

ANNEX II
EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 11.12 (Non-Conforming Measures) and 12.6 (Non-Conforming Measures), the specific sectors, subsectors, 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 11.3 (National Treatment) or 12.2 (National Treatment);
 - (b) Article 11.4 (Most-Favored-Nation Treatment) or 12.3 (Most-Favored-Nation Treatment);
 - (c) Article 12.5 (Local Presence);
 - (d) Article 11.8 (Performance Requirements);
 - (e) Article 11.9 (Senior Management and Boards of Directors); or
 - (f) Article 12.4 (Market Access).
2. Each Schedule entry sets out the following elements:
 - (a) **Sector** refers to the sector for which the entry is made;
 - (b) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to Articles 11.12.2 (Non-Conforming Measures) and 12.6.2 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities scheduled in the entry;
 - (c) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and
 - (d) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.
3. In accordance with Articles 11.12.2 (Non-Conforming Measures) and 12.6.2 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors, and activities identified in the **Description** element of that entry.
4. For Korea, **foreign person** means a foreign national or an enterprise organized under the

laws of another country.

5. For greater certainty, Local Presence (Article 12.5) and National Treatment (Article 12.2) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 12.5) need not be reserved against National Treatment (Article 12.2).

ANNEX II
SCHEDULE OF KOREA

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.3)
Performance Requirements (Article 11.8)

Description: Investment

1. Korea reserves the right to adopt, with respect to the establishment or acquisition of an investment, any measure that is necessary for the maintenance of public order pursuant to Article 4 of the *Foreign Investment Promotion Act* (2007) and Article 5 of the *Enforcement Decree of the Foreign Investment Promotion Act* (2007), provided that Korea promptly provides written notice to the United States 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* (2007), *Enforcement Decree of the Foreign Investment Promotion Act* (2007), and other applicable law;
- (b) is adopted or maintained only where the investment poses a genuine and sufficiently serious threat to the fundamental interests of society;
- (c) is not applied in an arbitrary or unjustifiable manner;
- (d) does not constitute a disguised restriction on investment; and
- (e) is proportional to the objective it seeks to achieve.

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

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

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

In the event of such a claim, Section B of Chapter Eleven shall apply, *mutatis mutandis*, and all references in Section B of Chapter Eleven to a breach, or to an alleged breach, of an obligation under Section A of Chapter Eleven shall be understood to refer to the measure, which would constitute a breach of an obligation under Section A of Chapter Eleven 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 does not apply to the extent that a measure referred to in paragraph 1 is subject to Chapter Thirteen (Financial Services).

Existing Measures:

Foreign Investment Promotion Act (Law No. 8380, April 11, 2007), Article 4

Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 19826, January 5, 2007), Article 5

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the transfer or disposition of equity interests or assets held by state enterprises or governmental authorities. Such a measure shall be implemented in accordance with the provisions of Chapter Twenty-One (Transparency). Notwithstanding Article 13.9.3 (Non-Conforming Measures), this entry shall not be treated as a non-conforming measure not subject to Article 13.2 (National Treatment). This entry does 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. <u>Cross-Border Trade in Services and Investment</u> 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 does not apply to a measure inconsistent with Article 11.3 or 12.2 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. Notwithstanding Article 13.9.3, this entry shall not be treated as a non-conforming measure not subject to Article 13.2.

Existing Measures:

Securities and Exchange Act (Law No 8315, March 29, 2007),
Article 203

Sector:	Acquisition of Land
Obligations Concerned:	National Treatment (Article 11.3)
Description:	<u>Investment</u> 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: 1. is not deemed foreign under Article 2 of the <i>Foreigner's Land Acquisition Act</i>, and 2. is deemed foreign under the <i>Foreigner's Land Acquisition Act</i> or is a branch of a foreign juridical person subject to approval or notification in accordance with the <i>Foreigner's Land Acquisition Act</i>, if the land is to be used for any of the following legitimate business purposes: (a) land used for ordinary business activities; (b) land used for housing for senior management; and (c) 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:	<i>Foreigner's Land Acquisition Act</i> (Law No. 7297, December 31, 2004), Articles 2 through 6 <i>Farmland Act</i> (Law No. 8179, January 3, 2007), Article 6

Sector:	Firearms, Swords, Explosives, and Similar Items
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the firearms, swords, and explosives sector, including the manufacture, use, sale, storage, transport, import, export, and possession of firearms, swords, or explosives.

Sector:	Disadvantaged Groups
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure that accords rights or preferences to socially or economically disadvantaged groups, such as the disabled, persons who have rendered distinguished services to the state, and ethnic minorities.

Sector:	State-Owned National Electronic/Information System
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Local Presence (Article 12.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure affecting the administration and operation of any state-owned electronic information system that contains proprietary government information or information gathered pursuant to the regulatory functions and powers of the government. This entry does not apply to payment and settlement systems related to financial services.

Sector:	Social Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Local Presence (Article 12.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for public purposes: income security or insurance, social security or insurance, social welfare, public training, health, and child care.

