ANNEX I
EXPLANATORY NOTES

1. The Schedule of a Party in this Annex sets out, in accordance with Articles 9.8 (Non-Conforming Measures) and 10.6 (Non-Conforming Measures), the Party's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 9.3 (National Treatment) or 10.2 (National Treatment);

(b) Article 9.4 (Most-Favored-Nation Treatment) or 10.3 (Most-Favored-Nation Treatment);

(c) Article 10.5 (Local Presence);

(d) Article 9.6 (Senior Management and Boards of Directors);

(e) Article 9.7 (Performance Requirements); or

(f) Article 10.4 (Market Access).

2. Each Schedule entry sets out the following elements:

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

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

(c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, in accordance with Articles 9.8.1(a) and 10.6.1(a), shall not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;

(d) **Level of Government**[1] indicates the level of government maintaining the scheduled measure(s);

(e) **Measures** identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the **Measures** element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

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

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

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 liberalization 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 9.8.1(a) and 10.6.1(a), and subject to Articles 9.8.1(c) and 10.6.1(c), the Articles of this Agreement specified in the **Obligations Concerned** element of an entry shall not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry.

5. Where a Party 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 10.2 (National Treatment), 10.3 (Most-Favored-Nation Treatment), or 10.5 (Local Presence) shall operate as a Schedule entry with respect to Article 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment), or 9.7 (Performance Requirements) to the extent of that measure.

6. For greater certainty, Local Presence (Article 10.5) and National Treatment (Article 10.2) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 10.5) need not be reserved against National Treatment (Article 10.2).

7. A measure that may establish requirements regarding the types and quantities of raw materials for producing liquor under Korea's *Liquors Act* (Law No. 8837, January 9, 2008) and its subordinate regulations is not inconsistent with Article 9.7 (Performance Requirements), provided that it is applied in a manner consistent with the Agreement on Trade-Related Investment Measures, contained in Annex 1A to the WTO Agreement.

ANNEX I
SCHEDULE OF KOREA

1. Sector: Construction Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Framework Act on the Construction Industry* (Law No. 8971, March 21, 2008), Articles 9 and 10

Enforcement Decree of the Framework Act on the Construction Industry (Presidential Decree No. 21233, December 31, 2008), Article 13

Enforcement Regulations of the Framework Act on the Construction Industry (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 89, December 31, 2008), Articles 2 and 3

Information and Communication Construction Business Act (Law No. 9553, March 25, 2009), Article 14

Fire Fighting System Installation Business Act (Law No. 9198, December 26, 2008), Articles 4 and 5

Enforcement Decree of the Fire Fighting System Installation Business Act (Presidential Decree No. 21381, December 18, 2008), Article 2 (Table 1)

Enforcement Regulations of the Fire Fighting System Installation Business Act (Ordinance of the *Ministry of Public Administration and Security* No. 47, December 18, 2008), Article 2

Description: Cross-Border Trade in Services

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.

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

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Construction Machinery Management Act* (Law No. 8980, March 21, 2008), Article 21

Enforcement Decree of the Construction Machinery Management Act Act (Presidential Decree No. 21263, January 14, 2009), Articles 13, 14, 15, and 15-2

Enforcement Regulations of the Construction Machinery Management Act (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 115, April 7, 2007), 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.

3. Sector:	Transportation Services
Sub-Sector:	Automobile Maintenance, Repair, Sales, Disposal, and Inspection Services; Automobile License Plate Issuing Services
Obligations Concerned:	Market Access (Article 10.4) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	*Automobile Management Act* (Law No. 9109, June 13, 2008), Articles 20, 44, 45, and 53 *Enforcement Regulations of the Automobile Management Act* (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 116, April 8, 2009), Articles 7, 8, 83, 87, and 111
Description:	<u>Cross-Border Trade in Services</u> A person that supplies automobile management services (which includes used car sales, maintenance, repair, and disposal services) must establish an office in Korea and obtain authorization from the head of the *si/gun/gu* (municipal authorities), which is subject to an economic needs test, as appropriate. A person that supplies automobile inspection services that is designated as a "designated repair facility" must establish an office in Korea. A person that supplies license plate manufacturing, delivery, and seal services that is designated as a "license plate issuing agency" must establish an office in Korea.

4. Sector: Manufacturing and Distribution Services

Sub-Sector: Tobacco and Liquor

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Tobacco Business Act* (Law No. 8852, February 29, 2008), Articles 12, 13, and 16

Enforcement Decree of the Tobacco Business Act (Presidential Decree No. 21148, December 3, 2008), Articles 4 and 5

Enforcement Regulations of the Tobacco Business Act (Ordinance of the *Ministry of Strategy and Finance* No. 600, January 14, 2008), Articles 5, 6-2, and 7

Liquors Act (Law No. 8837, January 9, 2008), Articles 8, 9, 10, 40, and 43

Enforcement Decree of the Liquors Act (Presidential Decree No. 21295, Feb. 4, 2009), Articles 9, 45, 51, and 56

Notice of National Tax Service, 2005-5 and 2006-24

Description: Cross-Border Trade in Services

A person that supplies tobacco wholesale (including importation) or retail distribution services must establish an office in Korea.

Only designated tobacco retailers may sell tobacco to retail buyers. The sale of tobacco to retail buyers by mail or in electronic commerce is prohibited.

The distance between places of business of tobacco retailers must be at least 50 meters.

A person that supplies liquor wholesale distribution services must establish an office in Korea and obtain 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.

5. Sector: Agriculture and Livestock

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.3)

Level of Government: Central

Measures: *Foreign Investment Promotion Act* (Law No. 9071, March 28, 2008), Article 4

Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 21214, December 31, 2008), Article 5

Consolidated Public Notice for Foreign Investment (Notice of the *Ministry of Knowledge Economy* No. 2009-81, March 4, 2009), Appendix 1

Description: Investment

Foreign persons may not:

(a) invest in an enterprise engaged in rice or barley farming; or

(b) hold 50 percent or more of the equity interest of an enterprise engaged in beef cattle farming.

6. Sector: Business Services

Sub-Sector: *An-gyung-sa* (Optician and Optometry) Services

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Medical Technicians Act* (Law No. 8852, February 29, 2008), Article 12

Enforcement Regulations of the Medical Technicians Act (Ordinance of the *Ministry of Health, Welfare and Family Affairs Decree* No. 89, January 16, 2009), Article 15

Description: Cross-Border Trade in Services

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

An *an-gyung-sa* (optician and optometrist) may not establish more than one office.

7. Sector: Wholesale and Retail Distribution Services

Sub-Sector:

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Pharmaceutical Affairs Act* (Law No. 9123, June 13, 2008), Articles 42 and 45

Decree on the Facility Standards of Pharmacy, Manufacturer, Importer and Distributor of Pharmaceuticals (Presidential Decree No. 20679, February 29, 2008), Articles 6 and 7

Supply, Demand and Distribution of Oriental Medicinal Herbs Regulations (Notice of the *Ministry of Health, Welfare and Family Affairs* No. 2008-142, November 28, 2008), Articles 4 and 13

Medical Devices Act (Law No. 8852, February 29, 2008), Article 14

Enforcement Regulations of the Medical Devices Act (Ordinance of the *Ministry of Health, Welfare and Family Affairs* No. 84, December 31, 2008), Article 19

Functional Foods Act (Law No. 8941, September 22, 2008), Article 6

Enforcement Regulations of the Functional Foods Act (Ordinance of the *Ministry of Health, Welfare and Family Affairs* No. 88, January 13, 2009), Articles 2 and 5

Food Sanitation Act (Law No. 8852, February 29, 2008), Articles 18, 21, and 22

Enforcement Decree of the Food Sanitation Act (Presidential Decree No. 21371, March 25, 2009), Articles 9 through 11

Enforcement Regulations of the Food Sanitation Act (Ordinance of the *Ministry of Health, Welfare and Family Affairs* No. 102, April 3, 2009), Articles 16 and 20 (attached table 9)

Act on the Control of Narcotics (Law No. 9024, March 28, 2008), Article 6

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) 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, Welfare and Family Affairs 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 authorization by the relevant authority.

