

## ANNEX I

### EXPLANATORY NOTES

1. Pursuant to Article 10.8 (Non-Conforming Measures), the Schedule to this Annex sets out the reservations taken by India for sectors, sub-sectors or activities for which it may maintain existing measures that do not conform with some or all of the obligations imposed by :

- (a) Article 10.3 (National Treatment);
- (b) Article 10.5 (Performance Requirements); or
- (c) Article 10.6 (Senior Management and Boards of Directors).

2. Where appropriate, reservations are referenced to the ISIC classification (ISIC Rev.3.1) as set out in Statistical Office of the United Nations Statistical Papers. Where appropriate ISIC code is not available for sectors or sub-sectors, for India, those reservations may be referenced to the National Industrial Classification Code (NIC) 1987 as set out by the Central Statistical Organization of the Government of India as alternatives. And, for Korea, those reservations may be referenced to the Korea Standard Industry Code (KSIC 2000) as set out by the Korea National Statistical Office as alternatives.

3. Each Schedule entry sets out the following elements:

- (a) **Sector** refers to the general sector in which the reservation is taken;
- (b) **Sub-Sector** refers to the specific sector in which the reservation is taken;
- (c) **Industrial Classification** refers, where applicable, to the activity covered by the reservation according to the UN ISIC code (ISIC Rev.3.1) or domestic industry classification codes (National Industrial Classification Code 1987, Korea Standard Industry Code 2000);
- (d) **Level of Government** Indicates the level of government maintaining the scheduled measures;
- (e) **Type of Reservation** specifies the obligation (National Treatment, Performance Requirement and Senior Management and Board of Directors) for which a reservation is taken;
- (f) **Reservation Measure**<sup>1</sup> identifies the laws, regulations, rules, procedures, decisions, administrative actions or any other measures. 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
- (g) **Description** sets out commitments, if any, for liberalization on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the measure for which the entry is made.

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<sup>1</sup> For greater certainty, in the case of Korea, 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 10.8.1. For India, the measures indicated in each entry in the Schedule would be in accordance with the powers of the Union (Central Government) as contained in Article 73 and Article 246 of the Constitution of India.

4. In the interpretation of a Schedule entry, all elements of the entry, with the exception of **Industry Classification**, 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 liberalization 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.

5. For India, for purposes of this Annex, unless otherwise specified:

- (a) **“Foreign Institutional Investor” or “FII”** means a foreign entity that is registered with the Securities Exchange Board of India as a Foreign Institutional Investor/FII.
- (b) **“non-resident”** means a person who is not resident in India.
- (c) A **“person resident in India”** means:
  - (i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include:
    - A) a person who has gone out of India or who stays outside India, in either case:
      - i) for or on taking up employment outside India, or
      - ii) for carrying on a business outside India or vocation outside India, or
      - iii) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;
    - B) a person who has come to or stays in India, in either case, otherwise than:
      - i) for or on taking up employment in India, or
      - ii) for carrying on in India a business or vocation in India, or
      - iii) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;
  - (ii) any person or body corporate registered or incorporated in India,
  - (iii) an office, branch or agency in India owned or controlled by a person resident outside India,
  - (iv) an office, branch or agency outside India owned or controlled by a person resident in India;
- (d) **“non-resident Indian” or “NRI”** means a person resident outside India who is either a citizen of India or a person of Indian Origin
- (e) **“Person of Indian Origin” or “PIO”** means a citizen of any country other than Bangladesh or Pakistan or Sri Lanka, if:
  - (i) he at any time holds Indian passport; or
  - (ii) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or

- (iii) the person is a spouse of an Indian citizen or a person referred to in sub-clause (i) or (ii);
- (f) **“Venture Capital Fund”** means a fund established in the form of a trust, a company including a body corporate and registered under the Securities and Exchange Board of India (Venture Capital Fund) Regulations, 1996 which has a dedicated pool of capital raised in a manner specified under the said Regulations and which invests in Indian Venture Capital Undertakings in accordance with the said Regulations. An IVCU is defined as a company incorporated in India whose shares are not listed on a recognized stock exchange in India and which is not engaged in an activity under the negative list specified by SEBI

6. For Korea, a **foreign person** means a foreign national or an enterprise organized under the laws of another country.

7. Regarding commitments on supply of services through commercial presence, only the Schedule of Specific Commitments annexed to Chapter 6 on Trade in Services will apply. For greater certainty, Articles 10.5 (Performance Requirements) and 10.6 (Senior Management and Board of Directors) in Chapter 10 on Investment will not be applicable to Services Sector. Commitments in the form of Reservations on Articles 10.3 (National Treatment), 10.5 (Performance Requirements) and 10.6 (Senior Management and Board of Directors) for investments other than those for supply of a service through commercial presence are described only in Annex I and Annex II to Chapter 10 (Investment). In the event of any inconsistency between the commitments in the form of Reservations under the Chapter 10 on Investment and the specific commitments made under the Chapter 6 on Trade in Services, the provision in the Chapter on Trade in Services shall prevail to the extent of the inconsistency.

8. For Korea, the reservation entry No. 5 and 8 will not apply to services activity under the sector.

9. Both Parties agree that no addition, deletion or modification will be carried out in the entries in the Schedule with regard to the Sector, Sub-sector, Industrial classification, Type of Reservation and Description from the date of entry into force of this Agreement. However, with regard to the Reservation Measures, the Parties shall, within a period of six (6) months from the date of entry into force of the Agreement, specify the details of Reservation Measures including the relevant provision of the legislation relating to the Description as set forth in the Schedules.

## ANNEX I

### Schedule of Korea

1.

<b>Sector</b>	Agriculture and Livestock
<b>Sub-Sector</b>	
<b>Industry Classification</b>	KSIC 01212 Farming of Beef Cattle KSIC 51312 Wholesale of Meat
<b>Type of Reservation</b>	National Treatment (Article 10.3)
<b>Reservation Measure</b>	<i>Foreign Investment Promotion Act</i> (Law No. 9071, March 28, 2008), Article 4 and 22 <i>Enforcement Decree of the Foreign Investment Promotion Act</i> (Presidential Decree No. 20947, July 29, 2008), Article 5 <i>Consolidated Public Notice for Foreign Investment</i> (No. 2008-55, February 29, 2008, Ministry of Knowledge Economy), Appendix 1
<b>Description</b>	Foreign persons may not: (i) invest in an enterprise engaged in rice or barley farming or (ii) hold 50 percent or more of the equity interest of an enterprise engaged in beef cattle farming or yook-ryu(meat) wholesaling.
<b>Phase-Out</b>	None

2.

**Sector** Transportation

**Sub-Sector** Air Transportation

**Industry Classification**

**Type of Reservation** National Treatment (Articles 10.3)  
Senior Management and Board of Directors (Articles 10.6)

**Reservation Measure** Articles 3, 6, 112, 113, 114 and 132 of the *Aviation Act* (Law No. 9071, Mar 28, 2008),

Articles 278, 278-2, 298 and 299 of its *Enforcement Regulations* (Ordinance of the Ministry of Land, Transport & Maritime Affairs No. 12, May 8, 2008)

**Description** None of the following persons may own any of national carriers:

1. a foreign national;
2. a foreign government or a foreign gong-gong-dan-che (organization for public purposes);
3. an enterprise organized under foreign law;
4. an enterprise in which any of those referred to in items 1 through 3 owns 50 percent or more of the equity interest, or has control; or
5. an enterprise organized 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.

**Phase-Out** None

3.

**Sector** Sea Map Making

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Article 10.3)

**Reservation Measure** *Marine Scientific Research Act* (Law No. 8852, February 29, 2008), Articles 6, 7, and 8

*Territorial Sea and Contiguous Zone Act* (Law No. 4986, December 6, 1995), Article 5

**Description** 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 or exclusive economic zone of Korea must obtain prior authorization or consent from Minister of Land, Transport and Maritime Affairs whereas a Korean national or a Korean enterprise not owned or controlled by a foreign person need only to provide notification.

**Phase-Out** None

4.

**Sector** All Manufacturing Sectors

**Sub-Sector**

**Industry Classification**

**Type of Reservation** Performance Requirements (Article 10.5)

**Reservation Measure** Act on the Promotion of Saving and Recycling of Resources(Law No. 8852, Feb.29, 2008), Article 16, 17, 18, 19 and 27  
Act for Resource Recycling of Electrical and Electronic equipment and vehicle(Law No. 8852, Feb.29, 2008), Article 15, 16 and 17

**Description** Manufacturers who are under recycling duties and those to whom such manufacturers have entrusted their recycling duties shall follow the recycling standards for their products and packaging materials prescribed by the Minister of Environment.

Furthermore, the above persons shall submit the recycling duty performance plans and result reports each year, and shall pay the recycling levy in case of failure to satisfy the amounts of the prescribed recycling duty.

**Phase-Out** None

5.

**Sector** Sale, maintenance and repair of low-emission motor vehicles

**Sub-Sector**

**Industry Classification**

**Type of Reservation** Performance Requirements(Article 10.5)

**Reservation Measure** Special Act on Metropolitan Air Quality Improvement(Law No. 9036, Mar.28, 2008), Article 23  
Enforcement Decree(Presidential Decree No. 21033, Sep.25, 2008), Article 26

**Description** A distributor of motor vehicles shall submit an annual plan to supply low-emission motor vehicles in accordance with the annual popularization standard of low-emission motor vehicle (1.5%, 2006). The distributor shall obtain approval of the plan by the Minister of Environment and report business results to the Minister of Environment.

**Phase-Out** None



6.

**Sector** Manufacture of Chemical Products

**Sub-Sector** Manufacture of Biological Products

**Industry Classification** KSIC 24212 Manufacture of Biological Products

**Type of Reservation** Performance Requirements (Article 10.5)

**Reservation Measure** *Pharmaceutical Affairs Act* (Law No. 8552, February. 29, 2008), Article 42  
*Enforcement Regulations of the Pharmaceutical Affairs Act* (Ordinance of the Ministry of Health and Welfare No. 71, October. 16, 2008), Article 21

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

**Phase-Out** None

7.

