

CHAPTER 21 FINAL PROVISIONS

Article 21.1 : Annexes, Appendices, and Footnotes

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

Article 21.2 : 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 in writing.

Article 21.3 : Termination

1. This Agreement shall terminate 180 days after the date that 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. If no agreement is reached within 180 days of the delivery of notification under paragraph 1, this Agreement shall terminate.

Article 21.4 : 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, on such date as the Parties may agree.
2. Unless otherwise provided in this Agreement, if any provision of the WTO Agreement or any other international agreement to which both Parties are party that is incorporated into or referred to in this Agreement is amended, the Parties shall consult on whether to amend this Agreement.

Article 21.5 : Accession

This Agreement is open to accession or association, on terms to be agreed between the Parties, by any member of the WTO, or by any other State or separate customs territory.

Article 21.6 : Authentic Texts

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

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

DONE in duplicate at _____ on this _____ day of _____ 20 _____ in the English and Korean languages.

For the Government of New Zealand:

For the Government of the Republic of Korea:

ANNEX I

SERVICES AND INVESTMENT NON-CONFORMING MEASURES

KOREA

EXPLANATORY NOTE

1. The Schedule of Korea to this Annex sets out, pursuant to Articles 8.8 (Non-Conforming Measures) and 10.15 (Non-Conforming Measures), Korea's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 8.4 (National Treatment) or 10.5 (National Treatment);
- (b) Article 8.5 (Most-Favoured-Nation Treatment) or 10.6 (Most-Favoured-Nation Treatment);
- (c) Article 8.6 (Market Access);
- (d) Article 8.7 (Local Presence);
- (e) Article 10.11 (Performance Requirements); or
- (f) Article 10.12 (Senior Management and Boards of Directors)

2. Each Schedule entry sets out the following elements:

- (a) **Sector**, refers to the sector for which the entry is made;
- (b) **Obligation Concerned**, specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 8.8.1(a) and 10.15.1(a), does not apply to the non-conforming aspects of the law, regulation, or other measures, as set out in paragraph 3;
- (c) **Level of Government**,¹ indicates the level of government maintaining the scheduled measure(s);
- (d) **Measures**,² identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the Measures element:
 - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

¹ If none is specified, the measure is maintained at the central level of government.

² For greater certainty, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in Article 8.8.1 and Article 10.15.1.

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

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

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

4. In accordance with Articles 8.8.1(a) and 10.15.1(a) and subject to Articles 8.8.1(c) and 10.15.1(c), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the Measures element of that entry.

5. Where Korea maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article 8.4 (National Treatment), 8.5 (Most-Favoured-Nation Treatment), or 8.7 (Local Presence) shall operate as a Schedule entry with respect to Article 10.5 (National Treatment), 10.6 (Most-Favoured-Nation Treatment), or 10.11 (Performance Requirements) to the extent of that measure.

6. A “foreign person” means a foreign national or an enterprise organised under the laws of another country.

7. For greater certainty, Articles 8.4 (National Treatment) and 8.7 (Local Presence) are separate disciplines and a measure that is only inconsistent with Article 8.7 (Local Presence) need not be reserved against Article 8.4 (National Treatment).

SCHEDULE OF KOREA

Sector:	Construction Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<i>Framework Act on the Construction Industry</i> (Law No. 12012, August 6, 2013), Articles 9 and 10 <i>Enforcement Decree of the Framework Act on the Construction Industry</i> (Presidential Decree No. 24616, June 17, 2013), Article 13 <i>Enforcement Regulations of the Framework Act on the Construction Industry</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 10, June 17, 2013), Articles 2 and 3 <i>Information and Communication Construction Business Act</i> (Law No. 11690, March 23, 2013), Article 14 <i>Fire Fighting System Installation Business Act</i> (Law No. 11782, May 22, 2013), Articles 4 and 5 <i>Enforcement Decree of the Fire Fighting System Installation Business Act</i> (Presidential Decree No. 24417, March 23, 2013), Article 2 (Table 1) <i>Enforcement Regulations of the Fire Fighting System Installation Business Act</i> (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 8.7)
Measures:	<i>Construction Machinery Management Act</i> (Law No. 11919, July 16, 2013), Article 21 <i>Enforcement Decree of the Construction Machinery Management Act</i> (Presidential Decree No. 24443, March 23, 2013), Articles 13, 14, 15, and 15-2 <i>Enforcement Regulations of the Construction Machinery Management Act</i> (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 8.6) Local Presence (Article 8.7)
Measures:	<i>Automobile Management Act</i> (Law No. 11929, July 16, 2013), Articles 20, 44, 45, and 53 <i>Enforcement Regulations of the Automobile Management Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No.24, September 6, 2013), Articles 7, 8, 83, 87, and 111 <i>Rule on Enforcement of Comprehensive Inspection of Automobiles, Etc.</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No.1, 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 <i>si/gun/gu</i> (municipal authorities), which is subject to an economic needs test, as appropriate. A person that supplies automobile inspection services that is designated as a “designated 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 8.6) Local Presence (Article 8.7)
Measures:	<i>Tobacco Business Act</i> (Law No. 11690, March 23, 2013), Articles 12, 13, and 16 <i>Enforcement Decree of the Tobacco Business Act</i> (Presidential Decree No. 24519, April 26, 2013), Articles 4 and 5 <i>Enforcement Regulations of the Tobacco Business Act</i> (Ordinance of the Ministry of Strategy and Finance No. 131, March 3, 2010), Articles 5, 7 and 7-3 <i>Liquors Act</i> (Law No. 11873, June 7, 2013), Articles 8 through 10 <i>Enforcement Decree of the Liquors Act</i> (Presidential Decree No. 24638, June 28, 2013), Article 9 <i>Notice on Sales of Liquor by Telecommunication Means</i> (Notice of National Tax Service No. 2012-68, October 1, 2012) <i>Notice on Designation of Zone for Liquor License</i> (Notice of National Tax Service No.2013-15, April 1, 2013)
Description:	<u>Cross-Border Trade in Services</u> 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 engages in liquor wholesale distribution services must establish an office in Korea and obtain authorization 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 10.5)
Measures:	<i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 4 <i>Enforcement Decree of the Foreign Investment Promotion Act</i> (Presidential Decree No. 24638, June 28, 2013), Article 5 <i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy, No.2013-37, May 30, 2013), Attached table 2
Description:	<u>Investment</u> Foreign persons shall not: (a) invest 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	<i>An-gyung-sa</i> (Optician and Optometry) Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Medical Technicians Act</i> (Law No. 11860, June 4, 2013), Article 12 <i>Enforcement Regulations of the Medical Technicians Act</i> (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 <i>an-gyung-sa</i> (optician or optometrist) that has established an office in Korea may engage in optician or optometry services. An <i>an-gyung-sa</i> (optician or optometrist) shall not establish more than one office.

Sector:	Wholesale and Retail Distribution Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Pharmaceutical Affairs Act</i> (Law No. 12074, August 13, 2013), Articles 42 and 45 <i>Enforcement Decree on the Pharmaceutical Affairs Acts</i> (Presidential Decree No. 24479, March 23, 2013), Article 31-2 <i>Enforcement Decree on the Standards of Facilities of Manufacturer and Importers of Medical Products, Etc.</i> (Presidential Decree No. 24479, March 23, 2013), Article 6 <i>Supply and Demand of Oriental Medicinal Herbs Regulations</i> (Notice of the Ministry of Health and Welfare No. 2013-63, April 18, 2013), Articles 4 and 12 <i>Medical Devices Act</i> (Law No. 12107, August 13, 2013), Article 15 <i>Enforcement Regulations of the Medical Devices Act</i> (Ordinance of the Prime Minister No. 1016, March 23, 2013), Article 20 <i>Health Functional Foods Act</i> (Law No. 11508, October 22, 2012), Article 6 <i>Enforcement Regulations of the Health Functional Foods Act</i> (Ordinance of the Prime Minister No.1010, March 23, 2013), Articles 2 and 5 <i>Food Sanitation Act</i> (Law No. 12390, January 28, 2014), Articles 36 and 37 <i>Enforcement Decree of the Food Sanitation Act</i> (Presidential Decree No. 24800, October 16, 2013), Articles 23 and 24 <i>Enforcement Regulations of the Food Sanitation Act</i> (Ordinance of the Prime Minister No. 1041, October 25, 2013), Articles 23 and 36 (attached table 14) <i>Testing and Inspection of Food and Drugs Act</i> (Law No. 11985, July 30, 2013), Article 6 <i>Act on the Control of Narcotics, Etc</i> (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 8.6) Local Presence (Article 8.7)
Measures:	<i>Pharmaceutical Affairs Act</i> (Law No. 12074, August 13, 2013), Articles 20 and 21 <i>Enforcement Decree on the Pharmaceutical Affairs Act</i> (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 <i>han-yak-jae</i> (Asian medicinal herbs)) must establish a pharmacy in Korea. That person shall 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 8.4) Market Access (Article 8.6)
Measures:	<i>Railroad Enterprise Act</i> (Law No. 11690, March 23, 2013), Articles 5, 6, and 12 <i>Korea Railroad Corporation Act</i> (Law No. 12025, August 6, 2013), Article 9 <i>Rail Construction Act</i> (Law No. 12023, August 6, 2013), Article 8 <i>Framework Act on Rail Industry Development</i> (Law No. 11690, March 23, 2013), Articles 3, 20, 21, 26, and 38 <i>Korea Rail Network Authority Act</i> (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 30 June, 2005. Only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services on railroad routes constructed on or after 1 July, 2005. Such authorisation is subject to an economic needs test. Only the 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 <i>Private Investment in Social Infrastructure Act</i> may supply rail construction services.

Sector:	Transportation Services - Passenger Road Transportation Services (not including Taxis and Scheduled Passenger Road Transportation Services)
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<i>Passenger Transport Service Act</i> (Law No. 12020, August 6, 2013), Articles 4 and 5 <i>Enforcement Decree of the Passenger Transport Service Act</i> (Presidential Decree No.24443, March 23, 2013), Article 3 <i>Enforcement Regulations of the Passenger Transport Service Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Article 11 <i>Tramway Transportation Act</i> (Law No. 11647, March 22, 2013), Article 4 <i>Enforcement Regulations of the Tramway Transportation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No.1, March 23, 2013), Article 3
Description:	<u>Cross-Border Trade in Services</u> A person that supplies passenger road transportation services, not including taxis and scheduled passenger road transportation services, must establish an office in the <i>dang-hae--ji-yeok</i> (relevant geographic area) in Korea.

Sector:	Transportation Services - International Maritime Cargo Transportation and Maritime Auxiliary Services
Obligations Concerned:	National Treatment (Article 8.4) Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Maritime Transportation Act</i> (Law No. 12092, August 13, 2013), Articles 24 and 33 <i>Enforcement Regulations of the Maritime Transportation Act</i> (Ordinance of the Ministry of Oceans and Fisheries No. 1, March 24, 2013), Articles 16, 19, 22, and 23 <i>Pilotage Act</i> (Law No. 11690, March 23, 2013), Article 6 <i>Ship Investment Company Act</i> (Law No. 11756, April 5, 2013), Articles 3 and 31
Description:	<u>Cross-Border Trade in Services</u> A person that engages in international maritime cargo transportation must be organised as a <i>Chusik Hoesa</i> (stock company) in Korea and registered according to the <i>Maritime Transportation Act</i> . A ship investment company must also be organised as a <i>Chusik Hoesa</i> (stock company) in Korea and registered according to the <i>Ship Investment Company Act</i> . A person that engages in shipping brokerage services, maritime agency services and vessel maintenance services must be the company as stipulated under the <i>Korean Commercial Act</i> and registered according to the <i>Maritime Transportation Act</i> . Only a Korean national may supply maritime pilotage services.

