank to conduct the audit must be ordinarily resident in Canada.

2. An insurance company, a cooperative credit association, and a trust or loan company require an auditor who can either be a natural person or a firm of accountants. An auditor of such an institution must be qualified as set out in the *Insurance Companies Act*, the *Cooperative Credit Associations Act* or the *Trust and Loan Companies Act*, as the case may be. In the case where a natural person is appointed to be the auditor of such a financial institution, among the qualifications required is that the person must be ordinarily resident in Canada. In the case where a firm of accountants is appointed to be the auditor of such a financial institution, the member of the firm jointly designated by the firm and the financial institution to conduct the audit must be ordinarily resident in Canada.

Sector:	Transportation
Sub-sector:	Air Transportation
Industry Classification:	CPC 73 Air Transport Services (passenger and freight) Specialty air services, as set out in the Description section below CPC 7512 Courier Services
Type of Reservation:	National Treatment (Article 9.3)
Measures:	<i>Canada Transportation Act</i> , S.C. 1996, c. 10 <i>Aeronautics Act</i> , R.S.C. 1985, c. A-2 <i>Canadian Aviation Regulations</i> , SOR/96-433: Part II, Subpart 2 “Aircraft Markings & Registration”; Part IV “Personnel Licensing & Training”; and Part VII “Commercial Air Services”.
Description:	Investment The <i>Canada Transportation Act</i> , in Section 55, defines “Canadian” in the following manner: <i>“... ‘Canadian’ means a Canadian citizen or a permanent resident within the meaning of the Immigration and Refugee Protection Act, a government in Canada or an agent of such a government or a corporation or other entity that is incorporated or formed under the laws of Canada or a province or territory, that is controlled in fact by Canadians and of which at least seventy-five per cent, or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned and controlled by Canadians...”</i>

Regulations made under the *Aeronautics Act* incorporate by reference the definition of “Canadian” found in the *Canada Transportation Act*. These Regulations require that a Canadian operator of commercial air services operate Canadian-registered aircraft. These regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as “Canadian”.

Only “Canadians” may provide the following commercial air transportation services:

- (a) “domestic services” (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);
- (b) “scheduled international services” (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;
- (c) “non-scheduled international services” (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the *Canada Transportation Act*;

- (d) “specialty air services” (include, but are not limited to: aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing and aerial crop spraying).

No foreign individual is qualified to be the registered owner of a Canadian-registered aircraft.

Further to the *Canadian Aviation Regulations*, a corporation incorporated in Canada, but that does not meet the Canadian ownership and control requirements, may only register an aircraft for private use where a significant majority of use of the aircraft (at least 60 percent) is in Canada.

The *Canadian Aviation Regulations* also have the effect of limiting foreign-registered private aircraft registered to “non-Canadian” corporations to be present in Canada for a maximum of 90 days per twelve-month period. Such foreign-registered private aircraft would be limited to private use, as would be the case for Canadian-registered aircraft requiring a private operating certificate.

Sector:	Transportation
Sub-sector:	Air Transportation
Industry Classification:	Not CPC defined. Aircraft repair and maintenance services , as defined in Article 9.12 (Definitions)
Type of Reservation:	Local Presence (Article 9.5)
Measures:	<p><i>Aeronautics Act</i>, R.S.C. 1985, c. A-2</p> <p><i>Canadian Aviation Regulations</i>, SOR/96-433:</p> <p style="padding-left: 40px;">Part IV “Personnel Licensing & Training”;</p> <p style="padding-left: 40px;">Part V “Airworthiness”;</p> <p style="padding-left: 40px;">Part VI “General Operating & Flight Rules”; and</p> <p style="padding-left: 40px;">Part VII “Commercial Air Services”.</p>
Description:	<p>Cross-Border Trade in Services</p> <p>Aircraft and other aeronautical product repair, overhaul or maintenance activities required to maintain the airworthiness of Canadian-registered aircraft and other aeronautical products must be performed by persons meeting Canadian aviation regulatory requirements (that is, approved maintenance organisations and aircraft maintenance engineers). Certifications are not provided for persons located outside Canada, except sub-organisations of approved maintenance organisations that are themselves located in Canada.</p>

Sector:	Transportation
Sub-sector:	Land Transportation
Industry Classification:	<p>SIC 456 Truck Transport Industries</p> <p>SIC 4572 Interurban and Rural Transit Systems Industry</p> <p>SIC 4573 School Bus Operations Industry</p> <p>SIC 4574 Charter and Sightseeing Bus Services Industry</p> <p>CPC 7121 Other scheduled passenger transportation by land other than by railway</p> <p>CPC 7122 Other non-scheduled passenger transportation by land other than by railway</p> <p>CPC 7123 Freight transportation by land other than by railway</p> <p>CPC 7512 Courier Services</p>
Type of Reservation:	<p>National Treatment (Article 9.2)</p> <p>Local Presence (Article 9.5)</p>
Measures:	<p><i>Motor Vehicle Transport Act</i>, R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13</p> <p><i>Canada Transportation Act</i>, S.C. 1996, c. 10</p> <p><i>Customs Tariff</i>, 1997, c. 36</p>
Description:	<p>Cross-Border Trade in Services</p> <p>Only persons of Canada using Canadian-registered and either Canadian built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of Canada.</p>

Sector:	Transportation
Sub-sector:	Water Transportation
Industry Classification:	SIC 4541 Freight and Passenger Water Transport Industry
	SIC 4542 Ferry Industry
	SIC 4543 Marine Towing Industry
	SIC 4549 Other Water Transport Industries
	SIC 4553 Marine Salvage Industry
	SIC 4559 Other Service Industries Incidental to Water Transport
	CPC 721 Transport services (passenger and freight) by sea-going vessels
	CPC 722 Transport services (passenger and freight) by non-sea-going vessels
	CPC 745 Supporting services for water transport
	CPC 5133/5223 Construction for waterways, harbours, dams and other water works
	Any other commercial marine activity undertaken from a vessel
Type of Reservation:	National Treatment (Articles 8.3 and 9.2)
	Local Presence (Article 9.5)
Measure:	<i>Canada Shipping Act, 2001</i> , S.C. 2001, c. 26

Description:

Cross-Border Trade in Services and Investment

1. To register a vessel in Canada, the owner of that vessel or the person who has exclusive possession of that vessel must be:

- (a) a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*;
- (b) a corporation incorporated under the domestic law of Canada or a province or territory; or
- (c) when the vessel is not already registered in another country, a corporation incorporated under the laws of a country other than Canada if one of the following is acting with respect to all matters relating to the vessel, namely:
 - (i) a subsidiary of the corporation that is incorporated under the domestic law of Canada or a province or territory,
 - (ii) an employee or director in Canada of a branch office of the corporation that is carrying on business in Canada, or
 - (iii) a ship management company incorporated under the domestic law of Canada or a province or territory.

2. A vessel registered in a foreign country which has been bareboat chartered may be listed in Canada for the duration of the charter while the vessel's registration is suspended in its country of registry, if the charterer is:

- (a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*; or
- (b) a corporation incorporated under the domestic law of Canada or a province or territory.

Sector:	Transportation
Sub-sector:	Water Transportation
Industry Classification:	SIC 4541 Freight and Passenger Water Transport Industry
	SIC 4542 Ferry Industry
	SIC 4543 Marine Towing Industry
	SIC 4549 Other Water Transport Industries
	SIC 4553 Marine Salvage Industry
	SIC 4554 Piloting Service, Water Transport Industry
	SIC 4559 Other Service Industries Incidental to Water Transport
	CPC 721 Transport services by sea-going vessels
	CPC 722 Transport services by non-sea-going vessels
	CPC 745 Supporting services for water transport
	CPC 5133/5223 Construction for waterways, harbours, dams and other water works
	Any other commercial marine activity undertaken from a vessel
Type of Reservation:	National Treatment (Article 9.2)
	Local Presence (Article 9.5)
Measures:	<i>Canada Shipping Act, 2001</i> , S.C. 2001, c. 26
	<i>Marine Personnel Regulations</i> , SOR/2007-115

Description:

Cross-Border Trade in Services

Masters, mates, engineers and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian-registered vessels. Such certificates may be granted only to Canadian citizens or permanent residents.

