

Online Appendix

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Table A1: Extent of Korea's liberalisation, by mode of supply

Sector	Mode 1			Mode 2			Mode 3			Mode 4					
										Key Personnel*		CSS*		Grad. Trainees*	
	GATS	KorEU	KORUS	GATS	KorEU	KORUS	GATS	KorEU	KORUS	GATS	KorEU	GATS	KorEU	GATS	KorEU
Architectural, Engineering and other Technical Services	87	87	87	100	100	100	100	100	100	100	100	18	18	-	100
Distribution Services	86	86	88	93	93	94	90	90	91	93	93	0	0	-	0
Environmental Services	60	60	75	57	64	75	57	57	75	57	57	21	21	-	43
Legal, Accounting, Auditing, Book-keeping and Taxation services	61	64	64	61	64	64	50	50	50	66	82	9	9	-	0
Real Estate Services	0	25	25	25	25	25	25	25	25	25	25	0	0	-	0
Rental/Leasing Services without Operators	82	82	82	82	82	82	86	86	86	89	89	0	0	-	46
Research and Development Services	100	100	100	100	100	100	42	42	42	71	71	0	0	-	42
Tourist guides, Travel Agencies and Tour Operator services	100	100	100	100	100	100	100	100	100	100	100	0	0	-	0
Other Business Services	44	51	53	48	59	53	55	74	58	55	77	4	4	-	60
Hotels and Restaurants	0	13	0	90	90	90	90	90	90	90	90	0	0	-	0
Air and Space Transport	10	15	20	18	23	27	18	23	39	18	23	0	0	-	23
Water Transport Services	20	20	20	36	36	36	33	36	33	36	36	0	0	-	26
Postal & Courier Services	8	17	17	8	17	17	8	17	17	8	17	0	0	-	0
Rail and Road Transport Services	0	0	27	22	31	44	7	15	24	7	15	0	0	-	9
Other Transport and auxiliary transport services	25	25	25	44	44	44	50	50	50	50	50	0	0	-	50
Financial Services, Insurance and Pension Services	2	20	21	1	43	22	39	50	50	50	87	0	0	-	87
Construction and Related Services	n/a	n/a	n/a	100	100	100	50	100	100	100	100	0	0	-	100
Computer and Related Services	100	100	100	100	100	100	100	100	100	100	100	14	14	-	86
News agency services	0	50	50	0	100	100	0	50	50	0	100	0	0	-	0
Telecommunication services	64	64	64	82	82	82	64	64	64	82	82	0	0	-	14
Franchising	50	50	50	50	50	50	50	50	50	50	50	0	0	-	50
Audiovisual services	9	9	36	9	9	36	9	9	9	9	9	0	0	-	0
Educational Services	5	5	18	15	15	18	8	15	18	8	15	0	0	-	0
Medical and dental services	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0
Other Health Related and Social Services	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0
Recreational, Cultural and Sporting Services	0	3	24	11	13	26	5	8	32	5	8	0	0	-	3
Other Services n.e.c.	0	14	0	0	14	0	0	0	0	0	7	0	0	-	0

N.B. Scores range from 0 to 100 where 0 indicates unbound restrictions and 100 shows full commitment. The scores are simple averages across restrictions against Market Access and National Treatment. In some sectors (such as construction services) mode 1 is scheduled as 'unbound due to lack of technical feasibility'. These sectors have therefore been omitted from the scoring of mode 1.

The three categories of mode 4 covered in the agreements are the following:

(i) Key personnel (Intra-Corporate Transferees, Business Visitors and Business Service Sellers) (ii) Contractual Service Suppliers (CSS) (iii) Graduate Trainees (only covered in KorEU). Scores for mode 4 should only be evaluated with respect to the relatively limited provisions contained in the horizontal commitments in both agreements, and can therefore not be directly comparable with scored for modes 1-3. A score of 100 for mode 4 means no further restrictions than those specified in the horizontal sections apply. KorUS has been excluded from mode 4 scores as it does not contain any provisions with respect to Mode 4.

Table A2: Structure of Korea's mode 4 commitments in GATS and KorEU

Categories	GATS	KorEU
Intra-Corporate Transferees Eligible categories: * Senior personnel (Executives & Senior Managers) * Specialists	Entry and stay up to 3 years (with possibility of extension)	Entry and stay up to 3 years (with possibility of extension)
Graduate Trainees	<i>Not included in GATS</i>	Entry and stay up to one year
Business Visitors * Senior Personnel	Entry and stay up to 90 days	Entry and stay up to 90 days (in any 12 month period)
Business Services sellers	Entry and stay up to 90 days	Entry and stay up to 90 days (in any 12 month period)
Contractual Service Suppliers	Limited to duration of contract, not exceeding one year	<i>Same as in GATS</i>

Table A3: Korea's MFN exemptions in KorEU and KORUS

Exemption	KorEU	KORUS
Fisheries	X	X
Maritime matters, including salvage	X	X
Aviation	*	X
Auxiliary Air Transport Services	X	**
Disadvantaged Groups	X	X
Social Services	X	X
Broadcasting Services	X	X
Railroad Transportation	X	X
Passenger Road Transportation Services (Taxi services and Scheduled Passenger Road Transportation Services)	X	X
Freight Road Transportation Services (not including Road Transportation Services Related to Courier Services)	X	X
Internal Waterways Transportation Services and Space Transportation Services	X	X
Pre-Primary, Primary, Secondary, Higher and Other Education	X	X
Human Health Services	X	X
Motion Picture Promotion, Advertising or Post-Production Services	X	X
Maritime Passenger Transportation and Maritime Cabotage	X	X
Broadcasting and Audio-Visual Services	*	X
Digital Audio or Video Services	*	X

* These services are largely carved-out from KorEU

** Assumed to be covered by 'aviation' exemption

Scoring Methodology - Extended

Our analysis compares the extent of services trade liberalisation afforded by Korea in the EU-Korea FTA (KorEU),¹ the Korea-US FTA (KORUS),² and Korea's GATS commitments.³ The legally binding GATS schedule for Korea is still its original schedule submitted in 1994. However, Korea submitted a revised offer during the Doha Round in 2005 which never entered into force since the round was never completed. Despite this, in this study we use Korea's revised GATS schedule from 2005 as a base for our comparisons, for two key reasons. First, the 2005 version is more recent, and therefore more likely to accurately reflect Korea's current third-party policies. Second, the 2005 GATS version would have been available to both the EU and the US during their respective negotiations, and therefore this GATS version was likely used as a baseline in their negotiations.

Scheduling in KorEU and KORUS

The GATS and KorEU both use a positive list approach for services liberalisation. This means that sectors where liberalisation commitments are made must be explicitly 'opted in' by being listed in the schedule of commitments. Once a sector is opted in, a party can schedule any potential limitations to Market Access or National Treatment that they wish to retain. In contrast, KORUS uses a negative list. This is a 'List it or Lose it' approach whereby all services sectors are assumed to be committed, unless a specific reservation has been made for a particular sector. The parties can list any sectors where they want to retain non-conforming measures, but if a sector is not listed it is committed by default.⁴ The tables below (Table A4 and A5) give an example of a commitment in KorEU and a reservation in KORUS covering the same services sectors (brokerage and appraisal services). This shows the profound differences in scheduling between the two agreements.

In KorEU the first column states the sectors that have been committed (in this case, under the heading of 'Real Estate Services', only brokerage services and appraisal services were committed). This column also gives the relevant UN Central Product Classification System (CPC) codes⁵, where double asterisks indicate that the corresponding services sub-sectors only cover parts of the CPC codes specified. The next two columns schedule Korea's commitments with respect to Market Access (MA) and National Treatment (NT) for three of the four modes of supply (mode 4 has been excluded from this example for simplicity). Where 'None' is inscribed this means that the relevant mode of supply is fully committed to open trade in the service sub-sector in question.

KORUS takes the complete opposite approach since it is scheduling reservations rather than commitments. Here, the entire Real Estate sector *except* brokerage and appraisal services is scheduled in the 'Sector' description. It states which obligations the reservation applies to, and which modes of supply. It then gives a brief description of the measure. Notably, no CPC codes are provided.

¹ Accessed here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL&from=EN>

² Accessed here: <https://ustr.gov/trade-agreements/free-trade-agreements/korus-fta/final-text>

³ TN/S/O/KOR/Rev.1, 14 June 2005

⁴ This is not entirely true in the case of KORUS, as is discussed in more detail later on in this Appendix

⁵ United Nations, (1991). Statistical Paper series M, no. 77. Available at: <https://unstats.un.org/unsd/classifications/Family/Detail/9>

In essence, although the two entries look entirely different they achieve largely the same outcome.

Table A4: KorEU (L 127/1262-L 127/1263)

Sector or Sub-sector	Limitations on market access	Limitations on national treatment
Real Estate Services Brokerage services (CPC 82203**, 82204**, 82205**, 82206**)	<i>Mode 1</i>) Commercial presence is required <i>Mode 2</i>) None for real estate located abroad <i>Mode 3</i>) None	<i>Mode 1</i>) None <i>Mode 2</i>) None for real estate located abroad <i>Mode 3</i>) None
Appraisal services (CPC 82201**, 82202**) excluding appraisal services related to services supplied in the exercise of governmental authorities such as assessment of land prices and compensation for expropriation	<i>Mode 1</i>) Commercial presence is required <i>Mode 2</i>) None for real estate located abroad <i>Mode 3</i>) None	<i>Mode 1</i>) None <i>Mode 2</i>) None for real estate located abroad <i>Mode 3</i>) None

Table A5: KORUS (Annex II-Korea-31)

Sector:	Business Services - Real Estate Services (not including Real Estate Brokerage and Appraisal Services)
Obligations Concerned:	National Treatment (Art. 11.3 and 12.2) Performance Requirements (Art. 11.8) Local Presence (Art. 12.5)
Description:	<u>Cross-Border Trade in Services and Investment</u> Korea reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services, except for brokerage and appraisal services

Scoring methodology

We score each commitment according to three thresholds, 0, 50 or 100, where 0 indicates that a sector is fully unbound (potentially fully closed) and 100 indicates that a sector is fully committed (fully open). Due to the different approaches of services liberalisation, we need to adapt this methodology to suit both a positive and a negative list.

Table A6: Scoring methodology in GATS and KorEU

Commitment	Score
Full sector committed without limitations (i.e. limitations listed as 'none')	100
Partial limitations exist (limitations with qualifying texts)	50
Only part of a sector is committed	50
Unbound restrictions / sector not committed	0

Table A7: Scoring methodology in KORUS

Commitment	Score
Sector not mentioned in Annexes (committed by default)	100
All Annex I reservations (subject to standstill & ratchet and therefore considered bound)	50
Reservations in Annex II specifying particular, limited, restrictions	50
Reservations applying to only part of a sector	50
Reservations in Annex II that are effectively unbound in nature.	0

While both GATS and KorEU explicitly list some limitations as ‘unbound’, this terminology is largely not used in KORUS. Since reservations in Annex I of KORUS are subject to standstill and ratchet mechanisms they are effectively bound by default. However, Annex II contains reservations for future measures which, in some cases, appear unbound in nature. Annex II reservations using the wording “Korea reserves the right to adopt or maintain any measure (...)”, and applying it to a sector as a whole have been considered unbound for the purposes of this analysis.

In an ideal world, each reservation should be analysed according to its restrictiveness. For example, a limit on foreign ownership of 50% is clearly less restrictive than a limit of 10%, and so the two should ideally be scored differently to reflect this. However, this requires sectoral expertise, is very labour intensive and is still inherently subjective. This simpler approach avoids some of this subjectivity, but as a result this exercise should not be seen to give precise estimates of the exact degree of restrictiveness in a sector, but rather to give a sense of which sectors are more liberal than others and indicate whether trade agreements have made any considerable improvements on the GATS.

Further structural differences

There are some further structural differences between KORUS and KorEU/GATS which should be noted. First, KORUS does not distinguish between modes 1 and 2, as we saw in the earlier example it includes both modes under “Cross-Border Trade in Services”. This means that it is not possible to score mode 1 and 2 separately in KORUS. However, since mode 2 tends to be more liberal than the other modes in both GATS and KorEU, this risks creating spurious discrepancies between KorEU/GATS and KORUS. To avoid this, it has been assumed that wherever GATS contains a more liberal score with respect to mode 2 than KORUS does, the GATS score for mode 2 applies also in KORUS. This is to ensure that KORUS does not appear more restrictive than GATS when in practice the difference arises simply due to differences in scheduling approach.

Second, the chapter on investment (mode 3) in KORUS does not contain any provisions for Market Access. There are also no commitments on mode 4 in the KORUS agreement. It has therefore been assumed that Korea’s 2005 GATS commitments prevail in these dimensions.

Classification system

As seen in the example above, KorEU (and GATS) tend to reference each committed services sector with a corresponding classification code. The classification system is based on WTO’s services sectoral classification list (MTN.GNS/W/120),⁶ encompassing 12 broad services sectors and 160 more detailed sub-sectors, which in turn are based on the Provisional Central Product Classification (CPC) system from 1991.⁷ The CPC provisional contains 10 categories, of which categories 5 to 9 containing non-transportable goods and services are relevant for this analysis. At the most detailed level these categories contain a total of 675 CPC subclasses. We utilise these 675 CPC lines to map each reservation against the

⁶ The W/120 list can be accessed here: <http://i-tip.wto.org/services/default.aspx>

⁷ United Nations, 1991. Statistical Paper series M, no. 77 <https://unstats.un.org/unsd/classifications/Family/Detail/9>

associated sector, and then summarise this in accordance with WTO's W/120 list in order to arrive at our estimates.⁸

In some cases the commitments in KorEU are specified using an ISIC rev 3.1 classification. There is no direct conversion from ISIC rev 3.1. to CPC provisional, hence in these cases the sectors have been converted from ISIC rev 3.1 to CPC 1.1, and then from CPC 1.1 to CPC provisional in order to incorporate them into the analysis, albeit with a partial correspondence in many cases.

KORUS does not use the CPC system for sector classification; instead the sectors are specified purely by a textual description. Most likely this was an intentional decision in KORUS, perhaps to provide more flexibility in how a sector is defined. However, in the interest of being able to score the commitments in KORUS in a comparable way to those in the GATS and KorEU, the sectoral descriptions in KORUS have been mapped to the CPC classification system as far as possible. Although the sectoral descriptions often correspond well to the CPC, this process is inevitably less precise than it is for Korea's schedules in KorEU and GATS.

The relationship between Market Access and National Treatment

Although Market Access (MA) and National Treatment (NT) are scheduled as separate obligations, in reality there is considerable overlap between the two. The distinction becomes particularly problematic when a country schedules different commitments for MA and NT in the same sector. Muller (2017) provides a useful discussion of the complexities in evaluating the relationship between the two disciplines.⁹ For example, it is not entirely clear how to evaluate a commitment where MA is scheduled as 'unbound' but NT is scheduled as 'none'.

One option for evaluating such a commitment would be to simply follow the structure of the scheduling and consider each obligation separately;¹⁰ another alternative is to consider MA to have primacy over NT. The GATS itself provides no guidance as to how schedules should be interpreted in this regard, and the topic has been the subject of debate among WTO members. In this paper we have taken the latter approach and consider MA to prevail over NT in situations where the commitment in MA is more restrictive than NT. The reason for this is twofold;

- i) Article XX:2 of GATS states that where a measure is inconsistent with both MA and NT, such inconsistencies should be inscribed in the MA column but be considered to apply equally to NT as well. This suggests that MA has some primacy over NT.
- ii) An informative verdict by the WTO adjudicating panel appears to favour the interpretation that MA should have primacy over NT.¹¹

⁸ Some CPC codes are excluded from the scope of the W/120 list, such as 'Services provided in the exercise of governmental authority', certain telecom services (CPC 754), and some services related to financial assets and intellectual property (CPC 892 largely excluded).

⁹ Muller, G (2017), "[Troubled Relationships under the GATS: Tensions between Market Access \(Article XVI\), National Treatment \(Article XVII\), and Domestic Regulation \(Article VI\)](#)", *World Trade Review* (2017), 16: 3, 449–474

¹⁰ This is the approach taken in Magntorn and Winters (2018)

¹¹ See discussion in Muller (2017) on *China–Electronic Payments Services*

As a consequence, in evaluating the extent of liberalisation we assume that, for sectors where MA is less liberalised than NT, the MA limitations also affect NT even if these limitations are not specifically scheduled for NT. Thus, where MA is either unbound or committed with partial limitations, NT is also considered unbound or partially committed, as long as the original commitment for NT is not less liberal than that of MA.

The relationship between modes of supply

Another complex area is how to evaluate the interplay between modes of supply. The first thing to note is that we treat mode 4 separately from the other three modes of supply since the commitments in mode 4 are quite different from the other modes. The scores detailed in the paper are thus based on modes 1-3, while mode 4 is scored separately (as can be seen in table A1 in this Appendix).

While the modes of supply are committed separately, in reality a restriction made in one mode (e.g. mode 3) can affect the *de facto* extent of liberalisation in another mode (e.g. mode 1). In order to arrive at a single score for MA and NT, a decision must be made as to how to treat this interaction. One option, adopted in Magntorn and Winters (2018), is to use the most restricted mode of supply among modes 1-3, thereby capturing the potential impact that a limitation in one mode can have on the other modes of supply. This approach may, however, run the risk of under-estimating the *de facto* extent of liberalisation where the interaction between modes of supply is not so pronounced. Another option is to use a simple average across the three modes of supply. However, giving equal weight to all three modes may not be appropriate in cases where trade predominantly takes place through one or two specific modes.

A third option is to use a weighted average across the three modes of supply, giving more weight to the modes which are more important for a services sector. This is the approach taken, for example, in the calculations of the World Bank's Services Trade Restrictiveness Database¹², and is indeed also the approach we have taken in this paper. Identifying which modes of supply are relatively more important for a sector is not entirely straight forward since trade data by mode of supply are not readily available. However, in 2016, a European Commission paper published the first estimates for the EU's trade in services by modes of supply,¹³ across 12 services sectors and these were subsequently updated by Eurostat to incorporate more recent trade data.¹⁴

We use Eurostat's most recent estimates of EU's exports by mode of supply to construct our weights, as specified in table A8. A few things should be noted: First, the 12 sectors are largely consistent with the EBOPS services categories,¹⁵ which, for the purposes of our study, need to be converted into CPC

¹² See Borchert, I., Gootiiz, B., Mattoo, A., (2012), "Policy Barriers to International Trade in Services Evidence from a New Database", Policy Research Working Paper 6109, The World Bank
<http://documents.worldbank.org/curated/en/277401468331247210/pdf/WPS6109.pdf>

¹³ Rueda-Cantuche, J., Kerner, R., Cernat, L., Ritola, V., (2016), "Trade in Services by GATS Modes of Supply: Statistical Concepts and First EU Estimates", EU Directorate General for Trade
http://trade.ec.europa.eu/doclib/docs/2016/december/tradoc_155119.pdf

¹⁴ Eurostat, 'Services trade statistics by modes of supply', updated March 2019
https://ec.europa.eu/eurostat/statistics-explained/index.php/Services_trade_statistics_by_modes_of_supply

¹⁵ <https://www.oecd.org/sdd/its/EBOPS-2010.pdf>

provisional. Overall there is a fairly good correspondence to the CPC sectors¹⁶ used in our paper, but it is not perfect. For example, the ‘Travel’ category in EBOPS does not correspond well to the travel related categories in the CPC. The EBOPS ‘Travel’ sector captures services such as tourism, which are largely traded through mode 2, while the CPC sectors focus on services such as hotels and restaurants, traded through mode 3. We have therefore adjusted the weights for ‘travel’ to reflect this.

Second, the shares of trade by mode of supply include trade through mode 4. Since mode 4 is excluded in our scoring, we adjust the shares to exclude mode 4. Finally, we acknowledge that the 12 sectors for which trade by mode of supply exist are broad, and within each such sector there is likely to be some variation. However, as we do not currently have sufficiently detailed trade data by mode of supply we are unable to accurately account for such variations at the subsector level. There are, however, some instances where the trade agreements in question specifically state that trade under mode 1 is technically infeasible.¹⁷ In these cases, we have adjusted the weights to exclude mode 1 from the weighting.

Table A8: Weights used for scoring

Services category	Mode 1	Mode 2	Mode 3
Intellectual property	0.95		0.05
Transport	0.45	0.10	0.45
Other business services	0.45		0.55
Telecom., computer, information	0.30		0.70
Financial	0.25		0.75
Distribution Services	0.15		0.85
Insurance and pension	0.10		0.90
Personal, cultural, and recreational	0.10		0.90
Construction			1.00
Maintenance and repair		0.60	0.40
Travel			1.00
Manufacturing services		1.00	

N.B. Weights are based on [Eurostat statistics](#) on EU trade by mode of supply, rounded to the nearest 0.05, and adjusted to exclude mode 4. Note that the weight for ‘Travel’ has been adjusted for purposes of our study.

