CHAPTER 23
FINAL PROVISIONS

ARTICLE 23.1: ANNEXES, APPENDICES AND FOOTNOTES

The Annexes, Appendices and footnotes to this Agreement constitute an integral part of this Agreement.

ARTICLE 23.2: ENTRY INTO FORCE

This Agreement shall enter into force 30 days after the date the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures or on such other date as the Parties may agree.

ARTICLE 23.3: AMENDMENTS

1. The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures or on such date as the Parties may agree.

2. Unless otherwise provided in this Agreement, if any provision of the WTO Agreement that is incorporated into or referred to in this Agreement is amended, the Parties shall consult on whether to amend this Agreement.

ARTICLE 23.4: TERMINATION

1. This Agreement shall terminate 180 days after the date either Party notifies the other Party in writing that it wishes to terminate the Agreement.

2. Within 30 days of the delivery of a notification under paragraph 1, either Party may make a written request to the other Party to enter into consultations regarding whether any provision of this Agreement should terminate on a date later than that provided under paragraph 1. The consultations shall begin no later than 30 days after the Party delivers its request.

3. This Article shall not apply to Annex 7-B.

ARTICLE 23.5: AUTHENTIC TEXT

The Korean and English texts of this Agreement are equally authentic.

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

DONE at Seoul, this 8th day of April, 2014, in duplicate, in the Korean and English languages.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA:	FOR THE GOVERNMENT OF AUSTRALIA:

ANNEX I
Explanatory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 7.6 (Non-Conforming Measures – Cross-Border Trade in Services) and 11.12 (Non-Conforming Measures – Investment), a Party's existing measures that are not subject to some or all of the obligations imposed by:

   (a) Article 7.2 (National Treatment – Cross-Border Trade in Services) or 11.3 (National Treatment – Investment);

   (b) Article 7.3 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or 11.4 (Most-Favoured-Nation Treatment – Investment);

   (c) Article 7.4 (Market Access – Cross-Border Trade in Services);

   (d) Article 7.5 (Local Presence – Cross-Border Trade in Services);

   (e) Article 11.9 (Performance Requirements – Investment); or

   (f) Article 11.10 (Senior Management and Boards of Directors – Investment).

2. Each Schedule entry sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 7.6.1(a) (Non-Conforming Measures – Cross-Border Trade in Services) and 11.12.1(a) (Non-Conforming Measures – Investment), do not apply to the listed measure(s);

   (c) **Level of Government** indicates the level of government maintaining the listed measure(s);

   (d) For Korea, **Measures** identifies the laws, regulations or other measures for which the entry is made. For Australia, **Source of Measure** means the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the **Measures** or **Source of Measure** 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;

   (e) **Description**, for Australia, sets out the non-conforming measure for which the entry is made; and **Description**, for Korea, provides commitments, if any, for liberalisation on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the **Measures** for which the entry is made.

3. In accordance with Article 7.6.1(a) (Non-Conforming Measures – Cross-Border Trade in Services) and 11.12.1(a) (Non-Conforming Measures – Investment), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply, in the case of Australia, to the non-conforming measure identified in the **Description** element of that entry or, in the case of Korea, to the law, regulation or other measure

identified in the **Measures** element of that entry.

4. Local Presence and National Treatment are separate disciplines and a measure that is only inconsistent with Local Presence (such as residency requirements) need not be reserved against National Treatment.

5. Where a Party maintains a measure that requires that a service supplier be a citizen, permanent resident or resident of its territory as a condition to the supply of a service in its territory, a Schedule entry for that measure taken with respect to Article 7.2 (National Treatment – Cross-Border Trade in Services), 7.3 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or 7.5 (Local Presence – Cross-Border Trade in Services) shall operate as a Schedule entry with respect to Article 11.3 (National Treatment – Investment), 11.4 (Most-Favoured-Nation Treatment – Investment) or 11.9 (Performance Requirements – Investment) to the extent of that measure.

6. For Korea, a "foreign person" means a foreign national or an enterprise organised under the laws of another country.

ANNEX I
SCHEDULE OF KOREA

Sector: Construction Services

Obligations Concerned: Local Presence (Article 7.5)

Measures: *Framework Act on the Construction Industry* (Law No. 12012, August 6, 2013), Articles 9 and 10

Enforcement Decree of the Framework Act on the Construction Industry (Presidential Decree No. 24616, June 17, 2013), Article 13

Enforcement Regulations of the Framework Act on the Construction Industry (Ordinance of the Ministry of Land, Infrastructure and Transport No. 10, June 17, 2013), Articles 2 and 3

Information and Communication Construction Business Act (Law No. 11690, March 23, 2013), Article 14

Fire Fighting System Installation Business Act (Law No. 11782, May 22, 2013), Articles 4 and 5

Enforcement Decree of the Fire Fighting System Installation Business Act (Presidential Decree No. 24417, March 23, 2013), Article 2 (Table 1)

Enforcement Regulations of the Fire Fighting System Installation Business Act (Ordinance of Ministry of Security and Public Administration No. 3, March 23, 2013), Article 2

Description: <u>Cross-Border Trade in Services</u>

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.

Sector: Leasing, Rental, Maintenance, Repair, Sales, and Disposal Services Related to Construction Machinery and Equipment

Obligations Concerned: Local Presence (Article 7.5)

Measures: *Construction Machinery Management Act* (Law No. 11919, July 16, 2013), Article 21

Enforcement Decree of the Construction Machinery Management Act (Presidential Decree No. 24443, March 23, 2013), Articles 13, 14, 15 and 15-2

Enforcement Regulations of the Construction Machinery Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No.1, March 23, 2013), Articles 57 through 63, 65-2 and 65-3

Description: <u>Cross-Border Trade in Services</u>

A person that supplies leasing, rental, maintenance, repair, sales, and disposal services related to construction machinery and equipment must establish an office in Korea.

Sector: Transportation Services – Automobile Maintenance, Repair, Sales, Disposal, and Inspection Services; Automobile License Plate Issuing Services

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Automobile Management Act* (Law No. 11929, July 16, 2013), Articles 20, 44, 45 and 53

Enforcement Regulations of the Automobile Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 24, September 6, 2013), Articles 7, 8, 83, 87 and 111

Rule on Enforcement of Comprehensive Inspection of Automobiles, Etc. (Ordinance of the Ministry of Land, Infrastructure and Transport No.1, March 23, 2013), Article 16

Description: <u>Cross-Border Trade in Services</u>

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 register its business with the head of the *si/gun/gu* (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 inspection 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.

Sector: Distribution Services – Wholesale and Retail Distribution of Tobacco and Liquor

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Tobacco Business Act* (Law No. 11690, March 23, 2013), Articles 12, 13 and 16

Enforcement Decree of the Tobacco Business Act (Presidential Decree No. 24519, April 26, 2013), Articles 4 and 5

Enforcement Regulations of the Tobacco Business Act (Ordinance of the Ministry of Strategy and Finance No. 131, March 3, 2010), Articles 5, 7 and 7-3

Liquors Act (Law No. 11873, June 7, 2013), Articles 8 through 10 and 43

Enforcement Decree of the Liquors Act (Presidential Decree No. 24638, June 28, 2013), Article 9 and 56

Notice on Sales of Liquor by Telecommunication Means (Notice of National Tax Service No. 2012-68, October 1, 2012) and *Notice on Designation of Zone for Liquor License* (Notice of National Tax Service No. 2013-15, April 1, 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.

Sector:	Agriculture and Livestock
Obligations Concerned:	National Treatment (Article 11.3)
Measures:	Foreign Investment Promotion Act (Law No. 11535, December 11, 2012), Article 4 *Enforcement Decree of the Foreign Investment Promotion Act* (Presidential Decree No. 24638, June 28, 2013), Article 5 *Regulations on Foreign Investment and Introduction of Technology* (Notice of the Ministry of Trade, Industry and Energy, No. 2013-37, May 30, 2013), Attached table 2
Description:	<u>Investment</u> Foreign persons may not: (a) invest in an enterprise engaged in rice or barley farming; or (b) hold 50 percent or more of the equity interest of an enterprise engaged in beef cattle farming.

Sector:	Business Services – *An-gyung-sa* (Optician and Optometry) Services
Obligations Concerned:	Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Medical Technicians Act* (Law No. 11860, June 4, 2013), Article 12 *Enforcement Regulations of the Medical Technicians Act* (Ordinance of the Ministry of Health and Welfare No. 193, April 17, 2013), Article 15
Description:	<u>Cross-Border Trade in Services</u> 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) may not establish more than one office.

Sector: Wholesale and Retail Distribution Services

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Pharmaceutical Affairs Act* (Law No. 12074, August 13, 2013), Articles 42 and 45

Enforcement Decree on the Pharmaceutical Affairs Acts (Presidential Decree No. 24479, March 23, 2013), Article 31-2

Enforcement Decree on the Standards of Facilities of Manufacturer and Importers of Medicinal Products, Etc. (Presidential Decree No. 24479, March 23, 2013), Article 6

Supply and Demand of Oriental Medicinal Herbs Regulations (Notice of the Ministry of Health and Welfare No. 2013-63, April 18, 2013), Articles 4 and 12

Medical Devices Act (Law No. 12107, August 13, 2013), Article 15

Enforcement Regulations of the Medical Devices Act (Ordinance of the Prime Minister No. 1016, March 23, 2013), Article 20

Health Functional Foods Act (Law No. 11508, October 22, 2012), Article 6

Enforcement Regulations of the Health Functional Foods Act (Ordinance of the Prime Minister No. 1010, March 23, 2013), Articles 2 and 5

Food Sanitation Act (Law No. 11819, May 22, 2013), Articles 24, 36 and 37

Enforcement Decree of the Food Sanitation Act (Presidential Decree No. 24800, October 16, 2013), Articles 23 and 24

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

Act on the Control of Narcotics, Etc. (Law No. 11984, July 30, 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.

Sector:	Retail Distribution Services of Pharmaceuticals
Obligations Concerned:	Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Pharmaceutical Affairs Act* (Law No. 12074, August 13, 2013), Articles 20 and 21 *Enforcement Decree on the Pharmaceutical Affairs Act* (Presidential Decree No. 24479, March 23, 2013), Article 22-2
Description:	<u>Cross-Border Trade in Services</u> A person that supplies pharmaceutical product retail distribution services (including distribution of *han-yak-jae* (Asian medicinal herbs)) must establish a pharmacy in Korea. That person may not establish more than one pharmacy nor establish a pharmacy in the form of a corporation.

Sector:	Transportation Services – Rail Transportation and Incidental Services
Obligations Concerned:	National Treatment (Article 7.2) Market Access (Article 7.4)
Measures:	*Railroad Enterprise Act* (Law No. 11690, March 23, 2013), Articles 5, 6 and 12 *Korea Railroad Corporation Act* (Law No. 12025, August 6, 2013), Article 9 *Rail Construction Act* (Law No. 12023, August 6, 2013), Article 8 *Framework Act on Rail Industry Development* (Law No. 11690, March 23, 2013), Articles 3, 20, 21, 26 and 38 *Korea Rail Network Authority Act* (Law No. 11690, March 23, 2013), Article 7
Description:	<u>Cross-Border Trade in Services</u> 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 per cent owned by the shareholders with Korean nationality) established by a Korean national may supply railroad transportation services on railroad routes constructed on or before June 30, 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 July 1, 2005. Such authorisation is subject to an economic needs test. Only the central 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* may supply rail construction services.

Sector: Transportation Services – Passenger Road Transportation Services (excluding Taxis and Scheduled Passenger Road Transportation Services)

Obligations Concerned: Local Presence (Article 7.5)

Measures: *Passenger Transport Service Act* (Law No. 12020, August 6, 2013), Articles 4 and 5

Enforcement Decree of the Passenger Transport Service Act (Presidential Decree No. 24443, March 23, 2013), Article 3

Enforcement Regulations of the Passenger Transport Service Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Article 11

Tramway Transportation Act (Law No. 11647, March 22, 2013), Article 4

Enforcement Regulations of the Tramway Transportation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, March 23, 2013), Article 3

Description: Cross-Border Trade in Services

A person that supplies passenger road transportation services, excluding taxis and scheduled passenger road transportation services, must establish an office in the *dang-hae-ji-yeok* (relevant geographic area) in Korea.

Sector:	Transportation Services – International Maritime Cargo Transportation and Maritime Auxiliary Services
Obligations Concerned:	National Treatment (Article 7.2) Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Maritime Transportation Act* (Law No. 12092, August 13, 2013), Articles 24 and 33 *Enforcement Regulations of the Maritime Transportation Act* (Ordinance of the Ministry of Oceans and Fisheries No. 1, March 24, 2013), Articles 16, 19, 22 and 23 *Pilotage Act* (Law No. 11690, March 23, 2013), Article 6 *Ship Investment Company Act* (Law No. 11756, April 5, 2013), Articles 3 and 31
Description:	Cross-Border Trade in Services A person that engages in international maritime cargo transportation services must be organised as a *Chusik Hoesa* (stock company) in Korea and registered according to the *Maritime Transportation Act*. A ship investment company must also be organised as a *Chusik Hoesa* (stock company) in Korea and registered according to the *Ship Investment Company Act*. A person that engages in shipping brokerage services, maritime agency services and vessel maintenance services must be the company as stipulated under the *Korean Commercial Act* and registered according to the *Maritime Transportation Act*. Only a Korean national may supply maritime pilotage services.

Sector: Transportation Services – Air Transportation Services

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

Measures: *Aviation Act* (Law No. 12026, August 6, 2013), Articles 3, 6, 112, 113, 114, 132 and 135

Enforcement Regulations of the Aviation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, February 15, 2013), Articles 14-2, 15, 278, 278-3, 296-2, 298 and 299

Description: Investment

The following persons may 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 *gong-gong-dan-che* (organisation 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 half or more than half of the equity interest, or has control; or

(e) an enterprise organised under Korean law whose *dae-pyo-ja* (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 is authorised to operate a self-owned or 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.

Sector:	Transportation Services – Specialty Air Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Measures:	*Aviation Act* (Law No. 12026, August 6, 2013), Articles 3, 6, and 134 *Enforcement Regulations of the Aviation Act* (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, February 15, 2013), Articles 15-2, 298 and 299-2
Description:	<u>Cross-Border Trade in Services and Investment</u>

A person that supplies aircraft-*sa-yong* (use) services or such non-scheduled air transportation services as glider towing, parachute jumping, aerial construction, heli-logging, and aerial sightseeing must register its self-owned or chartered aircraft with the Minister of Land, Infrastructure and Transport and establish an office in Korea.

The following persons may not register an aircraft:

(a) a foreign national;

(b) a foreign government or a foreign *gong-gong-dan-che* (organisation for public purposes);

(c) an enterprise organised under foreign law;

(d) an enterprise in which any of the person referred to in subparagraphs (a) through (c) owns half or more than half of the equity interest, or over which any of those persons has control; or

(e) an enterprise organised under Korean law whose *dae-pyo-ja* (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, and aerial inspections and observations.

Sector: Transportation Services – Road Transportation Support Services

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Passenger Transport Service Act* (Law No. 12020, August 6, 2013), Articles 36 and 37

Enforcement Regulations of the Passenger Transport Service Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Article 73

Parking Lot Service Act (Law No. 11690, March 23, 2013), Article 12

Road Traffic Act (Law No. 12045, August 13, 2013), Article 36

Description: <u>Cross-Border Trade in Services</u>

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 *si/gun*, as appropriate, which is subject to an economic needs test. (However, a person that supplies parking lot services must notify a head of *si/gun/gu* of the parking lot establishment).

Sector: Courier Services

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Aviation Act* (Law No. 12026, August 6, 2013), Article 139

Enforcement Regulations of the Aviation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No.569, February 15, 2013), Article 306

Trucking Transport Business Act (Law No. 11933, July 16, 2013), Articles 3, 24 and 29

Enforcement Regulations of Truck Transportation Business Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 19, July 11, 2013), Articles 6, 34 and 41-2

Description: <u>Cross-Border Trade in Services</u>

A person that supplies international courier services, including commercial document delivery services, as specified in Article 3 of the *Enforcement Decree of the Postal Services Act*, 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 the permission standards and an economic needs test of the *Trucking Transport Business Act.*

For greater certainty, a person who acquired an existing domestic courier business under the *Trucking Transport Business Act* 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.

Sector:	Telecommunications Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Telecommunications Business Act* (Law No. 12035, August 13, 2013), Articles 6, 7, 8, 21 and 87 *Telecommunications Business Act* (Law No. 5385, August 28, 1997), Addenda Article 4 *Radio Waves Act* (Law No. 11712, March 23, 2013), Articles 13 and 20
Description:	<u>Cross-Border Trade in Services and Investment</u>

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 may 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 may 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 may not obtain or hold a radio station license.

A foreign person may 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* (Law No. 12035, August 13, 2013), a facilities-based supplier is a supplier that owns transmission facilities;

(c) consistent with Article 5.3 of the *Telecommunications Business Act* (Law No. 12035, August 13, 2013), 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, March 23, 2013), “transmission facilities” means wireline or wireless transmission facilities (including circuit facilities) that connect transmitting points with receiving points.

Sector:	Real Estate Brokerage and Appraisal Services
Obligations Concerned:	Local Presence (Article 7.5)
Measures:	*Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions* (Law No. 11866, June 4, 2013), Article 9 *Enforcement Decree of the Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions* (Presidential Decree No. 24443, March 23, 2013), Article 13 *Enforcement Regulations of the Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions* (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, March 23, 2013), Article 4 *Public Notice of Values and Appraisal of Real Estate Act* (Law No. 11690, March 23, 2013), Article 27 *Enforcement Decree of the Public Notice of Values and Appraisal of Real Estate Act* (Presidential Decree No. 23919, June 29, 2012), Articles 65, 66 and 68 *Enforcement Regulations of the Public Notice of Values and Appraisal of Real Estate Act* (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, March 23, 2013), Articles 25 and 26
Description:	<u>Cross-Border Trade in Services</u> A person that supplies real estate brokerage services or real estate appraisal services must establish an office in Korea.

Sector:	Retail, Leasing, Rental and Repair Services Related to Medical Devices
Obligations Concerned:	Local Presence (Article 7.5)
Measures:	*Medical Devices Act* (Law No. 12107, August 13, 2013), Articles 16 and 17 *Enforcement Regulations of the Medical Devices Act* (Ordinance of the Prime Minister No. 1016, March 23, 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.

Sector: Rental Services – Automobiles

Obligations Concerned: Local Presence (Article 7.5)

Measures: *Passenger Transport Service Act* (Law No. 12020, August 6, 2013), Articles 28 and 29

Enforcement Regulations of the Passenger Transport Service Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Article 60, 61, 62 and 64

Description: Cross-Border Trade in Services

A person that supplies automobile rental services must establish an office in Korea.

Sector:	Scientific Research Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3)
Measures:	*Marine Scientific Research Act* (Law No. 12091, August 13, 2013), Articles 6, 7, and 8 *Territorial Sea and Contiguous Zone Act* (Law No. 10524, April 4, 2011), Article 5
Description:	<u>Cross-Border Trade in Services and Investment</u> 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, 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.

Sector:	Professional Services – Legal Services
Obligations Concerned:	Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Attorney-at-law Act* (Law No. 11825, May 28, 2013), Articles 4, 7, 21, 21-2, 34, 45, 58-6, 58-22 and 109 *Certified Judicial Scriveners Act* (Law No. 8920, March 21, 2008), Articles 2, 3 and 14 *Notary Public Act* (Law No. 11823, May 28, 2013), Articles 10, 16 and 17
Description:	<u>Cross-Border Trade in Services</u> Only a *byeon-ho-sa* (Korean-licensed lawyer) registered with the Korean Bar Association may supply legal services. Only a *byeon-ho-sa* (Korean-licensed lawyer) may establish the following types of legal entity: *beop-yool-sa-mu-so* (law office), *beop-mu-beop-in* (law company with the characteristics of partnership), *beop-mu-beop-in* (*yoo-han*) (limited liability law company), or *beop-mu-jo-hap* (limited liability partnership law office). For greater certainty, a person that is not a Korean-licensed lawyer is not permitted to invest in any of these types of legal entity. A *byeon-ho-sa* (Korean-licensed lawyer) or *beop-mu-sa* (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 *gong-jeung-in* (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 entry for Legal Services – Foreign Legal Consultants in the Schedule of Korea to Annex II.

Sector: Professional Services – Labor Affairs Consulting Services

Obligations Concerned: Local Presence (Article 7.5)

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

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

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

Description: Cross-Border Trade in Services

A person that supplies labor 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 labor 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.

Sector: Professional Services – Patent Attorney (*byeon-ri-sa*)

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Patent Attorney Act* (Law No. 11962, July 30, 2013), Articles 3, 5, 6-2 and 6-3

Description: <u>Cross-Border Trade in Services</u>

Only a *byeon-ri-sa* (Korean-licensed patent attorney) who is registered with the Korean Intellectual Property Office may supply patent attorney services.

Only a *byeon-ri-sa* (Korean-licensed patent attorney) may establish a *gae-in-sa-mu-so* (sole proprietorship) or a *teuk-heo-beop-in* (patent law firm). For greater certainty, a person that is not a Korean-licensed patent attorney may not invest in either of these types of legal entity.

A *byeon-ri-sa* (Korean-licensed patent attorney) may establish only one office.

Sector:	Professional Services – Accounting and Auditing Services
Obligations Concerned:	Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Certified Public Accountant Act* (Law No.10866, July 21, 2011), Articles 2, 7, 12, 18 and 23 *External Audit of Stock Companies Act* (Law No. 11845, May 28, 2013), Article 3
Description:	<u>Cross-Border Trade in Services</u> Only *gae-in-sa-mu-so* (sole proprietorships), *gam-sa-ban* (auditing task forces) or *hoe-gye-boep-in* (accounting corporation limited liability companies) 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 may 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 entry for Professional Services – Foreign Chartered Accountants in the Schedule of Korea to Annex II.

Sector: Professional Services –Taxation Services (*se-mu-sa*)

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

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

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

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

Description: <u>Cross-Border Trade in Services</u>

Only *se-mu-sa-mu-so* (sole proprietorships), *se-mu-jo-jeong-ban* (tax reconciliation task forces) or *se-mu-beop-in* (tax agency corporation limited liability companies) established in Korea by *se-mu-sa* (Korean-certified tax accountants) registered under the *Certified Tax Accountant Act* may supply *se-mu-sa* (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 may not invest in any of these types of legal entity.

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

This entry is subject to the commitments undertaken in the entry for Professional Services – Foreign Certified Tax Accountants in the Schedule of Korea to Annex II.

Sector: Professional Services – Customs Clearance Services

Obligations Concerned: Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Customs Broker Act* (Law No. 10570, April 8, 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.

Sector:	Engineering and Other Technical Services – Industrial Safety, Health Institution, and Consulting Services
Obligations Concerned:	Local Presence (Article 7.5)
Measures:	*Industrial Safety and Health Act* (Law No. 11882, June 12, 2013), Articles 15, 16 and 52-4 *Enforcement Decree of the Industrial Safety and Health Act* (Presidential Decree No. 24684, August 6, 2013), Articles 15-2, 15-3, 19-2 and 19-3 *Enforcement Regulations of the Industrial Safety and Health Act* (Ordinance of the Ministry of Employment and Labor No. 86, August 6, 2013), Articles 17, 18, 20, 21 and 136-8
Description:	<u>Cross-Border Trade in Services</u> A person that supplies safety and health management or diagnostic services to industrial workplaces must establish an office in Korea. 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.

Sector:	Engineering and Other Technical Services – Architectural Services, Engineering Services, Integrated Engineering Services, Urban Planning and Landscape Architectural Services
Obligations Concerned:	Local Presence (Article 7.5)
Measures:	*Certified Architects Act* (Law No. 11690, March 23, 2013), Article 23 *Enforcement Decree of the Certified Architects Act* (Presidential Decree No. 24443, March 23, 2013), Articles 22 and 23 *Enforcement Regulations of the Certified Architects Act* (Ordinance of the Ministry of Land, Infrastructure and Transport No.1, March 23, 2013), Article 13 *Engineering Industry Promotion Act* (Law No. 12299, January 21, 2014), Article 21 *Professional Engineers Act* (Law No. 11690, March 23, 2013), Article 6 *Special Act on the Safety Control of Public Structures* (Law No. 11928, July 6, 2013), Article 9 *Enforcement Decree of the Special Act on the Safety Control of Public Structures* (Presidential Decree No. 24443, March 23, 2013), Article 11 *Construction Technology Management Act* (Law No. 11690, March 23, 2013), Articles 25 and 28 *Enforcement Decree of the Construction Technology Management Act* (Presidential Decree No. 24390, February 20, 2013), Articles 91 and 108 *Enforcement Regulations of the Construction Technology Management Act* (Ordinance of the Ministry of Land, Infrastructure and Transport No. 4, April 1, 2013), Article 48 *Act on Land Survey, Hydrographic Survey and Cadastral Records* (Law No. 11943, July 17, 2013), Articles 44 and 54 *Enforcement Decree of the Act on Land Survey, Hydrographic Survey and Cadastral Records* (Presidential Decree No. 24596, June 11, 2013), Articles 34, 35, 36, 45, 46 and 47 *Environmental Testing and Inspection Act* (Law No. 11690, March 23, 2013), Article 16 *Thermal Spring Management Act* (Law No. 11896, July 16, 2013), Article 7 *Fire Fighting System Installation Business Act* (Law No. 11782, May 22, 2013), Article 4

Description:	<u>Cross-Border Trade in Services</u> 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 licensed architect through a joint contract with a Korean-licensed architect who registered in architectural profession and established an architect's office.

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

Obligations Concerned: Performance Requirements (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Local Presence (Article 7.5)

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

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

Enforcement Decree of the Outdoor Advertisements, Etc. Management Act (Presidential Decree No. 24632, June 21, 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* (for example, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise may not serve as the *dae-pyo-ja* (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 central or local government.

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

Sector: Business Services – Job Placement Services, Labor Supply and Worker Dispatch Services, and Education Services for Seafarers

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Employment Security Act* (Law No. 11048, September 15, 2011), Articles 19 and 33

Enforcement Decree of the Employment Security Act (Presidential Decree No. 24076, August 31, 2012), Articles 21 and 33

Enforcement Regulations of the Employment Security Act (Ordinance of the Ministry of Employment and Labor No. 72, December 27, 2012), Articles 18 and 36

Act Relating to Protection for Dispatched Workers (Law No. 11668, March 22, 2013), Articles 7, 8, 9 and 10

Enforcement Decree of the Act Relating to Protection for Dispatched Workers (Presidential Decree No. 23853, June 12, 2012), Article 3

Enforcement Regulations of the Act Relating to Protection for Dispatched Workers (Ordinance of the Ministry of Employment and Labor No. 64, August 2, 2012), Article 3, 4 and 5

Special Act on Designation and Management of Free Economic Zones (Law No. 11690, March 23, 2013), Article 17

Seafarers Act (Law No. 11690, March 23, 2013), Articles 109, 110, 112, 115, 116, 117, 142 and 143

Korea Institute of Maritime and Fisheries Technology Act (Law No. 11690, March 23, 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 Presidential Decree, but the Minister of Employment and Labor can 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 labor supply services.

In order to become an agent for seafarer personnel management services, a person must register with the Minister of Oceans and Fisheries as a stock company under the Korean Commercial Code.

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

Sector:	Investigation and Security Services
Obligations Concerned:	Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Certified Private Security Act* (Law No. 11690, March 23, 2013), Articles 3 and 4 *Enforcement Decree of the Certified Private Security Act* (Presidential Decree No. 24419, March 23, 2013), Articles 3 and 4 *Enforcement Regulations of the Certified Private Security Act* (Ordinance of the Ministry of Security and Public Administration, No. 20, October 22, 2013), Article 3
Description:	<u>Cross-Border Trade in Services</u> 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) *shi-seol-gyung-bee* (facility security); (b) *ho-song-gyung-bee* (escort security); (c) *shin-byun-bo-ho* (personal security); (d) *gee-gye-gyung-bee* (mechanised security); and (e) *teuk-soo-gyung-bee* (special security).

Sector:	Distribution Services Related to Publications
Obligations Concerned:	National Treatment (Article 7.2)
Measures:	*Publication Cultural Industry Promotion Act* (Law No. 11048, September 15, 2011), Articles 18, 19 and 19-3 *Enforcement Decree of the Publication Cultural Industry Promotion Act* (Presidential Decree No. 24020, August 3, 2012), Article 12 *Enforcement Regulations of the Publication Cultural Industry Promotion Act* (Ordinance of the Ministry of Culture, Sports and Tourism No. 121, July 27, 2012), Article 7
Description:	<u>Cross-Border Trade in Services</u> Publications for the purpose of domestic distribution are subject to a review process on an *ad hoc* basis.

Sector:	Transportation Services – Aircraft Maintenance and Repair Services
Obligations Concerned:	Local Presence (Article 7.5)
Measures:	*Aviation Act* (Law No. 12026, August 6, 2013), Articles 137, 137-2, and 138 *Enforcement Regulations of the Aviation Act* (Ordinance of the Ministry of Land, Infrastructure and Transport No.569, February 15, 2013), Articles 16, 304 and 305
Description:	<u>Cross-Border Trade in Services</u> A person that supplies aircraft maintenance and repair services must establish an office in Korea.

Sector: Education Services – Higher Education

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

Measures: *Higher Education Act* (Law No. 12036, August 13, 2013), Articles 3, 4, 32, 42 and 43

Enforcement Decree of the Higher Education Act (Presidential Decree No. 24847, November 20, 2013), Article 28

Private School Act (Law No. 11622, January 23, 2013), Articles 3, 5, 10 and 21

Enforcement Decree of the Private School Act (Presidential Decree No. 24665, July 22, 2013), Article 9-3

Decree on the Establishment of the Korea National Open University (Presidential Decree No. 24423, March 23, 2013), Articles 1 and 2

Description: Cross-Border Trade in Services and Investment

Half or more of the members of the board of directors of a private higher education institution must be Korean nationals. If a foreign person or foreign juridical person contributes half or more of the basic property of a higher education institution, up to but not including 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 of higher education institution" 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 the Schedule of Korea to 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 central or local governments of Korea may establish higher education institutions for training of primary school teachers. Only the central government of Korea may establish higher education institutions that supply higher education services to the public through broadcasting.

Sector: Education Services – Adult Education

Obligations Concerned: National Treatment (Articles 7.2 and 11.4)
Market Access (Article 7.4)

Measures: *Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons* (Law No. 11690, March 23, 2013), Articles 2, 2-2 and 13

Enforcement Decree of the Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act (Presidential Decree No. 24423, March 23, 2013), Article 12

Lifelong Education Act (Law No. 11770, May 22, 2013), Articles 30, 33 through 38

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

Regulations on Foreign Investment and Introduction of Technology (Notice of the Ministry of Trade, Industry and Energy No. 2013-37, May 30, 2013), Attached table 1

Description: <u>Cross-Border Trade in Services and Investment</u>

The types of adult education institutions that a foreign person may establish in Korea are limited to:

(a) *hag-won* (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 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) online 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.

Sector:	Education Services – Vocational Competency Development Training Services
Obligations Concerned:	Local Presence (Article 7.5)
Measures:	*Workers' Vocational Competency Development Act* (Law No. 11690, March 23, 2013), Articles 28, 32 and 36 *Enforcement Decree of the Workers' Vocational Competency Development Act* (Presidential Decree No. 24628, June 21, 2013), Articles 24 and 26 *Enforcement Regulation of the Workers' Vocational Competency Development Act* (Ordinance of the Ministry of Employment and Labor No. 57, June 8, 2012), Articles 12, 14 and 18
Description:	<u>Cross-Border Trade in Services</u> A person that supplies vocational competency development training services must establish an office in Korea.

Sector:	Veterinary Services
Obligations Concerned:	Market Access (Article 7.4) Local Presence (Article 7.5)
Measures:	*Veterinary Affairs Act* (Law No. 11354, February 22, 2012), Articles 17, 22-2, 22-4 and 22-5 *Civil Act* (Law No. 11728, April 5, 2013), Article 32
Description:	<u>Cross-Border Trade in Services</u> Only a person that is a licensed *soo-eui-sa* (veterinarian) that has established an office in Korea, *dong-mul-jin-ryo-bub-in* (animal hospital legal entity) or *bee-young-ri-bub-in* (non-profit legal entity) may engage in veterinary or aquatic animal disease inspection services.

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 7.5)

Measures: *Water Quality and Ecosystem Conservation Act* (Law No. 11915, July 16, 2013), Article 62

Support for Environmental Technology and Environmental Industry Act (Law No. 11713, March 23, 2013), Article 15

Soil Environment Conservation Act (Law No. 11464, June 1, 2012), Article 23-7

Groundwater Act (Law No. 11803, May 22, 2013), Article 29-2

Clean Air Conservation Act (Law No. 11750, April 5, 2013), Article 68

Environmental Impact Assessment Act (Law No. 11690, March 23, 2013), Article 54

Toxic Chemicals Control Act (Law No. 11690, March 23, 2013), Article 20

Wastes Control Act (Law No. 11965, July 30, 2013), Article 25

Enforcement Decree of the Wastes Control Act (Presidential Decree No. 24543, May 28, 2013), Article 8

Description: Cross-Border Trade in Services

A person that supplies the environmental services listed in the Sector heading must establish an office in Korea.

Sector: Performance Services

Obligations Concerned: National Treatment (Article 7.2)

Measures: *Public Performance Act* (Law No. 11048, September 15, 2011), Articles 6 and 7

Enforcement Decree of the Public Performance Act (Presidential Decree No. 23759, May 1, 2012), Articles 4 and 6

Enforcement Regulations of the Public Performance Act (Ordinance of the Ministry of Culture, Sports and Tourism No. 94, November 25, 2011), Article 4

Enforcement Regulations of the Immigration Control Act (Ordinance of the Ministry of Justice No. 799, October 10, 2013), Table 5

Description: <u>Cross-Border Trade in Services</u>

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.

