

CHAPTER 1 INITIAL PROVISIONS AND DEFINITIONS

Section A: Initial Provisions

Article 1.1 : Establishment of the 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 : Relation to Other Agreements

1. Each Party affirms its 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 other agreements to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution in accordance with customary rules of public international law.¹

Article 1.3 : Extent of Obligations

Each Party is fully responsible for the observance of all provisions in this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by regional and local government and authorities.

Article 1.4 : Audio-Visual Co-Production

1. The Parties recognise that audio-visual co-productions, including films, animation and broadcasting programmes, can significantly contribute to the development of the audio-visual industry and to the intensification of cultural and economic exchanges between them.
2. The Parties hereby agree on the Agreement between the Republic of Korea and New Zealand concerning Audio-Visual Co-Production, which is annexed to this Agreement.

¹ For the purposes of the application of this Agreement, the Parties agree that the fact that an agreement provides more favourable treatment of goods, services, investments, or persons than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of this paragraph.

Section B: General Definitions

Article 1.5 : Definitions

For the purposes of this Agreement, unless otherwise specified:

Agreement means the Free Trade Agreement between the Republic of Korea and New Zealand;

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;

APEC means the Asia-Pacific Economic Cooperation;

covered investment means, with respect to a Party, an investment, as defined in Chapter 10 (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 administration means:

- (a) for Korea, the Ministry of Strategy and Finance and the Korea Customs Service (KCS), or its respective successor; and
- (b) for New Zealand, the New Zealand Customs Service, or its successor;

customs duty includes any duty or charge of any kind imposed on, or in connection with, the importation of a good of the other Party, including any form of surtax or surcharge imposed on or in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994, or any equivalent provision of a successor agreement to which both Parties are party;
- (b) anti-dumping, countervailing or safeguard duties applied consistently with WTO obligations and the provisions of this Agreement; or
- (c) fee or other charge in connection with importation commensurate with the cost of the service rendered;

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;

enterprise means any entity constituted or organised 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 organisation;

enterprise of a Party means an enterprise constituted or organised 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 *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;

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 a Party;

HS Code or Harmonized System means the *Harmonized Commodity Description and Coding System* established by the *International Convention on the Harmonized Description and Coding System* signed at Brussels on 14 June 1983, as amended;

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

Joint Commission means the Joint Commission established under Chapter 18 (Institutional Provisions);

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

measures adopted or maintained by a Party means any measure of a Party taken by:

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

national means a natural person who is:

- (a) for Korea, a Korean national within the meaning of the *Nationality Act*, or its successor legislation; and
- (b) for New Zealand, a New Zealand national or a permanent resident under its laws.

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

person means a natural person or an enterprise;

preferential tariff treatment means the customs duty rate applicable to an originating good, pursuant to the Parties' respective Tariff Schedules set out in Annex 2-A (Tariff Schedule);

Safeguards Agreement means the *Agreement on Safeguards*, 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;

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

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

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

territory means:

- (a) for Korea, the land, maritime, and air space 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 law; and
- (b) for New Zealand, the territory of New Zealand and the Exclusive Economic Zone, seabed and subsoil over which it exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau;

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

WTO means the World Trade Organization; and

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