

ANNEX II 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 specific sectors, sub-sectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 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 9.6 (Senior Management and Boards of Directors);
- (d) Article 9.7 (Performance Requirements);
- (e) Article 10.4 (Market Access); or
- (f) Article 10.5 (Local Presence).

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, pursuant to Articles 9.8.2 and 10.6.2, shall not apply to the sectors, sub-sectors, or activities scheduled in the entry;
- (d) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and
- (e) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sectors, sub-sectors, or activities covered by the entry.

3. In accordance with Articles 9.8.2 and 10.6.2, the Articles of this Agreement specified in the **Obligations Concerned** element of an entry shall not apply to the sectors, sub-sectors, and activities identified in the **Description** element of that entry.

4. 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).

5. Notwithstanding Article 9.1 (Scope of Application) or Article 10.1 (Scope of

Application), the cross-border trade in gambling and betting services¹ is not subject to Chapter Ten (Cross-Border Trade in Services) and investment in gambling and betting services is not subject to Chapter Nine (Investment).

For greater certainty, each Party retains the right to adopt or maintain any measure in relation to betting and gambling services, in accordance with its respective laws or regulations.

6. The measures relating to:

- (a) the obligation to recycle products and packaging materials;
- (b) the submission of recycling performance plans and results;
- (c) payment of applicable recycling levies;
- (d) the obligation to distribute a certain percentage of low-emission motor vehicle;
and
- (e) the submission and approval of plans to distribute low-emission motor vehicles
are not inconsistent with Article 9.7 (Performance Requirements).

¹ For greater certainty, “gambling and betting services” includes such services supplied through electronic transmission and services that use sa-haeng-seong-ge-im-mul. “Sa-haeng-seong-ge-im-mul,” as defined in Article 2 of Korea’s *Game Industry Promotion Act*, includes, *inter alia*, gambling instruments which result in financial loss or gain through betting or by chance.

ANNEX II
SCHEDULE OF KOREA

1. Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.3)
Performance Requirements (Article 9.7)

Description: Investment

1. Korea reserves the right to adopt, with respect to the establishment or acquisition of an investment, any measure that is necessary for the maintenance of public order in accordance with Article 4 of the *Foreign Investment Promotion Act* (2008) and Article 5 of the *Enforcement Decree of the Foreign Investment Promotion Act* (2008), provided that Korea promptly provides written notice to Peru that it has adopted such a measure and that the measure:

- (a) is applied in accordance with the procedural requirements set out in the *Foreign Investment Promotion Act* (2008), *Enforcement Decree of the Foreign Investment Promotion Act* (2008), and other applicable law;
- (b) is adopted or maintained only where the investment poses a genuine and sufficiently serious threat to the fundamental interests of society;
- (c) is not applied in an arbitrary or unjustifiable manner;
- (d) does not constitute a disguised restriction on investment; and
- (e) is proportional to the objective it seeks to achieve.

2. Without prejudice to any claim that may be submitted to arbitration in accordance with Article 9.17.3, a claimant may submit to arbitration under Section B of Chapter Nine (Investment) a claim that:

- (a) Korea has adopted a measure for which it has provided notice in accordance with paragraph 1; and
- (b) the claimant or, as the case may be, an enterprise of Korea that is a juridical person that the claimant

owns or controls directly or indirectly, has incurred loss or damage by reason of, or arising out of, the measure.

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

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

Existing 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

2. Sector: All Sectors

Sub-Sector:

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

Description: Investment

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

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

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

For purposes of this entry:

A state enterprise shall include any enterprise created for the sole purpose of selling or disposing of equity interests or assets of state enterprise or governmental authorities.

Investment and Cross-Border Trade in Services

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

This entry shall not apply to a measure inconsistent with Article 9.3 or 10.2 to the extent that the measure affects the supply of express delivery services that the laws of Korea permit. This paragraph does not prevent Korea from establishing or maintaining a state enterprise.

Existing Measures: *Financial Investment Services and Capital Markets Act* (Law No 9407, February 4, 2009), Article 168

3. Sector: Acquisition of Land

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.3)

Description: Investment

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

- (a) is not deemed foreign under Article 2 of the *Foreigner's Land Acquisition Act*, and
- (b) is deemed foreign under the *Foreigner's Land Acquisition Act* or is a branch of a foreign juridical person subject to approval or notification in accordance with the *Foreigner's Land Acquisition Act*, if the land is to be used for any of the following legitimate business purposes:
 - (i) land used for ordinary business activities;
 - (ii) land used for housing for senior management; and
 - (iii) land used for fulfilling land-holding requirements stipulated by pertinent laws.