Sector:	Transportation
Sub-sector:	Water Transportation
Industry Classification:	SIC 4554 Piloting Service, Water Transport Industry CPC 74520 Pilotage and berthing services
Type of Reservation:	National Treatment (Article 9.2) Local Presence (Article 9.5)
Measures:	<i>Pilotage Act</i> , R.S.C. 1985, c. P-14 <i>General Pilotage Regulations</i> , SOR/2000-132 <i>Atlantic Pilotage Authority Regulations</i> , C.R.C., c. 1264 <i>Laurentian Pilotage Authority Regulations</i> , C.R.C., c. 1268 <i>Great Lakes Pilotage Regulations</i> , C.R.C., c. 1266 <i>Pacific Pilotage Regulations</i> , C.R.C., c. 1270
Description:	Cross-Border Trade in Services Subject to the Schedule of Canada, Annex II, at pages II-CA-12-13, a licence or a pilotage certificate issued by the relevant regional Pilotage Authority is required to provide pilotage services in the compulsory pilotage waters of the territory of Canada. Only a Canadian citizens or permanent residents may obtain such a licence or pilotage certificate. A permanent resident of Canada who has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within 5 years of receipt of such licence or pilotage certificate in order to retain it.

Sector:	Transportation
Sub-sector:	Water Transportation
Industry Classification:	SIC 454 Water Transport Industry CPC 721 Transportation services by sea-going vessels CPC 722 Transportation services by non-sea-going vessels
Type of Reservation:	Local Presence (Article 9.5)
Measure:	<i>Shipping Conferences Exemption Act, 1987</i> , R.S.C. 1985, c. 17 (3 rd Supp.)
Description:	Cross-Border Trade in Services Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.

Sector:	Transportation
Sub-sector:	Water Transportation
Industry Classification:	SIC 4541 Freight and Passenger Water Transport Industry SIC 4542 Ferry Industry SIC 4543 Marine Towing Industry CPC 721 Transportation services by sea-going vessels CPC 722 Transportation services by non-sea-going vessels
Type of Reservation:	Most-Favoured-Nation Treatment (Article 9.3)
Measure:	<i>Coasting Trade Act</i> , S.C. 1992, c. 31
Description:	Cross-Border Trade in Services The prohibitions under the <i>Coasting Trade Act</i> , set out in Schedule of Canada, Annex II, at pages II-CA-9-11, do not apply to a vessel that is owned by the U.S. Government when used solely for the purpose of transporting goods owned by the U.S. Government from the territory of Canada to supply Distant Early Warning sites.

Sector:	Communications
Sub-sector:	Telecommunications Transport Networks and Services Radiocommunication
Industry Classification:	CPC 752 Telecommunications Services
Type of Reservation:	National Treatment (Article 8.3) Senior Management and Boards of Directors (Article 8.7)
Measures:	<i>Telecommunications Act, S.C. 1993, c. 38</i> <i>Canadian Telecommunications Common Carrier Ownership and Control Regulations, SOR/94-667</i> <i>Radiocommunication Act, R.S.C., 1985, c. R-2</i> <i>Radiocommunication Regulations, SOR/96-484</i>
Description:	Investment 1. Canada reserves the right to adopt or maintain a measure: (a) limiting foreign investment in facilities-based telecommunications service suppliers, provided that the measure adopted or maintained by Canada does not limit foreign investment to less than a cumulative total of 46.7 percent of voting interest, based on 20 percent direct investment and 33.3 percent indirect investment; (b) requiring that facilities-based telecommunications service suppliers be controlled in fact by a Canadian; (c) requiring that at least 80 percent of the members of the board of directors of facilities-based telecommunications service suppliers be Canadian; and

2. The following exceptions apply to this reservation:
 - (a) foreign investment is allowed up to 100 percent for suppliers conducting operations under an international submarine cable licence;
 - (b) mobile satellite systems of a foreign service supplier may be used by a Canadian service provider to provide services in Canada;
 - (c) fixed satellite systems of a foreign service supplier may be used to provide services between points in Canada and all points outside Canada;
 - (d) foreign investment is allowed up to 100 percent for suppliers conducting operations under a satellite authorisation; and
 - (e) foreign investment is allowed up to 100 percent for facilities-based telecommunications service suppliers that have revenues, including those of its affiliates, from the provision of telecommunications services in Canada representing less than 10 percent of the total telecommunications services annual revenues in Canada.

Sector:	All Sectors
Sub-sector:	
Industry Classification:	
Type of Reservation:	<p>National Treatment (Articles 8.3 and 9.2)</p> <p>Most-Favoured Nation Treatment (Articles 8.4 and 9.3)</p> <p>Local Presence (Article 9.5)</p> <p>Senior Management and Boards of Directors (Article 8.7)</p> <p>Performance Requirements (Article 8.8)</p>
Measure:	All existing non-conforming measures of all provinces and territories.
Description:	<p>Cross-Border Trade in Services and Investment</p> <p>For purposes of transparency only, Appendix I-A sets out an illustrative, non-binding list of non-conforming measures maintained at the sub-national level of government.</p>

Appendix I-A

Illustrative List of Canada's Sub-National Non-conforming Measures¹

Sector	Non-conforming measure by jurisdiction
Accounting, auditing and bookkeeping services	<p><u>Residency</u>: Saskatchewan, British Columbia, Ontario, Nova Scotia, Quebec, Prince Edward Island, Newfoundland & Labrador, Manitoba, Alberta</p> <p><u>Local Presence</u>: Saskatchewan, Newfoundland & Labrador, Manitoba, Ontario</p>
Architectural services	<p><u>Residency</u>: Nova Scotia, Newfoundland & Labrador</p> <p><u>Corporate Form</u>: Prince Edward Island requires non-resident firms to maintain a higher percentage of practitioners in a partnership</p>
Engineering services and integrated engineering services	<p><u>Residency</u>: Saskatchewan, British Columbia, Ontario, New Brunswick, Alberta</p>
Urban planning and landscape architecture services	<p><u>Residency</u>: Newfoundland & Labrador, Saskatchewan</p>
Real estate services	<p><u>Residency</u>: Alberta, Quebec, Yukon, Manitoba, British Columbia, Nova Scotia, Prince Edward Island, Newfoundland & Labrador</p> <p><u>Local Presence</u>: Saskatchewan, Ontario, Nova Scotia, Prince Edward Island, Newfoundland & Labrador, Alberta</p>
Management consulting services	<p><u>Residency</u>: Newfoundland & Labrador</p>

¹ This document is provided for transparency purposes only, and is neither exhaustive nor binding. The information contained in this document is drawn from Canada's May 2005 Revised Conditional Offer on Services (TN/S/O/CAN/Rev.1, 23 May 2005).

Sector	Non-conforming measure by jurisdiction
Toll refining	<u>Performance Requirement</u> : Ontario requires treatment or refinement of base metals in Canada
Placement and supply services of personnel	<u>Local Presence</u> : Ontario
Investigation and security services	<u>Senior Managers and Board of Directors</u> : Newfoundland & Labrador <u>Local Presence</u> : Ontario
Related scientific and technical consulting services	<u>Residency</u> : Ontario, British Columbia, Newfoundland & Labrador <u>Citizenship</u> : British Columbia, Manitoba. <u>Local Presence</u> : Saskatchewan <u>Training Requirement</u> : Ontario requires training to be completed in province for accreditation for land surveyors
Other business services	<u>Residency</u> : Saskatchewan, Ontario, Nova Scotia <u>Local Presence</u> : Saskatchewan, Newfoundland & Labrador, Nova Scotia, Prince Edward Island
Distribution services	<u>Citizenship</u> : Quebec. <u>Local Presence</u> : Quebec, Saskatchewan, Newfoundland & Labrador, Nova Scotia, British Columbia, Ontario <u>Economic Needs Test</u> : Prince Edward Island
Tourism and travel related services	<u>Residency</u> : Alberta, British Columbia, Ontario

Sector	Non-conforming measure by jurisdiction
	<p><u>Residency/Citizenship</u>: Alberta, Saskatchewan, Nova Scotia, Newfoundland & Labrador, Quebec</p> <p><u>Local Presence</u>: Ontario, Quebec</p> <p><u>Taxation</u>: Ontario requires non-residents to pay 20 percent land transfer tax</p>
Road transport services (Passenger transportation)	<u>Economic Need Test</u> : British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland & Labrador, Nunavut, Northwest Territories
Road transport services (Freight transportation)	<p><u>Local Presence</u>: Quebec</p> <p><u>Economic Need Test</u>: Saskatchewan, Newfoundland & Labrador</p>

ANNEX I

Reservations for Existing Measures

Schedule of Korea – Explanatory Notes

1. Korea's Schedule to this Annex sets out, pursuant to Articles 8.9.1 and 9.6.1, Korea's existing measures that do not conform with some or all of the obligations imposed by:
 - (a) Article 8.3 (National Treatment) or 9.2 (National Treatment);
 - (b) Article 8.4 (Most-Favoured-Nation Treatment) or 9.3 (Most-Favoured-Nation Treatment);
 - (c) Article 8.7 (Senior Management and Boards of Directors);
 - (d) Article 8.8 (Performance Requirements);
 - (e) Article 9.4 (Market Access); or
 - (f) Article 9.5 (Local Presence).
2. Each entry sets out the following elements:
 - (a) **Sector** refers to the sector for which the entry is made;
 - (b) **Obligations Concerned** specifies the Articles referred to in paragraph 1 that, pursuant to Articles 8.9.1(a) and 9.6.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;
 - (c) **Measures**¹ identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the Measures element:
 - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

¹ For greater certainty, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in Articles 8.9.1 and 9.6.1.

