

**ANNEX I**

**SERVICES AND INVESTMENT NON-CONFORMING MEASURES**

## KOREA

### EXPLANATORY NOTE

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

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

2. Each Schedule entry sets out the following elements:

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

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<sup>1</sup> If none is specified, the measure is maintained at the central level of government.

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

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

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

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

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

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

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

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

## SCHEDULE OF KOREA

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Sector:	Construction Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<p><i>Framework Act on the Construction Industry</i> (Law No. 12012, August 6, 2013), Articles 9 and 10</p> <p><i>Enforcement Decree of the Framework Act on the Construction Industry</i> (Presidential Decree No. 24616, June 17, 2013), Article 13</p> <p><i>Enforcement Regulations of the Framework Act on the Construction Industry</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 10, June 17, 2013), Articles 2 and 3</p> <p><i>Information and Communication Construction Business Act</i> (Law No. 11690, March 23, 2013), Article 14</p> <p><i>Fire Fighting System Installation Business Act</i> (Law No. 11782, May 22, 2013), Articles 4 and 5</p> <p><i>Enforcement Decree of the Fire Fighting System Installation Business Act</i> (Presidential Decree No. 24417, March 23, 2013), Article 2 (Table 1)</p> <p><i>Enforcement Regulations of the Fire Fighting System Installation Business Act</i> (Ordinance of Ministry of Security and Public Administration No.3, March 23, 2013), Article 2</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies construction services in Korea must, prior to the signing of the first contract related to such services, establish an office in Korea.</p>

Sector:	Leasing, Rental, Maintenance, Repair, Sales, and Disposal Services Related to Construction Machinery and Equipment
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<p><i>Construction Machinery Management Act</i> (Law No. 11919, July 16, 2013), Article 21</p> <p><i>Enforcement Decree of the Construction Machinery Management Act</i> (Presidential Decree No. 24443, March 23, 2013), Articles 13, 14, 15, and 15-2</p> <p><i>Enforcement Regulations of the Construction Machinery Management Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, March 23, 2013), Articles 57 through 63, 65-2, and 65-3</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies leasing, rental, maintenance, repair, sales, and disposal services related to construction machinery and equipment must establish an office in Korea.</p>

Sector:	Transportation Services - Automobile Maintenance, Repair, Sales, Disposal, and Inspection Services; Automobile License Plate Issuing Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<p><i>Automobile Management Act</i> (Law No. 11929, July 16, 2013), Articles 20, 44, 45, and 53</p> <p><i>Enforcement Regulations of the Automobile Management Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No.24, September 6, 2013), Articles 7, 8, 83, 87, and 111</p> <p><i>Rule on Enforcement of Comprehensive Inspection of Automobiles, Etc.</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No.1, March 23, 2013), Article 16</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies automobile management services (which includes used car sales, maintenance, auto dismantling and recycling services) must establish an office in Korea and register its business with the head of the <i>si/gun/gu</i> (municipal authorities), which is subject to an economic needs test, as appropriate.</p> <p>A person that supplies automobile inspection services that is designated as a “designated inspection facility” must establish an office in Korea.</p> <p>A person that supplies license plate manufacturing, delivery, and seal services that is designated as a “license plate issuing agency” must establish an office in Korea.</p>

Sector:	Distribution Services - Wholesale and Retail Distribution of Tobacco and Liquor
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<p><i>Tobacco Business Act</i> (Law No. 11690, March 23, 2013), Articles 12, 13, and 16</p> <p><i>Enforcement Decree of the Tobacco Business Act</i> (Presidential Decree No. 24519, April 26, 2013), Articles 4 and 5</p> <p><i>Enforcement Regulations of the Tobacco Business Act</i> (Ordinance of the Ministry of Strategy and Finance No. 131, March 3, 2010), Articles 5, 7 and 7-3</p> <p><i>Liquors Act</i> (Law No. 11873, June 7, 2013), Articles 8 through 10</p> <p><i>Enforcement Decree of the Liquors Act</i> (Presidential Decree No. 24638, June 28, 2013), Article 9</p> <p><i>Notice on Sales of Liquor by Telecommunication Means</i> (Notice of National Tax Service No. 2012-68, October 1, 2012)</p> <p><i>Notice on Designation of Zone for Liquor License</i> (Notice of National Tax Service No.2013-15, April 1, 2013)</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies tobacco wholesale (including importation) or retail distribution services must establish an office in Korea.</p> <p>Only designated tobacco retailers may sell tobacco to retail buyers. The sale of tobacco to retail buyers by mail or in electronic commerce is prohibited.</p> <p>The distance between places of business of tobacco retailers must be at least 50 meters.</p> <p>A person that engages in liquor wholesale distribution services must establish an office in Korea and obtain authorization from the head of the relevant tax office, which is subject to an economic needs test.</p> <p>The sale of liquor by telephone or in electronic commerce is prohibited.</p>

Sector:	Agriculture and Livestock
Obligations Concerned:	National Treatment (Article 10.5)
Measures:	<p><i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 4</p> <p><i>Enforcement Decree of the Foreign Investment Promotion Act</i> (Presidential Decree No. 24638, June 28, 2013), Article 5</p> <p><i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy, No.2013-37, May 30, 2013), Attached table 2</p>
Description:	<p><u>Investment</u></p> <p>Foreign persons shall not:</p> <ul style="list-style-type: none"> <li>(a) invest in rice or barley farming; or</li> <li>(b) hold 50 percent or more of the equity interest of an enterprise engaged in beef cattle farming.</li> </ul>

Sector: Business Services	<i>An-gyung-sa</i> (Optician and Optometry) Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Medical Technicians Act</i> (Law No. 11860, June 4, 2013), Article 12  <i>Enforcement Regulations of the Medical Technicians Act</i> (Ordinance of the Ministry of Health and Welfare No. 193, April 17, 2013), Article 15
Description:	<u>Cross-Border Trade in Services</u>  Only a natural person that is a licensed <i>an-gyung-sa</i> (optician or optometrist) that has established an office in Korea may engage in optician or optometry services.  An <i>an-gyung-sa</i> (optician or optometrist) shall not establish more than one office.

Sector:	Wholesale and Retail Distribution Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<p><i>Pharmaceutical Affairs Act</i> (Law No. 12074, August 13, 2013), Articles 42 and 45</p> <p><i>Enforcement Decree on the Pharmaceutical Affairs Acts</i> (Presidential Decree No. 24479, March 23, 2013), Article 31-2</p> <p><i>Enforcement Decree on the Standards of Facilities of Manufacturer and Importers of Medical Products, Etc.</i> (Presidential Decree No. 24479, March 23, 2013), Article 6</p> <p><i>Supply and Demand of Oriental Medicinal Herbs Regulations</i> (Notice of the Ministry of Health and Welfare No. 2013-63, April 18, 2013), Articles 4 and 12</p> <p><i>Medical Devices Act</i> (Law No. 12107, August 13, 2013), Article 15</p> <p><i>Enforcement Regulations of the Medical Devices Act</i> (Ordinance of the Prime Minister No. 1016, March 23, 2013), Article 20</p> <p><i>Health Functional Foods Act</i> (Law No. 11508, October 22, 2012), Article 6</p> <p><i>Enforcement Regulations of the Health Functional Foods Act</i> (Ordinance of the Prime Minister No.1010, March 23, 2013), Articles 2 and 5</p> <p><i>Food Sanitation Act</i> (Law No. 12390, January 28, 2014), Articles 36 and 37</p> <p><i>Enforcement Decree of the Food Sanitation Act</i> (Presidential Decree No. 24800, October 16, 2013), Articles 23 and 24</p> <p><i>Enforcement Regulations of the Food Sanitation Act</i> (Ordinance of the Prime Minister No. 1041, October 25, 2013), Articles 23 and 36 (attached table 14)</p> <p><i>Testing and Inspection of Food and Drugs Act</i> (Law No. 11985, July 30, 2013), Article 6</p> <p><i>Act on the Control of Narcotics, Etc</i> (Law No. 11984, July 30, 2013), Articles 6 and 6-2</p>

Description:

Cross-Border Trade in Services

A person that supplies wholesale trade services must establish an office in Korea in order to receive an import business license to supply such services with respect to:

- (a) pharmaceuticals and related items;
- (b) medical devices; or
- (c) health functional foods (including dietary supplements).

To supply the following services a person must establish an office in Korea:

- (a) transportation, sales, and preservation (cold storage) of food and food additives;
- (b) food supply services;
- (c) food inspection services; or
- (d) narcotic drug wholesale and retail distribution services.

The Minister of Health and Welfare controls the supply and demand of the wholesale distribution of imported designated *han-yak-jae* (Asian medicinal herbs).

Certain liquor-selling bars and the wholesale and retail distribution of narcotics require authorisation by the relevant authority.

Sector:	Retail Distribution Services of Pharmaceuticals
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Pharmaceutical Affairs Act</i> (Law No. 12074, August 13, 2013), Articles 20 and 21  <i>Enforcement Decree on the Pharmaceutical Affairs Act</i> (Presidential Decree No. 24479, March 23, 2013), Article 22-2
Description:	<u>Cross-Border Trade in Services</u>  A person that supplies pharmaceutical product retail distribution services (including distribution of <i>han-yak-jae</i> (Asian medicinal herbs)) must establish a pharmacy in Korea.  That person shall not establish more than one pharmacy nor establish a pharmacy in the form of a corporation.

Sector:	Transportation Services - Rail Transportation and Incidental Services
Obligations Concerned:	National Treatment (Article 8.4) Market Access (Article 8.6)
Measures:	<p><i>Railroad Enterprise Act</i> (Law No. 11690, March 23, 2013), Articles 5, 6, and 12</p> <p><i>Korea Railroad Corporation Act</i> (Law No. 12025, August 6, 2013), Article 9</p> <p><i>Rail Construction Act</i> (Law No. 12023, August 6, 2013), Article 8</p> <p><i>Framework Act on Rail Industry Development</i> (Law No. 11690, March 23, 2013), Articles 3, 20, 21, 26, and 38</p> <p><i>Korea Rail Network Authority Act</i> (Law No. 11690, March 23, 2013), Article 7</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>The existing regulation broadly states that only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services. In practice, however, only juridical persons of Korean nationality (of which shares are 100 per cent owned by the shareholders with Korean nationality) established by a Korean national may supply railroad transportation services on railroad routes constructed on or before 30 June, 2005.</p> <p>Only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services on railroad routes constructed on or after 1 July, 2005. Such authorisation is subject to an economic needs test.</p> <p>Only the central or local level of government, or the Korea Rail Network Authority may supply rail construction services and maintain and repair government-owned rail facilities (including high-speed rail). However, juridical persons that meet the criteria in the <i>Private Investment in Social Infrastructure Act</i> may supply rail construction services.</p>

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

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

Sector:	Transportation Services - Air Transportation Services
Obligations Concerned:	National Treatment (Article 10.5) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Articles 3, 6, 112, 113, 114, 132 and 135  <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, February 15, 2013), Articles 14-2, 15, 278, 278-3, 296-2, 298 and 299
Description:	<u>Investment</u>

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

- (a) a person who is not a Korean national;
- (b) a foreign government or a foreign *gong-gong-dan-che* (organisation for public purposes);
- (c) an enterprise organised under foreign law;
- (d) an enterprise in which any of the persons referred to in subparagraphs (a) through (c) owns half or more than half of the equity interest, or has control; or
- (e) an enterprise organised under Korean law whose *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals.

A person that is authorised to operate a self-owned or chartered aircraft must register the aircraft with the Minister of Land, Infrastructure and Transport. The persons listed in subparagraphs (a) through (e) are not allowed to register an aircraft.

Sector:	Transportation Services - Specialty Air Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Articles 3, 6, and 134  <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, February 15, 2013), Articles 15-2, 298 and 299-2
Description:	<u>Cross-Border Trade in Services and Investment</u>

A person that supplies aircraft-*sa-yong* (use) services or such non-scheduled air transportation services as glider towing, parachute jumping, aerial construction, heli-logging, and aerial sightseeing must register its self-owned or chartered aircraft with the Minister of Land, Infrastructure and Transport and establish an office in Korea.

The following persons shall not register an aircraft:

- (a) a person who is not a Korean national;
- (b) a foreign government or a foreign *gong-gong-dan-che* (organisation for public purposes);
- (c) an enterprise organised under foreign law;
- (d) an enterprise in which any of those referred to in subparagraphs (a) through (c) owns half or more than half of the equity interest, or has control; or
- (e) an enterprise organised under Korean law whose *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals.

For the purposes of this entry, aircraft-*sa-yong* (use) services are services using an aircraft, and supplied upon request, for hire, other than for passenger or freight transportation, including aerial firefighting, forestry fire management, aerial advertising, flight training, aerial mapping, aerial investigation, aerial

spraying, aerial photographing and other aerial agricultural activities, and aerial inspections and observations.

Sector: Transportation Services - Road Transportation Support Services

Obligations Concerned: Market Access (Article 8.6)  
Local Presence (Article 8.7)

Measures: *Passenger Transport Service Act* (Law No. 12020, August 6, 2013), Articles 36 and 37

*Enforcement Regulations of the Passenger Transport Service Act* (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Article 73

*Parking Lot Service Act* (Law No. 11690, March 23, 2013), Article 12

*Road Traffic Act* (Law No. 12045, August 13, 2013), Article 36

Description: Cross-Border Trade in Services

A person that supplies parking lot services, bus terminal operation services, or car towing and storage services must establish a place of business in the relevant geographic area in Korea and obtain an authorisation from the Minister of Land, Infrastructure and Transport, head of local police, or head of *si/gun*, as appropriate, which is subject to an economic needs test.