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

Existing Measures: *Foreigner's Land Acquisition Act* (Law No. 9186, December 26, 2008), Articles 2 through 6

Farmland Act (Law No. 8852, February 29, 2008), Article 6

4. Sector:	Firearms, Swords, Explosives, and Similar Items
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the firearms, swords, and explosives sector, including the manufacture, use, sale, storage, transport, import, export, and possession of firearms, swords, or explosives.
Existing Measures:	

5. Sector: Disadvantaged Groups

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.6)
Performance Requirements (Article 9.7)
Local Presence (Article 10.5)

Description: Investment and Cross-Border Trade in Services

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

Existing Measures:

6. Sector:	State-Owned National Electronic/Information System
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure affecting the administration and operation of any state-owned electronic information system that contains proprietary government information or information gathered in accordance with the regulatory functions and powers of the government. This entry shall not apply to payment and settlement systems related to financial services.
Existing Measures:	

7. Sector: Social Services

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.6)
Performance Requirements (Article 9.7)
Local Presence (Article 10.5)

Description: Investment and Cross-Border Trade in Services

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

- (a) income security or insurance;
- (b) social security or insurance;
- (c) social welfare;
- (d) public training;
- (e) health; and
- (f) child care.

Existing Measures:

8. Sector: All Sectors

Sub-Sector:

Obligations Concerned: Market Access (Article 10.4)

Description: Cross-Border Trade in Services

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

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

- (a) for any sector and subsector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that does not list Market Access as one in the Obligations Concerned element, "None" is inscribed in the Market Access column for modes 1, 2, and 3, and "Unbound except as indicated in the Horizontal commitments section" is inscribed for mode 4;
- (b) for any sector and subsector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that lists a limitation to the Market Access obligation, that limitation is inscribed in the Market Access column with regard to the appropriate mode of supply; and
- (c) for any sector and subsector listed in Appendix II-A, Korea's Schedule is modified as indicated in the Appendix II-A.

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

For greater certainty, an entry of "None" in the Market Access column of Korea's Schedule shall not be construed to alter the application of Article 10.5 (Local Presence) as modified by Article 10.6 (Non-Conforming Measures).

Existing Measures:

9. Sector: All Sectors

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Articles 9.4 and 10.3)

Description: Investment and Cross-Border Trade in Services

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

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

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.

Existing Measures:

10. Sector:	Communication Services
Sub-Sector:	Broadcasting Services
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure that accords differential treatment to persons of other countries due to the application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services.
Existing Measures:	

11. Sector:	Environmental Services
Sub-Sector:	Treatment and Supply Services for Potable Water; Collection and Treatment Services for Municipal Sewage; Collection, Transportation, and Disposal Services for Municipal Refuse; Sanitation and Similar Services; Nature and Landscape Protection Services (Except for Environmental Impact Assessment Services)
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the following environmental services: treatment and supply of potable water; collection and treatment of municipal sewage; collection, transportation, and disposal of municipal refuse; sanitation and similar services; and nature and landscape protection services (except for environmental impact assessment services). This entry shall not apply to the supply of the aforementioned services in accordance with a contract between private parties, to the extent private supply of such services is permitted under relevant laws and regulations.
Existing Measures:	

12. Sector:	Atomic Energy
Sub-Sector:	Nuclear Power Generation; Manufacturing and Supply of Nuclear Fuel; Nuclear Materials; Radioactive Waste Treatment and Disposal (including treatment and disposal of spent and irradiated nuclear fuel); Radioisotope and Radiation Generation Facilities; Monitoring Services for Radiation; Services Related to Nuclear Energy; Planning, Maintenance, and Repair Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the atomic energy industry.
Existing Measures:	

13. Sector:	Energy Services
Sub-Sector:	Electric Power Generation other than Nuclear Power Generation; Electric Power Transmission, Distribution, and Sales; Electricity Business
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to electric power generation, transmission, distribution, and sales. Any such measure shall not decrease the level of foreign ownership permitted in the electric power industry as provided by the entry in Korea's Schedule set out in Annex I related to Energy Industry (electric power). Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with Article 9.7.1(f).
Existing Measures:	

14. Sector:	Energy Services
Sub-Sector:	Gas industry
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the import and wholesale distribution of natural gas and the operation of terminals and the national high pressure pipeline network. Any such measure shall not decrease the level of foreign ownership permitted in the gas industry as provided by the entry in Korea's Schedule set out in Annex I related to Energy Industry (gas industry).
Existing Measures:	

15. Sector:	Distribution Services
Sub-Sector:	Commission Agents' Services, Wholesaling and Retailing of Agricultural Raw Materials and Live Animals (<i>nong chuk san mul</i>)
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to commission agents' services of grain, farinaceous products, ginseng, red ginseng, and wholesale trade service of grain, farinaceous products, and red ginseng.
Existing Measures:	

16. Sector:	Transportation Services
Sub-Sector:	Land Transportation and Related Auxiliary Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to land transportation services (passenger/cargo) and related auxiliary services.
Existing Measures:	

