

ANNEX 22-A
GUIDELINES FOR SUBSEQUENT NEGOTIATION

A. General Principles

1. The Parties aim at achieving high-level liberalization for trade in services and investment in the subsequent negotiation.
2. The subsequent negotiations will cover, among others, Chapters 8 (Trade in Services), 9 (Financial Services) and 12 (Investment) including their respective Annexes, and the related provisions concerning rules in other Chapters.
3. The subsequent negotiations will be conducted based on a negative list approach covering pre-establishment phase of investment and trade in services in mode 3.
4. The Parties agreed to generate combined reservation lists associated with the Chapter 8 (Cross-Border Trade in Services), Chapter 9 (Financial Services), and Chapter 12 (Investment) based on a negative list approach. The newly-generated combined reservation lists such as Annex I (List of Existing Non-Conforming Measures), Annex II (List of the Specific Sectors, Subsectors, or Activities for Which a Party May Maintain Existing, or Adopt New or More Restrictive Measures that Do not Conform with Obligations under the Relevant Chapters), and Annex III (Financial Services), shall be attached to this Agreement and constitute an integral part of this Agreement.
5. The Parties shall ensure that the level of liberalization commitments of a specific sector attained in this Agreement will not be decreased at the subsequent negotiations.
6. In the subsequent negotiations, the Parties may revisit any Articles in the relevant Chapters.⁶⁷
7. Nothing in this Agreement shall be construed as preventing a Party from making new textual proposals in the subsequent negotiations.

⁶⁷ For greater certainty, the subsequent negotiations will be conducted based on the Parties' respective textual proposals, not on the Articles in this Agreement.

B. Timeframes

8. The Parties shall commence the subsequent negotiations as soon as possible, but not later than two years following the date of entry into force of this Agreement.
9. The Parties shall endeavor to conclude the subsequent negotiations within two years from the date of the starting of the negotiations.

C. Guidelines for Negotiations for Trade in Services

10. The Chapter on Cross-Border Trade in Services which will be established through subsequent negotiations applies to trade in services in mode 1 and 2.
11. The Parties shall include, among others, the provision concerning Future MFN (Most-Favored Nation Treatment) in the result of the subsequent negotiations for the Chapter on Cross-Border Trade in Services.
12. The Parties shall include, among others, the provisions concerning Future MFN (Most-Favored Nation Treatment), Transfer of Information and New Financial Services in the result of the subsequent negotiations for the Chapter on Financial Services.
13. The list of existing non-conforming measures and the list of the specific sectors, subsectors, or activities for which a Party may maintain existing, or adopt new or more restrictive measures that do not conform with the obligations under the Chapter on Financial Services shall be attached to as Annex III to this Agreement.

D. Guidelines for Negotiations for Investment

14. The Parties shall revisit all the Articles in Chapter 12 (Investment) with a view to including pre-establishment phase of the investment covering all kinds of investment including supply of services through commercial presence.
15. The negotiation shall include the Articles addressing Definition, Scope and Coverage, National Treatment, Most-Favored- Nation Treatment, Minimum Standard of Treatment, Expropriation, Transfer, Performance Requirements, Senior Management

and Boards of Directors, Non-Confirming Measures, Investor-State Dispute Settlement, and other provisions.

16. The Parties shall include, in the result of the subsequent negotiations, an Article on Performance Requirement with a view to incorporating high level commitment for both pre-establishment and post-establishment phase of the investment.

17. The Parties shall negotiate on issues such as relevant consideration for, and exceptions to the indirect expropriation in the subsequent negotiation.

E. Guidelines for Negotiations for related provisions concerning rules

18. The Parties shall negotiate on the related provisions concerning rules in other Chapters at the subsequent negotiations.

F. Termination and Modification of the Annex and Relevant Article

19. This Annex and the paragraphs 1 and 2 of Article 22.2 (Amendments) shall be terminated at the time when the result of the subsequent negotiations enters into force.

20. The paragraph 3 of Article 22.2 (Amendments) shall, at the time when the result of the subsequent negotiations enters into force, be modified as follows

“The Parties may agree to amend this Agreement. When so agreed and entered into force according to Article 22.4 (Entry into Force and Termination), such amendment shall constitute an integral part of this Agreement.”

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Seoul, this First day of June, 2015, in duplicate, each Party shall keep one copy in the Chinese, Korean and English languages.

FOR THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA
