

CHAPTER ONE

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A: Initial Provisions

Article 1.1: Establishment of a Free Trade Area

The Parties hereby establish a free trade area, in conformity with Article XXIV of GATT 1994 and Article V of GATS, in accordance with the provisions of this Agreement.

Article 1.2: Relation to other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which both Parties are party.

2. Unless otherwise provided in this Agreement, in the event of any inconsistency between this Agreement and other agreements to which both Parties are party, the Parties shall immediately consult¹ with each other with a view to finding a mutually satisfactory solution, taking into consideration general principles of international law.

Article 1.3: Extent of Obligations

Each Party is responsible for the observance of all provisions of this Agreement and shall take any necessary measure to implement the obligations under it, including its observance by central or local governments and authorities, as well as non-governmental bodies in the exercise of governmental powers delegated to them by such governments and authorities, except as otherwise provided in this Agreement.

¹ For greater certainty, the consultations envisaged in this paragraph do not constitute a stage in the Dispute Resolution process established in Chapter Twenty (Dispute Settlement).

Section B: General Definitions

Article 1.4: Definitions

For the purposes of this Agreement, unless otherwise specified:

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

covered investment means, with respect to a Party, an investment, as defined in the Understanding on the Definitions and Obligations Regarding Investment, in its territory of an investor of the other Party that is in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

customs duties include any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation,² but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994;
- (b) duty imposed pursuant to a Party's domestic law consistently with Chapter Seven (Trade Remedies),
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered; or
- (d) premium 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;

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

² For greater certainty, "customs duty" includes an adjustment tariff imposed pursuant to Article 69 of Korea's *Customs Act*.

days means calendar days;

enterprise means any entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization;

enterprise of a Party means an enterprise constituted or organized under a Party's law;

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

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under its *Articles of Agreement*;

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

GATT 1994 means the *WTO General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

goods of a Party means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party;

government procurement means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale;

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

Heading means the first four digits of the tariff classification number under the Harmonized System (HS);

Import Licensing Agreement means the *Agreement on Import Licensing Procedures*, contained in Annex 1A to the WTO Agreement;

Joint Committee means the Joint Committee established under Chapter Twenty Two (Institutional Provisions);

measure includes any law, regulation, procedure, requirement, or practice;

national means:

- (a) for Ecuador, Ecuadorians by birth or naturalization, in accordance with the Constitution of Ecuador; and
- (b) for Korea, a Korean national within the meaning of the Nationality Act;

originating means qualifying under the rules of origin set out in Chapter Three (Rules of Origin and Origin Procedures);

person means a natural person or an enterprise;

person of a Party means a national or an enterprise of a Party;

preferential tariff treatment means the duty rate applicable under this Agreement to an originating good;

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

sanitary or phytosanitary measure means any measure referred to in paragraph 1 of Annex A to the SPS Agreement;

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

Social and Solidarity Economy ("SSEs"), is a form of economic organization where its members³, individually or collectively, organize and develop processes of production, commercialization, financing, and consumption of goods and services to satisfy needs and generate income, based on relations of solidarity, cooperation, and reciprocity, favoring the human being and labor as the core of its activity in harmony with nature, over appropriation, profit, and capital

³ Actors of the Popular and Solidarity Economy are stakeholders of Social and Solidarity Economy.

accumulation;

SPS Agreement means the *Agreement on the Application of Sanitary and Phytosanitary Measure*, contained in Annex 1A to the WTO Agreement;

state enterprise means an enterprise that is owned, or controlled through ownership interests, by a Party;⁴

Subheading means the first six digits of the tariff classification number under the Harmonized System (HS);

TBT Agreement means the *Agreement on Technical Barriers to Trade*, contained in Annex 1A to the WTO Agreement;

territory means:

- (a) with respect to Ecuador, the mainland and maritime space, adjacent islands, the territorial sea, the archipelago of the Galapagos Islands, the continental shelf, subsoil, and the air space, in accordance with the Constitution of Ecuador, over which it may exercise sovereign rights or jurisdiction in accordance with international law and its law; and
- (b) with respect to Korea, the land, maritime, and air space over which Korea exercises 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 law;

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement;⁵

WTO means the World Trade Organization; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade*

⁴ For greater certainty, ownership, or control through ownership interests, may be direct or indirect.

⁵ For greater certainty, “TRIPS Agreement” includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

Organization, done on 15 April 1994.