

ANNEX I

REFERRED TO IN ARTICLE 12

RESERVATIONS BY KOREA

Sector:	All Sectors
Sub-sector:	
Legal source or authority of the measure:	Law No. 7281, Articles 4, 5, 6 and 7 of the Foreign Investment Promotion Act, Dec. 31, 2004 Presidential Decree No. 18736, Articles 6, 7 and 8 of its Enforcement Decree, Mar. 8, 2005 Ordinance of the Ministry of Commerce, Industry and Energy No. 269, Articles 2, 3, 4 and 5 of its Enforcement Regulations, Apr. 8, 2005
Succinct description of the measure:	<p>A foreigner who intends to make a foreign direct investment shall, in advance, make report to the Minister of Commerce, Industry and Energy in accordance with the Ordinance of the Ministry of Commerce, Industry and Energy. The same shall apply to any modification of matters such as the amount of foreign direct investment and the ratio.</p> <p>Korea reserves the right to prohibit or restrict a foreign direct investment in the cases where it threatens the maintenance of national safety and public order, has harmful effects on public hygiene or the environmental preservation of the Republic of Korea or is against Korean morals and customs, or violates any relevant Act of the Republic of Korea.</p> <p>The term “foreign direct investment” shall refer to any of the following;</p> <p>(a) Where a foreigner purchases, under the conditions prescribed by the Presidential Decree, stocks or holdings of a Korean corporation (including a Korean corporation in the process of being established) or a company run by a national of the Republic of Korea, for the purpose of establishing a continuous relationship with and participating in the management of said Korean corporation or company;</p> <p>(b) Where a loan with the maturity of not less than five years is extended to a foreign-capital invested company by its overseas holding company or by a company in a relationship</p>

	with said holding company of the capital investment prescribed by the Presidential Decree.
Purpose or motivation of the measure:	Statistical purposes and review for incentives Maintenance of national security and public order

KOREA

Sector:	All Sectors
Sub-sector:	
Legal source or authority of the measure:	Not applicable
Succinct description of the measure:	<p>With respect to the transfer or disposal of stocks or assets held in an existing state-owned or government entity in such industries as electricity and gas, Korea reserves the right to prohibit or restrict the ownership of such interests or assets.</p> <p>Korea also reserves the right to prohibit or limit the rights of foreign investors to control a company or investment created in such a process.</p> <p>For the purposes of this reservation:</p> <p>(a) any measure maintained or adopted after the date of entry into force of this Agreement which, at the time of the transfer or disposal, prohibits or restricts ownership of such interest or assets or imposes the nationality requirements set forth herein shall be considered to be a measure in force; and</p> <p>(b) a “state-owned company” shall mean any company owned or controlled by Korea by means of an interest share in the ownership thereof, and shall include any company created after the effective date of this Agreement for the sole purpose of selling or disposing its interest share in the capital or assets of an existing state or government entity.</p>
Purpose or motivation of the measure:	National security and protection of public interest

KOREA

Sector:	All Sectors
Sub-sector:	
Legal source or authority of the measure:	Law No. 7297, Articles 4, 5 and 6 of the Foreigner's Land Acquisition Act, Dec. 31, 2004
Succinct description of the measure:	<p>The Republic of Korea reserves the right to maintain or adopt any measures with respect to land acquisition by foreigners.</p> <p>Present measures, <i>inter alia</i>, are as follows:</p> <ul style="list-style-type: none"> a) When a foreign national, foreign legal entity, foreign government or an international organization (hereinafter referred to as a "foreigner") has signed a contract for acquisition of land within the territory of the Republic of Korea, a report of the acquisition must be made to the head of the <i>si/gun/gu</i> [city/county/district(within a city)] within 60 days from the conclusion of the contract. Penalties are assessed in cases of violations. b) In cases of land designated for national defense, cultural protection and ecosystem/wildlife protection, among others, permission from the head of the <i>si/gun/gu</i> is required prior to the conclusion of the contract for land acquisition. Contracts concluded without such permission are invalid and punishable. c) Any land acquired by a foreigner by means of inheritance, auction, or any cause other than contracts shall also be reported to the head of <i>si/gun/gu</i> within 6 months of the acquisition. Violations are assessed with penalty fees. d) When a national, a juridical person or an organization of the Republic of Korea with ownership of land changes nationality and wishes to maintain ownership of the land, a report must be made to the head of <i>si/gun/gu</i> within 6 months from the change of nationality.
Purpose or motivation of the measure:	This measure is designed for achieving efficient land use and analyzing land acquisition by foreigners.