Sector:	Courier Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<p><i>Aviation Act</i> (Law No. 12026, August 6, 2013), Article 139</p> <p><i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, February 15, 2013), Article 306</p> <p><i>Trucking Transport Business Act</i> (Law No. 11933, July 16, 2013), Articles 3, 24 and 29</p> <p><i>Enforcement Regulations of Trucking Transportation Business Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No.19, July 11, 2013), Articles 6, 34 and 41-2</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies international courier services, including commercial document delivery services, as specified in Article 3 of the <i>Enforcement Decree of the Postal Services Act</i>, must establish an office in Korea.</p> <p>In order to obtain a trucking business license from the Minister of Land, Infrastructure and Transport, a domestic courier services supplier must establish an office in the relevant geographic area. Such a license is subject to an economic needs test.</p> <p>For greater certainty, a person who acquired an existing domestic courier business does not need to obtain a new trucking business license provided that the acquirer operates under the same terms and conditions as set out in the acquiree's license.</p>

Sector:	Telecommunications Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Telecommunications Business Act</i> (Law No. 12035, August 13, 2013), Articles 6, 7, 8, 21 and 87  <i>Telecommunications Business Act</i> (Law No. 5385, August 28, 1997), Addenda Article 4  <i>Radio Waves Act</i> (Law No. 11712, March 23, 2013), Articles 13 and 20
Description:	<u>Cross-Border Trade in Services and Investment</u>  A license for facilities-based public telecommunications services or a registration for non-facilities-based public telecommunications services shall be granted only to a juridical person organised under Korean law.  A license for facilities-based public telecommunications services shall not be granted to or held by a juridical person organised under Korean law in which a foreign government, foreign person, or deemed foreign person holds in the aggregate more than 49 percent of the juridical person's total voting shares.  A foreign government, foreign person, or deemed foreign person shall not in the aggregate hold more than 49 percent of the total voting shares of a facilities-based supplier of public telecommunications services. In addition, with respect to KT Corporation (KT), a foreign government, foreign person, or deemed foreign person shall not be the largest shareholder of KT, except if it holds less than five percent of the total voting shares of KT.  A foreign government, or its representative, or a foreign person shall not obtain or hold a radio station license.  A foreign person shall not supply cross-border public telecommunications services into Korea, except through a commercial arrangement with a supplier of public telecommunications services that is licensed in Korea.  For the purposes of this entry:

- (a) “deemed foreign person” means a juridical person organised under Korean law in which a foreign government or a foreign person (including a “specially related person” under relevant Korean laws or regulations) is the largest shareholder and holds 15 percent or more of that juridical person’s total voting shares, but does not include a juridical person that holds less than one percent of the total voting shares of a facilities-based supplier of public telecommunications services;
- (b) consistent with Article 5.2 of the *Telecommunications Business Act* (Law No. 12035, August 13, 2013), a facilities-based supplier is a supplier that owns transmission facilities;
- (c) consistent with Article 5.3 of the *Telecommunications Business Act* (Law No. 12035, August 13, 2013), a non-facilities-based supplier is a supplier that does not own transmission facilities (but may own a switch, router or multiplexer) and supplies its public telecommunication services through transmission facilities of a licensed facilities-based supplier; and
- (d) consistent with subparagraph 3 of Article 2 of the *Telecommunications Basic Act* (Law No. 11690, March 23, 2013), “transmission facilities” means wireline or wireless transmission facilities (including circuit facilities) that connect transmitting points with receiving points.

Sector:	Real Estate Brokerage and Appraisal Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<p><i>Act on Licensed Real Estate Broker</i> (Law No. 12634, May 21, 2014), Article 9</p> <p><i>Enforcement Decree of the Act on Licensed Real Estate Broker</i> (Presidential Decree No. 25652, October 14, 2014), Article 13</p> <p><i>Enforcement Regulations of the Act on Licensed Real Estate Broker</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 115, July 29, 2014), Article 4</p> <p><i>Public Notice of Values and Appraisal of Real Estate Act</i> (Law No. 11690, March 23, 2013), Article 27</p> <p><i>Enforcement Decree of the Public Notice of Values and Appraisal of Real Estate Act</i> (Presidential Decree No. 23919, June 29, 2012), Articles 65, 66, and 68</p> <p><i>Enforcement Regulations of the Public Notice of Values and Appraisal of Real Estate Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, March 23, 2013), Articles 25 and 26</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies real estate brokerage services or real estate appraisal services must establish an office in Korea.</p>

Sector: Retail, Leasing, Rental and Repair Services Related to Medical Devices

Obligations Concerned: Local Presence (Article 8.7)

Measures: *Medical Devices Act* (Law No. 12107, August 13, 2013),  
Articles 16 and 17

*Enforcement Regulations of the Medical Devices Act*  
(Ordinance of the Prime Minister No. 1016, March 23, 2013),  
Articles 22 and 24

Description: Cross-Border Trade in Services

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

Sector:	Rental Services - Automobiles
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<i>Passenger Transport Service Act</i> (Law No. 12020, August 6, 2013), Articles 28 and 29  <i>Enforcement Regulations of the Passenger Transport Service Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, November 7, 2013), Articles 60, 61, 62 and 64
Description:	<u>Cross-Border Trade in Services</u>  A person that supplies automobile rental services must establish an office in Korea.

Sector:	Scientific Research Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5)
Measures:	<p><i>Marine Scientific Research Act</i> (Law No. 12091, August 13, 2013), Articles 6, 7, and 8</p> <p><i>Territorial Sea and Contiguous Zone Act</i> (Law No. 10524, April 4, 2011), Article 5</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>A foreign person, a foreign government, or a Korean enterprise owned or controlled by a foreign person that intends to conduct marine scientific research in the territorial waters, Exclusive Economic Zone or continental shelf of Korea must obtain prior authorisation or consent from the Minister of Oceans and Fisheries whereas a Korean national or a Korean enterprise not owned or controlled by a foreign person need only to provide notification to the Minister of Oceans and Fisheries.</p>

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

Sector:	Professional Services - Labour Affairs Consulting Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<p><i>Certified Labor Affairs Consultant Act</i> (Law No. 10321, May 25, 2010), Articles 5, 7-2, 7-3 and 7-4</p> <p><i>Enforcement Decree of the Certified Labor Affairs Consultant Act</i> (Presidential Decree No. 24447, March 23, 2013), Articles 15 and 19</p> <p><i>Enforcement Regulations of the Certified Labor Affairs Consultant Act</i> (Ordinance of the Ministry of Employment and Labor No. 78, March 23, 2013), Articles 6 and 10</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>Only a <i>gong-in-no-mu-sa</i> (Korean-licensed labour affairs consultant) registered under the <i>Certified Labor Affairs Consultant Act</i> may supply labour affairs consulting services.</p> <p>A person that supplies labour affairs consulting services must establish an office in Korea.</p> <p>For greater certainty, an enterprise that supplies labour affairs consulting services must consist of at least two <i>gong-in-no-mu-sa</i> (Korean-licensed labour affairs consultant) (including the natural person who is the founder) and must obtain authorisation from the Minister of Employment and Labor.</p>