8. Sector: Retail Distribution of Pharmaceuticals

Sub-Sector:

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Pharmaceutical Affairs Act* (Law No. 9123, June 13, 2008), Articles 20, 21, 23, 44, and 50

Decree on the Facility Standards of Pharmacy, Manufacturer, Importer and Distributor of Pharmaceuticals (Presidential Decree No. 20679, February 29, 2008), Articles 1, 2, and 3

Enforcement Regulations of the Pharmaceutical Affairs Act (Ordinance of the *Ministry of Health, Welfare and Family Affairs* No. 77, December 1, 2008), Article 7

Description: Cross-Border Trade in Services

A person that supplies pharmaceutical product retail distribution services (including distribution of *han-yak-jae* (Asian medicinal herbs)) must establish a pharmacy in Korea.

That person may not establish more than one pharmacy nor establish in the form of a corporation.

9. Sector: Transportation Services

Sub-Sector: International Maritime Cargo Transportation and Maritime Auxiliary Services

Obligations Concerned: National Treatment (Article 10.2)
Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Maritime Transportation Ac*t (Law No. 9615, April 1, 2009), Articles 24 and 33

Enforcement Regulations of the Maritime Transportation Act (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 110, March 26, 2009), Articles 17, 19, 29, and 30

Pilotage Act (Law No. 9443, February 6, 2009), Article 6

Ship Investment Company Act (Law No. 8863, February 29, 2008), Articles 3 and 31

Description: Cross-Border Trade in Services

A person that supplies international maritime cargo transportation and shipping brokerage services must be organized as a *Chusik Hoesa* (stock company) in Korea. A ship investment company must also be organized as a *Chusik Hoesa* (stock company) in Korea.

Only a Korean national may supply maritime pilotage services.

10. Sector: Transportation Services

Sub-Sector: Air Transportation Services

Obligations Concerned: National Treatment (Article 9.3)
Senior Management and Boards of Directors (Article 9.6)

Level of Government: Central

Measures: *Aviation Act* (Law No. 9313, December 31, 2008), Articles 3, 6, 112, 113, 114, and 132

Enforcement Regulations of the Aviation Act (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 98, February 10, 2009), Articles 278, 278-2, 298, and 299

Description: Investment

The following persons may not supply scheduled or non-scheduled domestic air transportation services or supply international air transportation services as Korean air carriers:

(a) a foreign national;

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

(c) an enterprise organized under foreign law;

(d) an enterprise in which any of the persons referred to in subparagraphs (a) through (c) owns 50 percent or more of the equity interest, or has control; or

(e) an enterprise organized under Korean law whose *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals.

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

11. Sector: Transportation Services

Sub-Sector: Aircraft Use Business

Obligations Concerned: National Treatment (Articles 9.3)
Senior Management and Boards of Directors (Article 9.6)

Level of Government: Central

Measures: *Aviation Act* (Law No. 9313, December 31, 2008), Articles 3, 6, and 134

Enforcement Regulations of the Aviation Act (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 98, February 10, 2009), Articles 298 and 299-2

Description: Investment

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, Transport and Maritime Affairs.

The following persons may not register an aircraft:

(a) a foreign national;

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

(c) an enterprise organized under foreign law;

(d) an enterprise in which any of those referred to in subparagraphs (a) through (c) owns 50 percent or more of the equity interest, or has control; or

(e) an enterprise organized 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 purposes of this entry, aircraft-*sa-yong* (use) services are services using an aircraft, and supplied upon request, for hire, other than for passenger or freight transportation, including aerial fire-fighting, forestry fire management, aerial advertising, flight training, aerial mapping, aerial investigation, aerial spraying, aerial photographing and other aerial agricultural activities, and aerial inspections and observations.

12. Sector: Courier Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Aviation Act* (Law No. 9313, December 31, 2008), Article 139

Enforcement Regulations of the Aviation Act (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 98, February 10, 2009), Article 306

Description: Cross-Border Trade in Services

To supply international courier services that include commercial document delivery services, as specified in Article 3 of the *Enforcement Decree of the Postal Services Act,* a person must establish an office in Korea.

13. Sector: Telecommunications Services

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Telecommunications Business Act* (Law No. 9702, May 21, 2009), Articles 5, 5-2, 6, 19, and 59-2

Telecommunications Business Act (Law No. 5385, August 28, 1997), Addenda Article 4

Radio Waves Act (Law No. 9482, March 13, 2009), Articles 13 and 20

Description: Investment and Cross-Border Trade in Services

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 organized under Korean law.

A license for facilities-based public telecommunications services shall not be granted to or held by a juridical person organized under Korean law in which a foreign government, foreign person, or deemed foreign person holds in the aggregate more than 49 percent of the juridical person's total voting shares.

A foreign government, foreign person, or deemed foreign person may not in the aggregate hold more than 49 percent of the total voting shares of a facilities-based supplier of public telecommunications services. In addition, with respect to KT Corporation (KT), a foreign government, foreign person, or deemed foreign person may not be the largest shareholder of KT, except if it holds less than five percent of the total voting shares of KT.

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

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

For purposes of this entry:

(a) **deemed foreign person** means a juridical person organized 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 4.2 of the *Telecommunications Business Act* (Law No. 9702, May 21, 2009), a facilities-based supplier is a supplier that owns transmission facilities;

(c) consistent with Article 4.3 of the *Telecommunications Business Act* (Law No. 9702, May 21, 2009), 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 Article 2.3 of the *Telecommunications Basic Act* (Law No. 9481, March 13, 2009), **transmission facilities** means wireline or wireless transmission facilities (including circuit facilities) that connect transmitting points with receiving points.

14. Sector: Real Estate Brokerage and Appraisal Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions* (Law No. 9127, June 13, 2008), Article 9

Enforcement Decree of the Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions (Presidential Decree No. 21159, December 9, 2008), Article 13

Enforcement Regulations of the Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions (Ordinance of the *Ministry of Land, Transportation and Maritime Affairs* No. 50, September 12, 2008), Article 4

Public Notice of Values and Appraisal of Real Estate Act (Law No. 9055, March 28, 2008), Article 27

Enforcement Decree of the Public Notice of Values and Appraisal of Real Estate Act (Presidential Decree No. 21189, December 24, 2008), Articles 65, 66, and 68

Enforcement Regulations of the Public Notice of Values and Appraisal of Real Estate Act (Ordinance of the *Ministry of Land, Transportation and Maritime Affairs* No. 81, December 26, 2008), 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.

15. Sector: Retail, Leasing, Rental, and Repair Services

Sub-Sector: Medical Devices

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Medical Devices Act* (Law No. 8852, February 29, 2008), Articles 15 and 16

Enforcement Regulations of the Medical Devices Act (Ordinance of the *Ministry of Health, Welfare and Family Affairs* No. 84, April 18, 2008), Articles 22 and 24

Description: Cross-Border Trade in Services

A person that supplies retail, leasing, rental, or repair services related to medical devices must establish an office in Korea.

16. Sector:	Rental Services
Sub-Sector:	Automobiles
Obligations Concerned:	Local Presence (Article 10.5)
Level of Government:	Central
Measures:	*Passenger Transport Service Act* (Law No. 9070, March 28, 2008), Articles 29 and 30 *Enforcement Regulations of the Passenger Transport Service Act* (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 102, February 24, 2009), Article 52
Description:	<u>Cross-Border Trade in Services</u> A person that supplies automobile rental services must establish an office in Korea.

17. Sector:	Scientific Research Services and Sea Map Making Services
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2)
Level of Government:	Central
Measures:	*Marine Scientific Research Act* (Law No. 8852, February 29, 2008), Articles 6, 7, and 8 *Territorial Sea and Contiguous Zone Act* (Law No. 4986, December 6, 1995), Article 5
Description:	<u>Investment and Cross-Border Trade in Services</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 or exclusive economic zone of Korea must obtain prior authorization or consent from the Minister of Land, Transport and Maritime Affairs 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 Land, Transport and Maritime Affairs.

