

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 in accordance with the provisions of this Agreement.

Article 1.2: Objectives

The objectives of this Agreement are:

- (a) to achieve the substantial liberalization and facilitation of trade in goods between the Parties, in conformity with Article XXIV of the GATT 1994 pursuant to Chapter 2 of this Agreement;
- (b) to achieve the substantial liberalization of trade in services between the Parties, in conformity with Article V of the GATS pursuant to Chapter 8 of this Agreement;
- (c) to achieve the substantial increase in investment opportunities in the territories of the Parties;
- (d) to promote fair competition in their economies, particularly as it relates to economic relations between the Parties;
- (e) to ensure adequate and effective protection of intellectual property rights pursuant to Chapters 12 of this Agreement;
- (f) to further liberalize, on a mutual basis, the government procurement markets of the interested Parties, pursuant to Chapter 10 of this Agreement; and
- (g) to develop international trade in such a way as to contribute to the objective of sustainable development and strive to integrate and reflect this objective in the Parties' trade.

Article 1.3: General Definitions

For purposes of this Agreement, unless otherwise specified:

Agreement on Agriculture means the *Agreement on Agriculture*, contained 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;

customs duty includes any duty or 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, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994 and its interpretative notes;
- (b) duty imposed pursuant to a Party's law and consistently with Chapter 3 (Trade Remedies);
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered, imposed consistently with provisions of Article VIII of the GATT 1994;
- (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; or
- (e) duty imposed pursuant to any agricultural safeguard measure taken under the WTO Agreement on Agriculture.

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 holidays and weekends;

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 this Agreement enters into force;

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* in Annex 1A to the WTO Agreement. For the purposes of this Agreement, references to articles in the GATT 1994 include its Notes and Supplementary Provisions;

goods of a Party means domestic products as understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party in accordance with the provisions of this agreement;

government procurement means the process by which 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* governed by the International Convention on 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;

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 pursuant to Article 16.1 of this Agreement;

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

national means:

- (a) with respect to Korea, a Korean national within the meaning of the *Nationality Act*,¹ as amended; and

¹ A natural person who is domiciled in the area north of the Military Demarcation Line on the Korean Peninsula shall not be entitled to benefits under this Agreement.

- (b) with respect to the GCC Member States, in accordance with their respective domestic laws and regulations;

originating for the purposes of chapter 1 “General Provision” and chapter 2 “Trade in Goods” originating means qualifying under the rules of origin set out in Chapter 6 (Rules of Origin and Origin Procedures);;

person means a natural person or an enterprise;

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;

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

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

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights* in Annex 1C to the WTO Agreement;²

WTO means the World Trade Organization; and

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

Article 1.4: Relations to Other Agreements

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

2. Unless otherwise provided in this Agreement, in the event of any inconsistency between this Agreement and any other agreement to which both Parties are party; the Parties shall, upon request, consult with each other to find a

² 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.

mutually satisfactory solution. This paragraph shall be without prejudice to a Party's rights and obligations under Chapter Fifteen (Dispute Settlement).

3. This Agreement shall not apply or affect the trade relations among the GCC Member States nor, unless expressly provided for in this Agreement, shall it grant to Korea rights and privileges that the GCC Member State grants exclusively to other GCC Member States.

Article 1.5: Geographical Scope

1. This Agreement applies to the territories of the Parties as follows.
2. Territory means:
 - (a) 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 domestic law; and
 - (b) with respect to the GCC Member State,
 - (i) to the land territory, internal waters, and the territorial sea of a Party, and the air-space above the territory; as well as
 - (ii) beyond the territorial sea, with respect to measures taken by a Party in the exercise of its sovereign rights or jurisdiction in accordance with international law.

Article 1.6: Transparency

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application, in accordance with its domestic laws and regulations, respecting any matter covered by this Agreement are published or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.
2. On the request of another Party, a Party shall, in accordance with their domestic laws and regulations, promptly respond to specific questions and

provide information on matters referred to in paragraph 1. Any request and provision of information under this Article shall be conveyed through the Contact Points designated by the Parties.

Article 1.7: General Exceptions

1. For purposes of Chapters 2 (Trade in Goods), 6 (Rules of Origin and Origin Procedures), 7 (Customs Procedures and Trade Facilitation), 5 (Sanitary and Phytosanitary Measures), and 4 (Technical Barriers to Trade)], Article XX of GATT 1994 and its interpretive notes are incorporated into and forms a part of this Agreement, *mutatis mutandis*.

2. For purposes of Chapters 8 (Trade in Services and its Annexes), and 9 (Digital Trade)³], Article XIV of GATS (including its footnotes) shall apply and is hereby incorporated into and forms part of this Agreement, *mutatis mutandis*.

Article 1.8: Security Exceptions

For purposes of this Agreement, Article XXI of GATT 1994, paragraph 1 of Article XIV bis of GATS, and Article 73 of TRIPS Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 1.9: Taxation

1. Unless otherwise provided in this Article, the provisions of this Agreement shall not apply to any taxation measures.

2. For purposes of this Article:

- (a) Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

³ Article 1.5 (General Exceptions) is without prejudice to whether digital products should be classified as goods or services.

- (b) In the case of a tax convention between the Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.
- 3. Notwithstanding paragraph 2, Article 2.3 (National Treatment) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of GATT 1994.
- 4. For purposes of this Article:
 - (a) **tax convention** means a convention for the elimination of double taxation with respect to taxes on income and capital gains and the prevention of tax evasion and avoidance or other international taxation agreement or arrangement to which both Parties are party thereto;
 - (b) taxes and taxation measures do not include customs duties as defined in Article 1.3 (General Definitions) and measures listed in exceptions (b), (c), (d) and (e) of that definition; and
 - (c) **competent authorities** means:
 - (i) for Korea, the Deputy Minister for Tax and Customs, Ministry of Economy and Finance or his or her successor; and
 - (ii) for the GCC Member States: The national government bodies responsible for taxes and / or customs

Article 1.10: Disclosure of Information

- 1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information designated as confidential by another Party.
- 2. Nothing in this Agreement shall require a Party to disclose confidential information, the disclosure of which would impede law enforcement of the Party, or otherwise be contrary to the public interests, or which would prejudice the legitimate commercial interests of any economic operator.

Article 1.11: Regional and Local Government

Each Party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities and by non-governmental bodies in the exercise of governmental powers delegated by central, regional and local governments and authorities within its territories.