Sector:	Professional Services - Patent Attorney ( <i>byeon-ri-sa</i> )
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Patent Attorney Act</i> (Law No. 11962, July 30, 2013), Articles 3, 5, 6-2, and 6-3
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>Only a <i>byeon-ri-sa</i> (Korean-licensed patent attorney) who is registered with the Korean Intellectual Property Office may supply patent attorney services.</p> <p>Only a <i>byeon-ri-sa</i> (Korean-licensed patent attorney) may establish a <i>gae-in-sa-mu-so</i> (sole proprietorship) or a <i>teuk-heo-beop-in</i> (patent law firm). For greater certainty, a person that is not a Korean-licensed patent attorney shall not invest in either of these types of legal entity.</p> <p>A <i>byeon-ri-sa</i> (Korean-licensed patent attorney) may establish only one office.</p>

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

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

Sector:	Professional Services - Customs Clearance Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Customs Broker Act</i> (Law No. 10570, April 8, 2011), Articles 3, 7, and 9
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>Only a <i>gwan-se-sa</i> (customs broker) licensed under the <i>Customs Brokers Act</i>, a corporation incorporated by such customs brokers, or a corporation licensed to engage in the customs-clearance brokerage business under the <i>Customs Broker Act</i> may supply customs clearance services.</p> <p>A person that supplies customs clearance services must establish an office in Korea.</p>

Sector:	Engineering and Other Technical Services - Industrial Safety, Health Institution, and Consulting Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<p><i>Industrial Safety and Health Act</i> (Law No. 11882, June 12, 2013), Articles 15, 16 and 52-4</p> <p><i>Enforcement Decree of the Industrial Safety and Health Act</i> (Presidential Decree No. 24684, August 6, 2013), Articles 15-2, 15-3, 19-2 and 19-3</p> <p><i>Enforcement Regulations of the Industrial Safety and Health Act</i> (Ordinance of the Ministry of Employment and Labor No. 86, August 6, 2013), Articles 17, 18, 20, 21 and 136-8</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies safety and health management or diagnostic services to industrial workplaces must establish an office in Korea.</p> <p>A person that supplies industrial safety or hygiene consulting services, such as evaluation and instruction on safety in a work process and evaluation and instruction on the improvement of work environments, must establish an office in Korea.</p>

Sector:	Engineering and Other Technical Services - Architectural Services, Engineering Services, Integrated Engineering Services, Urban Planning and Landscape Architectural Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<p><i>Certified Architects Act</i> (Law No. 11690, March 23, 2013), Article 23</p> <p><i>Enforcement Decree of the Certified Architects Act</i> (Presidential Decree No. 24443, March 23, 2013), Articles 22 and 23</p> <p><i>Enforcement Regulations of the Certified Architects Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, March 23, 2013), Article 13</p> <p><i>Engineering Industry Promotion Act</i> (Law No. 12299, January 21, 2014), Article 21</p> <p><i>Professional Engineers Act</i> (Law No. 11690, March 23, 2013), Article 6</p> <p><i>Special Act on the Safety Control of Public Structures</i> (Law No. 11928, July 6, 2013), Article 9</p> <p><i>Enforcement Decree of the Special Act on the Safety Control of Public Structures</i> (Presidential Decree No. 24443, March 23, 2013), Article 11</p> <p><i>Construction Technology Promotion Act</i> (Law No. 11998, August 6, 2013), Articles 26 and 60</p> <p><i>Enforcement Decree of the Construction Technology Promotion Act</i> (Presidential Decree No.25716, November 11, 2014), Articles 44 and 47</p> <p><i>Enforcement Regulations of the Construction Technology Promotion Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 94, May 22, 2014), Article 21</p> <p><i>Act on Land Survey, Hydrographic Survey and Cadastral Records</i> (Law No. 11943, July 17, 2013), Articles 44 and 54</p> <p><i>Enforcement Decree of the Act on Land Survey, Hydrographic Survey and Cadastral Records</i> (Presidential Decree No. 24596, June 11, 2013), Articles 34 through 36 and 45 through 47</p>

*Environmental Testing and Inspection Act* (Law No. 11690, March 23, 2013), Article 16

*Thermal Spring Management Act* (Law No. 11896, July 16, 2013), Article 7

*Fire Fighting System Installation Business Act* (Law No. 11782, May 22, 2013), Article 4

Description:

Cross-Border Trade in Services

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

For greater certainty, this entry does not apply to the supply of services by a foreign licensed architect through a joint contract with a Korean-licensed architect who registered in architectural profession and established an architect`s office.

Sector:	Business Services - Electronic Billboard Operator Services and Outdoor Advertisement Services
Obligations Concerned:	Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Broadcasting Act</i> (Law No. 12093, August 13, 2013), Articles 13 and 73  <i>Outdoor Advertisements, Etc. Management Act</i> (Law No. 11690, March 23, 2013), Article 11  <i>Enforcement Decree of the Outdoor Advertisements, Etc. Management Act</i> (Presidential Decree No. 24632, June 21, 2013), Articles 14 and 44
Description:	<u>Cross-Border Trade in Services and Investment</u>  A foreign national or a Korean national who serves as a <i>dae-pyo-ja</i> (for example, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise shall not serve as the <i>dae-pyo-ja</i> (for example, a chief executive officer, president, or similar principal senior officer) or chief programmer of an enterprise that supplies electronic billboard operator services.  At least 20 percent of the electronic billboard programs must be non-commercial public advertisements provided by the central or local government.  A person that supplies outdoor advertising services must establish an office in Korea.

Sector: Business Services - Job Placement Services, Labour Supply and Worker Dispatch Services, and Education Services for Seafarers

Obligations Concerned: National Treatment (Articles 8.4 and 10.5)  
Market Access (Article 8.6)  
Local Presence (Article 8.7)

Measures: *Employment Security Act* (Law No. 11048, September 15, 2011), Articles 19 and 33

*Enforcement Decree of the Employment Security Act* (Presidential Decree No. 24076, August 31, 2012), Articles 21 and 33

*Enforcement Regulations of the Employment Security Act* (Ordinance of the Ministry of Employment and Labor No. 72, December 27, 2012), Articles 18 and 36

*Act Relating to Protection for Dispatched Workers* (Law No. 11668, March 22, 2013), Articles 7, 8, 9 and 10

*Enforcement Decree of the Act Relating to Protection for Dispatched Workers* (Presidential Decree No. 23853, June 12, 2012), Article 3

*Enforcement Regulations of the Act Relating to Protection for Dispatched Workers* (Ordinance of the Ministry of Employment and Labor No. 64, August 2, 2012), Article 3, 4 and 5

*Special Act on Designation and Management of Free Economic Zones* (Law No. 11690, March 23, 2013), Article 17

*Seafarers Act* (Law No. 11690, March 23, 2013), Articles 109, 110, 112, 115, 116, 117, 142, and 143

*Korea Institute of Maritime and Fisheries Technology Act* (Law No. 11690, March 23, 2013), Article 5

Description: Cross-Border Trade in Services and Investment

A person that supplies job placement services for a fee, worker supply services, or worker dispatch (secondment) services must establish an office in Korea.