18. Sector: Professional Services

Sub-Sector: Legal Services

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Attorney-at-law Act* (Law No. 9416, February 26, 2009), Articles 4, 7, 21, 34, 45, 58-6, 58-22, and 109

Certified Judicial Scriveners Act (Law No. 8920, March 21, 2008), Articles 2, 3, and 14

Notary Public Act (Law No. 9416, February 6, 2009), Articles 10, 16, and 17

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

Only a *byeon-ho-sa* (Korean-licensed lawyer) registered with the Korean Bar Association may supply legal services.

Only a *byeon-ho-sa* (Korean-licensed lawyer) may establish the following types of legal entity: *beop-yool-sa-mu-so* (law office), *beop-mu-beop-in* (law company with the characteristics of partnership), *beop-mu-beop-in* (*yoo-han*) (limited liability law company), or *beop-mu-jo-hap* (limited liability partnership law office). For greater certainty, a person that is not a Korean-licensed lawyer is not permitted to invest in any of these types of legal entity.

A *byeon-ho-sa* (Korean-licensed lawyer) or *beop-mu-sa* (Korean-certified judicial scrivener) who practices in Korea must establish an office in the jurisdiction of the district court in which he or she practices. A *gong-jeung-in* (Korean notary public) must establish an office in the jurisdiction of the district office of the public prosecutor in which he or she practices.

This entry is subject to the commitments undertaken in the entry for Legal Services – Foreign Legal Consultants in the Schedule to Annex II.

19. Sector: Professional Services

Sub-Sector: Labor Affairs Consulting Services

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Certified Labor Affairs Consultant Act* (Law No. 9255, December 26, 2008), Articles 5, 7-3, and 7-4

Description: Cross-Border Trade in Services

A person that supplies labor affairs consulting services must establish an office in Korea and be a *gong-in-no-mu-sa* (Korean-licensed labor affairs consultant).

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

20. Sector: Professional Services

Sub-Sector: Patent Attorney (*byeon-ri-sa*)

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Patent Attorney Act* (Law No. 7870, March 3, 2006), Articles 3, 5, 6-2, and 6-3

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

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

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

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

21. Sector: Professional Services

Sub-Sector: Accounting and Auditing Services

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Certified Public Accountant Act* (Law No. 8863, February 29, 2008), Articles 2, 7, 12, 18, and 23

External Audit of Stock Companies Act (Law No. 9408, February 3, 2009), Article 3

Description: Cross-Border Trade in Services

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

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

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

22. Sector: Professional Services

Sub-Sector: Tax Accountant (*se-mu-sa*)

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Certified Tax Accountant Act* (Law No. 9348, January 30, 2009), Articles 6, 13, 16-3, and 20

Enforcement Decree of the Corporate Tax Act (Presidential Decree No. 21302, February 4, 2009), Article 97

Guidelines Governing the Work of Tax Agents, Articles 20 and 22

Description: Cross-Border Trade in Services

Only a *se-mu-sa-mu-so* (sole proprietorships), *se-mu-jo-jeong-ban* (tax reconciliation task forces), or *se-mu-beop-in* (tax agency corporation limited liability company) established in Korea by *se-mu-sa* (Korean-certified tax accountants) registered under the *Certified Tax Accountant Act* may supply *se-mu-sa* (Korean-certified tax accountants) services, including tax reconciliation services and tax representative services. For greater certainty, a person that is not a Korean-registered certified tax accountant may not invest in any of these types of legal entity.

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

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

23. Sector: Professional Services

Sub-Sector: Customs Clearance Services

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Customs Broker Act* (Law No. 7796, December 29, 2005), Articles 3, 7, and 9

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

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

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

24. Sector:	Engineering and Other Technical Services
Sub-Sector:	Industrial Safety, Health Institution, and Consulting Services
Obligations Concerned:	Local Presence (Article 10.5)
Level of Government:	Central
Measures:	*Industrial Safety and Health Act* (Law No. 9319, December 31, 2008), Articles 15 and 52-4 *Enforcement Decree of the Industrial Safety and Health Act* (Presidential Decree No. 21263, January 14, 2009), Articles 15-3 and 19-3 *Enforcement Regulations of the Industrial Safety and Health Act* (Ordinance of the *Ministry of Employment and Labor* No. 265, January 12, 2007), Articles 18, 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.

25. Sector:	Engineering and Other Technical Services
Sub-Sector:	Architectural Services, Engineering Services, Integrated Engineering Services, Urban Planning, and Landscape Architectural Services
Obligations Concerned:	Local Presence (Article 10.5)
Level of Government:	Central
Measures:	*Certified Architects Act* (Law No. 9187, December 26, 2008), Article 23 *Enforcement Decree of the Certified Architects Act* (Presidential Decree No. 21214, December 31, 2008), Articles 22 and 23 *Enforcement Regulations of the Certified Architects Act* (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 4, March 14, 2008), Article 13 *Engineering Technology Promotion Act* (Law No. 9502, March 18, 2009), Article 4 *Professional Engineers Act* (Law No. 8852, February 29, 2008), Article 6 *Special Act on the Safety Control of Public Structures* (Law No. 8967, March 21, 2008), Article 9 *Enforcement Decree of the Special Act on the Safety Control of Public Structures* (Presidential Decree No. 21020, September 18, 2008), Article 11 *Construction Technology Management Act* (Law No. 9056, March 28, 2008), Articles 25 and 28 *Enforcement Decree of the Construction Technology Management Act* (Presidential Decree No.21402, March 31, 2009), Articles 49 and 54 *Enforcement Regulations of the Construction Technology Management Act* (Ordinance of the *Ministry of Land, Transport and Maritime Affairs* No. 113, April 6, 2009), Article 28 *Act on Assessment of Impacts of Works on the Environment* (Law No. 9037, March 28, 2008), Article 35 *Surveying Act* (Law No. 8852, February 29, 2008), Article 39

Enforcement Decree of the Surveying Act (Presidential Decree No. 21025, September 22, 2008), Articles 15, 16, and 18

Environmental Testing and Inspection (Law No. 8957, March 21, 2008), Article 16

Thermal Spring Management Act (Law No. 9202, December 26, 2008), Article 7

Fire Fighting System Installation Business Act (Law No. 9198, December 26, 2008), Article 4

Description: Cross-Border Trade in Services

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

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

26. Sector: Business Services

Sub-Sector: Electronic Billboard Operator Services and Outdoor Advertisement Services

Obligations Concerned: Performance Requirements (Article 9.7)
Senior Management and Boards of Directors (Article 9.6)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Broadcasting Act* (Law No. 9280, December 31, 2008), Articles 13 and 73

Outdoor Advertisements, Etc. Management Act (Law No. 8974, March 21, 2008), Article 11

Enforcement Decree of the Outdoor Advertisements, Etc. Management Act (Presidential Decree No. 20911, July 9, 2008), Articles 31 and 41

Description: Investment and Cross-Border Trade in Services

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

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

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

27. Sector: Business Services

Sub-Sector: Job Placement Services, Labor Supply and Worker Dispatch Services, and Education Services for Seafarers

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Employment Security Act* (Law No. 9040, March 28, 2008), Articles 19 and 33

Enforcement Decree of the Employment Security Act (Presidential Decree No. 20506, December 31, 2007), Articles 21 and 33

Enforcement Regulations of the Employment Security Act (Ordinance of the *Ministry of Employment and Labor* No. 316, March 10, 2009), Articles 17 and 36

Act Relating to Protection for Dispatched Workers (Law No. 8964, March 21, 2008), Article 7, 8, 9, and 10

Enforcement Decree of the Act Relating to Protection for Dispatched Workers (Presidential Decree No. 20094, June 18, 2007), Article 3

Enforcement Regulations of the Act Relating to Protection for Dispatched Workers (Ordinance of the *Ministry of Employment and Labor* No. 318, March 10, 2009), Articles 3, 4, and 5

Act on Designation and Management of Free Economic Zones (Law No. 9216, December 26, 2008), Article 17

Seafarers Act (Law No. 8381, April 11, 2007), Articles 100, 101, 103, 104, 106, 107, 122-2, and 122-3

Korea Institute of Maritime and Fisheries Technology Act (Law No. 6457, March 28, 2001), Article 5

Description: <u>Investment and Cross-Border Trade in Services</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 April 17, 2009 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, in accordance with the review and determination by the Committee of the Free Economic Zone.

