



TRADE IN SERVICES

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http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc_145166.pdf http://www.ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file315_12711.pdf	
General objectives, scope and coverage	
<p>Article 7.1 – Objective, scope and coverage</p> <p>7.1.1 The Parties, reaffirming their respective rights and obligations under the WTO Agreement, hereby lay down the necessary arrangements for progressive reciprocal liberalisation of trade in services and establishment and for cooperation on electronic commerce.</p> <p>7.1.2 Nothing in this Chapter shall be construed to impose any obligation with respect to government procurement.</p> <p>7.1.3 This Chapter shall not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.</p> <p>7.1.4 Consistent with this Chapter, each Party retains the right to regulate and to introduce new regulations to meet legitimate policy objectives.</p> <p>7.1.5 This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or</p>	

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<p>employment on a permanent basis.</p> <p>7.1.6 Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of a specific commitment in this Chapter and its Annexes.⁴</p> <p><i>(Footnote 4: The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under the terms of a specific commitment in this Chapter and its Annexes.)</i></p>	
General definitions	
<p>Article 7.2 – Definitions</p> <p>For the purposes of this Chapter:</p> <p>(a) measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;</p> <p>(b) measures adopted or maintained by a Party means measures taken by:</p> <p>(i) central, regional or local governments and authorities; and</p> <p>(ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;</p> <p>(c) person means either a natural person or a juridical person;</p>	

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<p>(d) natural person means a national of Korea or one of the Member States of the European Union according to its respective legislation;</p> <p>(e) juridical person means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;</p> <p>(f) juridical person of a Party means:</p> <p>(i) a juridical person set up in accordance with the laws of one of the Member States of the European Union or of Korea respectively, and having its registered office, central administration⁵ or principal place of business in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply, or of Korea respectively. Should the juridical person have only its registered office or central administration in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply or of Korea, it shall not be considered as a juridical person of the European Union or of Korea respectively, unless it engages in substantive business operations⁶ in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply or of Korea respectively; or</p> <p>(ii) in the case of establishment in accordance with Article 7.9(a), a juridical person owned or controlled by natural persons of the EU Party or of Korea respectively, or by a juridical person of the</p>	

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<p>European Union or of Korea identified under subparagraph (i) respectively.</p> <p>A juridical person is:</p> <p>(i) owned by persons of the EU Party or of Korea if more than 50 percent of the equity interest in it is beneficially owned by persons of the EU Party or of Korea respectively;</p> <p>(ii) controlled by persons of the EU Party or of Korea if such persons have the power to name a majority of its directors or otherwise to legally direct its actions; (iii) affiliated with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;</p> <p>(g) Notwithstanding subparagraph (f), shipping companies established outside the EU Party or Korea and controlled by nationals of a Member State of the European Union or of Korea respectively, shall also be covered by this Agreement, if their vessels are registered in accordance with the respective legislation of that Member State of the European Union or of Korea and carry the flag of a Member State of the European Union or of Korea⁷;</p> <p>(h) economic integration agreement means an agreement substantially liberalising trade in services and establishment pursuant to the WTO Agreement in particular Articles V and V bis of GATS;</p> <p>(i) aircraft repair and maintenance services means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line</p>	

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<p>maintenance;</p> <p>(j) computer reservation system (hereinafter referred to as ‘CRS’) services means services provided by computerised systems that contain information about air carriers’ schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;</p> <p>(k) selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services, nor the applicable conditions; and</p> <p>(l) service supplier means any person that supplies or seeks to supply a service, including as an investor.</p> <p><i>(Footnote 5: Central administration means the head office where ultimate decision-making takes place.)</i></p> <p><i>(Footnote 6: In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the EU Party understands the concept of ‘effective and continuous link’ with the economy of a Member State of the European Union enshrined in Article 48 of the Treaty as equivalent to the concept of ‘substantive business operations’ provided for in paragraph 6 of Article V of the GATS. Accordingly, for a juridical person set up in accordance with the laws of Korea and having only its registered office or central administration in the territory of Korea, the EU Party shall only extend the benefits of this Agreement if that juridical person possesses an effective and continuous link with the economy of Korea.)</i></p> <p><i>(Footnote 7: This subparagraph shall not apply to establishment.)</i></p>	

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Committee on trade in services, establishment and electronic commerce	
<p>Article 7.3 – Committee on Trade in Services, Establishment and Electronic Commerce</p> <p>7.3.1 The Committee on Trade in Services, Establishment and Electronic Commerce established pursuant to Article 15.2.1 (Specialised Committees) shall comprise representatives of the Parties. The principal representative of the Parties for the Committee shall be an official of its authority responsible for the implementation of this Chapter.</p> <p>7.3.2 The Committee shall:</p> <ul style="list-style-type: none"> (a) supervise and assess the implementation of this Chapter; (b) consider issues regarding this Chapter that are referred to it by a Party; and (c) provide opportunities for relevant authorities to exchange information on prudential measures with respect to Article 7.46. 	
Cross-border supply of services – Scope and coverage/definitions	
<p>Article 7.4 – Scope and definitions</p> <p>7.4.1 This Section applies to measures of the Parties affecting the cross-border supply of all service sectors with the exception of:</p> <ul style="list-style-type: none"> (a) audio-visual services⁸; (b) national maritime cabotage; and (c) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than: 	<p>Article 12.1 – Scope and coverage</p> <p>12.1.1 This Chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of the other Party. Such measures include measures affecting:</p> <ul style="list-style-type: none"> (a) the production, distribution, marketing, sale, and delivery of a service; (b) the purchase or use of, or payment for, a service; (c) the access to and use of distribution, transport, or

