

ANNEX 2-B

ELECTRONICS

ARTICLE 1: GENERAL PROVISIONS

1. Recalling the obligations of the Parties under the WTO Agreement, in particular the TBT Agreement, and recognising the importance of electronics for growth, employment and trade for each Party, the Parties confirm their shared objectives and principles of:

- (a) progressively and simultaneously eliminating tariffs and non-tariff obstacles to bilateral trade;
- (b) establishing competitive market conditions based on principles of openness, non-discrimination, proportionality and transparency;
- (c) gradually aligning their domestic regulations with existing international standards;
- (d) promoting “one test” and, where practicable, a supplier’s declaration of conformity through elimination of duplicative and unnecessarily burdensome conformity assessment procedures;
- (e) implementing appropriate regulatory and legal enforcement mechanisms related to product liability and market surveillance; and
- (f) enhancing cooperation to foster continued mutually beneficial development in trade, as well as to improve product quality with a view to ensuring protection of public health and safety of products.

2. This Annex shall apply to any standard, technical regulation and conformity assessment procedure that either Party may introduce or maintain with respect to the safety and electromagnetic compatibility (hereinafter referred to as “EMC”) of electrical and electronic equipment, professional electrotechnical equipment, electrical household appliances and consumer electronics defined in Appendix 2-B-1 (hereinafter referred to as “covered products”).

ARTICLE 2: INTERNATIONAL STANDARDS AND STANDARD-SETTING BODIES

1. The Parties recognise that the International Organization for Standards (hereinafter referred to as the “ISO”), the International Electrotechnical Commission (hereinafter referred to as the “IEC”) and the International Telecommunication Union (hereinafter referred to as

the “ITU”) are the relevant international standard-setting bodies for EMC and safety of covered products.¹

2. Where relevant international standards established by the ISO, IEC and ITU exist, the Parties shall use these international standards or the relevant parts of them as a basis for any standard, technical regulation or conformity assessment procedure.²

3. The Parties shall ensure that their standard-setting bodies participate in the development of international standards in the ISO, IEC and ITU, and commit to consult with a view to establishing common approaches.

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ARTICLE 3: CONFORMITY ASSESSMENT PROCEDURE

In case a Party requires a positive assurance of conformity with technical regulations on EMC or safety of covered products, the following rules shall apply:³

- (a) conformity assessment procedures shall not be prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade with the other Party;
- (b) except as otherwise provided under this Annex, including the transitional arrangements set out in Article 4, each Party shall accept products on its market⁴ on the basis of one or more of the following procedures as positive assurance of conformity to its technical regulations on EMC or safety of covered products:
 - (i) a supplier’s declaration of conformity without requiring the intervention of any conformity assessment body or testing of the product by recognised testing laboratories;
 - (ii) a supplier’s declaration of conformity based on a test report from any testing laboratory in the other Party’s territory that has been notified by the Party at the entry into force of this Agreement or in any subsequent notifications. The notifying Party shall be solely responsible for

¹ The Parties may agree in the future by decision of the Trade Committee on any new international standard-setting bodies which they deem relevant for the purpose of implementing this Article.

² In case no such international standards exist, or where a Party has adopted any standard, technical regulation or conformity assessment procedure which differs from that under international standards, the Party shall limit its standard, technical regulation or conformity assessment procedure to what is necessary for the achievement of legitimate objectives on safety and other public interest requirements and, wherever appropriate, base them on products requirements in terms of performance rather than design or descriptive characteristics, in accordance with Chapter Four (Technical Barriers to Trade).

³ Either Party reserves its right to require in the future positive assurance of conformity for any product currently not subject to positive assurance of conformity, in which case the Party has to comply with its obligations under this Annex.

⁴ The permission to place a product on the market in accordance with this subparagraph shall include permission to affix any mandatory marks that are required for placing such product on the market.

notifying any laboratory which is competent⁵ to perform the relevant tests in its territory, without prior approval or verification by the importing Party. The importing Party may require that the declaration of conformity is submitted by the supplier before the product is placed on its market and that the declaration contains the name of the testing laboratory issuing the test report and the issuing date of the test report. The importing Party may also require a copy of the test report, including a list of critical components, demonstrating conformity to the requirements applicable to the product, and a general description of the product; or

- (iii) a supplier's declaration of conformity based on a test report issued by:
 - (A) any testing laboratory in the other Party that has concluded voluntary arrangements for mutual acceptance of test reports with one or more conformity assessment bodies designated by the importing Party; or
 - (B) a CB Test Laboratory of the other Party under the IECEE CB Scheme, accompanied by a valid CB Test Certificate, in accordance with the rules and procedures of the IECEE CB Scheme and the commitments by the Parties thereunder.

The importing Party may require for review before the product is placed on its market the submission of the declaration of conformity which contains a copy of the test report, including a list of critical components, demonstrating conformity to the requirements applicable to the product, and a general description of the product.

The choice among the procedures in this subparagraph shall rest with each Party subject to the limitations set out in Appendix 2-B-2;

- (c) the Parties shall accept the supplier as solely responsible for issuing, changing or withdrawing the declaration of conformity. The Parties may require that the declaration of conformity is dated and identifies the supplier or the supplier's authorised representative in their territories, the person empowered by the manufacturer or his authorised representative to sign the declaration, the products covered by the declaration, and the applied technical regulations to which conformity is declared. When a supplier's declaration of conformity is for a batch of products, it shall cover each article of the batch. When testing is undertaken, the choice of the testing laboratory shall rest with the supplier; and
- (d) beyond what is set out in this Article, a Party shall not require any form of registration of products that may prevent or otherwise delay the placing on the market of products that comply with the Party's technical regulations. In so far

⁵ The specific testing laboratories that are competent in the notifying Party in accordance with its legislation, that obtain accreditation (for example under ISO/IEC 17025) by the accreditation body or that are competent for post-market surveillance for conformity assessment in the notifying Party, will be considered competent for the task envisaged in this Annex.

as a Party reviews the supplier's declaration in line with subparagraph (b)(iii), the review shall be solely limited to verifying, on the basis of the documentation submitted, that the test has been done in accordance with the Party's relevant technical regulations and that the information contained in the documentation is complete. Any such review shall not cause undue delay for the placing of the products on the Party's market and the declaration shall be accepted, without exceptions, if the products comply with the Party's technical regulations and the documentation submitted is complete. In the event that a declaration is rejected, the Party shall communicate its decision to the supplier immediately, together with a detailed explanation of the grounds for the rejection and how these can be rectified by the supplier, as well as an explanation of possibilities to appeal the decision.

ARTICLE 4: TRANSITIONAL ARRANGEMENTS

1. The European Union shall comply with Article 3(b) of this Annex upon the entry into force of this Agreement while Korea shall comply with that subparagraph within three years of the entry into force of this Agreement.

2. During the transitional period set out in paragraph 1, in so far as Korea applies, upon the entry into force of this Agreement, mandatory certification to its technical regulations on EMC or safety of covered products, including third party testing, for a product falling under the scope of this Annex, Korea may require to accept such product on its market:⁶

- (a) a certificate issued by a conformity assessment body in the European Union that has been designated as a "Notified Body" according to the legislation of the European Union. The European Union shall be solely responsible for choosing conformity assessment bodies in its territory, without prior approval or verification by Korea, and shall notify Korea of its list of relevant bodies upon the entry into force of this Agreement and any change thereafter; or
- (b) a certificate to its technical regulations issued by a conformity assessment body that has been designated according to the procedures of Korea. Korea shall accept such certificates based on a test report issued by:
 - (i) any testing laboratory in the European Union that has concluded voluntary arrangements for mutual acceptance of test reports with one or more conformity assessment bodies designated by Korea; or
 - (ii) an EU CB Test Laboratory under the IECEE CB Scheme, accompanied by a valid CB Test Certificate, in accordance with the rules and procedures of the IECEE CB Scheme and the commitments by the European Union and Korea thereunder.

The choice between the procedures in this subparagraph shall rest with Korea subject to the limitations set out in Appendix 2-B-2.

⁶ The permission to place a product on the market in accordance with this Article shall include permission to affix any mandatory marks that are required for placing the product on the market.

3. For those products listed in Appendix 2-B-3, Korea may continue to require positive assurance of conformity with its technical regulations on safety of covered products on the basis of a certificate in accordance with Article 4.2(b) of this Annex after the expiry of the transitional period set out in paragraph 1. For each product listed in Appendix 2-B-3, it will be reviewed, by the end of the transitional period set out in paragraph 1, whether accepting positive assurance of the conformity of such products with its technical regulations on safety of covered products in accordance with Article 3(b) of this Annex would create risks for human health and safety. Such risk assessment will be conducted for such products on the market, on the basis of available scientific and technical information such as consumer reports on safety accidents and non-conformity rate of product inspection. It will also be considered whether the products are used for their intended end-uses and with reasonable and usual care. If the results of risk assessment demonstrate that complying with Article 3(b) of this Annex for the products concerned would create risks for human health and safety, or if the post-market surveillance system set up cannot effectively address such risks, positive assurance of conformity as set out in Article 4.2(b) of this Annex can be maintained. Every three years following the end of the transitional period, the Parties shall review in the Committee on Trade in Goods the risk assessment with the aim of further reducing products listed in Appendix 2-B-3.

ARTICLE 5: CONSOLIDATION AND GRADUAL REDUCTION IN REQUIREMENTS

1. The Parties shall, for covered products, not maintain or impose any requirements that are more trade-restrictive, or otherwise have the effect of delaying access to their markets, than what is set out in this Annex regarding conformity assessment procedures covering EMC or safety of covered products or administrative procedures for approving or reviewing test reports.

2. No later than five years after the entry into force of this Agreement, Korea shall introduce a supplier's declaration of conformity in accordance with Article 3(b)(i) of this Annex for the placing on the market of some products falling within the scope of this Annex. Every five years following the introduction of a supplier's declaration of conformity, the Parties shall review the possibility of gradually eliminating technical and administrative requirements including mandatory third party testing, through expanding the introduction of a supplier's declaration of conformity in accordance with Article 3(b)(i) of this Annex and developing effective market surveillance for the proper functioning of such system.

ARTICLE 6: EXCEPTIONS AND EMERGENCY MEASURES

1. Notwithstanding Articles 3 through 5 of this Annex, either Party may introduce requirements for mandatory third party testing or certification for EMC or safety of covered products, or introduce administrative procedures for approving or reviewing test reports, for particular products falling within the scope of this Annex under the following conditions:

- (a) there exist urgent and compelling reasons related to the protection of human health and safety that justify the introduction of such requirements or procedures;

- (b) the reasons for the introduction of any such requirements or procedures are supported by substantiated technical or scientific information regarding the performance of the products in question;
- (c) any such requirements or procedures are not more trade-restrictive than necessary to fulfil the Party's legitimate objective, taking account of the risks that non-fulfilment would create; and
- (d) the Party could not have reasonably foreseen the need for introducing any such requirements or procedures at the time of entry into force of this Agreement.

Before introducing the requirements or procedures, the Party shall notify the other Party and, following consultations, take the comments of the other Party into account, to the greatest extent possible, in devising any such requirements or procedures. Any requirements introduced shall, to the greatest extent possible, be in compliance with this Annex. Once adopted, any requirement or procedure introduced shall be reviewed every third year from the date of its adoption and repealed if the reasons for its introduction no longer exist.

2. If a Party has good cause to believe that a covered product creates risk for human health and safety, notably because it does not comply with requirements applicable to it, the Party may require withdrawal of that product from its market. Any such temporary emergency measures shall be notified to the other Party with an objective and reasoned explanation of why such actions have been taken, indicating whether the need for such measures is due to:

- (a) failure to comply with applicable standards or technical regulations;
- (b) incorrect application of standards or technical regulations; or
- (c) shortcomings in the standards or technical regulations themselves.

ARTICLE 7: IMPLEMENTATION AND COOPERATION

1. The Parties shall closely cooperate to promote common understanding on regulatory issues, including those related to radio frequency equipment, and consider any request of the other Party regarding the implementation of this Annex.

2. The Parties shall cooperate to maintain and expand the voluntary arrangements for mutual acceptance of test reports between them.

3. Whenever Korea requires as a positive assurance of conformity the procedures set out in Article 3(b)(iii) and Article 4.2(b) of this Annex for a product falling within the scope of this Annex, it shall ensure that its certification bodies have Memoranda of Understanding (MOUs) with testing laboratories in the European Union, or are National Certification Bodies under the IECEE CB Scheme, for that product unless its technical regulations for that product substantially differ from relevant IEC standards. This paragraph shall apply as from the expiry of the transitional period set out in Article 4.1 of this Annex.

4. When amending existing technical regulations or developing any new technical regulation for EMC or safety of covered products, a Party shall notify the other Party in

advance, provide, upon request, additional available information or written responses to the comments made by the other Party and, as appropriate, consider the other Party's views.

5. The Parties agree to consult promptly on any issue that may arise concerning the implementation of this Annex, and to cooperate for the further facilitation of trade in covered products, including, as appropriate, through the promotion of international standards.

6. The Parties shall protect any confidential business information obtained under the procedures referred to in this Annex.