

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.

ARTICLE 1.2: OBJECTIVES

The objectives of this Agreement are to:

- (a) encourage expansion and diversification of trade between the Parties;
- (b) eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties;
- (c) promote conditions of fair competition in the free trade area;
- (d) substantially increase investment opportunities in the territories of the Parties;
- (e) provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory;
- (f) create effective procedures for the implementation and application of this Agreement, for its joint administration, and for the resolution of disputes; and
- (g) establish a framework for further bilateral, regional, and multilateral cooperation to expand and enhance the benefits of this Agreement.

ARTICLE 1.3: RELATION TO OTHER AGREEMENTS

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which such Parties are party.

2. For greater certainty, this Agreement shall not be construed to derogate or nullify from any international legal obligation between the Parties that provides for more favorable treatment of goods, services, investments, or persons than that provided for under this Agreement.

3. 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 may consult with each other with a view to finding a mutually satisfactory solution.

ARTICLE 1.4: EXTENT OF OBLIGATIONS

Each Party shall ensure within its territory the observance and fulfillment of all obligations and commitments under this Agreement by all levels of government, except as otherwise provided in this Agreement.

ARTICLE 1.5: SCOPE

Unless otherwise provided, the provisions of this Agreement apply between Korea and Costa Rica, El Salvador, Honduras, Nicaragua and Panama, considered individually. This Agreement does not apply between Costa Rica, El Salvador, Honduras, Nicaragua and Panama.

Section B: General Definitions

ARTICLE 1.6: DEFINITIONS

For the purposes of this Agreement, unless otherwise specified:

AD Agreement means the *Agreement on Implementation of Article VI of the GATT 1994*, contained in Annex 1A to the WTO Agreement;

covered investment means, with respect to a Party, an investment, as defined in Article 9.29 (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 duty includes any duty or charge of any kind imposed on or in connection with the importation of a product 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 the GATT 1994, or any equivalent provision of a successor agreement to which both Parties are party;
- (b) antidumping, countervailing, or safeguard duty that is applied in accordance with a Party's law and consistently 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 the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement.

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;

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, or other association;

enterprise of a Party means an enterprise constituted or organized under the law of a Party;

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

GATT 1994 means the WTO *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, 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 under Article 21.1 (Joint Committee);

local level of government means:

- (a) for Korea, a local government as defined in the *Local Autonomy Act*; and
- (b) for the Republics of Central America, the municipalities;

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

MFN means Most Favored Nation;

national means a natural person who has the nationality of a Party according to Annex 1-A;

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

Parties means the Republics of Costa Rica, El Salvador, Honduras, Nicaragua and Panama, referred to as the “Republics of Central America” on one hand, and the Republic of Korea, on the other;

Party^{1 2} means any State for which this Agreement is in force;

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;

SCM Agreement means the *Agreement on Subsidies and Countervailing Measures*, contained in Annex 1A to the WTO Agreement;

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

territory means for a Party the territory of that Party as set out in Annex 1-A;

¹ For greater certainty, the “other Party” means for Korea: one of the Republics of Central America, and for the Republics of Central America: Korea, except as otherwise provided in this Agreement.

² For greater certainty, “non –Party” means any State other than Korea and the respective Republic of Central America for which the Agreement is being applied.

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 April 15, 1994.

Annex 1-A
COUNTRY-SPECIFIC DEFINITIONS

For the purposes of this Agreement, unless otherwise specified:

natural person who has the nationality of a Party means:

- (a) with respect to Korea, a Korean national within the meaning of the *Nationality Act*;
- (b) with respect to Costa Rica, a *costarricense* as defined in Articles 13 and 14 of the Political Constitution of the Republic of Costa Rica (*Constitución Política de la República de Costa Rica*);
- (c) with respect to El Salvador, a *salvadoreño* as defined in Articles 90 and 92 of the Constitution of the Republic of El Salvador (*Constitución de la República de El Salvador*);
- (d) with respect to Honduras, a *hondureño* as defined in Articles 23 and 24 of the Constitution of the Republic of Honduras (*Constitución Política de la República de Honduras*);
- (e) with respect to Nicaragua, a *nicaragüense* as defined in Article 15 of the Political Constitution of the Republic of Nicaragua (*Constitución Política de la República de Nicaragua*); and
- (f) with respect to Panama, a *panameño* as defined in Articles 9, 10, and 11 of the Political Constitution of the Republic of Panama (*Constitución Política de la República de Panamá*).

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 law;
- (b) with respect to Costa Rica, the territory of the Republic of Costa Rica, according to its national legislation and international law;
- (c) with respect to El Salvador, the land, maritime, and air space under its sovereignty and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law;

- (d) with respect to Honduras, the land, maritime, and air space under its sovereignty and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law;
- (e) with respect to Nicaragua, the territory of the Republic of Nicaragua, according to its national legislation and international law; and
- (f) with respect to Panama, the land, maritime, and air space under its sovereignty and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law.