KOREA

Sector:	All sectors
Sub-sector:	Capital Transactions of Non-Residents
Legal source or authority of the measure:	Law No. 6316, Foreign Exchange Transaction Act, Dec. 29, 2000
Succinct description of the measure:	<p>A non-resident is subject to authorization from the Minister of Finance and Economy or the Governor of the Bank of Korea in the following cases:</p> <p>(a) when receiving won-denominated loans or borrowing won denominated securities from a resident, which exceeds a certain amount (1 billion won for won-denominated loans and 5 billion won for won-denominated securities) pursuant to the Foreign Exchange Transaction Act; and</p> <p>(b) when issuing won-denominated securities with short-term maturities.</p> <p>Residents are subject to authorization from the Minister of Finance and Economy or the Governor of the Bank of Korea in cases when non-residents grant short-term financial credit to a financially unsound domestic enterprise designated in the Foreign Exchange Transaction Act, or grant financial credits to domestic individuals or non-profit institutions, which are guaranteed by or are based on collaterals from other residents.</p> <p>Authorization is required from the Governor of the Bank of Korea in case a non-resident receives foreign currency denominated financial credits, guarantees or collaterals from residents as set out in the Foreign Exchange Transaction Act.</p> <p>Authorization is required from the Governor of the Bank of Korea for a non-resident to make a certain transaction by means of derivatives that is not permitted under the Foreign Exchange Transaction Act.</p>
Purpose or motivation of the measure:	National security and financial stability

KOREA

Sector:	All Sectors
Sub-sector:	
Legal source or authority of the measure:	Not applicable
Succinct description of the measure:	The Republic of Korea reserves the right to maintain or adopt any measure with respect to such activities as the purchase of non-voting stocks in services sectors.
Purpose or motivation of the measure:	Protection of public interest, cultural diversity and identity, and national security

KOREA

Sector:	Agriculture, Forestry, Livestock and related Manufacturing
Sub-sector:	
Legal source or authority of the measure:	<p>Law No. 7281, Article 4 of the Foreign Investment Promotion Act, Dec. 31, 2004</p> <p>Presidential Decree No. 18736, Article 5 of its Enforcement Decree, Mar. 8, 2005</p> <p>Law No. 6821, Article 27 of the Livestock Industry Act, Dec. 26, 2002</p> <p>Law No. 7311, Articles 17, 43 and 47 of the Act on Distribution and Price Stabilization of Agricultural and Fishery Products, Dec. 31, 2004</p> <p>Law No. 7433, Grain Management Act, Mar. 31, 2005</p> <p>Law No. 7167, Articles 5 and 90 of the Forestry Act, Feb. 9, 2004</p> <p>Law No. 7335, Articles 25 and 32 of the Forestry Management Act, Jan. 14, 2005</p>
Succinct description of the measure:	<p>Only Korean citizens and Korean legal entities are allowed to own and manage enterprises engaged in rice or barley cultivation and farming of beef cattle in the Republic of Korea.</p> <p>Foreign nationals or foreign legal entities are permitted to hold the shares or stocks of legal entities engaged in the above mentioned fields up to the ceiling set under the relevant laws.</p> <p>In addition to these measures, the Republic of Korea reserves the right to maintain or adopt any measure necessary for food security, public health and conservation of environment and resource in the fields of agriculture, forestry, livestock and related manufacturing (excluding metal and machinery).</p>
Purpose or motivation of the measure:	Food security, public health and conservation of environment and resources

KOREA

Sector:	Air Transport Service
Sub-sector:	<p>CPC 731, 732 Air Transport Services</p> <p>Includes glider towing, parachute jumping, aerial construction, heli-logging, aerial sightseeing, etc.</p> <p>CPC 734 Rental Services of aircraft with operator</p>
Legal source or authority of the measure:	<p>Law No. 7428, Articles 3, 6, 112, 113, 114 and 132 of the Aviation Act, Mar. 31, 2005</p> <p>Ordinance of the Ministry of Construction and Transportation No. 430, Articles 278, 278.2, 298 and 299 of its Enforcement Regulation, Mar. 11, 2005</p>
Succinct description of the measure:	<p>Any person who falls under the categories stipulated in subparagraphs of Article 6 of the Aviation Act (and listed below) may not provide domestic services, nor international services (scheduled/non-scheduled):</p> <ol style="list-style-type: none"> 1. A person who is not a citizen of the Republic of Korea; 2. a foreign government or foreign public organization; 3. a foreign corporation or organization; 4. a corporation in which any of those referred to in 1 through 3 above either owns 50% or more of the stocks or shares, or wields de-facto control; and 5. a corporation whose representative is a foreigner, or half or more of whose officers (executives) are foreigners. <p>In addition, persons who own an aircraft or are authorized to operate a chartered aircraft must register the aircraft with the Minister of Construction and Transportation. Registration of aircraft is not permitted to persons falling under 1 through 5 above.</p>
Purpose or motivation of the measure:	<p>Measures affecting trade in services included in the above sector, which is not covered by Chapter 3 (Trade in Services) of the Free Trade Agreement</p>