Sector: All Sectors

Obligations Concerned: Market Access (Article 12.4)

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 subparagraph (f) of paragraph 2 of Article XVI of GATS inscribed in the Market Access column of Korea's Schedule.

For greater certainty, an entry of "None" in the Market Access column of Korea's Schedule shall not be construed to alter the application of Article 12.5 as modified by Article 12.6.

Sector:	All Sectors
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 11.4 and 12.3)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.

Sector:	Communication Services - Broadcasting Services
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 11.4 and 12.3)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure that accords differential treatment to persons of other countries due to the application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services.

Sector:	Transportation Services - Railroad Transportation
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 11.4 and 12.3)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving railroad transportation.

Sector:	Environmental Services - Treatment and Supply Services for Potable Water; Collection and Treatment Services for Municipal Sewage; Collection, Transportation, and Disposal Services for Municipal Refuse; Sanitation and Similar Services; Nature and Landscape Protection Services (Except for Environmental Impact Assessment Services)
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the following environmental services: treatment and supply of potable water; collection and treatment of municipal sewage; collection, transportation, and disposal of municipal refuse; sanitation and similar services; and nature and landscape protection services (except for environmental impact assessment services). This entry shall not apply to the supply of the aforementioned services pursuant to a contract between private parties, to the extent private supply of such services is permitted under relevant laws and regulations.

Sector:	Atomic Energy - Nuclear Power Generation; Manufacturing and Supply of Nuclear Fuel; Nuclear Materials; Radioactive Waste Treatment and Disposal (including treatment and disposal of spent and irradiated nuclear fuel); Radioisotope and Radiation Generation Facilities; Monitoring Services for Radiation; Services Related to Nuclear Energy; Planning, Maintenance, and Repair Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the atomic energy industry.

Sector:	Energy Services - Electric Power Generation other than Nuclear Power Generation; Electric Power Transmission, Distribution, and Sales; Electricity Business
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to electric power generation, transmission, distribution, and sales. Any such measure shall not decrease the level of foreign ownership permitted in the electric power industry as provided by the entry in Korea's Schedule to Annex I related to Energy Industry (electric power). Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with Article 11.8.1(f).

Sector:	Energy Services - Gas industry
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the import and wholesale distribution of natural gas and the operation of terminals and the national high pressure pipeline network. Any such measure shall not decrease the level of foreign ownership permitted in the gas industry as provided by the entry in Korea's Schedule to Annex I related to Energy Industry (gas industry).

Sector:	Distribution Services - Commission Agents' Services, Wholesaling and Retailing of Agricultural Raw Materials and Live Animals (<i>nong chuk san mul</i>)
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to: (a) commission agents' services; (b) wholesaling (including importation) services; and (c) retailing services, with respect to rice, ginseng, and red ginseng.

Sector:	Transportation Services - Passenger Road Transportation Services (Taxi Services and Scheduled Passenger Road Transportation Services)
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to taxi services and scheduled passenger road transportation services.

Sector:	Transportation Services - Freight Road Transportation Services (not including Road Transportation Services Related to Courier Services)
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to freight road transportation services, not including road transportation of containerized freight (excluding cabotage) by international shipping companies and road transportation services related to courier services.

Sector:	Transportation Services - Internal Waterways Transportation Services and Space Transportation Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to internal waterways transportation services and space transportation services.

Sector:	Transportation Services - Storage and Warehousing Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to storage and warehousing services related to rice.

Sector:	Communication Services - Non-monopoly Postal Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to: (a) the supply of support services to postal offices by military service personnel or other personnel of equivalent status; and (b) the Minister of Information and Communication not needing authorization from the Minister of Construction and Transportation in determining the total number of vehicles that may belong to the Ministry of Information and Communication and allocating the vehicles to postal offices.
Existing Measures:	<i>Postal Service Act</i> (Law No. 8288, January 26, 2007) <i>Military Service Act</i> (Law No. 8243, January 19, 2007) <i>Regulations on Management of Common-Purpose Motor Vehicles</i> (Presidential Decree No. 19414, March 29, 2006)

Sector:	Communication Services - Broadcasting Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Market Access (Article 12.4) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure that: (a) limits cross-ownership among media sectors; (b) sets the minimum percentage of issued stocks or equity interest that serves as a threshold to determine whether a juridical person organized under Korean law is a deemed foreign person. This subparagraph does not apply to a program provider that is not engaged in <i>jong-hap-pyeon-sung</i> (multi-genre programming), <i>bo-do</i> (news reporting), or home-shopping; (c) requires the members of the board of directors of the supplier of broadcasting services to be Korean nationals or residents; (d) requires a platform operator (<i>e.g.</i>, a cable system or satellite broadcasting operator) to retransmit a terrestrial broadcasting channel or to transmit a public interest channel; (e) with respect to a terrestrial broadcaster, requires a certain percentage of annual programming hours to be newly produced Korean animation, provided that such measure does not materially impair the level of market access afforded U.S. animation content as of April 30, 2007;¹

¹ For purposes of transparency, under the Broadcasting Act (Law No. 8301, January 26, 2007), the Korea Broadcasting Commission (KBC) may require that a specific percentage no greater than 1.5 percent of a terrestrial broadcaster's annual programming hours be newly produced Korean animation. As of April 30, 2007, KBC requires that one percent of the annual programming hours of Korea Broadcasting System (KBS), *Mun-hwa* Broadcasting Corporation (MBC), and Seoul Broadcasting System (SBS) and 0.3 percent of the annual programming hours of Educational Broadcasting System (EBS) be newly produced Korean animation.