Sector: News Agency (*News-tong-sin-sa*) Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Senior Management and Boards of Directors (Article 11.10)
Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Act on Promotion of News Communication* (Law No. 11690, March 23, 2013), Articles 7, 8, 9, 9-5, 16 and 28

Enforcement Decree of the Act on Promotion of News Communications (Presidential Decree No. 24183, November 20, 2012), Articles 4 and 10

Radio Waves Act (Law No. 11712, March 23, 2013), Article 20

Description: Cross-Border Trade in Services and Investment

A *news-tong-sin-sa* (news agency) organised under foreign law may supply *news-tong-sin* (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 *dae-pyo-ja* (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 of share or equity interest.

The following persons may not serve as a *dae-pyo-ja* (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 organized under foreign law.

Sector: Manufacturing of Biological Products

Obligations Concerned: Performance Requirements (Article 11.9)

Measures: *Pharmaceutical Affairs Act* (Law No. 12074, August 13, 2013), Article 42

Regulations on Safety of Pharmaceuticals, Etc (Ordinance of the Prime Minister No. 1022, March 23, 2013), Article 11

Description: Investment

A person who manufactures blood products must procure raw blood materials from a blood management body in Korea.

Sector: Publishing of Periodicals (Excluding Newspapers)

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Senior Management and Boards of Directors (Article 11.10)
Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Act on the Promotion of Periodicals including Magazine, Etc.* (Law No. 11690, March 23, 2013), Articles 20 and 29

Enforcement Decree of Act on the Promotion of Periodicals including Magazine, Etc. (Presidential Decree No. 23807, May 23, 2012), Articles 17 through 20

Description: Cross-Border Trade in Services and Investment

A person who is not a Korean national must not be the publisher or the editor-in-chief of an enterprise that publishes periodicals.

The following persons may not publish periodicals in Korea:

(a) a foreign government or a foreign person;

(b) an enterprise organised under Korean law whose *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national; or

(c) an enterprise organised under Korean law in which a foreign person holds 50 percent or more of share or equity interest.

A foreign person that publishes periodicals may establish a branch or office in Korea subject to authorisation from the Minister of Culture, Sports and Tourism. From the date this Agreement enters into force, such branch or office may print and distribute its periodicals in Korea in the original language, provided that such periodicals are edited in the territory of Australia.

Sector: Distribution Services – Agriculture and Livestock

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Market Access (Article 7.4)

Measures: *Grain Management Act* (Law No. 11641, March 22, 2013), Article 12

Livestock Industry Act (Law No. 11690, March 23, 2013), Articles 30 and 34

Seed Industry Act (Law No. 11704, March 23, 2013), Article 142

Feed Management Act (Law No. 11690, March 23, 2013), Article 6

Ginseng Industry Act (Law No. 11690, March 23, 2013), Article 20

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

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

Regulations on Foreign Investment and Introduction of Technology (Notice of the Ministry of Trade, Industry and Energy No. 2013-37, May 30, 2013), Attached table 2

Act on Distribution and Price Stabilization of Agricultural and Fishery Products (Law No. 12059, August 13, 2013), Articles 15, 17 and 43

Notice on TRQ Products (Ministry of Agriculture, Food and Rural Affairs Notice No. 2013-29, May 16, 2013), Articles 14 and 20-2

Description: <u>Cross-Border Trade in Services and Investment</u>

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

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 7.2 (National Treatment) and 7.4 (Market Access) do not prevent Korea from adopting or maintaining any measure with respect to the administration of the WTO Tariff-Rate-Quota.

Sector: Communication Services – Broadcasting Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Performance Requirement (Article 11.9)
Senior Management and Boards of Directors (Article 11.10)
Market Access (Article 7.4)
Local Presence (Article 7.5)

Measures: *Broadcasting Act* (Law No. 12093, August 13, 2013) Articles 8, 9, 12, 13 through 18, 48, and 69 through 71

Enforcement Decree of the Broadcasting Act (Presidential Decree No. 24763, September 26, 2013), Article 57

Korea Educational Broadcasting Corporation Act (Law No. 12093, August 13, 2013), Article 11

Description: Cross-Border Trade in Services and Investment

Neither a foreign national nor a Korean national who serves as a *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise may serve as a *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) or chief programmer of a terrestrial broadcaster, satellite broadcasting operator, cable system operator, program provider, signal transmission network business operator, audio cable operator, or relay-only cable operator.

All members of the boards of directors of the Korea Broadcasting System (KBS) and the Korea Educational Broadcasting System (EBS) must be Korean nationals.

A license for a terrestrial broadcaster, cable system operator, satellite broadcasting operator, signal transmission network business operator, or a program provider may only be granted to or held by the Government of Korea, a local government, or a juridical person organised under Korean law.

A license for a relay-only cable operator or an audio cable operator may only be granted to or held by the Government of Korea, a local government, or a Korean person.

A license for a terrestrial broadcaster, relay-only cable operator, cable system operator, satellite broadcasting operator, or a program provider that is engaged in *jong-hap-pyeon-sung* (multi-genre programming), home shopping, or *bo-do* (news reporting) is granted through *heo-ga* (permission), whereas a license for a signal transmission network business operator, audio cable operator or a program provider that is not engaged in *jong-hap-pyeon-sung* (multi-genre programming), home shopping, or *bo-do* (news reporting) is granted through *deung-rok* (registration).

A foreign government, foreign person, or deemed foreign person may not hold:

(a) an equity interest in a terrestrial broadcaster, relay-only cable operator, or program provider that is engaged in *jong-hap-pyeon-sung* (multi-genre programming) or *bo-do* (news reporting);

(b) in the aggregate more than 33 percent of the total issued stocks or equity interest of a satellite broadcasting operator; or

(c) in the aggregate more than 49 percent of the total issued stocks or equity interest of a cable system operator, a signal transmission network business operator, or a program provider that is not engaged in *jong-hap-pyeon-sung* (multi-genre programming) or *bo-do* (news reporting).

For transparency purposes, no single person (including "specially related person" under Article 3 of the *Enforcement Decree of the Broadcasting Act*) may hold in the aggregate more than 30 per cent of the total issued stocks or equity interest of a terrestrial broadcaster or a program provider that is engaged in *jong-hap-pyeon-sung* (multi-genre programming) or *bo-do* (news reporting), unless such broadcaster primarily provides religious or missionary content. Such limitations do not apply to the Government of Korea and a corporation established by a special law (for example, Munhwa Broadcasting Corporation (MBC), which is established under *the Foundation for Broadcast Culture Act*).

A terrestrial broadcaster, program provider, cable system operator, or satellite broadcasting operator must include Korean content of at least the ratio publicly notified by the Korea Communications Commission, within the limit referred to in the following subparagraphs:

(a) in the case of a terrestrial broadcaster or program provider that uses terrestrial broadcasting to provide its programming, not less than 60 percent but not more than 80 percent of the quarterly programming hours per channel;

(b) in the case of a cable system operator or a satellite broadcasting operator, not less than 40 percent but not more than 70 percent of the quarterly programming hours per channel; and

(c) in the case of a program provider that does not use terrestrial broadcasting to provide its programming, not less than 20 percent but not more than 50 percent of the quarterly programming hours per channel.

A broadcaster must include domestically produced movies, animations and popular music of at least the ratio publicly notified by the Korea Communications Commission, within the limit referred to in the following subparagraphs:

(a) movies: not less than 20 but not more than 40 percent of the yearly programming hours of the channel concerned;

(b) animations: not less than 30 but not more than 50 percent of the yearly programming hours of the channel concerned; and

(c) popular music: not less than 50 but not more than 80 percent of the yearly programming hours of the channel concerned.

However, a broadcaster engaged in specialised programming pertaining to religion or education must include domestically produced movies and animations of at least the ratio publicly notified by the Korea Communications Commission, within the limit of not more than 40 percent of the yearly programming hours of movies or animations of the channel concerned.

Korea shall permit no more than 60 percent of a terrestrial broadcaster's, cable system operator's, satellite broadcasting operator's, or program provider's quarterly programming hours of foreign content per genre to be foreign content of a single country (single-country content ceiling).

For the purposes of this entry:

(a) "program provider engaged in *jong-hap-pyeon-sung* (multi-genre programming)" means a program provider that offers a combination of news, entertainment, drama, movies, music programming, etc.;

(b) "deemed foreign person" means a juridical person organised under Korean law in which a foreign government or a foreign person holds in the aggregate more than 50 percent of the juridical person's total issued stocks or equity interest, or whose largest shareholder is a foreign government or a foreign person; and

(c) a "satellite broadcasting operator" includes an operator that uses or leases capacity on a satellite registered in a foreign country.

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

Obligations Concerned: National Treatment (Article 11.3)[1]

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

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

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

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

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

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

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

Description: Investment

The aggregate foreign share of KEPCO's issued stocks may not exceed 40 percent. A foreign person may not become the largest shareholder of KEPCO.

The aggregate foreign share of power generation facilities, including cogeneration facilities of heat and power (GHP) for the district heating system (DHS), may 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 may not be the largest shareholder.

[1] Paragraph (a) of the 10th entry of Korea's Schedule to Annex II does not apply to this entry.

Sector: Energy Industry – Gas Industry

Obligations Concerned: National Treatment (Article 11.3)[2]

Measures: *Act on the Improvement of Managerial Structure and Privatization of Public Enterprises* (Law No. 11845, May 28, 2013), Article 19

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

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

Articles of Incorporation of the Korea Gas Corporation (August 9, 2013), Article 11

Description: Investment

Foreign persons may not own in the aggregate more than 30 per cent of the equity of KOGAS.

[2] Paragraph (a) of the 10th entry of Korea's Schedule to Annex II does not apply to this entry.

Sector: Recreational, Cultural, and Sporting Services – Motion Picture Projection Services

Obligations Concerned: Performance Requirements (Article 11.9)
Market Access (Article 7.4)

Measures: *Act on Promotion of Motion Pictures and Video Products* (Law No. 11902, July 16, 2013), Articles 2, 27 and 40

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

Description: Cross-Border Trade in Services and Investment

Cinema operators must project Korean motion pictures for at least 73 days per year at each screen in Korea.

ANNEX I
SCHEDULE OF AUSTRALIA

Introductory Note for the Schedule of Australia

Australia reserves the right to maintain and to add to this Schedule any non-conforming measure at the regional level of government that existed at 1 January 2005, but was not listed in this Schedule at the date of entry into force of this Agreement against the following obligations:

(a) Article 7.2 (National Treatment – Cross-Border Trade in Services) or 11.3 (National Treatment – Investment);

(b) Article 7.3 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or 11.4 (Most-Favoured-Nation Treatment – Investment);

(c) Article 7.5 (Local Presence – Cross-Border Trade in Services);

(d) Article 11.9 (Performance Requirements – Investment); or

(e) Article 11.10 (Senior Management and Boards of Directors – Investment).

Sector: All Sectors

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

Level of Government: Central and Regional

Source of Measure: Australia's foreign investment policy, which includes the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (FATA); *Foreign Acquisitions and Takeovers Regulations 1989* (Cth); *Financial Sector (Shareholdings) Act 1998* (Cth); and Ministerial Statements.
Land Act 1994 (Qld)
Foreign Ownership of Land Register Act 1988 (Qld)

Description: Investment

Commonwealth

A. The following investments may be subject to objections by the Australian Government and may also require notification to the Government[1]:

(a) investments by foreign persons[2] of five per cent or more in the media sector, regardless of the value of the investment;

(b) investments by foreign persons in existing[3] Australian businesses, or prescribed corporations[4],

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[1] *Foreign Acquisitions and Takeovers Act 1975* (FATA). "Investments" means activities covered by Part II of FATA or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

[2] A "foreign person" means, as defined in section 5 of the FATA:

(a) a natural person not ordinarily resident in Australia;

(b) a corporation in which a natural person not ordinarily resident in Australia or a foreign corporation holds a controlling interest;

(c) a corporation in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate controlling interest;

(d) the trustee of a trust estate in which a natural person not ordinarily resident in Australia or a foreign corporation holds a substantial interest; or

(e) the trustee of a trust estate in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate substantial interest.

[3] For the purposes of this entry, "existing" means in existence at the time the investment is proposed or made.

[4] For the purposes of this entry, "prescribed corporation" means:

(a) a trading corporation;

(b) a financial corporation;

(c) a corporation incorporated in a Territory under the law in force in that Territory relating to companies;

(d) a foreign corporation that, on its last accounting date, held assets the sum of the values of which exceeded $A248 million (for item (b) of the entry) or $A1078 million (for item (c) of the entry), being assets consisting of all or any of the following:

(i) land situated in Australia (including legal and equitable interests in such land);

(ii) mineral rights;

the value of whose assets exceeds $A248 million[#] in the following sectors:

(i) the telecommunications sector;

(ii) the transport sector, including airports, port facilities, rail infrastructure, international and domestic aviation and shipping services provided either within, or to and from, Australia;

(iii) the supply of training or human resources, or the manufacture or supply of military goods, equipment, or technology, to the Australian or other defence forces;

(iv) the manufacture or supply of goods, equipment or technologies able to be used for a military purpose;

(v) the development, manufacture or supply of, or provision of services relating to, encryption and security technologies and communication systems; and

(vi) the extraction of (or rights to extract) uranium or plutonium, or the operation of nuclear facilities;

(c) investments by foreign persons in existing Australian businesses, or prescribed corporations, in all other sectors, excluding financial sector companies[5], the value of whose total assets exceeds $A1078 million[#];

(iii) shares in a corporation incorporated in Australia;

(e) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of the Australian corporation or Australian corporations exceeded $A248 million (for item (b) of the entry) or $A1078 million (for item (c) of the entry);

(f) a corporation that was, on its last accounting date, a holding corporation of an foreign corporation referred to in paragraph (d) or (e) of this footnote;

(g) a foreign corporation that, on its last accounting date, held assets of a kind or kinds referred to in paragraph (d) of this footnote, where the sum of the values on that date of those assets was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation; or

(h) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of that Australian corporation or those Australian corporations was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation.

[#] This is the figure as at 1 January 2013. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year. If the Agreement has not entered into force by 1 January 2014, this figure will be indexed on entry into force.

[5] A "financial sector company" means, as defined in section 3 of the *Financial Sector (Shareholdings) Act 1998*:

(a) an authorised deposit-taking institution;

(b) an authorised insurance company; or

(c) a holding company of a company covered by paragraph (a) or (b) of this footnote.

[#] This is the figure as at 1 January 2013. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year. If the Agreement has not entered into force by 1 January 2014, this figure will be indexed on entry into force.

(d) acquisitions by foreign persons of developed non-residential commercial real estate valued at more than $A1078 million#;

(e) direct investments by foreign government investors, irrespective of size;

Notified investments may be refused, subject to interim orders, and/or approved subject to compliance with certain conditions. Investments referred to in (a) through (e) for which no notification is required or received may be subject to orders under Sections 18 through 21 and 21A of the FATA.

B. The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control[6] of an existing financial sector company, may be refused, or be subject to certain conditions[7].

C. In addition to the measures identified in this entry, other entries in Annex I or Annex II set out additional non-conforming measures imposing specific limits on, or requirements relating to, foreign investment in the following areas:

(a) Telstra;

(b) Commonwealth Serum Laboratories;

(c) Qantas Airways Ltd.;

(d) Australian international airlines, other than Qantas;

(e) urban land;

(f) federal leased airports;

(g) agricultural land;

(h) agribusiness; and

(i) shipping.

<u>Queensland</u>

Certain leases (obtained at ballot), and other leases at the discretion of the Minister, may be subject to a condition that the lessee personally lives on the lease for the first seven years of its term.

While all changes to ownership of land must be registered, there is an additional duty on foreign land holders to disclose, through a prescribed notification, present interests in and acquisitions of land, disposal of interests in land and notification on ceasing to be or becoming a foreign person.

Failure to provide the information causes a breach of the Act that

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[6] "Unacceptable shareholding situation" and "practical control" as defined in the *Financial Sector (Shareholdings) Act 1998.*

[7] Ministerial statements on foreign investment policy including the Treasurer's Press Release No. 28 of 9 April 1997.

may result in prosecution, the imposition of financial penalties and/or forfeiture of the interest in the land to the Crown.

Sector:	All Sectors
Obligations Concerned:	Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central
Source of Measure:	*Corporations Act 2001* (Cth) *Corporations Regulations 2001* (Cth)
Description:	<u>Investment</u> At least one director of a private company must be ordinarily resident in Australia. At least two directors of a public company must be ordinarily resident in Australia.

Sector: All Sectors

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

Level of Government: Regional

Source of Measure: *Associations Act* (NT)
Associations Incorporations Act 1991 (ACT)
Associations Incorporations Act 1981 (Qld)
Associations Incorporation Act 1985 (SA)
Associations Incorporation Act 1964 (Tas)
The Associations Incorporation Reform Act 2012 (Vic)

Description: Cross-Border Trade in Services and Investment

Northern Territory

An application for the incorporation of an association[8] must be made by a person who is a resident of the Northern Territory.