Sector:	Transportation Services - Air Transportation Services
Obligations Concerned:	National Treatment (Article 10.5) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Articles 3, 6, 112, 113, 114, 132 and 135 <i>Enforcement Regulations of the Aviation Act</i> (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:	<u>Investment</u> The following persons shall not supply scheduled or non-scheduled domestic air transportation services or supply international air transportation services as Korean air carriers: (a) a person who is not a Korean national; (b) a foreign government or a foreign <i>gong-gong-dan-che</i> (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 <i>dae-pyo-ja</i> (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 8.4 and 10.5) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Articles 3, 6, and 134 <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 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 shall not register an aircraft:

- (a) a person who is not a Korean 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 those 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.

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 firefighting, 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 8.6) Local Presence (Article 8.7)
Measures:	<i>Passenger Transport Service Act</i> (Law No. 12020, August 6, 2013), Articles 36 and 37 <i>Enforcement Regulations of the Passenger Transport Service Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Article 73 <i>Parking Lot Service Act</i> (Law No. 11690, March 23, 2013), Article 12 <i>Road Traffic Act</i> (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 <i>si/gun</i>, as appropriate, which is subject to an economic needs test.

Sector:	Courier Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Article 139 <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, February 15, 2013), Article 306 <i>Trucking Transport Business Act</i> (Law No. 11933, July 16, 2013), Articles 3, 24 and 29 <i>Enforcement Regulations of Trucking Transportation Business Act</i> (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 <i>Enforcement Decree of the Postal Services Act</i>, must establish an office in Korea. In order to obtain a trucking business license from the Minister of Land, Infrastructure and Transport, a domestic courier services supplier must establish an office in the relevant geographic area. Such a license is subject to an economic needs test. For greater certainty, a person who acquired an existing domestic courier business does not need to obtain a new trucking business license provided that the acquirer operates under the same terms and conditions as set out in the acquiree's license.

Sector:	Telecommunications Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Telecommunications Business Act</i> (Law No. 12035, August 13, 2013), Articles 6, 7, 8, 21 and 87 <i>Telecommunications Business Act</i> (Law No. 5385, August 28, 1997), Addenda Article 4 <i>Radio Waves Act</i> (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 shall not in the aggregate hold more than 49 percent of the total voting shares of a facilities-based supplier of public telecommunications services. In addition, with respect to KT Corporation (KT), a foreign government, foreign person, or deemed foreign person shall not be the largest shareholder of KT, except if it holds less than five percent of the total voting shares of KT. A foreign government, or its representative, or a foreign person shall not obtain or hold a radio station license. A foreign person shall not supply cross-border public telecommunications services into Korea, except through a commercial arrangement with a supplier of public telecommunications services that is licensed in Korea. For the purposes of this entry:

- (a) “deemed foreign person” means a juridical person organised under Korean law in which a foreign government or a foreign person (including a “specially related person” under relevant Korean laws or regulations) is the largest shareholder and holds 15 percent or more of that juridical person’s total voting shares, but does not include a juridical person that holds less than one percent of the total voting shares of a facilities-based supplier of public telecommunications services;
- (b) consistent with Article 5.2 of the *Telecommunications Business Act* (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 8.7)
Measures:	<i>Act on Licensed Real Estate Broker</i> (Law No. 12634, May 21, 2014), Article 9 <i>Enforcement Decree of the Act on Licensed Real Estate Broker</i> (Presidential Decree No. 25652, October 14, 2014), Article 13 <i>Enforcement Regulations of the Act on Licensed Real Estate Broker</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 115, July 29, 2014), Article 4 <i>Public Notice of Values and Appraisal of Real Estate Act</i> (Law No. 11690, March 23, 2013), Article 27 <i>Enforcement Decree of the Public Notice of Values and Appraisal of Real Estate Act</i> (Presidential Decree No. 23919, June 29, 2012), Articles 65, 66, and 68 <i>Enforcement Regulations of the Public Notice of Values and Appraisal of Real Estate Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 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 8.7)
Measures:	<i>Medical Devices Act</i> (Law No. 12107, August 13, 2013), Articles 16 and 17 <i>Enforcement Regulations of the Medical Devices Act</i> (Ordinance of the Prime Minister No. 1016, March 23, 2013), Articles 22 and 24
Description:	<u>Cross-Border Trade in Services</u> 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 8.7)
Measures:	<i>Passenger Transport Service Act</i> (Law No. 12020, August 6, 2013), Articles 28 and 29 <i>Enforcement Regulations of the Passenger Transport Service Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Articles 60, 61, 62 and 64
Description:	<u>Cross-Border Trade in Services</u> A person that supplies automobile rental services must establish an office in Korea.

Sector:	Scientific Research Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5)
Measures:	<i>Marine Scientific Research Act</i> (Law No. 12091, August 13, 2013), Articles 6, 7, and 8 <i>Territorial Sea and Contiguous Zone Act</i> (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 8.6) Local Presence (Article 8.7)
Measures:	<i>Attorney-at-law Act</i> (Law No. 11825, May 28, 2013), Articles 4, 7, 21, 34, 45, 58-6, 58-22, and 109 <i>Certified Judicial Scriveners Act</i> (Law No. 8920, March 21, 2008), Articles 2, 3, and 14 <i>Notary Public Act</i> (Law No. 11823, May 28, 2013), Articles 10, 16, and 17
Description:	<u>Cross-Border Trade in Services</u> Only a <i>byeon-ho-sa</i> (Korean-licensed lawyer) registered with the Korean Bar Association may supply legal services. Only a <i>byeon-ho-sa</i> (Korean-licensed lawyer) may establish the following types of legal entity: <i>beop-yool-sa-mu-so</i> (law office), <i>beop-mu-beop-in</i> (law company with the characteristics of partnership), <i>beop-mu-beop-in (yoo-han)</i> (limited liability law company), or <i>beop-mu-jo-hap</i> (limited liability partnership law office). For greater certainty, a person that is not a Korean-licensed lawyer is not permitted to invest in any of these types of legal entity. A <i>byeon-ho-sa</i> (Korean-licensed lawyer) or <i>beop-mu-sa</i> (Korean-certified judicial scrivener) who practices in Korea must establish an office in the jurisdiction of the district court in which he or she practices. A <i>gong-jeung-in</i> (Korean notary public) must establish an office in the jurisdiction of the district office of the public prosecutor in which he or she practices. This entry is subject to the commitments undertaken in the entry for Legal Services – Foreign Legal Consultants in the Schedule to Annex II.

Sector:	Professional Services - Labour Affairs Consulting Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<i>Certified Labor Affairs Consultant Act</i> (Law No. 10321, May 25, 2010), Articles 5, 7-2, 7-3 and 7-4 <i>Enforcement Decree of the Certified Labor Affairs Consultant Act</i> (Presidential Decree No. 24447, March 23, 2013), Articles 15 and 19 <i>Enforcement Regulations of the Certified Labor Affairs Consultant Act</i> (Ordinance of the Ministry of Employment and Labor No. 78, March 23, 2013), Articles 6 and 10
Description:	<u>Cross-Border Trade in Services</u> Only a <i>gong-in-no-mu-sa</i> (Korean-licensed labour affairs consultant) registered under the <i>Certified Labor Affairs Consultant Act</i> may supply labour affairs consulting services. A person that supplies labour affairs consulting services must establish an office in Korea. For greater certainty, an enterprise that supplies labour affairs consulting services must consist of at least two <i>gong-in-no-mu-sa</i> (Korean-licensed labour 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 (<i>byeon-ri-sa</i>)
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Patent Attorney Act</i> (Law No. 11962, July 30, 2013), Articles 3, 5, 6-2, and 6-3
Description:	<u>Cross-Border Trade in Services</u> Only a <i>byeon-ri-sa</i> (Korean-licensed patent attorney) who is registered with the Korean Intellectual Property Office may supply patent attorney services. Only a <i>byeon-ri-sa</i> (Korean-licensed patent attorney) may establish a <i>gae-in-sa-mu-so</i> (sole proprietorship) or a <i>teuk-heo-beop-in</i> (patent law firm). For greater certainty, a person that is not a Korean-licensed patent attorney shall not invest in either of these types of legal entity. A <i>byeon-ri-sa</i> (Korean-licensed patent attorney) may establish only one office.

Sector:	Professional Services - Accounting and Auditing Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Certified Public Accountant Act</i> (Law No. 10866, July 21, 2011), Articles 2, 7, 12, 18, and 23 <i>External Audit of Stock Companies Act</i> (Law No. 11845, May 28, 2013), Article 3
Description:	<u>Cross-Border Trade in Services</u> Only a <i>gae-in-sa-mu-so</i> (sole proprietorships), <i>gam-sa-ban</i> (auditing task forces) or <i>hoe-gye-boep-in</i> (accounting corporation limited liability company) established in Korea by <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants) registered under the <i>Certified Public Accountant Act</i> may supply accounting and auditing services. For greater certainty, a person that is not a Korean-registered certified public accountant shall not invest in any of these types of legal entity. Only <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants) in an auditing task force or an accounting corporation may supply auditing services regulated under the <i>External Audit of Stock Companies Act</i> .

Sector:	Professional Services – Taxation Services (<i>se-mu-sa</i>)
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Certified Tax Accountant Act</i> (Law No. 11610, January 1, 2013), Articles 6, 13, 16-3, and 20 <i>Enforcement Decree of the Corporate Tax Act</i> (Presidential Decree No. 24824, November 5, 2013), Article 97 <i>Enforcement Regulations of the Corporate Tax Act</i> (Ordinance of the Ministry of Strategy and Finance No. 439, October 31, 2014), Article 50-3 <i>Enforcement Regulations of the Income Tax Act</i> (Ordinance of the Ministry of Strategy and Finance No. 407, March 14, 2014), Article 65-3
Description:	<u>Cross-Border Trade in Services</u> Only a <i>se-mu-sa-mu-so</i> (sole proprietorships), <i>se-mu-jo-jeong-ban</i> (tax reconciliation task forces) or, <i>se-mu-beop-in</i> (tax agency corporation limited liability company) established in Korea by <i>se-mu-sa</i> (Korean-certified tax accountants) registered under the <i>Certified Tax Accountant Act</i> may supply <i>se-mu-sa</i> (Korean-certified tax accountants) services, including tax reconciliation services and tax representative services. For greater certainty, a person that is not a Korean-registered certified tax accountant shall not invest in any of these types of legal entity. Only a <i>se-mu-jo-jeong-ban</i> (tax reconciliation task forces) or a <i>se-mu-beop-in</i> (tax agency corporation limited liability company) may supply tax reconciliation services.