- (d) **Description** sets out commitments, if any, for liberalisation on the date of entry into force of this Agreement, and the remaining non-conforming aspects of the measure for which the entry is made.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant Articles of the Chapters against which the entry is made. To the extent that:

- (a) the **Measures** element is qualified by a liberalisation commitment from the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and
- (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. In accordance with Articles 8.9.1(a) and 9.6.1(a), and subject to Articles 8.9.1(c) and 9.6.1(c), the Articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry.

5. If Korea maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article 9.2 (National Treatment), 9.3 (Most-Favoured-Nation Treatment), or 9.5 (Local Presence) shall operate as a Schedule entry with respect to Article 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), or 8.8 (Performance Requirements) to the extent of that measure.

6. For greater certainty, National Treatment (Article 9.2) and Local Presence (Article 9.5) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 9.5) need not be reserved against National Treatment (Article 9.2).

ANNEX I

Schedule of Korea

1. Sector:	Construction Services
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Framework Act on the Construction Industry</i> (Law No. 12012, 6 August 2013), Articles 9 and 10</p> <p><i>Enforcement Decree of the Framework Act on the Construction Industry</i> (Presidential Decree No. 24616, 17 June 2013), Article 13</p> <p><i>Enforcement Regulations of the Framework Act on the Construction Industry</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No.10, 17 June 2013), Articles 2 and 3</p> <p><i>Information and Communication Construction Business Act</i> (Law No. 11690, 23 March 2013), Article 14</p> <p><i>Fire Fighting System Installation Business Act</i> (Law No. 11782, 22 May 2013), Articles 4 and 5</p> <p><i>Enforcement Decree of the Fire Fighting System Installation Business Act</i> (Presidential Decree No. 24417, 23 March 2013), Article 2 (Table 1)</p> <p><i>Enforcement Regulations of the Fire Fighting System Installation Business Act</i> (Ordinance of the Ministry of Security and Public Administration No. 3, 23 March 2013), Article 2</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A person that supplies construction services in Korea must, prior to the signing of the first contract related to such services, establish an office in Korea.</p>

2. Sector:	Leasing, Rental, Maintenance, Repair, Sales, and Disposal Services Related to Construction Machinery and Equipment
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Construction Machinery Management Act</i> (Law No. 11919, 16 July 2013), Article 21</p> <p><i>Enforcement Decree of the Construction Machinery Management Act</i> (Presidential Decree No. 24443, 23 March 2013), Articles 13, 14, 15, and 15-2</p> <p><i>Enforcement Regulations of the Construction Machinery Management Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Articles 57 through 63, 65-2, and 65-3</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A person that supplies leasing, rental, maintenance, repair, sales, and disposal services related to construction machinery and equipment must establish an office in Korea.</p>

3. Sector:	Transportation Services – Automobile Maintenance, Repair, Sales, Disposal, and Inspection Services; Automobile License Plate Issuing Services
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Automobile Management Act</i> (Law No. 11929, July 16, 2013), Articles 20, 44, 44-2, 45, 45-2 and 53 <i>Enforcement Regulations of the Automobile Management Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 24, 6 September 2013), Articles 7, 8, 83, 87, and 111 <i>Rule on Enforcement of Comprehensive Inspection of Automobiles, Etc.</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 16
Description:	Cross-Border Trade in Services A person that supplies automobile management services (which includes used car sales, maintenance, auto dismantling, and recycling services) must establish an office in Korea and obtain authorisation from the head of the <i>si/gun/gu</i> (municipal authorities), which is subject to an economic needs test, as appropriate. A person that supplies automobile inspection services that is designated as a “designated repair facility” must establish an office in Korea. A person that supplies license plate manufacturing, delivery, and seal services that is designated as a “license plate issuing agency” must establish an office in Korea.

4. Sector:	Distribution Services – Wholesale and Retail Distribution of Tobacco and Liquor
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Tobacco Business Act</i> (Law No. 11690, 23 March 2013), Articles 12, 13, and 16 <i>Enforcement Decree of the Tobacco Business Act</i> (Presidential Decree No. 24519, 26 April 2013), Articles 4 and 5 <i>Enforcement Regulations of the Tobacco Business Act</i> (Ordinance of the Ministry of Strategy and Finance No. 131, 3 March 2010), Articles 5, 7, and 7-3 <i>Liquors Act</i> (Law No. 11873, 7 June 2013), Articles 8 through 10 <i>Enforcement Decree of the Liquors Act</i> (Presidential Decree No. 24638, 28 June 2013), Article 9 <i>Notice on Sales of Liquor by Telecommunication Means</i> (Notice of the National Tax Service No. 2012-68, 1 October 2012) <i>Notice on Designation of Zone for Liquor License</i> (Notice of the National Tax Service No. 2013-15, 1 April 2013)
Description:	Cross-Border Trade in Services A person that supplies tobacco wholesale (including importation) or retail distribution services must establish an office in Korea. Only designated tobacco retailers may sell tobacco to retail buyers. The sale of tobacco to retail buyers by mail or in electronic commerce is prohibited. The distance between places of business of tobacco retailers must be at least 50 meters.

A person that supplies liquor wholesale distribution services must establish an office in Korea and obtain authorisation from the head of the relevant tax office, which is subject to an economic needs test.

The sale of liquor by telephone or in electronic commerce is prohibited.

5. Sector:	Agriculture and Livestock
Obligations Concerned:	National Treatment (Article 8.3)
Measures:	<p><i>Foreign Investment Promotion Act</i> (Law No. 11535, 11 December 2012), Article 4</p> <p><i>Enforcement Decree of the Foreign Investment Promotion Act</i> (Presidential Decree No. 24638, 28 June 2013), Article 5</p> <p><i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy, No. 2013-37, 30 May 2013), Attached table 2</p>
Description:	<p>Investment</p> <p>Foreign persons shall not:</p> <ul style="list-style-type: none"> (i) invest in an enterprise engaged in rice or barley farming; or (ii) hold 50 percent or more of the equity interest in an enterprise engaged in beef cattle farming.

6. Sector: Business Services – *An-gyung-sa* (Optician and Optometry) Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: *Medical Technicians Act* (Law No. 11860, 4 June 2013), Article 12

Enforcement Regulations of the Medical Technicians Act (Ordinance of the Ministry of Health and Welfare No. 193, 17 April 2013), Article 15

Description: **Cross-Border Trade in Services**

Only a natural person that is a licensed *an-gyung-sa* (optician or optometrist) that has established an office in Korea may engage in optician or optometry services.

An *an-gyung-sa* (optician or optometrist) shall not establish more than one office in Korea.

7. Sector:	Wholesale and Retail Distribution Services
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<p><i>Pharmaceutical Affairs Act</i> (Law No.12074, 13 August 2013), Articles 42 and 45</p> <p><i>Enforcement Decree on the Pharmaceutical Affairs Acts</i> (Presidential Decree No. 24479, 23 March 2013), Article 31-2</p> <p><i>Enforcement Decree on the Standards of Facilities of Manufacturer and Importers of Medicinal Products, Etc.</i> (Presidential Decree No. 24479, 23 March 2013), Articles 6</p> <p><i>Supply and Demand of Oriental Medicinal Herbs Regulations</i> (Notice of the Ministry of Health and Welfare No. 2013-63, 18 April 2013), Articles 4 and 12</p> <p><i>Medical Devices Act</i> (Law No. 12107, 13 August 2013), Article 15</p> <p><i>Enforcement Regulations of the Medical Devices Act</i> (Ordinance of the Prime Minister No. 1016, 23 March 2013), Article 20</p> <p><i>Health Functional Foods Act</i> (Law No. 11508, 22 October 2012), Article 6</p> <p><i>Enforcement Regulations of the Health Functional Foods Act</i> (Ordinance of the Prime Minister No. 1010, 23 March 2013), Articles 2 and 5</p> <p><i>Food Sanitation Act</i> (Law No. 11819, 22 May 2013), Articles 24, 36 and 37</p> <p><i>Enforcement Decree of the Food Sanitation Act</i> (Presidential Decree No. 24800, 16 October 2013), Articles 23 and 24</p>

Enforcement Regulations of the Food Sanitation Act
(Ordinance of the Prime Minister No. 1041,
25 October 2013), Articles 23 and 36 (attached table 14)

Act on the Control of Narcotics, Etc. (Law No. 11984,
30 July 2013), Articles 6 and 6-2

Description:

Cross-Border Trade in Services

A person that supplies wholesale trade services must establish an office in Korea in order to receive an import business license to supply such services with respect to:

- (a) pharmaceuticals and related items;
- (b) medical devices; or
- (c) health functional foods (including dietary supplements).