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<p>(i) aircraft repair and maintenance services;</p> <p>(ii) the selling and marketing of air transport services;</p> <p>(iii) CRS services; and</p> <p>(iv) other services auxiliary to air transport services, such as ground handling services, rental service of aircraft with crew and airport management services.</p> <p>7.4.2 Measures affecting the cross-border supply of services include measures affecting:</p> <p>(a) the production, distribution, marketing, sale and delivery of a service;</p> <p>(b) the purchase, payment or use of a service;</p> <p>(c) the access to and use of, in connection with the supply of a service, networks or services which are required by the Parties to be offered to the public generally; and</p> <p>(d) the presence in a Party’s territory of a service supplier of the other Party.</p> <p>7.4.3 For the purposes of this Section:</p> <p>(a) cross-border supply of services is defined as the supply of a service:</p> <p>(i) from the territory of a Party into the territory of the other Party; and</p> <p>(ii) in the territory of a Party to the service consumer of the other Party;</p>	<p>telecommunications networks and services in connection with the supply of a service;</p> <p>(d) the presence in its territory of a service supplier of the other Party; and</p> <p>(e) the provision of a bond or other form of financial security as a condition for the supply of a service.</p> <p>12.1.2 For purposes of this Chapter, measures adopted or maintained by a Party means measures adopted or maintained by:</p> <p>(a) central, regional, or local governments and authorities; and</p> <p>(b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.</p> <p>12.1.3 Notwithstanding paragraph 1:</p> <p>(a) Articles 12.4, 12.7, and 12.8 shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment;¹</p> <p>and</p> <p>(b) Annex 12-B shall apply to measures adopted or maintained by a Party affecting the supply of express delivery services, including by a covered investment.²</p> <p>12.1.4 Notwithstanding paragraph 1, this Chapter does not apply to:</p> <p>(a) financial services as defined in Article 13.20 (Definitions), except that paragraph 3 shall apply where the financial service is supplied by a covered investment that is not a covered investment in a financial institution (as defined in Article 13.20) in the</p>

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<p>(b) services includes any service in any sector except services supplied in the exercise of governmental authority; and</p> <p>(c) a service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.</p> <p><i>(Footnote 8: The exclusion of audiovisual services from the scope of this Section is without prejudice to the rights and obligations derived from the Protocol on Cultural Cooperation.)</i></p>	<p>Party’s territory;</p> <p>(b) government procurement;</p> <p>(c) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:</p> <p>(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service; and</p> <p>(ii) specialty air services; or</p> <p>(d) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.</p> <p>12.1.5 This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.</p> <p>12.1.6 This Chapter does not apply to services supplied in the exercise of governmental authority in a Party’s territory. A service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.</p> <p>12.1.7 Nothing in this Chapter or any other provision of this Agreement shall be construed to impose any obligation on a Party regarding its immigration measures, including admission or conditions of admission for temporary entry.³</p> <p><i>(Footnote 1: For greater certainty, the scope and coverage of application of Articles 12.4, 12.7, and 12.8 to measures adopted or maintained by a Party</i></p>

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	<p><i>affecting the supply of a service in its territory by a covered investment is limited to the scope and coverage specified in Article 12.1 of this Chapter, subject to any applicable non-conforming measures and exceptions.)</i></p> <p><i>(Footnote 2: For greater certainty, nothing in this Chapter, including paragraph 3 and Annex 12-B, is subject to investor-state dispute settlement under Section B (Investor-State Dispute Settlement) of Chapter Eleven (Investment).)</i></p> <p><i>(Footnote 3: For greater certainty, paragraph 7 does not limit the application of this Agreement to measures other than immigration measures that affect the supply of a service by a national of a Party in the territory of the other Party. The Parties shall consult regarding paragraph 7 within two years of the date this Agreement enters into force, and at two-year intervals afterward, unless the Parties otherwise agree.)</i></p> <p>Article 12.13 – Definitions</p> <p>For purposes of this Chapter:</p> <p>cross-border trade in services or cross-border supply of services means the supply of a service:</p> <p>(a) from the territory of one Party into the territory of the other Party;</p> <p>(b) in the territory of one Party by a person of that Party to a person of the other Party; or</p> <p>(c) by a national of a Party in the territory of the other Party;</p> <p>but does not include the supply of a service in the territory of a Party by a covered investment;</p> <p>enterprise means an “enterprise” as defined in Article 1.4 (Definitions), and a branch of an enterprise;</p>

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	<p>enterprise of a Party means an enterprise organized or constituted under the laws of a Party, and a branch located in the territory of a Party and carrying out business activities there;</p> <p>professional services means services, the supply of which requires specialized post-secondary education, or equivalent training or experience or examination, and for which the right to practice is granted or restricted by a Party, but does not include services supplied by trades-persons or vessel and aircraft crew members;</p> <p>service supplier of a Party means a person of that Party that seeks to supply or supplies a service;¹⁰ and</p> <p>specialty air services means any non-transportation air services, such as aerial fire-fighting, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services.</p> <p><i>(Footnote 10: For purposes of Articles 12.2 and 12.3, “service suppliers” has the same meaning as “services and service suppliers” as used in Articles II and XVII of GATS.)</i></p> <p>Confirmation letter – Gambling</p> <p>Notwithstanding Article 11.1 (Scope and Coverage) or Article 12.1 (Scope and Coverage), the cross-border trade in gambling and betting services is not subject to Chapter Twelve (Cross-Border Trade in Services) and investment in gambling and betting services is not subject to Chapter Eleven (Investment).</p> <p>For greater certainty, each Party retains the right to adopt or</p>

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	maintain any measure in relation to betting and gambling services, in accordance with its respective laws or regulations.
Cross-border supply of services – Market access	
<p>Article 7.5 – Market access</p> <p>7.5.1 With respect to market access through the cross-border supply of services, each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in the specific commitments contained in Annex 7-A.</p> <p>7.5.2 In sectors where market access commitments are undertaken, the measures which a Party shall not adopt or maintain either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in Annex 7-A, are defined as:</p> <p>(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;⁹</p> <p>(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test; and</p> <p>(c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test.¹⁰</p> <p><i>(Footnote 9: This subparagraph includes measures which require a service</i></p>	<p>Article 12.3 – Market access</p> <p>Neither Party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:</p> <p>(a) impose limitations on:</p> <p>(i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;</p> <p>(ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;</p> <p>(iii) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;⁵</p> <p>or</p> <p>(iv) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or</p> <p>(b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.</p>