- (f) with respect to a program provider that primarily provides animation programming or is engaged in *jong-hap-pyeon-sung* (multi-genre programming), requires a certain percentage of annual programming hours to be newly produced Korean animation, provided that the measure permits the program provider to provide a greater quantity of foreign content than specified in the Communications Services – Broadcasting Services entry in Korea’s Schedule to Annex I;
- (g) imposes an outsourced production content quota, expenditure requirement for Korean production, or prime time quota, provided that, if such a quota or requirement is applied to a cable system or satellite broadcasting operator or program provider, the measure permits such operator or provider to provide a greater quantity of foreign content than specified in the Communications Services – Broadcasting Services entry in Korea’s Schedule to Annex I;
- (h) requires a supplier of broadcasting services that provides video on demand (VOD) services to store a certain percentage of Korean content, provided that such a requirement does not result in the storage of videos for which there is negligible consumer demand; or
- (i) restricts or prohibits foreign retransmitted broadcasting services (including foreign cable channels) in a specific category provided that the foreign equity limitations with respect to program providers of that category specified in the Communications Services – Broadcasting Services entry in Korea’s Schedule to Annex I are eliminated. This subparagraph does not apply with respect to a supplier of foreign retransmitted broadcasting services approved on or before the date this Agreement is signed and such a supplier may continue to supply its services in accordance with the *Broadcasting Act* (Law No. 8301, January 26, 2007 and Decision No. 2005-18-144, April 26, 2005).

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 holds in the aggregate more than 50 percent of its total issued stocks or equity interest, or whose largest shareholder is a foreign government or a foreign person;
- (b) **outsourced production content** means content produced in Korea by an independent production company organized under Korean law; and
- (c) **prime time quota** means a requirement to provide a certain percentage of Korean content during hours of high viewership.

Sector: Communication Services - Broadcasting and Telecommunications Services

Obligations Concerned: National Treatment (Articles 11.3 and 12.2)
Performance Requirements (Article 11.8)
Senior Management and Boards of Directors (Article 11.9)
Market Access (Article 12.4)
Local Presence (Article 12.5)

Description: Cross-Border Trade in Services and Investment

1. Subject to paragraph 2, Korea reserves the right to adopt or maintain any measure with respect to a supplier of subscription-based video services, as part of future regulatory reforms in the broadcasting and telecommunications sectors or taking into account deliberations by the Broadcasting and Telecommunications Convergence Promotion Committee.
2. With respect to subscription-based video services,
 - (a) any such measure that limits foreign equity shall be applied in accordance with domestic policy determinations regarding the classification of subscription-based video services and shall be no less favorable with respect to a supplier of subscription-based video services than a measure applied pursuant to the Telecommunications Services entry in Korea's Schedule to Annex I with respect to a facilities-based supplier of public telecommunications services or the Communications Services-Broadcasting Services entry in Korea's Schedule to Annex I with respect to a cable system operator, as the case may be. Such a measure shall be subject to Article 11.12.1(c); and
 - (b) any such measure that imposes a domestic content quota may set a level of Korean content no higher than the percentage permitted pursuant to the Communications Services – Broadcasting Services entry in Korea's Schedule to Annex I with respect to a cable system operator. Such a measure shall be subject to Article 11.12.1(c).

For transparency, the Broadcasting and Telecommunications Convergence Promotion Committee is to design policy and reform the regulatory framework on the following areas:

- (a) restructuring the regulatory authority and setting a new legal framework;
- (b) reviewing the industry's classification system;
- (c) licensing and authorization of service suppliers;
- (d) ownership and cross-ownership system;
- (e) regulations on business activities;
- (f) improving technological regulations;
- (g) realizing universal service; and
- (h) addressing the issue of public interest programs in the convergence era.

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 Internet Protocol-based Television (IPTV) and Interactive Broadcasting.

Sector:	Communication Services - Broadcasting and Audio-Visual Services
Obligations Concerned:	Most Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any preferential co-production arrangement for film or television productions. Official co-production status, which may be granted to a co-production produced under such a co-production arrangement, confers national treatment on works covered by a co-production arrangement.

Sector:	Communication Services - Broadcasting and Audio-Visual Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure setting criteria for determining whether broadcasting or audio-visual programs are Korean. Korea shall ensure that this entry is not inconsistent with the Communications Services – Broadcasting Services entry in Korea’s Schedule to Annex I or the Communications Services – Broadcasting and Telecommunications Services entry in Korea’s Schedule to Annex II.