KOREA

Sector:	Air Transport Service
Sub-sector:	<p>Aircraft Use Business</p> <p>CPC 734* Rental Services of aircraft with operator [* Includes aerial fire-fighting, forestry fire management, aerial advertising, flight training, aerial map production, aerial investigation, aerial spraying, aerial photographing and other aerial agricultural activities, aerial inspections and observations, etc.]</p>
Legal source or authority of the measure:	<p>Law No. 7428, Articles 3, 6 and 134 of the Aviation Act, Mar. 31, 2005</p> <p>Ordinance of the Ministry of Construction and Transportation No. 430, Articles 298 and 299.2 of its Enforcement Regulation, Mar. 11, 2005</p>
Succinct description of the measure:	<p>A person who intends to operate an aircraft-use business (businesses that use aircraft at other's request to conduct businesses other than transport of passengers or cargo for fee) must register the self-owned or chartered aircraft with the Minister of Construction and Transportation. In this case, registration of aircraft is not permitted to persons falling under any one of the following categories:</p> <ol style="list-style-type: none"> 1. A person who is not a citizen of the Republic of Korea; 2. a foreign government or foreign public organization; 3. a foreign corporation or organization; 4. a corporation in which any of those referred to in 1 through 3 above either owns 50% or more of the stocks or shares, or wields de-facto control; and 5. a corporation whose representative is a foreigner, or half or more of whose officers are foreigners.
Purpose or motivation of the measure:	<p>Measures affecting trade in services included in the above sector, which is not covered by Chapter 3 (Trade in Services) of the Free Trade Agreement</p>

KOREA

Sector:	Defense Industry
Sub-sector:	
Legal source or authority of the measure:	Law No. 7281, Article 6 of the Foreign Investment Promotion Act, Dec. 31, 2004
Succinct description of the measure:	<p>The Republic of Korea reserves the right to maintain or adopt any measure with respect to investments in the defense industry.</p> <p>Foreign investors who intend to acquire the outstanding shares (stipulated in Article 2 of the Foreign Investment Promotion Act) of defense industry (the enterprise stipulated in Article 2 of the Act on Special Measures for Defense Industry) other than the newly issued ones shall obtain a prior permission from the Minister of Commerce, Industry and Energy.</p>
Purpose or motivation of the measure:	<p>The defense industry is a special industry which provides and develops weapons related to national security.</p> <p>Especially since Korea is facing a very high security threat, Korea intends to reserve the level of investment necessary for national security.</p>

KOREA

Sector:	Electric Energy
Sub-sector:	Electric Power Generation other than Nuclear Power Generation Electric Power Transmission and Distribution
Legal source or authority of the measure:	Law No. 7428, Article 203 of the Securities and Exchange Act, Mar. 31, 2005 Presidential Decree No. 18757, Article 87.2 of its Enforcement Decree, Mar. 28, 2005 Law No. 7281, Article 4 of the Foreign Investment Promotion Act, Dec. 31, 2004 Presidential Decree No. 18736, Article 5 of its Enforcement Decree, Mar. 8, 2005 Regulations No. 2004-51, Article 5 of the Regulations on Foreign Investment and Technology Inducement, Nov. 26, 2002
Succinct description of the measure:	The Republic of Korea reserves the right to maintain or adopt any measure with respect to privatization of the electric power industry including generation, transmission, distribution and sales. Foreign investors are prohibited from holding more than 40 per cent of shares or stocks of Korea Electric Power Corporation (hereinafter “KEPCO”) or be the largest shareholder of KEPCO. Foreign investment in power transmission, distribution and sales business is permitted only when the investment ratio is less than 50%. The largest shareholder of the company must be a Korean citizen.
Purpose or motivation of the measure:	Consistency with the privatization plan of the electric power industry and protection of public interest