17. Sector:	Transportation Services
Sub-Sector:	Internal Waterways Transportation Services and Space Transportation Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to internal waterways transportation services and space transportation services.
Existing Measures:	

18. Sector:	Transportation Services
Sub-Sector:	Storage and Warehousing Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to storage and warehousing services related to grain, farinaceous products, and livestock products.
Existing Measures:	

19. Sector:	Communication Services
Sub-Sector:	Postal Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Market Access (Article 10.4) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure relating to Postal Services operation and provision by foreigners including measures with respect to: (a) the supply of support services to postal offices by military service personnel or other personnel of equivalent status; and (b) the Minister of Knowledge Economy not needing authorization from the Minister of Land, Transport and Maritime Affairs in determining the total number of vehicles that may belong to the <i>Ministry of Knowledge Economy</i> and allocating the vehicles to postal offices. The Korean Postal Authority reserves exclusive rights for collecting, processing and delivering domestic and international letters. The exclusive rights of the Korean Postal Authority include the right of access to its postal network and operation thereof. Services by private couriers relating to the commercial documents below are excluded from this reservation. (a) unsealed freight-attached documents or dispatch notes; (b) trade-related documents; (c) foreign capital or technology related documents; (d) foreign exchange or its related documents; and (e) commercial documents which are delivered between a headquarters of a company and its branch or between branches of a company, and whose delivery must be made in 12 hours after being dispatched.

The Postal Services are not the area in which foreigners could invest.

Existing Measures:

Postal Service Act (Law No. 9240, December 26, 2008)

Military Service Act (Law No. 8852, February 29, 2008)

Regulations on Management of Common-Purpose Motor Vehicles (Presidential Decree No. 21077, October 8, 2008)

Notification No. 2008-166 of the Ministry of Knowledge Economy pursuant to paragraph 4 of Article 4 of the *Foreign Investment Promotion Act*, Law No.9432, February 6, 2009

20. Sector:	Communication Services
Sub-Sector:	Broadcasting Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Market Access (Article 10.4) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure relating to broadcasting services. Korea shall ensure that this entry is not inconsistent with the Communications Services - Broadcasting Services entry in Korea's Schedule set out in Annex I.
Existing Measures:	<i>Broadcasting Act</i> (Law No. 9280, December 31, 2008) Articles 8, 9, 69 through 72, 78, and 78-2 <i>Enforcement Decree of the Broadcasting Act</i> (Presidential Decree No. 21236, December 31, 2008), Articles 14, 50 through 58, 60, and 61-3

21. Sector:	Communication Services
Sub-Sector:	Broadcasting and Telecommunications Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Market Access (Article 10.4) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to subscription-based video services. For purposes of this entry, subscription-based video services means subscription-based video services that are supplied to end-users over dedicated transmission capacity that the supplier owns or controls (including by leasing) and includes IPTV and Interactive Broadcasting.
Existing Measures:	<i>Internet Multimedia Broadcasting Act</i> (Law No. 9700, May 21, 2009) Articles 4, 7, 9, 18, and 21 <i>Enforcement Decree of the Internet Multimedia Broadcasting Act</i> (Presidential Decree No. 20968, August 12, 2008), Article 20

22. Sector:	Communication Services
Sub-Sector:	Broadcasting and Audio-Visual Services
Obligations Concerned:	Most Favored-Nation Treatment (Articles 9.4 and 10.3) Performance Requirements (Article 9.7)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any preferential co-production arrangement for film or television productions. Official co-production status, which may be granted to a co-production produced under such a co-production arrangement, confers national treatment on works covered by a co-production arrangement.
Existing Measures:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 9676, May 21, 2009), Article 25 <i>Notice on Programming</i> (Korea Communications Commission Notice No. 2008-135, December 31, 2008).

23. Sector:	Communication Services
Sub-Sector:	Broadcasting and Audio-Visual Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Performance Requirements (Article 9.7)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure setting criteria for determining whether broadcasting or audio-visual programs are Korean. Korea shall ensure that this entry is not inconsistent with the Communications Services - Broadcasting Services entry in Korea's Schedule set out in Annex I.
Existing Measures:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 9696, May 21, 2009), Articles 27 and 40 <i>Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products</i> (Presidential Decree No. 21364, March 25, 2009), Articles 10 and 19 <i>Enforcement Regulations of the Act on Promotion of Motion Pictures and Video Products</i> (Ordinance of the Ministry of Culture, Sports and Tourism No. 29, March 4, 2009), Article 5 <i>Notice on Programming</i> (Korea Communications Commission Notice No. 2008-135, December 31, 2008).