Sector:	Business Services - Real Estate Services (not including Real Estate Brokerage and Appraisal Services)
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services, except for brokerage and appraisal services.

Sector:	Business Services - Insolvency and Receivership Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to insolvency and receivership services. Korea reserves the right to adopt or maintain any measure with respect to corporate restructuring services, including corporate restructuring companies, corporate restructuring partnerships, and corporate restructuring vehicles. For greater certainty, this entry shall not be construed to negatively affect current legitimate investment banking services subject to rights and obligations under Chapter Thirteen (Financial Services).

Sector:	Digital Audio or Video Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt any measure to ensure that, upon a finding by the Government of Korea that Korean digital audio or video content or genres thereof is not readily available to Korean consumers, access to such content is not unreasonably denied to Korean consumers. With respect to digital audio or video services targeted at Korean consumers, Korea reserves the right to adopt any measure to promote the availability of such content. Any measure adopted pursuant to the paragraph above shall be implemented in accordance with the provisions of Chapter Twenty-One (Transparency), as well as Article 12.8 (Transparency in Developing and Applying Regulations), as applicable, be based on objective criteria, and be no more trade-restrictive or burdensome than necessary. For purposes of this entry, digital audio or video service means a service that provides streaming audio content, films or other video downloads or streaming video content regardless of the type of transmission (including through the Internet), but does not include broadcasting services as defined by the <i>Broadcasting Act</i> as of the date this Agreement enters into force or subscription-based video services as defined in the Communications Services – Broadcasting and Telecommunications Services entry in Korea’s Schedule to Annex II.

Sector: Business Services - Cadastral Surveying Services and Cadastral Map-Making Services

Obligations Concerned: National Treatment (Articles 11.3 and 12.2)

Description: Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to cadastral surveying services and cadastral map related services.

Sector:	Business and Environmental Services - Examination, Certification, and Classification of Agricultural Raw Materials and Live Animals (<i>nong chuk san mul</i>)
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to examination, certification, and classification of agricultural raw materials and live animal products. For greater certainty, this entry does not include examinations or testings performed on behalf of producers in advance of the official examinations or testings.

Sector:	Business Services - Services Incidental to Agriculture, Hunting, Forestry, and Fishing
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, and livestock, including genetic improvement, artificial insemination, rice and barley polishing, and activities related to a rice processing complex. Korea reserves the right to adopt or maintain any measure with respect to the supply of services incidental to agriculture, hunting, forestry, and fishing by the Agricultural Cooperatives, the Forestry Cooperatives, and the Fisheries Cooperatives.

Sector: Fishing

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

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

Sector:	Publishing of Newspapers
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the publishing (including printing and distribution) of newspapers.

Sector:	Education Services - Pre-Primary, Primary, Secondary, Higher, and Other Education
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to pre-primary, primary, and secondary education; health and medicine-related higher education; higher education for prospective pre-primary, primary, and secondary teachers; professional graduate education in law; distance education at all education levels (except adult education services, provided that such services do not confer academic credit, diplomas, or degrees); and other education services. This entry does not apply to the administration of educational testing for foreign use. For greater certainty, nothing in this Agreement affects Korea's authority to select and apply educational testings, or to regulate school curriculum in accordance with domestic education policy.

Sector:	Social Services - Human Health Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to human health services. 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. 8372, April 11, 2007), and the <i>Special Act on Establishment of Jeju Special Self-Governing Province and Creation of Free International City</i> (Law No. 8372, April 11, 2007) 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.

Sector:	Recreational, Cultural, and Sporting Services - Motion Picture Promotion, Advertising, or Post-Production Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Performance Requirements (Article 11.8) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to motion picture promotion, advertising, or post-production services.

Sector:	Recreational, Cultural, and Sporting Services - Museum and Other Cultural Services
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the conservation and restoration of cultural heritage and properties, including the excavation, appraisal, or dealing of cultural heritage and properties.

Sector: Other Recreational Services

Obligations Concerned: National Treatment (Article 11.3)

Description: Investment

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

Sector:	Legal Services - Foreign Legal Consultants
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> 1. Korea reserves the right to adopt or maintain any measures including but not limited to: (a) restrictions on certification, approval, registration, admission, and supervision of, and any other requirements with respect to, foreign country-licensed lawyers or foreign law firms supplying any type of legal services in Korea; (b) restrictions on foreign country-licensed lawyers or foreign law firms entering into partnerships, commercial associations, affiliations, or any other type of relationship regardless of legal form, with <i>byeon-ho-sa</i> (Korean-licensed lawyers), Korean law firms, <i>beop-mu-sa</i> (Korean-certified judicial scriveners), <i>byeon-ri-sa</i> (Korean-licensed patent attorneys), <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants), <i>se-mu-sa</i> (Korean-certified tax accountants), or <i>gwan-se-sa</i> (Korean customs brokers); (c) restrictions on foreign country-licensed lawyers or foreign law firms hiring <i>byeon-ho-sa</i> (Korean-licensed lawyers), <i>beop-mu-sa</i> (Korean-certified judicial scriveners), <i>byeon-ri-sa</i> (Korean-licensed patent attorneys), <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants), <i>se-mu-sa</i> (Korean certified tax accountants), or <i>gwan-se-sa</i> (Korean customs brokers) in Korea; and, (d) restrictions on senior management and the board of directors of legal entities supplying foreign legal consulting services, including with respect to the chairman. 2. Notwithstanding paragraph 1,