Sector:	Professional Services - Customs Clearance Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Customs Broker Act</i> (Law No. 10570, April 8, 2011), Articles 3, 7, and 9
Description:	<u>Cross-Border Trade in Services</u> Only a <i>gwan-se-sa</i> (customs broker) licensed under the <i>Customs Brokers Act</i>, a corporation incorporated by such customs brokers, or a corporation licensed to engage in the customs-clearance brokerage business under the <i>Customs Broker Act</i> 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 8.7)
Measures:	<i>Industrial Safety and Health Act</i> (Law No. 11882, June 12, 2013), Articles 15, 16 and 52-4 <i>Enforcement Decree of the Industrial Safety and Health Act</i> (Presidential Decree No. 24684, August 6, 2013), Articles 15-2, 15-3, 19-2 and 19-3 <i>Enforcement Regulations of the Industrial Safety and Health Act</i> (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 8.7)
Measures:	<i>Certified Architects Act</i> (Law No. 11690, March 23, 2013), Article 23 <i>Enforcement Decree of the Certified Architects Act</i> (Presidential Decree No. 24443, March 23, 2013), Articles 22 and 23 <i>Enforcement Regulations of the Certified Architects Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, March 23, 2013), Article 13 <i>Engineering Industry Promotion Act</i> (Law No. 12299, January 21, 2014), Article 21 <i>Professional Engineers Act</i> (Law No. 11690, March 23, 2013), Article 6 <i>Special Act on the Safety Control of Public Structures</i> (Law No. 11928, July 6, 2013), Article 9 <i>Enforcement Decree of the Special Act on the Safety Control of Public Structures</i> (Presidential Decree No. 24443, March 23, 2013), Article 11 <i>Construction Technology Promotion Act</i> (Law No. 11998, August 6, 2013), Articles 26 and 60 <i>Enforcement Decree of the Construction Technology Promotion Act</i> (Presidential Decree No. 25716, November 11, 2014), Articles 44 and 47 <i>Enforcement Regulations of the Construction Technology Promotion Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 94, May 22, 2014), Article 21 <i>Act on Land Survey, Hydrographic Survey and Cadastral Records</i> (Law No. 11943, July 17, 2013), Articles 44 and 54 <i>Enforcement Decree of the Act on Land Survey, Hydrographic Survey and Cadastral Records</i> (Presidential Decree No. 24596, June 11, 2013), Articles 34 through 36 and 45 through 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:

Cross-Border Trade in Services

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

For greater certainty, this entry does not apply to the supply of services by a foreign 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:	Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Broadcasting Act</i> (Law No. 12093, August 13, 2013), Articles 13 and 73 <i>Outdoor Advertisements, Etc. Management Act</i> (Law No. 11690, March 23, 2013), Article 11 <i>Enforcement Decree of the Outdoor Advertisements, Etc. Management Act</i> (Presidential Decree No. 24632, June 21, 2013), Articles 14 and 44
Description:	<u>Cross-Border Trade in Services and Investment</u> A foreign national or a Korean national who serves as a <i>dae-pyo-ja</i> (for example, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise shall not serve as the <i>dae-pyo-ja</i> (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, Labour Supply and Worker Dispatch Services, and Education Services for Seafarers
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Employment Security Act</i> (Law No. 11048, September 15, 2011), Articles 19 and 33 <i>Enforcement Decree of the Employment Security Act</i> (Presidential Decree No. 24076, August 31, 2012), Articles 21 and 33 <i>Enforcement Regulations of the Employment Security Act</i> (Ordinance of the Ministry of Employment and Labor No. 72, December 27, 2012), Articles 18 and 36 <i>Act Relating to Protection for Dispatched Workers</i> (Law No. 11668, March 22, 2013), Articles 7, 8, 9 and 10 <i>Enforcement Decree of the Act Relating to Protection for Dispatched Workers</i> (Presidential Decree No. 23853, June 12, 2012), Article 3 <i>Enforcement Regulations of the Act Relating to Protection for Dispatched Workers</i> (Ordinance of the Ministry of Employment and Labor No. 64, August 2, 2012), Article 3, 4 and 5 <i>Special Act on Designation and Management of Free Economic Zones</i> (Law No. 11690, March 23, 2013), Article 17 <i>Seafarers Act</i> (Law No. 11690, March 23, 2013), Articles 109, 110, 112, 115, 116, 117, 142, and 143 <i>Korea Institute of Maritime and Fisheries Technology Act</i> (Law No. 11690, March 23, 2013), Article 5
Description:	<u>Cross-Border Trade in Services and Investment</u> 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 labour supply services.

To become an agent for seafarer personnel management services, a person must register with the Minister of Oceans and Fisheries as a 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 8.6) Local Presence (Article 8.7)
Measures:	<i>Certified Private Security Act</i> (Law No. 11690, March 23, 2013), Articles 3 and 4 <i>Enforcement Decree of the Certified Private Security Act</i> (Presidential Decree No. 24419, March 23, 2013), Articles 3 and 4 <i>Enforcement Regulations of the Certified Private Security Act</i> (Ordinance of the Ministry of Security and Public Administration, No. 20, 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) <i>shi-seol-gyung-bee</i> (facility security); (b) <i>ho-song-gyung-bee</i> (escort security); (c) <i>shin-byun-bo-ho</i> (personal security); (d) <i>gee-gye-gyung-bee</i> (mechanised security); and (e) <i>teuk-soo-gyung-bee</i> (special security).

Sector:	Distribution Services Related to Publications
Obligations Concerned:	National Treatment (Articles 8.4)
Measures:	<i>Publication Cultural Industry Promotion Act</i> (Law No. 11048, September 15, 2011), Articles 18, 19 and 19-3 <i>Enforcement Decree of the Publication Cultural Industry Promotion Act</i> (Presidential Decree No. 24020, August 3, 2012), Article 12 <i>Enforcement Regulations of the Publication Cultural Industry Promotion Act</i> (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 purposes of domestic distribution are subject to a review process on an <i>ad hoc</i> basis.

Sector:	Transportation Services - Aircraft Maintenance and Repair Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Articles 137, 137-2 and 138 <i>Enforcement Regulations of the Aviation Act</i> (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 8.4 and 10.5) Market Access (Article 8.6) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Higher Education Act</i> (Law No. 12036, August 13, 2013), Articles 3, 4, 32, 42, and 43 <i>Enforcement Decree of the Higher Education Act</i> (Presidential Decree No. 24847, November 20, 2013), Article 28 <i>Private School Act</i> (Law No. 11622, January 23, 2013), Articles 3, 5, 10, and 21 <i>Enforcement Decree of the Private School Act</i> (Presidential Decree No. 24665, July 22, 2013), Article 9-3 <i>Decree on the Establishment of the Korea National Open University</i> (Presidential Decree No. 24423, March 23, 2013), Articles 1 and 2
Description:	<u>Cross Border Trade in Services and Investment</u> 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 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 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 8.4 and 10.5) Market Access (Article 8.6)
Measures:	<i>Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons</i> (Law No. 11690, March 23, 2013), Articles 2, 2-2 and 13 <i>Enforcement Decree of the Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act</i> (Presidential Decree No. 24423, March 23, 2013), Article 12 <i>Lifelong Education Act</i> (Law No. 11770, May 22, 2013), Articles 30, 33 through 38 <i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 4 <i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy No. 2013-37, 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) <i>hag-won</i> (private teaching institutes for adults) related to lifelong and vocational education; and (b) no later than the date this Agreement enters into force, lifelong adult education facilities operated for 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 8.7)
Measures:	<i>Workers' Vocational Competency Development Act</i> (Law No. 11690, March 23, 2013), Articles 28, 32, and 36 <i>Enforcement Decree of the Workers' Vocational Competency Development Act</i> (Presidential Decree No. 24628, June 21, 2013), Articles 24 and 26 <i>Enforcement Regulation of the Workers' Vocational Competency Development Act</i> (Ordinance of the Ministry of Employment and Labor No. 57, 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 8.6) Local Presence (Article 8.7)
Measures:	<i>Veterinary Affairs Act</i> (Law No. 11354, February 22, 2012), Articles 17, 22-2, 22-4 and 22-5 <i>Civil Act</i> (Law No.11728, April 5, 2013), Article 32
Description:	<u>Cross-Border Trade in Services</u> Only a person that is a licensed <i>soo-eui-sa</i> (veterinarian) that has established an office in Korea, <i>dong-mul-jin-ryo-bub-in</i> (animal hospital legal entity) or <i>bee-young-ri-bub-in</i> (non-profit legal entity) may engage in veterinary or aquatic animal disease inspection services.

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 8.7)
Measures:	<i>Water Quality and Ecosystem Conservation Act</i> (Law No. 11915, July 16, 2013), Article 62 <i>Support for Environmental Technology and Environmental Industry Act</i> (Law No. 11713, March 23, 2013), Article 15 <i>Soil Environment Conservation Act</i> (Law No. 11464, June 1, 2012), Article 23-7 <i>Groundwater Act</i> (Law No. 11803, May 22, 2013), Article 29-2 <i>Clean Air Conservation Act</i> (Law No. 11750, April 5, 2013), Article 68 <i>Environmental Impact Assessment Act</i> (Law No. 11690, March 23, 2013), Article 54 <i>Toxic Chemicals Control Act</i> (Law No. 11690, March 23, 2013), Article 20 <i>Wastes Control Act</i> (Law No. 11965, July 30, 2013), Article 25 <i>Enforcement Decree of the Wastes Control Act</i> (Presidential Decree No. 24543, May 28, 2013), Article 8
Description:	<u>Cross-Border Trade in Services</u> 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 8.4)
Measures:	<i>Public Performance Act</i> (Law No. 11048, September 15, 2011), Articles 6 and 7 <i>Enforcement Decree of the Public Performance Act</i> (Presidential Decree No. 23759, May 1, 2012), Articles 4 and 6 <i>Enforcement Regulations of the Public Performance Act</i> (Ordinance of the Ministry of Culture, Sports and Tourism No. 94, November 25, 2011), Article 4 <i>Enforcement Regulations of the Immigration Control Act</i> (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 (<i>News-tong-sin-sa</i>) Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Act on Promotion of News Communication</i> (Law No. 11690, March 23, 2013), Articles 7, 8, 9, 9-5, 16, and 28 <i>Enforcement Decree of the Act on Promotion of News Communications</i> (Presidential Decree No. 24183, November 20, 2012), Articles 4 and 10 <i>Radio Waves Act</i> (Law No. 11712, March 23, 2013), Article 20
Description:	<u>Cross-Border Trade in Services and Investment</u> A <i>news-tong-sin-sa</i> (news agency) organised under foreign law may supply <i>news-tong-sin</i> (news communications) in Korea only under a contract with a news agency organised under Korean law which has a radio station license, such as Yonhap News. The following persons shall not supply news agency services in Korea: (a) a foreign government; (b) a foreign person; (c) an enterprise organised under Korean law whose <i>dae-pyo-ja</i> (for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national or is a person not domiciled in Korea; or (d) an enterprise organised under Korean law in which a foreign person holds 25 percent or more equity interest. The following persons shall not serve as a <i>dae-pyo-ja</i> (for example, a chief executive officer, president, or similar principal senior officer) or editor of a news agency, or serve as <i>im-won</i> (a member of the board of directors) of Yonhap News or the News Agency Promotion Committee: (a) a person who is not a Korean 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 shall not distribute *news-tong-sin* (news communications) in Korea.

The following persons shall not obtain a radio station license:

- (a) a person who is not a Korean national;
- (b) a foreign government or its representative; or
- (c) an enterprise organised under foreign law.