The public officer of an incorporated association must be a person who is a resident of the Northern Territory.

Australian Capital Territory

An application for incorporation of an association must be made by a person who is a resident of the Australian Capital Territory.

The public officer of an incorporated association must be a person who is a resident of the Australian Capital Territory.

Queensland

The office of secretary shall become vacant if the person holding that office ceases to be a resident in Queensland, or in another State but not more than 65km from the Queensland border.

The management committee of an incorporated association must ensure the secretary is an individual residing in Queensland, or in another State but not more than 65km from the Queensland border.

The members of the management committee of an incorporated association must ensure that the association has an address nominated for the service of documents on the association. The nominated address must be a place in the State where a document can be served personally on a person. A post office box is not a place that can be shown as a nominated address.

[8] "Association" includes a trading association.

South Australia

The public officer of an incorporated association must be a person who is a resident of South Australia.

Tasmania

A person is not eligible to be appointed as a public officer of an incorporated association unless the person is resident in Tasmania.

Victoria

A person applying for the incorporation of an association must be an Australian resident.

The first secretary and secretary of an incorporated association must be Australian residents and the first secretary of an association applying for incorporation must be an Australian resident.

The first secretary of an amalgamated association must be an Australian citizen.

Sector:	All Sectors
Obligations Concerned:	Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Regional
Source of Measure:	*Cooperatives Act 2002* (ACT) *Co-operatives (Adoption of National Law) Act 2012* (NSW) *Co-operatives Act* (NT) *Cooperatives Act 1997* (Qld) *Co-operatives Act 1997* (SA) *Cooperatives Act 1999* (Tas) *Co-operatives National Law Application Act 2013* (Vic) *Co-operatives Act 2009* (WA)
Description:	<u>Cross-Border Trade in Services and Investment</u> <u>All Australian States and Territories</u> Except for South Australia, a cooperative must have a registered office in each state or territory in which it operates. In South Australia registers must be kept at an office in South Australia. The secretary of a cooperative must be a person ordinarily resident in Australia. A foreign cooperative must appoint a person who will act as agent of the cooperative in each state or territory in which it operates. A foreign cooperative must appoint a person resident in each state or territory in which it operates as a person on whom all notices and legal process may be served on behalf of the cooperative. At least two of the directors of a cooperative must be Australian residents.

Sector: All Sectors

Obligations Concerned: Local Presence (Article 7.5)

Level of Government: Regional

Source of Measure: *Partnership Act 1963* (ACT)
Partnership Act 1892 (NSW)
Partnership Act 1997 (NT)
Partnership Act 1891 (Qld)
Partnership Act 1891 (SA)
Partnership Act 1891 (Tas)
Partnership Act 1958 (Vic)

Description: Cross-Border Trade in Services

Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania and Victoria

A limited partnership or an incorporated limited partnership established in a State or Territory must have an office, principal office or registered office in that State or Territory.

Sector: Security Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Level of Government: Regional

Source of Measure: *Security Industry Act 1997* (NSW)

Description: Cross-Border Trade in Services and Investment

A person must be an Australian citizen or an Australian permanent resident to obtain a licence to carry on a security activity in New South Wales.

Sector:	All Sectors
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	*Consumer Affairs and Fair Trading Act* (NT) *Consumer Affairs and Fair Trading (Trading Stamps) Regulations* (NT)
Description:	Cross-Border Trade in Services A promoter of a third party trading scheme[9] must maintain an office in Australia.

[9] "Third party trading scheme" means a scheme or arrangement under which the acquisition of goods or services by a consumer from a supplier is a condition, which gives rise, or apparently gives rise, to an entitlement to a benefit from a third party in the form of goods or services or some discount, concession or advantage in connection with the acquisition of goods or services.

Sector: Professional Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Level of Government: Regional

Source of Measure: *Legal Practitioners Act 1981* (SA)

Description: Cross-Border Trade in Services and Investment

A company that is a subsidiary of a foreign law firm is not permitted to obtain a practising certificate and is not permitted to share profits with any other company or firm.

Foreign natural persons practising foreign law may only join a local law firm as a consultant and may not enter into partnership with or employ local lawyers in South Australia.

(A person is not taken to be practising the profession of the law if he or she is only providing legal advice or services relating to the law of a place outside Australia.)

Sector:	Professional Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Central
Source of Measure:	*Patents Act 1990* (Cth) *Patent Regulations 1991* (Cth)
Description:	<u>Cross-Border Trade in Services</u> In order to register to practise in Australia, patent attorneys must be ordinarily resident in Australia[10].

[10] For the purposes of this entry, a person is taken to be "ordinarily resident" in Australia if the person has his or her home in Australia or Australia is the country of his or her permanent abode even though he or she is temporarily absent from Australia. However, the person is taken not to be ordinarily resident in Australia if he or she resides in Australia for a special or temporary purpose only.

Sector: Professional Services

Obligations Concerned: Local Presence (Article 7.5)
Senior Management and Boards of Directors (Article 11.10)

Level of Government: Regional

Source of Measure: *Trustee Companies Act 1947* (ACT)
Trustee Companies Act 1964 (NSW)
Companies (Trustees and Personal Representatives) Act 1981 (NT)
Trustee Companies Act 1968 (Qld)
Trustee Companies Act 1988 (SA)
Trustee Companies Act 1953 (Tas)
Trustee Companies Act 1984 (Vic)
Trustee Companies Act 1987 (WA)

Description: Cross-Border Trade in Services and Investment

Northern Territory

A body corporate may not obtain a grant of probate or act as an executor of a will or trustee of an estate of a deceased person unless it is a "licensed trustee company" as defined in section 601RAA of the *Corporations Act 2001* (Cth), or a body corporate authorised by a law of the Northern Territory to obtain a grant of probate and so act.

Western Australia

A company can only act as a trustee company in Western Australia if it is a "licensed trustee company" as defined in section 601RAA of the *Corporations Act 2001* (Cth).

All other Australian states and territories

A body corporate may not obtain a grant of probate or act as an executor of a will and any codicil unless it is a "licensed trustee company" within the meaning of Chapter 5D of the *Corporations Act 2001* (Cth).

Sector:	Professional Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Central and Regional
Source of Measure:	*Corporations Act 2001* (Cth) *Co-operative Housing and Starr-Bowkett Societies Act 1998* (NSW) *Legal Practitioners Act 1981* (SA) *Legal Practitioners Regulations 2009* (SA) *Estate Agents Act 1980* (Vic)
Description:	Cross-Border Trade in Services Commonwealth A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator. At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia. New South Wales A person must be ordinarily resident in New South Wales in order to be an auditor of specified kinds of societies and associations. South Australia Persons who provide auditing services for legal practitioners' trust accounts must be public accountants engaged as a principal in practice in South Australia. Victoria A firm of auditors cannot audit an estate agent's accounts unless at least one member of the firm of auditors is an Australian resident.

Sector: Professional Services

Obligations Concerned: Local Presence (Article 7.5)

Level of Government: Regional

Source of Measure: *Architects Act* (NT)

Description: Cross-Border Trade in Services

To qualify for registration as an architectural partnership or company, the partnership/company must have a place of business or be carrying on business within the Northern Territory.

Sector: Professional Services

Obligations Concerned: National Treatment (Article 7.2)
Most-Favoured-Nation Treatment (Article 7.3)

Level of Government: Central

Source of Measure: *Migration Act 1958* (Cth)

Description: <u>Cross-Border Trade in Services</u>

To practise as a migration agent in Australia, a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa.

Sector:	Professional Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Central
Source of Measure:	*Customs Act 1901* (Cth)
Description:	Cross-Border Trade in Services
	To act as a customs broker in Australia, service suppliers must provide the service in and from Australia.

Sector:	Research and Development Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3)
Level of Government:	Regional
Source of Measure:	*Biodiscovery Act 2004* (Qld)
Description:	<u>Cross-Border Trade in Services and Investment</u> Benefit sharing agreements require sublicences for use of samples or derivates to conduct biodiscovery research and commercialisation to be offered first to Queensland-based entities, then to Australian-based entities, and then to overseas-based entities. Any entity with a benefit sharing agreement must obtain consent before granting a sublicence to an overseas-based entity.

Sector: Real Estate and Distribution Services

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

Level of Government: Regional

Source of Measure: *Community Land Management Act 1989* (NSW)
Strata Schemes Management Act 1996 (NSW)
Property, Stock and Business Agents Act 2002 (NSW)
Agents Licensing Act (NT)
Agents Act 2003 (ACT)
Property Agents and Motor Dealers Act 2000 (Qld)
Estate Agents Act 1980 (Vic)
Conveyancers Act 2006 (Vic)
Real Estate and Business Agents Act 1978 (WA)
Real Estate and Business Agents (General) Regulations 1979 (WA)
Settlement Agents Act 1981 (WA)
Settlement Agents Regulations 1982 (WA)

Description: Cross-Border Trade in Services and Investment

New South Wales

A person cannot be appointed as an agent (for a proprietor of a development lot, neighbourhood lot or strata lot) if they are not an Australian resident. A person cannot be appointed as an agent (for an owner of a lot, for dealings with the owner's corporation) if they are not an Australian resident. To be licensed as a property, stock, business, strata managing or community managing agent in New South Wales, licensees must have a registered office in New South Wales.

Northern Territory

A licensed agent[11] must maintain an office in Australia at or from which the conduct of business under the licence is to occur.

Australian Capital Territory

An estate agent must have their principal place of business in the Australian Capital Territory.

Queensland

In order to operate as a real estate agent, auctioneer, motor dealer or commercial agent, a person must have a business address in Queensland. This must be a physical address and not a post box.

Victoria

A person cannot be licensed as an estate agent unless they have a

[11] A "licensed agent" includes a real estate agent, business agent or conveyancing agent.

registered office in Victoria and they must maintain a principal office in Victoria. An agent's representative must have a registered address in Victoria to which documents can be sent.

A person cannot be licensed as a conveyancer or carry on a conveyancing business in Victoria unless they maintain a principal place of business in Victoria.

Western Australia

A person seeking to carry on business as a real estate or business agent in Western Australia must establish and maintain a registered office in the State.

A person seeking to carry on business as a settlement agent (conveyancer) in Western Australia must ordinarily reside in the State.

A licensed settlement agent must establish and maintain a registered office in the State.

Sector: Fishing and Pearling

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

Level of Government: Central and Regional

Source of Measure: *Fisheries Management Act 1991* (Cth)
Foreign Fishing Licences Levy Act 1991 (Cth)
Fisheries Management Act 1994 (NSW)
Fisheries Act 1995 (Vic)
Fish Resources Management Act 1994 (WA)
Pearling Act 1990 (WA)
Ministerial Policy Guideline No. 17 of August 2001 (WA)

Description: Cross Border Trade in Services and Investment

Commonwealth

Foreign fishing vessels[12] seeking to undertake fishing activity in the Australian Fishing Zone must be authorised.

Where foreign fishing vessels are authorised to undertake such fishing activity, they may be subject to a levy[13].

New South Wales

A foreign person or a foreign-owned body is not permitted to hold shares in a share management fishery.

Victoria

A fishery access licence or aquaculture licence can only be issued to a natural person who is an Australian resident, or to a single corporation that has a registered office in Australia.

Western Australia

Only an individual who is an Australian citizen or permanent resident may be a licensee within the Western Australian pearling industry.

In the case of corporations, partnerships or trusts holding licenses, these must be Australian owned and/or controlled (at least 51 per cent of the issued share capital, partnership interest or trust property must be owned by Australians; the chairman, majority of the board of directors and all the company officers must be

[12] For the purposes of this reservation, a "foreign fishing vessel" is one that does not meet the definition of an Australian boat under the *Fisheries Management Act 1991* (Cth), that is, an Australian-flagged boat (not owned by a foreign resident) or a boat owned by an Australian resident or corporation and built, and whose operations are based, in Australia.

[13] The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991* or any amendments thereto.

Australians and must be nominated by, and represent, Australian interests).

Sector: Mining and Related Services

Obligations Concerned: Performance Requirements (Article 11.9)

Level of Government: Regional

Source of Measure: *Mount Isa Mines Limited Agreement Act 1985* (Qld)

Description: Investment

The operator of Mount Isa Mines shall, so far as is reasonably and economically practicable:

(a) use the services of professional consultants resident and available within Queensland;

(b) use labour available within Queensland;

(c) when preparing specifications, calling for tenders and letting contracts for works, materials, plant, equipment and supplies ensure that Queensland suppliers, manufacturers, and contractors are given reasonable opportunity to tender or quote; and

(d) give proper consideration and where possible preference to Queensland suppliers, manufacturers and contractors when letting contracts or placing orders for works, materials, plant, equipment and supplies where price, quality, delivery and service are equal to or better than that obtainable elsewhere.

Sector: Distribution Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Level of Government: Regional

Source of Measure: *Rice Marketing Act 1983* (NSW)
Marketing of Potatoes Act 1946 (WA)

Description:

Cross-Border Trade in Services and Investment

New South Wales retains marketing board arrangements for rice and Western Australia retains marketing board arrangements for potatoes.

Sector:	Other Business Services
Obligations Concerned:	Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Regional
Source of Measure:	*Prostitution Regulation Act* (NT)
Description:	<u>Cross-Border Trade in Services and Investment</u> To be eligible for the grant of an operator's licence or a manager's licence in respect of an escort agency business, an individual must be resident in the Northern Territory. For a body corporate to be granted an operator's licence, its officers must also meet the residency requirement.

Sector:	Communication Services
Obligations Concerned:	National Treatment (Article 11.3) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central
Source of Measure:	*Telstra Corporation Act 1991* (Cth)
Description:	<u>Investment</u> Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than five per cent of shares. The chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia.

Sector:	Distribution Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	*Firearms Act* (NT)
Description:	Cross-Border Trade in Services
	Grant of a firearms licence[14] requires residency in the Northern Territory. Licences and permits expire three months after the holder ceases to reside permanently in the Northern Territory.

[14] Firearms licences include, but are not limited to, firearms dealer's licence, armourer's licence, firearms museum licence, firearms collector's licence, firearms employee licence and paintball operator's licence.

Sector: Distribution Services

Obligations Concerned: Local Presence (Article 7.5)

Level of Government: Regional

Source of Measure: *Liquor Act* (NT) and policy and practice
Kava Management Act (NT)
Tobacco Control Act (NT) and policy and practice

Description: <u>Cross-Border Trade in Services</u>

The Northern Territory Licensing Commission may require a liquor licensee where the licensee is an individual, or at least one of the licensees where the licence is held by a partnership, or the licence nominee where the licence is held by a corporation, to ordinarily reside within the general locality of the premises to which the licence relates.

The holder of a tobacco retail licence may only sell tobacco products from the premises specified in the licence.

A tobacco retail licence in relation to liquor licensed premises may only be granted to the liquor licensee of those premises.

An applicant for a retail licence for kava must ordinarily reside or carry on business in the relevant licence area in the Northern Territory.

Sector:	Distribution Services
Obligations Concerned:	Performance Requirements (Article 11.9)
Level of Government:	Regional
Source of Measure:	*Wine Industry Act 1994* (Qld)
Description:	Investment In order to obtain a wine merchant's licence to sell wine, the business conducted by a person under the licence must contribute to the Queensland wine industry in a substantial way. In order to obtain a wine producer's licence to sell wine, a person must be selling wine made from fruit grown by the person on the premises to which the licence relates, or selling wine made by the person on the premises to which the licence relates.

Sector: Health Services

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

Level of Government: Central

Source of Measure: *Commonwealth Serum Laboratories Act 1961* (Cth)

Description: Investment

The votes attached to significant foreign shareholdings[15] may not be counted in respect of the appointment, replacement or removal of more than one-third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.

[15] For the purposes of this entry, "significant foreign shareholding" means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least five per cent of the voting shares in CSL.

Sector:	Tourism and Travel-related Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	*Travel Agents Act 1988* (Qld) *Travel Agents Act 1985* (WA) *Travel Agents Regulations 1986* (WA)
Description:	<u>Cross-Border Trade in Services</u> <u>Queensland</u> In order to obtain a licence to operate as a travel agent, a person must have a business address in Queensland. <u>Western Australia</u> To carry on business in Western Australia as a travel agent, a person must have a principal place of business in the state.

Sector:	Recreational, Cultural and Sporting Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	*Nature Conservation Act 1992* (Qld) *Nature Conservation (Wildlife Management) Regulation 2006* (Qld) *Nature Conservation (Administration) Regulation 2006* (Qld) *Nature Conservation (Protected Plants) Conservation Plan* 2000 (Qld)
Description:	Cross-Border Trade in Services

The Chief Executive of the Queensland Department of Environment and Heritage Protection may grant a wildlife authority[16], other than a wildlife movement permit, to a corporation only if the corporation has an office in the State.

The Chief Executive may approve a person to be an authorised cultivator or propagator for protected plants only if:

(a) in the case of a natural person, the person is a resident of the State; or

(b) if the person is a corporation, the corporation has premises in the State at which the plants are to be cultivated or propagated.