**Sector** Publishing

**Sub-Sector** Publishing of Periodicals (Excluding Newspapers)

**Industry  
Classification**

**Type of Reservation** National Treatment (Article 10.3)

Senior Management and Boards of Directors (Article 10.6)

**Reservation  
Measure** Act on the Guarantee of Freedom and Function of Newspapers,  
Etc. (Law No. 8852, February 29, 2008), Articles 13 and 26

Enforcement Decree of the Act on the Guarantee of Freedom and  
Function of Newspapers, Etc. (Presidential Decree No. 20676,  
February 29, 2008), Articles 17, 18, 19, and 20

**Description** The publisher or the editor-in-chief of an enterprise that publishes  
periodicals must be a Korean national.

The following persons may not publish periodicals in Korea:

- (a) a foreign government or a foreign person;
- (b) an enterprise organized 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
- (c) an enterprise organized under Korean law in which  
a foreign person holds 50 percent or more of share  
or equity interest.

A foreign person that publishes periodicals may establish a branch

or office in Korea subject to authorization from the Minister of Culture 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 the other Party.

**Phase-Out**

None

8.

**Sector** Agriculture

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Article 10.3)

**Reservation Measure** Grain Management Act (Law No. 8852, February 29, 2008), Article 12  
Livestock Industry Act (Law No. 8852, February 29, 2008), Articles 24 and 27  
Seed Industry Act (Law No. 8852, February 29, 2008), Article 142  
Feed Management Act (Law No. 8852, February 29, 2008), Article 6  
Ginseng Industry Act(Law No. 8852, February 29, 2008), Article 20  
Foreign Investment Promotion Act (Law No. 9071, March 28, 2008), Articles 4 and 22  
Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 20947, July 29, 2008), Article 5  
Consolidated Public Notice for Foreign Investment (No. 2008-55, February 29, 2008, Ministry of Knowledge Economy), Appendix 1  
Act on Distribution and Price Stabilization of Agricultural and Fishery Products (Law No. 8852, February 29, 2008), Articles 15, 17, and 43  
Notice on TRQ Products (Ministry of Agriculture and Forestry Notice No. 2008-17, May 16, 2008)

**Description** Only the Livestock Cooperatives under the Agriculture Cooperative Act may establish and manage a ga-chook-sijang (livestock market) in Korea.  
Only a local government may establish a gong-yeong-domae-sijang (public wholesale market).  
Only producers' organizations 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 10.3(National Treatment) do not prevent Korea from adopting or maintaining any measure with respect to the administration of the WTO Tariff-Rate-Quota.

**Phase-Out** None

9.

**Sector** Energy Industry

**Sub-Sector** Electric Power Generation Other Than Nuclear Power Generation;  
Electric Power Transmission, Distribution and Sales

**Industry Classification**

**Type of Reservation** National Treatment (Articles 10.3)

**Reservation Measure** *Securities and Exchange Act* (Law No. 8985, March 21, 2008),  
Article 203

*Enforcement Decree of the Securities and Exchange Act*  
(Presidential Decree No. 20653, February 29, 2008), Article 87-2

*Foreign Investment Promotion Act* (Law No. 9071, March 28,  
2008), Articles 4, 5 and 22

*Enforcement Decree of the Foreign Investment Promotion Act*,  
(Presidential Decree No. 20947, July 29, 2008), Article 5

*Consolidated Public Notice for Foreign Investment* (No. 2008-55,  
February 29, 2008, Ministry of Knowledge Economy), Appendix  
1

*Notice of Ministry of Finance and Economy* (No. 2000-17,  
September 28, 2000)

*Regulation on Supervision of Securities Business* (Financial  
Service Commission Notice No. 2008-16, July 3, 2008), Sec. 7-6

**Description**

The aggregate foreign share of KEPCO's issued stocks may not exceed 40 percent. A foreign person may not become the largest shareholder of KEPCO.

The aggregate foreign share of power generation facilities, including cogeneration facilities of heat and power (GHP) for the district heating system (DHS), may not exceed 30 percent of the total facilities in the territory of Korea.

The aggregate foreign share of electric power transmission, distribution and sales businesses should be less than 50 percent. A foreign person may not be the largest shareholder.

**Phase-Out**

None

10.

**Sector** Energy Industry

**Sub-Sector** Gas Industry

**Industry Classification**

**Type of Reservation** National Treatment (Articles 10.3)

**Reservation Measure** *Act on the Improvement of Managerial Structure and Privatization of Public Enterprises* (Law No. 8852, Feb 29, 2008), Article 19

*Securities and Exchange Act* (Law No. 8985, Mar 21, 2008), Article 203

*Foreign Investment Promotion Act* (Law No. 9071 Mar 28, 2008), Articles 4 and 5

*Articles of Incorporation of the Korea Gas Corporation* (Mar 28, 2008), Article 11

**Description** Foreign persons, in the aggregate, may not own more than 30 percent of the share of KOGAS.

**Phase-Out** None

11.

**Sector** All Services Sectors

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Articles 10.3)  
Performance Requirements (Articles 10.5)  
Senior Management and Boards of Directors (Articles 10.6)

**Reservation Measure** Any existing or current regulations or measures in force on the date of entry of this Agreement.

**Description** Korea reserves the right to maintain any measure relating to investments in services sectors subject to the condition that they do not violate the obligations under the Services Chapter.

**Phase-Out** None



## ANNEX I

### Schedule of India

1.

**Sector** All sectors

**Sub-Sector**

**Industrial  
Classification**

**Type  
Reservation** of National Treatment (Article 10.3)

**Description** A person resident outside India, including an entity incorporated outside India, can purchase shares of an Indian company under the FDI Scheme.

There are separate regulatory treatment provided to FIIs and Venture Capital Funds in relation to investment in Indian Companies, which may be modified from time to time.

Non-resident Indians (NRIs) are allowed to invest in shares of listed Indian companies in recognised Stock Exchanges under the Portfolio Investment Scheme (PIS). NRIs can invest on repatriation and non-repatriation basis under Portfolio Investment Scheme route up to 5% of the paid up capital / paid up value of each series of debentures of listed Indian companies. The aggregate paid-up value of shares / convertible debentures purchased by all NRIs cannot exceed 10 per cent of the paid-up capital of the company / paid-up value of each series of debentures of the company. The aggregate ceiling of 10 per cent can be raised to 24 per cent, if the General Body of the Indian company passes a special resolution to that effect. Shares purchased by NRIs on the stock exchange under PIS cannot be transferred by way of sale under private arrangement or by way of gift to a person resident in India or outside India without prior approval of the Reserve Bank of India (RBI).

FDI is not permitted in Indian partnerships and any association of persons (which would include societies and trusts) except upon obtaining the prior consent of the Reserve Bank of India for such investment.

NRIs and Persons of Indian Origin (PIOs) can invest into partnerships and any association of persons if such investment is being made on a non-repatriable basis and if such investment is being made on a repatriable basis, then the prior approval of RBI would be needed for such investment.

When the total holdings of FIIs/NRIs under the Scheme reach the trigger limit, which is 2 per cent below the applicable limit (for companies with paid-up capital of Rs. 1000 crores and above, the trigger limit is 0.5 per cent below the applicable limit), Reserve Bank will issue a notice to all designated branches of banks cautioning that any further purchases of shares of the particular Indian company will require prior approval of Reserve Bank. Reserve Bank gives case-by-case approvals to FIIs for purchase of shares of companies included in the Caution List. This is done on a first-come-first-served basis. Once the shareholding by FIIs/NRIs reaches the overall ceiling / sectoral cap / statutory limit, Reserve Bank puts the company on the Ban List. Once a company is placed on the Ban List, no FII or NRI can purchase the shares of the company under the Portfolio Investment Scheme

**Reservation  
Measure**

Regulations 5 (1) , 5(2), 5(3), 5(4), and 5(6) of the Foreign Exchange Management (Transfer or Issue of Security to a Person resident outside India) Regulations, 2000 (FEMA Regulations)

Schedule 1 of FEMA Regulations incorporating the FDI Scheme

Schedule 2 of FEMA Regulations incorporating the Portfolio Investment Scheme.

Schedule 3 of FEMA Regulations for Investment by NRIs/PIOs under the Portfolio Investment Scheme.

Schedule 4 of FEMA Regulations for Investment by NRI/PIOs by purchase of shares on the Stock Exchange other than under

the Portfolio Investment Scheme on Non-repatriation basis.

Schedule 6 of FEMA Regulations for Investment by Foreign  
Venture Capital Funds

Indian company means a company incorporated in India under  
the Indian Companies Act, 1956.

2.

**Sector** All sectors

**Sub-Sector**

**Industrial  
Classification**

**Type of  
Reservation** National Treatment (Article 10.3)

**Description** Prior approval of the Government will be required even for investments covered under the automatic route, if the foreign investor has an existing joint venture or trademark/technical collaboration agreement in India as on 12.1.2005 in the same field. The same field is determined by the 4-digit National Industrial Code, 1987. If the proposed investment is in an activity that has the same NIC Code classification as that of the existing joint venture or technical collaboration, then these limitations will be applicable.

This is not applicable in the following circumstances:

- i. investments made by Venture Capital Funds registered with Securities Exchange Board of India (SEBI)
- ii. where in the existing joint venture investment by either of the parties is less than 3%
- iii. where the existing venture/collaboration is defunct or sick
- iv. investment into Information Technology sector, mining sector for same area/mineral
- v. investment by multinational financial institutions

**Reservation  
Measure** Government policy [*Press Note 1(2005) & Press Note 3(2005)*]

Provision to regulation 9 of Foreign Exchange Management (Transfer or Issue of Security to a Person resident outside India) Regulations, 2000 governing transfer of shares and convertible debentures of an Indian company to a person resident outside India.

3.

**Sector** All sectors

**Sub-sector**

**Industry classification**

**Type of Reservation** National Treatment (Article 10.3)

**Description** The Central Government may, in public interest, suspend or relax permission granted or restriction imposed by the Foreign Exchange Management Act, 1999 (FEMA, 1999), by notification specifying the duration of such suspension.

The Central Government may from time to time give general or special directions as it thinks fit, to the Reserve Bank of India in the discharge of functions with relation to administration of the FEMA, 1999.

Where a company contravenes any of the provisions of the FEMA, 1999, or any rule, direction or order made there-under, the company and every person who at the time the contravention was committed, was in charge of, and was responsible to the company for conduct of the business of the company would be liable to be punished under the provisions of the FEMA, 1999 unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

**Reservation Measure** Sections 40, 41 and 42 of the Foreign Exchange Management Act, 1999 .

The Industries (Development and Regulation) Act, 1951, Securities and Exchange Board of India Act, 1992, Foreign Contribution (Regulations) Act, 1976, Foreign Trade

(Development and Regulations) Act, 1976 , Reserve Bank of India Act, 1934 , Banking Regulation Act, 1949, Securities Contracts (Regulation) Act, 1956, Prevention of Money Laundering Act, 2002, Income Tax Act, 1961, Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 , Customs Act, 1962, Central Excise Act, 1944, The Bureau of Indian Standards Act, 1986.

4.

<b>Sector</b>	All sectors
<b>Sub-Sector</b>	Items reserved for manufacture by Micro, Small and Medium enterprises.
<b>Industrial Classification</b>	
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	<p>The Central Government may, for</p> <ul style="list-style-type: none"><li>(a) promoting in a harmonious manner the industrial economy of the country and easing the problem of unemployment, and</li><li>(b) securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good:<ul style="list-style-type: none"><li>(1) identify ancillary and small scale industrial undertakings that need supportive measures, exemptions and other favourable treatment to enable them to maintain their viability;</li><li>(2) specify supportive measures, exemptions and other favourable treatment to such ancillary and small scale industrial undertakings</li><li>(3) specify, by notified order, the requirements which shall be complied with by an industrial undertaking to enable it to be regarded, as an ancillary, or a small scale, industrial undertaking and different requirements may be so specified for different purposes or with respect to industrial undertakings engaged in the manufacture or production of different articles.</li></ul></li></ul>

Prior government approval would be required for foreign direct investment where more than 24% foreign equity is proposed to be inducted into a small scale unit manufacturing items reserved for the small scale sector. Such units with more than 24% foreign equity will not be eligible for the benefits available to a small scale unit as per the policy of the Government.

The Central Government has the power to classify enterprises engaged in the manufacture or production of goods pertaining to any industry specified in Schedule I of the Industries (Development & Regulation) Act, 1951(IDRA) as: (i) micro enterprises, (ii) small enterprises or (iii) medium enterprises. The Central Government, may from time to time, notify such measures, programmes, guidelines or instructions as it may deem fit to promote and strengthen micro enterprises, small enterprises and medium enterprises and to promote competition among them.

Non- SSI units can undertake manufacture of items reserved for the small scale sector only if they undertake 50% export obligations.

Industrial units are classified as Small scale based on investment in Plant and machinery in the case of manufacturing units and investment in equipment in the case services sector.

**Reservation  
Measure**

Industries (Development & Regulation) Act, 1951- Section 11 B

Micro, Small & Medium Enterprises Development (MSMED)  
Act, 2006- Section 7



5.

<b>Sector</b>	Atomic Energy
<b>Sub-Sector</b>	Atomic Power Generation Manufacturing and supply of nuclear fuel Radioactive Waste Treatment and Disposal Radio isotope and Radiation Generation Facilities Services relating to Nuclear Energy Planning, Maintenance and Repair Services
<b>Industrial Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3)
<b>Description</b>	Foreign direct investment is prohibited in Atomic Energy Sector.
<b>Reservation Measure</b>	Atomic Energy Act, 1962  Industries (Development & Regulation), Act, 1951  Annexure A (B) of Schedule 1 to Regulation 5(1) of the Foreign Exchange Management (Transfer or Issue of Security to a Person resident outside India) Regulations 2000.  Press Note 4 (2006)

6.

<b>Sector</b>	Chit Fund Business, Nidhi, Transferable Development Rights; Agriculture & Plantation (other than Tea Plantation); and Real estate business(other than construction development)
<b>Sub-Sector</b>	
<b>Industrial Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3)
<b>Description</b>	<p>No person resident outside India shall make investment in India in any form, in any company or partnership firm or proprietary concern, or any entity, whether incorporated or not which is engaged or proposes to engage –</p> <ul style="list-style-type: none"><li>i) in the business of chit fund, or</li><li>ii) as Nidhi company, or</li><li>iii) in agricultural or plantation activities, or</li><li>iv) in real estate business, or construction of farm houses, or</li><li>v) in trading in Transferable Development Rights.</li></ul> <p>i) Chit means a transaction whether called chit, chit fund, chitty, kuri or by any other name which a person enters into an agreement with a specified number of persons that every shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of installments over a definite period and that each such subscriber shall, in his turn, as demand or by auction or by tender or in such other manner as may be specified in the chit agreement entitled to the prize amount.</p> <p>ii) Nidhi or mutual benefit society means a company which the Central Government may by notification in the official gazette declare to be a nidhi company or a mutual benefit society.</p>

iii) Real estate business (however for the purposes of this limitation, “real estate” does not include development of townships, construction of residential/commercial premises, roads and bridges)

iv) Transferable Development Rights means certificates issued in respect of category of land acquired for public purposes either by the Central or State Government in consideration of surrender of land by the owner without monetary compensation which are transferable in part or whole.

NRIs are allowed to invest in development of serviced plots, construction of built up residential premises, investment in real estate covering residential and commercial premises including business centers and offices, development of townships, city and regional level urban infrastructure facilities including roads and bridges, investment in manufacture of building materials, investment in participatory ventures for all of the above; and investment in housing finance institutions without the conditions of minimum capitalization or minimum area for development or lock-in of investment.

**Reservation  
Measure**

Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000- Regulation 4b.

Chit Funds Act, 1982 and policies, rules, regulations, notifications, circulars, guidelines, press notes, made thereunder.

Companies Act, 1956 and policies, rules, regulations, notifications, circulars, guidelines, press notes, made thereunder.

7.

**Sector** Gambling, Betting, Lottery

**Sub-Sector**

**Industrial Classification** Lottery- NIC 840 and 841

**Type of Reservation** National Treatment (Article 10.3)

**Description** Foreign investment is not permitted in lottery business, gambling and betting.

Foreign technology collaboration or use of franchise/trademark/brand name of foreign collaborator, or management contract, etc. is not permitted in lottery business, gambling and betting. This includes foreign investment through, FII portfolio investment, NRI/OCB investment on non-repatriable basis and investment by foreign venture capital investors.

**Reservation Measure** Annex A (B) of Schedule 1 to Regulation 5 (1) of the Foreign Exchange Management (Transfer or Issue of Security to a Person resident outside India) Regulations, 2000

Government Policy vide Press Note 5(2002)

8.

<b>Sector</b>	Retail trading (except Single Brand Product Retailing)
<b>Sub-Sector</b>	
<b>Industrial Classification</b>	Retail trade- NIC 65- 68
<b>Type of Reservation</b>	National Treatment (Article 10.3)
<b>Description</b>	<p>Foreign investment is prohibited in Retail trade except in Single brand product retail trade.</p> <p>However, FDI upto 51% is allowed with prior permission of the Government in retail trading of Single Brand products subject to the following conditions:</p> <ul style="list-style-type: none"><li>i. Products to be sold should be of a 'Single Brand' only.</li><li>ii. Products should be sold under the same brand internationally.</li><li>iii. 'Single Brand' product-retailing would cover only products which are branded during manufacturing.</li></ul>
<b>Reservation Measure</b>	Annex A(B) of Schedule 1 to regulation 5 (1) of the Foreign Exchange Management (Transfer or Issue of Security to a Person resident outside India) Regulations, 2000.

Press Note 3 (2006) dated 10.2.2006

9.

**Sector** Acquisition of Land

**Sub-Sector**

**Industrial  
Classification**

**Type of  
Reservation** National Treatment (Article 10.3)

**Description** Save and except as otherwise provided under FEMA and regulations made thereunder, no person resident outside India can transfer any immovable property in India.

A person resident outside India, who is a citizen of India, may :  
(a) acquire immovable property in India other than agricultural property, plantation or farmhouse, in accordance with prescribed regulations; (b) transfer immovable property in India to a person resident in India; (c) transfer immovable property other than agricultural or plantation property or farmhouse to a person resident outside India who is a citizen of India or to a person of Indian origin, resident outside India.

A person of Indian origin, resident out-side India may: (a) acquire immovable property in India other than agricultural property, plantation or farmhouse, in accordance with prescribed regulations; (b) acquire any immovable property in India other than agricultural land, plantation or farmhouse by way of gift from person resident in India or from a resident out-side India who is a citizen of India or from a person of Indian origin resident outside India, (c) acquire any immovable property by way of inheritance from a person resident outside India who had acquired such property in accordance with the provisions of foreign exchange laws in force at the time of acquisition by him or the provisions of the FEMA regulations or from a person resident in India; (d) transfer any immovable property in India

other than agricultural land, farmhouse or plantation by way of sale to a person resident in India; (e) transfer agricultural land, farmhouse or plantation property in India by way of gift or sale to a person resident in India who is a citizen of India; (f) transfer residential or commercial property in India by way of gift to a person resident in India or to a person resident outside India or to a person of Indian origin resident outside India.

A person resident outside India can purchase immovable property in India including land only if he has established in India a branch, office (excluding liaison office) or other place of business for carrying on a permitted activity in India which is necessary for or incidental to carrying on such activity provided that it complies with all applicable laws, regulations or directions and a declaration in this regard is filed with Reserve Bank of India.

**Reservation  
Measure**

Article 73 of The Constitution of India read with Article 246 of The Constitution of India

Regulation 5 of the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000

Foreign Exchange Management ( Establishment in India of Branch or Office or other place of business) Regulations, 2000- permitted activities for a branch office of a person resident outside India included as Schedule 1

Transfer of Property Act and rules, regulations, notifications, policies, guidelines and circulars made thereunder.

The Registration Act, 1908 and rules, regulations, notifications, policies, guidelines and circulars made thereunder.

The Indian Stamp Act (as may have been amended by each state in respect of transactions in its jurisdictions) and rules, regulations, notifications, policies, guidelines and circulars made thereunder.

Agriculture, hunting and forestry

10.

**Sector** Agriculture

**Sub-Sector** Farming & Plantations

**Industrial Classification** 00(Agricultural production); 01 (Plantations)

**Type of Reservation** National Treatment (Article 10.3)

**Description** FDI is not allowed in any agricultural/plantation sector/activity except the following:

(i) FDI is allowed up to 100% under the automatic route in Floriculture, Horticulture, development of seeds, animal husbandry, pisciculture, aqua-culture and cultivation of vegetables and mushrooms under controlled conditions and services related to agro and allied sectors\*.

(ii) FDI up to 100% is allowed with prior Foreign Investment Promotion Board (FIPB) permission in the Tea sector including tea plantations subject to : i) the foreign investor undertaking to divest 26% equity in favour of Indian partner/Indian public within 5 years and ii) prior approval of the state government concerned in case of any change in land use in future.

**Reservation Measure** Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000- Regulation 4 (b).

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000- Annex A (B) to Schedule 1.



## Government Policy.- Press Note 4(2006).

\* 'under controlled conditions' means in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather.

'services related to agro and allied sectors' includes pest destroying, spraying and pruning of infected stems, operation of irrigation system, animal shearing and livestock services (other than veterinary services), nursery and horticultural services, soil conservation services, soil desalination services, harvesting, threshing, land clearance, land draining services.

## MINING

11.

<b>Sector</b>	Mining
<b>Sub-Sector</b>	Mining covering exploration and mining of diamonds and precious Stones; gold, and silver.
<b>Industrial Classification</b>	NIC 133 (Mining of precious/semi-precious metal ores) NIC 156 (Mining of precious/semi-precious stones)
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirement (Article 10.5)
<b>Description</b>	FDI up to 100% is permitted subject to the provisions of the Mines and Minerals (Development & Regulation) Act, 1957. Also subject to the condition that in the event the foreign investor is establishing a 100% subsidiary, it shall submit a declaration to the effect that it has no existing joint venture for the same area or for a particular mineral
<b>Reservation Measure</b>	Mines and Minerals (Development & Regulation) Act 1957 and rules, regulations, notifications, policies, directives, guidelines and circulars made thereunder.  Industries (Development and Regulation) Act, 1951 and policies, rules, regulations, notifications, circulars, guidelines, press notes, made thereunder.  Government policy vide Press Note 4 (2006) and Press Note 7 (2008).

## MINING AND QUARRYING

12.

<b>Sector</b>	Mining and Quarrying
<b>Sub-Sector</b>	Mining of coal and lignite, extraction of peat
<b>Industrial Classification</b>	NIC-10
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	FDI up to 100% under automatic route is allowed for mining of coal and lignite for captive consumption by: (i) power projects, (ii) iron and steel, (iii) cement production and (iv) other eligible activities permitted under Coal Mines (Nationalization) Act, 1973 and Rules, Regulations, notifications, policies, directives, guidelines and circulars made thereunder. FDI is not allowed for coal mining for any other activities.
<b>Reservation Measure</b>	Mines and Minerals (Development & Regulation) Act 1957 and rules, regulations, notifications, policies, directives, guidelines and circulars made thereunder.  Coal Mines (Nationalization) Act, 1973 – Section 3

13.

**Sector** Mining and Quarrying

**Sub-Sector** Mining of uranium and thorium ores

**Industrial Classification** NIC- 14

**Type of Reservation** National Treatment (Article 10.3)  
Performance Requirement (Article 10.5)  
Senior Management and Boards of Directors (Article 10.6)

**Description** Uranium and Thorium ores are “atomic minerals” under Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act)

Under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957, the reconnaissance or prospecting or mining operations can be undertaken only pursuant to a licence and consequent lease and no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of reconnaissance permit or of a prospecting license or, as the case may be, a mining lease, granted under MMDR Act and the rules made thereunder.

Government shall not grant reconnaissance permit, prospecting licence or mining lease to any person unless such person

- a. is an Indian national, or a Company as defined in sub-section (1) of Section 3 of the Companies Act, 1956; and
- b. satisfies such conditions as may be prescribed :

Provided that in respect of any mineral specified in the First Schedule of MMDR Act, 1957, no prospecting licence or mining lease shall be granted except with the previous approvals of the Central Government.

*Explanation* – For the purposes of this sub-section, a person shall be deemed to be an Indian national, -

- a. in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and
- b. in the case of an individual, only if he is a citizen of India

A State Government may either with the previous approval of the Central Government or at the instance of the Central Government impose such further conditions as may be necessary in the interests of mineral development, including development of atomic minerals (Mineral Concession Rules 1960)

**Reservation  
Measure**

Mines and Minerals (Development & Regulation) Act 1957 (No.67 of 1957), Mineral Concession Rules, 1960, and other policies, rules, regulations, made thereunder.

Atomic Energy Act, 1962 and policies, rules , regulations, orders issued thereunder.

14.

<b>Sector</b>	Mining and Quarrying
<b>Sub-Sector</b>	Mining of iron ores, Mining of metal ores, Mining of non-metallic minerals (other than Petroleum and natural gas)
<b>Industrial Classification</b>	NIC- 12(Mining of Iron Ores) NIC-13 (Mining of metal ores other than iron ores) NIC-15 (Mining of non-metallic minerals not elsewhere classified)
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirements (Article 10.5)
<b>Description</b>	<p>FDI up to 100% is permitted on the automatic route in mining of non-atomic and non-fuel minerals subject to applicable laws and regulations including the Mines and Minerals (Development and Regulations) Act, 1957.</p> <p>Under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957, the reconnaissance or prospecting or mining operations can be undertaken only pursuant to a licence and consequent lease and no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of reconnaissance permit or of a prospecting license or, as the case may be, a mining lease, granted under MMDR Act and the rules made thereunder.</p> <p>Government shall not grant reconnaissance permit, prospecting licence or mining lease to any person unless such person –</p> <ol style="list-style-type: none"><li>a. is an Indian national, or a Company as defined in sub-section (1) of Section 3 of the Companies Act, 1956; and</li><li>b. satisfies such conditions as may be prescribed :</li></ol>

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted except with the previous approvals of the Central Government.

*Explanation* – For the purposes of this sub-section, a person shall be deemed to be an Indian national, -

- (a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and
- (b) in the case of an individual, only if he is a citizen of India

A State Government may either with the previous approval of the Central Government or at the instance of the Central Government impose such further conditions as may be necessary in the interests of mineral development, including development of atomic minerals (Mineral Concession Rules 1960)

The holder of a mining lease granted shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area after such commencement, at the rate for the time being specified.

**Reservation  
Measure**

Mines and Minerals (Development & Regulation) Act -  
Section 5 and Section 9

15.

<b>Sector</b>	Other Mining and Quarrying\
<b>Sub-Sector</b>	Quarrying of stone, sand and clay
<b>Industrial Classification</b>	NIC 150
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirement (Article 10.5)
<b>Description</b>	These are categorized as Minor Minerals under Section 3 of the Mines and Minerals (Development & Regulation) Act. The State Governments have the powers to regulate operations of mining of minor minerals.
<b>Reservation Measure</b>	Mines and Minerals (Development & Regulation) Act 1957 (No.67 of 1957) Mineral Concession Rules, 1960



16.

<b>Sector</b>	Titanium bearing minerals and ores.
<b>Sub-Sector</b>	Mining and production of Titanium ores (Ilmenite, Rutile, and Leucoxene) and Zirconium minerals (Zircon)
<b>Industrial Classification</b>	NIC-136
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirement (Article 10.5)
<b>Description</b>	<p>FDI up to 100% is allowed with prior government approval in mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities, subject to sectoral regulations and Mines and Minerals (Development and Regulation) Act, 1957. The separation of titanium bearing minerals and ores will be subject to the following additional conditions</p> <ul style="list-style-type: none"><li>(i) value addition facilities are set up within India along with transfer of technology;</li><li>(ii) disposal of tailings during the mineral separation shall be carried out in accordance with regulations framed by the Atomic Energy Regulatory Board such as Atomic Energy (Radiation Protection) Rules 2004; Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987</li></ul> <p>No FDI is permitted in mining of prescribed substances as notified by the Department of Atomic Energy, under the Atomic Energy Act, 1962.</p> <p>Under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957, the reconnaissance or prospecting or mining operations can be undertaken only pursuant to a license and consequent lease and no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of reconnaissance permit or of a prospecting license or, as the case may be, a mining lease, granted under MMDR Act and the rules</p>

made thereunder.

Government shall not grant reconnaissance permit, prospecting licence or mining lease to any person unless such person –

(a) is an Indian national, or a Company as defined in sub-section (1) of Section 3 of the Companies Act, 1956; and

(b) satisfies such conditions as may be prescribed :

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted except with the previous approvals of the Central Government.

*Explanation* – For the purposes of this sub-section, a person shall be deemed to be an Indian national, -

(a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and

(b) in the case of an individual, only if he is a citizen of India

A State Government may either with the previous approval of the Central Government or at the instance of the Central Government impose such further conditions as may be necessary in the interests of mineral development, including development of atomic minerals (Mineral Concession Rules 1960)

The holder of a mining lease granted shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area after such commencement, at the rate for the time being specified

**Reservation  
Measure**

Article 73 of The Constitution of India read with Article 246 of The Constitution of India.

Government Policy on Exploitation of Beach Sand minerals notified vide Government of India Resolution No. 8/1(1)/97-PSU/1422 dated 6-10-1998

Government Notification S.O.61(E) dated 18.1.2006 re-notifying the list of prescribed substances under the Atomic Energy Act, 1962, excluding Titanium bearing ores and concentrates, and Zirconium, its alloys and compounds and minerals/ concentrates

including Zircon from the list of prescribed substances.

Industries (Development and Regulation) Act, 1951.

Mines and Minerals (Development and Regulation) Act, 1957

Atomic Energy (Radiation Protection) Rules 2004

Atomic Energy (Safe Disposal of Radioactive Wastes) Rules,  
1987.

*Press Note 6(2008) and Press Note 7 (2008)*

## MANUFACTURING.

17.

<b>Sector</b>	Defence Industry
<b>Sub-Sector</b>	
<b>Industrial Classification</b>	
<b>Type of</b>	National Treatment (Article 10.3)
<b>Reservation</b>	Performance Requirement (Article 10.5) Senior Management and Boards of Directors (Article 10.6)
<b>Description</b>	<p>FDI in Defence Industry (manufacturing) Sector is subject to licencing under the Industries (Development &amp; Regulation) Act, 1951 and also subject to following limitations:</p> <ol style="list-style-type: none"><li>non-resident equity cannot exceed 26%</li><li>There is a three year lock in period for transfer of equity from one foreign investor to another foreign investor (including NRIs and OCBs with 60% of more NRI stake) and such transfer would be subject to prior approval of the Foreign Investment Promotion Board (FIPB) and the Government.</li><li>FDI shall be subject to policies made by the Government under the Industries (Development and Regulation) Act, 1951 from time to time</li><li>Treatment of Indian companies having FDI in terms of procurement of products shall be governed by the rules and procedure regulating procurement by defence services as may be issued or modified from time to time by Ministry of Defense, Government of India</li><li>FDI approval will be given by FIPB in consultation with Ministry of Defense</li><li>Licenses will be given to Indian companies/partnership firms given by the Department of Industrial Policy and promotion in consultation with Ministry of Defense</li><li>The applicant should be an Indian company/partnership firm.</li><li>The management of the applicant company / partnership should be in Indian hands with majority</li></ol>

representation on the Board as well as the Chief Executive of the company / partnership firm being resident Indians.

- i. Full particulars of the Directors and the Chief Executives should be furnished along with the applications.
- j. The Government reserves the right to verify the antecedents of the foreign collaborators and domestic promoters including their financial standing and credentials in the world market. Preference would be given to original equipment manufacturers or design establishments, and companies having a good track record of past supplies to Armed Forces, Space and Atomic energy sectors and having an established R & D base.
- k. No minimum capitalization for FDI purposes
- l. The standards and testing procedures for equipment to be produced under license from foreign collaborators or from indigenous R & D will have to be provided by the licensee to the Government nominated quality assurance agency under appropriate confidentiality clause.
- m. The licensing authority would satisfy itself about the adequacy of the networth of the foreign investor, taking into account the category of weapons and equipment that are proposed to be manufactured
- n. Capacity norms for production will be provided in the license based on the application as well as the recommendations of the Ministry of Defense, which will look into existing capacities of similar or allied products
- o. Purchase preference and price preference may be given to the Public Sector organizations as per guidelines of the Department of Public Enterprises.
- p. Arms and ammunition produced by the private manufacturers will be primarily sold to the Ministry of Defence. These items may also be sold to other Government entities under the control of Ministry of Home Affairs and State Government with the prior approval of Ministry of Defense. No such item shall be sold within the country to any person or entity. The export of manufactured items will be subject to guidelines as applicable to ordinance factories and defense public sector undertakings. Non-lethal items will be permitted for sale to person/entities other than the Central or state government with the prior approval of Ministry of Defense.

**Reservation  
Measure**

Industries (Development & Regulations) Act, 1951- Section 11 and First Schedule to the Act.

Arms Act- Section 2(b) and 2(c) on definition of arms and

ammunition.

Government Policy - Press Note 4 (2001) and Press Note  
2(2002)

18.

**Sector** Refining of Petroleum

**Sub-Sector**

**Industrial  
Classification**

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description**

FDI up to 49% is allowed with prior approval of Foreign Investment Promotion Board (FIPB) in Public Sector Undertakings in the Petroleum refining sector. No divestment or dilution of domestic equity in the existing PSUs is allowed.

FDI up to 100% is permitted on the automatic route in Private companies engaged in petroleum refining.

Petroleum refining is subject to the sectoral policy relating to petroleum and natural gas notified by the Government of India.

**Reservation  
Measure**

Article 73 of The Constitution of India read with Article 246 of The Constitution of India.

Petroleum Act, 1934, and rules, regulations, notifications issued thereunder.

The Oilfields (Regulations and Development) Act, 1948 and rules and regulations thereunder.

The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 and policies, rules, regulations, notifications, circulars, guidelines, press notes, made thereunder.

The Petroleum and Natural Gas Regulatory Board Act, 2006 and policies, rules, regulations, notifications, circulars, guidelines, press notes, made thereunder.

The Explosives Act, 1884 and policies, rules, regulations, notifications, circulars, guidelines, press notes, made thereunder.

Government Policy - Press Note 4 (2006) and Press Note 5(2008)



19.

**Sector** All Services Sectors

**Sub-Sector**

**Industrial  
Classification**

**Type of  
Reservation** National Treatment (Article 10.3)

Performance Requirement (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description** India reserves the right to maintain any measure relating to investments in services sectors subject to the condition that they do not violate the obligations under the Services Chapter. .

**Reservation  
Measure** Any existing or current regulations or measures in force on the date of entry of this Agreement.

20.

**Sector** All Sectors

**Sub-Sector**

**Industrial  
Classification**

**Type of  
Reservation** Performance Requirement (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description** Any existing measures framed by the State Governments are not subject to either PR or SMBD obligations derived from the Articles in the investment chapter.

**Reservation  
Measure** Any existing or current regulations or measures in force on the date of entry of this Agreement.

## ANNEX II

### EXPLANATORY NOTES

1. Pursuant to Articles 10.8 (Non-Conforming Measures), the Schedule of a Party to this Annex sets out, the specific sectors, sub-sectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 10.3 (National Treatment);
- (b) Article 10.5 (Performance Requirements); or
- (c) Article 10.6 (Senior Management and Boards of Directors).

2. Where appropriate, reservations are referenced to the ISIC classification (ISIC Rev. 3.1) as set out in Statistical Office of the United Nations Statistical Papers. Where appropriate ISIC code is not available for sectors or sub-sectors, for India, those reservations may be referenced to the National Industrial Classification Code (NIC) 1987 as set out by the Central Statistical Organization of the Government of India as alternatives. And, for Korea, those reservations may be referenced to the Korea Standard Industry Code (KSIC 2000) as set out by the Korea National Statistical Office as alternatives.

3. Each Schedule entry sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Sub-Sector** refers to the specific sector in which the reservation is taken;
- (c) **Industrial Classification** refers, where applicable, to the activity covered by the reservation according to the UN ISIC code (ISIC Rev.3.1) or domestic industry classification codes (National Industrial Classification Code 1987, Korea Standard Industry Code 2000);

- (d) **Type of Reservation** specifies the obligation (National Treatment, Performance Requirement and Senior Management and Board of Directors) for which a reservation is taken;
- (e) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sectors, sub-sectors, or activities covered by the entry; and
- (f) **Description** sets out the scope of the sectors, sub-sectors, or activities covered by the entry.

4. In the interpretation of a Schedule entry, all elements of the entry, with the exception of **Industry Classification**, shall be considered. The **Description** element shall prevail over all other elements.

5. For Korea, **foreign person** means a foreign national or an enterprise organized under the laws of another country. For India, a **non-resident** means a person who is not resident in India and includes a body corporate registered or incorporated outside India.

6. Regarding commitments on supply of services through commercial presence, only the Schedule of Specific Commitments annexed to Chapter 6 on Trade in Services will apply. For greater certainty, Articles 10.5 (Performance Requirements) and 10.6 (Senior Management and Board of Directors) in Chapter 10 on Investment will not be applicable to Services Sector. Commitments in the form of Reservations on Articles 10.3 (National Treatment), 10.5 (Performance Requirements) and 10.6 (Senior Management and Board of Directors) for investments other than those for supply of a service through commercial presence are described only in Annex I and Annex II to Chapter 10 (Investment). In the event of any inconsistency between the commitments in the form of Reservations under the Chapter 10 on Investment and the specific commitments made under the Chapter 6 on Trade in Services, the provision in the Chapter on Trade in Services shall prevail to the extent of the inconsistency.

7. For Korea, the reservation entry No. 8, 10, 14,15,16,17,19,20,23 and 24 will not apply to services activity under the respective sectors.

## ANNEX II

### Schedule of Korea

1.

**Sector** All Sectors

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Article 10.3)  
Performance Requirements (Article 10.5)

**Description** 1. Korea reserves the right to adopt, with respect to the establishment or acquisition of an investment, any measure that is necessary for the maintenance of public order pursuant to Article 4 of the Foreign Investment Promotion Act (2008) and Article 5 of the Enforcement Decree of the Foreign Investment Promotion Act (2008), provided that Korea promptly provides written notice to India that it has adopted such a measure and that the measure:

- (a) is applied in accordance with the procedural requirements set out in the Foreign Investment Promotion Act (2008), Enforcement Decree of the Foreign Investment Promotion Act (2008), and other applicable law;
- (b) is adopted or maintained only where the investment poses a genuine and sufficiently serious threat to the fundamental interests of society;
- (c) is not applied in an arbitrary or unjustifiable manner;
- (d) does not constitute a disguised restriction on investment; and
- (e) is proportional to the objective it seeks to achieve.

2. Without prejudice to any claim that may be submitted to arbitration pursuant to Article 21 (Settlement of Disputes between a party and an Investor of the other party), a claimant may submit to arbitration under Section C of Chapter 10 (Investment) a claim that:

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

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

In the event of such a claim, Section C of Chapter 10 (Investment) shall apply, mutatis mutandis, and all references in Section C of Chapter 10 (Investment) to a breach, or to an alleged breach, of an obligation under Section B of Chapter 10 (Investment) shall be understood to refer to the measure, which would constitute a breach of an obligation under Section B of Chapter 10 (Investment) but for this entry. However, no award may be made in favor of the claimant, if Korea establishes to the satisfaction of the tribunal that the measure satisfies all the conditions listed in subparagraphs (a) through (e) of paragraph 1.

**Existing Measures**

*Foreign Investment Promotion Act* (Law No. 9071, March 28, 2008), Article 4

*Enforcement Decree of the Foreign Investment Promotion Act* (Presidential Decree No. 21098, October 29, 2008), Article 5

2.

**Sector:** All sectors

**Sub-Sector:** Defense industry

**Industry Classification:**

**Type of Reservation:** National Treatment (Article 10.3)

Performance Requirements (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description:** Korea reserves the right to adopt or maintain any measure with respect to cross border trade in services and investments in the defense industry.

Foreign investors (stipulated in the Article 2 of the Foreign Investment Promotion Act) who intends to acquire the outstanding shares of defense industry(the enterprise stipulated in Article 3 of the Act on Defense Acquisition Program) other than the newly issued ones shall obtain a prior permission from the Minister of Knowledge Economy.