Sector:	Manufacturing of Biological Products
Obligations Concerned:	Performance Requirements (Article 10.11)
Measures:	<i>Pharmaceutical Affairs Act</i> (Law No. 12074, August 13, 2013), Article 42 <i>Regulations on Safety of Pharmaceuticals, Etc.</i> (Ordinance of the Prime Minister No. 1022, March 23, 2013), Article 11
Description:	<u>Investment</u> 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 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Act on the Promotion of Periodicals including Magazine, Etc.</i> (Law No. 11690, March 23, 2013), Articles 20 and 29 <i>Enforcement Decree of Act on the Promotion of Periodicals including Magazine, Etc.</i> (Presidential Decree No. 23807, May 23, 2012), Articles 17, 18, 19, and 20
Description:	<u>Cross-Border Trade in Services and Investment</u> A person who is not a Korean national shall not be the publisher or the editor-in-chief of an enterprise that publishes periodicals. The following persons shall not publish periodicals in Korea: (a) a foreign government or a foreign person; (b) an enterprise organised under Korean law whose <i>dae-pyo-ja</i> (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. As of 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 New Zealand.

Sector:	Distribution Services - Agriculture and Livestock
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6)
Measures:	<i>Grain Management Act</i> (Law No. 11641, March 22, 2013), Article 12 <i>Livestock Industry Act</i> (Law No. 11690, March 23, 2013), Articles 30 and 34 <i>Seed Industry Act</i> (Law No. 11704, March 23, 2013), Article 42 <i>Feed Management Act</i> (Law No. 11690, March 23, 2013), Article 6 <i>Ginseng Industry Act</i> (Law No. 11690, March 23, 2013), Article 20 <i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 4 <i>Enforcement Decree of the Foreign Investment Promotion Act</i> (Presidential Decree No. 24638, June 28, 2013), Article 5 <i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy No. 2013-37, May 30, 2013), Attached table 2 <i>Act on Distribution and Price Stabilization of Agricultural and Fishery Products</i> (Law No. 12059, August 13, 2013), Articles 15, 17, and 43 <i>Notice on TRQ Products</i> (Notice of the Ministry of Agriculture, Food and Rural Affairs No. 2013-29, May 16, 2013), Articles 14 and 20-2
Description:	<u>Cross-Border Trade in Services and Investment</u> A foreign person shall not hold 50 percent or more of the shares or equity interest of an enterprise engaged in <i>yook-ryu</i> (meat) wholesaling. Only the Livestock Cooperatives under the <i>Agriculture Cooperative Act</i> may establish and manage a <i>ga-chook-sijang</i> (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 8.4 (National Treatment) and 8.6 (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 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Broadcasting Act</i> (Law No. 12093, August 13, 2013) Articles 8, 9, 12, 13 through 18, 48, and 69 through 71 <i>Enforcement Decree of the Broadcasting Act</i> (Presidential Decree No. 24763, September 26, 2013), Article 57 <i>Korea Educational Broadcasting Corporation Act</i> (Law No. 12093, August 13, 2013), Article 11
Description:	<u>Cross-Border Trade in Services and Investment</u> Neither a foreign national nor a Korean national who serves as a <i>dae-pyo-ja</i> (e.g., a chief executive officer, president, or similar principal senior officer) of a foreign enterprise may serve as a <i>dae-pyo-ja</i> (e.g., 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 <i>jong-hap-pyeon-sung</i> (multi-genre programming), home shopping, or <i>bo-do</i> (news reporting) is granted through <i>heo-ga</i> (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 shall 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 percent 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 (e.g., Mun-hwa 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 percent but not more than 40 percent of the yearly programming hours of the channel concerned;
- (b) animations: not less than 30 percent but not more than 50 percent of the yearly programming hours of the channel concerned; and
- (c) popular music: not less than 50 percent 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 10.5) ³
Measures:	<i>Financial Investment Services and Capital Markets Act</i> (Law No. 11845, May 28, 2013), Article 168 <i>Enforcement Decree of the Financial Investment Services and Capital Markets Act</i> (Presidential Decree No. 24697, August 27, 2013), Article 187 <i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Articles 4 and 5 <i>Enforcement Decree of the Foreign Investment Promotion Act</i>, (Presidential Decree No. 24638, June 28, 2013), Article 5 <i>Consolidated Public Notice for Foreign Investment</i> (Public Notice of the Ministry of Trade, Industry and Energy No. 2013-102, May 27, 2013), Attached table <i>Designation of Public Corporation</i> (Notice of the Ministry of Finance and Economy, No. 2000-17, September 28, 2000) <i>Financial Investment Service Regulations</i> (Financial Services Commission Notice No. 2013-40, December 4, 2013), Article. 6-2
Description:	<u>Investment</u> The aggregate foreign share of KEPCO's issued stocks shall not exceed 40 percent. A foreign person shall 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), shall not exceed 30 percent of the total facilities in the territory of Korea. The aggregate foreign share of electric power transmission, distribution and sales businesses should be less than 50 percent. A foreign person shall not be the largest shareholder.

³ Paragraph (a) of the ninth entry of Korea's Schedule to Annex II does not apply to this entry.

Sector:	Energy Industry - Gas Industry
Obligations Concerned:	National Treatment (Article 10.5) ⁴
Measures:	<i>Act on the Improvement of Managerial Structure and Privatization of Public Enterprises</i> (Law No. 11845, May 28, 2013), Article 19 <i>Financial Investment Services and Capital Markets Act</i> (Law No. 11845, May 28, 2013), Article 168 <i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Articles 4 and 5 <i>Articles of Incorporation of the Korea Gas Corporation</i> (August 9, 2013), Article 11
Description:	<u>Investment</u> Foreign persons, in the aggregate, shall not own more than 30 percent of the equity of KOGAS.

⁴ Paragraph (a) of the ninth 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:	Market Access (Article 8.6) Performance Requirements (Article 10.11)
Measures:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 11902, July 16, 2013), Articles 2, 27, and 40 <i>Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products</i> (Presidential Decree No. 24036, August 13, 2012), Article 19
Description:	<u>Cross-Border Trade in Services and Investment</u> Cinema operators must project Korean motion pictures for at least 73 days per year at each screen in Korea.

NEW ZEALAND

EXPLANATORY NOTE

1. The Schedule of New Zealand to this Annex sets out, pursuant to Articles 8.8 (Non-Conforming Measures) and 10.15 (Non-Conforming Measures), New Zealand's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 8.4 (National Treatment) or 10.5 (National Treatment);
- (b) Article 8.5 (Most-Favoured-Nation Treatment) or 10.6 (Most-Favoured-Nation Treatment);
- (c) Article 8.6 (Market Access);
- (d) Article 8.7 (Local Presence);
- (e) Article 10.11 (Performance Requirements); or
- (f) Article 10.12 (Senior Management and Board of Directors);

For greater certainty, Article 8.6 (Market Access) refers to non-discriminatory measures.

2. Article 8.4 (National Treatment) and Articles 8.7 (Local Presence) are separate disciplines and a measure that is only inconsistent with Article 8.7 (Local Presence) need not be reserved against Articles 8.4 (National Treatment).

3. Each entry in New Zealand's Schedule sets out the following elements:

- (a) **Sector**, refers to the sector in which the entry is made;
- (b) **Obligations Concerned**, specifies the obligation(s) referred to in paragraph 1;
- (c) **Measures**, identifies the 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
- (d) **Description**, sets out the non-conforming measure to which the entry applies.

4. In accordance with Articles 8.8 (Non-Conforming Measures) and 10.15 (Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the laws, regulations, procedures, requirements or practices identified in the Description element of that entry.

5. All elements of the entry shall be considered in their totality for the purposes of its interpretation.

SCHEDULE OF NEW ZEALAND

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.5)

Measures: *Companies Act 1993*
Financial Reporting Act 1993

Description: Investment

Consistent with New Zealand's financial reporting regime established under the *Companies Act* and *Financial Reporting Act*, the following overseas non-issuer companies are required to file audited financial statements with the Registrar of Companies:

- (a) any company that is incorporated outside New Zealand that carries on business in New Zealand;
- (b) any large company incorporated in New Zealand in which shares that carry the right to exercise or control the exercise of 25 percent or more of the voting power are held by:
 - (i) a subsidiary of a company or body corporate incorporated outside New Zealand;
 - (ii) a company or body corporate incorporated outside New Zealand; or
 - (iii) a person not ordinarily resident in New Zealand;
- (c) any company that is a subsidiary of a company or body corporate incorporated outside New Zealand.

A company is 'large' if it meets at least two of the following criteria:

- (a) the total assets of the company and its subsidiaries exceeds NZ\$10 million;
- (b) the company and its subsidiaries have a total turnover of NZ\$20 million; or

- (c) the company and its subsidiaries have 50 or more full-time equivalent employees.

These requirements do not apply if the overseas company is a subsidiary of a New Zealand company that has already filed audited group financial statements with the Registrar.

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 8.4) Most-Favoured-Nation Treatment (Article 8.5)
Measure	S.100(2)(a) of the <i>Patents Act 1953</i>
Description	<u>Cross Border Trade in Services</u> Registration of patent attorneys is restricted to those who satisfy the criteria set out in S.100(2)(a) of the <i>Patents Act 1953</i> , being any person who is a British subject or a citizen of the Republic of Ireland.

Sector:	Agriculture, including services incidental to agriculture
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Measure:	<i>Dairy Industry Restructuring Act 2001</i>
Description:	<u>Cross Border Trade in Services and Investment</u> The <i>Dairy Industry Restructuring Act 2001</i> (DIRA) and regulations provide for the New Zealand government to acquire, free of charge, and without condition, a copy of a regulated database held by the Livestock Improvement Corporation Ltd (LIC) in the event of its demutualisation or certain other events. Furthermore, should LIC be liquidated or removed from New Zealand's register of companies or the New Zealand government receives a copy of the database as specified above, the New Zealand government may determine arrangements for the database to be managed by another dairy industry entity. In doing so, it may take into account nationality and residency considerations, including in relation to senior management and composition of the board of directors. In addition, the DIRA sets out data reporting obligations to the LIC applying to those engaged in herd testing of dairy cattle. The DIRA also provides for access to the data held in the core database to be denied if access is not beneficial, or is harmful, to the New Zealand dairy industry, which could take into account nationality or residency considerations and the intended use of the data. Conditions may also be applied to data use. The DIRA restricts who may hold shares in LIC, and this regime may not be amended without the consent of the responsible Minister

Sector:	Communication Services Telecommunications
Obligations Concerned:	National Treatment (Article 8.4) Market Access (Article 8.6) Senior Management and Boards of Directors (Article 10.12)
Measure:	The Constitution of Chorus Limited
Description:	<u>Cross Border Trade in Services and Investment</u> The Constitution of Chorus Limited requires New Zealand government approval for the shareholding of any single overseas entity to exceed 49.9 percent. At least half of the Board of Directors are required to be New Zealand citizens.

Sector:	Communication Services Audio-visual Services
Obligations concerned:	National Treatment (Article 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
Measure:	<i>Radiocommunications Act 1989</i>
Description	<u>Cross Border Trade in Services and Investment</u> The acquisition of licences or management rights to use the radio frequency spectrum, or any interest in such licences or management rights, under the <i>Radio Communications Act 1989</i> by foreign governments or agents on behalf of foreign governments is subject to the written approval of the Chief Executive of the Ministry of Business, Innovation and Employment.

