

CHAPTER 1 GENERAL PROVISIONS

Article 1.1 : Establishment of a Free Trade Area

Consistent with Article XXIV of GATT 1994 and Article V of GATS, the Parties hereby establish a free trade area.

Article 1.2 : Objectives

The objectives of this Agreement are to:

- (a) achieve the substantial liberalization of trade in goods between the Parties, in conformity with Article XXIV of GATT 1994;
- (b) achieve the substantial liberalization of trade in services and investment between the Parties, in conformity with Article V of GATS;
- (c) promote competition in their economies, particularly as it relates to economic relations between the Parties;
- (d) adequately and effectively protect intellectual property rights; and
- (e) establish a framework to enhance closer cooperation in the fields agreed by the Parties in this Agreement.

Article 1.3 : Relations to Other Agreements

1. The Parties reaffirm their rights and obligations under existing agreements to which both Parties are party, including the WTO Agreement and the Korea-ASEAN FTA.
2. For greater certainty, this Agreement shall not be construed to derogate from any international legal obligation between the Parties that provides for more favorable treatment of goods, services, investments, or persons than that provided for under this Agreement.
3. Unless otherwise provided in this Agreement, in the event of any inconsistency between this Agreement and any agreement to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.

Article 1.4 : Extent of Obligations

In fulfilling its obligations and commitments under this Agreement, each Party shall ensure within its territory the observance by local governments and authorities and by non-governmental bodies in the exercise of powers delegated to them by central or local governments or authorities.

Article 1.5 : General Definitions

For the purposes of this Agreement, unless otherwise specified,

Agreement on Agriculture means the *Agreement on Agriculture*, in Annex 1A to the WTO Agreement;

Anti-Dumping Agreement means the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, in Annex 1A to the WTO Agreement;

Korea-ASEAN FTA means the *Framework Agreement on Comprehensive Economic Cooperation among the Governments of Republic of Korea and the Member Countries of the Association of Southeast Asian Nations* and other relevant agreements stipulated in paragraph 1 of Article 1.4 of the Framework Agreement;

customs authority means the authority that, in accordance with the legislation of each Party, is responsible for the administration and enforcement of its customs laws and regulations:

- (a) for Korea, the Ministry of Strategy and Finance, or the Korea Customs Service; and
- (b) for Viet Nam, the General Department of Viet Nam Customs;

or their respective successors;

customs duties means any customs or import duty and a charge of any kind, including any form of surtax or surcharge, imposed in connection with the importation of a good, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994, in respect of like, directly competitive, or substitutable goods of a Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) duty imposed pursuant to a Party's laws and regulations consistently with Chapter 7 (Trade Remedies);
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered;
- (d) premiums offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions or tariff rate quotas; or

- (e) duty imposed pursuant to any agricultural safeguard measure taken under the WTO Agreement on Agriculture;

customs laws and regulations means such laws and regulations administered and enforced by the customs authorities of the Parties concerning the importation, exportation, transit or transshipment of goods, as they relate to customs duties, charges, and other taxes, or to prohibitions, restrictions, and other similar controls with respect to the movement of controlled items across the boundary of the customs territory of each Party;

Customs Valuation Agreement means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, in Annex 1A to the WTO Agreement;

days means calendar days including weekends and holidays;

enterprise means any entity duly constituted or otherwise organized under applicable laws and regulations, whether for profit or otherwise, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organizations;

existing means in effect on the date of entry into force of this Agreement;

GATS means the *General Agreement on Trade in Services*, in Annex 1B to the WTO Agreement;

GATT 1994 means the *General Agreement on Tariffs and Trade 1994*, including its notes and supplementary provisions, which is a part of the WTO Agreement;

goods means any merchandise, product, article, or material;

Harmonized System (HS) means the nomenclature of the Harmonized Commodity Description and Coding System defined in the *International Convention on the Harmonized Commodity Description and Coding System*, including all legal notes thereto, as in force and as amended from time to time;

Joint Committee means the Joint Committee established under Article 17.1(Joint Committee);

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

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

measures adopted or maintained by a Party means measures adopted or maintained by:

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

national means:

- (a) for Korea, a Korean national within the meaning of the *Nationality Act*, as amended; and
- (b) for Viet Nam, any person who is a citizen of Viet Nam within the meaning of its Constitution and the *Law on Vietnamese Nationality*, as amended;

originating goods means products or materials that qualify as originating under the Chapter 3 (Rules of Origin and Origin Procedures);

person means a natural person or a juridical person or an enterprise;

preferential tariff treatment means tariff concessions granted to originating goods as reflected by the tariff rates applicable under this Agreement;

Safeguards Agreement means the *Agreement on Safeguards*, in Annex 1A to the WTO Agreement;

SCM Agreement means the *Agreement on Subsidies and Countervailing Measures*, in Annex 1A to the WTO Agreement;

territory means:

- (a) for Korea, the land, maritime, and airspace under its sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with international law and its domestic law; and
- (b) for Viet Nam, the land territory including mainland and islands, internal waters, territorial sea, and airspace above the territory, the maritime areas beyond territorial sea, including the continental shelf, exclusive economic zone, and natural resources thereof over which Viet Nam exercises its sovereignty, sovereign rights, or jurisdiction in accordance with its domestic law and international law;

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, in Annex 1C to the WTO Agreement;

UNCITRAL means the United Nations Commission on International Trade Law;

WTO means the World Trade Organization; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994.