For transparency purposes, as of 29 October, 2013 the types of business to which workers may be seconded are limited to the 32 businesses set forth in the Presidential Decree, but the Minister of Employment and Labor can expand the types of

business and the secondment period, pursuant to the review and determination by the Committee of the Free Economic Zone.

Only the Korea Seafarers Welfare and Employment Center and regional offices of the Minister of Oceans and Fisheries may supply seafaring labour supply services.

To become an agent for seafarer personnel management services, a person must register with the Minister of Oceans and Fisheries as a stock company under the Korean Commercial Code.

Only the Korea Institute of Maritime and Fisheries Technology may provide education and training for seafarers.

Sector:	Investigation and Security Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Certified Private Security Act</i> (Law No. 11690, March 23, 2013), Articles 3 and 4  <i>Enforcement Decree of the Certified Private Security Act</i> (Presidential Decree No. 24419, March 23, 2013), Articles 3 and 4  <i>Enforcement Regulations of the Certified Private Security Act</i> (Ordinance of the Ministry of Security and Public Administration, No. 20, October 22, 2013), Article 3
Description:	<u>Cross-Border Trade in Services</u>  Only a juridical person organised under Korean law may supply security services in Korea.  For transparency purposes, only five types of security services are permitted in Korea:  (a) <i>shi-seol-gyung-bee</i> (facility security); (b) <i>ho-song-gyung-bee</i> (escort security); (c) <i>shin-byun-bo-ho</i> (personal security); (d) <i>gee-gye-gyung-bee</i> (mechanised security); and (e) <i>teuk-soo-gyung-bee</i> (special security).

Sector:	Distribution Services Related to Publications
Obligations Concerned:	National Treatment (Articles 8.4)
Measures:	<p><i>Publication Cultural Industry Promotion Act</i> (Law No. 11048, September 15, 2011), Articles 18, 19 and 19-3</p> <p><i>Enforcement Decree of the Publication Cultural Industry Promotion Act</i> (Presidential Decree No. 24020, August 3, 2012), Article 12</p> <p><i>Enforcement Regulations of the Publication Cultural Industry Promotion Act</i> (Ordinance of the Ministry of Culture, Sports and Tourism No. 121, July 27, 2012), Article 7</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>Publications for the purposes of domestic distribution are subject to a review process on an <i>ad hoc</i> basis.</p>

Sector:	Transportation Services - Aircraft Maintenance and Repair Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<i>Aviation Act</i> (Law No. 12026, August 6, 2013), Articles 137, 137-2 and 138  <i>Enforcement Regulations of the Aviation Act</i> (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, February 15, 2013), Articles 16, 304, and 305
Description:	<u>Cross-Border Trade in Services</u>  A person that supplies aircraft maintenance and repair services must establish an office in Korea.

Sector: Education Services - Higher Education

Obligations Concerned: National Treatment (Articles 8.4 and 10.5)  
Market Access (Article 8.6)  
Senior Management and Boards of Directors (Article 10.12)

Measures: *Higher Education Act* (Law No. 12036, August 13, 2013),  
Articles 3, 4, 32, 42, and 43

*Enforcement Decree of the Higher Education Act* (Presidential  
Decree No. 24847, November 20, 2013), Article 28

*Private School Act* (Law No. 11622, January 23, 2013), Articles  
3, 5, 10, and 21

*Enforcement Decree of the Private School Act* (Presidential  
Decree No. 24665, July 22, 2013), Article 9-3

*Decree on the Establishment of the Korea National Open  
University* (Presidential Decree No. 24423, March 23, 2013),  
Articles 1 and 2

Description: Cross Border Trade in Services and Investment

Half or more of the members of the board of directors of a private higher education institution must be Korean nationals. If a foreign person or foreign juridical person contributes half or more of the basic property of a higher education institution, up to but not including two thirds of the members of the board of directors of such an institution may be foreign nationals.

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

Only non-profit school juridical persons approved by the Minister of Education may establish higher education institutions (other than the types of institutions listed in Annex II) in Korea.

The Minister of Education may restrict the total number of students per year in the fields of medicine, pharmacology, veterinary medicine, traditional Asian medicine, medical technicians, and higher education for pre-primary, primary, and

secondary teachers, and higher education institutions located in the Seoul Metropolitan Area.

For the purposes of this entry, “Seoul Metropolitan Area” includes the Seoul Metropolitan City, Incheon Metropolitan City, and Gyeonggi Province.

Only the central or local governments of Korea may establish higher education institutions for training of primary school teachers. Only the central government may establish higher education institutions that supply higher education services to the public through broadcasting.

Sector:	Education Services – Adult Education
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6)
Measures:	<p><i>Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons</i> (Law No. 11690, March 23, 2013), Articles 2, 2-2 and 13</p> <p><i>Enforcement Decree of the Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act</i> (Presidential Decree No. 24423, March 23, 2013), Article 12</p> <p><i>Lifelong Education Act</i> (Law No. 11770, May 22, 2013), Articles 30, 33 through 38</p> <p><i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 4</p> <p><i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy No. 2013-37, May 30, 2013), Attached table 1</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>The types of adult education institutions that a foreign person may establish in Korea are limited to:</p> <ul style="list-style-type: none"> <li>(a) <i>hag-won</i> (private teaching institutes for adults) related to lifelong and vocational education; and</li> <li>(b) no later than the date this Agreement enters into force, lifelong adult education facilities operated for purposes other than recognising educational qualifications or conferring diplomas, which include: <ul style="list-style-type: none"> <li>(i) education facilities annexed to workplaces, non-governmental organisations, schools and media organisations;</li> <li>(ii) educational facilities related to the development of knowledge and human resources; and</li> <li>(iii) online lifelong education facilities</li> </ul> </li> </ul>

all of which are established for adults.

For the purposes of this entry, *hag-won* (private teaching institutes for adults) are facilities that provide tutoring services on subjects related to lifelong or vocational education to 10 people or more for a period of 30 days or longer.

A foreign national hired by a private teaching institute for adults as a lecturer must possess at least a bachelor's degree or the equivalent and reside in Korea.

