South Korea

RISK & COMPLIANCE REPORT

DATE: March 2018

KNOWYOURCOUNTRY.COM

Executive Summary - South Korea	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas	Not on EU White list equivalent jurisdictions
Medium Risk Areas:	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Corruption Index (Transparency International & W.G.I.)) Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

rice, root crops, barley, vegetables, fruit; cattle, pigs, chickens, milk, eggs; fish

Industries:

electronics, telecommunications, automobile production, chemicals, shipbuilding, steel

Exports - commodities:

semiconductors, wireless telecommunications equipment, motor vehicles, computers, steel, ships, petrochemicals

Exports - partners:

China 24.4%, US 10.1%, Japan 7.1% (2011 est.)

Imports - commodities:

machinery, electronics and electronic equipment, oil, steel, transport equipment, organic chemicals, plastics

Imports - partners:

China 16.5%, Japan 13%, US 8.5%, Saudi Arabia 7.1%, Australia 5% (2011 est.)

Investment Restrictions:

The Foreign Investment Promotion Act (FIPA) is the basic law pertaining to foreign investment in Korea. FIPA and related regulations categorize business activities as either open, conditionally or partly restricted, or closed to foreign investment. Restrictions remain for 27 industrial sectors, three of which are entirely closed to foreign investment.

The following is a current list of Restricted Sectors for Foreign Investment. Figures in parentheses denote the Korean Industrial Classification Code:

Completely Closed

- Nuclear power generation (35111)
- Radio broadcasting (60100)
- Television broadcasting (60210)

Restricted Sectors (partly open not more than 25 percent)

- News agency activities (63910)

Restricted Sectors (partly open not more than 30 percent)

- Hydro electronic power generation (35112)
- Thermal power generation (35113)
- Other power generation (35119)

Restricted Sectors (partly open less than 30 percent)

- Publishing of newspapers (58121)

Restricted Sectors (partly open less than 49 percent)

- Satellite and other broadcasting (60229)
- Program distribution (60221)
- Cable networks (60222)
- Wired telephone and other telecommunications (61210)
- Mobile telephone and other telecommunications (61220)
- Satellite telephone and other telecommunications (61230)
- Other telecommunications (61299)

Restricted Sectors (partly open not more than 50 percent)

- Farming of beef cattle (01212)
- Inshore and coastal fishing (03112)
- Transmission/distribution of electricity (35120)
- Wholesale of meat (46312)
- Coastal water passenger transport (50121)
- Coastal water freight transport (50122)
- Publishing of magazines and periodicals (58122)

Open but Regulated under the Relevant Laws

- Growing of cereal crops and other food crops except rice and barley (01110)
- Domestic commercial banking except special banking area (64121)
- Radioactive waste collection, transportation, and disposal except radioactive waste management (38240)
- Other inorganic chemistry production except fuel for nuclear power generation (20129)
- Other nonferrous metals refining, smelting, and alloying (24219)

In categories open to investment, foreign exchange banks must be notified in advance of applications for foreign investment.

Contents

Section 1 - Background

An independent kingdom for much of its long history, Korea was occupied by Japan beginning in 1905 following the Russo-Japanese War. In 1910, Tokyo formally annexed the entire Peninsula. Korea regained its independence following Japan's surrender to the United States in 1945. After World War II, a democratic-based government (Republic of Korea, ROK) was set up in the southern half of the Korean Peninsula while a communist-style government was installed in the north (Democratic People's Republic of Korea, DPRK). During the Korean War (1950-53), US troops and UN forces fought alongside ROK soldiers to defend South Korea from a DPRK invasion supported by China and the Soviet Union. A 1953 armistice split the peninsula along a demilitarized zone at about the 38th parallel. PARK Chung-hee took over leadership of the country in a 1961 coup. During his regime, from 1961 to 1979, South Korea achieved rapid economic growth, with per capita income rising to roughly 17 times the level of North Korea. South Korea held its first free presidential election under a revised democratic constitution in 1987, with former ROK Army general ROH Tae-woo winning a close race. In 1993, KIM Young-sam (1993-98) became South Korea's first civilian president. South Korea today is a fully functioning modern democracy. LEE Myung-bak (2008-2013) pursued a policy of global engagement , highlighted by Seoul's hosting of the G-20 summit in November 2010 and the Nuclear Security Summit in March 2012. South Korea also secured a non-permanent seat (2013-14) on the UN Security Council and will host the 2018 Winter Olympic Games. President PARK Geun-hye took office in February 2013 and is South Korea's first female leader. Serious tensions with North Korea have punctuated inter-Korean relations in recent years, including the North's sinking of the South Korean warship Cheonan in March 2010 and its artillery attack on South Korean soldiers and citizens in November 2010.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

South Korea is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

At its June 2014 meeting, the FATF Plenary recognised that Korea had made sufficient progress in addressing the deficiencies identified in its 2009 mutual evaluation report, and could be removed from the regular follow-up process.

In June 2009, when Korea's mutual evaluation report was adopted, the FATF Plenary concluded that Korea did not yet meet all of the FATF's membership criteria. The key element for membership is a sufficient level of compliance with the FATF Recommendations.

Korea adopted an action plan to address the deficiencies of its MER and strengthen its AML/CFT measures so that it would meet FATF's requirements. Consequently, at its October 2009 meeting, the FATF Plenary welcomed Korea as a member of the FATF, and placed the country in the follow-up process as a result of the partially compliant and non-compliant ratings for certain key and core Recommendations in its mutual evaluation report.

Korea reported back to the FATF Plenary on a regular basis on the progress it had made in implementing the action plan. In June 2014, the FATF Plenary decided that it had taken sufficient measures to bring its AML/CFT system in line with the FATF Recommendations. The follow-up report contains a detailed description and analysis of the actions taken by Korea in respect of all of the Recommendations rated partially compliant and non-compliant.

Significant measures taken in respect of the key and core Recommendations are:

- Amendments to the Proceeds of Crime Act to extend the predicate offences for money laundering to terrorist financing, offences criminalised in the Copy Right Act and the Computer Programs Protection Act, environmental crimes and immigration and passport offences.
- Amendments to the Financial Transaction Report Actto:
- Expand the range of sanctions against financial institutions for failure to comply with the AML/CFT obligations and strengthen the requirements on internal procedures and control.
- Abolish the threshold for reporting suspicious transactions and introduce obligations with respect to wire transfers.
- Strengthen the provisions in relation to the identification of the customer and beneficial owner, regulate the situation where the financial institution is not

able to complete the CDD obligations, and increase the amount of the penal sanction in case of violation of the STR and CTR obligations.

- Provide the Korean Financial Intelligence Unit with the power to issue regulations with respect to the implementation of the Financial Transaction Report Act.
- The adoption in 2010 of the AML/CFT Regulation to replace previous guidelines, which did not meet the FATF criteria for ‘other enforceable means’.
- Amendments to the existing Prohibition of Financing for Offences of Public Intimidation Act to address the criminalisation of terrorist financing, the mechanism for terrorist assets freezing and to include provisions related to weapons of mass destruction. The Act is now called Prohibition on the Financing of Offences of Public Intimidation and Proliferation of Weapons of Mass Destruction.

US Department of State Money Laundering assessment (INCSR)

South Korea was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

The Republic of Korea (South Korea) has an advanced economy that is dominated by large industrial companies. It is not an offshore banking center. While organized crime does not have a large profile, it is linked to the Japanese yakuza. There also are reports that Korean criminals tried to connect with counterparts in the Chinese triads and Nigerian gangs. Most money laundering in South Korea is associated with domestic criminals, official corruption, and ethnic Koreans living abroad. Drug smuggling in South Korea has increased in recent years. In 2015, $174.8 million of banned substances were confiscated, up 42 percent from a year earlier.

South Korean officials have uncovered numerous underground banking systems being used by South Korean nationals, North Korean defectors, and foreign national workers from China and Southeast Asian and Middle Eastern countries. Reports indicate North Korean defectors living in South Korea are remitting more than $10 million per year to family members in North Korea through illegal banking systems between South Korea and China.

Gambling is legal but highly regulated and limited to non-citizens. The country has eight free economic zones (FEZs), with Incheon International Airport wholly incorporated into one of the zones. While companies operating in FEZs enjoy certain tax and tariff privileges, they are subject to the same general laws on financial transaction reporting as companies operating elsewhere in the country. Korea mandates extensive entrance screening to determine companies’ eligibility to participate in FEZ areas, and firms are subject to standard disclosure rules and criminal laws.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
"All serious crimes" approach or "list" approach to predicate crimes:
List approach Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES: Enhanced due diligence procedures for PEPs:
Foreign: NO Domestic: NO KYC covered entities: Banks, exchange houses, stock brokerages, casinos, insurance companies, merchant banks, mutual savings banks, finance companies, credit unions, credit cooperatives, trust companies, and securities companies

REPORTING REQUIREMENTS: Number of STRs received and time frame: 245,600: January – July 2014 Number of CTRs received and time frame: 3,867,976: January – July 2014 STR covered entities: Banks, exchange houses, stock brokerages, casinos, insurance companies, merchant banks, mutual savings banks, finance companies, credit unions, credit cooperatives, trust companies, and securities companies

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS: Prosecutions: Not available
Convictions: Not available

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: YES Other mechanism: YES
With other governments/jurisdictions: YES

The Republic of Korea is a member of the FATF and the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Korea Financial Intelligence Unit is concentrating on corporate and political fraud, but has started to look at organized crimes, including narcotics-related money laundering. The Korean National Police Agency and the Korean banking sector have been cooperative in joint money laundering investigations with U.S. law enforcement.

In 2013, South Korean prosecutors detained and charged a Korean American with the illegal transfer of approximately $1 billion in restricted Iranian money frozen in South Korea pursuant to U.S. and international sanctions. Korean authorities have placed a travel restriction on the person in question and ordered him to pay 50 million won (approximately $45,480) in penalties, which he has not paid to date. The Korean National Tax Service has another ongoing case against the person in question for tax evasion/fraud.

The Government of the Republic of Korea should expand its active participation in international AML/CFT efforts by becoming a party to the UN Convention against Transnational Organized Crime. The government should release the number of AML/CFT prosecutions and convictions to better gauge the effectiveness of its efforts.

EU Tax Blacklist

South Korea was removed from the EU Tax Blacklist on 23 January 2018 following "commitments made at a high political level to remedy EU concerns".

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, South Korea does not conform with regard to the following government legislation: -

States Party to United Nations Transnational Organised Crime Convention - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

EU White list of Equivalent Jurisdictions

South Korea is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

South Korea is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2013:

Narcotics production and abuse is a minor problem in Republic of Korea. South Korea has very strict laws regarding illicit drugs. Conviction for possessing, using, or trafficking illicit drugs can result in long jail sentences and large fines. Anomalously, because of its reputation for not having a drug abuse problem, South Korea is favored as a transshipment location for drug traffickers. With one of the region's largest ports, Busan, located on its Southeast tip, South Korea remains an attractive location for illegal drug transshipments coming from countries that are more likely to attract a contraband inspection upon arrival. Some narcotics smuggled through South Korea are en route to the United States. South Korea is a party to the 1988 U.N. Drug Convention.

As a matter of government policy, South Korea does not encourage or facilitate illicit drug production or distribution, nor is it involved in laundering the proceeds of the sale of illicit drugs. According to the ROK Customs Service, there were 546 drug interdictions of persons, carriers, cargo, and mail into and out of the country in the first eight months of 2011, resulting in the seizure of approximately 25 kg of illicit drugs. The number of interdictions during the first eight months increased by approximately five times over the first six months of last year. The drugs seized included methamphetamine, marijuana, hashish, and previously rarely seen substances such as cocaine, MDMA (methylenedioxymethamphetamine), JWH-018-artificial marijuana, and other synthetic prescription drugs.

According to the Supreme Prosecutors' Office, Korean authorities arrested 4,228 individuals for drug violations in the first six months of 2011, an approximately 9.5 percent decrease from 4,673 arrests in the same period last year. Of the arrests, 63.1 percent were for use, 22.1 percent were for supply, and 5.6 percent were for possession of illicit drugs. Synthetic psychotropic drugs continued to be the most widely used illicit drugs, accounting for approximately 73.9 percent of drug arrests. Marijuana seizures were 72.8 kg, an approximate 97% increase from 36.9 kg in the same period last year. Each District Prosecutor's Office, in conjunction with local governments, conducts annual surveillance into suspected marijuana growing areas during planting or harvesting time periods to limit possible illicit diversion. According to the Supreme Prosecutors' Office, as of September this year, Korean authorities had seized 70,864 marijuana plants. Some traditional Korean garments are made from the hemp of marijuana plants. Hemp production is illegal, but the Korean Food and Drug Administration issues licenses to farms that produce traditional Korean garments. This year Korean authorities conducted a crackdown on unlicensed hemp farms and many owners have abandoned their farms, resulting in a spike of marijuana plant seizures. Opium poppy production is also illegal in South Korea, but poppy continues to be grown in Gyeonggi Province where farmers have traditionally used the harvested plants as a folk medicine to treat sick pigs and cows. Opium is not normally processed from these plants for human consumption. Korean authorities continue surveillance of these opium poppy-growing areas. According to the Supreme Prosecutors' Office, as of September this year, Korean authorities seized 37,270 opium poppy plants.

The South Korean authorities remain mindful of the challenges they face in combating transshipment of illicit drugs in and out of the country and actively engage with law enforcement authorities from other countries in drug control efforts through various regional and international organizations. The Drug Enforcement Administration (DEA) Seoul Country Office and U.S. Immigration and Customs Enforcement, Homeland Security Investigations (HSI) officials continue to work closely with South Korean narcotics law enforcement authorities on international drug interdiction, seizures of funds and assets related to illicit narcotics trafficking, and the diversion of precursor chemicals in South Korea and in the Far East region.

US State Dept Trafficking in Persons Report 2016 (introduction):

South Korea is classified a Tier 1 country – a country whose governments fully complies with the Trafficking Victims Protection Act's (TVPA) minimum standards.

The Republic of Korea (ROK or South Korea) is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. South Korean women are subjected to forced prostitution in South Korea and abroad. Some South Korean women enter destination countries on tourist, work, or student visas, and are forced into prostitution in massage parlors, salons, bars, restaurants, or through internet-advertised escort services. Some victims who owe debts to entertainment establishment owners or loan sharks are forced into prostitution. Some disabled or intellectually disabled Korean men are forced to work on salt farms where they experience verbal and physical abuse, non-payment of wages, long work hours, and poor working and living conditions. South Korean children are vulnerable to sex trafficking and commercial sexual exploitation through online recruitment. In need of money for living expenses and shelter, some runaway girls are subjected to sex trafficking.

Men and women from China, the Philippines, Vietnam, Indonesia, and other countries in Asia, the Middle East, and South America are subjected to forced labor in South Korea; some women from these regions are subjected to forced prostitution. Migrant workers, especially those from Vietnam, China, and Indonesia, can incur thousands of dollars in debt, contributing to their vulnerability to debt bondage. Approximately 500,000 low-skilled migrant workers, many employed under the government's employment permit system, work in fishing, agriculture, livestock, restaurants, and manufacturing; some of these workers face conditions indicative of forced labor. Some foreign women on E6-2 entertainment visas—mostly from the Philippines, China, and Kyrgyzstan—are subjected to forced prostitution in entertainment establishments near ports and U.S. military bases. Some women from China, Vietnam, Thailand, the Philippines, and Cambodia who are recruited for marriage to South Korean men through international marriage brokers are subjected to forced prostitution or forced labor after their arrival. South Korean men engage in child sex tourism in Vietnam, Cambodia, Mongolia, and the Philippines. The ROK is a transit point for Southeast Asian fishermen subjected to forced labor on fishing ships bound for Fiji and other ports in the Pacific.

The Government of the Republic of Korea fully meets the minimum standards for the elimination of trafficking. During the reporting period, the government ratified the UN Convention against Transnational Organized Crime and the 2000 UN TIP Protocol. Authorities investigated 421 reported cases linked to human trafficking, indicted 146 cases involving 214 defendants, and obtained 64 trafficking convictions. The government conducted public awareness campaigns and maintained efforts to train public officials on anti-trafficking investigation procedures, victim identification, and victim protection. Despite the alignment of written law with anti-trafficking international standards, the government continued to narrowly define "trafficking" in practice, applying laws with lower penalties to trafficking crimes and failing to follow victim-centered procedures in law enforcement operations.

US State Dept Terrorism Report 2014

Overview: Overview: The Republic of Korea has strong counterterrorism capabilities and enjoys robust cooperation with the United States and the international community. In 2014, the Republic of Korea did not face any major domestic terrorist threats; however, South Korean citizens serving as tourists and missionaries have in prior years been victims of terrorist attacks in the Middle East and East Africa. Domestically, agencies with counterterrorism responsibilities continued to closely monitor and cooperate with the United States on the prevention of cyberattacks and the mitigation of threats posed by foreign residents with potential ties to terrorist groups. South Korean and U.S. law enforcement agencies have worked closely on information sharing through the Homeland Security Presidential Directive 6 (HSPD-6) and the Preventing and Combating Serious Crime (PCSC) agreement, and have held joint investigations on known and suspected terrorists. In October, the Republic of Korea conducted a bilateral counterterrorism consultation with the People's Republic of China.

Legislation, Law Enforcement, and Border Security: The National Assembly failed to pass a comprehensive counterterrorism law, first proposed in 2001. As a result, South Korean legal authorities have no legal framework to proactively and consistently investigate individuals with material or ideological ties to terrorism. Therefore, South Korean authorities use criminal statutes for suspected terrorism cases.

The Republic of Korea derives its authority to perform counterterrorist activities from Presidential Directive 309, last revised in 2013. In spring 2014, National Assembly members submitted for deliberation several bills regarding cyberterrorism and compensation for victims of terrorist acts, including medical and recovery assistance. At year's end, the bills were with the National Assembly Intelligence Committee.

In the lead-up to the 2014 Asian Games, a group of international police prevented sixteen foreign nationals from entering the country due to terrorism suspicions.

Countering the Financing of Terrorism: The Republic of Korea is a member of the Financial Action Task Force (FATF), the Asia/Pacific Group on Money Laundering, a FATF-style regional body, and the Egmont Group of Financial Intelligence Units. In May, a law was revised to stipulate that the Republic of Korea implement all international treaties and resolutions related to countering the financing of terrorism (CFT) in accordance with UN Security Council Resolutions (UNSCRs) 1267, 1988, and 1373. The Korea Financial Intelligence Unit, established by the Ministry of Finance and Economy, works with law enforcement agencies to monitor suspicious transactions and develop CFT policy

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	54
World Governance Indicator – Control of Corruption	67

Corruption presents moderate risks for businesses operating or planning to invest in South Korea. The Criminal Code criminalizes the main forms of corruption, and the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission includes a Code of Conduct for public-sector employees and regulates conflicts of interest and asset disclosure. The Improper Solicitation and Graft Act eliminates a requirement to provide direct evidence between a monetary reward and a favor to secure a corruption conviction and holds companies liable for their employees' corrupt misconduct. Anti-corruption legislation is increasingly enforced in South Korea. Facilitation payments are prohibited. Strict limits for hospitality and gift-giving to public officials have come into force. South Koreans recently witnessed the largest corruption case the country has ever seen. Following numerous allegations of corruption and influence peddling, ex-President Park faced impeachment in late 2016 and was, months later, indicted on charges of bribery, abuse of office and other corruption-related offences. The scandal has spread to involve the highest echelons of the conglomerate Samsung as well. **Information provided by GAN Integrity.**

Corruption and Government Transparency - Report by US State Department

The law provides criminal penalties for official corruption, and the government generally implements these laws effectively. By law, public servants above a certain rank must register their assets, including how they were accumulated, thereby making their holdings public. According to the Transparency International Global Corruption Barometer 2013, only three percent of South Koreans had paid a bribe to receive attention from at least one of nine different service providers (in customs, education, the judiciary, land related services, medical services, the police, registry & permit services, tax authorities, and utilities) in the past 12 months. Of the 95 economies surveyed with an average of 27 percent of the population with experience paying bribes, ROK was placed in the lowest group along with other Asian countries like Japan (1%), Malaysia (3%) and New Zealand (3%).

The ROK signed the United Nations Convention against Corruption on December 10, 2003 and ratified it on March 27, 2008. The ROK is also a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and a member of the Asia Pacific Economic Cooperation Anti-Corruption and Transparency Experts Task Force (APEC ACT).

There are several government agencies responsible for combating government corruption including the Board of Audit and Inspection, which monitors government expenditures and the Public Service Ethics Committee, which monitors the civil servants' financial disclosures and their financial activities within their tenure and first few years into their retirement. The Anti-Corruption and Civil Rights Commission manages the public complaints and administrative appeals on corrupt government practices. The Financial Intelligence Unit has cooperated fully with U.S. and United Nations efforts to identify and shut down sources of terrorist financing. Transparency International has maintained a National Chapter in the ROK since 1999. The Park Administration has increased scrutiny of potential corporate mismanagement, resulting in criminal convictions for tax evasion and embezzlement for several senior ROK chaebol owners.

Section 3 - Economy

South Korea over the past four decades has demonstrated incredible economic growth and global integration to become a high-tech industrialized economy. In the 1960s, GDP per capita was comparable with levels in the poorer countries of Africa and Asia. In 2004, South Korea joined the trillion-dollar club of world economies.

A system of close government and business ties, including directed credit and import restrictions, initially made this success possible. The government promoted the import of raw materials and technology at the expense of consumer goods and encouraged savings and investment over consumption.

The Asian financial crisis of 1997-98 exposed longstanding weaknesses in South Korea's development model, including high debt/equity ratios and massive short-term foreign borrowing. GDP plunged by 7% in 1998, and then recovered by 9% in 1999-2000. South Korea adopted numerous economic reforms following the crisis, including greater openness to foreign investment and imports. Growth moderated to about 4% annually between 2003 and 2007.

South Korea's export focused economy was hit hard by the 2008 global economic downturn, but quickly rebounded in subsequent years, reaching over 6% growth in 2010. The US-Korea Free Trade Agreement was ratified by both governments in 2011 and went into effect in March 2012. Between 2012 and 2015, the economy experienced slow growth – 2%-3% per year - due to sluggish domestic consumption and investment. The administration in 2015 faced the challenge of balancing heavy reliance on exports with developing domestic-oriented sectors, such as services.

The South Korean economy's long-term challenges include a rapidly aging population, inflexible labour market, dominance of large conglomerates (chaebols), and the heavy reliance on exports, which comprise about half of GDP. In an effort to address the long term challenges and sustain economic growth, the current government has prioritized structural reforms, deregulation, promotion of entrepreneurship and creative industries, and the competitiveness of small- and medium-sized enterprises.

Agriculture - products:

rice, root crops, barley, vegetables, fruit; cattle, pigs, chickens, milk, eggs; fish

Industries:

electronics, telecommunications, automobile production, chemicals, shipbuilding, steel

Exports - commodities:

semiconductors, petrochemicals, automobile/auto parts, ships, wireless communication equipment, flat display displays, steel, electronics, plastics, computers

Exports - partners:

China 26%, US 13.3%, Hong Kong 5.8%, Vietnam 5.3%, Japan 4.9% (2015)

Imports - commodities:

crude oil/petroleum products, semiconductors, natural gas, coal, steel, computers, wireless communication equipment, automobiles, fine chemical, textiles

Imports - partners:

China 20.7%, Japan 10.5%, US 10.1%, Germany 4.8%, Saudi Arabia 4.5% (2015)

Banking

Korea's financial system consists of banking and non-bank financial institutions. The Financial Supervisory Commission and the Financial Supervisory Service its regulatory arm, are responsible for supervising and examining all banks, including specialized and government-owned banks, as well as securities and insurance companies. The FSC has played a key role in financial restructuring and has strengthened the regulatory and supervisory framework governing the entire financial sector. Oversight standards are improving but they will need more time to meet international standards. Currently a total of 13 local commercial and 5 local specialized banks as well as 37 branches of foreign banks are in operation in Korea.

Stock Exchange

Aggregate foreign investment ceilings in the Korean Stock Exchange (KSE) were abolished in 1998, and foreign investors owned 32.9 percent of KSE stocks and 10.3 percent of the KOSDAQ as of the end of 2010. The market turnover rate was 292 percent of market capitalization in 2010. Retail investors are extremely active in the Korean stock markets. More than 80 percent of KSE and KOSDAQ retail trading is conducted online. Thus, a large majority of retail investors are day traders, implying a constant source of volatility for the markets. The Korean government permits stock purchases on margin, requiring that transactions be settled within three business days.

Section 4 - Investment Climate

Executive Summary

The Republic of Korea (ROK) has made tremendous economic gains during the past four decades, transforming itself from a recipient of foreign assistance to a high-technology manufacturing powerhouse and middle-income donor country. South Korea experienced real GDP growth of 2.6 percent in 2015, decreasing from 2014 growth of 3.3 percent and falling short of the ROK government's 2015 real GDP growth target of 3 percent as announced in December 2014. Economic growth in 2015 was constrained by a fall in tourism and domestic consumption largely due to an outbreak of Middle East respiratory syndrome (MERS) in May and a broader 7.9 percent fall in exports from 2014 due to a slow global economic recovery, low oil prices, and reduced demand from the ROK's top trading partner, China. Growth is expected to remain moderate in coming years, due to the ROK's relatively developed economy, an aging population, and inflexible labor markets. Economic growth potential for the 2015-2018 period is between 3 percent and 3.2 percent, according to the Bank of Korea, although many private-sector assessments are lower.

Nonetheless, the ROK has weathered global economic uncertainty and continued to remain a generally favorable destination for foreign investment. Following the 1997-98 Asian financial crisis, South Korea made significant progress in reforming its financial institutions and capital markets. In addition, the ROK government took steps to strengthen its competitiveness, enacting measures to boost foreign investment incentives and allow non-Koreans to own land and real property. With these changes, most South Koreans recognize foreign investment and free trade as positive for the nation's development, despite continuing protectionist sentiment among certain elements of society. The highest levels of the ROK government remained committed to ensuring a level playing field for foreign investors. However, many foreign – and domestic – firms continued to express concern with what is seen as an overly burdensome regulatory environment. Many regulations are unique to South Korea and are not consistent with global standards. The regulations are prescriptive and generally allow only activities that are explicitly authorized, thereby constricting the development of innovative business models. Foreign investors were also concerned about small but significant interest groups that pressure the ROK government to protect the South Korean market from what is perceived as foreign domination. President Park Geun-hye publicly acknowledged that the regulatory environment is seen as an obstacle to investment and initiated efforts to deregulate five sectors: education, healthcare, finance, tourism, and information and communication technology (ICT). Additional measures were announced by the Park administration in February 2016 to remove in select regions regulations that discourage investment in priority sectors, including "sharing economy" services related to housing and transportation. Park has asserted that deregulation is one of her primary economic goals, and administration officials have allowed some participation of foreign business associations in the deregulation process. While foreign and domestic industry remained receptive to Park's deregulation drive, it also remained cautious about committing additional investments in the ROK.

The Korea-U.S. (KORUS) Free Trade Agreement (FTA), which entered into force on March 15, 2012, was a major step forward in enhancing the legal framework for U.S. investors in South Korea. All forms of investment are protected under the FTA, including equity, debt, concessions, and similar contracts, as well as provision of intellectual property rights. With very few exceptions, U.S. investors are treated the same as South Korean investors (or investors of any other country) in the establishment, acquisition, and operation of investments in South Korea. In addition, this equal treatment of domestic and foreign investors is backed by a transparent international arbitration mechanism, under which investors may, at their own initiative, bring claims against the government for an alleged investment breach. Submissions to investor-state arbitration tribunals as well as their hearings will be made public. The U.S. government continues to work closely with the ROK government to ensure full implementation of the KORUS FTA.

Improvement in the consistency of the ROK government's interpretation, transparency, and timeliness in the application of foreign direct investment (FDI) regulations would enhance South Korea's investment climate. Unclear and opaque regulatory decision-making remained a significant concern, including informal "window guidance." This can discourage FDI by creating uncertainty for investors and fostering an impression that the ROK remains hostile to foreign investment. Sector-specific improvements in regulatory transparency have been made: January 2016 financial sector reforms require regulators to provide all guidance in written form, and companies cannot be punished for not following oral guidelines.

Regarding labor, South Korea boasts a hard-working, educated workforce and high levels of institutional labor protections. However, foreign investors cited volatility in labor-management relations and increasing labor costs as issues that can hamper FDI. The Park administration has advocated for reforms to bring greater flexibility to the labor market while improving the benefits provided to part-time and contract workers. The National Assembly, however, has not approved associated bills submitted by the government in September 2015.

Investment Trends

In 2015 the Ministry of Trade, Industry, and Energy (MOTIE) reported that inbound FDI to South Korea rose to a record high USD 15.9 billion, up 32 percent from 2014. Foreign investment in the service sector - mostly from the United States and China - led the increase, while FDI inflows to manufacturing industries fell by 0.7 percent from 2014. South Korea experienced net portfolio outflows of USD 2.9 billion in 2015, as investors reallocated capital in anticipation of a rise in the U.S. interest rate and its impact on emerging markets. Foreign investment in South Korean bonds was USD 396 million in 2015, as the return on ROK sovereign debt and other securities remained competitive in an environment of low interest rates in advanced economies. The ROK's sovereign debt rating stood higher than that of Japan and Taiwan, but below the United States' rating, according to Moody's and Fitch credit ratings. The high ranking reflected the ROK's strong fiscal fundamentals, increasing current account surplus, and record-high net international investment position, in addition to its ability to withstand domestic risks and external shocks, including elevated tensions between North and South Korea in early 2016 due to North Korean nuclear and missile testing.

U.S. FDI in South Korea, according to MOTIE, came to USD 27.9 billion as of December 2015, or 16.5 percent of South Korea's stock of FDI since the 1960s, and comparable to Japanese investment totaling 29.5 billion, or 17.5 percent of South Korea's stock of FDI for the same time period. Investments from the United States in 2015 increased 25 percent (USD 5.47 billion) over the previous year, whereas investments from Japan decreased over 43 percent. Japan recorded USD 1.2 billion of FDI into South Korea in 2015, much reduced from the USD 2.1 billion it recorded in 2014, as the yen depreciated significantly against the South Korean won under Japan's continued policy of quantitative easing. The finance, insurance, logistics, and business service sectors are expected to absorb the majority of FDI in South Korea in the near future, largely through mergers and acquisitions.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	37 of 168	http://www.transparency.org/cpi2015/#results-table
World Bank's Doing Business Report "Ease of Doing Business"	2015	4 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	14 of 141	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2015	USD 27,916	ROK Ministry of Trade, Industry and Energy
World Bank GNI per capita	2014	USD 27,090	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The ROK government's attitude toward FDI is positive, and senior policy makers realize the value of FDI. Following the 2008-09 global financial crisis, inbound FDI continued to trend upwards from USD 5.4 billion in 2010 to USD 15.9 billion in 2015. Foreign investment in South Korea is still at times hindered by insufficient regulatory transparency, including inconsistent and sudden changes in interpretation of regulations, as well as underdeveloped corporate governance, high labor costs, an inflexible labor system, and significant economic domination by large conglomerates, or *chaebol*.

Other Investment Policy Reviews

The WTO conducted a Trade Policy Review of South Korea in 2012. The report can be accessed here:
https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(@Symbol=%20wt/tpr/g/*)%20and%20((%20@Title=%20korea%20)%20or%20(@CountryConcerned=%20korea))&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#

Laws/Regulations on Foreign Direct Investment

The Foreign Investment Promotion Act (FIPA) is the basic law pertaining to foreign investment in South Korea. FIPA and related regulations categorize business activities as open, conditionally or partly restricted, or closed to foreign investment.

FIPA features include:

- Simplified procedures, including those for FDI notification and registration;

- Expanded tax incentives for high-technology FDI;
- Reduced rental fees and lengthened lease durations for government land (including local government land);
- Increased central government support for local FDI incentives;
- Establishment of "Invest Korea," a one-stop investment promotion center within the Korea Trade-Investment Promotion Agency to assist foreign investors;
- Establishment of an Ombudsman office to assist foreign investors.

South Korea's court system is independent and not subject to government interference in cases that may affect foreign investors.

The ROK National Assembly website provides a list of laws pertaining to foreigners (including the FIPA) in English. The site can be accessed here: http://korea.assembly.go.kr/res/low_03_list.jsp?boardid=1000000037

Business Registration

Registering a business in South Korea can be a complex process that varies according to the type of business being established and requires interaction with the Korea Trade-Investment Promotion Agency, court registries, and tax offices. Foreign corporations can enter the South Korean market by establishing a local corporation, a local branch, or a liaison office. The establishment of local corporations by a foreign individual or corporation is regulated by the Foreign Investment Promotion Act and the Commercial Act, the latter of which recognizes five types of companies; stock companies with multiple shareholders are the most common. To establish a stock company, 24 required documents are submitted to a court registry office, and an additional nine to a tax office. There is no single website by which to complete this process.

The Korea Trade-Investment Promotion Agency (KOTRA) facilitates FDI into South Korea. For KOTRA to assist in the establishment of a domestically-incorporated foreign-invested company, the investment must surpass KRW 100 million (USD 85,000).

For small- and medium-size enterprises (SMEs) and micro-enterprises, the online business registration process takes approximately three to four days and is completed through Korean language websites. Registrations can be completed via the Smart Biz website (https://www.startbiz.go.kr). The website received an assessment of 2.5/10 in the UN's Global Enterprise Registration listing, indicating improvements could be made to provide clear and complete instructions for registering a limited liability company.

The definitions of micro-enterprise, small business, and SMEs vary depending on the sector. For the manufacturing and mining, construction, and transportation sectors, the ROK defines a micro-enterprise and a small business as fewer than 10 and 50 workers, respectively. An SME in these sectors has fewer than 300 workers and a maximum capital worth of KRW 8 billion (USD 6.8 million) for manufacturing and KRW 3 billion (USD 2.6 million) for mining, construction, and transportation. For administrative work and agriculture, micro-enterprises and small businesses (MSMEs) have fewer than five and 10 workers, respectively. SMEs in the administrative sector must have fewer than 300 workers and sales less than KRW 30 billion (USD 25.6 million), while agricultural SMEs must have fewer than 200 workers with sales less than KRW 20 billion (17.1 million). The ROK has several acts to promote the establishment and competitiveness of MSMEs, including the "Small and Medium Enterprises Promotion Act" and the "Promotion of Small and Medium Enterprises and Encouragement of Purchase of Their Product Act." In 2015, South Korea began offering a streamlined advanced pricing arrangement (APA) for foreign SMEs with annual sales of less than KRW 50 billion (USD 43 million). Given the complexity of South Korean APAs, which can take two years or more to complete, APAs are normally pursued by large multinational enterprises.

Industrial Promotion

The Ministry of Strategy and Finance (MOSF) administers tax and other incentives to stimulate advanced technology transfer and investment in high-technology services. There are three types of special areas for foreign investment, including Free Economic Zones (FEZ), Free Investment Zones (FIZ), and Tariff Free Zones (TFZ), where favorable tax incentives and other support for investors are available. The ROK government announced on December 16, 2015, plans to create 14 "regulation-free zones" (RFZ) outside of Seoul in an effort to develop promising sectors, including bio-health, smart devices, and drones. A bill that would allow the creation of RFZs was submitted to the National Assembly on March 25, 2016. A good source of information on South Korea's various free trade zones is the government-run "Invest Korea," the inward investment promotion organization under KOTRA. More information is available here:

Invest Korea, KOTRA Building
13, Heolleungno, Seocho-gu, Seoul, Republic of Korea
Tel: (82) 1600 - 7119
Fax: (82-2) 3497 - 1611
http://www.investkorea.org

KOTRA also maintains offices in many countries, including the United States.

Limits on Foreign Control and Right to Private Ownership and Establishment

Restrictions on foreign ownership remain for 31 industrial sectors, three of which are entirely closed to foreign investment. The ROK government reviews the list of restricted sectors from time to time for possible changes. According to the Ministry of Trade, Industry, and Energy (MOTIE), the number of industrial sectors open to foreign investors is well above the OECD average. The KORUS FTA provides for U.S. companies to be treated as non-foreign entities in selected sectors, including broadcasting and telecommunications.

Relevant ministries must approve investments in conditionally or partly restricted sectors. Most applications are processed within five days; cases that require consultation with more than one ministry can take 25 days or longer. The ROK's procurement processes comply with the WTO Government Procurement Agreement, but some implementation problems remain.

The Ministry of Knowledge Economy (restructured and now called MOTIE) published a 2011 Consolidated Public Notice, updating new code numbers and titles for business sectors in accordance with the ninth revision of the Korea Standard Industry Code (KSIC). According to an earlier 2009 notice, the number of KSIC industrial classifications of business sectors increased from 1,121 to 1,145 and by the reclassification, business sectors where foreign investment was restricted increased from 28 to 30. A minor change in industry codes in a July 13, 2015, MOTIE notice increased the restricted sectors to 31.

The following is a list of Restricted Sectors for Foreign Investment. Figures in parentheses denote the Korean Industrial Classification Code, while the numbers of air transport industries are based on the Civil Aeronautics Laws:

Completely Closed

- Nuclear power generation (35111)
- Radio broadcasting (60100)
- Television broadcasting (60210)

Restricted Sectors (partly open not more than 25 percent)

- News agency activities (63910)

Restricted Sectors (partly open not more than 30 percent)

- Hydroelectric power generation (35112)
- Thermal power generation (35113)
- Other power generation (35119)

Restricted Sectors (partly open less than 30 percent)

- Publishing of newspapers (58121)

Restricted Sectors (partly open not more than 49 percent)

- Satellite and other broadcasting (60229)
- Program distribution (60221)
- Cable networks (60222)
- Wired telephone and other telecommunications (61210)
- Mobile telephone and other telecommunications (61220)
- Satellite telephone and other telecommunications (61230)
- Other telecommunications (61299)

Restricted Sectors (partly open not more than 50 percent)

- Farming of beef cattle (01212)
- Inshore and coastal fishing (03112)
- Transmission/distribution of electricity (35120)
- Wholesale of meat (46312)
- Coastal water passenger transport (50121)
- Coastal water freight transport (50122)

- Other support activities for air transportation (52939)
- Publishing of magazines and periodicals (58122)
- International air transport (51)
- Domestic air transport (51)
- Small air transport (51)

Open but Regulated under the Relevant Laws

- Growing of cereal crops and other food crops except rice and barley (01110)
- Domestic commercial banking except special banking area (64121)
- Radioactive waste collection, transportation, and disposal except radioactive waste management (38240)
- Other inorganic chemistry production except fuel for nuclear power generation (20129)
- Other nonferrous metals refining, smelting, and alloying (24219)

The National Assembly approved on February 4, 2016, an amendment bill to the Foreign Legal Consultant Act (FLCA) that would allow foreign law firms to establish joint ventures in South Korea. This revision was made to implement South Korea's FTA market opening commitments with the United States, Australia, and the European Union. The FLCA provides a framework for establishing joint ventures; however, the implementing act limits the scope of practice by foreign law firms, prohibiting participation in litigation, labor sector consulting, real estate, intellectual property rights, notarization, mining, and cases involving family relations or inheritance, among others fields.

Privatization Program

ROK government efforts to privatize government-owned assets have been slowed by protests from labor unions and professional associations as well as a lack of interested buyers in some sectors. Foreign investors are allowed to participate in privatization programs as long as they comply with ownership restrictions stipulated for the 31 industrial sectors indicated above.

The ROK government injected public funds into the banking sector during the 1997-98 Asian financial crisis to promote sectoral and broader economic stability, thereby acquiring de facto ownership of many of South Korea's commercial banks. The government committed to refrain from interfering in bank lending and management decisions, except with regard to prudential supervision. In late 2002, the ROK government began its ambitious plan to re-privatize banks under its control, with the program initially scheduled to end by the first quarter of 2005. Much of this re-privatization has taken place, although the government continues to own the majority of shares in Woori Bank and minority shares in other banks.

No state-owned enterprises (SOEs) have been privatized since 2002. The Lee Myung-bak administration called off most plans to restructure SOEs for reasons both political (conflict with labor unions) and economic (concern about the impact the privatizations would have on the economy in the midst of the global financial crisis).

Screening of FDI

The ROK government may review foreign investments that affect national security. The government may restrict investments that disrupt production of military products or equipment, or if the company the foreigner is investing in exports items that may be later used for military purposes differing from their originally intended use. The ROK government may also restrict foreign investment in cases where contracts classified as state secrets may be disclosed or the investment considerably impedes international efforts to achieve world peace or assure security. Foreigners linked to a country or an organization that may pose a threat to national security will also be subject to limitations on their investments in South Korean firms. Related government agencies must ask MOTIE to review the case within 30 days of a foreign investor filing an application for regulatory approval, and MOTIE must make a decision within the following 90 days.

If the investment fails the review, the foreign investor must transfer ownership to a South Korean national or corporation within six months of the close of the corporate fiscal year.

Competition Law

The Monopoly Regulation and Fair Trade Act (MRFTA) authorizes the Korea Fair Trade Commission (KFTC) to review and regulate competition-related matters as well as consumer safety. The KFTC is proactive in carrying out its mandate. The Korea Commission for Corporate Partnership (KCCP) reviews competition between SMEs and large corporations and is empowered to limit large corporations from entering or expanding in markets designed for SMEs.

Although the Monopoly and Fair Trade Act has been amended repeatedly – most recently in January 2015 – the practical impact of South Korea's laws and policies regulating monopolistic practices and unfair competition has been limited by the long-standing economic strength of the family-run conglomerates, or *chaebol*. Management control at the *chaebol* continues to involve complicated webs of cross-shareholdings among *chaebol* affiliates, and many *chaebol* still conduct business based on family and personal connections. *Chaebol*-government relations can also sometimes influence the business-government dialogue, to the detriment of foreign enterprises and SMEs. Thus, *chaebol* influence in the South Korean economy may sometimes cause practical business problems for foreign investors. SME suppliers, for example, may be reluctant to deal with foreign firms for fear of jeopardizing a prized *chaebol* relationship.

The KFTC announced revised Guidelines for Review of Unreasonable Exercise of Intellectual Property Rights (the "guidelines") on March 30, 2016. The amended guidelines distinguish de facto standard essential patents (SEP) in the definition of standard technologies, reflecting U.S. industry's position that SEPs and de facto SEPs must be treated differently, as de facto SEPs are an outcome of market competition. Amendments also clarify factors to be considered in determining whether to refuse issuance of intellectual property licenses, thereby reducing the tendency to consider any refusal of IP licenses as anti-competitive behavior and a violation of the MRFTA. KFTC's commitment to non-discrimination, transparency, and procedural fairness in the area of competition policy is an important aspect of the KORUS FTA.

2. Conversion and Transfer Policies

Foreign Exchange

In categories open to investment, foreign exchange banks must be notified in advance of applications for foreign investment. All South Korean banks are permitted to deal in foreign exchange, including branches of foreign banks. In effect, these notifications are pro-forma, and approval can be processed within three hours. Applications may be denied only on specific grounds, including national security, public order and morals, international security obligations, and health and environmental concerns. Exceptions to the advance notification approval system exist for project categories subject to joint-venture requirements and certain projects in the distribution sector.

According to the Foreign Exchange Transaction Act (FETA), transactions that could harm international peace or public order, such as money laundering and gambling, require additional monitoring or screening.

Three specific types of transactions are restricted:

1. Non-residents are not permitted to buy won-denominated hedge funds, including forward currency contracts;

2. The Financial Services Commission (FSC) will not permit foreign currency borrowing by "non-viable" domestic firms; and

3. The ROK government will monitor and ensure that South Korean firms that have extended credit to foreign borrowers collect their debts. The ROK government has retained the authority to re-impose restrictions in the case of severe economic or financial emergency.

Exchange rates are generally determined by the market. The U.S. Treasury Department reports that South Korean authorities have intervened on both sides of the currency market, but the sustained rise in their reserves and net forward position indicate that they have intervened on net to resist won appreciation. The U.S. government urges South Korea to reduce foreign exchange intervention, allow the won to appreciate, and increase transparency in foreign exchange operations.

Remittance Policies

The right to remit profits is granted at the time of original investment approval. Banks control the now pro-forma approval process for FETA-defined open sectors. For conditionally or partially restricted investments (as defined by the FETA), the relevant ministry must provide approval for both investment and remittance.

When foreign investment royalties or other payments are proposed as part of a technology licensing agreement, the agreement and the projected stream of royalties must be approved by either a bank or MOSF. Approval is virtually automatic. An investor wishing to enact a remittance must present an audited financial statement to a bank to substantiate the payment. To withdraw capital, a stock valuation report issued by a recognized securities company or the South Korean appraisal board also must be presented. Foreign companies seeking to remit funds from investments in restricted sectors must first seek ministerial and bank approval, after demonstrating the legal source of the funds and proving that relevant taxes have been paid.

South Korea routinely permits the repatriation of funds, but reserves the right to limit capital outflows in exceptional circumstances, such as situations when uncontrolled outflows might harm the balance of payments, cause excessive fluctuations in interest or exchange rates, or threaten the stability of domestic financial markets. The ROK government did not impose such restrictions either during the Asian financial crisis or the global financial crisis, where sharp capital outflows played a major role. However, the government has installed a series of capital control measures under the name of "macro-prudential stability policy," which includes lowering foreign exchange forward-position limits for foreign bank branches in 2010, re-introducing a withholding tax on foreign investors' government bond purchases, and imposing a bank levy on non-deposit financing in foreign currency from August 2011. On December 3, 2012, the government lowered the forward-position limits again and changed bank levy provisions to promote long-term financing. On June 25, 2015, MOSF gave notice that it would change the bank levy scheme effective July 1 to extend the existing foreign exchange levy on banks to other foreign debts held by securities firms, creditors, and insurance companies, in an effort to improve fair treatment among financial companies and improve the structure of foreign exchange debt.

At its June 2014 meeting, the Financial Action Task Force (FATF) recognized that South Korea had taken sufficient measures to bring its anti-money laundering and counterterrorism-financing system in line with FATF recommendations identified in its 2009 mutual evaluation report. FATF thus removed South Korea from additional follow-up reporting requirements.

3. Expropriation and Compensation

The ROK follows generally accepted principles of international law with respect to expropriation. South Korean law protects foreign-invested enterprise property from expropriation or requisition. If private property is expropriated, it can be taken only for a public purpose and only in a non-discriminatory manner, and claimants are afforded due process. Property owners are entitled to prompt compensation at fair market value. U.S. Embassy Seoul is not aware of any cases of uncompensated expropriation of property owned by U.S. citizens, nor aware of high-risk sectors prone to expropriation actions.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

South Korean law governs commercial activities and bankruptcies, with the judiciary serving as the means to enforce property and contractual rights, usually through monetary judgments levied in the domestic currency. The ROK has specialized courts. This includes family courts and administrative courts, as well as courts specifically dealing with patents and other intellectual property rights issues. There have been few serious investment disputes involving foreigners in South Korea. Foreign court judgments are not enforceable in the ROK.

Bankruptcy

The Debtor Rehabilitation and Bankruptcy Act stipulates that bankruptcy is a court-managed liquidation procedure where both domestic and foreign entities are afforded equal treatment. The procedure commences after a filing by a debtor, creditor, or group of creditors and determination by the court that a company is bankrupt. The court will designate a Custodial Committee to take an accounting of the debtor's assets, claims, and contracts. Creditors may be granted voting rights in the creditors' group as identified by the

Custodial Committee. Shareholders and contract holders may retain their rights and responsibilities based on shareholdings and contract terms. The World Bank ranked South Korea's policies and mechanisms in place to resolve insolvency fourth among 189 economies in its 2016 Doing Business report.

Debtors may be subject to arrest once a bankruptcy petition has been filed even if the debtor has not been declared bankrupt. Individuals found guilty of negligent or false bankruptcy are subject to criminal penalties.

Investment Disputes

Over the past several years, there have been a few high-profile cases involving U.S. firms that have had difficulty exiting the South Korean market; these cases have increased the concerns of other potential U.S. investors. In regard to portfolio investments, foreign investors have questioned the extent to which the family-owned structure of several large South Korean conglomerates results in decision-making that is not in the best interest of shareholders, but rather serves to preserve family leadership.

International Arbitration

South Korea is a member of the International Commercial Arbitration Association and the World Bank's Multilateral Investment Guarantee Agency. South Korean courts may ultimately be called upon to enforce an arbitrated settlement. When drafting contracts, it may be useful to provide for arbitration by a neutral body such as the International Commercial Arbitration Association. U.S. companies should seek local expert legal counsel when drawing up any type of contract with a South Korean entity.

Commercial disputes may also be taken to the Korean Commercial Arbitration Board (KCAB). The Korean Arbitration Act and its implementing rules outline the following steps in the arbitration process: 1) parties may request the KCAB to act as informal intermediary to a settlement; 2) if unsuccessful, either or both parties may request formal arbitration, in which case the KCAB appoints a mediator to conduct conciliatory talks for 30 days; and 3) if unsuccessful, an arbitration panel consisting of one to three arbitrators is assigned to decide the case. If one party is not resident in South Korea, either may request an arbitrator from a neutral country.

The United States has a bilateral Treaty of Friendship, Commerce, and Navigation with South Korea, which contains general provisions pertaining to business relations and investment. During then South Korean President Kim Dae-jung's visit to the United States in 1998, President Clinton and President Kim agreed to negotiate a Bilateral Investment Treaty between the two nations. However, negotiations in 1998 and 1999 stalled after the two sides could not resolve differences on certain issues. The KORUS FTA contains strong, enforceable investment provisions that went into force in March 2012.

ICSID Convention and New York Convention

South Korea has been a member of the International Center for the Settlement of Investment Disputes (ICSID) since ratifying the convention in 1967. It has also acceded to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).

Duration of Dispute Resolution – Local Courts

Although commercial disputes can be adjudicated in a civil court, foreign businesses often feel that this is not a practical means to resolve disputes. Proceedings are conducted in Korean, often without adequate translation. South Korean law prohibits foreign lawyers who have not passed the Korean Bar Examination from representing clients in Korean courts. Civil procedures common in the United States, such as pretrial discovery, do not exist in South Korea. During litigation of a dispute, foreigners may be barred from leaving the country until a decision is reached. Legal proceedings are expensive and time-consuming, and lawsuits often are contemplated only as a last resort, signaling the end of a business relationship.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

South Korea does not maintain any measures notified to the World Trade Organization (WTO) as being inconsistent with (or that are alleged to be inconsistent with) the WTO Agreement on Trade-Related Investment Measures (TRIMs Agreement). In 2015, no member countries of the TRIMs Agreement issued complaints against South Korea’s trade-related investment measures or otherwise claimed inconsistency with the TRIMs Agreement.

Investment Incentives

The ROK government allows the following general incentives for foreign investors:

- Tax and cash incentives for qualified foreign investments in free trade zones, foreign investment zones, free economic zones, industrial complexes, etc.;
- Tax and cash incentives for the creation and expansion of workplaces for high-tech business plants and research and development (R&D) centers;
- Reduced rent for land and site preparation for foreign investors;
- Grants for establishment of convenience facilities for foreigners;
- Reduced rent for state or public property;
- Preferential financial support for investing in major infrastructure projects;
- Support from the Seoul Metropolitan government, separate from the central government, for SMEs, high-tech businesses, and the biomedical industry.

Research and Development

Several organizations affiliated with the Small and Medium Business Association (SMBA) support private sector R&D. The Korea Technology and Information Promotion Agency supports R&D investment and the Korea Technology Credit Guarantee Fund provides credit guarantees for technology development. The Ministry of Science, ICT, and Future Planning also supports R&D projects. According to the SMBA, foreign companies are eligible to apply for public R&D funds through their South Korean subsidiary.

Performance Requirements

The ROK ceased imposing performance requirements on new foreign investment in 1989 and eliminated all pre-existing performance requirements in 1992. The ROK government has no requirement that investors purchase from local sources or export a certain percentage of output. There is no requirement that South Korean nationals must own shares in foreign investments or that technology be transferred on certain terms. With the exception of certain defense procurements, the ROK government does not impose "offset" requirements on investors to invest in specific manufacturing, R&D, or service facilities. There are also no government-imposed conditions on permission to invest.

Data Storage

Foreign companies are not required to use domestic content or technology, nor are they required to turn over source code or provide access for surveillance to South Korean authorities. In June 2015, the Financial Services Commission revised regulations that limited financial data transfers and IT outsourcing. The revised regulations incorporated several key recommendations of U.S. industry and reduced reporting burdens on companies by eliminating the approval process for the outsourcing of IT facilities and transitioning to a post-reporting data outsourcing system that, in most cases, no longer requires companies to provide prior notification and wait for approval. Additional revisions to the regulation further simplified reporting procedures and provided greater flexibility to companies in the offshore services they might procure. However, payment systems and mobile credit information of South Korean consumers must be maintained on servers based in South Korea. The ROK government made good progress in 2015 implementing KORUS commitments governing cross-border data transfer in the financial services sector, but concerns remained including the impact the Act on Promotion of Cloud Computing and Protection of Users, passed March 2015, will have on future data outsourcing in certain circumstances. The U.S. government is working with the ROK government and relevant industry stakeholders to monitor this issue. The Financial Services Commission sets the policy regarding financial information, and the Financial Supervisory Service is the enforcement body.

6. Protection of Property Rights

Real Property

The Alien Land Acquisition Act (amended in 1998) grants non-resident foreigners and foreign corporations the same rights as Koreans in purchasing and using land. The Real Estate Investment Trust (REIT) Act supports indirect investments in real estate and restructuring of corporations. The REIT Act allows investors to invest funds through an asset management company and in real property such as office buildings, business parks, shopping malls, hotels, and serviced apartments. Property interests are enforced, and there is a reliable system for registering mortgages and liens.

Intellectual Property Rights

Since its removal from the Special 301 Watch List in 2009, the ROK government has continued to make strides in intellectual property rights (IPR) enforcement. The ROK government's interest in IPR protection is driven by both South Korea's growing status as a creator of intellectual property and its efforts to implement the commitments made under the KORUS FTA. During the past year, the ROK government continued to combat IPR violations through a variety of enforcement activities, to include the deletion of millions of illegal files online, the enforcement of laws to prevent the further distribution of illegal materials, and blockage of numerous illegal file-sharing online service providers. The ROK government has made demonstrable efforts, particularly within the technology sector, to increase transparency and improve coordination with industry in its rule-making process. There were no new laws or IP regulations enacted in 2015, but the ROK government opened a comment period for suggested amendments to be made to the ROK's IPR guidelines. There is no information to suggest there are higher risks for labor rights violations in the production or sale of counterfeit goods in the ROK, including child labor, forced labor, and dangerous working conditions.

The ROK government has demonstrated its commitment to IPR protection by continuing to devote significant resources to copyright enforcement. The Ministry of Culture, Sports, and Tourism (MCST) allocated 15 billion won (USD 12.5 million) for IPR protection for 2016, an increase from 14.7 billion won (USD 12.2 million) in 2015 and 13 billion (USD 10.8 million) in 2014.

The Ministry of Culture, Sports, and Tourism (MCST) and the Korean Intellectual Property Office (KIPO), the ROK government's lead entities on copyright issues and the entities responsible for seizing, storing, and destroying counterfeit goods, continued their strong efforts to combat IPR violations through a variety of enforcement activities in 2015. MCST and KIPO have ex officio authority to seize and destroy counterfeit goods, and their enforcement activities are outlined below:

In 2015 MCST Judicial Police conducted special investigations of 10 streaming sites. As a result of those investigations, MCST delivered all 10 sites to South Korea's Supreme Prosecutor's Office (SPO) for possible indictment and prosecution. In 2015, MCST deleted 117.4 million illegal online files, a decrease from 141.7 million files deleted in 2014. MCST also destroyed 14.5 million hard copies of music, video, publications, games, and cartoons in 2015, the same number as in 2014. MCST recommended that the Korea Copyright Commission (KCC) block service to 552 illegal file-sharing online service provider (OSP) sites (140 sites and 412 files), up from 44 OSP sites in 2014. MCST investigated South Korean university campuses and confiscated 16,335 illegally copied books, up 5.5 percent from 15,474 copies seized in 2014. Judicial Police of MCST conducted software inspections of 271 companies in 2015 and discovered 3,050 instances of illegal software usage with a piracy rate of 29.6 percent. The total number of people indicted by the SPO for Copyright Act violations was 52,196 in 2015, up 24.6 percent from 41,900 in 2014. In 2015, Judicial Police recommended 1,091 IPR cases for legal action, down 48.9 percent from 2,136 cases in 2014.

In 2015, the KCC issued 264,982 corrective recommendations, down 10.5 percent from the 296,360 issued in 2014. MCST, however, did not need to issue any warnings or suspend any user accounts as all the violators complied with the corrective recommendations issued by KCC.

ROK government agencies are required to conduct audits of software licenses twice a year and report the results to MCST. In 2015, 2,662 public organizations conducted self-audits, and MCST conducted on-site investigations at 195 agencies and found a ratio between legal and illegal software of 0.58 percent. There is nevertheless no mechanism for the MCST to verify the accuracy of the agencies' self-audits, and the MCST provides advance warning to agencies selected for on-site investigations.

KIPO also increased its enforcement activities in 2015. KIPO's Special Judicial Police seized 1,197,662 counterfeit items from 378 people in 2015, up from the 1,114,192 items seized from 430 people in 2014 and up dramatically from 131,599 items seized in 2012. In addition, KIPO suspended 5,673 online transactions and closed 418 illegal online shopping malls in 2015, down from 454 in 2014.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Resources for Rights Holders

The contact at U.S. Embassy Seoul for IPR issues is:

Hyon Sim
Economic Officer
Tel: +82-2-397-6424
Email: simhb2@state.gov

Additional local resources are as follows:

The American Chamber of Commerce in Korea
#4501, Trade Tower 159-1
Samsung-dong, Gangnam-gu
Seoul, 135-729
Tel: +82-2-564-2040
Fax: +82-2-564-2050
Email: amchamrsvp@amchamkorea.org
http://www.amchamkorea.org/index.php

U.S. Embassy Seoul List of Attorneys
http://photos.state.gov/libraries/korea/187344/ACS/Lawyers_List.pdf

7. Transparency of the Regulatory System

The South Korean regulatory environment can pose challenges for firms, both foreign and domestic. Laws and regulations are often framed in general terms and are subject to differing interpretations by government officials, who rotate frequently. Regulations are sometimes promulgated with only minimal consultation with industry and with only the minimally required comment period. Lastly, regulatory authorities often issue oral guidelines or other legally enforceable dictates that many firms find burdensome and often difficult to follow. President Park's deregulation plan seeks to eliminate the use of oral guidelines and dictates or subject them to the same level of regulatory review as written regulations. On March 17, 2016, the Prime Minister's Office re-emphasized the need for government officials to enforce the regulations more transparently and proactively and pledged severe punishment for unresponsive regulatory review. The KORUS FTA also includes provisions designed to address such issues.

According to South Korea's Administrative Procedures Act, proposed laws and regulations (Acts, Presidential Decrees or Ministerial Decrees) should be published and public comments solicited at least 40 days prior to promulgation. Draft bills are often available on the websites of relevant ministries without notice that they have been published. Proposed rules are sometimes published with insufficient time to permit public comment and industry adjustment. For example, regulatory changes originating from legislation proposed by members of South Korea's National Assembly are not subject to public comment periods. When notifications of proposed rules are made public, they usually appear in the Official Gazette and only in the Korean language; thus, much of the 40-day comment period can be exhausted translating complex documentation. The rule-making process often remains non-transparent, particularly for foreigners. There are also many South Korean-unique rules and regulations that are being adopted, creating new barriers for foreign businesses.

In July 2015, the Office of Regulatory Reform launched a new "portal" through which companies can comment in English on draft legislation and regulations as well as enter complaints about regulatory impediments to business.

Since 2011, all publicly listed companies are required to follow International Financial Reporting Standards (IFRS or K-IFRS in South Korea). The Korea Accounting Standards Board facilitates ROK government endorsement and adoption of IFRS and sets accounting standards for companies not subject to IFRS.

8. Efficient Capital Markets and Portfolio Investment

Foreign portfolio investors now enjoy good access to the ROK stock market. Aggregate foreign investment ceilings in the Korean Stock Exchange (KSE) were abolished in 1998, and foreign investors owned 32.1 percent of KSE stocks and 10 percent of the Korean Securities Dealers Automated Quotations (KOSDAQ) as of the end of 2015. In recent years, foreign portfolio investment has fluctuated, influenced by external factors such as the December 2015 rise in the U.S. Federal Reserve's targeted interest rate band, the slowing of the Chinese economy, and the Japanese yen's depreciation.

The market turnover rate was 416 percent of market capitalization in 2015. Retail investors are extremely active in South Korean stock markets. More than 80 percent of KSE and KOSDAQ retail trading is conducted online. A large majority of retail investors are day traders, implying a constant source of volatility for the markets. The ROK government permits stock purchases on margin, requiring that transactions be settled within three business days.

Portfolio investors showed extreme appetite for the smaller, more volatile, technology-rich KOSDAQ in 2015. Since the collapse of the Daewoo Group in 1999, South Korea's largest corporate bankruptcy, the country's bond market has been almost moribund, as sellers have far outnumbered buyers. The total assets of South Korea's commercial banks as of the end of 2014 were 1,803 trillion won, or about USD 1.6 trillion.

Foreign firms are able to access credit on the local market. However, obtaining access to credit may be complicated by the privileged relationships that competing South Korean family-run conglomerates enjoy with local banks. This risk is mitigated by regulations that limit a bank's exposure to any single *chaebol* group's companies to 25 percent of capital, and stipulate that at least 25 percent of all banks' lending go to SMEs.

Money and Banking System, Hostile Takeovers

Financial sector reforms are often cited as one reason for the ROK's rapid rebound from the 2008 global financial crisis. These reforms aimed to increase transparency and investor confidence and generally purge the sector of moral hazard. Since 1998, the ROK government has recapitalized its banks and non-bank financial institutions, closed or merged weak financial institutions, resolved many non-performing assets, introduced internationally-accepted risk assessment methods and accounting standards for banks, forced depositors and investors to assume appropriate levels of risk, and taken steps to help end the policy-directed lending of the past. These reforms addressed the weak supervision and poor lending practices in the South Korean banking system that helped cause and exacerbate the 1997-98 Asian financial crisis.

Capital account liberalization under the Foreign Exchange Transaction Act has also been extensive. All capital-account transactions are permitted unless specifically prohibited. In addition, 72 of the 91 transactions specified by the OECD code of liberalization of capital movements are now permitted. Non-residents may open deposit accounts in South Korean won with maturities of more than one year and may engage in offshore transactions and issue won-denominated securities abroad.

Almost no restrictions remain on foreign ownership of stock in South Korean firms. South Korean law permits foreign direct investment through mergers and acquisitions with existing domestic firms, including hostile takeovers. Nonetheless, no hostile takeovers have occurred in South Korea in part because of the lack of relevant implementing regulations for the Foreign Investment Promotion Act. In addition, the political environment for hostile takeovers remains unfriendly.

9. Competition from State-Owned Enterprises

Many South Korean State-Owned Enterprises (SOEs) continue to exert significant control over segments of the economy. There are 30 remaining SOEs in South Korea, active in the energy, real estate, and infrastructure (railroad, highway construction) sectors. The legal system has traditionally sought to give SOEs a leading role in these sectors, but over the past several years the government has tried to attract more private participation as well, especially in the real estate and construction sectors. SOEs are generally subject to the same regulations and tax policies as private sector competitors and do not have preferential access to government contracts, resources, and financing. South Korea is party to the WTO Government Procurement Agreement; a list of SOEs subject to WTO government procurement provisions is available in annex three of South Korea's agreement. The state-owned Korea Land and Housing Corporation is given preferential access to developing state-owned real estate projects, notably housing. The court system functions independently from the government and gives equal treatment to SOEs and private enterprises.

The ROK government does not provide any official data on SOEs' market shares. The ROK government requires each entity to disclose financial statements, the number of employees, and average compensation figures. A list of South Korean SOEs is available at the following Korean-language website: http://www.alio.go.kr/home.html.

OECD Guidelines on Corporate Governance of SOEs

South Korea is an OECD member state and reports significant changes in the regulatory framework for SOEs to the OECD. The Public Institutions Management Act (PIMA) gives authority to the Ministry of Strategy and Finance to administer control of many SOEs, mainly focusing on administrative and human resource management. However, there is no singular government entity that exercises ownership rights over SOEs. SOEs subject to PIMA are required to report to a line minister; the President or line ministers appoint senior government officials or politically-affiliated individuals as CEOs or directors. SOEs are explicitly obligated to consult with government officials on their budget, compensation, and key management decisions (e.g., pricing policy for energy and public utilities). For other issues, the government officials informally require the SOEs to either consult with them before making decisions or report ex post facto.

Responding to political pressure and criticism of inefficiency, lax management, and high levels of debt at SOEs, the ROK government introduced a plan to rein in excess debt and upgrade lax management policies in its Three-Year Plan for Economic Innovation, introduced on February 27, 2014. According to the debt reduction plans, debt for the 18 "highly indebted" SOEs, which had been forecast to continue climbing until 2017, will begin falling in 2016, and the debt ratio for 41 SOEs or other quasi-governmental institutions will drop to 200 percent in 2017 from 237 percent in 2013. By the end of 2014, total debt for 175 non-financial public institutions was 408.5 trillion won (USD 340 billion), up 2 trillion won from the previous year. The debt level was equal to approximately 64.5 percent of the nation's GDP, up 1.6 percent point from the previous year.

Market analysts generally regard SOEs as a part of the government or entities fully guaranteed by the government, with some exceptions: SOEs listed on local security markets, such as the Industrial Bank of Korea and Korea Electronic Power Corporation, are regarded as semi-private firms.

Sovereign Wealth Funds

The Korea Investment Corporation (KIC), a sovereign wealth fund (SWF), was established in July 2005 under the KIC Act. KIC is wholly government-owned with an independent steering committee that has the authority to undertake core business decisions, composed of six professionals from the private sector, the CEO of KIC, and the heads of MOSF and the Bank of Korea. KIC is on the PIMA list. KIC is mandated to manage assets entrusted by the ROK government and the Bank of Korea (BOK) and generally adopts a passive role as a portfolio investor. Based on the continued increase in entrusted assets and gains realized on investments, assets under management stood at USD 84.7 billion at the end of 2014, with no domestic investments to date. It is required by law to publish an annual report, submit its books to the steering committee for review, and follow all domestic accounting standards and rules. KIC also follows a voluntary code of best practices for SWFs, known as the Santiago Principles, and participates in the IMF-hosted International Working Group on SWFs.

10. Responsible Business Conduct

The economic and social value of responsible business conduct (RBC) and corporate social responsibility (CSR) awareness is growing in South Korea, but is still in a nascent stage. The Korea Corporate Governance Service, founded in 2002 by entities including the Korea Exchange (formerly Korea Stock Exchange) and the Korea Listed Companies Association, encourages companies to voluntarily improve their corporate governance practices. Since 2011, their annual assessments have included reviews of corporate environmental responsibility and CSR, in addition to the issuance of associated guidelines. The United Nations Global Compact (UNGC) Network Korea, established in 2007, actively promotes corporate involvement in the Public Private Partnership for Sustainable Development Goals 2016-2030 and guides the values and direction of CSR to be not only about charity but also about future corporate sustainability. UNGC is focused on human rights, anti-corruption, labor standards, and the environment, with 366 South Korean companies listed as UNGC members as of March 2016. The ROK government also encourages companies, including foreign subsidiaries and branches, to engage in CSR activities, particularly with the current Park Administration's emphasis on shared growth. Government-supported subsidies and tax reductions for social enterprises have contributed to an increase in the number of organizations tackling social issues related to unemployment, the environment, and low-income populations.

South Korea does not maintain regulations to prevent conflict-minerals from entering supply chains; however, the Ministry of Trade, Industry, and Energy supports companies' voluntary adherence to OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Afflicted and High-Risk Areas. South Korean companies are often obligated to follow the conflict-free regulations of economies to which they export goods. The Korea International Trade Association and private-sector firms provide consulting services to companies seeking to comply with conflict-free regulations. South Korea is not a member of the Extractive Industries Transparency Initiative, but has participated in the Kimberly process since 2012.

OECD Guidelines for Multinational Enterprises

South Korea is an OECD member country, and adheres to the OECD Guidelines for Multinational Enterprises. South Korea's RBC national point of contact is an independent private body composed of committee members recommended by government departments and relevant institutions. The Korean Commercial Arbitration Board, a non-profit corporate entity, acts as the executive office.

South Korean National Contact Point
43rd Floor, Trade Tower, World Trade Center,
Samseong-dong, Gangnam-gu,
Seoul, 135-729, Korea
Tel: +82-2-551-2022
Fax: +82-2-551-2113
Email: koreancp@kcab.or.kr
Web: www.ncp.or.kr

11. Political Violence

The ROK is a modern democracy with active public political participation, and political demonstrations are common. However, it does not have a history of political violence directed against foreign investors. There have not been reports of politically motivated threats of damage to foreign-invested projects or foreign-related installations of any sort, nor of any incidents that might be interpreted as having targeted foreign investments. Labor violence unrelated to the issue of foreign ownership, however, has occurred in foreign-owned facilities in the past.

The Democratic People's Republic of Korea (DPRK, or North Korea) and the ROK technically remain in a state of war. There is general peace and stability on the Korean Peninsula because of an armistice agreement that has lasted over 60 years. From time to time, DPRK military provocations, including missile launches and nuclear tests, have increased tension between the countries. The unprovoked sinking of a ROK naval vessel by the DPRK in March 2010 killed 46 South Korean sailors. The artillery shelling of an island off the northwest coast of the ROK in November 2010 resulted in the deaths of two South Korean soldiers and two civilians. The DPRK's January 2016 nuclear test, followed by a ballistic missile launch in February and additional short-range missile launches in March, elevated tensions on the Peninsula but also galvanized the international community to approve the strongest set of DPRK sanctions adopted by the UN Security Council in 20 years.

12. Corruption

In an effort to combat corruption, the ROK has introduced systematic measures to prevent civil servants from inappropriately accumulating wealth and conducting opaque financial transactions. The Public Service Ethics Act, first drafted in 1981 and entering into effect in 1983, requires high-ranking officials to disclose their assets, including how they were accumulated, and report gifts they receive, thereby making their holdings public. The Act on Anti-corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (previously called the Anti-corruption Act) concerns reporting of corruption allegation, protection of whistleblowers, institutional improvement, and training and public awareness to prevent corruption, as well as setting national anti-corruption initiatives through the Anti-Corruption and Civil Rights Commission (ACRC). Most companies maintain an internal audit function to prevent and detect corruption. However, South Korea still faces challenges in effectively implementing anti-corruption laws. Transparency International's Corruption Perception Index in 2015 ranks South Korea 37 out of 168 countries and gives it a score of 56 out of 100 (with 100 being very clean).

Government agencies responsible for combating government corruption include the Board of Audit and Inspection, which monitors government expenditures, and the Public Service Ethics Committee, which monitors the civil servants' financial disclosures and their financial activities. The ACRC focuses on corruption prevention by assessing the transparency of public institutions, protecting and rewarding whistleblowers, training public officials, raising public awareness, and improving policies and systems. The Financial Intelligence Unit has cooperated fully with U.S. and United Nations efforts to shut down sources of terrorist financing. Transparency International has maintained a National Chapter in South Korea since 1999.

In 2014, to reduce collusion between government regulators and regulated industries that contributed to the tragic sinking of the Sewol ferry, the ROK government tightened regulations governing the employment of retired government officials. The government expanded the list of sectors restricted from employing former government officials during a mandated period after retirement, extended the mandated post-retirement period from two to three years, and increased scrutiny of retired officials seeking jobs in fields associated with their former official duties.

On March 3, 2015, the South Korean legislature passed a comprehensive anti-corruption law known as the Anti-corruption and Conflicts of Interest Act, or the Kim Young-Ran Act. The anti-corruption law institutes strict limits on the value of gifts that can be given to public officials, lawmakers, reporters, and private school teachers. The law also extends to the spouses of officials. The law is scheduled to take effect in September 2016; however, concerns over its constitutionality may lead the government to revise the law before implementation.

The Act on the Protection of Public Interest Whistleblowers is designed to protect whistleblowers in the private sector and equally extends to reports on foreign bribery, with a reporting center operated by ACRC.

UN Anticorruption Convention, OECD Convention on Combating Bribery

South Korea signed the UN Convention against Corruption on December 10, 2003, and ratified it on March 27, 2008. South Korea is also a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and a member of the Asia-Pacific Economic Cooperation Anti-Corruption and Transparency Working Group.

Resources to Report Corruption

The ROK government anti-corruption agency is:

Anti-Corruption and Civil Rights Commission
Government Complex-Sejong, 20, Doum 5-ro
Sejong-si, 339-012
Tel: +82-44-200-7151
Fax: +82-44-200-7916
Email: webmaster@acrc.go.kr
http://www.acrc.go.kr/eng/index.do

An independent anti-corruption monitoring organization is:

Anti-Corruption Network in Korea (aka Transparency International Korea)
#1006 Pierson Building, 89-27 Sinmunro 2-ga, Jongno-gu
Seoul, 100-761
Tel: +82-2-717-6211
Fax: +82-2-717-6210
Email: ti@ti.or.kr
http://ti.or.kr/xe/eintro

13. Bilateral Investment Agreements

South Korea has signed 95 bilateral investment treaties and investment chapters in 14 FTAs. The United States has a bilateral Treaty of Friendship, Commerce, and Navigation with South Korea, which contains general provisions pertaining to business relations and investment. During then-ROK President Kim Dae-jung’s visit to the United States in 1998, President Clinton and President Kim agreed to negotiate a Bilateral Investment Treaty (BIT) between the two nations. However, negotiations in 1998 and 1999 stalled after the two sides could not resolve differences on certain issues. The KORUS FTA contains strong, enforceable investment provisions that went into force in March 2012.

Bilateral Taxation Treaties

South Korea has a bilateral income tax treaty with the United States that entered into force in 1979. A complete list of countries and economies with which South Korea has concluded bilateral investment protection agreements, such as BITs and FTAs with investment chapters, is available at http://investmentpolicyhub.unctad.org/IIA.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

The Foreign Investment Promotion Act (FIPA) is meant to support potential investors and create a business environment conducive to increased foreign investment. FIPA offers foreign investors various incentives, including tax breaks and cash grants for projects.

Korea aims to attract more foreign investment by promoting its eight Free Economic Zones (FEZ): Incheon (near Incheon Airport, to be completed in 2022); Busan/Jinhae (in South Gyeongsang Province, to be completed in 2020); Gwangyang Bay (in South Gyeongsang Province, to be completed in 2020); Yellow Sea (in South Chungcheong Province, to be completed 2020); Daegu/Gyeongbuk (in North Gyeongsang Province, to be completed in 2022); Saemangeum/Gunsan (in North Jeolla Province, to be completed in 2020), East Sea (in Donghae and Gangrung, to be completed in 2024) and Chungbuk (in North Chungcheong Province, to be completed in 2020). The FEZs differ from other zones designated for foreign investment in their focus on creating a comprehensive living and working environment with biotechnology, aviation, logistics, manufacturing, service, and other industrial clusters as well as international schools, recreational facilities, and international hospitals. In 2009, the National Assembly passed the Special Act on Free Economic Zones to increase tax benefits for investment, increase the FEZ infrastructure budget, and streamline the approval process for land development. On December 28, 2010, the government announced a plan to abolish inefficient, underperforming, and unfeasible portions of the nation's free economic zones as part of its efforts to reorganize the specially created districts. Under the plan, the Ministry of Knowledge Economy (now MOTIE) removed the FEZ status from 90.51 square kilometers (22,366 acres), or 15.9 percent of the total land in the zones, in February 2012. Additional information is available at http://www.fez.go.kr/global/en/index.do.

Songdo City in the Incheon FEZ in 2012 won the right to host the UN's Green Climate Fund and aims to become an innovative, state-of-the-art Northeast Asia business hub. The city is the first LEED (Leadership in Energy and Environmental Design) certified district in South Korea and the largest project outside North America to be included in the LEED Neighborhood Development Pilot Program. It offers commercial office space, residences, retail shops, hotels, schools, hospitals, and cultural facilities. Additional information is available at http://www.songdo.com.

As of April 2014, there are also four foreign-exclusive industrial complexes in Gyeonggi Province (Hyungok, Pyosung, Chupal, and Hansan), designed to provide inexpensive plant sites, with the national and local governments providing assistance for leasing or selling in such sites at discounted rates. In addition, there are 13 Free Trade Zones in Donghae, Suncheon, Gunsan, Daebul, Masan, Ulsan, Gimje, Yulchon, and seven logistics areas near airports and harbors, where companies may pursue their business with government support, but without the usual legal requirements such as approval procedures for exports and imports and customs duties. There are also 21 Foreign Investment Zones designated by local governments to accommodate industrial sites for foreign investors. Special considerations for foreign investors vary among these options.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2015	1,377,500	2014	1,410,383	www.worldbank.org/en/country

Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2015	27,916	2014	34,896	BEA data available at http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	2015	61,346	2014	36,056	BEA data available at http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2015	12.26	2014	12.8	http://unctad.org/en/Pages/DIAE/World% 20Investment%20Report/Country-Fact-Sheets.aspx

*Sources: GDP - http://ecos.bok.or.kr/; inbound FDI - http://www.motie.go.kr; outbound FDI - https://www.koreaexim.go.kr

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			Outward Direct Investment		
Total Inward	170,704	100%	Total Outward	253,714	100%
Japan	47,896	28%	China, Mainland	63,720	25%
United States	32,057	19%	United States	44,664	18%
Netherlands	16,174	9%	China, Hong Kong	10,866	4%
United Kingdom	13,325	8%	U.S. Virgin Islands	9,586	4%
Singapore	7,831	5%	Netherlands	7,881	3%
"0" reflects amounts rounded to +/- USD 500,000.					

*Sources: GDP - http://ecos.bok.or.kr/; inbound FDI - http://www.motie.go.kr; outbound FDI - https://www.koreaexim.go.kr

Table 4: Sources of Portfolio Investment

Foreign-held portfolio investment assets in South Korea as reported by the IMF (see table below) are significantly lower than local figures from the Financial Supervisory Service. Data discrepancies could be explained by differences in the definition and qualifying criteria of foreign investors, and different starting dates for the calculation of total asset stock.

The Cayman Islands, commonly regarded as a tax haven, is the 12th largest foreign portfolio investor in South Korea as of December 2015, holding 8.56 trillion won (USD 7.56 billion) worth of South Korean stocks.

Portfolio Investment Assets as of End June 2015								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	230,466	100%	All Countries	157,023	100%	All Countries	73,444	100%
United States	93,097	40%	United States	69,739	44%	United States	23,358	32%
United Kingdom	16,113	7%	China, Mainland	10,291	7%	United Kingdom	7,551	10%
China, Mainland	16,086	7%	Luxembourg	8,562	7%	France	6,346	9%
Luxembourg	12,683	6%	United Kingdom	8,137	5%	Brazil	5,357	7%
Japan	10,363	4%	Japan	7,155	5%	China, Mainland	4,854	7%

Source: IMF

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments]

Legal system:

Mixed legal system combining European civil law, Anglo-American law, and Chinese classical thought

International organization participation:

ADB, AfDB (nonregional member), APEC, ARF, ASEAN (dialogue partner), Australia Group, BIS, CD, CICA, CP, EAS, EBRD, FAO, FATF, G-20, IADB, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IEA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAIA (observer), MIGA, MINURSO, NEA, NSG, OAS (observer), OECD, OPCW, OSCE (partner), Paris Club (associate), PCA, PIF (partner), SAARC (observer), SICA (observer), UN, UN Security Council (temporary), UNAMID, UNCTAD, UNESCO, UNHCR, UNIDO, UNIFIL, UNISFA, UNMIL, UNMISS, UNMOGIP, UNOCI, UNWTO, UPU, WCO, WHO, WIPO, WMO, WTO, ZC

Section 6 - Tax

Exchange control

The Foreign Exchange Transaction Regulation (FETR) was revised with respect to payment or receipts for trades, services, and capital transactions including portfolio inbound investment, effective 1 June 1998.

Under the revised FETR, a resident borrower should report to a foreign exchange bank when he borrows dollars or other foreign currencies from an overseas lender under arrangements in force for more than one year. A report should be made to the Ministry of Finance and Economy (MOFE) when the borrowing per case exceeds US$30,000,000. In addition to these revisions, the MOFE undertook another major revision that became effective on 1 April 1999. Such revision included more extensive de-regulation of cross-border payments and receipts, such as allowing Won currency to be used in foreign trade and the use of dollars in domestic transactions

Treaty and non-treaty withholding tax rates

Korea, Republic of has signed **92 agreements** (**87 DTC** and **5 TIEA** agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Albania	DTC	7 May 2006	13 Jan 2007	Unreviewed	No
Algeria	DTC	24 Nov 2001	1 Jan 2007	Unreviewed	No
Australia	DTC	12 Jul 1982	1 Jan 1984	Yes	No
Austria	DTC	8 Jan 1985	1 Dec 1987	No	No
Azerbaijan	DTC	19 May 2008	25 Nov 2008	Unreviewed	No
Bahamas, The	TIEA	4 Aug 2011	15 Jul 2013	Yes	Yes
Bahrain	DTC	1 May 2012	26 Apr 2013	Yes	Yes
Bangladesh	DTC	10 May 1983	22 Aug 1984	Unreviewed	No
Belarus	DTC	20 May 2002	17 Jun 2003	Unreviewed	No
Belgium	DTC	29 Aug 1977	19 Sep 1979	Yes	No
Belgium	DTC Protocol	10 Mar 2010	not yet in force	Yes	Yes
Bermuda	TIEA	24 Jan 2012	not yet in force	Yes	Yes
Brazil	DTC	7 Mar 1989	21 Nov 1991	No	No
Bulgaria	DTC	11 Mar 1994	22 Jun 1995	Unreviewed	No
Canada	DTC	5 Sep 2006	18 Dec 2006	Yes	Yes
Chile	DTC	18 Apr 2002	25 Jul 2003	Yes	No
China	DTC	28 Mar 1994	27 Sep 1994	Yes	No

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Colombia	DTC	27 Jul 2010	not yet in force	Unreviewed	Yes
Cook Islands	TIEA	31 May 2011	5 Mar 2012	Yes	Yes
Croatia	DTC	13 Nov 2002	15 Sep 2006	Unreviewed	No
Czech Republic	DTC	27 Apr 1992	3 Mar 1995	Yes	No
Denmark	DTC	11 Nov 2007	8 Jan 1979	Yes	No
Ecuador	DTC	8 Oct 2012	not yet in force	Unreviewed	Yes
Egypt	DTC	9 Dec 1992	5 Feb 1994	Unreviewed	No
Estonia	DTC	23 Sep 2009	25 May 2010	Yes	No
Fiji	DTC	19 Sep 1994	17 Feb 1995	Unreviewed	No
Finland	DTC	8 Feb 1979	23 Dec 1981	Yes	No
France	DTC	19 Jun 1979	1 Feb 1981	Yes	No
Gabon	DTC	25 Oct 2010	not yet in force	Unreviewed	Yes
Germany	DTC	10 Mar 2000	31 Oct 2002	Yes	No
Greece	DTC	20 Mar 1995	10 Jul 1998	Yes	No
Hungary	DTC	29 Mar 1989	1 Apr 1990	Yes	No
Iceland	DTC	15 May 2008	23 Oct 2008	Yes	No
India	DTC	19 Jul 1985	1 Aug 1986	Yes	No
Indonesia	DTC	10 Nov 1988	3 May 1989	Yes	No
Iran	DTC	6 Jul 2006	9 Dec 2008	Unreviewed	No
Ireland	DTC	18 Jul 1990	27 Nov 1991	Yes	No
Israel	DTC	18 Mar 1997	1 Jan 1998	Yes	No
Italy	DTC	10 Jan 1989	14 Jul 1992	Yes	No
Japan	DTC	8 Oct 1998	22 Nov 1999	Yes	No
Jordan	DTC	24 Jul 2004	28 Mar 2005	Unreviewed	No
Kazakhstan	DTC	18 Jan 1997	9 Apr 1999	Unreviewed	No
Korea, Democratic People's Republic of	DTC	16 Dec 2000	20 Aug 2003	No	No
Kuwait	DTC	5 Dec 1998	13 Jun 2000	Unreviewed	No
Lao People's Democratic Republic	DTC	29 Nov 2004	9 Feb 2006	Unreviewed	No
Latvia	DTC	15 Jun 2008	7 Dec 2009	Unreviewed	No
Lithuania	DTC	20 Apr 2006	14 Jul 2007	Yes	No
Luxembourg	DTC	7 Nov 1984	26 Dec 1986	Yes	Yes
Malaysia	DTC	20 Apr 1982	3 Dec 1982	No	No
Malta	DTC	25 Mar 1997	21 Mar 1998	Yes	No
Marshall Islands	TIEA	31 May 2011	9 Mar 2012	Yes	Yes
Mexico	DTC	6 Oct 1994	13 Feb 1995	Yes	No
Mongolia	DTC	17 Apr 1992	6 Jun 1993	Unreviewed	No
Morocco	DTC	27 Jan 1999	1 Jul 2000	Unreviewed	No
Myanmar	DTC	22 Feb 2002	4 Aug 2003	Unreviewed	No
Nepal	DTC	5 Oct 2001	29 May 2003	Unreviewed	No
Netherlands	DTC	25 Oct 1978	17 Apr 1981	No	No
New Zealand	DTC	6 Oct 1981	22 Apr 1983	Yes	No
Nigeria	DTC	6 Nov 2006	not yet in force	Unreviewed	Yes

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Norway	DTC	5 Oct 1982	1 Mar 1984	Yes	No
Oman	DTC	23 Sep 2005	13 Feb 2006	Unreviewed	No
Pakistan	DTC	13 Apr 1987	20 Oct 1987	Unreviewed	No
Panama	DTC	20 Oct 2010	1 Apr 2012	Yes	Yes
Papua New Guinea	DTC	23 Nov 1996	21 Mar 1998	Unreviewed	No
Peru	DTC	10 May 2012	not yet in force	Unreviewed	Yes
Philippines	DTC	21 Feb 1984	9 Nov 1985	Yes	No
Poland	DTC	21 Jun 1991	21 Feb 1992	Yes	No
Portugal	DTC	26 Jan 1996	21 Dec 1997	Yes	No
Qatar	DTC	27 Mar 2007	15 Apr 2008	Yes	No
Romania	DTC	11 Oct 1993	9 Feb 2006	Unreviewed	No
Russian Federation	DTC	19 Nov 1992	1 Jan 1996	Yes	No
Saudi Arabia	DTC	24 Mar 2007	1 Dec 2008	Yes	No
Singapore	DTC	6 Nov 1979	13 Feb 1981	Yes	Yes
Slovakia	DTC	27 Aug 2001	8 Jul 2003	Yes	No
Slovenia	DTC	25 Apr 2005	2 Mar 2006	Yes	No
South Africa	DTC	7 Jul 1995	7 Jan 1996	Yes	No
Spain	DTC	17 Jan 1994	21 Nov 1994	Yes	No
Sri Lanka	DTC	28 May 1984	20 Jun 1986	Unreviewed	No
Sudan	DTC	9 Apr 2004	not yet in force	Unreviewed	No
Sweden	DTC	27 May 1981	9 Sep 1982	Yes	No
Switzerland	DTC	12 Feb 1980	22 Apr 1981	No	Yes
Thailand	DTC	16 Nov 2006	29 Jun 2007	Unreviewed	No
Tunisia	DTC	27 Sep 1988	25 Nov 1989	Unreviewed	No
Turkey	DTC	24 Dec 1983	27 Mar 1986	Yes	No
Ukraine	DTC	29 Sep 1999	19 Mar 2002	Unreviewed	No
United Arab Emirates	DTC	22 Sep 2003	4 May 2004	Yes	No
United Kingdom	DTC	25 Oct 1996	29 Dec 1996	Yes	No
United States	DTC	4 Jun 1976	20 Oct 1979	Yes	No
Uruguay	DTC	29 Nov 2011	22 Jan 2013	Yes	Yes
Uzbekistan	DTC	11 Feb 1998	25 Dec 1998	Unreviewed	No
Vanuatu	TIEA	14 Mar 2012	not yet in force	No	Yes
Venezuela	DTC	28 Jun 2006	15 Jan 2007	Unreviewed	No
Viet nam	DTC	20 May 1994	9 Sep 1994	Unreviewed	No

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

DISCLAIMER

Part of this report contains material sourced from third party websites. This material could include technical inaccuracies or typographical errors. The materials in this report are provided "as is" and without warranties of any kind either expressed or implied, to the fullest extent permissible pursuant to applicable law. Neither are any warranties or representations made regarding the use of or the result of the use of the material in the report in terms of their correctness, accuracy, reliability, or otherwise. Materials in this report do not constitute financial or other professional advice.

We disclaim any responsibility for the content available on any other site reached by links to or from the website.

RESTRICTION OF LIABILITY

Although full endeavours are made to ensure that the material in this report is correct, no liability will be accepted for any damages or injury caused by, including but not limited to, inaccuracies or typographical errors within the material, Neither will liability be accepted for any damages or injury, including but not limited to, special or consequential damages that result from the use of, or the inability to use, the materials in this report. Total liability to you for all losses, damages, and causes of action (in contract, tort (including without limitation, negligence), or otherwise) will not be greater than the amount you paid for the report.

RESTRICTIONS ON USE

All Country Reports accessed and/or downloaded and/or printed from the website may not be distributed, republished, uploaded, posted, or transmitted in any way outside of your organization, without our prior consent. Restrictions in force by the websites of source information will also apply.

We prohibit caching and the framing of any Content available on the website without prior written consent.

Any questions or queries should be addressed to: -

Gary Youinou

Via our Contact Page at KnowYourCountry.com