Sector:	Agriculture, including services incidental to agriculture
Obligations concerned:	National Treatment (Article 8.4 and 10.5) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Measure:	<i>Primary Products Marketing Act 1953</i>
Description:	<u>Cross Border Trade in Services and Investment</u> Under the <i>Primary Products Marketing Act 1953</i>, the New Zealand Government may impose regulations necessary to enable producers of products derived from beekeeping; fruit growing; hop growing; deer farming or game deer; or of goats, being the fur bristles or fibres grown by the goat (hereinafter referred to as “primary products”) to control the marketing of primary products. In particular, <i>the Primary Products Marketing Act 1953</i> provides for the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers), and provision of a range of measures relating to such aspects as: (a) the functions, powers, appointment, membership, and dissolution of the marketing authorities; (b) the management of the affairs of the marketing authorities; (c) the acquisition of primary products by the marketing authorities and matters relating to the pricing and method of payment for primary products so acquired; (d) matters relating to the production, distribution, licensing, and sale of primary products; (e) matters relating to the payment of fees and levies on primary products; (f) the acquisition of information required for the purposes of the marketing authorities; (g) the prescription of offences and penalties relating to the <i>Primary Products Marketing Act 1953</i>.

Sector:	Air Transportation
Obligations concerned:	National Treatment (Article 10.5) Senior Management and Boards of Directors (Article 10.12)
Measure:	<i>Civil Aviation Act 1990</i> Ministerial Guidelines
Description:	<u>Investment</u> Only a licensed air transport enterprise may provide international scheduled air services as a New Zealand international airline. Only a licensed air transport enterprise may provide international scheduled air services, including cabotage, within New Zealand, as a foreign international airline. Either the Minister for Transport or the Secretary for Transport determines the issuance of international air services licenses. Non-scheduled air services require either an appropriate licence or the approval of the Secretary for Transport in accordance with guidelines issued by the Minister for Transport. Such determinations shall include consideration of the provisions of New Zealand's bilateral and multilateral air services agreements. Licenses may be subject to certain conditions, such as that the airline is substantially owned and effectively controlled by New Zealand nationals, or have its principal place of business in New Zealand.

Sector:	Air Transportation
Obligations concerned:	National Treatment (Article 10.5) Senior Management and Boards of Directors (Article 10.12)
Measure:	<i>Constitution of Air New Zealand Limited (2009)</i>
Description:	<u>Investment</u> No one foreign national may hold more than 10 percent of shares which confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder (New Zealand Government). In addition: (a) No person that owns or operates an airline business, nor any other person ‘associated’ with a person who owns or operates an airline business, may hold or have an interest in Air New Zealand unless the prior written consent of the Kiwi Shareholder (New Zealand Government) has been given; (b) The location of the Head Office of Air New Zealand, and its principal place of business, shall be in New Zealand; (c) At least three members of the Board of Directors must be ordinarily resident in New Zealand; (d) More than half of the Board of Directors must be New Zealand citizens; (e) The Chairperson of the Board of Directors must be a New Zealand citizen; and (f) Air New Zealand shall continue to be incorporated and registered in New Zealand.

or assistance from any person or body they consider appropriate.

2. A Party may request consultations with the other Party regarding any matter arising under this Chapter through the contact point. Unless the Parties otherwise agree, consultations shall commence within 30 days of a Party's acknowledged receipt of a request for consultations submitted to the contact point of the other Party.
3. The Parties shall decide a timeframe for consultation which shall not exceed 180 days, unless mutually agreed.
4. If a Party considers that the matter needs further discussion, the Party may request that the Committee be convened to consider the matter by delivering a written request to the contact point of the other Party. The Committee shall convene, unless otherwise agreed, no later than 90 days following the request, and endeavour to agree on a resolution of the matter.
5. The Committee shall produce a report providing conclusions and recommendations on resolving the issue.
6. The Parties shall implement the conclusions and recommendations of the Committee as soon as practicable.
7. If the Committee under paragraph 4 fails to resolve the issue, the requesting Party may refer the issue to the Joint Commission.
8. Neither Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

ANNEX II

SERVICES AND INVESTMENT NON-CONFORMING MEASURES

KOREA

EXPLANATORY NOTE

1. The Schedule of Korea to this Annex sets out, pursuant to Articles 8.8 (Non-Conforming Measures) and 10.15 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which Korea may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:
 - (a) Article 8.4 (National Treatment) or 10.5 (National Treatment);
 - (b) Article 8.5 (Most-Favoured-Nation Treatment) or 10.6 (Most-Favoured-Nation Treatment);
 - (c) Article 8.6 (Market Access);
 - (d) Article 8.7 (Local Presence);
 - (e) Article 10.11 (Performance Requirements); or
 - (f) Article 10.12 (Senior Management and Boards of Directors).
2. Each Schedule entry sets out the following elements:
 - (a) **Sector**, refers to the sector for which the entry is made;
 - (b) **Obligation Concerned**, specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 8.8.2 and 10.15.2, do not apply to sectors, subsectors, or activities set out in the Schedule;
 - (c) **Description**, sets out the scope of the sectors, sub-sectors, or activities covered by the entry; and
 - (d) **Existing Measures**, identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.
3. In accordance with Articles 8.8.2 and 10.15.2, the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.
4. A “foreign person” means a foreign national or an enterprise organised under the laws of another country.

5. For greater certainty, Articles 8.4 (National Treatment) and 8.7 (Local Presence) are separate disciplines and a measure that is only inconsistent with Article 8.7 (Local Presence) need not be reserved against Article 8.4 (National Treatment).

SCHEDULE OF KOREA

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.5)
Performance Requirements (Article 10.11)

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* (2013), provided that Korea promptly provides written notice to New Zealand 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* (2013), 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 10.18 (Settlement of Investment Disputes between a Party and an Investor of the other Party), a claimant may submit to arbitration under Section B of Chapter 10 (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 10 (Investment) shall apply, *mutatis mutandis*, and all references in Section B of Chapter 10 (Investment) to a breach, or to an alleged breach, of an obligation under Section A of Chapter 10 (Investment) shall be understood to refer to the measure, which would constitute a breach of an obligation under Section A of Chapter 10 (Investment) 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.

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 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Investment</u> 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 17 (Transparency). 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. <u>Cross-Border Trade in Services and Investment</u> Without prejudice to Korea's commitments undertaken in Annexes I and 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.
Existing Measures:	<i>Financial Investment Services and Capital Markets Act</i> (Law No 11845, May 28, 2013), Article 168

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the defence industry. Foreign investors (stipulated in Article 2 of the <i>Foreign Investment Promotion Act</i>) who intend to acquire the outstanding shares of a defence industry company (enterprises stipulated in Article 3 of the <i>Defense Acquisition Program Act</i>) other than the newly issued ones shall obtain a prior permission from the Minister of Trade, Industry and Energy.
Existing Measures:	<i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 6 <i>Defense Acquisition Program Act</i> (Law No. 11713, March 23, 2013), Article 35

Sector: Acquisition of Land

Obligations Concerned: National Treatment (Article 10.5)

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; or
 - (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 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> 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.

Sector:	Social Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 8.6)

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 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 subsector 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 subsector 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 subsector listed in Appendix II-A, Korea's Schedule is modified as indicated in that Appendix.

These modifications shall not affect any limitation relating to subparagraph (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 8.7 (Local Presence) as modified by Article 8.8 (Non-Conforming Measures).

Sector:	All Sectors
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 8.5 and 10.6)
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; (c) maritime matters, including salvage; or (d) telecommunications.

Sector:	Communication Services - Broadcasting Services
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 8.5 and 10.6)
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 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 8.5 and 10.6)
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 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
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 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 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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; Electricity Business
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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). Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with Article 10.11.1(f).

Sector:	Energy Services - Gas industry
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> 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 (<i>nong chuk san mul</i>)
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> 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 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> 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 (not including Road Transportation Services Related to Courier Services)
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 not including 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 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 8.4 and 10.5)
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 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure relating to the operation and provision of postal services by foreigners including measures with respect to: (a) the supply of support services to postal offices by military service personnel or other personnel of equivalent status; and (b) the 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. The postal services are not an area in which foreigners can invest.
Existing Measures:	<i>Postal Services Act</i> (Law No. 11690, March 23, 2013) <i>Military Service Act</i> (Law No. 11849, June 4, 2013) <i>Regulations on Management of Common-Purpose Motor Vehicles</i> (Presidential Decree No. 24425, March 23, 2013) <i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 4

Sector:	Communication Services - Broadcasting Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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:	<i>Broadcasting Act</i> (Law No. 12093, August 13, 2013), Articles 8, 9, 69 through 72, 78 and 78-2 <i>Enforcement Decree of the Broadcasting Act</i> (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 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 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:	<i>Internet Multimedia Broadcasting Act</i> (Law No. 11690, March 23, 2013), Articles 4, 7, 9, 18 and 21 <i>Enforcement Decree of the Internet Multimedia Broadcasting Act</i> (Presidential Decree No. 24445, March 23, 2013), Article 20

Sector:	Communication Services - Broadcasting and Audio-Visual Services
Obligations Concerned:	Most Favoured-Nation Treatment (Articles 8.5 and 10.6) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> 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:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 11902, July 16, 2013) <i>Notice on Programming</i> (Korean Broadcasting Commission Notice No. 2008-135, December 31, 2008)

Sector:	Communication Services - Broadcasting and Audio-Visual Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> 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:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 11902, July 16, 2013), Articles 27 and 40 <i>Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products</i> (Presidential Decree No. 24036, August 13, 2012), Articles 10 and 19 <i>Enforcement Regulations of the Act on Promotion of Motion Pictures and Video Products</i> (Ordinance of the Ministry of Culture, Sports and Tourism No.128, August 17, 2012) <i>Notice on Programming</i> (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 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
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 8.4 and 10.5) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
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.

Sector:	Digital Audio or Video Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> 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 17 (Transparency), 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 <i>Broadcasting Act</i> as of the date this Agreement enters into force 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:	<i>Contents Industry Promotion Act</i> (Law No. 11690, March 23, 2013)

Sector:	Business Services - Cadastral Surveying Services and Cadastral Map-Making Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5)
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 (<i>nong chuk san mul</i>)
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Local Presence (Article 8.7)
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 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 10.5)

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 8.4 and 10.5) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the publishing (including printing and distribution) of newspapers.
Existing Measures:	<i>Act on the Promotion of Newspapers, Etc.</i> (Law No. 11690, March 23, 2013) <i>Enforcement Decree of the Act on the Promotion of Newspapers, Etc.</i> (Presidential Decree No. 22151, May 4, 2010)

Sector:	Education Services - Pre-Primary, Primary, Secondary, Higher and Other Education
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to human health services.

Sector:	Recreational, Cultural, and Sporting Services - Motion Picture Promotion, Advertising, or Post-Production Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to motion picture promotion, advertising, or post-production services.
Existing Measures:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 11902, July 16, 2013) <i>Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products</i> (Presidential Decree No. 24036, August 13, 2012)

Sector:	Recreational, Cultural, and Sporting Services - Museum and Other Cultural Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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:	<i>Cultural Heritage Protection Act</i> (Law No. 11228, January 26, 2012) <i>Enforcement Decree of the Cultural Heritage Protection Act</i> (Presidential Decree No. 23862, June 19, 2012) <i>Archaeological Heritage Protection and Survey Act</i> (Law No. 10882, July 21 2011) <i>Enforcement Regulations of the Archaeological Heritage Protection and Survey Act</i> (Ordinance of the Ministry of Culture, Sports and Tourism No. 78, February 16, 2011) <i>Act on the Cultural Heritage Repair, Etc</i> (Law No. 11530, December 11, 2012)

Sector:	Other Recreational Services
Obligations Concerned:	National Treatment (Article 10.5)
Description:	<u>Investment</u> Korea reserves the right to adopt or maintain any measure with respect to tourism in rural, fishery, and agricultural sites.