To supply the following services a person must establish an office in Korea:

- (a) transportation, sales, and preservation (cold storage) of food and food additives;
- (b) food supply services;
- (c) food inspection services; or
- (d) narcotic drug wholesale and retail distribution services.

The Minister of Health and Welfare controls the supply and demand of the wholesale distribution of imported designated *han-yak-jae* (Asian medicinal herbs).

Certain liquor-selling bars and the wholesale and retail distribution of narcotics require authorisation by the relevant authority.

8. Sector:	Retail Distribution of Pharmaceuticals
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Pharmaceutical Affairs Act</i> (Law No. 12074, 13 August 2013), Articles 20 and 21 <i>Enforcement Decree on the Pharmaceutical Affairs Act</i> (Presidential Decree No. 24479, 23 March 2013), Article 22-2
Description:	Cross-Border Trade in Services A person that supplies pharmaceutical product retail distribution services (including distribution of <i>han-yak-jae</i> (Asian medicinal herbs)) must establish a pharmacy in Korea. That person shall not establish more than one pharmacy or establish a pharmacy in the form of a corporation.

9. Sector:	Transportation Services – Rail Transportation and Incidental Services
Obligations Concerned:	National Treatment (Article 9.2) Market Access (Article 9.4)
Measures:	<i>Railroad Enterprise Act</i> (Law No. 11690, 23 March 2013), Articles 5, 6, and 12 <i>Korea Railroad Corporation Act</i> (Law No. 12025, 6 August 2013), Article 9 <i>Rail Construction Act</i> (Law No. 12023, 6 August 2013), Article 8 <i>Framework Act on Rail Industry Development</i> (Law No. 11690, 23 March 2013), Articles 3, 20, 21, 26, and 38 <i>Korea Rail Network Authority Act</i> (Law No. 11690, 23 March 2013), Article 7
Description:	Cross-Border Trade in Services The existing regulation broadly states that only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services. In practice, however, only juridical persons of Korean nationality (of which shares are 100 percent owned by the shareholders with Korean nationality) established by a Korean national may supply railroad transportation services on railroad routes constructed on or before 30 June 2005. Only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services on railroad routes constructed on or after 1 July 2005. Such authorisation is subject to an economic needs test.

Only the national or local level of government or the Korea Rail Network Authority may supply rail construction services and maintain and repair government-owned rail facilities (including high-speed rail). However, juridical persons that meet the criteria in the *Private Investment in Social Infrastructure Act* (Law No. 12345, 28 January 2014) may supply rail construction services.

10. Sector:	Transportation Services – Passenger Road Transportation Services (not including Taxis and Scheduled Passenger Road Transportation Services)
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Passenger Transport Service Act</i> (Law No. 12020, 6 August 2013), Articles 4 and 5</p> <p><i>Enforcement Decree of the Passenger Transport Service Act</i> (Presidential Decree No. 24443, 23 March, 2013), Article 3</p> <p><i>Enforcement Regulations of the Passenger Transport Service Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, 7 November 2013), Article 11</p> <p><i>Tramway Transportation Act</i> (Law No. 11647, 22 March 2013), Article 4</p> <p><i>Enforcement Regulations of the Tramway Transportation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 3</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A person that supplies passenger road transportation services, not including taxis and scheduled passenger road transportation services, must establish an office in the <i>dang-hae-ji-yeok</i> (relevant geographic area) in Korea.</p>

11. Sector:	Transportation Services – International Maritime Cargo Transportation and Maritime Auxiliary Services
Obligations Concerned:	National Treatment (Article 9.2) Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Maritime Transportation Act</i> (Law No. 12092, 13 August 2013), Articles 24 and 33 <i>Enforcement Regulations of the Maritime Transportation Act</i> (Ordinance of the Ministry of Oceans and Fisheries No. 1, 24 March 2013), Articles 16, 19, 22, and 23 <i>Pilotage Act</i> (Law No. 11690, 23 March 2013), Article 6 <i>Ship Investment Company Act</i> (Law No. 11756, 5 April 2013), Articles 3 and 31
Description:	Cross-Border Trade in Services A person that supplies international maritime cargo transportation must be organised as a <i>chu-sik-hoe-sa</i> (stock company) in Korea and registered according to the <i>Maritime Transportation Act</i> . A ship investment company must also be organised as a <i>chu-sik-hoe-sa</i> (stock company) in Korea and registered according to the <i>Ship Investment Company Act</i> . A person that supplies shipping brokerage service, maritime agency services, and vessel maintenance services must be a company as stipulated under the <i>Korean Commercial Act</i> and registered according to the <i>Maritime Transportation Act</i> . Only a Korean national may supply maritime pilotage services.

12. Sector:	Transportation Services – Air Transportation Services
Obligations Concerned:	National Treatment (Article 8.3) Senior Management and Boards of Directors (Article 8.7)
Measures:	<i>Aviation Act</i> (Law No. 12026, 6 August 2013), Articles 2, 3, 6, 112, 113, 114, 129, 132 and 135 <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Articles 14-2, 15, 278, 278-3, 296-2, 298, and 299
Description:	Investment The following persons shall not supply scheduled or non-scheduled domestic air transportation services or supply international air transportation services as Korean air carriers: (a) a foreign national; (b) a foreign government or a foreign <i>gong-gong-danche</i> (organization for public purposes); (c) an enterprise organised under foreign law; (d) an enterprise in which any of the persons referred to in subparagraphs (a) through (c) owns 50 percent or more of the equity interest, or has control; or (e) an enterprise organised under Korean law whose <i>dae-pyo-ja</i> (representative: for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals.

A person that owns an aircraft or is authorised to operate a chartered aircraft must register the aircraft with the Minister of Land, Infrastructure and Transport. The persons listed in subparagraphs (a) through (e) are not allowed to register an aircraft.

For the purposes of this entry, non-scheduled air transportation services include point-to-point transportation services, flight tour services, and charter flight services.

13. Sector:	Transportation Services – Aircraft-Use Services
Obligations Concerned:	National Treatment (Article 8.3) Senior Management and Boards of Directors (Article 8.7)
Measures:	<i>Aviation Act</i> (Law No. 12026, 6 August 2013), Articles 3, 6, and 134 <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Articles 15-2, 298, and 299-2
Description:	<p>Investment</p> <p>A person that supplies aircraft-<i>sa-yong</i> (use) services must register its self-owned or chartered aircraft with the Minister of Land, Infrastructure and Transport.</p> <p>The following persons shall not register an aircraft:</p> <ul style="list-style-type: none"> (a) a foreign national; (b) a foreign government or a foreign <i>gong-gong-dan-che</i> (organization for public purposes); (c) an enterprise organised under foreign law; (d) an enterprise in which any of those referred to in subparagraphs (a) through (c) owns 50 percent or more of the equity interest, or has control; or (e) an enterprise organised under Korean law whose <i>dae-pyo-ja</i> (representative: for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals.

For the purposes of this entry, aircraft-*sa-yong* (use) services are services using an aircraft, and supplied upon request, for hire, other than for passenger or freight transportation, including aerial fire-fighting, forestry fire management, aerial advertising, flight training, aerial mapping, aerial investigation, aerial spraying, aerial photographing and other aerial agricultural activities, aerial inspections and observations, glider towing, parachute jumping, aerial construction, and heli-logging.

14. Sector:	Transportation Services – Road Transportation Support Services
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Passenger Transport Service Act</i> (Law No. 12020, 6 August 2013), Articles 36 and 37 <i>Enforcement Regulations of the Passenger Transport Service Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, 7 November 2013), Article 73 <i>Parking Lot Service Act</i> (Law No. 11690, 23 March 2013), Article 12 <i>Road Traffic Act</i> (Law No. 12045, 13 August 2013), Article 36
Description:	Cross-Border Trade in Services A person that supplies parking lot services, bus terminal operation services, or car towing and storage services must establish a place of business in the relevant geographic area in Korea and obtain an authorisation from the Minister of Land, Infrastructure and Transport, head of local police, or head of <i>si/gun</i> , as appropriate, which is subject to an economic needs test.