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<p><i>supplier of the other Party to have an establishment within the meaning of Article 7.9(a) or to be resident in a Party's territory as a condition for the cross-border supply of services.)</i></p> <p><i>(Footnote 10: This subparagraph does not cover measures of a Party which limit inputs for the cross-border supply of services.)</i></p>	<p><i>(Footnote 5: Clause (iii) does not cover measures of a Party that limit inputs for the supply of services.)</i></p>
Cross-border supply of services – National treatment	
<p>Article 7.6 – National treatment</p> <p>7.6.1 In the sectors where market access commitments are inscribed in Annex 7-A and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the cross-border supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.</p> <p>7.6.2 A Party may meet the requirement of paragraph 1 by according to services and service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.</p> <p>7.6.3 Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of a Party compared to like services or service suppliers of the other Party.</p> <p>7.6.4 Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.</p>	<p>Article 12.2 – National treatment</p> <p>12.2.1 Each Party shall accord to service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to its own service suppliers.</p> <p>12.2.2 The treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that regional level of government to service suppliers of the Party of which it forms a part.</p>

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Cross-border supply of services – Specific commitments	
<p>Article 7.7 – Lists of commitments</p> <p>7.7.1 The sectors liberalised by each Party pursuant to this Section and, by means of reservations, the market access and national treatment limitations applicable to services and service suppliers of the other Party in those sectors are set out in the lists of commitments included in Annex 7-A.</p> <p>7.7.2 Neither Party may adopt new, or more, discriminatory measures with regard to services or service suppliers of the other Party in comparison with treatment accorded pursuant to the specific commitments undertaken in conformity with paragraph 1.</p>	<p>Article 12.12 – Specific commitments</p> <p>12.12.1 Annex 12-B sets out specific commitments with regard to the supply of express delivery services.</p> <p>12.12.2 Annex 12-C sets out specific commitments with regard to consultations regarding nonconforming measures adopted or maintained by a regional level of government.</p>
Cross-border supply of services – MFN treatment	
<p>Article 7.8 – MFN treatment¹¹</p> <p>7.8.1 With respect to any measures covered by this Section affecting the cross-border supply of services, unless otherwise provided for in this Article, each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords to like services and service suppliers of any third country in the context of an economic integration agreement signed after the entry into force of this Agreement.</p> <p>7.8.2 Treatment arising from a regional economic integration agreement granted by either Party to services and service suppliers of a third party shall be excluded from the obligation in paragraph 1, only if this treatment is granted under sectoral or horizontal commitments for which the regional economic integration agreement stipulates a significantly higher level of</p>	<p>Article 12.3 – Most-favored-nation treatment⁴</p> <p>Each Party shall accord to service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to service suppliers of a non-Party.</p> <p><i>(Footnote 4: For greater certainty, nothing in Article 12.3 shall be interpreted as extending the scope and coverage of this Chapter.)</i></p>

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<p>obligations than those undertaken in the context of this Section as set out in Annex 7-B.</p> <p>7.8.3 Notwithstanding paragraph 2, the obligations arising from paragraph 1 shall not apply to treatment granted:</p> <p>(a) under measures providing for recognition of qualifications, licences or prudential measures in accordance with Article VII of GATS or its Annex on Financial Services;</p> <p>(b) under any international agreement or arrangement relating wholly or mainly to taxation; or</p> <p>(c) under measures covered by the MFN exemptions listed in Annex 7-C.</p> <p>7.8.4 This Chapter shall not be so construed as to prevent any Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zone of services that are both locally produced and consumed.</p> <p><i>(Footnote 11: Nothing in this Article shall be interpreted as extending the scope of this Section.)</i></p>	
Establishment – Definitions	
<p>Article 7.9 – Definitions</p> <p>For the purposes of this Section:</p> <p>(a) establishment means:</p> <p>(i) the constitution, acquisition or maintenance of a juridical person;¹² or</p> <p>(ii) the creation or maintenance of a branch or representative</p>	<p><i>See Chapter 11: Investment</i></p>

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<p>office within the territory of a Party for the purpose of performing an economic activity;</p> <p>(b) investor means any person that seeks to perform or performs an economic activity through setting up an establishment;¹³</p> <p>(c) economic activity includes any activities of an economic nature except activities carried out in the exercise of governmental authority, i.e. activities carried out neither on a commercial basis nor in competition with one or more economic operators;</p> <p>(d) subsidiary of a juridical person of a Party means a juridical person which is effectively controlled by another juridical person of that Party; and</p> <p>(e) branch of a juridical person means a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will, if necessary, be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.</p> <p><i>(Footnote 12: The terms ‘constitution’ and ‘acquisition’ of a juridical person shall be understood as including capital participation in a juridical person with a view to establishing or maintaining lasting economic links.)</i></p> <p><i>(Footnote 13: Where the economic activity is not performed directly by a juridical person but through other forms of establishment such as a branch or a representative office, the investor including the juridical person shall, nonetheless, through such establishment be accorded the treatment provided</i></p>	

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<i>for investors under this Agreement. Such treatment shall be extended to the establishment through which the economic activity is performed and need not be extended to any other parts of the investor located outside the territory where the economic activity is performed.)</i>	
Establishment – Scope	
<p>Article 7.10 – Scope</p> <p>With a view to improving the investment environment, and in particular the conditions of establishment between the Parties, this Section applies to measures by the Parties affecting establishment¹⁴ in all economic activities with the exception of:</p> <ul style="list-style-type: none"> (a) mining, manufacturing and processing¹⁵ of nuclear materials; (b) production of, or trade in, arms, munitions and war material;¹⁶ (c) audio-visual services;¹⁷ (d) national maritime cabotage; and (e) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than: <ul style="list-style-type: none"> (i) aircraft repair and maintenance services; (ii) the selling and marketing of air transport services; (iii) CRS services; and (iv) other services auxiliary to air transport services, such as ground handling services, rental service of aircraft with crew and airport management services. <p><i>(Footnote 14: Investment protection, other than the treatment deriving from Article 7.12, including investor-state dispute settlement procedures, is not</i></p>	<p><i>See Chapter 11: Investment</i></p>