Only the Korea Seafarers Welfare and Employment Center and Regional Maritime Affairs and Port Office may supply seafaring labor supply services.

To become an agent for seafarer personnel management services, a person must register with the Minister of Land, Transport and Maritime Affairs 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.

28. Sector: Investigation and Security Services

Sub-Sector:

Obligations Concerned: Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Certified Private Security Act* (Law No. 7671, August 4, 2005), Articles 3 and 4

Enforcement Decree of the Certified Private Security Act (Presidential Decree No. 18312, March 17, 2004), Articles 3 and 4

Enforcement Regulations of the Certified Private Security Act (Ordinance of the *Ministry Public Administration and Security*, No. 345, September 7, 2006), Article 3

Description: Cross-Border Trade in Services

Only a juridical person organized under Korean law may supply security services in Korea.

For transparency purposes, only five types of security services are permitted in Korea:

(a) *shi-seol-gyung-bee* (facility security);

(b) *ho-song-gyung-bee* (escort security);

(c) *shin-byun-bo-ho* (personal security);

(d) *gee-gye-gyung-bee* (mechanized security); and

(e) *teuk-soo-gyung-bee* (special security).

29. Sector: Distribution Services Related to Publications

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures: *Publication and Printing Promotion Act* (Law No. 8852, February 29, 2008), Article 12

Enforcement Decree of the Publication and Printing Promotion Act (Presidential Decree No. 20676, February 29, 2008), Article 7

Enforcement Regulations of the Publication and Printing Promotion Act (Ordinance of the *Ministry of Culture, Sports and Tourism* No. 1, March 6, 2008), Article 7

Description: Cross-Border Trade in Services

A person that imports the following types of foreign publications for purposes of domestic distribution must obtain a recommendation from the Minister of Culture, Sports and Tourism:

(a) publications issued by anti-government subversive entities or groups; or

(b) novels, comics, photo albums, pictorial series, and magazines.

Distributors of domestic publications are subject to a review process on *ad hoc* basis after distribution takes place.

30. Sector: Transportation Services

Sub-Sector: Aircraft Maintenance and Repair Services

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Aviation Act* (Law No. 9313, December 31, 2008), Articles 137 and 138

Enforcement Regulations of the Aviation Act (Ordinance of the *Ministry of Land, Transportand Maritime Affairs* No. 98, February 10, 2007), Articles 16, 304, and 305

Description: Cross-Border Trade in Services

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

31. Sector: Education Services

Sub-Sector: Higher Education

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Market Access (Article 10.4)
Senior Management and Boards of Directors (Article 9.6)

Level of Government: Central

Measures: *Higher Education Act* (Law No. 9356, January 30, 2009), Articles 3, 4, 21, 32, 42, and 43

Enforcement Decree of the Higher Education Act (Presidential Decree No. 21265, January 16, 2009), Articles 13 and 28

Private School Act (Law No. 8888, March 14, 2008), Articles 3, 5, 10, and 21

Enforcement Decree of the Private School Act(Presidential Decree No. 21274, January 28, 2009), Article 9-3

Decree for the Establishment of the Korea Air and Correspondence University (Presidential Decree No. 21337, February 27, 2009), Articles 1 and 2

Seoul Metropolitan Area Readjustment Planning Act (Law No. 10219, March 31, 2010), Articles 7, 8, 9, and 18

Enforcement Decree of the Seoul Metropolitan Area Readjustment Planning Act (Presidential Decree No. 22075, March 15, 2010), Articles 3, 10, 11, 12, 13, and 14

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

At least 50 percent of the members of the board of directors of a private higher education institution must be Korean nationals. If a foreign person contributes at least 50 percent of the basic property of a higher education institution, up to but not including two thirds of the members of the board of directors of such an institution may be foreign nationals.

For purposes of this entry, **basic property** means real estate, property designated as basic property by the articles of association, property incorporated into the basic property according to decisions of the board of directors, and an annual budgetary surplus reserve of the institution.

Only non-profit school juridical persons approved by the

Minister of Education, Science and Technology may establish higher education institutions (other than the types of institutions listed in Annex II) in Korea.

In the Seoul Metropolitan Area, the new establishment, extension, or transfer of a higher education institution other than Intra-company Universities may be restricted.

The Minister of Education, Science and Technology 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 purposes of this entry, “Seoul Metropolitan Area” includes the Seoul Metropolitan City, Incheon Metropolitan City, and Gyeonggi Province.

Local higher education institutions may jointly operate curricula only with foreign higher education institutions that have obtained accreditation from foreign governments or authorized foreign accreditation bodies.

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.

32. Sector: Education Services

Sub-Sector: Adult Education

Obligations concerned: National Treatment (Articles 9.3 and 10.2)
Market Access (Article 10.4)

Level of Government: Central

Measures: *Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act* (Law No. 8483, May 25, 2007), Articles 2, 2-2, and 13

Enforcement Decree of the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act (Presidential Decree No. 20740, February 29, 2008), Article 12

Lifelong Education Act (Law No. 9641, May 8, 2009), Articles 30, 33, 35, 36, 37, and 38

Seoul Metropolitan Area Readjustment Planning Act (Law No. 10219, March 31, 2010), Articles 7, 8, 9, and 18

Enforcement Decree of the Seoul Metropolitan Area Readjustment Planning Act (Presidential Decree No. 22075, March 15, 2010), Articles 3, 10, 11, 12, 13, and 14

Foreign Investment Promotion Act (Law No. 10339, June 4, 2010), Article 4

Consolidated Public Notice for Foreign Investment (Notice of the *Ministry of Knowledge Economy* No. 2010-83, March 8, 2010)

Description: Investment and Cross-Border Trade in Services

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

(a) hag-won (private teaching institutes for adults) related to lifelong and vocational education, which do not offer the courses approved for credits; and

(b) no later than the date this Agreement enters into force, lifelong adult education facilities operated for purposes other than offering the courses approved for credits, recognizing educational qualifications or conferring diplomas, which include:

(i) educational facilities annexed to workplaces, non-governmental organizations, schools and media organizations; and

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

all of which are established for adults.

For purposes of this entry, *hag-won* (private teaching institutes for adults) are the 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.

The establishment, extension, and transfer of the training facilities in Seoul Metropolitan Areas may be restricted.

33. Sector: Education Services

Sub-Sector: Vocational Competency Development Training Services

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Workers' Vocational Competency Development Act* (Law No. 9316, December 31, 2008), Articles 28, 32, and 36

Enforcement Decree of the Workers' Vocational Competency Development Act (Presidential Decree No. 21398, March 31, 2009), Articles 24 and 26

Enforcement Regulations of the Workers' Vocational Competency Development Act (Ordinance of the *Ministry of Employment and Labor* No. 320, April 1, 2009), Articles 12 and 14

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

A person that supplies vocational competency development training services must establish an office in Korea.

34. Sector: Veterinary Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: *Veterinary Affairs Act* (Law No. 10310, November 26, 2010), Article 17

Fish Culture Promotion Act (Law No. 9627, April 23, 2010), Article 24

Description: Cross-Border Trade in Services

A person that supplies veterinary or aquatic animal disease inspection services must establish an office in Korea.

35. Sector: Environmental Services

Sub-Sector: 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 10.5)

Level of Government: Central

Measures: *Water Quality Conservation Act* (Law No. 7459, March 31, 2005), Article 62

Development of and Support for Environmental Technology Act (Law No. 7820, December 30, 2005), Articles 17 and 18

Soil Environment Conservation Act (Law No. 7459, March 31, 2005), Article 23-7

Groundwater Act (Law No. 7924, March 24, 2006), Article 29-2

Clean Air Conservation Act (Law No. 7459, March 31, 2005), Article 40

Act on Assessment of Impacts of Works on Environment, Traffic and Disasters (Law No. 7573, May 31, 2005), Article 8

Toxic Chemicals Control Act (Law No. 7849, February 21, 2006), Article 20

Wastes Control Act (Law No. 7459, March 31, 2005), Article 26

Enforcement Decree of the Wastes Control Act (Presidential Decree No. 18471, July 13, 2004), Article 6

Description: Cross-Border Trade in Services

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

36. Sector: Performance Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures:

Public Performance Act (Law No. 8852, February 29, 2008), Articles 6 and 7

Enforcement Decree of the Public Performance Act (Presidential Decree No. 21214, December 31, 2008), Articles 4 and 6

Enforcement Regulations of the Public Performance Act (Ordinance of the *Ministry of Culture*, *Sports and Tourism* No. 18, November 14, 2008), Article 4

Enforcement Regulations of the Immigration Control Act (Ordinance of the *Ministry of Justice* No. 661, April 3, 2009), Table 5

Description:

Cross-Border Trade in Services

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.