15. Sector:	Courier Services
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Article 139 <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Article 306 <i>Trucking Transport Business Act</i> (Law No. 11933, 16 July 2013), Articles 3, 24, and 29 <i>Enforcement Regulations of Trucking Transport Business Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 19, 11 July 2013), Articles 6, 34, and 41-2
Description:	Cross-Border Trade in Services To supply international courier services that include commercial document delivery services, pursuant to Article 3 of the <i>Enforcement Decree of the Postal Services Act</i> (Presidential Decree No. 24442, 23 March 2013), a person must establish an office in Korea. In order to obtain a trucking business license from the Minister of Land, Infrastructure and Transport, a domestic courier services supplier must establish an office in the relevant geographic area. Such a license is subject to an economic needs test. For greater certainty, a person who acquired an existing domestic courier business does not need to obtain a new trucking business license provided that the acquirer operates under the same terms and conditions as set out in the acquiree's license.

16. Sector:	Telecommunications Services
Obligations Concerned:	National Treatment (Articles 8.3 and 9.2) Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Telecommunications Business Act</i> (Law No. 12035, 13 August 2013), Articles 6, 7, 8, 21, and 87 <i>Telecommunications Business Act</i> (Law No. 5385, 28 August 1997), Addenda Article 4 <i>Radio Waves Act</i> (Law No. 11712, 23 March 2013), Articles 13 and 20
Description:	Cross-Border Trade in Services and Investment A license for facilities-based public telecommunications services or a registration for non-facilities-based public telecommunications services shall be granted only to a juridical person organised under Korean law. A license for facilities-based public telecommunications services shall not be granted to or held by a juridical person organised under Korean law in which a foreign government, foreign person, or deemed foreign person holds in the aggregate more than 49 percent of the juridical person's total voting shares. A foreign government, foreign person, or deemed foreign person shall not, in the aggregate, hold more than 49 percent of the total voting shares of a facilities-based supplier of public telecommunications services. In addition, with respect to KT Corporation (KT), a foreign government, foreign person, or deemed foreign person shall not be the largest shareholder of KT, except if it holds less than five percent of the total voting shares of KT.

No later than two years after this Agreement enters into force, Korea shall permit:

- (a) a deemed foreign person to hold up to 100 percent of the total voting shares of a facilities-based supplier of public telecommunications services organised under Korean law, other than KT and SK Telecom Co., LTD (SK Telecom); and
- (b) a facilities-based supplier of public telecommunications services organised under Korean law in which a deemed foreign person holds up to 100 percent of its total voting shares to obtain or hold a license for facilities-based public telecommunications services.

A foreign government, or its representative, or a foreign person shall not obtain or hold a radio station license.

A foreign person shall not supply cross-border public telecommunications services into Korea, except through a commercial arrangement with a supplier of public telecommunications services that is licensed in Korea.

For the purposes of this entry:

- (a) “deemed foreign person” means a juridical person organised under Korean law in which a foreign government or a foreign person (including a “specially related person” under relevant Korean laws or regulations) is the largest shareholder and holds 15 percent or more of that juridical person’s total voting shares, but does not include a juridical person that holds less than one percent of the total voting shares of a facilities-based supplier of public telecommunications services;

- (b) consistent with Article 5.2 of the *Telecommunications Business Act*, a facilities-based supplier is a supplier that owns transmission facilities;
- (c) consistent with Article 5.3 of the *Telecommunications Business Act*, a non-facilities-based supplier is a supplier that does not own transmission facilities (but may own a switch, router, or multiplexer) and supplies its public telecommunication services through transmission facilities of a licensed facilities-based supplier; and
- (d) consistent with subparagraph 3 of Article 2 of the *Telecommunications Basic Act* (Law No. 11690, 23 March 2013), “transmission facilities” means wireline or wireless transmission facilities (including circuit facilities) that connect transmitting points with receiving points.

17. Sector:	Real Estate Brokerage and Appraisal Services
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions</i> (Law No. 11866, 4 June 2013), Article 9</p> <p><i>Enforcement Decree of the Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions</i> (Presidential Decree No. 24443, 23 March 2013), Article 13</p> <p><i>Enforcement Regulations of the Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 4</p> <p><i>Public Notice of Values and Appraisal of Real Estate Act</i> (Law No. 11690, 23 March 2013), Article 27</p> <p><i>Enforcement Decree of the Public Notice of Values and Appraisal of Real Estate Act</i> (Presidential Decree No.23919, 29 June 2012), Articles 65, 66, and 68</p> <p><i>Enforcement Regulations of the Public Notice of Values and Appraisal of Real Estate Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Articles 25 and 26</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A person that supplies real estate brokerage services or real estate appraisal services must establish an office in Korea.</p>

18. Sector:	Retail, Leasing, Rental and Repair Services Related to Medical Devices
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<i>Medical Devices Act</i> (Law No. 12107, 13 August 2013), Articles 16 and 17 <i>Enforcement Regulations of the Medical Devices Act</i> (Ordinance of the Prime Minister No. 1016, 23 March 2013), Articles 22 and 24
Description:	Cross-Border Trade in Services A person that supplies retail, leasing, rental, or repair services related to medical devices must establish an office in Korea.

19. Sector:	Rental Services – Automobiles
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Passenger Transport Service Act</i> (Law No. 12020, 6 August 2013), Articles 28 and 29</p> <p><i>Enforcement Regulations of the Passenger Transport Service Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, 7 November 2013), Article 60, 61, 62, and 64</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A person that supplies automobile rental services must establish an office in Korea.</p>

20. Sector:	Scientific Research Services
Obligations Concerned:	National Treatment (Articles 8.3 and 9.2)
Measures:	<i>Marine Scientific Research Act</i> (Law No. 12091, 13 August 2013), Articles 6, 7, and 8 <i>Territorial Sea and Contiguous Zone Act</i> (Law No. 10524, 4 April 2011), Article 5
Description:	Cross-Border Trade in Services and Investment A foreign person, a foreign government, or a Korean enterprise owned or controlled by a foreign person that intends to conduct marine scientific research in the territorial waters or exclusive economic zone or continental shelf of Korea must obtain prior authorisation or consent from the Minister of Oceans and Fisheries whereas a Korean national or a Korean enterprise not owned or controlled by a foreign person need only to provide notification to the Minister of Oceans and Fisheries.

21. Sector:	Professional Services – Legal Services
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Attorney-at-law Act</i> (Law No. 11825, 28 May 2013), Articles 4, 7, 21, 34, 45, 58-6, 58-22, and 109 <i>Certified Judicial Scriveners Act</i> (Law No. 8920, 21 March 2008), Articles 2, 3, and 14 <i>Notary Public Act</i> (Law No. 11823, 28 May 2013), Articles 10, 16, and 17
Description:	Cross-Border Trade in Services Only a <i>byeon-ho-sa</i> (Korean-licensed lawyer) registered with the Korean Bar Association may supply legal services. Only a <i>byeon-ho-sa</i> (Korean-licensed lawyer) may establish the following types of legal entity: <i>beop-yool-sa-mu-so</i> (law office), <i>beop-mu-beop-in</i> (law company with the characteristics of partnership), <i>beop-mu-beop-in (yoo-han)</i> (limited liability law company), or <i>beop-mu-jo-hap</i> (limited liability partnership law office). For greater certainty, a person that is not a Korean-licensed lawyer shall not invest in any of such types of legal entity. A <i>byeon-ho-sa</i> (Korean-licensed lawyer) or <i>beop-mu-sa</i> (Korean-certified judicial scrivener) who practices in Korea must establish an office in the jurisdiction of the district court in which he or she practices. A <i>gong-jeung-in</i> (Korean notary public) must establish an office in the jurisdiction of the district office of the public prosecutor in which he or she practices. This entry is subject to the commitments undertaken in the 36 th entry in Korea’s Schedule to Annex II.

22. Sector: Professional Services – Labour Affairs Consulting Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: *Certified Labor Affairs Consultant Act* (Law No. 10321, 25 May 2010), Articles 5, 7-2, 7-3, and 7-4

Enforcement Decree of the Certified Labor Affairs Consultant Act (Presidential Decree No. 24447, 23 March 2013), Articles 15 and 19

Enforcement Regulations of the Certified Labor Affairs Consultant Act (Ordinance of the Ministry of Employment and Labor No. 78, 23 March 2013), Articles 6 and 10

Description: **Cross-Border Trade in Services**

A person that supplies labour affairs consulting services must establish an office in Korea and be a *gong-in-no-mu-sa* (Korean-licensed labor affairs consultant) registered under the *Certified Labor Affairs Consultant Act*.

For greater certainty, an enterprise that supplies labour affairs consulting services must consist of at least two *gong-in-no-mu-sa* (Korean-licensed labor affairs consultant) (including the natural person who is the founder) and must obtain authorisation from the Minister of Employment and Labor.