KORUS Annex II-Korea-10

There is a complex reservation in Korea’s Annex II in KORUS, which is critical to the evaluation of Korea’s liberalisation commitments in KORUS. This is a horizontal reservation (applying to all sectors) for Market Access in cross-border services trade. It states:

“Korea reserves the right to adopt or maintain any measure that is not inconsistent with Korea’s obligations under Article XVI of GATS as set out in Korea’s Schedule of Specific Commitments under the GATS (...)”

¹⁶ No direct conversion exist between EBOPS 2010 and CPC provisional. We have therefore converted the EBOPS sectors first to CPC 2.0, then from CPC 2.0 to CPC 1.1, and subsequently to CPC provisional.

¹⁷ The affected sectors are: Construction services; Hotel and Restaurants (excluding food serving services); Maritime cargo handling services; Storage and warehouse services in ports; Customs Clearance services; Container station services; Maintenance and repair of vessels; aircraft and rail; Tally, measuring and survey services; rail transport services; storage and warehouse services other than those in ports; waste water services; industrial refuse disposal services; building cleaning services.

This is significant as it gives Korea the right to limit its Market Access commitments in KORUS to the GATS level in the future. This contradicts the general framework of a negative list, by which any sector not explicitly listed is committed by default. Instead, this comprehensive Market Access exemption introduces a positive list element into the negative listing, whereby any sector not listed by Korea is no longer fully committed by default, but is actually no more committed for MA than Korea has allowed under its existing GATS commitments.

There are three qualifications attached to this reservation, which are introduced by stating that for the purposes of this element of KORUS only, Korea's GATS schedule should be modified in the following ways;

(a) Where Korea makes an Annex I reservation which does not list Market Access as an obligation concerned, then "None" (i.e. full commitment) is inscribed in the Market Access column for modes 1, 2 and 3 and "Unbound except as indicated in the Horizontal commitments section" is inscribed for mode 4.

Note that Korea makes reference to Market Access for both mode 3 and mode 4 here, even though the heading of the reservation only refers to cross-border trade in services, and MA is not committed for mode 3 or 4 elsewhere in the agreement. Taken at face value this suggests that Korea commits to no Market Access restrictions in any of the modes of supply (including mode 3 and 4) in those sectors listed in Annex I that do not have an explicit Market Access reservation entry (overall there are 23 such entries in Annex I, affecting roughly 120 separate CPC lines).

(b) Where Korea makes an Annex I reservation for Market Access, then the GATS schedule is modified in exactly the form of the Annex I reservation. Overall there are 24 such entries in Annex I (affecting approximately 90 CPC lines).

(c) Korea has also listed 10 subsectors (roughly 20 CPC lines) in Appendix II-A to Annex II in which it modifies (liberalises) its GATS commitments with respect to Market Access. Here Korea again makes reference to all four modes of supply.

The reservation further states that:

"These modifications shall not affect any limitations relating to subparagraph (f) of paragraph 2 of Article XVI of GATS inscribed in the Market Access column of Korea's Schedule."

Apart from these qualifications, Korea reserves the right to roll-back its level of MA liberalisation to the GATS level in the future. This brings down the score for KORUS significantly, compared with if a 'true' negative list had been applied. Overall, there are over 200 CPC lines (approximately 30% of all CPC subsectors) which would have been scored as 100 (fully committed) for mode 1 Market Access if a 'true' negative list applied, but which, due to this reservation, are instead scored at the lower 'GATS' level.

Korea has included this particular reservation in several of its other recent FTAs, for example those with Australia, New Zealand and Canada. Further, the US also included a similar reservation in its Annex II of

KORUS.¹⁸ In reality, applied MFN policies are likely to be more liberal than the GATS commitments, and therefore the impact of these reservations may be limited. On the other hand, this means that KORUS offers no defence against Korea rolling back its Market Access to a position more restrictive than it currently applies non-discriminatorily. Thus this Annex II reservation is a very considerable departure from the apparent liberality of KORUS's negative listing.

Adjustments to correct for inconsistencies

While we aim to follow the scheduling of each agreement in our scoring, on rare occasions we have had to make some adjustments to avoid misleading results. In general, there are two situations where we have made such adjustments to the scoring process. For transparency, these cases are summarised in this section.

First, in some cases KorEU and KORUS contain additional limitations on top of Korea's GATS schedule. Such cases of 'GATS-minus' are a relatively common feature of regional trade agreements (RTAs) in services. A study looking at 66 different RTAs show that 79% contained some form of horizontal GATS-minus provisions, and that 4% of all the sectoral commitments across the agreements were 'GATS-minus'.¹⁹ On average, Korea was shown to have approximately 5% sector-related GATS-minus provisions. In KORUS and KorEU we observe a number of such 'GATS-minus' commitments. We believe that the main reason for these inconsistencies is because the EU and USA put pressure on Korea to provide further clarification of its existing restrictions, by which transparency is improved for EU and US service suppliers wishing to engage in business in Korea. In these cases, it would not be correct to give KorEU and KORUS a more restrictive score than GATS. In the limited cases listed below in Box A1, we have therefore scored KorEU and KORUS at the same level as the GATS even though some additional restrictions are specified under the two FTAs.

Second, there are cases where the same restriction or commitment exist in both KorEU and KORUS, but it has been scheduled differently. For example, an identical reservation may be scheduled as a restriction against mode 3 in KorEU, but as a restriction against cross-border services trade in KORUS. If scored according to their scheduling, the scores in KorEU and KORUS would appear different while in reality the restrictions that apply are identical. To ensure consistency, for the cases listed in box A2 the scores have been adjusted to ensure that the same score is given in both KorEU and KORUS even if the restrictions are scheduled differently.

¹⁸ See Annex II-United States-8

¹⁹ Adlung, R., Miroudot, S., (2012), "Poison in the Wine? Tracing GATS-Minus Commitments in Regional Trade Agreements", 46 *Journal of World Trade*, Issue 5, pp. 1045-1082

Box A1: Inconsistencies between GATS and KorEU/KORUS

<p>Research and development services on natural sciences</p> <p><i>Obligation concerned:</i> National Treatment</p> <p><i>Issue:</i> KORUS and KorEU contain identical reservations for marine scientific research, not listed in GATS.</p>
<p>Rental Leasing Services without Operators (relating to ships), Rental of vessels with crew & Pushing and towing services</p> <p><i>Obligations concerned:</i> Market Access & National Treatment</p> <p><i>Issue:</i> KorEU contains an unbound reservation for the establishment of a registered company for the purpose of operating a fleet under the national flag of Korea, not listed in GATS.</p>
<p>Wholesale and retail trade services of alcoholic beverages</p> <p><i>Obligation concerned:</i> Market Access</p> <p><i>Issue:</i> KORUS and KorEU contain reservations for distribution services related to alcoholic beverages, not listed in GATS</p>
<p>Retail sales of pharmaceutical, medical and orthopaedic goods</p> <p><i>Obligation concerned:</i> Market Access</p> <p><i>Issue:</i> KORUS and KorEU contain reservation regarding optometry services, not listed in GATS</p>
<p>Food retailing services</p> <p><i>Obligation concerned:</i> Market Access and National Treatment</p> <p><i>Issue:</i> KORUS and KorEU exclude rice and red ginseng from scope of commitments, the same exception is not been explicitly made in GATS</p>

Box A2: Inconsistencies between KorEU and KORUS

<p>Investigation and security services</p> <p><i>Obligation concerned:</i> Market Access</p> <p><i>Issue:</i> The restriction entered against mode 3 in KorEU has been entered as a restriction against cross-border trade in KORUS</p>
<p>News Agency Services</p> <p><i>Obligation concerned:</i> Market Access</p> <p><i>Issue:</i> The restriction entered against mode 3 in KorEU has been entered as a restriction against cross-border trade in KORUS</p>
<p>Courier Services</p> <p><i>Obligation concerned:</i> Market Access</p> <p><i>Issue:</i> The restriction entered against mode 3 in KorEU has been entered as a restriction against cross-border trade in KORUS</p>
<p>Architectural Services</p> <p><i>Obligation concerned:</i> Market Access</p> <p><i>Issue:</i> The restriction entered against mode 1 Market Access in KorEU is entered against Local Presence in KORUS</p>
<p>Brokerage and Appraisal Services</p> <p><i>Obligation concerned:</i> Market Access</p> <p><i>Issue:</i> The restriction entered against mode 1 Market Access in KorEU is entered against Local Presence in KORUS</p>