24. Sector:	Business Services
Sub-Sector:	Real Estate Services (not including Real Estate Brokerage and Appraisal Services)
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services, except for brokerage and appraisal services.
Existing Measures:	

25. Sector:	Business Services
Sub-Sector:	Insolvency and Receivership Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to insolvency and receivership services. Korea reserves the right to adopt or maintain any measure with respect to corporate restructuring services, including corporate restructuring companies, corporate restructuring partnerships, and corporate restructuring vehicles. For greater certainty, this entry shall not be construed to negatively affect current legitimate investment banking services subject to rights and obligations under Chapter Twelve (Financial Services).
Existing Measures:	

26. Sector: Digital Audio or Video Services

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Performance Requirements (Article 9.7)
Local Presence (Article 10.5)

Description: Investment and Cross-Border Trade in Services

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

Any measure adopted in accordance with the paragraph above shall be implemented in accordance with the provisions of Chapter Twenty-One (Transparency), as well as Article 10.7 (Transparency in Developing and Applying Regulations), as applicable, be based on objective criteria, and be no more trade-restrictive or burdensome than necessary.

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

Existing Measures: *Online Digital Contents Industry Development Act* (Law No. 9932, January, 18, 2010), Article 16-3

27. Sector:	Business Services
Sub-Sector:	Cadastral Surveying Services and Cadastral Map-Making Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to cadastral surveying services and cadastral map related services.
Existing Measures:	

28. Sector:	Business and Environmental Services
Sub-Sector:	Examination, Certification, and Classification of Agricultural Raw Materials and Live Animals (<i>nong-chuk-san-mul</i>)
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to examination, certification, and classification of agricultural raw materials and live animal products.
Existing Measures:	

29. Sector:	Business Services
Sub-Sector:	Services Incidental to Agriculture, Hunting, Forestry, and Fishing
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, and livestock, including genetic improvement, artificial insemination, rice and barley polishing, and activities related to a rice processing complex etc. Korea reserves the right to adopt or maintain any measure with respect to the supply of services incidental to agriculture, hunting, forestry, and fishing by the Agricultural Cooperatives, the Forestry Cooperatives, and the Fisheries Cooperatives.
Existing Measures:	

30. Sector: Fishing

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.3)

Description: Investment

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

Existing Measures:

31. Sector:	Publishing of Newspapers
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the publishing (including printing and distribution) of newspapers.
Existing Measures:	<i>The Act on the Guarantee of Freedom and Function of Newspapers, Etc.</i> (Law No. 9099, June 5, 2008) Articles 13, 14, and 26 <i>Enforcement Decree of the Act on the Guarantee of Freedom and Function of Newspapers, Etc.</i> (Presidential Decree No. 21147, December 3, 2008) Articles 8, 17, 18, 19, and 20

32. Sector:	Education Services
Sub-Sector:	Pre-Primary, Primary, Secondary, Higher, Adult and Other Education
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to pre-primary, primary, and secondary education; health and medicine-related higher education; higher education for prospective pre-primary, primary, and secondary teachers; professional graduate education in law; distance education at all education levels, and other education services.
Existing Measures:	

33. Sector:	Social Services
Sub-Sector:	Human Health Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to human health services. This entry shall not apply to the preferential measures provided in the <i>Act on Designation and Management of Free Economic Zones</i> (Law No. 9216, December 26, 2008), and the <i>Special Act on Establishment of Jeju Special Self-Governing Province and Creation of Free International City</i> (Law No. 9577, April 1, 2009) relating to establishment of medical facilities, pharmacies, and similar facilities, and the supply of remote medical services to those geographical areas specified in those Acts.
Existing Measures:	

34. Sector:	Recreational, Cultural, and Sporting Services
Sub-Sector:	Motion Picture Promotion, Advertising, or Post-Production Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to motion picture promotion, advertising, or post-production services.
Existing Measures:	<i>Act on Promotion of Motion Pictures and Video Products</i> (Law No. 9096, June 5, 2008) <i>Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products</i> (Presidential Decree No. 21364, March 25, 2009)

35. Sector:	Recreational, Cultural, and Sporting Services
Sub-Sector:	Museum and Other Cultural Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the conservation, reconstruction and restoration of cultural heritage and properties, including the excavation, appraisal, or dealing of cultural heritage and properties.
Existing Measures:	<i>Protection of Cultural Properties Act</i> (Law No. 9313, December 31, 2008) Articles 17, 18, and 23 <i>Enforcement Regulations of the Protection of Cultural Properties Act</i> (Ordinance of the Ministry of Culture, Sports and Tourism No. 26, February 3, 2009) Article 12 and 52-2

36. Sector: Other Recreational Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.3)

Description: Investment

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

Existing Measures:

37. Sector:	Legal Services
Sub-Sector:	Foreign Legal Consultants
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Senior Management and Boards of Directors (Article 9.6) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u>