Sector:	Education Services - Vocational Competency Development Training Services
Obligations Concerned:	Local Presence (Article 8.7)
Measures:	<p><i>Workers' Vocational Competency Development Act</i> (Law No. 11690, March 23, 2013), Articles 28, 32, and 36</p> <p><i>Enforcement Decree of the Workers' Vocational Competency Development Act</i> (Presidential Decree No. 24628, June 21, 2013), Articles 24 and 26</p> <p><i>Enforcement Regulation of the Workers' Vocational Competency Development Act</i> (Ordinance of the Ministry of Employment and Labor No. 57, June 8, 2012), Articles 12, 14 and 18</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A person that supplies vocational competency development training services must establish an office in Korea.</p>

Sector:	Veterinary Services
Obligations Concerned:	Market Access (Article 8.6) Local Presence (Article 8.7)
Measures:	<i>Veterinary Affairs Act</i> (Law No. 11354, February 22, 2012), Articles 17, 22-2, 22-4 and 22-5  <i>Civil Act</i> (Law No.11728, April 5, 2013), Article 32
Description:	<u>Cross-Border Trade in Services</u>  Only a person that is a licensed <i>soo-eui-sa</i> (veterinarian) that has established an office in Korea, <i>dong-mul-jin-ryo-bub-in</i> (animal hospital legal entity) or <i>bee-young-ri-bub-in</i> (non-profit legal entity) may engage in veterinary or aquatic animal disease inspection services.

Sector: Environmental Services - Waste Water Treatment Services, Waste Management Services, Air Pollution Treatment Services, Environmental Preventive Facilities Business, Environmental Impact Assessment, Soil Remediation and Groundwater Purification Services, and Toxic Chemical Control Services

Obligations Concerned: Local Presence (Article 8.7)

Measures: *Water Quality and Ecosystem Conservation Act* (Law No. 11915, July 16, 2013), Article 62

*Support for Environmental Technology and Environmental Industry Act* (Law No. 11713, March 23, 2013), Article 15

*Soil Environment Conservation Act* (Law No. 11464, June 1, 2012), Article 23-7

*Groundwater Act* (Law No. 11803, May 22, 2013), Article 29-2

*Clean Air Conservation Act* (Law No. 11750, April 5, 2013), Article 68

*Environmental Impact Assessment Act* (Law No. 11690, March 23, 2013), Article 54

*Toxic Chemicals Control Act* (Law No. 11690, March 23, 2013), Article 20

*Wastes Control Act* (Law No. 11965, July 30, 2013), Article 25

*Enforcement Decree of the Wastes Control Act* (Presidential Decree No. 24543, May 28, 2013), Article 8

Description: Cross-Border Trade in Services

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

Sector:	Performance Services
Obligations Concerned:	National Treatment (Article 8.4)
Measures:	<p><i>Public Performance Act</i> (Law No. 11048, September 15, 2011), Articles 6 and 7</p> <p><i>Enforcement Decree of the Public Performance Act</i> (Presidential Decree No. 23759, May 1, 2012), Articles 4 and 6</p> <p><i>Enforcement Regulations of the Public Performance Act</i> (Ordinance of the Ministry of Culture, Sports and Tourism No. 94, November 25, 2011), Article 4</p> <p><i>Enforcement Regulations of the Immigration Control Act</i> (Ordinance of the Ministry of Justice No. 799, October 10, 2013), Table 5</p>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>A foreign person who intends to engage in a public performance in Korea, or a person who intends to invite a foreign person to engage in a public performance in Korea must obtain a recommendation from the Korea Media Rating Board.</p>

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

Obligations Concerned: National Treatment (Articles 8.4 and 10.5)  
Market Access (Article 8.6)  
Local Presence (Article 8.7)  
Senior Management and Boards of Directors (Article 10.12)

Measures: *Act on Promotion of News Communication* (Law No. 11690, March 23, 2013), Articles 7, 8, 9, 9-5, 16, and 28

*Enforcement Decree of the Act on Promotion of News Communications* (Presidential Decree No. 24183, November 20, 2012), Articles 4 and 10

*Radio Waves Act* (Law No. 11712, March 23, 2013), Article 20

Description: Cross-Border Trade in Services and Investment

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

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

- (a) a foreign government;
- (b) a foreign person;
- (c) an enterprise organised under Korean law whose *dae-pyo-ja* (for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national or is a person not domiciled in Korea; or
- (d) an enterprise organised under Korean law in which a foreign person holds 25 percent or more equity interest.

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

- (a) a person who is not a Korean national; or

- (b) a Korean national not domiciled in Korea.

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

The following persons shall not obtain a radio station license:

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

Sector: Manufacturing of Biological Products

Obligations Concerned: Performance Requirements (Article 10.11)

Measures: *Pharmaceutical Affairs Act* (Law No. 12074, August 13, 2013), Article 42  
*Regulations on Safety of Pharmaceuticals, Etc.* (Ordinance of the Prime Minister No. 1022, March 23, 2013), Article 11

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

Sector:	Publishing of Periodicals (Excluding Newspapers)
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Act on the Promotion of Periodicals including Magazine, Etc.</i> (Law No. 11690, March 23, 2013), Articles 20 and 29  <i>Enforcement Decree of Act on the Promotion of Periodicals including Magazine, Etc.</i> (Presidential Decree No. 23807, May 23, 2012), Articles 17, 18, 19, and 20
Description:	<u>Cross-Border Trade in Services and Investment</u>  A person who is not a Korean national shall not be the publisher or the editor-in-chief of an enterprise that publishes periodicals.  The following persons shall not publish periodicals in Korea:  <ul style="list-style-type: none"> <li>(a) a foreign government or a foreign person;</li> <li>(b) an enterprise organised under Korean law whose <i>dae-pyo-ja</i> (for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national; or</li> <li>(c) an enterprise organised under Korean law in which a foreign person holds 50 percent or more of share or equity interest.</li> </ul> A foreign person that publishes periodicals may establish a branch or office in Korea subject to authorisation from the Minister of Culture, Sports and Tourism. As of the date this Agreement enters into force, such branch or office may print and distribute its periodicals in Korea in the original language, provided that such periodicals are edited in the territory of New Zealand.