An individual or corporation is only taken to be a "person aggrieved" by a decision, failure to make a decision or conduct under the Act if the individual is an Australian citizen or ordinarily resident in Australia or, if a corporation, established in Australia.

[16] This term is defined in Schedule 7 of the *Nature Conservation (Administration) Regulation 2006* (Qld).

Sector:	Transport Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Local Presence (Article 7.5)
Level of Government:	Central
Source of Measure:	*Competition and Consumer Act 2010* (Cth)
Description:	<u>Cross-Border Trade in Services and Investment</u> Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia. Only a person[17] affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of 'reasonable' include Australia's national interest and the interests of Australian shippers.

[17] For the purposes of this entry, section 10.48 and 10.58 of Part X of the *Competition and Consumer Act 2010* list the categories of persons to whom this reservation will apply.

Sector: Transport Services

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

Level of Government: Central

Source of Measure: *Air Navigation Act 1920* (Cth)
Ministerial Statements

Description: <u>Investment</u>

Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent.

Furthermore, it is required that:

(a) at least two-thirds of the board members must be Australian citizens;

(b) the chairperson of the board must be an Australian citizen;

(c) the airline's head office must be in Australia; and

(d) the airline's operational base must be in Australia.

Sector: Transport Services

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

Level of Government: Central

Source of Measure: *Qantas Sale Act 1992* (Cth)

Description: Investment

Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent in aggregate, with individual foreign holdings limited to 25 per cent and aggregate holdings by foreign airlines to 35 per cent. In addition:

(a) the head office of Qantas must always be located in Australia;

(b) the majority of Qantas' operational facilities must be located in Australia;

(c) at all times, at least two-thirds of the directors of Qantas must be Australian citizens;

(d) at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and

(e) Qantas is prohibited from taking any action to become incorporated outside Australia.

Sector: Transport Services

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

Level of Government: Regional

Source of Measure: *Commercial Passenger (Road Transport) Act* (NT)
Road Transport (Public Passenger Services) Regulations 2002 (ACT)

Description: Cross-Border Trade in Services

Northern Territory

A taxi licence will be cancelled where the holder, being an individual, has not been ordinarily resident in the Northern Territory for more than six months or, being a body corporate, has ceased for more than six months to have its principal place of business in the Northern Territory.

Australian Capital Territory

An application for accreditation to run a public transport service must be made by an Australian citizen or permanent resident of Australia.

ANNEX II
Explanatory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 7.6 (Non-Conforming Measures – Cross-Border Trade in Services) and 11.12 (Non-Conforming Measures – Investment), the specific sectors, sub-sectors or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 7.2 (National Treatment – Cross-Border Trade in Services) or 11.3 (National Treatment – Investment);

(b) Article 7.3 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or 11.4 (Most-Favoured-Nation Treatment – Investment);

(c) Article 7.4 (Market Access– Cross-Border Trade in Services);

(d) Article 7.5 (Local Presence– Cross-Border Trade in Services);

(e) Article 11.9 (Performance Requirements– Investment); or

(f) Article 11.10 (Senior Management and Boards of Directors– Investment).

2. Each Schedule entry sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 7.6.2 and Article 11.12.2, do not apply to the sectors, sub-sectors or activities listed in the entry;

(c) **Description** sets out the scope of the sector, sub-sector or activities covered by the entry; and

(d) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the entry.

3. In accordance with Articles 7.6.2 and 11.12.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, sub-sectors and activities identified in the **Description** element of that entry.

4. For Korea, a “foreign person” means a foreign national or an enterprise organised under the laws of another country.

ANNEX II
SCHEDULE OF KOREA

Sector: All Sectors

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

Description: Investment

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

(a) is applied in accordance with the procedural requirements set out in the *Foreign Investment Promotion Act* (2012), *Enforcement Decree of the Foreign Investment Promotion Act* (2012), and other applicable law;

(b) is adopted or maintained only where the investment poses a genuine and sufficiently serious threat to the fundamental interests of society;

(c) is not applied in an arbitrary or unjustifiable manner;

(d) does not constitute a disguised restriction on investment; and

(e) is proportional to the objective it seeks to achieve.

2. Without prejudice to any claim that may be submitted to arbitration pursuant to Article 11.16.1, a claimant may submit to arbitration under Section B (Investor-State Dispute Settlement) of Chapter 11 (Investment) a claim that:

(a) Korea has adopted a measure for which it has provided notice pursuant to paragraph 1; and

(b) the claimant or, as the case may be, an enterprise of Korea that is a juridical person that the claimant owns or controls directly or indirectly, has incurred loss or damage by reason of, or arising out of, the measure.

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

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

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

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

Sector: All Sectors

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

Description: Investment

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

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

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

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

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

Cross-Border Trade in Services and Investment

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

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

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

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

Sector: All sectors

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, or other movement of natural persons, including immigration, entry or temporary stay, subject to the provisions of Chapter 10 (Movement of Natural Persons).

Sector: All Sectors

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the defense industry.

Foreign investors (stipulated in Article 2 of the *Foreign Investment Promotion Act*) who intend to acquire the outstanding shares of a defense industry company (enterprises stipulated in Article 3 of the *Defense Acquisition Program Act*) other than the newly issued ones shall obtain a prior permission from the Minister of Trade, Industry and Energy.

Existing Measures: *Foreign Investment Promotion Act* (Law No. 11535, December 11, 2012), Article 6

Defense Acquisition Program Act (Law No. 11713, March 23, 2013), Article 35

Sector: Acquisition of Land

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

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

(a) is not deemed foreign under Article 2 of the *Foreigner's Land Acquisition Act*, and

(b) is deemed foreign under the *Foreigner's Land Acquisition Act* or is a branch of a foreign juridical person subject to approval or notification in accordance with the *Foreigner's Land Acquisition Act*, if the land is to be used for any of the following legitimate business purposes:

(i) land used for ordinary business activities;

(ii) land used for housing for senior management; and

(iii) land used for fulfilling land-holding requirements stipulated by pertinent laws.

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

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

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

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

Sector:	Disadvantaged Groups
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure that accords rights or preferences to socially or economically disadvantaged groups, such as the disabled, persons who have rendered distinguished services to the state, and ethnic minorities.

Sector: State-Owned National Electronic/Information System

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure affecting the administration and operation of any state-owned electronic information system that contains proprietary government information or information gathered pursuant to the regulatory functions and powers of the government.

This entry shall not apply to payment and settlement systems related to financial services.

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

Sector: All Sectors

Obligations Concerned: Market Access (Article 7.4)

Description: Cross-Border Trade in Services

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

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

(a) for any sector and sub-sector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that does not list Market Access as one in the Obligations Concerned element, "None" is inscribed in the Market Access column for modes 1, 2, and 3, and "Unbound except as indicated in the Horizontal commitments section" is inscribed for mode 4;

(b) for any sector and sub-sector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that lists a limitation to the Market Access obligation, that limitation is inscribed in the Market Access column with regard to the appropriate mode of supply; and

(c) for any sector and sub-sector listed in Appendix II-A, Korea's Schedule is modified as indicated in the Appendix II-A.

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

For greater certainty, an entry of "None" in the Market Access column of Korea's Schedule shall not be construed to alter the application of Article 7.5 (Local Presence) as modified by Article 7.6 (Non-Conforming Measures).

Sector: All Sectors

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

Description: <u>Cross-Border Trade in Services and Investment</u>

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

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

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Sector: Communication Services – Broadcasting Services

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure that accords differential treatment to persons of other countries due to the application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services.

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

Sector:	Environmental Services – Treatment and Supply Services for Potable Water; Collection and Treatment Services for Municipal Sewage; Collection, Transportation, and Disposal Services for Municipal Refuse; Sanitation and Similar Services; Nature and Landscape Protection Services (Except for Environmental Impact Assessment Services)
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Performance Requirements (Article 11.9) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the following environmental services: treatment and supply of potable water; collection and treatment of municipal sewage; collection, transportation, and disposal of municipal refuse; sanitation and similar services; and nature and landscape protection services (except for environmental impact assessment services). This entry shall not apply to the supply of the aforementioned services pursuant to a contract between private parties, to the extent that private supply of such services is permitted under relevant laws and regulations.

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

Sector:	Energy Services – Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales; and Electricity Business
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to electric power generation, transmission, distribution and sales. Any such measure shall not decrease the level of foreign ownership permitted in the electric power industry as provided by the entry in Korea's Schedule to Annex I related to Energy Industry – Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales. Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with Article 11.9.1(f).

Sector: Energy Services – Gas industry

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the import and wholesale distribution of natural gas and the operation of terminals and the national high pressure pipeline network.

Any such measure shall not decrease the level of foreign ownership permitted in the gas industry as provided by the entry in Korea’s Schedule to Annex I related to Energy Industry – Gas Industry.

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

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

Description: Cross-Border Trade in Services and Investment

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

(a) commission agents' services of agricultural raw materials, live animals, food products, beverages;

(b) wholesale trade services of grain, meat, poultry, grain powder, red ginseng, fertilisers; and

(c) retail services of rice, ginseng and red ginseng.

Sector: Transportation Services – Passenger Road Transportation Services (Taxi Services and Scheduled Passenger Road Transportation Services)

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to taxi services and scheduled passenger road transportation services.

Sector:	Transportation Services – Freight Road Transportation Services (excluding Road Transportation Services Related to Courier Services)
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to freight road transportation services excluding road transportation of containerised freight (excluding cabotage) by international shipping companies and road transportation services related to courier services.

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

Sector:	Transportation Services – Storage and Warehousing Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to storage and warehousing services related to agricultural, fishery and livestock products.

Sector: Communication Services – Non-monopoly Postal Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Description: Cross-Border Trade in Services and Investment

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

(a) the supply of support services to postal offices by military service personnel or other personnel of equivalent status; and

(b) Minister of Science, ICT and Future Planning not needing authorisation from the Minister of Land, Infrastructure and Transport in determining the total number of vehicles that may belong to the Ministry of Science, ICT and Future Planning and allocating the vehicles to postal offices.

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

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

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

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

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

Sector: Communication Services – Broadcasting Services

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

Description: <u>Cross-Border Trade in Services and Investment</u>

Korea reserves the right to adopt or maintain any measure relating to broadcasting services.

Korea shall ensure that this entry is not inconsistent with the Communications Services – Broadcasting Services entry in Korea's Schedule to Annex I.

Existing Measures: *Broadcasting Act* (Law No. 12093, August 13, 2013), Articles 8, 9, 69 through 72, 78 and 78-2

Enforcement Decree of the Broadcasting Act (Presidential Decree No. 24763, September 26, 2013), Articles 14, 50 through 58, 60 and 61-3

Sector:	Communication Services – Broadcasting and Telecommunications Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Market Access (Article 7.4) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to subscription-based video services. For the purposes of this entry, "subscription-based video services" means subscription-based video services that are supplied to end-users over dedicated transmission capacity that the supplier owns or controls (including by leasing) and includes IPTV and Interactive Broadcasting.
Existing Measures:	*Internet Multimedia Broadcasting Act* (Law No. 11690, March 23, 2013), Articles 4, 7, 9, 18 and 21 *Enforcement Decree of the Internet Multimedia Broadcasting Act* (Presidential Decree No. 24445, March 23, 2013), Article 20

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

Sector: Communication Services – Broadcasting and Audio-Visual Services

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

Description: Cross-Border Trade in Services and Investment

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

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

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

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

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

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

Sector:	Business Services – Real Estate Services (not including Real Estate Brokerage and Appraisal Services)
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Performance Requirements (Article 11.9) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services, except for brokerage and appraisal services.

Sector:	Business Services – Insolvency and Receivership Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to insolvency and receivership services. Korea reserves the right to adopt or maintain any measure with respect to corporate restructuring services, including corporate restructuring companies, corporate restructuring partnerships, and corporate restructuring vehicles. For greater certainty, this entry shall not be construed to negatively affect current legitimate investment banking services subject to rights and obligations under Chapter 8 (Financial Services).

Sector: Digital Audio or Video Services

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt any measure to ensure that, upon a finding by the Government of Korea that Korean digital audio or video content or genres thereof is not readily available to Korean consumers, access to such content is not unreasonably denied to Korean consumers. With respect to digital audio or video services targeted at Korean consumers, Korea reserves the right to adopt any measure to promote the availability of such content.

Any measure adopted pursuant to the paragraph above shall be implemented in accordance with the provisions of Chapter 19 (Transparency), as well as Article 7.8 (Transparency in Developing and Applying Regulations), as applicable, be based on objective criteria, and be no more trade-restrictive or burdensome than necessary.

For the purposes of this entry, "digital audio or video service" means a service that provides streaming audio content, films or other video downloads or streaming video content regardless of the type of transmission (including through the Internet), but does not include broadcasting services as defined by the *Broadcasting Act* at the time of signature of this Agreement or subscription-based video services as defined in the Communications Services – Broadcasting and Telecommunications Services entry in Korea's Schedule to Annex II.

Existing Measures: *Contents Industry Promotion Act* (Law No. 11690, March 23, 2013)

Sector:	Business Services – Cadastral Surveying Services and Cadastral Map-Making Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to cadastral surveying services and cadastral map related services.

Sector:	Business and Environmental Services – Examination, Certification, and Classification of Agricultural Raw Materials and Live Animals (*nong chuk san mul*)
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to examination, certification and classification of agricultural raw materials and live animal products.

Sector:	Business Services – Services Incidental to Agriculture, Hunting, Forestry, and Fishing
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, and livestock, including genetic improvement, artificial insemination, rice and barley polishing, and activities related to a rice processing complex. Korea reserves the right to adopt or maintain any measure with respect to the supply of services incidental to agriculture, hunting, forestry, and fishing by the Agricultural Cooperatives, the Forestry Cooperatives, and the Fisheries Cooperatives.

Sector: Fishing

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

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

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

Sector:	Education Services – Pre-Primary, Primary, Secondary, Higher and Other Education
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10) Local Presence (Article 7.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to pre-primary, primary, and secondary education; health and medicine-related higher education; higher education for prospective pre-primary, primary, and secondary teachers; professional graduate education in law; distance education at all education levels (except adult education services, provided that such services do not confer academic credit, diplomas or degrees); and other education services.

Sector: Social Services – Human Health

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to human health.

Existing Measures: Legislation listed below, or replacement legislation, including its enforcement decrees, enforcement regulations, and other subsidiary regulations, is part of examples for transparency. This reservation includes any other matters with regard to human health not listed herein;

National Health Promotion Act
National Nutrition Management Act
Public Health and Medical Services Act
Act on the Establishment and Operation of National Medical Centers
Act on the Organization of the Korean National Red Cross
Act on the Establishment and Management of Local Medical Centers
Framework Act on Health and Medical Services
Medical Service Act
National Health Insurance Act
Act on the Transplant of Internal Organs, etc.
Bioethics and Safety Act
Act on Cord Blood Management and Research
Blood Management Act
Pharmaceutical Affairs Act
Emergency Medical Service Act
Act on Remedies for Injuries from Medical Malpractice and Mediation of Medical Disputes
Medical Technicians, etc. Act
Mental Health Act
Act on the Prevention and Control of Infectious Diseases
Quarantine Act
Tuberculosis Prevention Act
Cancer Control Act
Act on the Prevention of Acquired Immunodeficiency Syndrome
Act on the Promotion of Korean Medicine and Pharmaceuticals
Health Functional Foods Act
Agricultural and Marine Product Quality Control Act
Act on the Control of Narcotics, etc.
Framework Act on Food Safety
Food Sanitation Act
Laboratory Animal Act
Special Act on Safety Control of Children's Dietary Life
Medical Devices Act
Safety, Management, etc. of Human Tissue Act

Livestock Products Sanitary Control Act
Cosmetics Act
National Sports Promotion Act

Sector: Health Services

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

Description: Cross-Border Trade in Services and Investment

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

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

Sector: Recreational, Cultural, and Sporting Services – Motion Picture Promotion, Advertising or Post-Production Services

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

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to motion picture promotion, advertising or post-production services.

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

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

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

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

Description: <u>Cross-Border Trade in Services and Investment</u>

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

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

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

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

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

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

Sector: Other Recreational Services

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

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

Sector: Legal Services – Foreign Legal Consultants

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

Description: Cross-Border Trade in Services and Investment

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

(a) restrictions on certification, approval, registration, admission, and supervision of, and any other requirements with respect to, any persons who have obtained qualification in a foreign country equivalent to that of *byeon-ho-sa* (Korean-licensed lawyers) or foreign law firms supplying any type of legal services in Korea[2];

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

(c) restrictions on any persons who have obtained qualification in a foreign country equivalent to that of *byeon-ho-sa* (Korean-licensed lawyers) or foreign law firms hiring *byeon-ho-sa* (Korean-licensed lawyers), *beop-mu-sa* (Korean-certified judicial scriveners), *byeon-ri-sa* (Korean-licensed patent attorneys), *gong-in-hoe-gye-sa* (Korean-certified public accountants), *se-mu-sa* (Korean-certified tax accountants), or *gwan-se-sa* (Korean customs brokers) in Korea[4]; and

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

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

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

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

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

2. Notwithstanding paragraph 1,

(a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement, Australian law firms to establish representative offices (Foreign Legal Consultant offices or FLC offices) in Korea, and lawyers licensed in Australia to provide legal advisory services regarding the laws of the jurisdiction in which they are licensed and public international law as foreign legal consultants in Korea.