Sector:	Gambling and Betting Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to gambling and betting services. For greater certainty, “gambling and betting services” includes such services supplied through electronic transmission and services that use <i>sa-haeng-seong-ge-im-mul</i>. “<i>Sa-haeng-seong-ge-im-mul</i>”, as defined in Article 2 of <i>Korea’s Game Industry Promotion Act</i>, includes, <i>inter alia</i>, instruments which result in financial loss or gain through betting or by chance.
Existing Measures:	<i>Tourism Promotion Act</i> (Law No. 12406, March 11, 2014) Articles 5, 21 and 28 <i>Special Act on the Assistance to the Development of Abandoned Mine Areas</i> (Law No. 12154, January 1, 2014) Article 11 <i>National Sports Promotion Act</i> (Law No. 12348, January 28, 2014) Articles 24, 25 and 26 <i>Enforcement Decree of the National Sports Promotion Act</i> (Presidential Decree No. 25511, July 28, 2014) Articles 28 and 30 <i>Korea Racing Association Act</i> (Law No. 12437, March 18, 2014), Article 3, 22 and 48 <i>Traditional Bull Fighting Act</i> (Law No. 12434, March 18, 2014), Article 6, 16 and 22 <i>Bicycle and Motorboat Racing Act</i> (Law No. 12688, May 28, 2014) Articles 4, 19 and 24 <i>Game Industry Promotion Act</i> (Law No. 11998, August 6, 2013) Articles 2, 21 and 22 <i>Act on Special Cases concerning Regulation and Punishment of Speculative Acts, etc.</i> (Law No. 11690, March 23, 2013)

Sector:	Legal Services - Foreign Legal Consultants
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> 1. Korea reserves the right to adopt or maintain any measures including but not limited to: (a) restrictions on certification, approval, registration, admission, and supervision of, and any other requirements with respect to, foreign country-licensed lawyers or foreign law firms supplying any type of legal services in Korea; (b) restrictions on foreign country-licensed lawyers or foreign law firms entering into partnerships, commercial associations, affiliations, or any other type of relationship regardless of legal form, with <i>byeon-ho-sa</i> (Korean-licensed lawyers), Korean law firms, <i>beop-mu-sa</i> (Korean-certified judicial scriveners), <i>byeon-ri-sa</i> (Korean-licensed patent attorneys), <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants), <i>se-mu-sa</i> (Korean-certified tax accountants), or <i>gwan-se-sa</i> (Korean customs brokers); (c) restrictions on foreign country-licensed lawyers or foreign law firms hiring <i>byeon-ho-sa</i> (Korean-licensed lawyers), <i>beop-mu-sa</i> (Korean-certified judicial scriveners), <i>byeon-ri-sa</i> (Korean-licensed patent attorneys), <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants), <i>se-mu-sa</i> (Korean certified tax accountants), or <i>gwan-se-sa</i> (Korean customs brokers) in Korea; and (d) restrictions on senior management and the board of directors of legal entities supplying foreign legal consulting services, including with respect to the chairman. 2. Notwithstanding paragraph 1, (a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain

requirements consistent with this Agreement, New Zealand law firms to establish representative offices (Foreign Legal Consultant offices or FLC offices) in Korea, and attorneys licensed in New Zealand 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; and

- (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 co-operative 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.

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

For the purposes of this entry, New Zealand law firm means a law firm organised under New Zealand law and headquartered in New Zealand.

Sector:	Professional Services - Foreign Chartered Accountants
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to public accountancy services including those concerning ownership, partnership, nationality of executives and directors and the scope of services to be provided. Foreign-chartered public accountants intending to provide accountancy services in Korea must be domestically licensed and registered under the <i>Certified Public Accountant Act</i> . Their offices must be established within Korea.

Sector:	Professional Services - Foreign Certified Tax Accountants
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to <i>se-mu-sa</i> (Korean-certified tax accountants) services including those concerning ownership, partnership, nationality of executives and directors and the scope of services to be provided. Foreign-Certified Tax Accounts intending to provide <i>se-mu-sa</i> (Korean-certified tax accountants) services in Korea must be domestically licensed and registered under the <i>Certified Tax Accountant Act</i>. Their offices must be established within Korea.
Existing Measures:	<i>Certified Tax Accountant Act</i> (Law No. 11610, January 1, 2013), Articles 6, 13, 16-3 and 20 <i>Enforcement Decree of the Corporate Tax Act</i> (Presidential Decree No. 24824, November 5, 2013), Article 97 <i>Enforcement Regulations of the Corporate Tax Act</i> (Ordinance of the Ministry of Strategy and Finance No. 439, October 31, 2014), Article 50-3 <i>Enforcement Regulations of the Income Tax Act</i> (Ordinance of the Ministry of Strategy and Finance No. 407, March 14, 2014), Article 65-3

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 8.4) Local Presence (Article 8.7)
Description:	<u>Cross-Border Trade in Services</u> 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:	<i>Promotion of Atomic Energy Act</i> (Law No. 11714, March 23, 2013) <i>Foreign Trade Act</i> (Law No. 11873, June 7, 2013) <i>Notice on Exportation and Re-exportation of Controlled Commodities</i> (Notice of the Ministry of Trade, Industry and Energy No. 2013-39, May 31, 2013) <i>Customs Act</i> (Law No. 11602, January 1, 2013)

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 10.5) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 “investment” is defined in Article 10.2 (Definitions), such as law enforcement and correctional services. This entry does not apply to an investor or covered investment that has entered into an agreement with Korea with respect to the supply of such services.

Sector:	Transportation Services - Maritime Passenger Transportation and Maritime Cabotage
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
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 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 or any adjacent Korean islands and another port or point located in the entire Korean peninsula or any adjacent Korean islands, including on its continental shelf as provided in the <i>United Nations Convention on the Law of the Sea</i>, 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 an institution established under the Ministry of Oceans and Fisheries; (b) a vessel owned by a Korean national; (c) a vessel owned by an enterprise organised under the <i>Korean Commercial Code</i>; or (d) a vessel owned by an enterprise organised under foreign law that has its principal office in Korea and whose <i>dae-pyo-ja</i> (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 20.2 (Security Exceptions).

NEW ZEALAND

EXPLANATORY NOTE

1. The Schedule of New Zealand to this Annex sets out, pursuant to Articles 8.8 (Non-Conforming Measures) and 10.15 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which New Zealand may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 8.4 (National Treatment) or 10.5 (National Treatment);
- (b) Article 8.5 (Most-Favoured-Nation Treatment) or 10.6 (Most-Favoured-Nation Treatment);
- (c) Article 8.6 (Market Access);
- (d) Article 8.7 (Local Presence);
- (e) Article 10.11 (Performance Requirements); or
- (f) Article 10.12 (Senior Management and Boards of Directors).

For greater certainty, Article 8.6 (Market Access) refers to non-discriminatory measures.

2. Articles 8.4 (National Treatment) and 8.7 (Local Presence) are separate disciplines and a measure that is only inconsistent with Article 8.7 (Local Presence) need not be reserved against Article 8.4 (National Treatment).

3. Each entry in New Zealand's Schedule sets out the following elements:

- (a) **Sector**, refers to the sector in which the entry is made;
- (b) **Obligations Concerned**, specifies the obligation(s) referred to in paragraph 1;
- (c) **Description**, sets out the nature or scope of the non-conforming measures in the sectors, sub-sectors or activities covered by the entry; and
- (d) **Existing measure**, is included for transparency purposes. The measures stipulated therein are not exhaustive.

4. In accordance with Articles 8.8 (Non-Conforming Measures) and 10.15 (Non-Conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

5. Where an inconsistency arises in relation to the interpretation of an entry, the Description element of the entry shall prevail to the extent of the inconsistency.

SCHEDULE OF NEW ZEALAND

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to: (a) the provision of public law enforcement and correctional services; and (b) the following, to the extent that they are social services established for a public purpose: (i) child care; (ii) health; (iii) income security and insurance; (iv) public education; (v) public housing; (vi) public training; (vii) public transport; (viii) public utilities; (ix) social security and insurance; or (x) social welfare.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to water, including the allocation, collection, treatment and distribution of drinking water. This reservation does not apply to the wholesale trade and retail of bottled mineral, aerated and natural water.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross Border Trade in Services and Investment</u> New Zealand reserves the right to adopt and maintain any measure solely as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force. Such measures may include: (a) restricting the number of service suppliers; (b) allowing an enterprise, wholly or majority owned by the Government of New Zealand, to be the sole service supplier or one amongst a limited number of service suppliers; (c) imposing restrictions on the composition of senior management and boards of directors; (d) requiring local presence; or (e) specifying the juridical form of the service supplier(s).

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross Border Trade in Services and Investment</u> Where the New Zealand Government wholly owns or has effective control over an enterprise, then New Zealand reserves the right to adopt or maintain any measures regarding the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to New Zealand nationals.

Sector:	All Sectors
Obligations Concerned:	Market Access (Article 8.6)
Description:	<u>Cross Border Trade in Services</u> New Zealand reserves the right to adopt or maintain any measure that is not inconsistent with New Zealand's obligations under Article XVI of GATS as set out in New Zealand's Schedule of Specific Commitments under GATS (<i>GATS/SC/62, GATS/SC/62 Suppl. 1, GATS/SC/62/Suppl.2</i>).¹ For the purposes of this entry only, New Zealand's Schedule of Specific Commitments is modified as set out in Appendix II-A.

¹ This means that the stipulation in Articles 8.8 (Non-Conforming Measures) and 10.15 (Non-Conforming Measures) not to decrease the conformity of the measure as it existed immediately before the amendment, does not apply with respect to the Market Access entries in New Zealand's Schedule to Annex I.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 10.5) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Investment</u> New Zealand reserves the right to adopt or maintain any measure that requires the following investment activities to receive prior approval by the New Zealand Government under its overseas investment regime: (a) acquisition or control of 25 percent or more of any class of shares² or voting power³ in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$50 million; (b) commencement of business operations or acquisition of an existing business, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$50 million; (c) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's Overseas Investment legislation; and (d) acquisition, regardless of the dollar value, of 25 percent or more of any class of shares or voting power in a New Zealand entity that owns commercial fishing quota or annual catch entitlement, or the acquisition of commercial fishing quota or annual catch entitlement.

New Zealand reserves the right to adopt or maintain any measure that sets out the approval criteria to be applied to the categories of transactions that require approval under New Zealand's overseas investment regime.

² For greater certainty, the term 'shares' includes shares and other types of securities.

³ For greater certainty, 'voting power' includes the power to control the composition of 25 percent or more of the governing body of the New Zealand entity.