Sector:	Distribution Services - Agriculture and Livestock
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6)
Measures:	<p><i>Grain Management Act</i> (Law No. 11641, March 22, 2013), Article 12</p> <p><i>Livestock Industry Act</i> (Law No. 11690, March 23, 2013), Articles 30 and 34</p> <p><i>Seed Industry Act</i> (Law No. 11704, March 23, 2013), Article 42</p> <p><i>Feed Management Act</i> (Law No. 11690, March 23, 2013), Article 6</p> <p><i>Ginseng Industry Act</i> (Law No. 11690, March 23, 2013), Article 20</p> <p><i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Article 4</p> <p><i>Enforcement Decree of the Foreign Investment Promotion Act</i> (Presidential Decree No. 24638, June 28, 2013), Article 5</p> <p><i>Regulations on Foreign Investment and Introduction of Technology</i> (Notice of the Ministry of Trade, Industry and Energy No. 2013-37, May 30, 2013), Attached table 2</p> <p><i>Act on Distribution and Price Stabilization of Agricultural and Fishery Products</i> (Law No. 12059, August 13, 2013), Articles 15, 17, and 43</p> <p><i>Notice on TRQ Products</i> (Notice of the Ministry of Agriculture, Food and Rural Affairs No. 2013-29, May 16, 2013), Articles 14 and 20-2</p>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>A foreign person shall not hold 50 percent or more of the shares or equity interest of an enterprise engaged in <i>yook-ryu</i> (meat) wholesaling.</p> <p>Only the Livestock Cooperatives under the <i>Agriculture Cooperative Act</i> may establish and manage a <i>ga-chook-sijang</i> (livestock market) in Korea.</p>

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

Only producers' organisations or public interest corporations prescribed in the *Enforcement Decree of the Act on Distribution and Price Stabilization of Agricultural and Fishery Products* may establish a *gong-pan-jang* (joint wholesale market).

For greater certainty, Articles 8.4 (National Treatment) and 8.6 (Market Access) do not prevent Korea from adopting or maintaining any measure with respect to the administration of the WTO Tariff-Rate-Quota.

Sector:	Communication Services - Broadcasting Services
Obligations Concerned:	National Treatment (Articles 8.4 and 10.5) Market Access (Article 8.6) Local Presence (Article 8.7) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Measures:	<i>Broadcasting Act</i> (Law No. 12093, August 13, 2013) Articles 8, 9, 12, 13 through 18, 48, and 69 through 71  <i>Enforcement Decree of the Broadcasting Act</i> (Presidential Decree No. 24763, September 26, 2013), Article 57  <i>Korea Educational Broadcasting Corporation Act</i> (Law No. 12093, August 13, 2013), Article 11
Description:	<u>Cross-Border Trade in Services and Investment</u>  Neither a foreign national nor a Korean national who serves as a <i>dae-pyo-ja</i> (e.g., a chief executive officer, president, or similar principal senior officer) of a foreign enterprise may serve as a <i>dae-pyo-ja</i> (e.g., a chief executive officer, president, or similar principal senior officer) or chief programmer of a terrestrial broadcaster, satellite broadcasting operator, cable system operator, program provider, signal transmission network business operator, audio cable operator, or relay-only cable operator.  All members of the boards of directors of the Korea Broadcasting System (KBS) and the Korea Educational Broadcasting System (EBS) must be Korean nationals.  A license for a terrestrial broadcaster, cable system operator, satellite broadcasting operator, signal transmission network business operator, or a program provider may only be granted to or held by the Government of Korea, a local government, or a juridical person organised under Korean law.  A license for a relay-only cable operator or an audio cable operator may only be granted to or held by the Government of Korea, a local government, or a Korean person.  A license for a terrestrial broadcaster, relay-only cable operator, cable system operator, satellite broadcasting operator, or a program provider that is engaged in <i>jong-hap-pyeon-sung</i> (multi-genre programming), home shopping, or <i>bo-do</i> (news reporting) is granted through <i>heo-ga</i> (permission), whereas a

license for a signal transmission network business operator, audio cable operator or a program provider that is not engaged in *jong-hap-pyeon-sung* (multi-genre programming), home shopping, or *bo-do* (news reporting) is granted through *deung-rok* (registration).

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

- (a) an equity interest in a terrestrial broadcaster, relay-only cable operator, or program provider that is engaged in *jong-hap-pyeon-sung* (multi-genre programming) or *bo-do* (news reporting);
- (b) in the aggregate more than 33 percent of the total issued stocks or equity interest of a satellite broadcasting operator; or
- (c) in the aggregate more than 49 percent of the total issued stocks or equity interest of a cable system operator, a signal transmission network business operator, or a program provider that is not engaged in *jong-hap-pyeon-sung* (multi-genre programming) or *bo-do* (news reporting).

For transparency purposes, no single person (including “specially related person” under Article 3 of the *Enforcement Decree of the Broadcasting Act*) may hold in the aggregate more than 30 percent of the total issued stocks or equity interest of a terrestrial broadcaster or a program provider that is engaged in *jong-hap-pyeon-sung* (multi-genre programming) or *bo-do* (news reporting), unless such broadcaster primarily provides religious or missionary content. Such limitations do not apply to the Government of Korea and a corporation established by a special law (e.g., Mun-hwa Broadcasting Corporation (MBC), which is established under *the Foundation for Broadcast Culture Act*).

A terrestrial broadcaster, program provider, cable system operator, or satellite broadcasting operator must include Korean content of at least the ratio publicly notified by the Korea Communications Commission, within the limit referred to in the following subparagraphs:

- (a) in the case of a terrestrial broadcaster or program provider that uses terrestrial broadcasting to provide its programming, not less than 60

percent but not more than 80 percent of the quarterly programming hours per channel;

- (b) in the case of a cable system operator or a satellite broadcasting operator, not less than 40 percent but not more than 70 percent of the quarterly programming hours per channel; and
- (c) in the case of a program provider that does not use terrestrial broadcasting to provide its programming, not less than 20 percent but not more than 50 percent of the quarterly programming hours per channel.

A broadcaster must include domestically produced movies, animations and popular music of at least the ratio publicly notified by the Korea Communications Commission, within the limit referred to in the following subparagraphs:

- (a) movies: not less than 20 percent but not more than 40 percent of the yearly programming hours of the channel concerned;
- (b) animations: not less than 30 percent but not more than 50 percent of the yearly programming hours of the channel concerned; and
- (c) popular music: not less than 50 percent but not more than 80 percent of the yearly programming hours of the channel concerned.

However, a broadcaster engaged in specialised programming pertaining to religion or education must include domestically produced movies and animations of at least the ratio publicly notified by the Korea Communications Commission, within the limit of not more than 40 percent of the yearly programming hours of movies or animations of the channel concerned.

Korea shall permit no more than 60 percent of a terrestrial broadcaster's, cable system operator's, satellite broadcasting operator's, or program provider's quarterly programming hours of foreign content per genre to be foreign content of a single country (single-country content ceiling).

For the purposes of this entry:

- (a) "program provider engaged in *jong-hap-pyeon-sung*" (multi-genre programming) means a

program provider that offers a combination of news, entertainment, drama, movies, music programming, etc.;

- (b) “deemed foreign person” means a juridical person organised under Korean law in which a foreign government or a foreign person holds in the aggregate more than 50 percent of the juridical person’s total issued stocks or equity interest, or whose largest shareholder is a foreign government or a foreign person; and
- (c) a “satellite broadcasting operator” includes an operator that uses or leases capacity on a satellite registered in a foreign country.