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

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Senior Management and Boards of Directors (Article 9.6)
Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *News Agency Promotion Act* (Law No. 9214, December 26, 2008), Articles 7, 8, 9, 9-5, 16 and 28

Enforcement Decree of the News Agency Promotion Act (Presidential Decree No. 20836, June 20, 2008), Articles 4 and 10

Radio Waves Act (Law No. 9482, March 13, 2009), Article 20

Description: Investment and Cross-Border Trade in Services

A *news-tong-sin-sa* (news agency) organized under foreign law may supply *news-tong-sin* (news communications*)* in Korea only under a contract with a news agency organized under Korean law which has a radio station license, such as Yonhap News.

The following persons may not supply news agency services in Korea:

(a) a foreign government;

(b) a foreign person;

(c) an enterprise organized under Korean law whose *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national or is a person not domiciled in Korea; or

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

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

(a) a foreign national; or

(b) a Korean national not domiciled in Korea.

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

The following persons may not obtain a radio station license:

(a) a foreign national;

(b) a foreign government or its representative; or

(c) an enterprise organized under foreign law.

38. Sector: Manufacturing of Biological Products

Sub-Sector:

Obligations Concerned: Performance Requirements (Article 9.7)

Level of Government: Central

Measures: *Pharmaceutical Affairs Act* (Law No. 9123, June 13, 2008), Article 42

Enforcement Regulations of the Pharmaceutical Affairs Act (Ordinance of the *Ministry of Health, Welfare and Family Affairs* No. 77, December 1, 2008), Article 21

Description: Investment

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

39. Sector: Publishing of Periodicals (Excluding Newspapers)

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Senior Management and Boards of Directors (Article 9.6)
Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Act on the Promotion of Periodicals including Magazine, Etc.* (Law No. 9098, June 5, 2008), Articles 20 and 29

Enforcement Decree of the Act on the Promotion of Periodicals including Magazine, Etc. (Presidential Decree No. 21148, December 6, 2008), Articles 17, 18, 19, and 20

Description: Investment and Cross-Border Trade in Services

The publisher or the editor-in-chief of an enterprise that publishes periodicals must be a Korean national.

The following persons may not publish periodicals in Korea:

(a) a foreign government or a foreign person;

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

(c) an enterprise organized 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 authorization 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 the other Party.

40. Sector: Distribution Services

Sub-Sector: Agriculture and Livestock

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Market Access (Article 10.4)

Level of Government: Central

Measures:

Grain Management Act (Law No. 9662, May 1, 2009), Article 12

Livestock Industry Act (Law No. 8852, February 29, 2008), Articles 30 and 34

Seed Industry Act (Law No. 8852, February 29, 2008), Article 142

Feed Management Act (Law No. 8931, March 22, 2009), Article 6

Ginseng Industry Act (Law No. 8852, February 29, 2008), Article 20

Foreign Investment Promotion Act (Law No. 9071, March 28, 2008), Article 4

Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 21214, December 31, 2008), Article 5

Consolidated Public Notice for Foreign Investment (Notice of the *Ministry of Knowledge Economy* No. 2009-81, March 4, 2009), Appendix 1

Act on Distribution and Price Stabilization of Agricultural and Fishery Products (Law No. 8852, February 29, 2008), Articles 15, 17, and 43

Notice on TRQ Products (*Ministry for Food, Agriculture, Forestry and Fishery* Notice No. 2008-153, December 31, 2008), Articles 14 and 20-2

Description: Investment and Cross-Border Trade in Services

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

Only the Livestock Cooperatives under the Agriculture

Cooperative Act may establish and manage a *ga-chook-sijang* (livestock market) in Korea.

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

Only producers' organizations 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 10.2 and 10.4 do not prevent Korea from adopting or maintaining any measure with respect to the administration of the WTO Tariff-Rate-Quota.

41. Sector: Communication Services

Sub-Sector: Broadcasting Services

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Performance Requirement (Article 9.7)
Senior Management and Boards of Directors (Article 9.6)
Market Access (Article 10.4)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Broadcasting Act* (Law No. 9280, December 31, 2008) Articles 8, 9, 12, 13 through 18, 48, 69 through 71

Enforcement Decree of the Broadcasting Act (Presidential Decree No. 21236, December 31, 2008), Article 57

Korea Educational Broadcasting Corporation Act (Law No. 9280, December 31, 2008), Article 11

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

Neither a foreign national nor a Korean national who serves as a *dae-pyo-ja* (*e.g.*, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise may serve as a *dae-pyo-ja* (*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 organized under Korean law.

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

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

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

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

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

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

For transparency purposes, no single person (including "specially related person" under Article 3 of the *Enforcement Decree of the Broadcasting Act*) may hold in the aggregate more than 30 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 Broadcasting Culture Promotion 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 specialized 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 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 organized 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.

42. Sector:	Energy Industry
Sub-Sector:	Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales
Obligations Concerned:	National Treatment (Article 9.3)[1]
Level of Government:	Central
Measures:	*Financial Investment Services and Capital Markets Act* (Law No. 9407, February 4, 2009), Article 168 *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 4, 2009), Article 187 *Foreign Investment Promotion Act* (Law No. 9071, March 28, 2008), Articles 4 and 5 *Enforcement Decree of the Foreign Investment Promotion Act* (Presidential Decree No. 21214, December 31, 2008), Article 5 *Consolidated Public Notice for Foreign Investment* (Notice of the *Ministry of Knowledge Economy* No. 2009-81, March 4, 2009), Appendix 1 *Notice of* the *Ministry of Strategy and Finance* (No. 2000-17, September 28, 2000) *Financial Investment Services Regulations* (Financial Services Commission Notice No. 2009-17, February 4, 2009), Sec. 6-2
Description:	<u>Investment</u> The aggregate foreign share of KEPCO's issued stocks may not exceed 40 percent. A foreign person may not become the largest shareholder of KEPCO. The aggregate foreign share of power generation facilities, including cogeneration facilities of heat and power (GHP) for the district heating system (DHS), may not exceed 30 percent of the total facilities in the territory of Korea.

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

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

43. Sector: Energy Industry

Sub-Sector: Gas Industry

Obligations Concerned: National Treatment (Article 9.3)[2]

Level of Government: Central

Measures: *Act on the Improvement of Managerial Structure and Privatization of Public Enterprises* (Law No. 8050, October 4, 2006), Article 19

Financial Investment Services and Capital Markets Act (Law No 9407, Feb. 4, 2009), Article 168

Foreign Investment Promotion Act (Law No. 9071, March 28, 2008), Articles 4 and 5

Articles of Incorporation of the Korea Gas Corporation (March 26, 2007), Article 11

Description: Investment

Foreign persons, in the aggregate, may not own more than 30 percent of the equity of KOGAS.

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

44. Sector: Recreational, Cultural, and Sporting Services

Sub-Sector: Motion Picture Projection Services

Obligations Concerned: Performance Requirements (Article 9.7)
Market Access (Article 10.4)

Level of Government: Central

Measures: *Act on Promotion of Motion Pictures and Video Products* (Law No. 9096, June 5, 2008), Articles 2, 27, and 40

Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products (Presidential Decree No. 21364, March 25, 2009), Article 19

Description: Investment and Cross-Border Trade in Services

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

ANNEX I
SCHEDULE OF PERU

1. Sector:	All Sectors
Sub-Sector:	
Obligations concerned:	National Treatment (Article 9.3)
Level of Government:	Central
Measures:	*Political Constitution of Peru* (*Constitución Política del Perú*) (1993), article 71. Legislative Decree N° 757, "El Peruano" Official Gazette of November 13, 1991, *Framework Law for Private Investment Growth* (*Ley Marco para el Crecimiento de la Inversión Privada*), article 13.
Description:	<u>Investment</u> No foreign national, enterprise constituted under foreign law or enterprise constituted under Peruvian law, and owned in whole or part, directly or indirectly, by foreign nationals may acquire or own, directly or indirectly, by any title, land or water (including mines, forest or energy sources) located within 50 kilometers of the Peruvian border. Exceptions may be authorized by Supreme Decree approved by the Council of Ministers in conformity with law in cases of expressly declared public necessity. For each case of acquisition or possession within the referred area, the investor shall hand in the correspondent request to the relevant Ministry, pursuant to laws in force. For example, authorizations of this kind have been given in the mining sector.