Existing measures:

Overseas Investment Act 2005

Fisheries Act 1996

Overseas Investment Regulations 2005

Sector:	All Sectors
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 8.5 and 10.6)
Description:	<u>Cross Border Trade in Services and Investment</u> New Zealand 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. For greater certainty, this includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements. New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to countries under any 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.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure regarding the control, management or use of: (a) protected areas, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation, and scenery preservation; or (b) species owned under enactments by the Crown or that are protected by or under an enactment.
Existing measures:	<i>Conservation Act 1987</i> and the enactments listed in: (a) Schedule 1 of the <i>Conservation Act 1987</i>; (b) the <i>Resource Management Act 1991</i>; and (c) the <i>Local Government Act 1974</i> and subsequent amendments

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any nationality or residency measures in relation to: (a) animal welfare; or (b) the preservation of plant, animal and human life and health; including in particular: (i) food safety of domestic and exported foods; (ii) animal feeds; (iii) food standards; (iv) biosecurity (v) biodiversity; or (vi) certification of the plant or animal health status of goods. Nothing in this reservation shall be construed to derogate from the obligations of Chapter 5 (Sanitary and Phytosanitary Measures), or the obligations of the SPS Agreement. Nothing in this reservation shall be construed to derogate from the obligations of Chapter 6 (Technical Barriers to Trade), or the obligations of the TBT Agreement.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure made by or under an enactment in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone, and the continental shelf, including for the issuance of maritime concessions in the continental shelf.
Existing Measures:	<i>Resource Management Act 1991</i> <i>Marine and Coastal Area (Takutai Moana) Act 2011</i> <i>Continental Shelf Act 1964</i> <i>Crown Minerals Act 1991</i> <i>EEZ and Continental Shelf (Environmental Effects) Act 2012</i>

Sector:	Business Services Legal Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to the provision to the public of publicly funded legal services.

Sector:	Business Services Fire Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to the provision of firefighting services, excluding aerial firefighting services
Existing Measures:	<i>Fire Services Act 1975</i> <i>Forest and Rural Fire Services Act 1977</i>

Sector:	Business Services Research and Development
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to: (a) research and development services carried out by state funded tertiary institutions or by Crown Research Institutes when such research is conducted for a public purpose; or (b) research and experimental development services on physical sciences, chemistry, biology, engineering and technology, agricultural sciences, medical, pharmaceutical and other natural sciences.

Sector:	Business Services Technical Testing and Analysis Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measures in respect of: (a) composition and purity testing and analysis services; (b) technical inspection services; (c) other technical testing and analysis services; (d) geological, geophysical, and other scientific prospecting services; or (e) drug testing services.

Sector:	Business Services Fisheries and aquaculture Services related to fisheries and aquaculture
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to control the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges) consistent with the provisions of the <i>United Nations Convention on the Law of the Sea</i> .
Existing Measures:	For greater transparency, examples of existing measures contained in the <i>Fisheries Act 1996</i> and the <i>Aquaculture Reform Act 2004</i> include: (a) No vessel owned or operated by an overseas person may be registered to carry out commercial fishing or fish carrying activities without the permission of the Chief Executive of the Ministry of Fisheries, and subject to any conditions that he or she thinks fit to impose. (b) Foreign fishing vessels or fish carriers are required to obtain the approval of the Chief Executive before entering New Zealand internal waters or ports. If the Chief Executive is satisfied that the vessel has undermined international conservation and management measures, he or she may deny the vessel approval to enter New Zealand internal waters. (c) Ministerial approval is required before any overseas person may be allocated, purchase or own any provisional catch history, quota, or annual catch entitlement. (d) As set out in <i>S.296B of the Fisheries Act 1996</i>, certain specified functions, duties or powers can

only be transferred to approved service delivery organisations that comply with specified criteria.

- (e) Foreign research vessels require the permission of the Minister of Fisheries to take fish, seaweed or aquatic life within the New Zealand Exclusive Economic Zone.

Sector:	Business Services Energy Manufacturing Wholesale trade Retail
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt any measure in order to prohibit, regulate, manage or control the production, use, distribution or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.

Sector:	Business Services Services incidental to mining
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to services incidental to mining.

Sector:	Business Services Immigration Services
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt any measures, with respect to licensing requirements and the enforcement of those requirements, including through information sharing, in respect of natural persons who provide immigration advice, to a person in regards to any immigration matter relating to New Zealand. For greater transparency, this entry only applies in respect of the Most-Favoured-Nation obligation to the extent that New Zealand enters into a reciprocal agreement about information sharing or enforcement of New Zealand's licensing requirements within the country with whom the agreement is made. This reservation does not apply to a national or permanent resident of Korea who is authorised to practise law in New Zealand.

Sector:	Communication Services Postal
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to the supply of postal services.

Sector:	Communication Services Audio-visual and other Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under preferential co-production arrangements, confers national treatment on works covered by such arrangements.
Existing Measures:	For greater transparency, <i>S.18 of the New Zealand Film Commission Act 1978</i> limits New Zealand Film Commission funding to films with a “significant New Zealand content”. This criterion is deemed to be satisfied if made pursuant to a co-production agreement or arrangement with the partner country in question.

Sector:	Communication Services Audio-visual and other Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure made by or under any enactment with respect to the promotion of film and television production in New Zealand and the promotion of local content on public radio and television, and in films.

Sector:	Agriculture, including services incidental to agriculture
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measures with respect to: (a) the holding of shares in the co-operative dairy company arising from the amalgamation authorised by <i>section 7(1)(a) of the Dairy Industry Restructuring Act 2001 (DIRA)</i> (or any successor body); or (b) the disposition of assets of that company or its successor bodies.
Existing Measures:	<i>Dairy Industry Restructuring Act 2001</i> and subsequent regulations.

Sector:	Agriculture, including services incidental to agriculture
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measures with respect to the export marketing of fresh kiwifruit to all markets other than Australia.
Existing Measures:	The <i>Kiwifruit Industry Restructuring Act 1999</i> and Regulations

Sector:	Agriculture, including services incidental to agriculture
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measures with respect to: (a) specifying the terms and conditions for the establishment and operation of any government endorsed allocation scheme for the rights to the distribution of export products falling within the HS Code categories covered by the Agreement on Agriculture to markets where tariff quotas, country-specific preferences or other measures of similar effect are in force; or (b) the allocation of distribution rights to wholesale trade service suppliers pursuant to the establishment or operation of such an allocation scheme.

This reservation is not intended to have the effect of prohibiting all investment in the provision of wholesale trade and distribution services relating to goods in the HS Code covered by the Agreement on Agriculture. The entry applies in respect of investment to the extent that the services sectors specified in this reservation are a subset of agricultural products subject to tariff quotas, country-specific preferences or other measures of similar effect.

Sector:	Agriculture, including services incidental to agriculture
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to maintain or adopt any measures necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as “export marketing strategies”) for the export marketing of products derived from: (a) agriculture; (b) beekeeping; (c) horticulture; (d) arboriculture; (e) arable farming; or (f) the farming of animals, where there is support within the relevant industry that a mandatory collective marketing plan should be adopted or activated. For the avoidance of doubt, mandatory marketing plans, in the context of this reservation exclude measures limiting the number of market participants or limiting the volume of exports.
Existing Measures:	<i>New Zealand Horticulture Export Authority Act 1987</i>

Sector:	Education Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to the use of statutorily protected educational terms and titles.
Existing Measures:	In the interests of greater transparency such terms include: “university”, “college of education”, “polytechnic” and “institute of technology” as set out in S.292 of the <i>Education Act 1989</i> .

Sector:	Health and Social services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to all services suppliers and investors for the supply of adoption services.

Sector:	Health and Social services
Obligations Concerned:	Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to the following services to the extent that they are provided by the private sector: (a) hospital services; or (b) maternity deliveries and related services, including services provided by midwives.

Sector:	Recreation, cultural and sporting (other than audio-visual services)
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to gambling, betting and prostitution services.
Existing Measures:	<i>Gambling Act 2003</i> and Regulations <i>Prostitution Reform Act 2003</i> <i>Racing Act 2003</i> <i>Racing (Harm Prevention and Minimisation) Regulations 2004</i> <i>Racing (New Zealand Greyhound Racing Association Incorporated) Order 2009</i>

Sector:	Recreation, cultural and sporting Library, archive, museum and other cultural services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measures in respect of: (a) cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific or technological heritage, as well as collections that are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions; (b) public archives; (c) library and museum services; or (d) services for the preservation of historical or sacred sites or historical buildings.

Sector:	Transport Maritime Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Most-Favoured-Nation Treatment (Articles 8.5 and 10.6) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Description:	<u>Cross-Border Trade in Services and Investment</u> New Zealand reserves the right to adopt or maintain any measure with respect to: (a) the carriage by sea of passengers or cargo between a port located in New Zealand and another port located in New Zealand and traffic originating and terminating in the same port in New Zealand (maritime “cabotage”); (b) provision of certain Port Services (pilotage, towing and tug assistance provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captains’ services, navigation aids, emergency repair facilities, anchorage, other shore-based operational services essential to ship operations, including communications, water and electrical supplies). However, no measures shall be applied which deny international maritime transport suppliers reasonable and non-discriminatory access to the above port services; (c) the establishment of registered companies for the purpose of operating a fleet under the New Zealand flag; (d) the registration of vessels in New Zealand; or (e) the regulation and entry of ships crews to New Zealand through the presence of natural person mode of supply.

Sector: Distribution Services

Obligations Concerned: Market Access (Article 8.6)

Description: Cross-Border Trade in Services

New Zealand reserves the right to adopt or maintain any measure for public health or social policy purposes with respect to wholesale and retail trade services of tobacco products and alcoholic beverages

Appendix II-A

KOREA

For the following Sectors, Korea's obligations under Article XVI of GATS as set out in Korea's Schedule of Specific Commitments under 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.

<u>Sector/Subsector</u>	<u>Market Access Improvements</u>
<u>Research and Development Services</u> Research and development services on natural sciences Research and development services on social sciences and humanities 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. Modify mode 1 and 2 limitations from "Unbound" to "None". 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.
<u>Market research and public opinion polling services</u>	Modify mode 1 and 2 limitations from "Unbound" to "None".
<u>Services incidental to mining</u>	Modify mode 1 and 2 limitations from "Unbound" to "None".
<u>Packaging services</u>	Modify mode 1 and 2 limitations from "Unbound" to "None".
<u>Tourism and travel related services</u> Beverage serving services without entertainment. (Excluding rail and air transport related facilities in beverage serving services without entertainment) Tour operator services Tourist Guides 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. Insert new commitments with "None" for mode 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4. Modify mode 3 from "Only travel agencies are allowed to supply tourist guide services" to "None".

NEW ZEALAND

For the purposes of New Zealand's entry on page II-58 of this Annex, New Zealand's obligations under Article XVI of GATS as set out in New Zealand's Schedule of Specific Commitments under GATS (*GATS/SC/62, GATS/SC/62 Suppl. 1, GATS/SC/62/Suppl. 2*) are improved in the following sectors as described below.

<u>Sector/Subsector</u>	<u>Market Access Improvement</u>
<u>Professional Services</u>	
(a) Integrated Engineering Services (CPC 8673)	Insert new commitment with "None" for mode 3.
<u>Computer and Related Services</u>	
(a) Maintenance and Repair of office machinery and equipment including computers (CPC 845)	Insert new commitments with "None" for modes 1, 2 and 3
<u>Other Business Services</u>	
(a) Photographic Services (CPC 875)	Insert new commitment with "None" for mode 3.
(b) Duplicating Services (CPC 87904)	Insert new commitments with "None" for modes 1, 2 and 3.
(c) Convention Agency Services (CPC 87909**)	Insert new commitments with "None" for modes 1, 2 and 3

The (**) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance.