- (a) No later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement, U.S. law firms to establish representative offices (Foreign Legal Consultant offices or FLC offices) in Korea, and attorneys licensed in the United States to provide legal advisory services regarding the laws of the jurisdiction in which they are licensed and public international law as foreign legal consultants in Korea.
- (b) No later than two years after the date this Agreement enters into force, Korea shall allow FLC offices, subject to certain requirements consistent with this Agreement, to enter into specific cooperative agreements with Korean law firms in order to be able to jointly deal with cases where domestic and foreign legal issues are mixed, and to share profits derived from such cases.
- (c) No later than five years after the date this Agreement enters into force, Korea shall allow U.S. law firms to establish, subject to certain requirements consistent with this Agreement, joint venture firms with Korean law firms. Korea may impose restrictions on the proportion of voting shares or equity interests of the joint venture firms. For greater certainty, such joint ventures may, subject to certain requirements, employ Korean-licensed lawyers as partners or associates.

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

For purposes of this entry, **U.S. law firm** means a law firm organized under U.S. law and headquartered in the United States.

Sector:	Professional Services - Foreign Certified Public Accountants
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> 1. Korea reserves the right to adopt or maintain any measures, including but not limited to: (a) restrictions on certified public accountants or accounting corporations registered under foreign laws hiring <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants); (b) restrictions on foreign-certified public accountants providing auditing services in Korea; and (c) restrictions on senior management and the board of directors of legal entities supplying certified public accountancy services, including with respect to the chairman. 2. Notwithstanding paragraph 1, (a) No later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement: (i) U.S. certified public accountants registered in the United States or accounting corporations organized under U.S. law to supply accounting consulting services relating to U.S. or international accounting laws and standards through offices established in Korea; and (ii) U.S. certified public accountants registered in the United States to work in <i>hoe-gye-beop-in</i> (Korean accounting corporations). (b) No later than five years after the date this Agreement enters into force, Korea shall allow U.S. certified public accountants registered in the United States to invest in any <i>hoe-gye-beop-in</i> (Korean

accounting corporations), subject to certain requirements consistent with this Agreement, provided that:

- (i) *gong-in-hoe-gye-sa* (Korean registered certified public accountants) shall own more than 50 percent of the voting shares or equity interest of the *hoe-gye-beop-in*, and
- (ii) any single U.S. certified public accountant registered in the United States owns less than 10 percent of the voting shares or equity interests of the *hoe-gye-beop-in*.

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

For purposes of this entry, a **U.S. accounting corporation** means an accounting corporation or partnership organized under U.S. law and headquartered in the United States.

Sector:	Professional Services - Foreign Certified Tax Accountants
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> 1. Korea reserves the right to adopt or maintain any measures, including but not limited to: (a) restrictions on certified tax accountants or tax agency corporations registered under foreign laws hiring <i>se-mu-sa</i> (Korean-certified tax accountants) or <i>gong-in-hoe-gye-sa</i> (Korean-certified public accountants); (b) restrictions on foreign-certified tax accountants providing tax reconciliation services and tax representative services in Korea; and (c) restrictions on senior management and the board of directors of legal entities supplying certified tax accountancy services, including with respect to the chairman. 2. Notwithstanding paragraph 1, (a) No later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement: (i) the establishment of offices in Korea by U.S. certified tax accountants registered in the United States or tax agency corporations organized under the U.S. laws to provide tax consulting services with respect to U.S. or international tax laws and taxation system; and (ii) U.S. certified tax accountants registered in the United States to work in <i>se-mu-beop-in</i> (Korean tax agency corporations). (b) No later than five years after this Agreement enters into force, Korea shall allow U.S. certified tax

accountants registered in the United States to invest in any *se-mu-beop-in* (Korean tax agency corporations), subject to certain requirements consistent with this Agreement, provided that:

- (i) *se-mu-sa* (Korean-certified tax accountants) shall own more than 50 percent of the voting shares or equity interests of the *se-mu-beop-in*; and
- (ii) any single U.S. certified tax accountant registered in the United States owns less than 10 percent of the voting shares or equity interests of the *se-mu-beop-in*.

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

For purposes of this entry, a **U.S. tax agency corporation** means a tax agency corporation or partnership organized under U.S. law and headquartered in the United States.