23. Sector:	Professional Services – Patent Attorney (<i>byeon-ri-sa</i>)
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Patent Attorney Act</i> (Law No. 11962, 30 July 2013), Articles 3, 5, 6-2, and 6-3
Description:	Cross-Border Trade in Services Only a <i>byeon-ri-sa</i> (Korean-licensed patent attorney) who is registered with the Korean Intellectual Property Office may supply patent attorney services. Only a <i>byeon-ri-sa</i> (Korean-licensed patent attorney) may establish a <i>gae-in-sa-mu-so</i> (sole proprietorship) or a <i>teuk-heo-beop-in</i> (patent law firm). For greater certainty, a person that is not a Korean-licensed patent attorney shall not invest in either of these types of legal entity. A <i>byeon-ri-sa</i> (Korean-licensed patent attorney) may establish only one office.

24. Sector: Professional Services – Accounting and Auditing Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: *Certified Public Accountant Act* (Law No. 10866, 21 July 2011), Articles 2, 7, 12, 18, and 23

External Audit of Stock Companies Act (Law No. 11845, 28 May 2013), Article 3

Description: **Cross-Border Trade in Services**

Only a *gae-in-sa-mu-so* (sole proprietorships), *gam-sa-ban* (auditing task forces) or *hoe-gye-boep-in* (limited liability accounting corporation) established in Korea by *gong-in-hoe-gye-sa* (Korean-certified public accountants) registered under the *Certified Public Accountant Act* may supply accounting and auditing services. For greater certainty, a person that is not a Korean-registered certified public accountant shall not invest in any of these types of legal entity.

Only *gong-in-hoe-gye-sa* (Korean-certified public accountants) in an auditing task force or an accounting corporation may supply auditing services regulated under the *External Audit of Stock Companies Act*.

This entry is subject to the commitments undertaken in the 37th entry in Korea's Schedule to Annex II.

25. Sector:	Professional Services – Tax Accountant (<i>se-mu-sa</i>)
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Certified Tax Accountant Act</i> (Law No. 11610, 1 January 2013), Articles 6, 13, 16-3, 16-4, and 20 <i>Enforcement Decree of the Corporate Tax Act</i> (Presidential Decree No. 24824, 5 November 2013), Article 97 <i>Enforcement Regulations of the Corporate Tax Act</i> (Ordinance of the Ministry of Strategy and Finance No. 325, 23 March 2013), Article 50-3 <i>Enforcement Decree of the Income Tax Act</i> (Presidential Decree No. 24574, 11 June 2013), Article 131 <i>Enforcement Regulations of the Income Tax Act</i> (Ordinance of the Ministry of Strategy and Finance No. 323, 23 February 2013), Article 65-3 <i>Guidelines Governing the Work of Tax Agents</i> (Order of the National Tax Service No. 1761, 24 August 2009), Articles 20 and 22
Description:	Cross-Border Trade in Services Only a <i>se-mu-sa-mu-so</i> (tax office), <i>se-mu-jo-jeong-ban</i> (tax reconciliation task forces) or, <i>se-mu-beop-in</i> (limited liability tax agency corporation) established in Korea by <i>se-mu-sa</i> (Korean-certified tax accountants) registered under the <i>Certified Tax Accountant Act</i> may supply <i>se-mu-sa</i> (Korean-certified tax accountants) services, including tax reconciliation services and tax representative services. For greater certainty, a person that is not a Korean-registered certified tax accountant shall not invest in any of these types of legal entity.

Only a *se-mu-jo-jeong-ban* (tax reconciliation task forces) or a *se-mu-beop-in* (limited liability tax agency corporation) may supply tax reconciliation services.

This entry is subject to the commitments undertaken in the 38th entry in Korea's Schedule to Annex II.

26. Sector: Professional Services – Customs Clearance Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: *Customs Broker Act* (Law No. 10570, 8 April 2011),
Articles 3, 7, and 9

Description: **Cross-Border Trade in Services**

Only a *gwan-se-sa* (customs broker) licensed under the *Customs Brokers Act*, a corporation incorporated by such customs brokers, or a corporation licensed to engage in the customs-clearance brokerage business under the *Customs Broker Act* may supply customs-clearance services.

A person that supplies customs-clearance services must establish an office in Korea.

27. Sector:	Engineering and Other Technical Services – Industrial Safety, Health Institution, and Consulting Services
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Industrial Safety and Health Act</i> (Law No. 11882, 12 June 2013), Articles 15, 16, and 52-4</p> <p><i>Enforcement Decree of the Industrial Safety and Health Act</i> (Presidential Decree No. 24684, 6 August 2013), Article 15-2, 15-3, 19-2, and 19-3</p> <p><i>Enforcement Regulations of the Industrial Safety and Health Act</i> (Ordinance of the Ministry of Employment and Labor No. 86, 6 August 2013), Articles 17, 18, 20, 21, and 136-8</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A person that supplies safety and health management or diagnostic services to industrial workplaces must establish an office in Korea.</p> <p>A person that supplies industrial safety or hygiene consulting services, such as evaluation and instruction on safety in a work process and evaluation and instruction on the improvement of work environments, must establish an office in Korea.</p>

28. Sector:	Engineering and Other Technical Services – Architectural Services, Engineering Services, Integrated Engineering Services, Urban Planning and Landscape Architectural Services
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Certified Architects Act</i> (Law No. 11690, 23 March 2013), Article 23</p> <p><i>Enforcement Decree of the Certified Architects Act</i> (Presidential Decree No. 24443, 23 March 2013), Articles 22 and 23</p> <p><i>Enforcement Regulations of the Certified Architects Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 13</p> <p><i>Engineering Industry Promotion Act</i> (Law No. 12299, 21 January 2014), Article 21</p> <p><i>Professional Engineers Act</i> (Law No. 11690, 23 March 2013), Article 6</p> <p><i>Special Act on the Safety Control of Public Structures</i> (Law No. 11928, 6 July 2013), Article 9</p> <p><i>Enforcement Decree of the Special Act on the Safety Control of Public Structures</i> (Presidential Decree No. 24443, 23 March 2013), Article 11</p> <p><i>Construction Technology Management Act</i> (Law No. 11690, 23 March 2013), Articles 25 and 28</p> <p><i>Enforcement Decree of the Construction Technology Management Act</i> (Presidential Decree No. 24390, 20 February 2013), Articles 91 and 108</p>

Enforcement Regulations of the Construction Technology Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 4, 1 April 2013), Article 48

Act on Land Survey, Hydrographic Survey and Cadastral Records (Law No. 11943, 17 July 2013), Articles 44 and 54

Enforcement Decree of the Act on Land Survey, Hydrographic Survey and Cadastral Records (Presidential Decree No. 24596, 11 June 2013), Articles 34, 35, 36, 45, 46, and 47

Environmental Testing and Inspection Act (Law No. 11690, 23 March 2013), Article 16

Thermal Spring Management Act (Law No. 11896, 16 July 2013), Article 7

Fire Fighting System Installation Business Act (Law No. 11782, 22 May 2013), Article 4

Description:

Cross-Border Trade in Services

A person that supplies architectural services, engineering services, integrated engineering services, urban planning and landscape architectural services, or surveying services must establish an office in Korea.

For greater certainty, this entry does not apply to the supply of services by a foreign architect through a joint contract with a Korean-licensed architect.

29. Sector: Business Services – Electronic Billboard Operator Services and Outdoor Advertisement Services

Obligations Concerned: Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Measures: *Broadcasting Act* (Law No. 12093, 13 August 2013), Articles 13 and 73

Outdoor Advertisements, Etc. Management Act (Law No. 11690, 23 March 2013), Article 11

Enforcement Decree of the Outdoor Advertisements, Etc. Management Act (Presidential Decree No. 24632, 21 June 2013), Articles 14 and 44

Description: **Cross-Border Trade in Services and Investment**

A foreign national or a Korean national who serves as a *dae-pyo-ja* (representative: for example, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise shall not serve as the *dae-pyo-ja* (representative: for example, a chief executive officer, president, or similar principal senior officer) or chief programmer of an enterprise that supplies electronic billboard operator services.

At least 20 percent of the electronic billboard programs must be non-commercial public advertisements provided by the national or local government.

A person that supplies outdoor advertising services must establish an office in Korea.