ANNEX III

**AGREEMENT BETWEEN NEW ZEALAND AND THE REPUBLIC OF KOREA
CONCERNING AUDIO-VISUAL CO-PRODUCTION**

The Government of the Republic of Korea and the Government of New Zealand (hereinafter referred to as “the Parties”):

Seeking to enhance co-operation between their two countries in the area of audio-visual work;

Expanding on the *Agreement between the Government of the Republic of Korea and the Government of New Zealand Concerning the Co-Production of Films*;

Desirous of expanding and facilitating the co-production of audio-visual works which may be conducive to the audio-visual industries of both countries and to the development of their cultural and economic exchanges; and

Convinced that these exchanges will contribute to the enhancement of relations between the Parties;

Have agreed as follows:

Article 1: Definitions

For the purposes of this Annex:

audio-visual co-production means an audio-visual work made by one or more co-producers of a Party in co-operation with one or more co-producers of the other Party under a project approved jointly by the competent authorities, and includes an audio-visual work to which Article 5 applies;

audio-visual work means an aggregate of images, or of images and sounds, embodied in any material, and includes films, television and video recordings, animations, and digital format productions;

competent authority means the authority designated as such in this Appendix by each Party;

co-producer means one or more Korean nationals or audio-visual production companies or one or more New Zealand nationals or audio-visual production companies that are involved in the making of an audio-visual co-production, or in the case of a non-Party co-production under Article 5, co-producers from the non-Party;

nationals means:

- (a) for Korea, Korean nationals within the meaning of the *Nationality Act*, or its successor legislation, or persons who have established permanent residence in Korea; and

- (b) for New Zealand, citizens of New Zealand, or permanent residents of New Zealand; and

2008 Agreement means the *Agreement between the Government of the Republic of Korea and the Government of New Zealand Concerning the Co-Production of Films*, done at Wellington on 29 September 2008.

Article 2: Recognition as a National Audio-Visual Work and Entitlement to Benefits

1. An audio-visual co-production made in accordance with this Annex shall be fully entitled to all the benefits which are or may be accorded to national audio-visual works by each of the Parties under their respective domestic laws and regulations in force currently or in the future.
2. The competent authority of each Party shall provide to the competent authority of the other Party, on request, a copy of the domestic laws and regulations to which paragraph 1 refers, and of the details regarding benefits to which paragraph 1 refers.
3. Any benefits which may be granted within either Party in relation to an audio-visual co-production shall accrue to the co-producer who is permitted to claim those benefits in accordance with the relevant measures of that Party, subject to any other relevant international obligations.

Article 3: Approval of Projects

1. In order to be approved as an audio-visual co-production under this Annex, the audio-visual co-production shall require joint approval from the competent authorities. Approvals shall be in writing and shall specify the conditions upon which approval is granted. None of the co-producers shall be linked by common management, ownership or control, save to the extent that is inherent in the making of the audio-visual co-production itself.
2. The approval process shall comprise approval upon application and prior to the commencement of shooting, and review upon completion of the audio-visual co-production and prior to distribution.
3. The application for such approval shall comply with the relevant requirements of this Annex, including those set forth in the Appendix. In considering an application, the competent authorities may have due regard to their respective policies and guidelines, to the extent these are consistent with this Annex and the Appendix.
4. The competent authorities of the Parties shall, to the extent possible under domestic laws and regulations, exchange all information concerning the approval, rejection, change or withdrawal of any application for approval of an audio-visual co-production.

Article 4: Contributions

1. For each audio-visual co-production:

- (a) the performing, technical, craft and creative participation of the co-producers; and
- (b) the production expenditure in each of the co-producer's countries,

shall be in reasonable proportion to their respective financial contributions.

2. The proportion of the respective financial contributions of the co-producers of the audio-visual work shall be decided by arrangement between the co-producers. With respect to co-production other than broadcasting programmes (including animation for broadcasting purposes), this contribution shall be between 20 to 80 percent of the final production costs of the audio-visual work. With respect to broadcasting programmes, this contribution shall not be less than the percentage required under each Party's relevant domestic regulatory or policy arrangements.

Article 5: Non-Party Co-Productions

1. Where either Party maintains with a non-Party an audio-visual co-production agreement, the competent authorities may jointly approve an audio-visual work as an audio-visual co-production under this Annex that is to be made in conjunction with a co-producer from that non-Party.

2. Approvals under this Article shall be limited to proposals in which the contribution of the non-Party co-producer is no greater than the lesser of the individual contributions of Korean and New Zealand co-producers. In addition, both the financial and creative contributions of a non-Party co-producer shall account for not less than the percentage required under each Party's relevant domestic regulatory or policy arrangements.

3. Any non-Party co-producer shall fulfil all conditions relating to status which would be required to be fulfilled to produce an audio-visual work under the terms of the co-production agreement in force between the non-Party and either Party.

Article 6: Participation

1. Persons participating in an audio-visual co-production shall be co-producers of Korea and of New Zealand, or from a non-Party where there is a non-Party co-producer under Article 5.

2. Subject to the approval of the competent authorities:

- (a) where script or financing dictates, restricted numbers of performers from other countries may be engaged; and

- (b) in exceptional circumstances, restricted numbers of technical personnel from other countries may be engaged.

Article 7: Production

1. Except as otherwise provided in this Annex, audio-visual co-productions shall be shot and post-produced in Korea or in New Zealand or, where there is a non-Party co-producer under Article 5, in the territory of that non-Party.
2. At least 90 percent of the footage included in an audio-visual co-production shall be specially shot or created for the audio-visual work unless otherwise approved by the competent authorities.

Article 8: Location Filming

1. The competent authorities may approve location filming in places, countries or locations other than those of the participating co-producers.
2. Notwithstanding Article 6, where location filming is approved in accordance with this Article, citizens of the country in which location filming takes place may be employed as crowd artists, in small roles, or as additional employees whose services are necessary for the location work to be undertaken.

Article 9: Language

1. Each audio-visual co-production shall be made in one of the official languages of either Korea or New Zealand or, where there is a non-Party co-producer, in the official language of a non-Party under Article 5, or in any combination of those permitted languages.
2. Narration, dubbing or subtitling in any other commonly used language or dialect of the co-producers' territories shall be permitted.
3. Post-release print dubbing into any other language may be carried out in territories other than those of the participating co-producers.
4. Each audio-visual co-production may contain sections of dialogue in any language in so far as is required by the script.

Article 10: Acknowledgments and Credits

An audio-visual co-production and the promotional material associated with it shall include either a credit title indicating that the audio-visual work is an "Official Republic of Korea –

New Zealand Co-Production” or an “Official New Zealand – Republic of Korea Co-Production” or, where relevant, a credit which reflects the participation of Korea, New Zealand and any non-Party co-producer under Article 5.

Article 11: Entry Facilitation

In accordance with the laws and regulations of each Party, each of the Parties shall permit nationals of the other Party, or persons from any non-Party approved under Article 5, to enter and remain in Korea or New Zealand, as the case may be, for the purposes of making or promoting an audio-visual co-production.

Article 12: Import of Equipment

Each of the Parties shall provide, in accordance with their respective legislation, temporary admission, free of import duties and taxes, of technical equipment for the making of audio-visual co-productions.

Article 13: Distribution

The Parties shall endeavour to promote the global distribution of audio-visual co-productions in order to enhance the competitiveness of the audio-visual works in the global market.

Article 14: Technical Co-operation

The Parties shall endeavour to promote inclusive technical co-operation activities in audio-visual works and related areas such as computer graphics, virtual reality and digital cinema technologies.

Article 15: Institutional Mechanism

Each Party may request the establishment of an *ad hoc* Committee to discuss any matter related to the implementation of this Annex by delivering a written request to the competent authority of the other Party and the other Party shall give due consideration to the request. The *ad hoc* Committee shall comprise appropriate senior officials from appropriate ministries and agencies of each Party. The *ad hoc* Committee shall discuss the matter at a time and place agreed to by the Parties.

Article 16: Dispute Settlement

1. A Party may request consultations with the other Party regarding any matter arising under this Annex by delivering a written request to the competent authority of the other Party. Consultations shall commence promptly after a Party delivers a request for consultations to

the competent authority of the other Party. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.

2. If the consultations under paragraph 1 fail to resolve the matter within 60 days of the date of receipt of a request for consultations, either Party may request good offices, conciliation, mediation or non-binding arbitration. The *ad hoc* Committee shall decide the processes for resolution of the matter.

3. Chapter 19 (Dispute Settlement) shall not apply to any matter or dispute arising under this Annex.

Article 17: Status of the Annex and the Appendix

1. This Annex is an integral part of this Agreement. However, Chapters 8 (Cross-Border Trade in Services), 10 (Investment), 19 (Dispute Settlement) and 20 (General Provisions and Exceptions) shall not apply to this Annex.

2. In the event of any inconsistency between this Annex and any other provision in this Agreement, this Annex shall prevail to the extent of the inconsistency. Nothing in this Annex shall be used to construe any other provision in this Agreement. No provision elsewhere in this Agreement shall be used to construe any provision in this Annex.

3. The Appendix to this Annex constitutes an implementing arrangement in respect of this Annex and shall be read in conjunction with the provisions of this Annex.

4. Subject to Article 19.2 of this Annex, any modifications to the Appendix shall be jointly decided by the competent authorities following consultations with the *ad hoc* Committee. No modification to the Appendix shall conflict with the provisions of this Annex.

5. Modifications to the Appendix shall be confirmed by the competent authorities in writing and shall take effect on the date specified.

Article 18: Entry into Force of the Annex and Termination of the 2008 Agreement

1. This Annex shall enter into force on the date of entry into force of this Agreement.

2. The 2008 Agreement shall terminate on the date of entry into force of this Annex.

3. In accordance with Article 19 of the 2008 Agreement and notwithstanding paragraph 2, the 2008 Agreement shall continue as if in force in respect of any co-production film approved by the competent authorities under the 2008 Agreement and yet to be completed prior to its termination.

Article 19: Amendment

1. Subject to paragraph 2, this Annex may be amended by written agreement between the Parties through an exchange of diplomatic notes. Amendments shall enter into force on the date specified in the notes.
2. Either Party may by diplomatic note notify the other Party of a change in its competent authority. The change shall take effect on the date specified in the note.

Article 20: Duration and Termination

1. The term of this Annex shall be for a period of three years from the date it enters into force and it shall thereafter be automatically renewed for further periods of three years. Either Party may terminate this Annex by giving notice in writing through diplomatic channels six months before the expiry of the relevant three-year period, in which case this Annex shall terminate at the conclusion of that three-year period.
2. Notwithstanding paragraph 1, this Annex shall continue as if in force in respect of any audio-visual co-production approved by the competent authorities and yet to be completed prior to termination.

Appendix III-1

Implementing Arrangement to Annex III

1. The competent authorities for the Agreement between New Zealand and the Republic of Korea concerning Audio-Visual Co-Production are:

- (a) for Korea, the Korean Film Council for audio-visual works, which are intended to be shown in cinemas, and the Korea Communications Commission for broadcasting programmes; and
- (b) for New Zealand, the New Zealand Film Commission.

2. In order to benefit from the provisions of the Annex, the co-producers will, before shooting commences, submit an application for co-production status and attach the documents listed below:

- (a) a copy of the documentation concerning the ownership of the copyright for the commercial exploitation of the work;
- (b) a synopsis including concrete information on the theme and contents of the work;
- (c) a list of the technical and artistic contributions from each of the countries involved;
- (d) a work plan stating the periods and locations of principal photography on a weekly basis for studio and outdoor shooting;
- (e) a budget including a detailed financing plan;
- (f) a production schedule;
- (g) the co-production contract made between the producers, which will specify details of the technical and artistic contributions, financial contributions, as well as the sharing of markets and profits amongst the co-producers, and any other relevant matters; and
- (h) all the documentation that the competent authorities require to conduct the technical and financial evaluation of the project.