

## **CHAPTER 1**

### **INITIAL PROVISIONS AND GENERAL DEFINITIONS**

#### **Section A: Initial 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, as elaborated more specifically in its provisions, are to eliminate obstacles to trade in, and facilitate the movement of, goods and services between the Parties, thereby to promote conditions of fair competition and increase substantially investment opportunities in the free trade area.

##### **ARTICLE 1.3: RELATION 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 or successor agreements of the WTO Agreement to which both Parties are party.

2. In the event of any inconsistency between this Agreement and the agreements referred to in paragraph 1, this Agreement shall prevail, except as otherwise provided in this Agreement.

##### **ARTICLE 1.4: REFERENCE TO OTHER AGREEMENTS**

Where this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, those references include related footnotes, interpretative notes, and explanatory notes that are binding on both Parties.

##### **ARTICLE 1.5: EXTENT OF OBLIGATIONS**

The Parties shall ensure that all necessary measures are taken in order to give effect to the provisions of this Agreement, including their observance, except as otherwise provided in this Agreement, by local levels of governments and authorities.

## ARTICLE 1.6: TERRITORIAL APPLICATION

1. With regard to Korea, this agreement applies to the land, maritime, and air space over which Korea exercises sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with international law and its law.
2. With regard to Israel, this agreement applies to the territory of the State of Israel.

## Section B: General Definitions

### ARTICLE 1.7: DEFINITIONS

For the purposes of this Agreement, unless otherwise specified:

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

**covered investment** means, with respect to a Party, an investment, as defined in Article 9.31 (Definitions), 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** includes 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,<sup>1</sup> but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, or any equivalent provision of a successor agreement to which both Parties are party;
- (b) duty imposed pursuant to a Party's law consistent with Chapter 7 (Trade Remedies);
- (c) fee or other charge in connection with importation, commensurate with the cost of services rendered; or
- (d) duty imposed pursuant to any agricultural safeguard measure taken under Article 5 of the *Agreement on Agriculture*.

**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

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<sup>1</sup> For greater certainty, "customs duty" includes an adjustment tariff imposed pursuant to Article 69 of Korea's *Customs Act*.

Agreement;

**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 this Agreement enters into force;

**financial services** means any service of a financial nature including those defined in paragraph 5(a) of the *Annex on Financial Services* of GATS;

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

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

**GATT 1994** means the *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, Chapter Notes, and Sub Heading Notes, and its subsequent amendments 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 under Article 19.1(Joint Committee);

**measure** covers any measure whether in the form of a law, regulation, rule, procedure, decision, administrative action, practice, or any other form;

**national** means:

- (a) with respect to Korea, a Korean national within the meaning of the *Nationality Act*;<sup>2</sup> and
- (b) with respect to Israel, as provided for in accordance with its national law;

**originating** means qualifying under the rules of origin set out in Chapter 3 (Rules of Origin);

**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 of the SPS Agreement;

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

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

**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*, contained in Annex 1C to the WTO Agreement;<sup>3</sup>

**WTO** means the World Trade Organization; and

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

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<sup>2</sup> 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.

<sup>3</sup> 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.