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<p><i>covered by this Chapter.)</i></p> <p><i>(Footnote 15: For greater certainty, processing of nuclear materials covers all the activities included in the International Standard Industrial Classification of all Economic Activities as set out in Statistical Office of the United Nations, Statistical Papers, Series M, N 4, ISIC REV 3.1, 2002 code 2330.)</i></p> <p><i>(Footnote 16: War material is limited to any product which is solely intended and made for military use in connection with the conduct of war or defence activities.)</i></p> <p><i>(Footnote 17: The exclusion of audiovisual services from the scope of this Section is without prejudice to the rights and obligations derived from the Protocol on Cultural Cooperation.)</i></p>	
Establishment – Market access	
<p>Article 7.11 – Market access</p> <p>7.11.1 With respect to market access through establishment, each Party shall accord to establishments and investors of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in the specific commitments contained in Annex 7-A.</p> <p>7.11.2 In sectors where market access commitments are undertaken, the measures which a Party shall not adopt or maintain either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in Annex 7-A, are defined as:</p> <p>(a) limitations on the number of establishments whether in the form of numerical quotas, monopolies, exclusive rights or other establishment requirements such as economic needs test;</p> <p>(b) limitations on the total value of transactions or assets in the form of numerical quotas or the requirement of an economic</p>	<p><i>See Chapter 11: Investment</i></p>

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<p>needs test;</p> <p>(c) limitations on the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;¹⁸</p> <p>(d) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholdings or the total value of individual or aggregate foreign investment;</p> <p>(e) measures which restrict or require specific types of legal entity or joint ventures through which an investor of the other Party may perform an economic activity; and</p> <p>(f) limitations on the total number of natural persons, other than key personnel and graduate trainees as defined in Article 7.17, that may be employed in a particular sector or that an investor may employ and who are necessary for, and directly related to, the performance of the economic activity in the form of numerical quotas or the requirement of an economic needs test.</p> <p><i>(Footnote 18: Subparagraphs (a) through (c) do not cover measures taken in order to limit the production of an agricultural product.)</i></p>	
Establishment – National treatment	
<p>Article 7.12 – National treatment¹⁹</p> <p>7.12.1 In the sectors inscribed in Annex 7-A, and subject to any conditions and qualifications set out therein, with respect to all measures affecting establishment, each Party shall accord to establishments and investors of the other Party treatment no less favourable than that it accords to its own like establishments and investors.</p>	<p><i>See Chapter 11: Investment</i></p>

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<p>7.12.2 A Party may meet the requirement of paragraph 1 by according to establishments and investors of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like establishments and investors.</p> <p>7.12.3 Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of establishments or investors of the Party compared to like establishments or investors of the other Party.</p> <p>7.12.4 Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant establishments or investors.</p> <p><i>(Footnote 19: This Article applies to measures governing the composition of boards of directors of an establishment, such as nationality and residency requirements.)</i></p>	
Establishment – List of commitments	
<p>Article 7.13 – Lists of commitments</p> <p>7.13.1 The sectors liberalised by each Party pursuant to this Section and, by means of reservations, the market access and national treatment limitations applicable to establishments and investors of the other Party in those sectors are set out in the lists of commitments included in Annex 7-A.</p> <p>7.13.2 Neither Party may adopt new, or more, discriminatory measures with regard to establishments and investors of the other Party in comparison with treatment accorded pursuant to the specific commitments undertaken in conformity with paragraph 1.</p>	<p><i>See Chapter 11: Investment</i></p>

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Establishment – MFN treatment	
<p>Article 7.14 – MFN treatment²⁰</p> <p>7.14.1 With respect to any measures covered by this Section affecting establishment, unless otherwise provided for in this Article, each Party shall accord to establishments and investors of the other Party treatment no less favourable than that it accords to like establishments and investors of any third country in the context of an economic integration agreement signed after the entry into force of this Agreement.²¹</p> <p>7.14.2 Treatment arising from a regional economic integration agreement granted by either Party to establishments and investors of a third party shall be excluded from the obligation in paragraph 1, only if this treatment is granted under sectoral or horizontal commitments for which the regional economic integration agreement stipulates a significantly higher level of obligations than those undertaken in the context of this Section as set out in Annex 7-B.</p> <p>7.14.3 Notwithstanding paragraph 2, the obligations arising from paragraph 1 shall not apply to treatment granted:</p> <p>(a) under measures providing for recognition of qualifications, licences or prudential measures in accordance with Article VII of GATS or its Annex on Financial Services;</p> <p>(b) under any international agreement or arrangement relating wholly or mainly to taxation; or</p> <p>(c) under measures covered by an MFN exemption listed in Annex 7-C.</p>	<p><i>See Chapter 11: Investment</i></p>

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<p>7.14.4 This Chapter shall not be so construed as to prevent any Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zone of services that are both locally produced and consumed.</p> <p><i>(Footnote 20: Nothing in this Article shall be interpreted as extending the scope of this Section.)</i></p> <p><i>(Footnote 21: The obligation contained in this paragraph does not extend to the investment protection provisions not covered by this Chapter, including provisions relating to investor-state dispute settlement procedures.)</i></p>	
Establishment – Other agreements	
<p>Article 7.15 – Other agreements</p> <p>Nothing in this Chapter shall be deemed to:</p> <p>(a) limit the rights of investors of the Parties to benefit from any more favourable treatment provided for in any existing or future international agreement relating to investment to which one of the Member States of the European Union and Korea are party; and</p> <p>(b) derogate from the international legal obligations of the Parties under those agreements that provide investors of the Parties with more favourable treatment than that provided for under this Agreement.</p>	<p><i>See Chapter 11: Investment</i></p>
Establishment – Review of the investment legal framework	
<p>Article 7.16 – Review of the investment legal framework</p> <p>7.16.1 With a view to progressively liberalising investments, the Parties shall review the investment legal framework,²² the investment environment and the flow of investment between them</p>	<p><i>See Chapter 11: Investment</i></p>