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 12.2) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services</u> Korea reserves the right to adopt or maintain any measure with respect to the exportation and re-exportation of controlled commodities, software, and technology. Only persons residing in Korea may apply for a license to export or re-export such commodities, software, or technology. As of the date this Agreement is signed, Korea is in the process of modifying the measures relevant to this entry. The Parties agree that they will consult after that process is completed to determine whether an amendment to this entry is necessary in light of those modifications.
Existing Measures:	<i>Technology Development Promotion Act</i> (Law No. 7949, April 28, 2006) <i>Atomic Energy Act</i> (Law No. 7806, December 30, 2005) <i>Foreign Trade Act</i> (Law No. 8356, April 11, 2007) <i>Announcement of the Ministry of Science and Technology</i> (April 12, 2007), No. 2007-3 <i>Announcement of the Ministry of Commerce, Industry and Energy</i> (April 12, 2007), No. 2007-51 <i>The Customs Act</i> (Law No. 8136, December 30, 2006)

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 11.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)
Description:	<u>Investment</u> Korea reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority, as that term is defined in Article 12.1.6 (Scope and Coverage), such as law enforcement and correctional services. This entry does not apply to: (a) an investor or covered investment that has entered into an agreement with Korea with respect to the supply of such services; or (b) a measure adopted or maintained by Korea to the extent that the measure is subject to Chapter Thirteen (Financial Services).

Sector:	Transportation Services - Maritime Passenger Transportation and Maritime Cabotage
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Senior Management and Boards of Directors (Article 11.9) Performance Requirements (Article 11.8) Local Presence (Article 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to the 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 Maritime Affairs and Fisheries, 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 Ministry of Maritime Affairs and Fisheries; (b) a vessel owned by a Korean national; (c) a vessel owned by an enterprise organized under the Korean Commercial Code; (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 23.2 (Essential Security).

APPENDIX II-A

<i>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.</i>	
Sector/Subsector	Market Access Improvements
Research and Development Services : a. Research and development services on natural sciences b. Research and development services on social sciences and humanities 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 Modify mode 1and 2 limitations from "Unbound" to "None" Insert new commitments with "None" for modes 1and 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 1and 2 limitations from "Unbound" to "None"
Services incidental to mining	Modify mode 1and 2 limitations from "Unbound" to "None"
Packaging services	Modify mode 1and 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/Subsector	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 THE UNITED STATES

Sector: Communications

Obligations Concerned: Most-Favored-Nation Treatment (Articles 11.4 and 12.3)

Description: Cross-Border Services and Investment

The United States reserves the right to adopt or maintain any measure that accords differential treatment to persons of other countries due to 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.

* In applying such a reciprocity measure, the FCC determines whether another country accords effective competitive opportunities to U.S. service suppliers. In making that determination the FCC considers whether that country accords no less favorable treatment to U.S. service suppliers than domestic service suppliers and does not limit the number of service suppliers in its market, among other factors.

Sector: Social Services

Obligations Concerned: National Treatment (Articles 11.3 and 12.2)
Most-Favored-Nation Treatment (Articles 11.4 and 12.3)
Local Presence (Article 12.5)
Performance Requirements (Article 11.8)
Senior Management and Boards of Directors (Article 11.9)

Description: Cross-Border Services and Investment

The United States 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 they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

Sector:	Minority Affairs
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Local Presence (Article 12.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)
Description:	<u>Cross-Border Services and Investment</u> The United States reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities, including corporations organized under the laws of the State of Alaska in accordance with the <i>Alaska Native Claims Settlement Act</i> .
Existing Measures:	<i>Alaska Native Claims Settlement Act</i> , 43 U.S.C. § 1606(f) and (h)

Sector:	Maritime Transportation Services and Operation of U.S.-flagged Vessels
Obligations Concerned:	National Treatment (Articles 11.3 and 12.2) Most-Favored-Nation Treatment (Articles 11.4 and 12.3) Local Presence (Article 12.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)
Description:	<u>Cross-Border Services and Investment</u> The United States reserves the right to adopt or maintain any measure relating to the provision of maritime transportation services and the operation of U.S.-flagged vessels, including the following: (a) requirements for investment in, ownership and control of, and operation of vessels and other marine structures, including drill rigs, in maritime cabotage services, including maritime cabotage services performed in the domestic offshore trades, the coastwise trades, U.S. territorial waters, waters above the continental shelf, and in the inland waterways; (b) requirements for investment in, ownership and control of, and operation of U.S.-flagged vessels in foreign trades; (c) requirements for investment in, ownership or control of, and operation of vessels engaged in fishing and related activities in U.S. territorial waters and the Exclusive Economic Zone; (d) requirements related to documenting a vessel under the U.S. flag; (e) promotional programs, including tax benefits, available for shipowners, operators, and vessels meeting certain requirements; (f) certification, licensing, and citizenship requirements for crew members on U.S.-flagged vessels; (g) manning requirements for U.S.-flagged vessels;

- (h) all matters under the jurisdiction of the Federal Maritime Commission;¹
- (i) negotiation and implementation of bilateral and other international maritime agreements and understandings;
- (j) limitations on longshore work performed by crew members;
- (k) tonnage duties and light money assessments for entering U.S. waters; and
- (l) certification, licensing, and citizenship requirements for pilots performing pilotage services in U.S. territorial waters.