(b) no later than two years after the date this Agreement enters into force, Korea shall allow FLC offices, subject to certain requirements consistent with this Agreement, to enter into specific cooperative agreements with Korean law firms in order to be able to jointly deal with cases where domestic and foreign legal issues are mixed, and to share profits derived from such cases.

(c) no later than five years after the date this agreement enters into force, Korea shall allow Australian law firms to establish, subject to certain requirements consistent with this Agreement, joint venture firms with Korean law firms. Korea may impose restrictions on the proportion of voting shares or equity interests of the joint venture firms. For greater certainty, such joint ventures may, subject to certain requirements, employ Korean-licensed lawyers as partners or associates.

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

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

Sector: Professional Services – Foreign Chartered Accountants

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

Description: Cross-Border Trade in Services and Investment

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

   (a) restrictions on certified public accountants or accounting corporations registered under foreign laws hiring *gong-in-hoe-gye-sa* (Korean-certified public accountants);

   (b) restrictions on foreign-certified public accountants providing auditing services in Korea; and

   (c) restrictions on senior management and the board of directors of legal entities supplying certified public accountancy services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

   (a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement:

      (i) Australian certified public accountants registered in Australia or accounting corporations organised under Australian law to supply accounting consulting services relating to Australian or international accounting laws and standards through offices established in Korea; and

      (ii) Australian certified public accountants registered in Australia to work in *hoe-gye-beop-in* (Korean accounting corporations);

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

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

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

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

For the purposes of this entry:

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

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

Sector: Professional Services – Foreign Certified Tax Accountants

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

Description: Cross-Border Trade in Services and Investment

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

   (a) restrictions on certified tax accountants or tax agency corporations registered under foreign laws hiring *se-mu-sa* (Korean-certified tax accountants) or *gong-in-hoe-gye-sa* (Korean-certified public accountants);

   (b) restrictions on foreign-certified tax accountants providing tax reconciliation services and tax representative services in Korea; and

   (c) restrictions on senior management and the board of directors of legal entities supplying certified tax accountancy services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

   (a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement:

      (i) the establishment of offices in Korea by Australian certified tax accountants registered in Australia or tax agency corporations organised under Australian laws to provide tax consulting services with respect to Australian or international tax laws and taxation system; and

      (ii) Australian certified tax accountants registered in Australia to work in *se-mu-beop-in* (Korean tax agency corporations).

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

      (i) *se-mu-sa* (Korean-certified tax accountants) shall own more than 50 percent of the voting shares or equity interests of the *se-mu-beop-in*; and

      (ii) any single Australian certified tax accountant registered in Australia owns less than 10 percent of the voting shares or equity interests of the *se-mu-beop-in*.

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

For the purposes of this entry:

(a) an "Australian certified tax accountant registered in Australia" means an Australian tax accountant with the qualification of Certified Practising Accountant or Chartered Accountant; and

(b) an "Australian tax agency corporation" means a tax agency corporation or partnership organised under Australian law and headquartered in Australia.

Existing Measures:

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

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

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

Sector: Business Services

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

Description: Cross-Border Trade in Services

Korea reserves the right to adopt or maintain any measure with respect to the exportation and re-exportation of controlled commodities, software and technology.

Only persons residing in Korea may apply for a license to export or re-export such commodities, software or technology.

Existing Measures: *Promotion of Atomic Energy Act* (Law No. 11714, March 23, 2013)

Foreign Trade Act (Law No. 11873, June 7, 2013)

Notice on Exportation and Re-exportation of Controlled Commodities (Notice of the Ministry of Trade, Industry and Energy No. 2013-39, May 31, 2013)

The Customs Act (Law No. 11602, January 1, 2013)

Sector: All Sectors

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

Description: <u>Investment</u>

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

(a) an investor or covered investment that has entered into an agreement with Korea with respect to the supply of such services; or

(b) a measure adopted or maintained by Korea to the extent that the measure is subject to Chapter 8 (Financial Services).

Sector: Transportation Services – Maritime Passenger Transportation and Maritime Cabotage

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

Description: Cross-Border Trade in Services and Investment

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

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

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

(a) a vessel owned by the Korean Government, a state enterprise, or a subsidiary institutions of the Ministry of Oceans and Fisheries;

(b) a vessel owned by a Korean national;

(c) a vessel owned by an enterprise organised under the Korean Commercial Code; or

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

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

APPENDIX II-A

For the following Sectors, Korea's obligations under Article XVI of the General Agreement on Trade in Services as set out in Korea's Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.	
Sector/Sub-sector	**Market Access Improvements**
Research and development services	
Research and development services on natural sciences	Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section." for mode 4.
Research and development services on social sciences and humanities	Modify mode 1 and 2 limitations from "Unbound" to "None".
Interdisciplinary research and development services	Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.
Market research and public opinion polling services	Modify mode 1 and 2 limitations from "Unbound" to "None".
Services incidental to mining	Modify mode 1 and 2 limitations from "Unbound" to "None".
Packaging services	Modify mode 1 and 2 limitations from "Unbound" to "None".
Convention services other than convention agency services	Insert new commitments with "None" for mode 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.
Tourism and travel-related services	Insert new commitments with "Unbound*" for mode 1, "None" for mode 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.
Beverage serving services without entertainment	
Excluding rail and air transport-related facilities in beverage serving services without entertainment	
Tour operator services	Insert new commitments with "None" for mode 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.

<table>
<tr><td colspan="2">For the following Sectors, Korea's obligations under Article XVI of the General Agreement on Trade in Services as set out in Korea's Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.</td></tr>
<tr><td>Sector/Sub-sector</td><td>Market Access Improvements</td></tr>
<tr><td>Tourist guide services</td><td>Modify mode 3 from "Only travel agencies are allowed to supply tourist guide services" to "None".</td></tr>
</table>

ANNEX II
SCHEDULE OF AUSTRALIA

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

Sector: All Sectors

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

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure according preferences to any indigenous person or organisation or providing for the favourable treatment of any indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector.

Australia reserves the right to adopt or maintain any measure with respect to investment that accords preferences to any indigenous person or organisation or providing for the favourable treatment of any indigenous person or organisation.

For the purpose of this reservation, an indigenous person means a person of the Aboriginal race of Australia or a descendant of an indigenous inhabitant of the Torres Strait Islands.

Existing Measures: Legislation and ministerial statements at all levels of government including:

Australia's foreign investment policy
Native Title Act 1993 (Cth)
Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)
Aboriginal Land Rights Act 1983 (NSW)
Native Title (New South Wales) Act 1994 (NSW)
Aboriginal Land Act 1991 (Qld)
Torres Strait Islander Land Act 1991 (Qld)
Native Title (South Australia) Act 1994 (SA)
Maralinga Tjarutja Land Rights Act 1984 (SA)
AnanguPitjantjatjaraYankunytjatjara Land Rights Act 1981 (SA)
AnanguPitjantjatjaraYankunytjatjara Land Rights Regulations 2010 (SA)
Pitjantjatjara Land Rights Regulations 2003 (SA)
The statutory bodies that administer the Anangu Pitjantjattjara Yankunytjatjara lands and the Maralinga Tjarutja lands
Mining Act 1971 (SA)
Opal Mining Act 1995 (SA)
Aboriginal Lands Act 1995 (Tas)
Traditional Owner Settlement Act 2010 (Vic)

Sector: Disadvantaged Groups

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

Description: Investment

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

Existing Measures:

Sector: All Sectors

Obligations Concerned: Market Access (Article 7.4)

Description: Cross-Border Trade in Services

Australia reserves the right to adopt or maintain any measure at the regional level of government that is not inconsistent with Australia's Revised Services Offer of 31 May 2005 in the World Trade Organization Doha Development Agenda negotiations (WTO Document - TN/S/O/AUS/Rev.1).

Existing Measures:

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 11.3) Performance Requirements (Article 11.9)
Description:	Investment Australia reserves the right to adopt or maintain any measure with respect to proposals by foreign persons[1] and foreign government investors to invest in Australian urban land[2] (including interests that arise via leases, financing and profit sharing arrangements, and the acquisition of interests in urban land corporations and trusts), other than developed non-residential commercial real estate.
Existing Measures:	Australia's foreign investment policy, which includes the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (FATA)*; Foreign Acquisitions and Takeovers Regulations 1989* (Cth)*; Financial Sector (Shareholdings) Act 1998* (Cth) and Ministerial Statements. *Economic Development Act 2012* (Qld) *Sustainable Planning Act 2009* (Qld) *Integrated Resort Development Act 1997* (Qld) *Mixed Use Development Act 1992* (Qld) *Sanctuary Cove Resort Act 1995* (Qld) *Townsville City Council (Douglas Land Development) Act 1993* (Qld)

[1] The term "foreign person" has the meaning set out in the FATA.

[2] The term "Australian urban land" has the meaning set out in the FATA.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10)
Description:	<u>Investment</u> Australia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests with respect to proposals by foreign persons[3] and foreign government investors to invest in Australia.
Existing Measures:	Australia's foreign investment policy, which includes the *Foreign Acquisitions and Takeovers Act 1975* (Cth); *Foreign Acquisitions and Takeovers Regulations 1989* (Cth); *Financial Sector (Shareholdings) Act 1998* (Cth); and Ministerial Statements.

[3] The term "foreign person" has the meaning set out in the FATA.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Performance Requirements (Article 11.9) Senior Management and Board of Directors (Article 11.10)
Description:	<u>Investment</u> Australia reserves the right to adopt or maintain any measure to allow the screening of proposals by foreign persons[4] to invest $A15 million or more in Australian agricultural land and $A53 million or more in Australian agribusinesses.
Existing Measures:	Australia's foreign investment policy, which includes the *Foreign Acquisitions and Takeovers Act 1975* (FATA); *Foreign Acquisitions and Takeovers Regulations 1989* (Cth); *Financial Sector (Shareholdings) Act 1998* (Cth); and Ministerial Statements.

[4] The term "foreign person" has the meaning set out in the FATA.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 11.3) Market Access (Article 7.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10)
Description:	<u>Cross-Border Trade in Services and Investment</u> Australia reserves the right to adopt or maintain any measure with respect to: (a) the devolution to the private sector of services provided in the exercise of governmental authority at the time that the Agreement comes into force; and (b) the privatisation of government-owned entities or assets.
Existing Measures:	

Sector: All Sectors

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

Description:

Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose:

(a) income security or insurance;

(b) social security or insurance;

(c) social welfare;

(d) public education;

(e) public training;

(f) public utilities;

(g) public transport;

(h) public housing;

(i) health and

(j) child care.

Existing Measures:

Sector: Broadcasting and Audiovisual Services[5]
Advertising Services
Live Performance[6]

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)
Most-Favoured-Nation Treatment[7] (Articles 7.3 and 11.4)
Market Access (Article 7.4)
Local Presence (Article 7.5)[8]
Performance Requirements (Article 11.9)

Description: <u>Cross-Border Trade in Services and Investment</u>

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

(a) transmission quotas for local content on free-to-air commercial television broadcasting services;

(b) non-discriminatory expenditure requirements for Australian production on subscription television broadcasting services;

(c) transmission quotas for local content on free-to-air radio broadcasting services;

(d) other audio-visual services transmitted electronically, in order to make Australian audio-visual content reasonably available to Australian consumers[9];

(e) spectrum management and licensing of broadcasting services[10]; and

(f) subsidies or grants for investment in Australian cultural activity.

This entry does not apply to foreign investment restrictions in the broadcasting and audiovisual services sector.

Existing Measures: *Broadcasting Services Act 1992* (Cth)
Radiocommunications Act 1992 (Cth)
Income Tax Assessment Act 1936 (Cth)
Income Tax Assessment Act 1997 (Cth)
Screen Australia Act 2008 (Cth)

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[5] For greater certainty, Australia reserves the right to adopt or maintain measures under subparagraphs (a)-(f) with respect to the services supplied by the Australian Broadcasting Corporation and the Special Broadcasting Service Corporation.

[6] Applies only in respect of subparagraph (f).

[7] Applies only to the treatment as local content of New Zealand programs or productions.

[8] Applies only in respect of subparagraph (e) and in respect of the licensing of services covered by subparagraph (d).

[9] Any such measure will be implemented in a manner that is consistent with Australia's commitments under Article XVI and Article XVII of the General Agreement on Trade in Services (GATS).

[10] In respect of subparagraph (e), Australia's reservation applies only in respect of the Market Access and Local Presence obligations.

Broadcasting Services (Australian Content) Standard 2005
Children's Television Standards 2009
Television Program Standard 23 – Australian Content in Advertising
Commercial Radio Codes of Practice and Guidelines
Community Broadcasting Codes of Practice

Sector:	Broadcasting and Audiovisual Services
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 7.3 and 11.4) Performance Requirements (Article 11.9)
Description:	<u>Cross-Border Trade in Services and Investment</u> Australia reserves the right to adopt or maintain, under the International Co-production Program, preferential co-production arrangements for audiovisual productions. Official co-production status, which may be granted to a co-production produced under these co-production arrangements, confers national treatment on works covered by these arrangements.
Existing Measures:	International Co-production Program

Sector: Recreational, Cultural and Sporting Services[11]

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

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to the creative arts[12], cultural heritage[13] and other cultural industries, including libraries, archives, museums and other cultural services.

Existing Measures:

[11] For greater certainty, this reservation does not apply to Audiovisual Services.

[12] "Creative arts" include: the performing arts and other entertainment services – including live theatre, dance and music – visual arts and craft, literature, indigenous traditional practice and contemporary cultural expression, and hybrid arts work which uses new technologies to transcend discrete artform divisions.

[13] "Cultural heritage" includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.

Sector: Education Services

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

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to primary and public education.

Existing Measures:

Sector:	Education Services
Obligations Concerned:	Local Presence (Article 7.5) National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10)
Description:	<u>Cross-Border Trade in Services and Investment</u> Australia reserves the right to adopt or maintain any measure with respect to the supply of educational services through commercial presence.
Existing Measures:	

Sector: Distribution Services

Obligations Concerned: Market Access (Article 7.4)

Description: Cross-Border Trade in Services

Australia reserves the right to adopt or maintain any measure with respect to wholesale and retail trade services of tobacco products, alcoholic beverages or firearms.

Existing Measures:

Sector: Gambling and Betting

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

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to gambling and betting.

Existing Measures: Legislation and ministerial statements including:

Interactive Gambling Act 2001(Cth)
Gambling and Racing Control Act 1999 (ACT)
Unlawful Gambling Act 2009 (ACT)
Race & Sports Bookmaking Act 2001 (ACT)
Betting (ACTTAB Limited) Act 1964 (ACT)
Racing Act 1999 (ACT)
Casino Control Act 2006 (ACT)
Gaming Machine Act 2004 (ACT)
Interactive Gambling Act 1998 (ACT)
Lotteries Act 1964 (ACT)
Pool Betting Act 1964 (ACT)
Casino Control Act 1992 (NSW)
Gaming Machines Act 2001 (NSW)
Public Lotteries Act 1996 (NSW)
Lotteries and Art Unions Act 1901 (NSW)
Racing Administration Act 1998 (NSW)
Greyhound Racing Act 2009 (NSW)
Harness Racing Act 2009 (NSW)
Thoroughbred Racing Act 1996 (NSW)
Totalizator Act 1987 (NSW)
Unlawful Gambling Act 1998 (NSW)
Gambling Control Act (NT)
Gaming Machine Act (NT)
Racing and Betting Act (NT)
Totaliser Licensing and Regulation Act (NT)
Soccer Football Pools Act (NT)
TAB Queensland Limited Privatisation Act 1999 (Qld)
Casino Control Act 1982 (Qld)
Jupiters Casino Agreement Act 1983 (Qld)
Brisbane Casino Agreement Act 1992 (Qld)
Breakwater Island Casino Agreement Act 1984 (Qld)
Lotteries Act 1997 (Qld)
Cairns Casino Agreement Act 1993 (Qld)
Charitable and Non-Profit Gaming Act 1999 (Qld)
Keno Act 1996 (Qld)
Wagering Act 1998 (Qld)
Gaming Machine Act 1991 (Qld)
Racing Act 2002 (Qld)
Casino Act 1997 (SA)
Lottery and Gaming Act 1936 (SA)

Independent Gambling Authority Act 1995(SA)
Gaming Machines Act 1992 (SA)
State Lotteries Act 1966 (SA)
Racing (Proprietary Business Licensing) Act 2000 (SA)
Authorised Betting Operations Act 2000 (SA)
TAB (Disposal) Act 2000 (SA)
Gaming Control Act 1993 (Tas)
TT-Line Gaming Act 1993 (Tas)
Gambling Regulation Act 2003 (Vic)
Racing Act 1958 (Vic)
Casino Control Act 1991 (Vic)
Casino Management Act 1993 (Vic)
Casino (Burswood Island) Agreement Act 1985 (WA)
Racing and Wagering Western Australia Act 2003 (WA)
Gaming and Wagering Commission Act 1987 (WA)
Betting Control Act 1954 (WA)
Casino Control Act 1984 (WA)
Lotteries Commission Act 1990 (WA)

Sector: Social Services – Human Health

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

Description: Investment

Australia reserves the right to adopt or maintain any measure with respect to human health.