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<p>consistently with their commitments in international agreements no later than three years after the entry into force of this Agreement and at regular intervals thereafter.</p> <p>7.16.2 In the context of the review referred to in paragraph 1, the Parties shall assess any obstacles to investment that have been encountered and shall undertake negotiations to address such obstacles, with a view to deepening the provisions of this Chapter, including with respect to general principles of investment protection.</p> <p><i>(Footnote 22: This includes this Chapter and Annexes 7-A and 7-C.)</i></p>	
Temporary presence of natural persons for business – Scope and definitions	
<p>Article 7.17 – Scope and definitions</p> <p>7.17.1 This Section applies to measures of the Parties concerning the entry into, and temporary stay in, their territories of key personnel, graduate trainees, business services sellers, contractual service suppliers and independent professionals subject to Article 7.1.5.</p> <p>7.17.2 For the purposes of this Section:</p> <p>(a) key personnel means natural persons employed within a juridical person of a Party other than a non-profit organisation and who are responsible for the setting up or the proper control, administration and operation of an establishment. Key personnel comprise business visitors responsible for setting up an establishment and intra-corporate transferees;</p> <p>(i) business visitors means natural persons working in a senior position who are responsible for setting up an establishment.</p>	<p><i>See rules concerning the cross-border supply of services</i></p>

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<p>They do not engage in direct transactions with the general public and do not receive remuneration from a source located within the host Party; and</p> <p>(ii) intra-corporate transferees means natural persons who have been employed by a juridical person of a Party or have been partners in it (other than as majority share-holders) for at least one year and who are temporarily transferred to an establishment (including subsidiaries, affiliates or branches) in the territory of the other Party. The natural person concerned shall belong to one of the following categories.</p> <p style="padding-left: 40px;">Managers</p> <p>Natural persons working in a senior position within a juridical person, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or shareholders of the business or their equivalents, including:</p> <p>(A) directing the establishment or a department or sub-division thereof;</p> <p>(B) supervising and controlling the work of other supervisory, professional or managerial employees; and</p> <p>(C) having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions.</p> <p style="padding-left: 40px;">Specialists</p> <p>Natural persons working within a juridical person who possess uncommon knowledge essential to the establishment’s production, research equipment, techniques or management. In</p>	

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<p>assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession.</p> <p>(b) graduate trainees means natural persons who have been employed by a juridical person of a Party for at least one year, who possess a university degree and who are temporarily transferred to an establishment in the territory of the other Party for career development purposes or to obtain training in business techniques or methods;²³</p> <p>(c) business service sellers means natural persons who are representatives of a service supplier of a Party seeking temporary entry into the territory of the other Party for the purpose of negotiating the sale of services or entering into agreements to sell services for that service supplier. They do not engage in making direct sales to the general public and do not receive remuneration from a source located within the host Party;</p> <p>(d) contractual service suppliers means natural persons employed by a juridical person of a Party which has no establishment in the territory of the other Party and which has concluded a bona fide contract to supply services with a final consumer in the latter Party requiring the presence on a temporary basis of its employees in that Party in order to fulfil the contract to provide services;²⁴ and</p> <p>(e) independent professionals means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who have no establishment in the territory of</p>	

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<p>the other Party and who have concluded a bona fide contract to supply services with a final consumer in the latter Party requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services.²⁵</p> <p><i>(Footnote 23: The recipient establishment may be required to submit a training programme covering the duration of stay for prior approval, demonstrating that the purpose of the stay is for training corresponding to the level of a university degree.)</i></p> <p><i>(Footnote 24: The service contract referred to under this subparagraph shall comply with the laws, regulations and requirements of the Party where the contract is executed.)</i></p> <p><i>(Footnote 25: The service contract referred to under this subparagraph shall comply with the laws, regulations and requirements of the Party where the contract is executed.)</i></p>	
Temporary presence of natural persons for business – Key personnel and graduate trainees	
<p>Article 7.18 – Key personnel and graduate trainees</p> <p>7.18.1 For every sector liberalised in accordance with Section C and subject to any reservations listed in Annex 7-A, each Party shall allow investors of the other Party to transfer to their establishment natural persons of that other Party, provided that such employees are key personnel or graduate trainees as defined in Article 7.17. The temporary entry and stay of key personnel and graduate trainees shall be permitted for a period of up to three years for intra-corporate transferees,²⁶ 90 days in any 12 month period for business visitors,²⁷ and one year for graduate trainees.</p> <p>7.18.2 For every sector liberalised in accordance with Section C, the measures which a Party shall not maintain or adopt, unless otherwise specified in Annex 7-A, are defined as limitations on</p>	

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<p>the total number of natural persons that an investor may transfer as key personnel or graduate trainees in a specific sector in the form of numerical quotas or a requirement of an economic needs test and as discriminatory limitations.²⁸</p> <p><i>(Footnote 26: A Party may authorise an extension for the period allowed in conformity with the laws and regulations in force in its territory.)</i></p> <p><i>(Footnote 27: This paragraph is without prejudice to the rights and obligations deriving from bilateral visa waiver agreements between Korea and one of the Member States of the European Union.)</i></p> <p><i>(Footnote 28: Unless otherwise provided in Annex 7-A, neither Party may require that an establishment appoints to senior management positions natural persons of any particular nationality or having residency in its territory.)</i></p>	
Temporary presence of natural persons for business – Business service sellers	
<p>Article 7.19 – Business service sellers</p> <p>For every sector liberalised in accordance with Section B or C and subject to any reservations listed in Annex 7-A, each Party shall allow the temporary entry and stay of business service sellers for a period of up to 90 days in any 12 month period.²⁹</p> <p><i>(Footnote 28: This Article is without prejudice to the rights and obligations deriving from bilateral visa waiver agreements between Korea and one of the Member States of the European Union.)</i></p>	
Temporary presence of natural persons for business – Contractual service supplier and independent professionals	
<p>Article 7.20 – Contractual service supplier and independent professionals</p> <p>7.20.1 The Parties reaffirm their respective obligations arising from their commitments under the GATS as regards the temporary entry and stay of contractual service suppliers and independent professionals.</p>	

