

CHAPTER III
SPECIFIC COMMITMENTS

Article 19
Market Access

1. With respect to market access through the modes of supply identified in Article 1(hh), a Party shall accord services and service suppliers of any other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.⁸

2. In sectors where market-access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:

- (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;⁹
- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

⁸ If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 1(hh)(i) and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 1(hh)(iii), it is thereby committed to allow related transfers of capital into its territory.

⁹ Subparagraph 2(c) does not cover measures of a Party which limit inputs for the supply of services.

- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

Article 20

National Treatment

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of any other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.¹⁰
2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of any other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of any other Party.

Article 21

Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Article 19 or Article 20, including those regarding qualifications, standards or licencing matters. Such commitments shall be inscribed in a Party's Schedule.

Article 22

Schedules of Specific Commitments

1. Each Party shall set out in a schedule the specific commitments it undertakes under Article 19, Article 20 and Article 21. With respect to sectors where such commitments are undertaken, each Schedule shall specify:
 - (a) terms, limitations and conditions on market access;

¹⁰ Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

- (b) conditions and qualifications on national treatment;
 - (c) undertakings relating to additional commitments;
 - (d) where appropriate the time-frame for implementation of such commitments; and
 - (e) the date of entry into force of such commitments.
2. Measures inconsistent with Article 19 shall be inscribed in the column relating to Article 19, and measures inconsistent with Article 20 shall be inscribed in the column relating to Article 20.
3. The Schedules shall be annexed to this Agreement and shall form an integral part thereof.

Article 23
Application and Extension of Commitments

1. Korea shall make a single schedule of specific commitments under Article 22 and shall apply this Schedule to all ASEAN Member Countries.
2. Each ASEAN Member Country shall make its individual schedule of specific commitments under Article 22 and shall apply this Schedule to Korea and the rest of the ASEAN Member Countries.

Article 24
Progressive Liberalisation

The Parties shall, at the reviews pursuant to Article 26, enter into successive rounds of negotiations to negotiate further packages of specific commitments under this Agreement so as to progressively liberalise trade in services between the Parties.

Article 25
Modification of Schedules

1. A Party may modify or withdraw any commitment in its Schedule, at any time after three years have elapsed from the date on which that commitment has entered into force, provided that:
- (a) it notifies the Parties as well as the Implementing Committee of its intention to modify or withdraw a commitment no later than three months before the intended date of implementation of the modification or withdrawal; and

(b) it enters into negotiations with any affected Party to agree to the necessary compensatory adjustment.

2. In achieving a compensatory adjustment, Parties shall ensure that the general level of mutually advantageous commitment is not less favourable to trade than provided for in the Schedules prior to such negotiations.

3. Any compensatory adjustment pursuant to this Article shall be accorded on a non-discriminatory basis to all Parties.

4. If the Parties concerned are unable to reach an agreement on the compensatory adjustment, the matter shall be resolved by arbitration¹¹. The modifying Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the arbitration.

5. If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitration, any Party that participated in the arbitration may modify or withdraw substantially equivalent benefits in conformity with those findings. Notwithstanding Article 23, such a modification or withdrawal may be implemented solely with respect to the modifying Party.