1. Korea reserves the right to adopt or maintain any measures¹ including but not limited to:

- (a) restrictions on certification, approval, registration, admission, and supervision of, and any other requirements with respect to, foreign country-licensed lawyers or foreign law firms supplying any type of legal services in Korea;
- (b) restrictions on foreign country-licensed lawyers or foreign law firms entering into partnerships, commercial associations, affiliations, or any other type of relationship regardless of legal form, with *byeon-ho-sa* (Korean-licensed lawyers), Korean law firms, *beop-mu-sa* (Korean-certified judicial scriveners), *byeon-ri-sa* (Korean-licensed patent attorneys), *gong-in-hoe-gye-sa* (Korean-certified public accountants), *se-mu-sa* (Korean-certified tax accountants), or *gwan-se-sa* (Korean customs brokers);
- (c) restrictions on foreign country-licensed lawyers or foreign law firms hiring *byeon-ho-sa* (Korean-licensed lawyers), *beop-mu-sa* (Korean-certified judicial scriveners), *byeon-ri-sa* (Korean-licensed patent attorneys), *gong-in-hoe-gye-sa* (Korean-certified public accountants), *se-mu-sa* (Korean-certified tax accountants), or *gwan-se-sa* (Korean customs brokers) in Korea; and,
- (d) restrictions on senior management and the board of directors of legal entities supplying foreign legal consulting services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

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

- (a) No later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement, Peruvian law firms to establish representative offices (Foreign Legal Consultant offices or FLC offices) in Korea, and attorneys licensed in the Peruvian to provide legal advisory services regarding the laws of the jurisdiction in which they are licensed and public international law as foreign legal consultants in Korea.
- (b) No later than two years after the date of entry into force of this Agreement, Korea shall allow FLC offices, subject to certain requirements consistent with this Agreement, to enter into specific cooperative agreements with Korean law firms in order to be able to jointly deal with cases where domestic and foreign legal issues are mixed, and to share profits derived from such cases.

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

For purposes of this entry, **Peruvian law firm** means a law firm organized under Peruvian law and headquartered in Peru.

Existing Measures:

38. Sector:	Professional Services
Sub-Sector:	Foreign Certified Public Accountants
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)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to public accountancy services including those concerning ownership, partnership, nationality of executives and directors and the scope of services to be provided. Foreign-certified public accountants intending to provide accountancy services in Korea must be domestically licensed and registered under the <i>Certified Public Accountant Act</i> . Their offices must be established within Korea.
Existing Measures:	<i>Certified Public Accountant Act</i> (Law No. 8863, February 29, 2008), Articles 2, 7, 12, 18, and 23 <i>External Audit of Stock Companies Act</i> (Law No. 9408, February 3, 2009), Article 3

39. Sector:	Professional Services
Sub-Sector:	Foreign Certified Tax Accountants
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Senior Management and Boards of Directors (Article 9.6) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to <i>se-mu-sa</i> (Korean-certified tax accountants) services including those concerning ownership, partnership, nationality of executives and directors and the scope of services to be provided. <i>Foreign-Certified Tax Accountants</i> intending to provide <i>se-mu-sa</i> (Korean-certified tax accountants) services in Korea must be domestically licensed and registered under the Certified Tax Accountant Act. Their offices must be established within Korea.
Existing Measures:	<i>Certified Tax Accountant Act</i> (Law No. 9348, January 30, 2009), Articles 6, 13, 16-3, and 20 <i>Enforcement Decree of the Corporate Tax Act</i> (Presidential Decree No. 21302, February 4, 2009), Article 97 <i>Guidelines Governing the Work of Tax Agents</i>, Articles 20 and 22

40. Sector: Business Services

Sub-Sector:

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

Description: Cross-Border Trade in Services

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

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

Existing Measures: *Technology Development Promotion Act* (Law No. 7949, April 28, 2006)

Atomic Energy Act (Law No.9016, March 28, 2008)

Foreign Trade Act (Law No. 8356, April 11, 2007)

Announcement of the Ministry of Education, Science, and Technology (April 12, 2007), No. 2007-3

Announcement of the Ministry of Knowledge Economy (April 12, 2007), No. 2007-51

The Customs Act (Law No. 8136, December 30, 2006)

41. Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3)
Senior Management and Boards of Directors (Article 9.6)
Performance Requirements (Article 9.7)

Description: Investment

Korea reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority, as that term is defined in Article 10.1.6, such as law enforcement and correctional services. This entry shall not apply to:

- (a) an investor or covered investment that has entered into an agreement with Korea with respect to the supply of such services; or
- (b) a measure adopted or maintained by Korea to the extent that the measure is subject to Chapter Twelve (Financial Services).

