

CHAPTER 22

FINAL PROVISIONS

Article 22.1: Annexes, Appendices and Footnotes

The Annexes, appendices and footnotes to this Agreement shall constitute an integral part of this Agreement.

Article 22.2: Amendments

1. The Parties shall amend Chapters relating to Trade in Services and Investment and their corresponding annexes through the subsequent negotiations commencing from the date of entry into force of this Agreement (hereinafter referred to as “subsequent negotiations”) in accordance with the general principles and negotiation guidelines specified in the Annex 22-A.
2. The results of the subsequent negotiations shall be incorporated into and made an integral part of this Agreement and substitute the corresponding Chapters of this Agreement. The entry into force of the newly amended chapters shall be subject to the procedures contained in the Article 22.4.
3. Further to the aforementioned amendment, the Parties may agree to amend this Agreement. When so agreed and entered into force according to Article 22.4, such amendments shall constitute an integral part of this Agreement.

Article 22.3: Amendment of the WTO Agreement

If any provision of the WTO Agreement that the Parties have incorporated into this Agreement is amended, the Parties shall consult on whether to amend this Agreement accordingly.

Article 22.4: Entry into Force and Termination

1. The entry into force of this Agreement is subject to the completion of necessary domestic legal procedures by each Party.
2. This Agreement shall enter into force 60 days after the date the Parties exchange written notifications through diplomatic channels that such procedures have been completed or after such other period as the Parties may agree and confirm by written notifications.
3. Either Party may terminate this Agreement by written notification to the other Party through diplomatic channels. This Agreement shall expire 180 days after the date on which such notification is sent.

Article 22.5: Accession

Any country or customs territory may accede to this Agreement subject to such terms and conditions as may be agreed between the country or customs territory and the Parties and following approval in accordance with the applicable legal requirements and procedures of each Party and acceding country or customs territory.

Article 22.6: Authentic Text

This Agreement shall be done in Korean, Chinese, and English. The three texts are equally valid and authentic. In case of any divergence, the English text shall prevail.

ANNEX 22-A

GUIDELINES FOR SUBSEQUENT NEGOTIATION

A. General Principles

1. The Parties aim at achieving high-level liberalization for trade in services and investment in the subsequent negotiation.
2. The subsequent negotiations will cover, among others, Chapters 8 (Trade in Services), 9 (Financial Services) and 12 (Investment) including their respective Annexes, and the related provisions concerning rules in other Chapters.
3. The subsequent negotiations will be conducted based on a negative list approach covering pre-establishment phase of investment and trade in services in mode 3.
4. The Parties agreed to generate combined reservation lists associated with the Chapter 8 (Cross-Border Trade in Services), Chapter 9 (Financial Services), and Chapter 12 (Investment) based on a negative list approach. The newly-generated combined reservation lists such as Annex I (List of Existing Non-Conforming Measures), Annex II (List of the Specific Sectors, Subsectors, or Activities for Which a Party May Maintain Existing, or Adopt New or More Restrictive Measures that Do not Conform with Obligations under the Relevant Chapters), and Annex III (Financial Services), shall be attached to this Agreement and constitute an integral part of this Agreement.
5. The Parties shall ensure that the level of liberalization commitments of a specific sector attained in this Agreement will not be decreased at the subsequent negotiations.
6. In the subsequent negotiations, the Parties may revisit any Articles in the relevant Chapters.¹
7. Nothing in this Agreement shall be construed as preventing a Party from making new textual proposals in the subsequent negotiations.

B. Timeframes

8. The Parties shall commence the subsequent negotiations as soon as possible, but not later than two years following the date of entry into force of this Agreement.
9. The Parties shall endeavor to conclude the subsequent negotiations within two years from the date of the starting of the negotiations.

C. Guidelines for Negotiations for Trade in Services

¹ For greater certainty, the subsequent negotiations will be conducted based on the Parties' respective textual proposals, not on the Articles in this Agreement.

10. The Chapter on Cross-Border Trade in Services which will be established through subsequent negotiations applies to trade in services in mode 1 and 2.
11. The Parties shall include, among others, the provision concerning Future MFN (Most-Favored Nation Treatment) in the result of the subsequent negotiations for the Chapter on Cross-Border Trade in Services.
12. The Parties shall include, among others, the provisions concerning Future MFN (Most-Favored Nation Treatment), Transfer of Information and New Financial Services in the result of the subsequent negotiations for the Chapter on Financial Services.
13. The list of existing non-conforming measures and the list of the specific sectors, subsectors, or activities for which a Party may maintain existing, or adopt new or more restrictive measures that do not conform with the obligations under the Chapter on Financial Services shall be attached to as Annex III to this Agreement.

D. Guidelines for Negotiations for Investment

14. The Parties shall revisit all the Articles in Chapter 12 (Investment) with a view to including pre-establishment phase of the investment covering all kinds of investment including supply of services through commercial presence.
15. The negotiation shall include the Articles addressing Definition, Scope and Coverage, National Treatment, Most-Favored- Nation Treatment, Minimum Standard of Treatment, Expropriation, Transfer, Performance Requirements, Senior Management and Boards of Directors, Non-Confirming Measures, Investor-State Dispute Settlement, and other provisions.
16. The Parties shall include, in the result of the subsequent negotiations, an Article on Performance Requirement with a view to incorporating high level commitment for both pre-establishment and post-establishment phase of the investment.
17. The Parties shall negotiate on issues such as relevant consideration for, and exceptions to the indirect expropriation in the subsequent negotiation.

E. Guidelines for Negotiations for related provisions concerning rules

18. The Parties shall negotiate on the related provisions concerning rules in other Chapters at the subsequent negotiations.

F. Termination and Modification of the Annex and Relevant Article

19. This Annex and the paragraphs 1 and 2 of Article 22.2 (Amendments) shall be terminated at the time when the result of the subsequent negotiations enters into force.

20. The paragraph 3 of Article 22.2 (Amendments) shall, at the time when the result of the subsequent negotiations enters into force, be modified as follows

“The Parties may agree to amend this Agreement. When so agreed and entered into force according to Article 22.4 (Entry into Force and Termination), such amendment shall constitute an integral part of this Agreement.”

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Seoul, this First day of June, 2015, in duplicate, each Party shall keep one copy in the Korean, Chinese and English languages.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA
