

SERVICES

With the implementation of the U.S.-Korea FTA, U.S. service providers will gain improved access to the Korean market. Korea has made very substantial commitments to liberalize services trade, including telecommunications and financial services. These commitments significantly improve on Korea's WTO commitments in terms of sectors covered and elimination of restrictions. The Agreement establishes a solid framework for trade in services by providing for the elimination of obstacles in most services sectors and for improved regulatory transparency.

Why are services commitments important?

The services sector accounts for the majority of jobs in the United States and is the primary source of job creation. Thus, the services sector taken as a whole creates the dynamism, innovation, productivity and basis for future competitiveness of the U.S. economy. In 2007, private service industries accounted for 93.2 million jobs, which are about 80 percent of private non-farm employment. U.S. services exports are a vital part of this picture, and they continue to grow. In 2007, commercial services exports of \$479 billion accounted for 29 percent of total 2007 U.S. exports, generating a trade surplus of \$107 billion, which offset 13 percent of the U.S. merchandise trade deficit.

U.S. service firms are well-positioned relative to their competition abroad to take advantage of free trade agreements. The intensity and vigor of the U.S. market give rise to extremely competitive companies prepared to meet stringent demands at home and compete abroad. Consumers in Korea value services that help boost their own productivity and enhance their lives and look to the United States as a model in terms of providing high-quality and cutting-edge services and technologies.

The U.S.-Korea FTA Allows Service Providers to Choose Whether to Set Up an Office in Korea or Use Other Means to Provide Services – a Key Provision for SMEs.

Korea's commitments in services cover both the supply of services across the border (such as using electronic means to supply the service cross-border or through the travel of nationals), as well as the supply through investment and a local presence to supply the service. With limited exceptions, a U.S. company will not be required to incorporate or to make any form of local investment in order to supply services in Korea. This is a benefit to all U.S. service providers, especially SMEs, who may not have the resources or the volume of business to maintain a commercial presence in Korea.

The freedom for service providers to choose how to supply a service becomes increasingly important as technology reduces the role of distance as a services barrier. Providing education services through distance learning, for example, has undergone rapid development due to the Internet. Satellites and the Internet are transforming the world into borderless educational arena, benefiting both previously under-served potential students and education enterprises. Korea is among Asia's leaders in Internet use, which combined with a strong interest in university education in the United States, should offer U.S. suppliers of higher education services to Korean students over the Internet.

Barriers to Foreign Services Suppliers Removed

U.S. industry identified a number of Korean barriers affecting foreign service suppliers which the U.S.-Korea FTA will address. Removal of these barriers will improve market access and allow streamlining of operations by U.S. companies.

Sector-Specific Benefits for the Service Supplier

Korea greatly improved upon its WTO commitments in services, providing meaningful market access commitments that extend across virtually all major service sectors and include services supplied both cross-border (such as through electronic means) as well as through a commercial presence. One reason is that, as in all our FTAs, the U.S.-Korea FTA uses a negative list approach, which is more inclusive than the “positive list” approach used in the WTO General Agreement on Trade in Services (GATS). Thus under the FTA every sector is completely covered, unless an exception is listed and that trade disciplines are automatically extended to services that have yet to be created and brought to market.

U.S. service providers should benefit from U.S.-Korea FTA commitments in a number of key areas. Some examples are provided below.

Express Delivery Services

Significant progress was made in the area of express delivery services, where Korea provided greater and more secure access to international delivery services and charted a course for future reform on domestic services.

Entertainment (Audiovisual and Broadcasting)

Korea improved market access for broadcasting and audiovisual services, including a commitment to phase in over three years 100 percent foreign ownership of program providers for U.S. firms that establish a Korean subsidiary. Korea also committed to lock in all other content requirements at the lowest level allowed under current law, including the motion picture screen quota. Other commitments cover reducing content quotas and allowing expanded U.S. investment in these activities.

Legal Services

Korea made great strides in legal services by opening its market for the first time to foreign legal consultants and committing to phase in additional liberalization that will permit foreign lawyers to associate more freely with Korean lawyers and offer a broader range of services. Similar steps were taken in accounting services.

Health care and Education Services

Korea provided meaningful commitments in health care and education services, by guaranteeing that current care reforms in special economic zones will be maintained and by extending new market access commitments in the areas of higher education and distance adult education.

Business and Professional Services

The United States was able to meet the reasonable needs of Korean businesses for transparency concerning the U.S. certification and regulatory system for business and professional services, while preserving the authority of the States to certify and regulate business and professional service providers. The U.S. states play a crucial role in certifying and regulating providers of business and professional services doing business in their territory.

Insurance

U.S. insurance companies have long complained of the competitive advantage Korea Post (KP) and the sectoral cooperatives selling insurance receive. This Agreement brings KP activities in this sector into the financial services chapter and subjects them to meaningful obligations, which ensure that they are subject to many of the same requirements as the private sector in their sales of insurance products. KP will also not be allowed to issue new products. The Agreement ensures that the largest four insurance cooperatives: National Agricultural Cooperative Federation, the National Federation of Fisheries Cooperatives, the Korea Federation of Community Credit Cooperatives, and the National Credit Union Federation will be subject to regulatory oversight by the insurance regulator three years after entry into force of the Agreement. The Agreement also creates an obligation for the Financial Supervisory Commission to follow the notice and comment provisions of Korea's APA and creates a special Insurance Working Group which will meet annually.

Financial Services

Korea will allow U.S. providers to have full rights to establish subsidiaries or branches for banks or insurance providers. U.S.-based firms will be able to supply insurance on a cross-border basis, including through electronic means for key markets including reinsurance and reinsurance brokerage, marine, aviation and transport (MAT) insurance and brokerage and services auxiliary to insurance such as consultancy, risk assessment, claims settlement and actuarial services. U.S.-based banking and other non-insurance firms will be able to offer services cross-border in areas such as provision, transfer, and processing of financial data and information; related software; and the provision of advisory and other auxiliary financial services, excluding intermediation.

U.S.-based asset managers, including insurance companies, will be able to provide investment advice and other portfolio management services to mutual funds and pension funds, including the funds that manage the portfolios of collective investment schemes established in Korea.

The Agreement also includes a number of key Specific Commitments which will remove many of the discriminatory practices that U.S. financial services firms have long complained about. These include the ability for U.S. based financial services firms to do cross-border data processing of client accounts two years after entry into force of the Agreement, subjecting the Korea Development Institute (KIDI), Korea's insurance rating agency, the Korean Non-Life Insurance Association (KNLIA), the Korean Life Insurance Association (KLIA) to the disciplines of national treatment and most-favored nation when they are exercising delegated regulatory authority.