2. Sector: Fishing and Services related to Fishing

Sub-Sector:

Obligations concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures: Supreme Decree N° 012-2001-PE, "El Peruano" Official Gazette of March 14, 2001, *Regulation of the Fisheries Law* (*Reglamento de la Ley General de Pesca*), articles 67, 68, 69 and 70.

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

Before commencing operations, shipowners of foreign-flagged fishing vessels must present an unconditional, irrevocable, letter of guarantee with automatic execution and joint liability, which will be valid for no more than 30 calendar days after the expiry of the fishing permit, issued for the benefit and to the satisfaction of the Ministry of Production by a financial, banking or insurance institution recognized by the "*Superintendencia de Banca y Seguros*". Such letter shall be issued in an amount equal to 25 percent of the amount that must be paid for fishing rights.

A shipowner of a foreign-flagged fishing vessel that is not of large scale (according to the regulation mentioned above) and that operates in Peruvian jurisdictional waters must rely on the Satellite Tracking System in its vessel, except for shipowners operating in highly migratory fisheries who are excepted from this obligation by a Ministerial Resolution.

Foreign-flagged fishing vessels with a fishing permit must have on board a scientific technical observer appointed by the Sea Institute of Peru (*Instituto del Mar del Perú* - IMARPE). The shipowner must provide accommodation on board for that representative and a daily stipend, which must be deposited in a special account to be administered by IMARPE.

Shipowners of foreign-flagged fishing vessels that operate in Peruvian jurisdictional waters must hire a minimum of 30 percent of Peruvian crew, subject to applicable domestic legislation.

3. Sector:	Radio and Television Broadcasting Services
Sub-Sector:	
Obligations Concerned:	National Treatment (Article 9.3) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	Law Nº 28278, "El Peruano" Official Gazette of July 16 2004, *Radio and Television Law* (*Ley de Radio y Televisión*), article 24.
Description:	<u>Investment and Cross-Border Trade in Services</u> Only Peruvian nationals or juridical persons organized under Peruvian law and domiciled in Peru may be authorized or licensed to offer radio or television broadcast services. No foreign national may hold an authorization or a license directly or through a sole proprietorship.

4. Sector:	Audio-Visual Services
Sub-Sector:	
Obligations Concerned:	National Treatment (Article 10.2) Performance Requirements (Article 9.7)
Level of Government:	Central
Measures:	Law Nº 28278, "El Peruano" Official Gazette of July 16, 2004, *Radio and Television Law* (*Ley de Radio y Televisión*), Eighth Complementary and Final Provision.
Description:	<u>Investment and Cross-Border Trade in Services</u> At least 30 percent, on average, of the total weekly programs by free-to-air television broadcasters must be produced in Peru and broadcasted between the hours of 5:00 and 24:00.

5. Sector:	Radio Broadcasting Services
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Level of Government:	Central
Measures:	Supreme Decree N° 005-2005-MTC, "El Peruano" Official Gazette of February 15, 2005, *Regulation of the Radio and Television Law* (*Reglamento de la Ley de Radio y Televisión*), article 20.
Description:	<u>Investment and Cross-Border Trade in Services</u> If a foreign national is, directly or indirectly, a shareholder, partner, or associate in a juridical person, that juridical person may not hold a broadcasting authorization in a zone bordering that foreign national's country of origin, except in a case of public necessity authorized by the Council of Ministers. This restriction does not apply to juridical persons with foreign equity which have two or more current authorizations, as long as they are of the same frequency band.

6. Sector: All Sectors

Sub-Sector:

Obligations concerned: National Treatment (Article 10.2)
Senior Management and Boards of Directors (Article 9.6)

Level of Government: Central

Measures: Legislative Decree N° 689, "El Peruano" Official Gazette of November 5, 1991, *Law for Foreign Workers Recruitment* (*Ley para la Contratación de Trabajadores Extranjeros*), articles 1, 3, 4, 5 (modified by Law N° 26196) and 6.

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

All employers in Peru, independently of their activity or nationality, shall give preferential treatment to nationals when hiring its employees.

Foreign natural persons who are service providers and who are employed by a service-providing enterprise may provide services in Peru under a written and time-limited employment contract, which may not exceed three years. The contract may be subsequently extended for like periods of time. Service-providing enterprises must show proof of the company's commitment to train national personnel in the same occupation.

Foreign natural persons may not represent more than 20 percent of the total number of employees of an enterprise, and their pay may not exceed 30 percent of the total payroll for wages and salaries. These percentages will not apply in the following cases:

(a) when the foreign national providing the service is the spouse, parent, child or sibling of a Peruvian national;

(b) when the personnel is working for a foreign enterprise providing international land, air and water transport services under a foreign flag and registration;

(c) when the foreign personnel works in a multinational bank or an enterprise that provides multinational services, subject to the laws governing specific cases;

(d) for a foreign investor, provided that its investment permanently maintains in Peru at least five units "Unidad Impositiva Tributaria" ("UITs")[1] during the life of its contract;

(e) for artists, athletes or other service-providers engaged in public performances in Peruvian territory, for a maximum of three months a year;

(f) when a foreign national has an immigrant visa;

(g) for a foreign national whose country of origin has a labor reciprocity or dual nationality agreement with Peru; and

(h) when foreign personnel provides services in Peru under a bilateral or multilateral agreement concluded by the Peruvian Government.

Employers may request waivers for the percentages related to the number of foreign employees and their share of the company's payroll in those cases involving:

(a) specialized professional or technical personnel;

(b) directors or management personnel for a new business activity or reconverted business activity;

(c) teachers hired for post secondary education, or for foreign private elementary and high schools; or for language teaching in local private schools; or for specialized language centers;

(d) personnel working for public or private enterprises with contractual agreements with public organizations, institutions or enterprises; and

(e) in any other case determined by Supreme Decree pursuant to specialization, qualification or experience criteria.

[1] The "Unidad Impositiva Tributaria (UIT)" is an amount used as a reference in taxation rules in order to maintain in constant values the tax basis, deductions, imposition limits and other aspects of the tax that the legislator considers convenient.

7. Sector: Professional Services

Sub-Sector: Legal services

Obligations concerned: National Treatment (Articles 9.3 and 10.2)

Level of Government: Central

Measures: Legislative Decree N° 1049, "El Peruano" Official Gazette of June 26, 2008, *Notaries Law* (*Ley del Notariado*), article 10.

Description: Investment and Cross-Border Trade in Services

Only a Peruvian national by birth may supply notary services.

8. Sector: Professional Services

Sub-Sector: Architectural Services

Obligations concerned: National Treatment (Articles 9.3 and 10.2)

Level of Government: Central

Measures: Law Nº 14085, "El Peruano" Official Gazette of June 30, 1962, *Law establishing the Peruvian Association of Architects* (*Ley de Creación del Colegio de Arquitectos del Perú*).

Law Nº 16053, "El Peruano" Official Gazette of February 14, 1966, *Professional Practice Law, authorizes the Peruvian Associations of Architects and Engineers to supervise Engineering and Architecture professionals of the Nation* (*Ley del Ejercicio Profesional, Autoriza a los Colegios de Arquitectos e Ingenieros del Perú para supervisar a los profesionales de Ingeniería y Arquitectura de la República*), article 1.

National Architects Council Agreement (*Acuerdo del Consejo Nacional de Arquitectos*), approved in Session Nº 04-2009 of December 15, 2009.