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<p>7.20.2 No later than two years after the conclusion of the negotiations pursuant to Article XIX of GATS and to the Ministerial Declaration of the WTO Ministerial Conference adopted on 14 November 2001, the Trade Committee shall adopt a decision containing a list of commitments concerning the access of contractual service suppliers and independent professionals of a Party to the territory of the other Party. Taking into account the results of those GATS negotiations, the commitments shall be mutually beneficial and commercially meaningful.</p>	
Mutual recognition	
<p>Article 7.21 – Mutual recognition</p> <p>7.21.1 Nothing in this Chapter shall prevent a Party from requiring that natural persons possess the necessary qualifications and/or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.</p> <p>7.21.2 The Parties shall encourage the relevant representative professional bodies in their respective territories to jointly develop and provide recommendations on mutual recognition to the Trade Committee, for the purpose of the fulfilment, in whole or in part, by service suppliers and investors in services sectors, of the criteria applied by each Party for the authorisation, licensing, operation and certification of service suppliers and investors in services sectors and, in particular, professional services, including temporary licensing.</p> <p>7.21.3 On receipt of a recommendation referred to in paragraph 2, the Trade Committee shall, within a reasonable time, review the recommendation with a view to determining whether it is</p>	<p>Article 12.9 – Recognition</p> <p>12.9.1 For purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorization, licensing, or certification of services suppliers, and subject to the requirements of paragraph 5, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.</p> <p>12.9.2 Where a Party recognizes, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted in the territory of a non-Party, nothing in Article 12.3 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licenses or certifications granted in the territory of the other Party.</p>

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<p>consistent with this Agreement.</p> <p>7.21.4 When, in conformity with the procedure set out in paragraph 3, a recommendation referred to in paragraph 2 has been found to be consistent with this Agreement and there is a sufficient level of correspondence between the relevant regulations of the Parties, the Parties shall, with a view to implementing that recommendation, negotiate, through their competent authorities, an agreement on mutual recognition (hereinafter referred to as an ‘MRA’) of requirements, qualifications, licences and other regulations.</p> <p>7.21.5 Any such agreement shall be in conformity with the relevant provisions of the WTO Agreement and, in particular, Article VII of GATS.</p> <p>7.21.6 The Working Group on MRA established pursuant to Article 15.3.1 (Working Groups) shall operate under the Trade Committee and shall comprise representatives of the Parties. With a view to facilitating the activities referred to in paragraph 2, the Working Group shall meet within one year of the entry into force of this Agreement, unless the Parties agree otherwise.</p> <p>(a) The Working Group should consider, for services generally, and as appropriate for individual services, the following matters:</p> <p>(i) procedures for encouraging the relevant representative bodies in their respective territories to consider their interest in mutual recognition; and</p> <p>(ii) procedures for fostering the development of recommendations on mutual recognition by the relevant representative bodies.</p> <p>(b) The Working Group shall function as a contact point for</p>	<p>12.9.3 On request of the other Party, a Party shall promptly provide information, including appropriate descriptions, concerning any recognition agreement or arrangement that the Party or relevant bodies in its territory has concluded.</p> <p>12.9.4 A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate its accession to such an agreement or arrangement or to negotiate a comparable one with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licenses, or certifications obtained or requirements met in the other Party’s territory should be recognized.</p> <p>12.9.5 Neither Party may accord recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing, or certification of services suppliers, or a disguised restriction on trade in services.</p> <p>12.9.6 Annex 12-A applies to measures adopted or maintained by a Party relating to the licensing or certification of professional service suppliers as set out in that Annex.</p>

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issues relating to mutual recognition raised by relevant professional bodies of either Party.	
Transparency and confidential information	
<p>Article 7.22 – Transparency and confidential information</p> <p>7.22.1 The Parties, through the mechanisms established pursuant to Chapter Twelve (Transparency), shall respond promptly to all requests by the other Party for specific information on:</p> <p>(a) international agreements or arrangements, including on mutual recognition, which pertain to or affect matters falling under this Chapter; and</p> <p>(b) standards and criteria for licensing and certification of service suppliers, including information concerning the appropriate regulatory or other body to consult regarding such standards and criteria. Such standards and criteria include requirements regarding education, examination, experience, conduct and ethics, professional development and re-certification, scope of practice, local knowledge and consumer protection.</p> <p>7.22.2 Nothing in this Agreement shall require any Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interests, or which would prejudice legitimate commercial interests of particular enterprises, public or private.</p> <p>7.22.3 Each Party’s regulatory authorities shall make publicly available the requirements, including any documentation required, for completing applications relating to the supply of services.</p> <p>7.22.4 On the request of an applicant, a Party’s regulatory</p>	<p>Article 12.8 – Transparency in developing and applying regulations⁸</p> <p>Further to Chapter Twenty-One (Transparency):</p> <p>(a) Each Party shall establish or maintain appropriate mechanisms for responding to inquiries from interested persons regarding its regulations relating to the subject matter of this Chapter.</p> <p>(b) If, consistent with paragraphs 2 and 3 of Article 21.1 (Publication), a Party does not provide advance notice of and opportunity for comment on regulations it proposes to adopt relating to the subject matter of this Chapter, it shall, to the extent possible, address in writing the reasons for not doing so.</p> <p>(c) To the extent possible, each Party shall allow reasonable time between publication of final regulations relating to the subject matter of this Chapter and their effective date.</p> <p><i>(Footnote 8: For greater certainty, “regulations” includes regulations establishing or applying to licensing authorization or criteria at the central, regional, and local levels of government.)</i></p>