The following activities are not included in this reservation. However, the treatment in (b) is conditional upon obtaining comparable market access in these sectors from Korea:

- (a) vessel construction and repair; and
- (b) landside aspects of port activities, including operation and maintenance of docks; loading and unloading of vessels directly to or from land; marine cargo handling; operation and maintenance of piers; ship cleaning; stevedoring; transfer of cargo between vessels and trucks, trains, pipelines, and wharves; waterfront terminal operations; boat cleaning; canal operation; dismantling of vessels; operation of marine railways for drydocking; marine surveyors, except cargo; marine wrecking of vessels for scrap; and ship classification societies. For greater certainty, measures relating to the landside aspects of port activities are subject to the application of Article 23.2 (Essential Security).

¹ The Federal Maritime Commission (FMC) is an independent agency of the U.S. government responsible for the regulation of the U.S. foreign commerce. The FMC is authorized, by section 19 of the Merchant Marine Act of 1920, to implement countermeasures to address the practices of a foreign government that create unfavorable conditions in U.S. foreign shipping trades. The FMC also has authority, under the Foreign Shipping Practices Act of 1988, to investigate and impose countermeasures when it finds any laws, rules, regulations, etc., of foreign governments, or practices of foreign maritime service suppliers, result in conditions that adversely affect the operations of U.S. carriers in the U.S. oceanborne trade, and such conditions do not exist for foreign carriers of that country under U.S. law or as a result of U.S. maritime service suppliers.

Countermeasures available to the FMC include canceling and/or suspending tariffs and service contracts, imposing fees per voyage, instructing other U.S. agencies to deny entry or refuse clearance of a vessel at U.S. ports, and taking any other measures the Federal Maritime Commission deems appropriate to address the practices in question.

Existing Measures:

Merchant Marine Act of 1920, §§ 19 and 27, now codified at 46 U.S.C. §§ 12101, 12120, 12132, 42101-42109, 55102, 55105-55108, 55110, 55115-55117, 55119
Jones Act Waiver Statute, 64 Stat 1120, 46 U.S.C. App., note preceding Section 1
Shipping Act of 1916, 46 U.S.C. §§ 50501, 56101, 57109
Merchant Marine Act of 1936, 46 U.S.C. App. §§ 1151 et seq., 1171 et seq., and 46 U.S.C. §§ 50111, 53301-53312, 53701-53717, 53721-53725, 53731-53735, 55304, 55305, 57101, 57104, 57301-57308
Merchant Ship Sales Act of 1946, 50 U.S.C. App. § 1738
46 U.S.C. §§ 55109, 55111, 55118, 60301, 60302, 60304-60306, 60312, 80104
46 U.S.C. §§ 12101 et seq. and 31301 et seq.
46 U.S.C. §§ 8904 and 31328(2)
Passenger Vessel Act, 46 U.S.C. § 55103
42 U.S.C. §§ 9601 et seq.; 33 U.S.C. §§ 2701 et seq.; 33 U.S.C. §§ 1251 et seq.
46 U.S.C. §§ 3301 et seq., 3701 et seq., 8103, and 12107(b)
Shipping Act of 1984, 46 U.S.C. §§ 40701-40706, 41107-41109
The Foreign Shipping Practices Act of 1988, 46 U.S.C. §§ 42301 et seq.
Merchant Marine Act, 1920, 46 U.S.C. §§ 50101 et seq.
Shipping Act of 1984, 46 U.S.C. §§ 40101 et seq.
Alaska North Slope, 104 Pub. L. 58; 109 Stat. 557
Longshore restrictions and reciprocity, 8 U.S.C. §§ 1101 et seq.
Vessel escort provisions, Section 1119 of Pub. L. 106-554, as amended
Nicholson Act, 46 U.S.C. § 55114
Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, 46 U.S.C. § 2101 and 46 U.S.C. § 12108
43 U.S.C. § 1841
22 U.S.C. § 1980
Intercoastal Shipping Act, 46 U.S.C. App. § 843
46 U.S.C. § 9302, 46 U.S.C. § 8502; Agreement Governing the Operation of Pilotage on the Great Lakes, Exchange of Notes at Ottawa, August 23, 1978, and March 29, 1979, TIAS 9445
Magnuson Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 et seq.
19 U.S.C. § 1466
North Pacific Anadromous Stocks Convention Act of 1972, P.L. 102-587; *Oceans Act of 1992*, Title VII

Tuna Convention Act, 16 U.S.C. §§ 951 et seq.
South Pacific Tuna Act of 1988, 16 U.S.C. §§ 973 et seq.
Northern Pacific Halibut Act of 1982, 16 U.S.C. §§ 773 et seq.
Atlantic Tunas Convention Act, 16 U.S.C. §§ 971 et seq.
Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. §§ 2431 et seq.
Pacific Salmon Treaty Act of 1985, 16 U.S.C. §§ 3631 et seq.
American Fisheries Act, 46 U.S.C. § 12102(c) and 46 U.S.C. § 31322(a)

Sector: All

Obligations Concerned: Market Access (Article 12.4)

Description: Cross-Border Services

The United States reserves the right to adopt or maintain any measure that is not inconsistent with the United States' obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3).