Existing Measures:

42. Sector:	Transportation Services
Sub-Sector:	Maritime Passenger Transportation and Maritime Cabotage
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Senior Management and Boards of Directors (Article 9.6) Performance Requirements (Article 9.7) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the provision of international maritime passenger transportation services, maritime cabotage, and the operation of Korean vessels, including the following measures: A person that supplies international maritime passenger transportation services must obtain a license from the Minister of Land Transport and Maritime Affairs, which is subject to an economic needs test. Maritime cabotage is reserved for Korean vessels. Maritime cabotage includes maritime transportation between harbors located along the entire Korean peninsula and any adjacent islands. Korean vessel means: (a) a vessel owned by the Korean government, a state enterprise, or an institution established under the Minister of Land Transport and Maritime Affairs; (b) a vessel owned by a Korean national; (c) a vessel owned by an enterprise organized under the Korean Commercial Code; or (d) a vessel owned by an enterprise organized under foreign law that has its principal office in Korea and whose <i>dae-pyo-ja</i> (for example, a chief executive officer, president, or similar principal senior officer) is a Korean national. In the event there is more than one, all <i>dae-pyo-ja</i> must be Korean nationals. For greater certainty, measures relating to the landside aspects of port activities are subject to the application of Article 24.2 (Essential Security).
Existing Measures:	

APPENDIX II-A

For the following Sectors, Korea's obligations under Article XVI of the General Agreement on Trade in Services as set out in Korea's Schedule of Specific Commitments under the GATS(GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.

Sector/Sub-Sector	Market Access Improvements
Research and Development Services:	
(a) Research and development services on natural sciences	Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section." for mode 4
(b) Research and development services on social sciences and humanities	Modify mode 1 and 2 limitations from "Unbound" to "None"
(c) Interdisciplinary research and development services	Insert new commitments with "None" for modes 1 and 2, "Unbound" for mode 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4
Market research and public opinion polling services	Modify mode 1 and 2 limitations from "Unbound" to "None"
Services incidental to mining	Modify mode 1 and 2 limitations from "Unbound" to "None"
Packaging services	Modify mode 1 and 2 limitations from "Unbound" to "None"
Convention services other than Convention agency services	Insert new commitments with "None" for mode 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4

For the following Sectors, Korea's obligations under Article XVI of the General Agreement on Trade in Services as set out in Korea's Schedule of Specific Commitments under the GATS(GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.

Sector/Sub-Sector	Market Access Improvements
Tourism and travel related services : (a) Beverage serving services without entertainment Excluding rail and air transport related facilities in beverage serving services without entertainment (b) Tour operator services (c) Tourist Guides Services	Insert new commitments with “Unbound” for mode 1, “None” for mode 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4 Insert new commitments with “None” for mode 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4 Modify mode 3 from “Only travel agencies are allowed to supply tourist guide services” to “None”

ANNEX II
SCHEDULE OF PERU

1. Sector: All Sectors

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Articles 9.4 and 10.3)

Description: Investment and Cross-Border Trade in Services

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

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

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters,¹ including salvage.

Existing Measures:

¹ For greater certainty, maritime matters include transport by lakes and rivers.

2. Sector: Indigenous Communities, Peasant, Native and Minority Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Local Presence (Article 10.5)
Performance Requirements (Article 9.7)
Senior Management and Board of Directors (Article 9.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities and ethnic groups. For purposes of this entry, “ethnic groups” means indigenous, native, and peasant communities.

Existing Measures:

3. Sector:	Fishing and Services related to Fishing
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Performance Requirements (Article 9.7)
Description:	<u>Investment and Cross-Border Trade in Services</u> Peru reserves the right to adopt or maintain any measure relating to artisanal fishing.
Existing Measures:	

4. Sector:	Cultural Industries
Sub-Sector:	
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Description:	<u>Investment and Cross-Border Trade in Services</u>

For purposes of this entry, the term “cultural industries” means:

- (a) publication, distribution, or sale of books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;
- (b) production, distribution, sale, or display of recordings of movies or videos;
- (c) production, distribution, sale, or display of music recordings in audio or video format;
- (d) production and presentation of theatre arts²;
- (e) production and exhibition of visual arts;
- (f) production, distribution, or sale of printed music scores or scores readable by machines;
- (g) design, production, distribution and sale of handicrafts; or
- (h) radiobroadcasts aimed at the public in general, as well as all radio, television, and cable television-related activities, satellite programming services, and broadcasting networks.

Peru reserves the right to adopt or maintain any measure giving preferential treatment to persons of other countries pursuant to any existing or future bilateral or multilateral international agreement regarding cultural industries, including audio-visual cooperation agreements.

For greater certainty, Articles 9.3 (National Treatment) and 9.4 (Most-Favored-Nation Treatment) and Chapter Ten (Cross-Border Trade in Services) shall not apply to

² The term “theatre arts” means live performances or presentations such as drama, dance or music.

government support for the promotion of cultural industries.