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<p>authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.</p> <p>7.22.5 On the request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent possible, inform the applicant of the reasons for denial of the application.</p> <p>7.22.6 A Party’s regulatory authority shall make an administrative decision on a completed application of an investor or a cross-border service supplier of the other Party relating to the supply of a service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not possible for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable period of time thereafter.</p>	
Domestic regulation	
<p>Article 7.23 – Domestic regulation</p> <p>7.23.1 Where authorisation is required for the supply of a service or for establishment on which a specific commitment has been made, the competent authorities of a Party shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Party shall provide, without undue delay, information concerning the status of the application.</p>	<p>Article 12.7 – Domestic regulation</p> <p>12.7.1 Where a Party requires authorization for the supply of a service, the Party’s competent authorities shall, within a reasonable time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the Party’s competent authorities shall provide, without undue delay, information concerning the status of the application. This obligation shall not apply to authorization requirements that a Party adopts or maintains with respect to sectors, sub-sectors, or</p>

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<p>7.23.2 Each Party shall institute or maintain judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected investor or service supplier, for a prompt review of, and where justified, appropriate remedies for, administrative decisions affecting establishment, cross-border supply of services or temporary presence of natural persons for business purpose. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Parties shall ensure that the procedures in fact provide for an objective and impartial review.</p> <p>7.23.3 With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, while recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet public policy objectives, each Party shall endeavour to ensure, as appropriate for individual sectors, that such measures are:</p> <p>(a) based on objective and transparent criteria, such as competence and the ability to supply the service; and</p> <p>(b) in the case of licensing procedures, not in themselves a restriction on the supply of the service.</p> <p>7.23.4 This Article shall be amended, as appropriate, after consultations between the Parties, to bring under this Agreement the results of the negotiations pursuant to paragraph 4 of Article VI of GATS or the results of any similar negotiations undertaken in other multilateral fora in which both Parties participate once</p>	<p>activities as set out in its Schedule to Annex II.</p> <p>12.7.2 With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services, while recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet national policy objectives, each Party shall endeavor to ensure, as appropriate for individual sectors, that such measures are:</p> <p>(a) based on objective and transparent criteria, such as competence and the ability to supply the service; and</p> <p>(b) in the case of licensing procedures, not in themselves a restriction on the supply of the service.</p> <p>12.7.2 If the results of the negotiations related to Article VI:4 of the GATS (or the results of any similar negotiations undertaken in other multilateral fora in which both Parties participate) enter into effect, this Article shall be amended, as appropriate, after consultations between the Parties, to bring those results into effect under this Agreement.⁷</p> <p><i>(Footnote 7: For greater certainty, nothing in Article 12.7 prejudices either Party's position in any other forum with regard to matters covered by Article 12.7.)</i></p>

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they become effective.	
Governance	
<p>Article 7.24 – Governance</p> <p>Each Party shall, to the extent practicable, ensure that internationally agreed standards for regulation and supervision in the financial services sector and for the fight against tax evasion and avoidance are implemented and applied in its territory. Such internationally agreed standards are, inter alia, the Core Principle for Effective Banking Supervision of the Basel Committee on Banking Supervision, the Insurance Core Principles and Methodology, approved in Singapore on 3 October 2003 of the International Association of Insurance Supervisors, the Objectives and Principles of Securities Regulation of the International Organisation of Securities Commissions, the Agreement on Exchange of Information on Tax Matters of the Organisation for Economic Cooperation and Development (hereinafter referred to as the ‘OECD’), the Statement on Transparency and Exchange of Information for Tax Purposes of the G20, and the Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing of the Financial Action Task Force.</p>	
Computer services	
<p>Article 7.25 – Computer services</p> <p>7.25.1 In liberalising trade in computer services in accordance with Sections B through D, the Parties subscribe to the understanding set out in the following paragraphs.</p>	

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<p>7.25.2 CPC³⁰ 84, the United Nations code used for describing computer and related services, covers the basic functions used to provide all computer and related services including computer programs defined as the sets of instructions required to make computers work and communicate (including their development and implementation), data processing and storage, and related services, such as consultancy and training services for staff of clients. Technological developments have led to the increased offering of these services as a bundle or package of related services that can include some or all of these basic functions. For example, services such as web or domain hosting, data mining services and grid computing consist of a combination of basic computer services functions respectively.</p> <p>7.25.3 Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide:</p> <p>(a) consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance or management of or for computers or computer systems;</p> <p>(b) computer programs plus consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programs;</p> <p>(c) data processing, data storage, data hosting or database services;</p>	

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<p>(d) maintenance and repair services for office machinery and equipment, including computers; or</p> <p>(e) training services for staff of clients, related to computer programs, computers or computer systems, and not elsewhere classified.</p> <p>7.25.4 Computer and related services enable the provision of other services such as banking by both electronic and other means. The Parties recognise that there is an important distinction between the enabling service such as web-hosting or application hosting and the content or core service that is being delivered electronically such as banking, and that in such cases the content or core service is not covered by CPC 84.</p> <p><i>(Footnote 30: CPC means the Central Products Classification as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No 77, CPC Prov, 1991.)</i></p>	
Postal and courier services	
<p>Article 7.26 – Regulatory principles</p> <p>No later than three years after the entry into force of this Agreement, with a view to ensuring competition in postal and courier services not reserved to a monopoly in each Party, the Trade Committee shall set out the principles of the regulatory framework applicable to those services. Those principles shall aim to address issues such as anti-competitive practices, universal service, individual licences and nature of the regulatory authority.³¹</p> <p><i>(Footnote 31: For greater certainty, nothing in this Article shall be interpreted as intending to change the regulatory framework of the existing regulatory</i></p>	<p>Confirmation letter – Express delivery services (Amendment)</p> <p>By the date the Free Trade Agreement enters into force, Korea will amend Article 3 of the Enforcement Decree of the Postal Service Act to expand the exceptions to the Korean Postal Authority's monopoly to include all international document delivery services.</p> <p>[...]</p> <p>[I]nternational and domestic express delivery services of all documents and correspondence are not subject to the U.S. Postal Service monopoly.</p>