**Existing Measure:** Law No. 9071 The Article 6 of *the Foreign Investment Promotion Act*, Mach 28, 2008

Law No. 8852 The Article 35 of *the Act on Defense Acquisition Program*, February 29, 2008

3.

**Sector** All Sectors

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Article 10.3)  
Performance Requirements (Article 10.5)  
Senior Management and Boards of Directors (Article 10.6)

**Description** Korea reserves the right to adopt or maintain any measure with respect to the transfer or disposition of equity interests or assets held by state enterprises or governmental authorities.

Such a measure shall be implemented in accordance with the provisions of Article 10.7(Transparency).

This entry does not apply to former private enterprises that are owned by the state as a result of corporate reorganization processes.

For purposes of this entry:

A state enterprise shall include any enterprise created for the sole purpose of selling or disposing of equity interests or assets of state enterprise or governmental authorities.

Without prejudice to Korea's commitments undertaken in Annex I and Annex II, Korea reserves the right to adopt or maintain any measure with respect to the transfer to the private sector of all or any portion of services provided in the exercise of governmental authority.

**Existing Measures** *Securities and Exchange Act* (Law No 8985, March 21, 2008), Article 203



4.

<b>Sector</b>	Acquisition of Land
<b>Sub-Sector</b>	
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3)
<b>Description</b>	<p>Korea reserves the right to adopt or maintain any measure with respect to the acquisition of land by foreign persons, except that a juridical person shall continue to be permitted to acquire land where the juridical person:</p> <ol style="list-style-type: none"><li>1. is not deemed foreign under Article 2 of the <i>Foreigner's Land Acquisition Act</i>, and</li><li>2. is deemed foreign under the <i>Foreigner's Land Acquisition Act</i> or is a branch of a foreign juridical person subject to approval or notification in accordance with the <i>Foreigner's Land Acquisition Act</i>, if the land is to be used for any of the following legitimate business purposes:<ol style="list-style-type: none"><li>(a) land used for ordinary business activities;</li><li>(b) land used for housing for senior management; and</li><li>(c) land used for fulfilling land-holding requirements stipulated by pertinent laws.</li></ol></li></ol> <p>Korea reserves the right to adopt or maintain any measure with respect to the acquisition of farmland by foreign persons.</p>
<b>Existing Measures</b>	Foreigner's Land Acquisition Act (Law No. 8179, February 29, 2008), Articles 2 through 6 Farmland Act (Law No. 8852, January 29, 2008), Article 6

5.

**Sector**

Firearms, swords, explosives, etc.

**Sub-Sector**

**Industry Classification**

**Type of Reservation**

National Treatment (Article 10.3)  
Performance Requirements (Article 10.5)  
Senior Management and Boards of Directors (Article 10.6)

**Description**

Korea reserves the right to adopt or maintain any measure with respect to the firearms, swords and explosives sector, including manufacture, use, sale, storage, transport, import, export and possession of firearms, swords and explosives.

**Existing Measures**

Control of Firearms, Swords, Explosives, etc. Act  
Control of Shooting and Shooting Range Act.

6.

**Sector** Disadvantaged Groups

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Article 10.3)  
Performance Requirements (Article 10.5)  
Senior Management and Boards of Directors (Article 10.6)

**Description** Korea reserves the right to adopt or maintain any measure that accords rights or preferences to socially or economically disadvantaged groups, such as the disabled, persons who have rendered distinguished services to the state, and ethnic minorities.

**Existing Measures** None

7.

**Sector**

National Electronic / Information System

\* Including the national geographical information system

**Sub-Sector**

**Industry Classification**

**Type of Reservation**

National Treatment (Article 10.3)

Performance Requirements (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description**

Korea reserves the right to adopt or maintain any measure affecting the administration and operation of any state-owned electronic information system that contains proprietary government information or information gathered pursuant to the regulatory functions and powers of the government.

This entry does not apply to payment and settlement systems related to financial services.

**Existing Measures**

<b>8.</b>	
<b>Sector</b>	Social Services
<b>Sub-Sector</b>	
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirements (Article 10.5) Senior Management and Boards of Directors (Article 10.6)
<b>Description</b>	Korea reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for public purposes: income security or insurance, social security or insurance, social welfare, public training, health, and child care.
<b>Existing Measures</b>	None

9.

<b>Sector</b>	All Manufacturing Sectors
<b>Sub-Sector</b>	
<b>Industry Classification</b>	
<b>Type of Reservation</b>	Performance Requirements (Article 10.5)
<b>Description</b>	<p>Korea reserves the right to adopt or maintain any measure with respect to the following measures: the obligation to recycle products and packaging materials; the submission of recycling performance plans and results; payment of applicable recycling levies.</p> <p>Manufacturers who are under recycling duties and those to whom such manufacturers have entrusted their recycling duties shall follow the recycling standards for their products and packaging materials prescribed by the Minister of Environment.</p> <p>Furthermore, the above persons shall submit the recycling duty performance plans and result reports each year, and shall pay the recycling levy in case of failure to satisfy the amounts of the prescribed recycling duty.</p>
<b>Existing Measures</b>	<p>Act on the Promotion of Saving and Recycling of Resources(Law No. 8852, Feb.29, 2008), Article 16, 17, 18, 19 and 27</p> <p>Act for Resource Recycling of Electrical and Electronic equipment and vehicle(Law No. 8852, Feb.29, 2008), Article 15, 16 and 17</p>

10.

**Sector** Sale, maintenance and repair of low-emission motor vehicles

**Sub-Sector**

**Industry Classification**

**Type of Reservation** Performance Requirements (Article 10.5)

**Description** Korea reserve the right to adopt or maintain any measure with respect to the following measures: the obligation to distribute a certain percentage of low-emission motor vehicles; the submission and approval of plans to distribute low-emission motor vehicles.

A distributor of motor vehicles shall submit an annual plan to supply low-emission motor vehicles in accordance with the annual popularization standard of low-emission motor vehicle (1.5%, 2006). The distributor shall obtain approval of the plan by the Minister of Environment and report business results to the Minister of Environment

**Existing Measures** Special Act on Metropolitan Air Quality Improvement(Law No. 9036, Mar.28, 2008), Article 23

Enforcement Decree(Presidential Decree No. 21033, Sep.25, 2008), Article 26

11.

<b>Sector</b>	Atomic Energy
<b>Sub-Sector</b>	Nuclear Power Generation; Manufacturing and Supply of Nuclear Fuel; Nuclear Materials; Radioactive Waste Treatment and Disposal (including treatment and disposal of spent and irradiated nuclear fuel); Radioisotope and Radiation Generation Facilities; Monitoring Services for Radiation; Services Related to Nuclear Energy; Planning, Maintenance, and Repair Services
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirements (Article 10.5) Senior Management and Boards of Directors (Article 10.6)
<b>Description</b>	Korea reserves the right to adopt or maintain any measure with respect to the atomic energy industry.
<b>Existing Measures</b>	The Electricity Business Act (Law No. 9017, Mar. 28, 2008)



12.

<b>Sector</b>	Energy Industry
<b>Sub-Sector</b>	Electric Power Generation other than Nuclear Power Generation; Electric Power Transmission, Distribution, and Sales; Electricity Business
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirements (Article 10.5) Senior Management and Boards of Directors (Article 10.6)
<b>Description</b>	<p>Korea reserves the right to adopt or maintain any measure with respect to electric power generation, transmission, distribution, and sales.</p> <p>Any such measure shall not decrease the level of foreign ownership permitted in the electric power industry as provided by the entry in Korea's Schedule to Annex I related to Energy Industry (electric power).</p> <p>Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with Article 5 (Performance Requirement.1.(f))</p>
<b>Existing Measures</b>	Article 203 of the Securities and Exchange Act (Law No. 8985, March. 21, 2008) Article 87-2 of its Enforcement Decree (Presidential Decree No. 20653, February. 29, 2008) Articles 7, 73-5 and 78 of the Electricity Business Act (Law No. 9017, Mar. 28, 2008) Articles 4 and 5 of the Foreign Investment Promotion Act (Law No. 9071, Mar. 28, 2008) Article 5 of its Enforcement Decree (Presidential Decree No. 20947, July.29, 2008) Article 5 of the Regulations on Foreign Investment and Technology Inducement (The Ministry of Knowledge Economy Notice No. 2008-141 October. 1, 2008)

13.

<b>Sector</b>	Energy Industry
<b>Sub-Sector</b>	Gas industry
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirements (Article 10.5) Senior Management and Boards of Directors (Article 10.6)
<b>Description</b>	<p>Korea reserves the right to adopt or maintain any measure with respect to the import and wholesale distribution of natural gas and the operation of terminals and the national high pressure pipeline network.</p> <p>Any such measure shall not decrease the level of foreign ownership permitted in the gas industry as provided by the entry in Korea's Schedule to Annex I related to Energy Industry (gas industry).</p>
<b>Existing Measures</b>	<p>Article 19 of the Act on the Improvement of Managerial Structure and Privatization of Public Enterprises (Law No. 8852, Feb 29, 2008)</p> <p>Article 1 of the Korea Gas Corporation Act (Law No. 8976, Mar 21, 2008)</p> <p>Articles 1, 3, 11, 15, 16, 16-2, 16-3, 17, 17-2, 18-4, 22, 24, 25, 30, 35 and 43 of the City Gas Business Act (Law No. 9021, Mar 28, 2008)</p> <p>Article 11 of the Articles of Incorporation of the Korea Gas Corporation (Mar. 28, 2008)</p> <p>Article 9 of the Petroleum and Alternative Fuel Business Act (Law No. 8852, Feb. 29, 2008)</p> <p>Article 203 of the Securities and Exchange Act (Law No. 8985, March. 21, 2008)</p> <p>Articles 4 and 5 of the Foreign Investment Promotion Act (Law No. 9017, Mar. 28, 2008)</p>

14.

**Sector**

Transportation Industry

**Sub-Sector**

**Industry Classification**

**Type of Reservation**

National Treatment (Article 10.3)

Performance Requirements (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description**

Korea reserves the right to adopt or maintain any measure with respect to internal waterways transportation, space transportation, international maritime passenger transportation services, maritime cabotage, and the acquisition of Korean vessels.

**Existing Measures**

15.