For purposes of this entry only, the U.S. Schedule of Specific Commitments is modified as indicated in Appendix II-A.

Sector:	All
Obligations Concerned:	Most-Favored-Nation Treatment (Articles 11.4 and 12.3)
Description:	<u>Cross-Border Services and Investment</u> The United States 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. The United States 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.

APPENDIX II-A

For the following Sectors, U.S. obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3) are improved as described.

Sector/Subsector	Market Access Improvements
Foreign Legal Consulting Services	Insert new commitments for the following states: Louisiana, New Mexico: No limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section." Arizona, Indiana, Massachusetts, North Carolina, Utah: No limitations modes 1-2; for mode 3 "in-state law office required," and mode 4 "Unbound, except as indicated in the horizontal section. Additionally, an in-state law office required." Missouri: No limitations modes 1-2; for mode 3 "Association with in-state law office required," and mode 4 "Unbound, except as indicated in the horizontal section. Additionally, association with an in-state law office required."
Accounting, Auditing and Bookkeeping Services	Modify mode 3 limitation as follows: Sole proprietorships or partnerships are limited to persons licensed as accountants; except in Iowa where accounting firms must incorporate Modify mode 4 limitation as follows: In addition, an in-state office must be maintained for licensure in to receive a license to perform audits in: . . .
Engineering Services Integrated Engineering Services	Replace existing description of Mode 4 with "Unbound, except as indicated in the horizontal section."
Research and development services: R&D services on natural sciences, social sciences and humanities, and interdisciplinary R&D services, excluding R&D financed in whole or in part by public funds	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Technical testing and analysis services, other than government-mandated services or services financed in whole or in part by public funds	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Other business services, except for convention services. (Delete "Translation and interpretation services only).	Insert new commitments for all "Other business services" with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Express Delivery Services (as defined in the FTA annex)	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Sector/Subsector	Market Access Improvements
Other Delivery Services	Insert new commitments with modes 1 and 3 limited as follows: "None, except unbound for services supplied by the U.S. Postal Service in accordance with a universal service obligation as provided under domestic law ² or the Universal Postal Union Acts, no limitations on mode 2, and mode 4 "Unbound, except as indicated in the horizontal section."
Higher Education Services (except flying instruction) ³	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."

² Under U.S. law, the universal service obligation requires the U.S. Postal Service to receive, transmit, and deliver throughout the United States written and printed matter, parcels, and like materials.

³ For transparency purposes, individual U.S. institutions maintain autonomy in admission policies, in setting tuition rates, and in the development of curricula or course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established. In some jurisdictions, accreditation of institutions or programs may be required. Institutions maintain autonomy in selecting the jurisdiction in which they will operate, and institutions and programs maintain autonomy in choosing to meet standards set by accrediting organizations as well as to continue accredited status. Accrediting organizations maintain autonomy in setting accreditation standards. Tuition rates vary for in-state and out-of-state residents. Additionally, admissions policies include considerations of equal opportunity for students (regardless of race, ethnicity, or gender), as permitted by domestic law, as well as recognition by regional, national, and/or specialty organizations; and required standards must be met to obtain and maintain accreditation. To participate in the U.S. student loan program, foreign institutions established in the United States are subject to the same requirements as U.S. institutions.

Sector/Subsector	Market Access Improvements
Motion Picture & Video Tape Home Video Entertainment Production and Distribution Promotion or advertising services Motion picture or video tape⁴ production services Motion picture or video tape⁴ distribution services Other services in connection with motion pictures and video tape⁴ production and distribution Motion Picture Projection Services Radio and Television Services Radio and Television Distribution Services Other services in connection with motion pictures and video tape⁴ production and distribution⁵	Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Environmental Services Wastewater Management, excluding Water for Human Use (Wastewater services (contracted by private industry)) Solid/hazardous waste management (contracted by private industry) Refuse disposal services Sanitation and Similar Services Protection of ambient air and climate (Services to reduce exhaust gases and other emissions to improve air quality) Remediation and cleanup of soil and water (Treatment, remediation of contaminated/ polluted soil and water) Noise and vibration abatement (Noise abatement services) Protection of biodiversity and landscape (Nature and landscape protection services) Other environmental and ancillary services (Other services not classified elsewhere)	Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Physical well-being services^{6 7}	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."

⁴ For purposes of clarity, this class refers to theatrical and non-theatrical motion pictures, whether provided on fixed media or electronically.

⁵ For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

⁶ For transparency purposes, this subsector includes physical well-being services such as delivered by, inter alia, fitness centers, spas, salons, massage (excluding therapeutic massage), and ayurvedics. This subsector does not include regulated medical services.

⁷ For greater certainty, nothing in this commitment authorizes the provision of unregulated substances or affects the ability of state authorities to regulate substances that may be affiliated with these services.

Sector/Subsector	Market Access Improvements
Road freight transport	Insert new commitments for domestic transportation with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Cargo-handling services, Storage and warehouse services, and Freight transport agency services, except maritime or air transport services	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."