Description: Investment and Cross-Border Trade in Services

To practice as an architect in Peru, an individual must join the "Colegio de Arquitectos". There may be a difference in the amount of the enrolment fee for Peruvians and foreigners. The proportion of that difference may not exceed the 5 times. For greater transparency, the current enrolment fees are:

(a) S/. 775 for a Peruvian national with a degree from a Peruvian university;

(b) S/. 1,240 for a Peruvian national with a degree from a foreign university;

(c) S/. 1,240 for a foreign national with a degree from a Peruvian university; or

(d) S/. 3,100 for a foreign national with a degree from a foreign university.

Also, to obtain temporary registration, non-resident foreign architects must have a contract of association with a Peruvian architect residing in Peru.

9. Sector: Professional Services

Sub-Sector: Auditing Services

Obligations concerned: National Treatment (Articles 9.3 and 10.2)
Local Presence (Article 10.5)

Level of Government: Central

Measures: *Rules of the Association of Public Accountants of Lima* (*Reglamento Interno del Colegio de Contadores Públicos de Lima*), articles 145 and 146.

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

Auditing societies shall be constituted only and exclusively by public accountants licensed and resident in the country and duly qualified by the "*Colegio de Contadores Públicos de Lima*". No partner may be a member of another auditory society in Peru.

10. Sector: Security Services

Sub-Sector:

Obligations concerned: National Treatment (Article 10.2)
Senior Management and Boards of Directors (Article 9.6)

Level of Government: Central

Measures: Supreme Decree N° 005-94-IN, "El Peruano" Official Gazette of May 12, 1994, *Regulation of Private Security Services (Reglamento de Servicios de Seguridad Privada),* articles 81 and 83.

Description: Investment and Cross-Border Trade in Services

Persons hired as security guards must be Peruvian by birth.

Senior managers of enterprises that supply security services must be Peruvian by birth and residents of Peru.

11.Sector:	Recreational, Cultural and Sporting Services
Sub-Sector:	National Artistic Audio-Visual Production Services
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	Central
Measures:	Law N° 28131, "El Peruano" Official Gazette of December 18, 2003, *Law of the Artist and Performer* (*Ley del Artista, Intérprete y Ejecutante*), articles 23 and 25.
Description:	Cross-Border Trade in Services Any domestic artistic audio-visual production must be comprised at least of 80 percent of national artists. Any domestic artistic live performances must be comprised at least of 80 percent of national artists. National artists shall receive no less than 60 percent the total payroll for wages and salaries paid to artists. The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in artistic activities. These percentages do not apply in the case of domestic artistic live performances given by foreign casts hired as such outside Peru and whose performance constitutes the entire work or entertainment and are properly qualified as cultural performance.

12. Sector: Recreational, Cultural and Sporting Services

Sub-Sector: Circus Services

Obligations Concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures: Law Nº 28131, "El Peruano" Official Gazette of December 18, 2003, *Law of the Artist and Performer* (*Ley del Artista, Intérprete y Ejecutante*), article 26.

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

A foreign circus may stay in Peru with its original cast for a maximum of 90 days. This period may be extended for the same period of time. If it is extended, the foreign circus will include a minimum of 30 percent Peruvian nationals as artists and 15 percent Peruvian nationals as technicians. The same percentages shall apply to the payroll of salaries and wages.

13. Sector: Commercial Advertising Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures: Law Nº 28131, "El Peruano" Official Gazette of December 18, 2003, *Law of the Artist and Performer* (*Ley del Artista, Intérprete y Ejecutante*), articles 25 and 27.2.

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

Commercial advertising produced in Peru, must have at least 80 percent of national artists.

National artists shall receive no less than 60 percent of the total payroll for wages and salaries paid to artists.

The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in commercial advertising.

14. Sector: Recreational, Cultural and Sporting Services

Sub-Sector: Bullfighting

Obligations Concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures: Law N° 28131, "El Peruano" Official Gazette of December 18, 2003, *Law of the Artist and Performer* (*Ley del Artista, Intérprete y Ejecutante*), article 28.

Description: Cross-Border Trade in Services

At least one bullfighter of Peruvian nationality must participate in any bullfighting event. At least one apprentice bullfighter of Peruvian nationality must participate in fights involving young bulls.

15. Sector:	Radio and Television Broadcasting Services
Sub-Sector:	
Obligations Concerned:	National Treatment (Article 10.2) Performance Requirements (Article 9.7)
Level of Government:	Central
Measures:	Law N° 28131, "El Peruano" Official Gazette of December 18, 2003, *Law of the Artist and Performer (Ley del Artista, Intérprete y Ejecutante)*, articles 25 and 45.
Description:	<u>Investment and Cross-Border Trade in Services</u> Free to air radio and television broadcast companies must dedicate at least 10 percent of their daily programming to folklore and national music and to series or programs produced in Peru on the Peruvian history, literature, culture or current issues with artists hired in the following percentages: (a) a minimum of 80 percent of national artists; (b) national artists shall receive no less than 60 percent of the total payroll for wages and salaries paid to artists; and (c) the same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in artistic activities.

16. Sector:	Customs Warehouses Services
Sub-Sector:	
Obligations Concerned:	Local Presence (Article 10.5)
Level of Government:	Central
Measures:	Supreme Decree N° 08-95-EF, "El Peruano" Official Gazette of February 5, 1995, *Approve the Regulation of Customs Warehouse* (*Aprueban el Reglamento de Almacenes Aduaneros*), article 7.
Description:	Cross-Border Trade in Services Only natural or juridical persons domiciled in Peru may apply for an authorization to operate a customs warehouse.

17. Sector: Telecommunications Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures: Supreme Decree N° 027-2004-MTC, "El Peruano" Official Gazette of July 15, 2004, *Consolidated Text of the General Rules of the Telecommunications Law* (*Texto Único Ordenado del Reglamento General de la Ley de Telecomunicaciones*), article 269.

Description: Cross-Border Trade in Services

Call-back, understood as being the offer of telephone services for the realization of attempts to make calls originating in the country with the objective of obtaining a return call with an invitation to dial, coming from a basic telecommunications network located outside the national territory, is prohibited.

18. Sector:	Transportation
Sub-Sector:	Air Transportation
Obligations Concerned:	National Treatment (Article 9.3) Senior Management and Boards of Directors (Article 9.6)
Level of Government:	Central
Measures:	Law N° 27261, "El Peruano" Official Gazette of May 10, 2000, *Civil Aviation Law (Ley de Aeronáutica Civil)*, articles 75 and 79. Supreme Decree N° 050-2001-MTC, "El Peruano" Official Gazette of December 26, 2001, *Regulation of the Civil Aviation Law* (*Reglamento de la Ley de Aeronáutica Civil*), articles 147, 159, 160 and VI Complementary Provision.
Description:	<u>Investment</u> National Commercial Aviation is reserved to a Peruvian natural or juridical person. For purposes of this entry, a Peruvian juridical person is an enterprise that fulfils the following requirements: (a) is constituted under Peruvian law, specifies commercial aviation as its corporate purpose, is domiciled in Peru, and has its principal activities and administration located in Peru; (b) at least half plus one of the directors, managers and persons who control and manage the enterprise are Peruvian nationals or have permanent domicile or are normally resident in Peru; and (c) at least 51 percent of the capital stock must be owned by Peruvian nationals and be under the real and effective control of Peruvian shareholders or partners permanently domiciled in Peru. (This limitation shall not apply to the enterprises constituted under Law N° 24882, which may maintain the ownership percentages set in such law). Six months after the date of authorization of the enterprise to provide commercial air transportation services, foreign nationals may own up to 70 percent of the capital

stock of the enterprise.

In those operations conducted by Peruvian service providers ("explotadores nacionales"), personnel performing aeronautical functions on board must be Peruvian nationals. The Directorate General of Civil Aviation may, for technical reasons, authorize foreign personnel to perform these functions for a period not to exceed six months from the date on which the authorization was granted. This time period may be extended if there is proof of a shortage of trained personnel.

The General Directorate of Civil Aviation, upon providing proof of a shortage of Peruvian aviation personnel, may authorize non-resident foreign personnel to pilot airplanes and to train Peruvian aviation personnel for a period of up to six months, which may be extended if there is proof of a shortage of Peruvian personnel.