<b>Sector</b>	Motion picture and video tape production and distribution and projection
<b>Sub-Sector</b>	
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirements (Article 10.5)
<b>Description</b>	Korea reserves the right to adopt or maintain any measure setting criteria for determining whether broadcasting programs and audio-visual contents are Korean.
<b>Existing Measures</b>	Act on Promotion of Motion Pictures and Video Products (Law No. 9004, March 28, 2008), Articles 27, and 40  Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products (Presidential Decree No. 20676, February 29, 2008), Article 10 and 19  Enforcement Regulations of the Act on Promotion of Motion Pictures and Video Products(Ordinance of the Ministry of Culture, Sports and Tourism No. 1, March 6, 2008), Article 5  Notice on Programming Ratio (Korea Communications Commission No. 2008-72, May 18, 2008)

16.	
<b>Sector</b>	Motion picture and video tape production and distribution and projection
<b>Sub-Sector</b>	
<b>Industry Classification</b>	
<b>Type of Reservation</b>	Performance Requirements (Article 10.5)
<b>Description</b>	Korea reserves the right to adopt or maintain any preferential co-production arrangement for film or television productions. Official co-production status, which may be granted to a co-production produced under such a co-production arrangement, confers national treatment on works covered by a co-production arrangement.
<b>Existing Measures</b>	Act on Promotion of Motion Pictures and Video Products (Law No. 9004, March 28, 2008), Articles 25 Notice on Programming Ratio (Korea Communications Commission No. 2008-72, May 18, 2008)

17.

<b>Sector</b>	Real Estate Services (not including Real Estate Brokerage and Appraisal Services)
<b>Sub-Sector</b>	
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Article 10.3) Performance Requirements (Article 10.6)
<b>Description</b>	Korea reserves the right to adopt or maintain any measure with respect to real estate development and supply.
<b>Existing Measures</b>	

18.

**Sector**

Cadastral Map-Making

**Sub-Sector**

**Industry Classification**

**Type of Reservation**

National Treatment (Article 10.3)

**Description**

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

**Existing Measures**

19.

**Sector**

Business and Environmental Services -

**Sub-Sector**

Examination, Certification, and Classification of Agricultural Raw Materials and Live Animals (nong chuk san mul)

**Industry Classification**

**Type of Reservation**

National Treatment (Article 10.3)

**Description**

Korea reserves the right to adopt or maintain any measure with respect to examination, certification, and classification of agricultural raw materials and live animal products.

For greater certainty, this entry does not include examinations or testings performed on behalf of producers in advance of the official examinations or testings.

**Existing Measures**



20.

**Sector** Agriculture, Hunting, Forestry, Fishing and related service activities

**Sub-Sector**

**Industry Classification** ISIC 01, 05

**Type of Reservation** National Treatment (Article 10.3)  
Performance Requirements (Article 10.5)  
Senior Management and Boards of Directors (Article 10.6)

**Description** Korea reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, and livestock, including genetic improvement, artificial insemination, rice and barley polishing, and activities related to a rice processing complex.

Korea reserves the right to adopt or maintain any measure with respect to the supply of services incidental to agriculture, hunting, forestry, and fishing by the Agricultural Cooperatives, the Forestry Cooperatives, and the Fisheries Cooperatives.

**Existing Measures**

21.

<b>Sector</b>	Fishing
<b>Sub-Sector</b>	Fishing, aquaculture and service activities incidental to fishing
<b>Industry Classification</b>	ISIC 05
<b>Type of Reservation</b>	National Treatment (Articles 10.3)
<b>Description</b>	Korea reserves the right to adopt or maintain any measure with respect to fishing, aquaculture and service activities incidental to fishing.
<b>Existing Measures</b>	Government Policy

22.

**Sector**

Printing and publishing

**Sub-Sector**

Publishing of Newspapers

**Industry Classification**

**Type of Reservation**

National Treatment (Articles 10.3)

Senior Management and Boards of Directors (Articles 10.6)

**Description**

Korea reserves the right to adopt or maintain any measure with respect to the publishing (including printing and distribution) of newspapers.

**Existing Measures**

Articles 13, 14 and 26 of the Act on the Guarantee of Freedom and Function of Newspapers, Etc. (Law No. 8852, February 29, 2008)

Articles 8, 17, 18, 19 and 20 of its Enforcement Decree (Presidential Decree No. 20676, February 29, 2008)

23.

<b>Sector</b>	Social Services
<b>Sub-Sector</b>	Human Health Services
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Articles 10.3) Performance Requirements (Articles 10.5) Senior Management and Boards of Directors (Articles 10.6)
<b>Description</b>	<p>Korea reserves the right to adopt or maintain any measure with respect to human health services.</p> <p>This entry shall not apply to the preferential measures provided in the Act on Designation and Management of Free Economic Zones (Law No. 9071, March. 28, 2008), and the Special Act on Establishment of Jeju Special Self-Governing Province and Creation of Free International City (Law No, 9045, March. 28, 2008) relating to establishment of medical facilities, pharmacies, and similar facilities, and the supply of remote medical services to those geographical areas specified in those Acts.</p>
<b>Existing Measures</b>	None

24.

<b>Sector</b>	Motion picture and video tape production and distribution and projection
<b>Sub-Sector</b>	
<b>Industry Classification</b>	
<b>Type of Reservation</b>	National Treatment (Articles 10.3) Performance Requirements (Articles 10.5)
<b>Description</b>	Korea reserves the right to adopt or maintain any measure with respect to motion picture projection (including electronic transmission), promotion, advertising, or post-production services.
<b>Existing Measures</b>	Act on Promotion of Motion Pictures and Video Products (Law No. 9004, March 28, 2008) Enforcement Decree of the Act on Promotion of Motion Pictures and Video Products (Presidential Decree No. 20676, February 29, 2008)

25.

**Sector** Library, Museum and Other Cultural Services

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Articles 10.3)  
Performance Requirements (Articles 10.5)  
Senior Management and Boards of Directors (Articles 10.6)

**Description** Korea reserves the right to adopt or maintain any measure with respect to the conservation and restoration of cultural heritage and properties, including the excavation, appraisal, or dealing of cultural heritage and properties

**Existing Measures** Articles 18, 44 and 61 of the Protection of Cultural Properties Act (Law No. 9002, March 28, 2008)

26.

**Sector** Tourism in rural, fishery, and agricultural sites

**Sub-Sector**

**Industry Classification**

**Type of Reservation** National Treatment (Articles 10.3)

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

**Existing Measures** None

27.

**Sector**

Gambling and Betting

**Sub-Sector**

**Industry Classification**

**Type of Reservation**

National Treatment (Articles 10.3)  
Performance Requirements (Articles 10.5)  
Senior Management and Boards of Directors (Articles 10.6)

**Description**

Korea reserves the right to adopt or maintain any measure with respect to gambling and betting services.

For great certainty, “gambling and betting” includes such services supplied through electronic transmission and services that use sa-haeng-seong-ge-im-mul. “Sa-haeng-seong-ge-im-mul,” as defined in Article 2 of Korea’s Game Industry Promotion Act, includes, inter alia, gaming instruments which result in financial loss or gain through betting or by chance.

**Existing Measures**

Articles 5, 21 and 28 of the Tourism Promotion Act (Law No.9005, Feb. 29, 2008)  
Article 11 of the Special Act on the Assistance to the Development of Abandoned Mine Areas ( Law No. 9037, March. 28, 2008)  
Articles 24, 25 and 26 of the National Sports Promotion Act (Law No. 8852, Feb. 29, 2008)  
Articles 4, 19 and 24 of the Bicycle and Motorboat Racing Act (Law No. 8852, Feb. 29, 2008)  
The Korean Racing Association Act (Law No. 7547, May 31, 2005)  
The Act on Traditional Bullfighting (Law No. 7428, Mar. 31, 2005)  
Articles 2, 21 and 22 of Game Industry Promotion Act (Law No. 8852, February 29, 2008)  
Act on Special Cases concerning the Regulation and Punishment of Speculative Acts, etc (Law No. 8852, February 29, 2008)  
Articles 246, 247, 248 and 249 of Criminal Law (Law No. 7623, July 29, 2005)



28.

**Sector**

All Sectors

**Sub-Sector**

**Industry Classification**

**Type of Reservation**

National Treatment (Articles 10.3)

Performance Requirements (Articles 10.5)

Senior Management and Boards of Directors (Articles 10.6)

**Description**

Korea reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority, such as law enforcement and correctional services.

This entry does not apply to an investor or investment that has entered into an agreement with Korea with respect to the supply of such services.

**Existing Measures**

29.

**Sector**

All Services Sectors

**Sub-Sector**

**Industry Classification**

**Type of Reservation**

National Treatment (Articles 10.3)  
Performance Requirements (Articles 10.5)  
Senior Management and Boards of Directors (Articles 10.6)

**Description**

Korea reserves the right to adopt or maintain any measure relating to investments in services sectors subject to the condition that they do not violate the obligations under the Services Chapter.

**Existing Measures**

## ANNEX II

### Schedule of India

Agriculture, hunting and forestry

1.

**Sector** Agriculture

**Sub-Sector** All agriculture activities like farming and plantation.

**Industrial Classification** NIC 00 (Agricultural production); NIC 01 (Plantation)

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

**Description** India reserves the right to adopt or maintain any measure with respect to farming and all agriculture activities except Floriculture, Horticulture, Development of seeds, Animal husbandry, Pisciculture, Aqua-culture and Cultivation of Vegetables and Mushrooms under controlled conditions\* and services related to agro and allied sectors\*\*.

#### Existing Measure

\* 'under controlled conditions' means in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather.

\*\* 'services related to agro and allied sectors' includes pest destroying, spraying and pruning of infected stems, operation of irrigation system, animal shearing and livestock services (other than veterinary services), nursery and horticultural services, soil conservation services, soil desalination services, harvesting, threshing, land clearance, land draining services.

Agriculture, hunting and forestry

2.

<b>Sector</b>	Farming of Animals
<b>Sub-Sector</b>	Farming of cattle, sheep goats, horses, asses, mules and hinnies; dairy farming including mixed farming.
<b>Industrial Classification</b>	ISIC 0121, 0122, 013, 0130, 014, 0140, 015, 0150
<b>Type of</b>	National Treatment (Article 10.3)
<b>Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	India reserves the right to adopt or maintain any measure with respect to farming of cattle, sheep goats, horses, asses, mules and hinnies; dairy farming including mixed farming.
<b>Existing Measure</b>	

\* hinnies means a breed of ass.