30. Sector:	Business Services – Job Placement Services, Labor Supply and Worker Dispatch Services, and Education Services for Seafarers
Obligations Concerned:	National Treatment (Article 8.3 and 9.2) Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Employment Security Act</i> (Law No.11048, 15 September 2011), Articles 19 and 33 <i>Enforcement Decree of the Employment Security Act</i> (Presidential Decree No. 24076, 31 August 2012), Articles 21 and 33 <i>Enforcement Regulations of the Employment Security Act</i> (Ordinance of the Ministry of Employment and Labor No. 72, 27 December 2012), Articles 18 and 36 <i>Act Relating to Protection for Dispatched Workers</i> (Law No. 11668, 22 March 2013), Articles 7, 8, 9, and 10 <i>Enforcement Decree of the Act Relating to Protection for Dispatched Workers</i> (Presidential Decree No. 23853, 12 June 2012), Article 3 <i>Enforcement Regulations of the Act Relating to Protection for Dispatched Workers</i> (Ordinance of the Ministry of Employment and Labor No. 64, 2 August 2012), Articles 3, 4, and 5 <i>Special Act on Designation and Management of Free Economic Zones</i> (Law No. 11690, 23 March 2013), Article 17 <i>Seafarers Act</i> (Law No. 11690, 23 March 2013), Articles 109, 110, 112, 115, 116, 117, 142, and 143 <i>Korea Institute of Maritime and Fisheries Technology Act</i> (Law No. 11690, 23 March 2013), Article 5

Description:

Cross-Border Trade in Services and Investment

A person that supplies job placement services for a fee, worker supply services, or worker dispatch (secondment) services must establish an office in Korea.

For transparency purposes, as of 29 October 2013 the types of business to which workers may be seconded are limited to the 32 businesses set forth in the *Enforcement Decree of the Act Relating to Protection for Dispatched Workers*, but the Minister of Employment and Labor may expand the types of business and the secondment period, pursuant to the review and determination by the Committee of the Free Economic Zone.

Only the Korea Seafarers Welfare and Employment Center and regional offices of the Minister of Oceans and Fisheries may supply seafaring labour supply services.

To become an agent for seafarer personnel management services, a person must register with the Minister of Oceans and Fisheries as a *chu-sik-hoe-sa* (stock company) under the *Korean Commercial Code*.

Only the Korea Institute of Maritime and Fisheries Technology may provide education and training for seafarers.

31. Sector:	Investigation and Security Services
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Certified Private Security Act</i> (Law No. 11690, 23 March 2013), Articles 3 and 4 <i>Enforcement Decree of the Certified Private Security Act</i> (Presidential Decree No. 24419, 23 March 2013), Articles 3 and 4 <i>Enforcement Regulations of the Certified Private Security Act</i> (Ordinance of the Ministry of Security and Public Administration, No. 20, 22 October 2013), Article 3
Description:	Cross-Border Trade in Services Only a juridical person organised under Korean law may supply security services in Korea. For transparency purposes, only five types of security services are permitted in Korea: (a) <i>shi-seol-gyung-bee</i> (facility security); (b) <i>ho-song-gyung-bee</i> (escort security); (c) <i>shin-byun-bo-ho</i> (personal security); (d) <i>gee-gye-gyung-bee</i> (mechanized security); and (e) <i>teuk-soo-gyung-bee</i> (special security).

32. Sector: Transportation Services – Aircraft Maintenance and Repair Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: *Aviation Act* (Law No. 12026, 6 August 2013),
Articles 137,137-2, and 138

Enforcement Regulations of the Aviation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Articles 16, 304, and 305

Description: **Cross-Border Trade in Services**

A person that supplies aircraft maintenance and repair services must establish an office in Korea.

33. Sector:	Education Services – Higher Education
Obligations Concerned:	National Treatment (Articles 8.3 and 9.2) Senior Management and Boards of Directors (Article 8.7) Market Access (Article 9.4)
Measures:	<i>Higher Education Act</i> (Law No. 12036, 13 August 2013), Articles 3, 4, 32, 42, and 43 <i>Enforcement Decree of the Higher Education Act</i> (Presidential Decree No. 24847, 20 November 2013), Article 28 <i>Private School Act</i> (Law No. 11622, 23 January 2013), Articles 3, 5, 10, and 21 <i>Enforcement Decree of the Private School Act</i> (Presidential Decree No. 24665, 22 July 2013), Article 9-3 <i>Decree on the Establishment of the Korea National Open University</i> (Presidential Decree No. 24423, 23 March 2013), Articles 1 and 2
Description:	Cross-Border Trade in Services and Investment At least 50 percent of the members of the board of directors of a private higher education institution must be Korean nationals. If a foreign person contributes at least 50 percent of the basic property of a higher education institution, less than two thirds of the members of the board of directors of such an institution may be foreign nationals. For the purposes of this entry, basic property means real estate, property designated as basic property by the articles of association, property incorporated into the basic property according to decisions of the board of directors, and an annual budgetary surplus reserve of the institution.

Only non-profit school juridical persons approved by the Minister of Education may establish higher education institutions (other than the types of institutions listed in Annex II) in Korea.

The Minister of Education may restrict the total number of students per year in the fields of medicine, pharmacology, veterinary medicine, traditional Asian medicine, medical technicians, and higher education for pre-primary, primary, and secondary teachers, and higher education institutions located in the Seoul Metropolitan Area.

For the purposes of this entry, “Seoul Metropolitan Area” includes the Seoul Metropolitan City, Incheon Metropolitan City, and Gyeonggi Province.

Only the national or local governments of Korea may establish higher education institutions for training of primary school teachers. Only the national government may establish higher education institutions that supply higher education services to the public through broadcasting.

34. Sector:	Education Services – Adult Education
Obligations Concerned:	National Treatment (Articles 8.3 and 9.2) Market Access (Article 9.4)
Measures:	<i>Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons</i> (Law No. 11690, 23 March 2013), Articles 2, 2-2, and 13 <i>Enforcement Decree of the Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act</i> (Presidential Decree No. 24423, 23 March 2013), Article 12 <i>Lifelong Education Act</i> (Law No. 11770, 22 May 2013), Articles 30 and 33 through 38 <i>Foreign Investment Promotion Act</i> (Law No. 11535, 11 December 2012), Article 4 <i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy, No. 2013-37, 30 May 2013), Attached table 1
Description:	Cross Border Trade in Services and Investment The types of adult education institutions that a foreign person may establish in Korea are limited to: (a) <i>hag-won</i> (private teaching institutes for adults) related to lifelong and vocational education; and (b) no later than the date this Agreement enters into force, lifelong adult education facilities operated for the purposes other than recognising educational qualifications or conferring diplomas, which include: (i) education facilities annexed to workplaces, non-governmental organisations, schools, and media organisations;

(ii) educational facilities related to the development of knowledge and human resources; and

(iii) on-line lifelong education facilities,

all of which are established for adults.

For the purposes of this entry, *hag-won* (private teaching institutes for adults) are facilities that provide tutoring services on subjects related to lifelong or vocational education to 10 people or more for a period of 30 days or longer.

A foreign national hired by a private teaching institute for adults as a lecturer must possess at least a bachelor's degree or the equivalent and reside in Korea.

35. Sector:	Education Services – Vocational Competency Development Training Services
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<i>Workers’ Vocational Competency Development Act</i> (Law No. 11690, 23 March 2013), Articles 28, 32, and 36 <i>Enforcement Decree of the Workers’ Vocational Competency Development Act</i> (Presidential Decree No. 24628, 21 June 2013), Articles 24 and 26 <i>Enforcement Regulation of the Workers’ Vocational Competency Development Act</i> (Ordinance of the Ministry of Employment and Labor No. 57, 8 June 2012), Articles 12, 14, and 18
Description:	Cross-Border Trade in Services A person that supplies vocational competency development training services must establish an office in Korea.

36. Sector:	Veterinary Services
Obligations Concerned:	Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Veterinary Affairs Act</i> (Law No. 11354, 22 February 2012), Articles 17, 22-2, 22-4, and 22-5 <i>Civil Act</i> (Law No. 11728, 5 April 2013), Article 32
Description:	Cross-Border Trade in Services Only a person that is a licensed <i>soo-eui-sa</i> (veterinarian) that has established an office in Korea, <i>dong-mul-jin-ryo-bub-in</i> (animal hospital legal entity) or <i>bee-young-ri-bub-in</i> (non-profit legal entity) may engage in veterinary or aquatic animal disease inspection services.