Existing Measures: Legislation listed below, or replacement legislation, including measures enacted under the Australian Constitution for the provision of pharmaceutical, sickness and hospital benefits, medical and dental services (Section 51(xxiiiA.)):

Australian Hearing Services Act 1991 (Cth), subsections 8(4) to 8(8) inclusive
Australian Institute of Health and Welfare Act 1987 (Cth)
Australian National Preventive Health Agency Act 2010 (Cth)
Australian Organ and Tissue Donation and Transplantation Authority Act 2008 (Cth)
Australian Radiation Protection and Nuclear Safety Act 1998 (Cth)
Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998 (Cth)
Australian Sports Anti-Doping Authority Act 2006 (Cth)
Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Act 2006 (Cth)
Australian Sports Commission Act 1989 (Cth)
Cancer Australia Act 2006 (Cth)
Commonwealth Serum Laboratories Act 1961 (Cth)
Dental Benefits Act 2008 (Cth)
Epidemiological Studies (Confidentiality) Act 1981 (Cth)
Food Standards Australia New Zealand Act 1991 (Cth)
Gene Technology Act 2000 (Cth)
Gene Technology (Licence Charges) Act 2000 (Cth)
Health and Other Services (Compensation) Act 1995 (Cth)
Health and Other Services (Compensation) Care Charges Act 1995 (Cth)
Health Insurance Act 1973 (Cth)
Health Insurance Amendment (Extended Medicare Safety Net) Act 2012 (Cth)
Health Insurance Amendment (Professional Services Review) Act 2012 (Cth)
Health Insurance (Approved Pathology Specimen Collection Centres) Tax Act 2000 (Cth)
Health Insurance Commission (Reform and Separation of Functions) Act 1997 (Cth)
Health Insurance (Pathology) (Fees) Act 1991 (Cth)
Health Workforce Australia Act 2009 (Cth)
Healthcare Identifiers Act 2010 (Cth)
Hearing Services Administration Act 1997 (Cth)
Hearing Services and AGHS Reform Act 1997 (Cth)

Industrial Chemicals (Notification and Assessment) Act 1989 (Cth)
Industrial Chemicals (Registration Charge - Customs) Act 1997 (Cth)
Industrial Chemicals (Registration Charge - Excise) Act 1997 (Cth)
Industrial Chemicals (Registration Charge - General) Act 1997
Medical Indemnity Act 2002 (Cth)
Medical Indemnity (Competitive Advantage Payment) Act 2005 (Cth)
Medical Indemnity (Prudential Supervision and Product Standards) Act 2003 (Cth), Part 3, Division 2A
Medical Indemnity (Run-off Cover Support Payment) Act 2004 (Cth)
Medical Indemnity (UMP Support Payment) Act 2002 (Cth)
Medical Indemnity Agreement (Financial Assistance – Binding Commonwealth Obligations) Act 2002 (Cth)
Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010 (Cth)
Midwife Professional Indemnity (Run-off Cover Support Payment) Act 2010 (Cth)
Narcotic Drugs Act 1967 (Cth), sections 9, 10, 11, 13, 19 and 23 and subsection 24(1), and so much of the remaining provisions of the Act (other than sections 12 and 22 and subsection 24(2)) as relates to powers and functions under those sections
National Blood Authority Act 2003 (Cth)
National Health Act 1953 (Cth)
National Health Amendment (Pharmaceutical Benefits Scheme) Act 2012 (Cth)
National Health and Medical Research Council Act 1992 (Cth)
National Health Reform Act 2011 (Cth)
National Health Security Act 2007 (Cth)
Personally Controlled Electronic Health Records Act 2012 (Cth)
Private Health Insurance Act 2007 (Cth)
Private Health Insurance (Collapsed Insurer Levy) Act 2003 (Cth)
Private Health Insurance (Complaints Levy) Act 1995 (Cth)
Private Health Insurance (Council Administration Levy) Act 2003 (Cth)
Private Health Insurance (National Joint Replacement Register Levy) Act 2009 (Cth)
Private Health Insurance (Prostheses Application and Listing Fees) Act 2007 (Cth)
Private Health Insurance (Risk Equalisation Levy) Act 2003 (Cth)
Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007 (Cth)
Prohibition of Human Cloning for Reproduction Act 2002 (Cth)
Research Involving Human Embryos Act 2002 (Cth)
Quarantine Act 1908 (Cth), in relation to human quarantine
Quarantine (Validation of Fees) Act 1985 (Cth), in relation to human quarantine
Tobacco Plain Packaging Act 2011 (Cth)
Therapeutic Goods Act 1989 (Cth)
Therapeutic Goods (Charges) Act 1989 (Cth)
Tobacco Advertising Prohibition Act 1992 (Cth)
World Health Organization Act 1947 (Cth)
Human Services (Medicare) Act 1973 (Cth)

Australian Participants in British Nuclear Tests (Treatment) Act 2006 (Cth)
Veterans' Entitlements Act 1986 (Cth)
Military Rehabilitation and Compensation Act 2004 (Cth)

Sector:	Health Services
Obligations Concerned:	National Treatment (Article 7.2 and Article 11.3) Performance Requirements (Article 11.9) Senior Management and Boards of Directors (Article 11.10)
Description:	Cross-Border Trade in Services and Investment Australia reserves the right to adopt or maintain any measure with respect to: the collection of blood and its components; the distribution of blood and blood products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood products and services.
Existing Measures:	Australia's policy on blood self-sufficiency, which includes the National Blood Agreement 2003, *Commonwealth Serum Laboratories Act 1961* (Cth) and the *National Blood Authority Act 2003* (Cth).

Sector: Maritime Transport

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

Description: <u>Cross-Border Trade in Services and Investment</u>

Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services[14].

Existing Measures: *Customs Act 1901* (Cth)
Workplace Relations Act 1996 (Cth)
Seafarers' Compensation and Rehabilitation Act 1992 (Cth)
Occupational Health and Safety (Maritime Industry) Act 1993 (Cth)
Shipping Registration Act 1981 (Cth)
Income Tax Assessment Act 1936 (Cth)
Coastal Trading (Revitalising Australian Shipping Act 2012 (Cth)
Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012 (Cth)
Shipping Reform (Tax Incentive) Act 2012 (Cth)

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[14] For the purposes of this reservation, "cabotage" is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. "Offshore transport" refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.

Sector: Maritime Transport

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

Australia reserves the right to adopt or maintain any measure with respect to the registration of vessels in Australia.

Existing Measures:

Sector:	Transport Services
Obligations Concerned:	National Treatment (Article 11.3) Senior Management and Boards of Directors (Article 11.10)
Description:	<u>Investment</u> Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.
Existing Measures:	*Airports Act 1996* (Cth) *Airports (Ownership-Interests in Shares) Regulations 1996* (Cth) *Airports Regulations 1997* (Cth)

Sector: All Sectors

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

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to the service suppliers or investors of non-Parties under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement[15].

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to the service suppliers or investors of non-Parties under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Existing Measures:

[15] For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the *Australia New Zealand Closer Economic Relations Trade Agreement* (ANZCERTA).

ANNEX III
SCHEDULE OF KOREA WITH RESPECT TO FINANCIAL SERVICES

Introductory Note for the Schedule of Korea

1. The Schedule of Korea to this Annex sets out:

   (a) headnotes that limit or clarify the commitments of Korea with respect to the obligations described in subparagraph (b)(i) through (v) and in subparagraph (c);

   (b) in Section A, pursuant to Article 8.9.1 (Non-Conforming Measures), the existing measures of Korea that do not conform with some or all of the obligations imposed by:

      (i) Article 8.2 (National Treatment);

      (ii) Article 8.3 (Most-Favoured-Nation Treatment);

      (iii) Article 8.4 (Market Access for Financial Institutions);

      (iv) Article 8.5 (Cross-Border Trade); or

      (v) Article 8.8 (Senior Management and Boards of Directors), and

   (c) in Section B, pursuant to Article 8.9.2 (Non-Conforming Measures), the specific sectors, sub-sectors, or activities for which Korea may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by:

      (i) Article 8.2 (National Treatment);

      (ii) Article 8.3 (Most-Favoured-Nation Treatment);

      (iii) Article 8.4 (Market Access for Financial Institutions);

      (iv) Article 8.5 (Cross-Border Trade); or

      (v) Article 8.8 (Senior Management and Boards of Directors).

2. Each entry in Section A sets out the following elements:

   (a) **Sector** refers to the general sector for which the entry is made;

   (b) **Sub-sector** refers to the specific sector for which the entry is made;

   (c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1(b) that, pursuant to Article 8.9.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 4;

   (d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);

(e) **Measures** 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

(f) **Description** provides a general, non-binding description of the measure for which the entry is made.

3. Each entry in Section B sets out the following elements:

(a) **Sector** refers to the general sector for which the entry is made;

(b) **Sub-sector** refers to the specific sector for which the entry is made;

(c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1(c) that, pursuant to Article 8.9.2, do not apply to the sectors, sub-sectors, or activities scheduled in the entry;

(d) **Level of Government** indicates the level of government maintaining the listed measure(s); and

(e) **Description** sets out the scope of the sectors, sub-sectors, or activities covered by the entry.

4. For entries in Section A, in accordance with Article 8.9.1(a), and subject to Article 8.9.1(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, except to the extent that such non-conforming aspects are inconsistent with a Specific Commitment in Annex 8-B.

5. For entries in Section B, in accordance with Article 8.9.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, sub-sectors, and activities identified in the **Description** element of that entry.

6. Where Korea maintains a measure that requires that a service supplier be a citizen, permanent resident, or resident of its territory as a condition to the supply of a service in its territory, a Schedule entry for that measure taken with respect to Article 8.2, 8.3, 8.4, or 8.5 shall operate as a Schedule entry with respect to Article 11.3 (National Treatment), 11.4 (Most-Favoured-Nation Treatment), or 11.9 (Performance Requirements) to the extent of that measure.

7. Certain measures that the Parties consider to be not inconsistent with Article 8.2 or 8.4 or subject to Article 8.10.1 are listed below.

8. An entry in Annex I or Annex II specifying that Article 7.2 (National Treatment) does not apply to the non-conforming aspects of a law, regulation, or other measure, shall not be construed as limiting a Party's obligation under Article 8.5.1 to accord national treatment with respect to the supply of services specified in Annex 8-A to cross-border financial service suppliers of the other Party.

Certain Measures Not Inconsistent With Article 8.2 or 8.4 or Subject to Article 8.10.1

1. The following measures are not inconsistent with Article 8.4 (Market Access for Financial Institutions). Any revision, amendment or modification of the following measures or related laws will not be construed to be inconsistent with Article 8.4 to the extent that it does not conflict with the spirit of the original measure:

(a) an insurance company constituted in Korea may engage only in activities permitted by the relevant laws. (*Insurance Business Act* (Law No. 10394, July 23, 2010) Articles 10 and 11 and *Enforcement Decree of the Insurance Business Act* (Presidential Decree No. 22637, January 24, 2011), Articles 15 and 16);

(b) residents of Korea are not permitted to settle payment in KRW (Korean won) for cross-border financial services supplied to them by residents of foreign countries. (*Foreign Exchange Transaction Regulation* (Notification of the Ministry of Strategy and Finance No. 2009-18, September 30, 2009), Articles 5-11 and 7-8 to 7-10);

(c) banks and mutual savings banks in Korea are required to extend loans to small- or medium-sized companies. (*Bank of Korea's Regulations on Credit Extension* (Monetary Policy Committee, August 19, 1999), Article 2; *Mutual Savings Bank Act* (Law No. 8143, December 30, 2006), Article 11; and *Enforcement Decree of the Mutual Savings Bank Act* (Presidential Decree No.19464, May 3, 2006), Article 8-2);

(d) the overall net open position of foreign exchange banks, measured by the sum of the net short position or the sum of the net long positions, whichever is greater (short-hand method), is limited to 50 percent of the total equity capital at the end of the previous month (*Foreign Exchange Transaction Act* (Law No. 9351, January 30, 2009), Article 11-2; and *Foreign Exchange Transaction Regulation* (Notification of the Ministry of Strategy and Finance No. 2009-18, September 30, 2009), Article 2-9);

(e) securities credit extensions are subject to restrictions on the maximum credit amount and use of proceeds. An investment trader or investment broker is only permitted to extend credit for purpose related to the sale and purchase of securities. (*Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009), Article 72; and *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 3, 2009), Article 69);

(f) the value of lending to an individual credit card holder may be capped. (*Specialized Credit Financing Business Act* (Law No. 7929, April 28, 2006) Article 24);

(g) a bank, financial investment business entity or other financial institution constituted in Korea may only engage in activities permitted by the relevant laws. (*Banking Act* (Law No. 7428, March 31, 2005), Articles 27 and 28; *Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009), Articles 40 and 41; *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 3, 2009), Articles 43 and 44);

(h) a financial institution is prohibited from acquiring real estate for non-business purpose. (*Banking Act* (Law No. 7428, March 31, 2005), Article 38; and *Insurance Business Act* (Law No. 8902, March 14, 2008), Article 105;

(i) non-residents of Korea may convert foreign currency into KRW (Korean won) only for actual use in Korea. (*Foreign Exchange Transaction Regulations* (Notification of the Ministry of Strategy and Finance No. 2009-18, September 30, 2009), Articles 7-8 to 7-10 and Articles 7-36 to 7-39); and

(j) Korea may restrict deposit interest rates, loan interest rates, other interest rates, maturity of deposit and related fees. (*Banking Act* (Law No. 7428, March 31, 2005), Article 30; *Regulation on Financial Institutions' Loans and Deposit Rates* (Monetary Policy Committee, December 24, 2003); *Lending Business Act* (Law No. 7523, May 31, 2005), Article 8 and Article 15; *Enforcement Decree of Lending Business Act* (Presidential Decree No. 19019, August 31, 2005), and Article 5 and Article 9).

2. The following measures fall within Article 8.10.1 (Exceptions) and, therefore, Article 8.2 (National Treatment) does not prevent Korea from maintaining them. Any revision, amendment or modification of the following measures or related laws will also fall within the ambit of Article 8.10.1:

(a) the operating fund of a branch of a foreign insurance company will be considered as capital and the head office's capital will not be taken into consideration for purposes of determining the amount of funds to be raised or loans to be extended by such local branch (*Insurance Business Act* (Law No. 8902, March 14, 2008), Article 9-3);

(b) a branch in Korea of a foreign insurance company must maintain in the territory of Korea assets equal to the aggregate of the reserve for performance of liability and the reserve for emergency relating to the insurance contracts executed in Korea (*Insurance Business Act* (Law No. 8902, March 14, 2008), Article 75).

Headnotes

1. Commitments in these sub-sectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedules below.

2. To clarify the commitment of Korea with respect to Article 8.4 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Korea are subject to non-discriminatory limitations on juridical form[1].

3. The commitments of Korea under Articles 8.2 (National Treatment) and 8.4 (Market Access for Financial Institutions) are subject to the limitation that in order to establish or acquire a controlling interest in a financial institution in Korea, a foreign investor must own or control a financial institution that engages in supplying financial services within the same financial services sub-sector in its home country.

4. Korea limits its commitments under Article 8.9.1(c) with respect to Article 8.4 (Market Access for Financial Institutions) in the following manner: Article 8.9.1(c) shall apply only to non-conforming measures relating to Article 8.4(a) and not to those non-conforming measures relating to Article 8.4(b).

[1] For example, partnerships and sole proprietorship are generally not acceptable juridical forms for depository financial institutions in Korea. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

Section A

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 8.4)
Level of Government:	Central
Measures:	*Insurance Business Act* (Law No. 7971, August 29, 2006), Article 91 *Enforcement Decree of the Insurance Business Act* (Presidential Decree No. 19493, May 30, 2006), Article 40
Description:	Only two employees of a commercial bank, mutual saving bank, or an investment trader or investment broker may sell insurance products at any one time at a single location. For transparency purposes, Korea notes that it restricts the manner of sales of insurance products such as the number of windows in a single bank location devoted to the sale of insurance, and limitations on the percentage of insurance sold by a bank that may be underwritten by a single insurer.