Existing Measures:

5. Sector: Handicraft Industries

Sub-Sector:

Obligations Concerned: National Treatment (Articles 9.3 and 10.2)
Performance Requirements (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to the design, distribution, retailing, or exhibition of handicrafts that are identified as Peruvian handicrafts.

Performance requirements shall in all cases be consistent with the Agreement on Trade-Related Investment Measures (TRIMs Agreement).

Existing Measures:

6. Sector: Audio-Visual Industry

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.2)
Performance Requirements (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure whereby a specified percentage (up to 20 percent) of the total cinematographic works shown on an annual basis in cinemas or exhibition rooms in Peru consist of Peruvian cinematographic works. In establishing such percentage, Peru shall take into account factors including the national cinematographic production, the existing exhibition infrastructure in the country and attendance.

Existing Measures:

7. Sector: Jewelry Design
Theater arts
Visual arts
Music
Publishing

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.2)
Performance Requirements (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government support for the development and production of jewelry design, theater arts, visual arts, music, and publishing on the recipient achieving a given level or percentage of domestic creative content.

Existing Measures:

8. Sector:	Audio-Visual Industry Publishing Music
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3)
Description:	<u>Investment and Cross-Border Trade in Services</u> Peru may adopt or maintain any measure that affords a person of the other Party the treatment that is afforded by that Party to Peruvian persons in the audiovisual, publishing, and music sectors.
Existing Measures:	

9. Sector:	Social Services
Sub-Sector:	
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Local Presence (Article 10.5) Performance Requirements (Article 9.7) Senior Management and Board of Directors (Article 9.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Peru reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security and insurance, social security, social welfare, public education, public training, health, and childcare.
Existing Measures:	

10. Sector: Public Supply of Potable Water

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.5)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to the public supply of potable water.

Existing Measures:

11. Sector: Public Sewage Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.5)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to public sewage services.

Existing Measures:

12. Sector: Telecommunications Services

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Article 10.3)
Local Presence (Article 10.5)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to the granting of a concession for the installation, operation and exploitation of public telecommunication services.

Existing Measures:

13. Sector: Education Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.2)
Most-Favored-Nation Treatment (Article 10.3)
Local Presence (Article 10.5)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to natural persons who render educational services, including teachers and auxiliary personnel rendering educational services in basic and superior education including “educación técnico-productiva” (technical and productive training) as well as other people who render services related to education included sponsors of educational institutions of any level or stage of the educational system.

Existing Measures:

14. Sector:	Transportation Services
Sub-Sector:	Road Transportation Services
Obligations Concerned:	National Treatment (Article 10.2)
Description:	<u>Cross-Border Trade in Services</u>

Peru reserves the right to adopt or maintain any measure that authorizes only Peruvian natural or juridical persons to supply land transportation of persons or merchandise inside the territory of Peru (“cabotage”). For this, the enterprises shall use vehicles registered in Peru.

Existing Measures:

15. Sector:	Transportation
Sub-Sector:	International Road Transportation Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.2) Most-Favored-Nation Treatment (Articles 9.4 and 10.3) Local Presence (Article 10.5)
Description:	<u>Investment and Cross-Border Trade in Services</u> Peru reserves the right to adopt or maintain any measure relating to the international land transportation of cargo or passengers in border areas. Additionally, Peru reserves the right to adopt or maintain the following limitations for the supply of international land transportation from Peru: (a) the service supplier must be a Peruvian natural or juridical person; (b) the service supplier must have a real an effective domicile in Peru; and (c) in the case of juridical persons, the service supplier must be legally constituted in Peru and more than 50 percent of its capital stock must be owned by Peruvian nationals and its effective control must be by Peruvian nationals.
Existing Measures:	

16. Sector: All Sectors

Sub-Sector:

Obligations Concerned: Market Access (Article 10.4)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to Article 10.4 (Market Access), except for the following sectors and sub-sectors subject to the limitations and conditions listed below:

Legal services: For (a) and (c): None, except that the number of notary positions is limited as follows:

- (i) 200 for the capital;
- (ii) 40 for each department capital; and
- (iii) 20 for each provincial capital (including the Constitutional Province of Callao).

For (b): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Accounting, auditing and book-keeping services: For (a), (b), (c) and (d): Peru reserves the right to adopt or maintain any measure that is not inconsistent with Peru’s obligations under Article XVI of GATS.

Architectural services and urban planning and landscape architectural services: For (a), (b) and (c): None, except that for temporary registration, non-resident foreign architects must have a contract of association with a Peruvian architect residing in Peru. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Engineering services and Integrated Engineering services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Veterinary Services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Services provided by midwives, nurses, physiotherapists, and paramedical personnel: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la*

Contratación de Trabajadores Extranjeros”.