37. Sector:	Environmental Services – Waste Water Treatment Services, Waste Management Services, Air Pollution Treatment Services, Environmental Preventive Facilities Business, Environmental Impact Assessment, Soil Remediation and Groundwater Purification Services, and Toxic Chemical Control Services
Obligations Concerned:	Local Presence (Article 9.5)
Measures:	<p><i>Water Quality and Ecosystem Conservation Act</i> (Law No. 11915, 16 July 2013), Article 62</p> <p><i>Support for Environmental Technology and Environmental Industry Act</i> (Law No. 11713, 23 March 2013), Article 15</p> <p><i>Soil Environment Conservation Act</i> (Law No. 11464, 1 June 2012), Article 23-7</p> <p><i>Groundwater Act</i> (Law No. 11803, 22 May 2013), Article 29-2</p> <p><i>Clean Air Conservation Act</i> (Law No. 11750, 5 April 2013), Article 68</p> <p><i>Environmental Impact Assessment Act</i> (Law No. 11690, 23 March 2013), Article 54</p> <p><i>Toxic Chemicals Control Act</i> (Law No. 11690, 23 March 2013), Article 20</p> <p><i>Wastes Control Act</i> (Law No. 11965, 30 July 2013), Article 25</p> <p><i>Enforcement Decree of the Wastes Control Act</i> (Presidential Decree No. 24543, 28 May 2013), Article 8</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A person that supplies the environmental services listed in the Sector heading must establish an office in Korea.</p>

38. Sector:	Performance Services
Obligations Concerned:	National Treatment (Article 9.2)
Measures:	<p><i>Public Performance Act</i> (Law No. 11048, 15 September 2011), Articles 6 and 7</p> <p><i>Enforcement Decree of the Public Performance Act</i> (Presidential Decree No. 23759, 1 May 2012), Articles 4 and 6</p> <p><i>Enforcement Regulations of the Public Performance Act</i> (Ordinance of the Ministry of Culture, Sports and Tourism No. 94, 25 November 2011), Article 4</p> <p><i>Enforcement Regulations of the Immigration Control Act</i> (Ordinance of the Ministry of Justice No. 799, 10 October 2013), Table 5</p>
Description:	<p>Cross-Border Trade in Services</p> <p>A foreign person who intends to engage in a public performance in Korea, or a person who intends to invite a foreign person to engage in a public performance in Korea must obtain a recommendation from the Korea Media Rating Board.</p>

39. Sector:	News Agency (<i>News-tong-sin-sa</i>) Services
Obligations Concerned:	National Treatment (Articles 8.3 and 9.2) Senior Management and Boards of Directors (Article 8.7) Market Access (Article 9.4) Local Presence (Article 9.5)
Measures:	<i>Act on Promotion of News Communications</i> (Law No. 11690, 23 March 2013), Articles 7, 8, 9, 9-5, 16, and 28 <i>Enforcement Decree of the Act on Promotion of News Communications</i> (Presidential Decree No. 24183, 20 November 2012), Articles 4 and 10 <i>Radio Waves Act</i> (Law No. 11712, 23 March 2013), Article 20
Description:	Cross-Border Trade in Services and Investment A <i>news-tong-sin-sa</i> (news agency) organised under foreign law may supply <i>news-tong-sin</i> (news communications) in Korea only under a contract with a news agency organised under Korean law, which has a radio station license, such as Yonhap News. The following persons may not supply news agency services in Korea: (a) a foreign government; (b) a foreign person; (c) an enterprise organised under Korean law whose <i>dae-pyo-ja</i> (representative: for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national or is a person not domiciled in Korea; or

- (d) an enterprise organised under Korean law in which a foreign person holds 25 percent or more equity interest.

The following persons may not serve as a *dae-pyo-ja* (representative: for example, a chief executive officer, president, or similar principal senior officer) or editor of a news agency, or serve as *im-won* (a member of the board of directors) of Yonhap News or the News Agency Promotion Committee:

- (a) a foreign national; or
- (b) a Korean national not domiciled in Korea.

A foreign news agency may establish a branch or office in Korea for the sole purpose of collecting news. For greater certainty, such branch or office may not distribute *news-tong-sin* (news communications) in Korea.

The following persons may not obtain a radio station license:

- (a) a foreign national;
- (b) a foreign government or its representative; or
- (c) an enterprise organised under foreign law.

For greater certainty, this entry is without prejudice to the scope and application of Article 22.6 (Cultural Industries).

40. Sector:	Manufacturing of Biological Products
Obligations Concerned:	Performance Requirements (Article 8.8)
Measures:	<i>Pharmaceutical Affairs Act</i> (Law No. 12074, 13 August 2013), Article 42 <i>Regulations on Safety of Pharmaceuticals, Etc.</i> (Ordinance of the Prime Minister No. 1022, 23 March 2013), Article 11
Description:	Investment A person who manufactures blood products must procure raw blood materials from a blood management body in Korea.

41. Sector:	Distribution Services – Agriculture and Livestock
Obligations Concerned:	National Treatment (Articles 8.3 and 9.2) Market Access (Article 9.4)
Measures:	<i>Grain Management Act</i> (Law No. 11641, 22 March 2013), Article 12 <i>Livestock Industry Act</i> (Law No. 11690, 23 March 2013), Articles 30 and 34 <i>Seed Industry Act</i> (Law No. 11704, 23 March 2013), Article 142 <i>Feed Management Act</i> (Law No. 11690, 23 March 2013), Article 6 <i>Ginseng Industry Act</i> (Law No. 11690, 23 March 2013), Article 20 <i>Foreign Investment Promotion Act</i> (Law No. 11535, 11 December 2012), Article 4 <i>Enforcement Decree of the Foreign Investment Promotion Act</i> (Presidential Decree No. 24638, 28 June 2013), Article 5 <i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy, No. 2013-37, 30 May 2013), Attached table 2 <i>Act on Distribution and Price Stabilization of Agricultural and Fishery Products</i> (Law No. 12059, 13 August 2013), Articles 15, 17, and 43 <i>Notice on TRQ Products</i> (Ministry of Agriculture, Food and Rural Affairs Notice No. 2013-29, 16 May 2013), Articles 14 and 20-2

Description:

Cross-Border Trade in Services and Investment

A foreign person shall not hold 50 percent or more of the shares or equity interest of an enterprise engaged in *yook-ryu* (meat) wholesale.

Only the Livestock Cooperatives under the *Agriculture Cooperative Act* may establish and manage a *ga-chook-sijang* (livestock market) in Korea.

Only a local government may establish a *gong-yeong-domae-sijang* (public wholesale market).

Only producers' organisations or public interest corporations prescribed in the *Enforcement Decree of the Act on Distribution and Price Stabilization of Agricultural and Fishery Products* may establish a *gong-pan-jang* (joint wholesale market).

For greater certainty, Articles 9.2 (National Treatment) and 9.4 (Market Access) do not prevent Korea from adopting or maintaining any measure with respect to the administration of the WTO Tariff-Rate-Quota.

42. Sector: Energy Industry – Electric Power Generation
Other Than Nuclear Power Generation; Electric Power
Transmission, Distribution and Sales

Obligations Concerned: National Treatment (Article 8.3)¹

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

*Enforcement Decree of the Financial Investment Services
and Capital Markets Act* (Presidential Decree No. 24697,
27 August 2013), Article 187

Foreign Investment Promotion Act (Law No. 11535,
11 December 2012), Articles 4 and 5

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

Consolidated Public Notice for Foreign Investment (Public
Notice of the Ministry of Trade, Industry and Energy
No. 2013-102, 27 May 2013), Attached table

Designation of Public Corporation (Notice of the Ministry
of Finance and Economy, No. 2000-17, 28 September 2000)

Financial Investment Service Regulations (Financial
Services Commission Notice No. 2013-40,
4 December 2013), Sec. 6-2

Description: **Investment**

The aggregate foreign share of Korea Electric Power Corporation's (KEPCO) issued stocks shall not exceed 40 percent. A foreign person may not become the largest shareholder of KEPCO.

¹ Paragraph (a) of the eighth entry of Korea's Schedule to Annex II does not apply to this entry.

The aggregate foreign share of power generating facilities, including cogeneration facilities of heat and power (GHP) for the district heating system (DHS), shall not exceed 30 percent of the total facilities in the territory of Korea.

The aggregate foreign share of electric power transmission, distribution and sales businesses should be less than 50 percent. A foreign person shall not be the largest shareholder.

43. Sector:	Energy Industry – Gas Industry
Obligations Concerned:	National Treatment (Article 8.3) ²
Measures:	<p><i>Act on the Improvement of Managerial Structure and Privatization of Public Enterprises</i> (Law No. 11845, 28 May 2013), Article 19</p> <p><i>Financial Investment Services and Capital Markets Act</i> (Law No. 11845, 28 May 2013), Article 168</p> <p><i>Foreign Investment Promotion Act</i> (Law No. 11535, 11 December 2012), Articles 4 and 5</p> <p><i>Articles of Incorporation of the Korea Gas Corporation</i> (9 August 2013), Article 11</p>
Description:	<p>Investment</p> <p>Foreign persons, in the aggregate, shall not own more than 30 percent of the equity of Korea Gas Corporation (KOGAS).</p>

² Paragraph (a) of the eighth entry of Korea's Schedule to Annex II does not apply to this entry.