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<i>body in Korea which regulates private delivery service suppliers upon the entry into force of this Agreement.)</i>	
Telecommunications services	
<i>See specific table</i>	<i>See specific table</i>
Financial services	
<i>See specific table</i>	<i>See specific table</i>
International maritime transport services	
<p>Article 7.47 – Scope, definitions and principles</p> <p>7.47.1 This Sub-section sets out the principles regarding the liberalisation of international maritime transport services pursuant to Sections B through D.</p> <p>7.47.2 For the purposes of this Sub-section:</p> <p>(a) international maritime transport includes door to door transport operations, which is the carriage of goods using more than one mode of transport, involving a sea-leg, under a single transport document, and to this effect includes the right to directly contract with providers of other modes of transport;</p> <p>(b) maritime cargo handling services means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:</p> <p>(i) the loading/discharging of cargo to/from a ship;</p>	

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<p>(ii) the lashing/unlashing of cargo; and</p> <p>(iii) the reception/delivery and safekeeping of cargoes before shipment or after discharge;</p> <p>(c) customs clearance services (alternatively ‘customs house brokers services’) means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity;</p> <p>(d) container station and depot services means activities consisting in storing containers in port areas with a view to their stuffing/stripping, repairing and making them available for shipments; and</p> <p>(e) maritime agency services means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:</p> <p>(i) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and</p> <p>(ii) acting on behalf of the companies organising the call of the ship or taking over cargoes when required.</p> <p>7.47.3 In view of the existing levels of liberalisation between the Parties in international maritime transport:</p>	

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<p>(a) the Parties shall apply effectively the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis; and</p> <p>(b) each Party shall grant to ships flying the flag of the other Party or operated by service suppliers of the other Party treatment no less favourable than that accorded to its own ships with regard to, inter alia, access to ports, use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.</p> <p>7.47.4 In applying these principles, the Parties shall:</p> <p>(a) not introduce cargo-sharing arrangements in future bilateral agreements with third parties concerning maritime transport services, including dry and liquid bulk and liner trade, and not activate such cargo-sharing arrangements in case they exist in previous bilateral agreements; and</p> <p>(b) upon the entry into force of this Agreement, abolish and abstain from introducing any unilateral measures and administrative, technical and other obstacles which could restrict free and fair competition or constitute a disguised restriction or have discriminatory effects on the free supply of services in international maritime transport.</p> <p>7.47.5 Each Party shall permit international maritime service suppliers of the other Party to have an establishment in its territory under conditions of establishment and operation no less favourable than those accorded to its own service suppliers or those of any third party, whichever are the better, in accordance</p>	

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<p>with the conditions inscribed in its list of commitments.</p> <p>7.47.6 Each Party shall make available to international maritime transport suppliers of the other Party on reasonable and non-discriminatory terms and conditions the following services at the port:</p> <ul style="list-style-type: none"> (a) pilotage; (b) towing and tug assistance; (c) provisioning; (d) fuelling and watering; (e) garbage collecting and ballast waste disposal; (f) port captain’s services; (g) navigation aids; and (h) shore-based operational services essential to ship operations, including communications, water and electrical supplies, emergency repair facilities, anchorage, berth and berthing services. 	
Electronic commerce	
<i>See specific table</i>	<i>See specific table</i>

Side-by-Side Chart Trade in Services	
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U.S. – KOREA SPECIFIC PROVISIONS	
Local presence	
	<p>Article 12.5 – Local Presence</p> <p>Neither Party may require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.</p>
Non-conforming measures	
	<p>Article 12.6 – Non-conforming measures</p> <p>12.6.1 Articles 12.2 through 12.5 do not apply to:</p> <p>(a) any existing non-conforming measure that is maintained by a Party at:</p> <p>(i) the central level of government, as set out by that Party in its Schedule to Annex I;</p> <p>(ii) a regional level of government, as set out by that Party in its Schedule to Annex I; or</p> <p>(iii) a local level of government;⁶</p> <p>(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or</p> <p>(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 12.2, 12.3, 12.4, or 12.5.</p>

Side-by-Side Chart Trade in Services	
EU – KOREA	U.S. – KOREA
	<p>12.6.1 Articles 12.2 through 12.5 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule to Annex II.</p> <p><i>(Footnote 6: For Korea, local level of government means a local government as defined in the Local Autonomy Act.)</i></p>
Payments and transfers	
	<p>Article 12.10 – Payments and transfers⁹</p> <p>1. Each Party shall permit all transfers and payments relating to the cross-border supply of services to be made freely and without delay into and out of its territory.</p> <p>2. Each Party shall permit such transfers and payments relating to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.</p> <p>3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer or payment through the equitable, non-discriminatory, and good faith application of its laws relating to:</p> <p>(a) bankruptcy, insolvency, or the protection of the rights of creditors;</p> <p>(b) issuing, trading, or dealing in securities, futures, options, or derivatives;</p> <p>(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;</p> <p>(d) criminal or penal offences; or</p>

Side-by-Side Chart Trade in Services	
EU – KOREA	U.S. – KOREA
	<p>(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.</p> <p><i>(Footnote 9: For greater certainty, Annex 11-G (Transfers) applies to Article 12.10.)</i></p>
Denial of benefits	
	<p>Article 12.11 – Denial of benefits</p> <p>12.11.1 A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party, and the denying Party:</p> <p>(a) does not maintain normal economic relations with the non-Party; or</p> <p>(b) adopts or maintains measures with respect to the non-Party or a person of the nonParty that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.</p> <p>12.11.2 A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party or of the denying Party that has no substantial business activities in the territory of the other Party. If, before denying the benefits of this Chapter, the denying Party knows that the enterprise has no substantial business activities in the territory of the other Party and that persons of a non-Party, or of the denying Party, own or control the enterprise, the denying Party shall, to the extent practicable, notify the other Party before denying the benefits. If the denying Party provides such notice, it shall consult with the other Party at the other Party’s request.</p>