Computer and Related Services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Real Estate Services: Involving owned or leased property or on a fee or contract basis: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment:

For (a), (b) and (c): None, except that:

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 water transportation services in national traffic or cabotage³ 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.

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:

- (i) up to 25 percent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy, and
- (ii) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprise 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.

For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

³ For greater certainty, water transportation includes transportation by lakes and rivers.

Advertising services: For (a), (b) and (c): None, except that: Commercial advertising produced in Peru, must use at least 80 percent 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 sentences shall govern the work of technical personnel involved in commercial advertising. For (d): No commitments, except as indicated in the “*Ley del Artista, Intérprete y Ejecutante*” and “*Ley para la Contratación de Trabajadores Extranjeros*”.

Market research and public opinion polling services, management consulting services, services related to management consulting, and technical testing and analysis services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Services related to agriculture, hunting, and forestry: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Services related to mining, placement and supply services of personnel, and investigation and security services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Services incidental to manufacturing:
For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratacion de Trabajadores Extranjeros*”.

Related scientific and technical consulting services:
For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratacion de Trabajadores Extranjeros*”.

Maintenance and repair of equipment (not including vessels, aircraft, or other transport equipment), building-cleaning services, photographic services, packing services and convention services:
For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratacion de Trabajadores Extranjeros*”.

Printing and publishing services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley*”

para la Contratación de Trabajadores Extranjeros”.

National or international long-distance telecommunications services: For (a), (b), (c) and (d): Peru reserves the right to adopt or maintain any measure that is not inconsistent with Peru’s obligations under Article XVI of GATS.

*Carrier telecommunications services, private telecommunications services and value added services*⁴: For (a), (b), (c): None, except for the obligation of obtaining a concession, authorization, registry or any other title which Peru considers convenient to grant in order to habilitate the suppliers to provide these services. The juridical persons constituted under Peruvian law can be eligible for a concession.

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.

International traffic shall be routed through the installations of a company holding a concession or other permission for operation granted by the “Ministerio de Transporte y Comunicaciones”.

Interconnection among private services is prohibited.

For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Commission agents services (except hydrocarbons): For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Retailing services, except alcohol and tobacco: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Wholesale trade services (except hydrocarbons): For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

⁴ Value added services shall be defined in accordance with Peruvian legislation.

Franchising: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Repairment services of domestic and personal belongings: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Hotels and restaurants (including catering), travel agencies and tour operators services, and tourist guide services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Entertainment services (including theater, live bands, and circus services), news agencies services, libraries, archives, museums, and other cultural and sporting services: For (a), (b) and (c): None, except that:

- (i) any domestic theater⁵ and visual arts production and any domestic artistic live performance must be comprised of at least 80 percent 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 sentences shall govern the work of technical personnel involved in artistic activities. These percentages shall 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.
- (ii) a foreign circus may stay in Peru with the 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.

For (d): No commitments, except as indicated in the “*Ley del Artista, Intérprete y Ejecutante*” and “*Ley para la*

⁵ The term “theater arts” means live performances or presentations such as drama, dance, or music.

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Exploitation of facilities for competitive and recreational sports: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Recreational parks services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Maritime and internal waterways transport services:

For (a), (b), (c) and (d): Peru reserves the right to adopt or maintain any measure that is not inconsistent with Peru’s obligations under Article XVI of GATS.

Road Transport: rental of commercial vehicles with operator, maintenance and repair of road transport equipment, and exploitation of roads, bridges and tunnels services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Services auxiliary to all transport: cargo handling services; storage and warehouse services; freight transport agency services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Aircraft repair and maintenance services: For (a): No commitments. For (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Selling and marketing of air transport services, and computer reservation system services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Pipeline transport services:

For (a), (b) and (c): None. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Research and Development services on natural sciences: For (a), (b) and (c): None, except that a permission of operation may be required and the competent authority may state the incorporation to the expedition of one or more

representatives of the Peruvian pertinent activities, in order to participate and know the studies and its scope. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Research and Development services on social sciences and humanities: For (a), (b) and (c): None, subject to the respective authorizations of the competent authority. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

Interdisciplinary Research and Development services: For (a), (b) and (c): None, except that a permission of operation may be required. For (d): No commitments, except as indicated in the “*Ley para la Contratación de Trabajadores Extranjeros*”.

For greater certainty, nothing in this reservation shall be inconsistent with Peru’s commitments under Article XVI of the GATS.

For purposes of this non-conforming measure:

1. “(a)” refers to the supply of a service from the territory of one Party into the territory of the other Party;
2. “(b)” refers to the supply of a service in the territory of a Party by one person of that Party to a person of the other Party;
3. “(c)” refers to the supply of a service in the territory of a Party by an investor of the other Party or by a covered investment; and
4. “(d)” refers to the supply of a service by a national of a Party in the territory of the other Party.

Existing Measures:
