

CHAPTER EIGHT

TRADE IN SERVICES

Article 8.1: Definitions

For purposes of this Chapter:

aircraft repair and maintenance services means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance;

airport operation services means the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services;

commercial presence means any type of business or professional establishment, including through

- (a) the constitution, acquisition or maintenance of a juridical person; or
- (b) the creation or maintenance of a branch or a representative office,

within the territory of a Party for the purpose of supplying a service;

computer reservation system services means services provided by computerized systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

direct taxes comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation;

juridical person means any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association;

juridical person of the other Party means a juridical person which is either:

- (a) constituted or otherwise organized under the law of that other Party, and is engaged in substantive business operations in the territory of that Party; or
- (b) in the case of the supply of a service through commercial presence, owned or controlled by:
 - (i) natural persons of that other Party; or
 - (ii) juridical persons of that other Party identified under subparagraph (a);

a juridical person is:

- (a) **owned** by persons of a Party if more than 50 percent of the equity interest in it is beneficially owned by persons of that Party;
- (b) **controlled** by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions; or
- (c) **affiliated** with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

measures by a Party means measures taken by:

- (a) central, regional, or local governments and authorities; and
- (b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities;

In fulfilling its obligations and commitments under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory;

measures by a Party affecting trade in services includes measures in respect of:

- (a) the purchase, payment, or use of a service;
- (b) the access to and use of, in connection with the supply of a

service, services which are required by the Party to be offered to the public generally; and

- (c) the presence, including commercial presence, of persons of the other Party for the supply of a service in its territory;

monopoly supplier of a service means any person, public or private, which in the relevant market of the territory of a Party is authorized or established formally or in effect by that Party as the sole supplier of that service;

natural person of a Party means a natural person who is a national of a GCC Member State or Korea, according to their respective legislation;¹

person means either a natural person or a juridical person;

sector of a service means,

- (a) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule; or
- (b) otherwise, the whole of that service sector, including all of its subsectors;

selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising, and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;

services includes any service in any sector except services supplied in the exercise of governmental authority;

service consumer means any person that receives or uses a service;

service of the other Party means a service which is supplied:

- (a) from or in the territory of that other Party, or in the case of maritime transport, by a vessel registered under the laws of that

¹ Notwithstanding the definition of **natural person of a Party**, between Korea and the UAE, **natural person of a Party** means a natural person who is a national or permanent resident of Korea or the UAE, according to their respective legislation. Regarding the UAE, the term **permanent resident** means any natural person who possesses a valid residency permit under the laws and regulations of the UAE. For purposes of this Chapter and its Annexes, the aforementioned term **permanent resident** shall exclude natural persons who are in possession of foreign student residency, foreign retiree residency, remote working residency, domestic worker residency, and foreign dependents residency permits.

other Party, or by a person of that other Party which supplies the service through the operation of a vessel and/or its use in whole or in part; or

- (b) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

a service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers;

service supplier means any person that supplies or seeks to supply a service;²

supply of a service includes the production, distribution, marketing, sale, and delivery of a service;

trade in services means the supply of a service:

- (a) from the territory of a Party into the territory of the other Party (cross-border);
- (b) in the territory of a Party to the service consumer of the other Party (consumption abroad);
- (c) by a service supplier of a Party, through commercial presence in the territory of the other Party (commercial presence); or
- (d) by a service supplier of a Party, through presence of natural persons of a Party in the territory of the other Party (presence of natural persons); and

traffic rights means the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

² Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (*i.e.*, the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Chapter. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

Article 8.2: Scope and Coverage

1. This Chapter shall apply to measures by a Party affecting trade in services.
2. This Chapter shall not apply to:
 - (a) a service supplied in the exercise of governmental authority within the territory of each respective Party;
 - (b) government procurement;
 - (c) in respect of air transport services, measures affecting air traffic rights, however granted; or measures affecting services directly related to the exercise of air traffic rights, other than measures affecting:
 - (i) aircraft repair and maintenance services;
 - (ii) the selling and marketing of air transport services;
 - (iii) computer reservation system services; or
 - (iv) airport operation services; or
 - (d) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.
3. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.
4. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons, across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of a specific commitment.³
5. For purposes of this Chapter, Annex 8-A, Annex 8-B, Annex 8-C, Annex 8-D-1, and Annex 8-D-2 are an integral part of this Chapter.

³ The sole fact of requiring a visa for natural persons of the other Party and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

Article 8.3: Market Access

1. With respect to market access through the modes of supply identified in the definition of **trade in services** in Article 8.1, each Party shall accord services and service suppliers of the other Party treatment no less favorable than that provided for under the terms, limitations, and conditions agreed and specified in its Schedule of Specific Commitments.⁴

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 of Specific Commitments, 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;⁵
- (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

⁴ If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (a) of the definition of **trade in services** in Article 8.1 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 subparagraph (c) of the definition of **trade in services** in Article 8.1, it is thereby committed to allow related transfers of capital into its territory.

⁵ Subparagraph (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 8.4: National Treatment

1. In the sectors inscribed in its Schedule of Specific Commitments, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favorable than that it accords to its own like services and service suppliers.⁶

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of the 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 favorable if it modifies the conditions of competition in favor of services or service suppliers of a Party compared to like services or service suppliers of the other Party.

Article 8.5: Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 8.3 or 8.4, including those regarding qualifications, standards, or licensing matters. Such commitments shall be inscribed in a Party's Schedule of Specific Commitments.

Article 8.6: Most-Favored-Nation Treatment

If, after the date of entry into force of this Agreement, a Party enters into an agreement notified under Article V or Article V *bis* of the GATS, it shall upon

⁶ 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.

request from the other Party afford adequate opportunity to that Party to negotiate the benefits granted therein.

Article 8.7: Schedules of Specific Commitments

1. Each Party shall set out in a schedule the specific commitments it undertakes under Articles 8.3, 8.4, and 8.5. With respect to sectors where such commitments are undertaken, each Schedule of Specific Commitments shall specify:

- (a) terms, limitations, and conditions on market access;
- (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 both Articles 8.3 and 8.4 shall be inscribed in the column relating to Article 8.3. In this case, the inscription will be considered to provide a condition or qualification to Article 8.4 as well.

Article 8.8: Modification of Schedules

1. A Party (referred to in this Article as the “modifying 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 entered into force, in accordance with the provisions of this Article. A modifying Party shall notify its intent to modify or withdraw a commitment pursuant to this Article to the other Party no later than three months before the intended date of implementation of the modification or withdrawal.

2. At the written request of a Party the benefits of which under this Chapter may be affected (referred to in this Article as an “affected Party”)⁷ by a proposed modification or withdrawal notified under paragraph 1, the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment within six (6) months

⁷ The affected Party shall deliver to the modifying Party a written request for initiation of consultations and negotiations.

of the date of receipt of the written request. In such negotiations and agreement, the affected Party and the modifying Party shall endeavor to maintain a general level of mutually advantageous commitments not less favorable to trade than that provided for in Schedules of Specific Commitments prior to such negotiations. The Joint Committee shall be kept informed of the outcome of the negotiations.

3. If agreement is not reached between the affected Party and the modifying Party within six (6) months of the date of receipt of the written request referred to in paragraph 2, the affected Party may initiate the dispute settlement proceedings set out in Chapter Fifteen (Dispute Settlement).

4. If the affected Party does not initiate the dispute settlement proceedings set out in Chapter Fifteen (Dispute Settlement) sixty (60) days of the expiration date of the period referred to in paragraph 3, the modifying Party shall be free to implement the proposed modification or withdrawal.

5. The modifying Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the arbitration panel established under Chapter Fifteen (Dispute Settlement).

6. If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitration panel established under Chapter Fifteen (Dispute Settlement), the affected Party that participated in the arbitration under Chapter Fifteen (Dispute Settlement) may modify or withdraw substantially equivalent benefits in conformity with those findings.

Article 8.9: Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective, and impartial manner.

2. Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. The provisions of paragraph 2 shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

4. Where authorization is required for the supply of a service on which a specific commitment has been made, the competent authorities of a Party shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Party shall provide, without undue delay, information concerning the status of the application.

5. With a view to ensuring that domestic regulations, including measures relating to qualification requirements and procedures, technical standards and licensing requirements, do not constitute unnecessary barriers to trade in services, while recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet national policy objectives, each Party shall endeavor to ensure, as appropriate for individual sectors, that such measures are:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the service; and
- (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

6. The disciplines in the Reference Paper on Services Domestic Regulation (November 26, 2021, INF/SDR/2), shall, *mutatis mutandis*, be incorporated into and made part of the Schedules of Specific Commitments referred to in Article 8.7 of all Parties that are participants in the WTO Joint Initiative on Services Domestic Regulation as additional commitments on the next day after the improved GATS schedules of all those Parties to incorporate the disciplines enter into force.⁸

7. Pending the incorporation of disciplines pursuant to paragraph 6, in sectors where a Party has undertaken specific commitments and subject to any terms, limitations, conditions or qualifications set out in its Schedule of Specific Commitments, that Party shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific

⁸ For greater certainty, this paragraph shall only apply to a Party to this Agreement which is participant in the WTO Joint Initiative on Services Domestic Regulation. For purposes of this Article, (i) the disciplines in the Reference Paper on Services Domestic Regulation shall not apply to a sector or measure to the extent that such sector or measure is not subject to Article 8.3 or Article 8.4 by reason of such Party's commitments made in accordance with Article 8.7; and (ii) paragraphs 14-19, entitled "Opportunity to Comment and Information before Entry into Force" of Section II of the Reference Paper on Services Domestic Regulation shall only apply to sectors for which such a Party has undertaken specific commitments under the GATS.

commitments in a manner which:

- (a) does not comply with the criteria outlined in subparagraphs 5(a), 5(b) or 5(c); and
- (b) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

8. In determining whether a Party is in conformity with the obligation under paragraph 7, account shall be taken of international standards of relevant international organizations⁹ applied by that Party.

9. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professional of the other Party.

Article 8.10: Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of services suppliers, and subject to the requirements of paragraph 3, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate its accession to such an agreement or arrangement or to negotiate a comparable one with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licenses, or certifications obtained or requirements met in that other Party's territory should be recognized.

3. Neither Party may accord recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing, or certification of service suppliers, or a disguised restriction on trade in services.

4. Each Party shall endeavor to encourage its relevant competent bodies

⁹ The term "relevant international organizations" refers to international bodies whose membership is open to the relevant bodies of the Parties.

to enter into negotiations on recognition of professional qualifications, licenses, or registration procedures with a view to the achievement of early outcomes.

5. Any arrangement reached between relevant competent bodies pursuant to paragraph 4 shall be consistent with this Article.

Article 8.11: Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's specific commitments.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraph 1 or 2, that Party may request the other Party establishing, maintaining, or authorizing such supplier to provide specific information concerning the relevant operations.

4. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

- (a) authorizes or establishes a small number of service suppliers; and
- (b) substantially prevents competition among those suppliers in its territory.

Article 8.12: Business Practices

1. The Parties recognize that certain business practices of service suppliers, other than those falling under Article 8.11, may restrain competition and thereby restrict trade in services.

2. A Party shall, at the request of the other Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The Party addressed shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential

information of relevance to the matter in question. The Party addressed shall also provide other information available to the requesting Party, subject to its domestic law and to the conclusion of satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Party.

Article 8.13: Payments and Transfers

1. Except under the circumstances envisaged in Article 8.14, a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.
2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund under the *Articles of Agreement of the International Monetary Fund* (hereinafter referred to as the “Articles of Agreement”), including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 8.14 or at the request of the International Monetary Fund.

Article 8.14: Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance of payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments. It is recognized that particular pressures on the balance of payments of a Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its program of economic development or economic transition.
2. The restrictions referred to in paragraph 1:
 - (a) shall not discriminate between the other Party and non-Party;
 - (b) shall be consistent with the Articles of Agreement;
 - (c) shall avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
 - (d) shall not exceed those necessary to deal with the circumstances described in paragraph 1; and

- (e) shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

3. In determining the incidence of such restrictions, a Party may give priority to the supply of services which are more essential to its economic or development programs. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

4. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the Committee on Trade in Services.

5. The Party adopting any restrictions under paragraph 1 shall commence consultations with the other Party in order to review the restrictions adopted by it.

Article 8.15: Transparency

1. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Chapter. International agreements pertaining to or affecting trade in services to which a Party is a signatory shall also be published.

2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.

3. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1. Each Party shall also use the existing enquiry points or, if they do not exist, establish one or more enquiry points to provide specific information to the other Party, upon request, on all such matters.

Article 8.16: Disclosure of Confidential Information

Nothing in this Chapter shall require any Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Article 8.17: Denial of Benefits

1. Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is a juridical person owned or controlled by persons of a non-Party, and the denying Party:

- (a) does not maintain:
 - (i) normal economic relations with the non-Party if the denying party is Korea;
 - (ii) diplomatic relations with the non-Party if the denying party is a GCC member state; or
- (b) adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person.

2. Subject to prior notification and consultation, a Party may deny the benefits of this Chapter:

- (a) to the supply of a service, if it establishes that the service is supplied from or in the territory of a non-Party;
- (b) in the case of the supply of a maritime transport service, if it establishes that the service is supplied:
 - (i) by a vessel registered under the laws of a non-Party; and
 - (ii) by a person which operates and/or uses the vessel in whole or in part but which is of a non-Party;
- (c) to a service supplier of the other Party, if it establishes that the service supplier is a juridical person owned or controlled by persons of a non-Party or of the denying Party that has no substantial business activities in the territory of the other Party.

Article 8.18: Committee on Trade in Services

1. The Parties hereby establish a Committee on Trade in Services (referred to as the “Committee” in this Chapter) that shall meet on the request of either Party or the Joint Committee to consider any matter arising under this Chapter.

2. The Committee's functions shall include:
 - (a) reviewing the implementation and operation of this Chapter;
 - (b) identifying and recommending measures to promote trade in services between the Parties; and
 - (c) considering other trade in services issues of interest to a Party.