\*\* mixed farming means cultivation and dairying.

Agriculture, hunting and forestry

3.

**Sector** Forestry

**Sub-Sector** Forestry, logging and related service activities

**Industrial Classification** NIC- 05  
ISIC 02, 020, 0200

**Type of** Performance Requirement (Article 10.5)

**Reservation**

**Description** India reserves the right to adopt or maintain any measure with respect to forestry, logging and related service activities

**Existing Measure**

Fishing

4

<b>Sector</b>	Fishing
<b>Sub-Sector</b>	Fishing, operation of fish hatcheries and fish farms; service activities incidental to fishing
<b>Industrial Classification</b>	NIC- 06 ISIC 05, 050 and 0500
<b>Type of Reservation</b>	National Treatment (Article 10.3)
<b>Description</b>	India reserves the right to adopt or maintain any measure with respect to fishing, operation of fish hatcheries and fish farms; service activities incidental to fishing
<b>Existing Measure</b>	

Manufacturing.

5.

<b>Sector</b>	Dairy products
<b>Sub-Sector</b>	Manufacture of milk powder, ice-cream powder, condensed milk, butter, cream, cheese, ghee, khoya etc., pasteurized milk.
<b>Industrial Classification</b>	ISIC 152 & 1520 NIC 201.1, 201.2, 201.3, 201.4, 201.5 and 201.9
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to manufacture of dairy products
<b>Existing Measure</b>	

\* Khoya means a derivative of Milk.

## Manufacturing

6.

<b>Sector</b>	Canning and preservation of fruits and vegetables.
<b>Sub-Sector</b>	Artificial dehydration of fruits and vegetables, sun-drying of fruits & vegetables, radiation preservation of fruits & vegetables, manufacture of fruits/vegetable juices/concentrates/squashes and powders, manufacture of sauces, jams, jellies and marmalades, manufacture of pickles, canning of fruits and vegetables, fruits and vegetables preservation.
<b>Industrial Classification</b>	NIC 202.1, 202.2, 202.3, 202.4, 202.5, 202.6, 202.7 and 202.9
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to canning and preservation of fruits and vegetables.
<b>Existing Measure</b>	



## Manufacturing

7.

**Sector** Processing, Canning and preservation of fish, crustacean and similar foods.

**Sub-Sector** Sun-drying of fish, radiation preservation of fish and similar foods, processing and canning of fish, manufacture of fish meal, processing and canning of frog legs.

**Industrial Classification** ISIC 151 & 1512  
NIC 203.1, 203.2, 203.3, 203.4, 203.5, 203.6, and 203.9

**Type of** Performance Requirement (Article 10.5)

**Reservation**

**Description** India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to processing, canning and preservation of fish, crustacean and similar foods.

**Existing Measure**

Manufacturing

8.

<b>Sector</b>	Bakery Products.
<b>Sub-Sector</b>	Bread making, manufacture of biscuits, cakes and pastries
<b>Industrial Classification</b>	ISIC 1541 NIC 205.1, 205.2, 205.9.
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to manufacture of bakery products.
<b>Existing Measure</b>	

## Manufacturing

9.

<b>Sector</b>	Hydrogenated oils, vanaspati, ghee* etc. and Vegetable oils
<b>Sub-Sector</b>	Manufacture of hydrogenated oils, vanaspati, ghee, vegetable oils and fats.
<b>Industrial Classification</b>	ISIC 1514 NIC 210 and 211- 211.1, 211.2, 211.3.
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to manufacturing hydrogenated oils, vanaspati, ghee and vegetable oils
<b>Existing Measure</b>	

\* 'ghee' means clarified butter.

## Manufacturing

10.

**Sector** Distilling, rectifying and blending of spirits, ethyl alcohol production from fermented materials and manufacture of wines

**Sub-Sector** Manufacture of wines, malt liquors, beer

**Industrial Classification** ISIC 1551, 1552, 1553  
NIC 220, 221 and 222- 222.1, 222.2, 222.3

**Type of** Performance Requirement (Article 10.5)

**Reservation**

**Description** India reserves the right to adopt or maintain any measure with respect to distilling, rectifying and blending of spirits, ethyl alcohol production from fermented materials and manufacture of wines.

**Existing Measure**

## Manufacturing

11.

<b>Sector</b>	Wood and Wood Products
<b>Sub-Sector</b>	Sawing and Planing of Wood; manufacture of veneer sheets, plywood, and their products; manufacture of structural wooden goods; manufacture of wooden containers; manufacture of wooden industrial goods; manufacture of cork and cork products; manufacture of wooden furniture and fixtures; manufacture of bamboo and cane furniture and fixtures.
<b>Industrial Classification</b>	ISIC -201, 202, 2021,2022,2023 and 2029 NIC- 270, 271,272, 273,274,275, 276,277,279.
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to manufacture of Wood and Wood Products.
<b>Existing Measure</b>	

Manufacturing

12.

<b>Sector</b>	Leather
<b>Sub-Sector</b>	Tanning, curing, finishing, embossing, japanning of leather; manufacture of leather footwear; manufacture of leather apparel; manufacture of consumer goods of leather; scrapping, currying, tanning, bleaching and dyeing of fur and other pelts for leather trade; manufacture of leather and fur products.
<b>Industrial Classification</b>	ISIC- 182,1820, 19,191,1911,1912, 192,1920 NIC- 290, 291, 292, 293, 294, 295, 296, 299.
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description</b>	India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to manufacture of Leather and Leather Products
<b>Existing Measure</b>	

Manufacturing

13.

<b>Sector</b>	Cement and Asbestos
<b>Sub-Sector</b>	Manufacture of cement, lime and plaster; manufacture of mica products; stone dressing and crushing; manufacture of asbestos cement and other cement products.
<b>Industrial Classification</b>	ISIC- 2694,2695, 2696 NIC- 324, 325, 326.1, 327
<b>Type of Reservation</b>	Performance Requirement (Article 10.5)
<b>Description of Reservation</b>	India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to manufacture Cement, lime and plaster, mica products, stone dressing and crushing, asbestos cement and other cement products.
<b>Existing Measure</b>	

Manufacturing

14.

**Sector** Air-conditioner, refrigerators and fire fighting equipments

**Sub-Sector** Manufacture of refrigerators, air-conditioners and fire-fighting equipments

**Industrial Classification** NIC- 355

**Type of** Performance Requirement (Article 10.5)

**Reservation**

**Description of Reservation** India reserves the right to adopt or maintain any measure which is non-conforming to the obligations on Performance Requirements in the Investment Chapter with respect to manufacture of Air-conditioner, refrigerators and fire fighting equipments.

**Existing Measure**



Manufacturing

15.

**Sector** Industrial explosives, safety fuse, detonators, fireworks

**Sub-Sector**

**Industrial Classification** NIC 308

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description** India reserves the right to adopt or maintain any measure which is non-conforming to the obligations with respect to manufacture of industrial explosives, safety fuse, detonators, fireworks sector, including manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives

**Existing Measure**

Manufacturing

16.

**Sector** Manufacture of Hazardous chemicals

**Sub-Sector**

**Industrial  
Classification**

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

**Description** India reserves the right to adopt or maintain any measure which is non-conforming to the obligations with respect to regulating the manufacture, use, sale, storage, transport, importation, exportation and possession of hazardous chemicals

**Existing Measure**

## Manufacturing

17.

**Sector** Tobacco stemming, manufacture of bidi, manufacture of cigarettes and cigars of tobacco and tobacco products

**Sub-Sector** Stemming of tobacco, redrying and all other operations connected with preparing raw leaf tobacco; manufacture of bidi, cigars, cigarettes, snuff, chewing tobacco.

**Industrial Classification** ISIC 16 & 1600  
NIC- 225, 226, 227, 228 and 229

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

**Description** India reserves the right to adopt or maintain any measure which is non-conforming to the obligations with respect to regulating the manufacture, sale, use, transportation, import, export of tobacco and tobacco products

**Existing Measure**

18.

**Sector** All Services Sectors

**Sub-Sector**

**Industrial  
Classification**

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description** India reserves the right to adopt or maintain any measure relating to investments in services sectors subject to the condition that they do not violate the obligations under the Services Chapter.

**Existing Measure**

19.

**Sector** All Sectors

**Sub-Sector**

**Industrial  
Classification**

**Type of** Performance Requirement (Article 10.5)

**Reservation** Senior Management and Boards of Directors (Article 10.6)

**Description** India reserves the right to adopt or maintain any measure relating to investments as per the laws and regulations framed by the State Governments.

**Existing Measure**

20.

**Sector** All Sectors

**Sub-Sector**

**Industrial  
Classification**

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description** India reserves the right to adopt or maintain any measure that accords rights or preferences to economically backward regions or groups in the interest of balanced development of the economy and maintenance of social equality.

**Existing Measure**

21.

**Sector** All Sectors

**Sub-Sector**

**Industrial  
Classification**

**Type of** National Treatment (Article 10.3)

**Reservation** Performance Requirement (Article 10.5)

Senior Management and Boards of Directors (Article 10.6)

**Description** India reserves the right to adopt or maintain any measure with regard to transfer or disposition of equity interests or assets held by the State enterprises or Governmental authorities.

India reserves the right to adopt or maintain any measure with respect to the transfer of all or any portion of services provided in the exercise of the governmental authority.

Such a measure shall be implemented in accordance with the provisions of Article 10.7 (Transparency) in the Investment chapter.

For the purposes of this reservation:

A state-owned enterprise shall mean any enterprise owned or controlled by the Government of India or any of the State Governments by means of equity ownership and shall include any enterprise created, on or after the effective date of this Agreement, for the sole purpose of selling or disposing of equity interests or assets of an existing state-owned enterprise or government entity.

**Existing Measure**

22.

**Sector** Acquisition of Land

**Sub-Sector**

**Industrial  
Classification**

**Type of** National Treatment (Article 10.3)

**Reservation**

**Description** India reserves the right to adopt or maintain any measure with respect to the acquisition of agricultural land by non-residents and acquisition of land by non-residents for agriculture or plantation activity.

**Existing Measures**