Sector:	Energy Industry - Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales
Obligations Concerned:	National Treatment (Article 10.5) <sup>3</sup>
Measures:	<p><i>Financial Investment Services and Capital Markets Act</i> (Law No. 11845, May 28, 2013), Article 168</p> <p><i>Enforcement Decree of the Financial Investment Services and Capital Markets Act</i> (Presidential Decree No. 24697, August 27, 2013), Article 187</p> <p><i>Foreign Investment Promotion Act</i> (Law No. 11535, December 11, 2012), Articles 4 and 5</p> <p><i>Enforcement Decree of the Foreign Investment Promotion Act</i>, (Presidential Decree No. 24638, June 28, 2013), Article 5</p> <p><i>Consolidated Public Notice for Foreign Investment</i> (Public Notice of the Ministry of Trade, Industry and Energy No. 2013-102, May 27, 2013), Attached table</p> <p><i>Designation of Public Corporation</i> (Notice of the Ministry of Finance and Economy, No. 2000-17, September 28, 2000)</p> <p><i>Financial Investment Service Regulations</i> (Financial Services Commission Notice No. 2013-40, December 4, 2013), Article. 6-2</p>
Description:	<p><u>Investment</u></p> <p>The aggregate foreign share of KEPCO's issued stocks shall not exceed 40 percent. A foreign person shall not become the largest shareholder of KEPCO.</p> <p>The aggregate foreign share of power generation facilities, including cogeneration facilities of heat and power (GHP) for the district heating system (DHS), shall not exceed 30 percent of the total facilities in the territory of Korea.</p> <p>The aggregate foreign share of electric power transmission, distribution and sales businesses should be less than 50 percent. A foreign person shall not be the largest shareholder.</p>

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

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

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<sup>4</sup> Paragraph (a) of the ninth entry of Korea's Schedule to Annex II does not apply to this entry.

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

## NEW ZEALAND

### EXPLANATORY NOTE

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

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

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

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

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

- (a) **Sector**, refers to the sector in which the entry is made;
- (b) **Obligations Concerned**, specifies the obligation(s) referred to in paragraph 1;
- (c) **Measures**, identifies the measures for which the entry is made. A measure cited in the Measures element:
  - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
  - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
- (d) **Description**, sets out the non-conforming measure to which the entry applies.

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

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

## SCHEDULE OF NEW ZEALAND

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Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.5)

Measures: *Companies Act 1993*  
*Financial Reporting Act 1993*

Description: Investment

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

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

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

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

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

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

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

Sector: Agriculture, including services incidental to agriculture

Obligations Concerned: National Treatment (Articles 8.4 and 10.5)  
Performance Requirements (Article 10.11)  
Senior Management and Boards of Directors (Article 10.12)

Measure: *Dairy Industry Restructuring Act 2001*

Description: Cross Border Trade in Services and Investment

The *Dairy Industry Restructuring Act 2001* (DIRA) and regulations provide for the New Zealand government to acquire, free of charge, and without condition, a copy of a regulated database held by the Livestock Improvement Corporation Ltd (LIC) in the event of its demutualisation or certain other events.

Furthermore, should LIC be liquidated or removed from New Zealand's register of companies or the New Zealand government receives a copy of the database as specified above, the New Zealand government may determine arrangements for the database to be managed by another dairy industry entity. In doing so, it may take into account nationality and residency considerations, including in relation to senior management and composition of the board of directors.

In addition, the DIRA sets out data reporting obligations to the LIC applying to those engaged in herd testing of dairy cattle.

The DIRA also provides for access to the data held in the core database to be denied if access is not beneficial, or is harmful, to the New Zealand dairy industry, which could take into account nationality or residency considerations and the intended use of the data. Conditions may also be applied to data use.

The DIRA restricts who may hold shares in LIC, and this regime may not be amended without the consent of the responsible Minister

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

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

Sector:	Agriculture, including services incidental to agriculture
Obligations concerned:	National Treatment (Article 8.4 and 10.5) Market Access (Article 8.6) Performance Requirements (Article 10.11) Senior Management and Boards of Directors (Article 10.12)
Measure:	<i>Primary Products Marketing Act 1953</i>
Description:	<u>Cross Border Trade in Services and Investment</u>

Under the *Primary Products Marketing Act 1953*, the New Zealand Government may impose regulations necessary to enable producers of products derived from beekeeping; fruit growing; hop growing; deer farming or game deer; or of goats, being the fur bristles or fibres grown by the goat (hereinafter referred to as “primary products”) to control the marketing of primary products. In particular, *the Primary Products Marketing Act 1953* provides for the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers), and provision of a range of measures relating to such aspects as:

- (a) the functions, powers, appointment, membership, and dissolution of the marketing authorities;
- (b) the management of the affairs of the marketing authorities;
- (c) the acquisition of primary products by the marketing authorities and matters relating to the pricing and method of payment for primary products so acquired;
- (d) matters relating to the production, distribution, licensing, and sale of primary products;
- (e) matters relating to the payment of fees and levies on primary products;
- (f) the acquisition of information required for the purposes of the marketing authorities;
- (g) the prescription of offences and penalties relating to the *Primary Products Marketing Act 1953*.

Sector: Air Transportation

Obligations concerned: National Treatment (Article 10.5)  
Senior Management and Boards of Directors (Article 10.12)

Measure: *Civil Aviation Act 1990*  
Ministerial Guidelines

Description: Investment

Only a licensed air transport enterprise may provide international scheduled air services as a New Zealand international airline. Only a licensed air transport enterprise may provide international scheduled air services, including cabotage, within New Zealand, as a foreign international airline. Either the Minister for Transport or the Secretary for Transport determines the issuance of international air services licenses. Non-scheduled air services require either an appropriate licence or the approval of the Secretary for Transport in accordance with guidelines issued by the Minister for Transport. Such determinations shall include consideration of the provisions of New Zealand's bilateral and multilateral air services agreements. Licenses may be subject to certain conditions, such as that the airline is substantially owned and effectively controlled by New Zealand nationals, or have its principal place of business in New Zealand.

Sector: Air Transportation

Obligations concerned: National Treatment (Article 10.5)  
Senior Management and Boards of Directors (Article 10.12)

Measure: *Constitution of Air New Zealand Limited (2009)*

Description: Investment

No one foreign national may hold more than 10 percent of shares which confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder (New Zealand Government). In addition:

- (a) No person that owns or operates an airline business, nor any other person 'associated' with a person who owns or operates an airline business, may hold or have an interest in Air New Zealand unless the prior written consent of the Kiwi Shareholder (New Zealand Government) has been given;
- (b) The location of the Head Office of Air New Zealand, and its principal place of business, shall be in New Zealand;
- (c) At least three members of the Board of Directors must be ordinarily resident in New Zealand;
- (d) More than half of the Board of Directors must be New Zealand citizens;
- (e) The Chairperson of the Board of Directors must be a New Zealand citizen; and
- (f) Air New Zealand shall continue to be incorporated and registered in New Zealand.