19. Sector: Transportation

Sub-Sector: Aquatic Transportation

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Local Presence (Article 10.5)
Senior Management and Boards of Directors (Article 9.6)

Level of Government: Central

Measures: Law N° 28583, "El Peruano" Official Gazette of July 22, 2005, *Law of the Reactivation and Promotion of the National Merchant Marine* (*Ley de Reactivación y Promoción de la Marina Mercante Nacional*), articles 4.1, 6.1, 7.1, 7.2, 7.4 and 13.6.

Law N° 29475, Law that modifies Law N° 28583, "El Peruano" Official Gazette of December 17, 2009, *Law of the Reactivation and Promotion of the National Merchant Marine* (*Ley de Reactivación y Promoción de la Marina Mercante Nacional*), article 13.6 and Tenth Transitory and Final Provision.

Supreme Decree Nº 028 DE/MGP, "El Peruano" Official Gazette of May 25, 2001, *Regulation of the Law N° 26620* (*Reglamento de la Ley N° 26620*), Article I-010106, literal (a).

Description: Investment and Cross-Border Trade in Services

1. A "National shipowner" or "National Ship Enterprise" is understood as a natural person of Peruvian nationality or juridical person constituted in Peru, with its principal domicile and real and effective headquarters in Peru, whose business is to provide services in water transportation in national traffic or cabotage [2] and/or international traffic and who is the owner or lessee under a financial lease or a bareboat charter, with an obligatory purchase option, of at least one Peruvian flag merchant vessel and that has obtained the relevant Operation Permit from the General Aquatic Transport Directorate.

2. At least 51 percent of the subscribed and paid-in capital stock must be owned by Peruvian citizens.

3. The chairman of the board of directors, the majority of the directors, and the General Manager must be Peruvian

[2] For greater certainty, water transportation includes transportation by lakes and rivers.

nationals and residents in Peru.

4. The captain and crew of Peruvian-flagged vessels must be entirely Peruvian nationals authorized by the "*Dirección General de Capitanías y Guardacostas*". In exceptional cases and after ascertaining that there is no Peruvian qualified personnel with experience in that type of vessel available, foreign nationals could be hired to a maximum of 15 per cent of the total crew, and for a limited period of time. The latter exception does not reach the captain of the vessel.

5. Only a Peruvian national may be a licensed harbor pilot.

6. Cabotage is exclusively reserved to Peruvian flagged merchant vessels owned by a National Shipowner or National Ship Enterprise or leased under a financial lease or a bareboat charter, with an obligatory purchase option, except that:

(a) up to 25 percent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy; and

(b) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprises for a period of no more than six months for water transportation exclusively between Peruvian ports or cabotage when such an entity does not own its own vessels or lease vessels under the modalities previously mentioned.

20. Sector: Transportation

Sub-Sector: Aquatic Transportation

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Local Presence (Article 10.5)

Level of Government: Central

Measures: Supreme Decree Nº 056-2000-MTC, "El Peruano" Official Gazette of December 31, 2000. *Provide that aquatic transportation services and related services conducted in bays and port areas must be provided by authorized natural and juridical persons, with vessels and artifacts of national flag* (*Disponen que servicios de transporte marítimo y conexos realizados en bahías y áreas portuarias deberán ser prestados por personas naturales y jurídicas autorizadas, con embarcaciones y artefactos de bandera nacional*), article 1.

Ministerial Resolution Nº 259-2003-MTC/02, "El Peruano" Official Gazette of April 4, 2003. *Approve Regulation of Aquatic Transportation services and related services rendered in bay traffic and port areas* (*Aprueban Reglamento de los servicios de Transporte Acuático y Conexos Prestados en Tráfico de Bahía y Áreas Portuarias*), articles 5 and 7.

Description: Investment and Cross-Border Trade in Services

The following water transport and related services supplied in bay and port areas must be supplied by natural persons domiciled in Peru, and juridical persons constituted and domiciled in Peru, properly authorized with Peruvian flag vessels and equipment:

(a) fuel replenishment services;

(b) mooring and unmooring services;

(c) diving services;

(d) victualing services;

(e) dredging services;

(f) harbor pilotage services;

(g) waste collection services;

(h) tug boat services; and

(i) transport of persons.

21. Sector:	Transportation
Sub-Sector:	Aquatic Transportation
Obligations Concerned:	Local Presence (Article 10.5)
Level of Government:	Central
Measures:	Supreme Resolution N° 011-78-TC-DS, February 6, 1978, *Regulation of Tourist Transport Enterprises* (*Reglamento de Empresas de Transporte Turístico*).
Description:	Cross-Border Trade in Services Only natural persons domiciled in Peru or juridical persons constituted and domiciled in Peru may provide tourist water transportation services.

22. Sector: Transportation

Sub-Sector: Aquatic Transportation

Obligations Concerned: National Treatment (Article 10.2)

Level of Government: Central

Measures: Law Nº 27866, "El Peruano" Official Gazette of November 16, 2002, *Port Labor Law* (*Ley del Trabajo Portuario*), articles 3 and 7.

Description: Cross-Border Trade in Services

Only Peruvian citizens may register in the Registry of Port Workers.

Port worker is a natural person who, subject to a port employer, performs specific services related to the execution of port work tasks, such as: stevedore, "tarjador", "winchero", "gruero", "portalonero", "levantador de costado de nave", among others that are established in each port according to the regulations of the current law.

23. Sector Transportation

Sub-Sector: Land Transportation of Passengers

Obligations Concerned: Local Presence (Article 10.5)

Level of Government: Central

Measures: Supreme Decree N° 017-2009-MTC, "El Peruano" Official Gazette of April 22, 2009, *National Regulation of Transport Management* (*Reglamento Nacional de Administración de Transportes*), article 33, modified by Supreme Decree N° 006-2010-MTC of January 22, 2010.

Description: Cross-Border Trade in Services

The supply of transport services must provide security and quality to the customer. To that end, it is necessary to have adequate physical infrastructure, which includes, when appropriate: offices; bus terminals for persons or goods; route stations; bus stops; all other infrastructure used as a place for loading, unloading and storage of goods; maintenance workshops; and any other necessary for the service supply.

24. Sector	Transportation
Sub-Sector:	Land Transportation
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	Central
Measures:	"*Agreement on International Land Transport*" (*Acuerdo sobre Transporte Internacional Terrestre* - ATIT), signed between the Governments of the Republic of Chile, the Republic of Argentina, the Republic of Bolivia, the Federal Republic of Brazil, the Republic of Paraguay, the Republic of Peru and the Oriental Republic of Uruguay, signed in Montevideo on January 1, 1990.
Description:	Cross-Border Trade in Services Foreign vehicles allowed by Peru, in conformity with the ATIT, which carry out international transportation by road, will not be able to provide local transport (cabotage) in the Peruvian territory.

25. Sector	Research and Development Services
Sub-Sector:	Archaeological Services
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	Central
Measures:	Supreme Resolution N° 004-2000-ED, "El Peruano" Official Gazette of January 25, 2000, *Regulation of Archeological Researches* (*Reglamento de Investigaciones Arqueológicas*), article 30.
Description:	<u>Cross-Border Trade in Services</u> Archaeological research projects headed by foreign archaeologists must count on a Peruvian archaeologist registered in the National Registry of Archaeologists for the scientific co-direction or sub-direction of the project. The co-director and sub-director shall participate in the integral execution of the project (field and office work).

26. Sector:	Services related to Energy Services
Sub-Sector:	
Obligations Concerned:	National Treatment (Article 10.2) Local Presence (Article 10.5)
Level of Government:	Central
Measures:	Law Nº 26221, "El Peruano" Official Gazette of August 19, 1993, *General Law of Hydrocarbons* (*Ley General de Hidrocarburos*), article 15.
Description:	Cross-Border Trade in Services In order to enter into an exploration contract in Peru, foreign natural persons must register in the Public Registry and provide a power of attorney to a Peruvian national resident in the capital of the Republic of Peru. Foreign enterprises must establish a branch or constitute a society under the *Ley General de Sociedades*, be domiciled in the capital of the Republic of Peru, and appoint a Peruvian national as an executive agent.