

CHAPTER ONE
GENERAL PROVISIONS AND DEFINITIONS

ARTICLE 1.1: OBJECTIVES

The objectives of this Agreement, as elaborated more specifically through its principles and rules are to:

- (a) liberalise and facilitate trade in goods and services and expand investment between the Parties;
- (b) establish a cooperative framework for strengthening and enhancing the economic relations between the Parties;
- (c) establish a framework conducive for a more favourable environment for their businesses and promote conditions of fair competition in the free trade area;
- (d) establish a framework of transparent rules to govern trade and investment between the Parties;
- (e) create effective procedures for the implementation and application of this Agreement;
- (f) explore new areas of economic cooperation and develop appropriate measures for closer economic partnership between the Parties;
- (g) improve the efficiency and competitiveness of their manufacturing and services sectors and expand trade and investment between the Parties; and
- (h) establish a framework for further regional and multilateral cooperation to expand and enhance the benefits of this Agreement throughout Asia, and thereby, to encourage the economic integration of Asian economies.

ARTICLE 1.2: RELATION TO OTHER AGREEMENTS

1. The Parties reaffirm their existing rights and obligations with respect to each other under existing bilateral, regional and multilateral agreements to which both Parties are party, including the WTO Agreement.
2. 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.

ARTICLE 1.3: GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless otherwise specified:

Agreement means the CEPA;

central level of government means:

- (a) for India, the government of the Union of India; and
- (b) for Korea, the central level of government;

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;

Days means calendar days, including weekends and holidays;

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;

Existing means in effect on the date of entry into force of this 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/products of a Party means all domestic products including manufactures and commodities in their raw, semi processed and processed forms as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods;

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;

Harmonised System (HS) means the nomenclature of the Harmonised Commodity Description and Coding System defined in the International Convention on the Harmonised Commodity Description and Coding System including all legal notes thereto, as adopted and implemented by the Parties in their respective tariff laws;

Measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

Measures by Parties means measures taken by:

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

National means:

- (a) for India, natural persons deriving their status as Indian citizens from the law in force in India;
- (b) for Korea, a Korean as defined in Article 2 of the Constitution of Korea and its laws; and

Originating goods means goods qualifying under Chapter Three (Rules of Origin);

Person means a natural person or an enterprise/juridical person;

Person of a Party means a national or an enterprise/juridical person of a Party;

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

Regional level of government means, for India, the state and the Union Territories of India; for Korea, “regional level of government” is not applicable;

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;

Territory means:

- (a) for India, the territory of India including its territorial seas and the air space above it and other maritime zones including the Exclusive Economic Zone and the continental shelf over which India has sovereignty, sovereign rights or exclusive jurisdiction in accordance with its laws in force, the 1982 *United Nations Convention on the Law of the Sea* and International Law; and
- (b) for 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;

WTO means the World Trade Organization; and

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

2. In this Agreement, all words in the singular shall include the plural and all words in the plural shall include the singular, unless otherwise indicated in the context.

CHAPTER TWO TRADE IN GOODS

ARTICLE 2.1: DEFINITIONS

For the purposes of this Chapter:

Anti-Dumping Agreement means the *Agreement on Implementation of Article VI of GATT 1994*;

A.T.A. Carnet Convention means the *Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods, done on 6 December 1961*;

A.T.A. carnet has the same meaning as defined in the A.T.A. Carnet Convention;

customs duties¹ includes any duty or charge of any kind imposed in connection with the importation of a good, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III: 2 of GATT 1994;
- (b) duty applied consistently with Articles 2.13 through 2.27;
- (c) fee or other charge that is limited in amount to the approximate cost of services rendered, and does not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes;
- (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 Article 5 of the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement; and

MFN means “most favoured nation” treatment in accordance with Article I of GATT 1994.

ARTICLE 2.2: SCOPE AND COVERAGE

This Chapter applies to trade in goods between the Parties.

¹ Customs duties for India refer to basic customs duties as specified in the First Schedule to the *Customs Tariff Act*, 1975 of India. This is without prejudice to Korea’s position either on the definition of customs duties or on the consistency of India’s internal tax or charge equivalent to an internal tax with Article 2.3 of this Chapter or Article III of GATT 1994.