Sector: Financial Services

Sub-Sector: Insurance

Obligations Concerned: Cross-Border Trade (Article 8.5)

Level of Government: Central

Measures: *Automobile Accident Compensation Assurance Act* (Law No. 7100, January 20, 2004)

Act on the Indemnification for Fire-Caused Loss and the Purchase of Insurance Policies (Law No. 7186, March 11, 2004)

High-Pressure Gas Safety Control Act (Law No. 7504, May 26, 2005)

Safety Control and Business Regulation of Liquefied Petroleum Gas Act (Law No. 7428, March 31, 2005)

Urban Gas Business Act (Law No. 7505, May 26, 2005)

Seafarers Act (Law No. 8041, October 4, 2006)

Installation and Utilization of Sports Facilities Act (Law No. 7913, March 24, 2006)

Excursion Ship and Ferry Business Act (Law No. 7985, September 22, 2006)

Manufacture and Management of Elevators Act (Law No. 7279, December 31, 2004)

Water-Related Leisure Activities Safety Act (Law No. 8016, September 27, 2006)

Juvenile Activity Promotion Act (Law No. 8014, September 27, 2006)

Compensation for Oil Pollution Damage Guarantee Act (Law No. 7002, December 11, 2003)

Air Transport Business Promotion Act (Law No. 6621, January 19, 2002)

Road Traffic Act (Law No. 7969, July 19, 2006)

Act on Contracts to Which the State is a Party (Law No. 8050, October 4, 2006)

Protection of Wild Fauna and Flora Act (Law No. 8045, October 4, 2006)

Trucking Transport Business Act (Law No. 8138, December 30, 2006)

Industrial Accident Compensation Insurance Act (Law No. 7796, December 29, 2005)

Construction Technology Management Act (Law No. 7305, December 31, 2004)

Nuclear Damage Compensation Act (Law No. 7188, March 11, 2004)

Goods Distribution Promotion Act (Law No. 8014, September 27, 2006)

Social Welfare Services Act (Law No. 7918, March 24, 2006)

Fishing Boats for Anglers Act (Law No. 7642, July 29, 2005)

Electronic Finance Transaction Act (Law No. 7929, April 28, 2006)

Digital Signature Act (Law No. 7813, December 30, 2005)

Attorney-at-Law Act (Law No. 7894, March 24, 2006)

Laboratory Safety Environment Act (Law No. 7425, March 31, 2005)

Description: In determining whether a natural person resident in Korea or juridical persons established in Korea has satisfied a legal obligation to purchase "compulsory" insurance services not listed in Annex 8-A, any such service supplied in the territory of a foreign country to such person is not considered.

However services supplied outside the territory of Korea may be considered in satisfaction of the legal obligation if the required insurance cannot be purchased from an insurer established in Korea.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: National Treatment (Article 8.2)

Level of Government: Central

Measures: *Banking Act* (Law No. 7428, March 31, 2005), Articles 15 and 16-2

Enforcement Decree of the Banking Act (Presidential Decree No. 19422, March 29, 2006), Article 5 and Annex

Financial Holding Company Act (Law No. 7529, May 31, 2005), Articles 8 and 8-2

Enforcement Decree of the Financial Holding Company Act (Presidential Decree No. 19422, March 29, 2006), Article 6-3

Description:

1. A financial institution constituted under the laws of another country may own more than 10 percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea only if that institution is an "internationally recognised financial institution.[2] "

2. For the purposes of transparency:

   (a) the Financial Services Commission applies additional criteria for approval that are not inconsistent with this Agreement to approval of ownership by an internationally recognised financial institution as described in paragraph 1.

   (b) a natural person may not own more than 10 percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea.

   (c) a corporate entity other than a financial institution, the main business of which is not financial services, may not own more than four percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea. The ownership percentage can be increased to 10 percent if the corporate entity waives its ability to exercise voting rights relating to the shares in excess of four percent.

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[2] An "internationally recognised financial institution" includes any financial institution that has been rated by an international rating organisation at a level acceptable to the relevant Korean regulator or a financial institution that has demonstrated by alternative means acceptable to the relevant Korean regulator that it has an equivalent status.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 8.2)
Level of Government:	Central
Measures:	*Banking Act* (Law No. 7428, March 31, 2005), Article 58 *Guideline on Grant of Banking Business Approval* (July 23, 2004), Paragraph 17-B *Regulation on Supervision of Banking Business* (Financial Supervisory Committee Notification No. 2006-87, December 28, 2006), Article 10
Description:	Each branch location in Korea of a bank constituted under the laws of another country requires a separate license. Each branch located in Korea of a bank constituted under the laws of another country requires a separate license. A branch of a banking subsidiary, including one owned or controlled by investors of another country, does not require such a license.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 8.4)
Level of Government:	Central
Measures:	*Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009), Articles 373, 375, 379 and 386
Description:	Only the Korea Exchange may operate a securities or derivatives market in Korea.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: Market Access for Financial Institutions (Article 8.4)

Level of Government: Central

Measures: *Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009), Articles 294 through 323 and 166

Description: Only the Korea Securities Depository may serve as the depository for listed and unlisted securities issued in Korea or as the intermediary for transfer of those securities between accounts of depositors in Korea.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 8.4)
Level of Government:	Central
Measures:	*Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009), Articles 298, 378 and 166 *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 3, 2009), Article 178
Description:	Only the Korea Securities Depository and the Korea Exchange may perform liquidation and settlement of securities and derivatives listed or traded on the Korea Exchange.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Cross-Border Trade (Article 8.5)
Level of Government:	Central
Measures:	*Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009), Article 166 *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 3, 2009), Article 184
Description:	A non-professional investor (including some professional investors[3]) shall make transactions through an investment broker licensed in Korea when he/she intends to trade securities denominated in foreign currencies and exchange-traded derivatives on foreign securities markets or foreign derivatives markets.

[3] Institutional investors pursuant to Article 1-2 of the *Foreign Exchange Transaction Regulation* (Notification of the Ministry of Strategy and Finance No. 2009-2, February 3, 2009) are excluded.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 8.2)
Level of Government:	Central
Measures:	*Banking Act* (Law No. 7428, March 31, 2005), Articles 62 and 63 *Enforcement Decree of the Banking Act* (Presidential Decree No. 19422, March 29, 2006), Articles 25 and 26 *Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009), Article 65 *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 3, 2009), Article 65
Description:	A branch in Korea of a bank or a financial investment business entity constituted under the laws of another country must bring and maintain operating funds within Korea, which shall be used for the purposes of determining the amount of funds to be raised or loans to be extended by such local branch. For the purposes of the *Banking Act* and the *Financial Investment Services and Capital Markets Act*, such a branch is considered a separate legal entity from the bank or the financial investment business entity constituted under the laws of another country.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: Market Access for Financial Institutions (Article 8.4)

Level of Government: Central

Measures: *Credit Unions Act* (Law No. 8145, December 30, 2006), Article 7

Mutual Savings Bank Act (Law No. 8143, December 30, 2006), Article 6

Specialized Credit Financing Business Act (Law No. 7929, April 28, 2006), Article 5

Financial Investment Services and Capital Markets Act (Law No. 9407, February 3, 2009), Article 355

Use and Protection of Credit Information Act (Law No. 7883, March 24, 2006), Article 5

Foreign Exchange Transaction Act (Law No. 8050, October 4, 2006), Article 9

Financial Investment Services and Capital Markets Act (Law No. 9407, February 3, 2009), Articles 254, 258 and 263

Description: The following types of business may not be conducted by a branch of a financial institution constituted under the laws of another country:

(a) credit unions;

(b) mutual savings banks;

(c) specialised capital finance companies;

(d) foreign and won currency capital brokerage firms;

(e) credit information companies;

(f) general fund administration firms;

(g) collective investment vehicle appraisal companies; and

(h) bond appraisal companies.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 8.4)
Level of Government:	Central
Measures:	*Electronic Finance Transaction Act* (Law No. 7929, April 28, 2006), Article 30
Description:	A non-financial institution that seeks to offer certain electronic financial services in Korea may establish only as a subsidiary.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: National Treatment (Article 8.2)

Level of Government: Central

Measures: *Korea Development Bank Act* (Law No. 9703, May 21, 2009)

Korea Finance Corporation Act (Law No. 9741, May 27, 2009)

Industrial Bank of Korea Act (Law No. 9460, February 6, 2009)

Korea Housing Finance Corporation Act (Law No. 7882, March 24, 2006)

Agricultural Cooperative Federation Act (Law No. 7638, July 29, 2005)

National Federation of Fisheries Cooperatives Act (Law No. 7611, July 21, 2005)

Description: Korea may grant:

(a) to one or more of the following financial institutions[4] (collectively, Government-sponsored Institutions or GSIs):

(i) the Korea Development Bank;

(ii) the Industrial Bank of Korea;

(iii) the Korea Housing Finance Corporation;

(iv) the National Agricultural Cooperative Federation; and

(v) the National Federation of Fisheries Cooperatives

(b) special treatment, including but not limited to the following:

(i) guarantees of loans to or bonds issued by the GSIs;

(ii) permission to issue more bonds per capital than similarly-situated non-GSIs;

(iii) reimbursement of losses incurred by GSIs; or

(iv) exemption from public assets and certain taxes on capital, surplus, profit, or assets.

[4] These five Government-sponsored Institutions shall not be considered state-enterprises/state-owned enterprises for the purposes of Article 4 (Competitive Neutrality) of Chapter 14 (Competition Policy).

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Senior Management and Boards of Directors (Article 8.8)
Level of Government:	Central
Measures:	*Korea Housing Finance Corporation Act* (Law No. 7882, March 24, 2006), Article 16 *Agricultural Cooperative Federation Act* (Law No. 7638, July 29, 2005), Article 49 *National Federation of Fisheries Cooperatives Act* (Law No. 7611, July 21, 2005), Article 51
Description:	Chief and deputy executive officers and all members of the Board of Directors of the Korea Housing Finance Corporation, the National Agricultural Cooperative Federation and the National Federation of Fisheries Cooperatives must be Korean nationals.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 8.2)
Level of Government:	Central
Measures:	*Housing Act* (Law No. 8050, October 4, 2006), Article 75 *Rules on Provision of Housing* (Ordinance of the Ministry of Land, Transportation and Maritime Affairs No. 168, September 28, 2009); paragraph 2 of Article 5
Description:	Korea may limit the number of financial institutions designated to hold housing accounts, such as the National Housing Subscription Deposit Accounts.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: Market Access for Financial Institutions (Article 8.4)

Level of Government: Central

Measures: *Foreign Exchange Transaction Act* (Law No. 8050, October 4, 2006), Article 9

Description: Interbank Brokerage of KRW (Korean won) spot transactions is limited to the two existing brokerage companies in the business.

Section B

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trade (Article 8.5)
Level of Government:	Central
Measures:	None
Description:	Korea reserves the right not to consider any "compulsory" third party insurance service supplied in the territory of a foreign country to a natural person in Korea or juridical person established therein, in determining whether such natural or juridical person has satisfied a legal obligation to purchase such "compulsory" third party insurance service not listed in Annex 8-A. However, services supplied outside the territory of Korea may be considered in satisfaction of the legal obligation if the required insurance cannot be purchased from an insurer established in Korea.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: National Treatment (Article 8.2)

Level of Government: Central

Measures: None

Description: In the context of privatising government-owned or government-controlled entities that supply financial services, Korea reserves the right to adopt or maintain any measure relating to the continued guarantee, or time-limited additional guarantee, of the obligations and liabilities of these entities.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 8.2)
Level of Government:	Central
Measures:	*Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009)
Description:	Korea reserves the right to limit ownership by foreign investors of the Korea Exchange and the Korea Securities Depository. In the event of public offering of shares of the Korea Exchange or the Korea Securities Depository, Korea reserves the right to limit shareholding by foreign persons in the relevant institution, provided that Korea shall ensure that: (a) any shareholding interests held by foreign persons at the time of the public offering shall be preserved; and (b) following the public offering, the Exchange or Depository shall assure access for financial institutions of Australia.

ANNEX III
SCHEDULE OF AUSTRALIA

Introductory Note for the Schedule of Australia

1. The Schedule of Australia to Annex III sets out:

   (a) headnotes that limit or clarify the commitments of Australia with respect to the obligations described in subparagraphs (b) and (c);

   (b) in Section A, pursuant to Article 8.9.1 (Non-Conforming Measures), the existing measures of Australia that do not conform with some or all of the obligations imposed by:

      (i) Article 8.2 (National Treatment);

      (ii) Article 8.3 (Most-Favoured-Nation);

      (iii) Article 8.4 (Market Access for Financial Institutions);

      (iv) Article 8.5 (Cross-Border Trade); or

      (v) Article 8.8 (Senior Management and Boards of Directors); and

   (c) in Section B, pursuant to Article 8.9.2 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which Australia may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by:

      (i) Article 8.2 (National Treatment);

      (ii) Article 8.3 (Most-Favoured-Nation Treatment);

      (iii) Article 8.4 (Market Access for Financial Institutions);

      (iv) Article 8.5 (Cross-Border Trade); or

      (v) Article 8.8 (Senior Management and Boards of Directors).

2. Each entry in Section A as described in subparagraph 1(b) sets out the following elements:

   (a) **Sector** refers to the general sector for which the entry is made;

   (b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1(b) that, pursuant to Article 8.9.1, do not apply to the listed measure(s);

   (c) **Level of Government** indicates the level of government maintaining the listed measure(s);

   (d) **Source of Measure** identifies the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure 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 thereunder; and

(e) **Description** sets out the non-conforming aspects of the measure for which the entry is made.

3. Each entry in Section B as described in subparagraph 1(c) sets out the following elements:

(a) **Sector** refers to the general sector for which the entry is made;

(b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1(c) that, pursuant to Article 8.9, do not apply to the sectors, sub-sectors, or activities listed in the entry;

(c) **Level of Government** indicates the level of government maintaining the listed measure(s); and

(d) **Description** sets out the scope of the sectors, sub-sectors, or activities covered by the entry.

4. For entries in Section A, in accordance with Article 8.9.1(a), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the measures identified in the **Description** element of that entry except to the extent the measure identified in the **Description** element is inconsistent with a Specific Commitment in Annex 8-B.

5. For entries in Section B, in accordance with Article 8.9.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, sub-sectors and activities identified in the **Description** element of that entry.

6. Where Australia maintains a measure that requires that a service supplier be a citizen, permanent resident or resident of its territory as a condition to the provision of a service in its territory, a listing for that measure taken in this Annex with respect to Articles 8.2 through 8.5 shall operate as a non-conforming measure with respect to Articles 11.3 (National Treatment– Investment), 11.4 (Most-Favoured-Nation Treatment– Investment) and Article 11.9 (Performance Requirements– Investment), to the extent of that measure.

Headnotes

1. Commitments under Chapter 8 (Financial Services) are undertaken subject to the limitations and conditions set forth in these headnotes and the Schedule below.

2. To clarify Australia’s commitment with respect to Article 8.4, juridical persons supplying financial services and constituted under the laws of Australia are subject to non-discriminatory limitations on juridical form[1].

3. Australia limits its commitments under Article 8.9.1(c) with respect to Article 8.4 in the following manner: Article 8.9.1(c) shall apply only to non-conforming measures relating to Article 8.4(a) and not to those non-conforming measures relating to Article 8.4(b).

4. For greater certainty, notwithstanding the listing of any reservation by Australia or Korea in Annex III, Australia may adopt or maintain measures for prudential reasons pursuant to Article 8.10. Australia’s right to adopt or maintain any measure subject to Article 8.10 shall not be affected by any listing by Korea in “Certain Measures Not Inconsistent With Article 8.2 or 8.4 or Subject to Article 8.10.1” in Annex III.

[1] For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

ANNEX III
SCHEDULE OF AUSTRALIA

Section A

Sector:	Financial Services
Obligations Concerned:	National Treatment (Article 8.2) Market Access for Financial Institutions (Article 8.4)
Level of Government:	Central
Source of Measure:	*Banking Act 1959* (Cth) *Payment Systems (Regulation) Act 1998* (Cth)
Description:	A branch of a foreign bank that is authorised as a deposit taking institution in Australia (foreign ADI) is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than $A250,000. A representative office of a foreign bank is not permitted to undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point.

Sector:	Financial Services
Obligations Concerned:	Senior Management and Boards of Directors (Article 8.8)
Level of Government:	Central
Source of Measure:	*Corporations Act 2001* (Cth) *Corporations Regulations 2001 (Cth)*
Description:	At least two directors of a public company must be ordinarily resident in Australia. At least one director of a private company must be ordinarily resident in Australia.

Sector:	Financial Services
Obligations Concerned:	National Treatment (Article 8.2) Most-Favoured-Nation Treatment (Article 8.3) Market Access for Financial Institutions (Article 8.4) Cross-Border Trade (Article 8.5) Senior Management and Boards of Directors (Article 8.8)
Level of Government:	Regional
Source of Measure:	All existing non-conforming measures at the regional level of government.
Description:	All existing non-conforming measures at the regional level of government.

Sector:	Financial Services
Obligations Concerned:	National Treatment (Article 8.2)
Level of Government:	Central
Source of Measure:	*Commonwealth Banks Act 1959* (Cth)
Description:	Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.

Section B

Sector: Financial Services

Obligations Concerned: National Treatment (Article 8.2)

Level of Government: Central and Regional

Description: Australia reserves the right to adopt or maintain any measure[2] with respect to the guarantee by government of government-owned entities, including guarantees related to the privatisation of such entities, which may conduct financial operations.

[2] That is, measures that would be excluded from the application of Chapter 8 (Financial Services) under Article 8.1.3(b), except for the application of Australia's policy on competitive neutrality which in general allows competition and avoids providing a net competitive advantage to an entity by virtue of its public sector ownership.