KOREA

Sector:	Financial Services
Sub-sector:	Korea Development Bank and Export-Import Bank of Korea
Legal source or authority of the measure:	Law No. 6679, Article 4 of the Korea Development Bank Act, Mar. 30, 2002 Law No. 7527, Article 4 of the Korea EXIM Bank Act, May 31, 2005
Succinct description of the measure:	Foreigners are not allowed to invest in both Korea Development Bank and Korea EXIM Bank.
Purpose or motivation of the measure:	Korea Development Bank and Korea EXIM Bank are financial institutions for the implementation of national industrial policies

KOREA

Sector:	Financial Services
Sub-sector:	Investments in financial products and capital transactions through new financial services etc.
Legal source or authority of the measure:	Not applicable
Succinct description of the measure:	The Republic of Korea reserves the right to maintain or adopt necessary measures on investments in financial products and capital transactions through new financial services etc. for the purpose of stabilizing the financial system.
Purpose or motivation of the measure:	Financial system stability

KOREA

Sector:	Firearms, Swords, Explosives
Sub-sector:	
Legal source or authority of the measure:	Law No. 7428, Articles 4, 6, 9, 11, 12, 17, 18, 21, 24, 25, 26, 28, 41, 42, and 47 of the Control of Firearms, Swords, Explosives, etc. Act, Mar. 31, 2005
Succinct description of the measure:	The Republic of Korea reserves the right to maintain or adopt any measure affecting the firearms, swords, explosives, etc. sector. The manufacture, use, sale, storage, transport, importation, exportation and possession of firearms, swords, explosives, etc. are regulated for protection of security interests and maintenance of public order.
Purpose or motivation of the measure:	Protection of security interests and maintenance of public order

KOREA

Sector:	Fishing Industry
Sub-sector:	
Legal source or authority of the measure:	Law No. 5809, Articles 4, 5, 6 and 8 of the Law of the Exercise of Jurisdictional Rights over Fishing by Foreigners in the EEZ, etc., Feb. 5, 1999 Law No. 7477, Article 5 of the Fisheries Act, Mar. 31, 2005
Succinct description of the measure:	The Republic of Korea reserves the right to control fisheries-related activities by a foreign individual or corporation in the waters under its jurisdiction. Should a foreign individual or corporation invest in a corporation set up under the legislation of the Republic of Korea or in a Korean national in an attempt to run a fisheries-related business, the head of the local government concerned (governor, mayor of a metropolitan city or <i>gun</i> [county], executive officer of a <i>gu</i> [district]) should have prior consultations with the Minister of Maritime Affairs & Fisheries.
Purpose or motivation of the measure:	With weak competitiveness, the fishery industry of the Republic of Korea needs restrictions to access to the domestic market by foreign entities in order to ensure its minimum competitiveness.

KOREA

Sector:	Gas Industry
Sub-sector:	
Legal source or authority of the measure:	Law No. 6836, Article 19 of the Act on Improvement of Management Structure and Privatization of Public Corporation, Dec. 30, 2002 Article 11 of the Articles of Incorporation of Korea Gas Corporation, Mar. 30, 2000
Succinct description of the measure:	<p>The Republic of Korea reserves the right to maintain or adopt any measure with respect to the gas industry.</p> <p>In the gas sector, Korea Gas Corporation (KOGAS) performs public functions like import and wholesale of natural gas and operation of the national trunk line.</p> <p>Foreigners' holdings of KOGAS stocks are limited according to law.</p>
Purpose or motivation of the measure:	The need for national energy security

KOREA

Sector:	Nuclear Industry
Sub-sector:	Nuclear Power Generation Manufacturing and Supply of Nuclear Fuel Radioactive Waste Disposal
Legal source or authority of the measure:	Law No. 7508, Article 12 of the Electricity Business Act, May 26, 2005 Law No. 7281, Article 4 of the Foreign Investment Promotion Act, Dec. 31, 2004 Presidential Decree No. 18736, Article 5 of its Enforcement Decree, Mar. 8, 2005 Regulations No. 2004-51, Article 5 of the Regulations on Foreign Investment and Technology Inducement, Nov. 26, 2002 Law No. 7428, Articles 11, 21, 33, 34, 43, 57, 64, 76, 86 and 90.4 of the Atomic Energy Act, Mar. 31, 2005
Succinct description of the measure:	The Republic of Korea reserves the right to maintain or adopt any measure with respect to the nuclear industry. Foreign investors are prohibited from operating a nuclear power generation business – i.e. manufacturing and supply of nuclear fuel for nuclear power plants, business related to the operation of nuclear plants, and radio active waste management. Foreigners are prohibited from investing in nuclear power generation.
Purpose or motivation of the measure:	The special treatment of the nuclear industry which is connected directly with national security