

CHAPTER ONE

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: Relation to Other Agreements

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

Article 1.3: Relation to Multilateral Environmental Agreements

In the event of an inconsistency between a Party’s obligations under this Agreement and the Party’s obligations under an agreement listed in Annex 1-A, a Party is not precluded from taking a particular measure necessary to comply with its obligations under an agreement listed in Annex 1-A, provided that the measure is not applied in a manner that would constitute, where the same conditions prevail, arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

Article 1.4: Extent of Obligations

1. Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure observance of this Agreement by sub-national governments and authorities within its territory.

第一章

初始条款和一般定义

第A部分 – 初始条款

条款1.1： 建立自由贸易区

根据1994年关税及贸易总协定第XXIV条和GATS第V条， 缔约方兹建立自由贸易区， 并依据本协定规定。

条款1.2： 与其他协定的关系

缔约方重申其根据WTO协定和其他双方均为缔约方的协定所享有的现行权利和义务。

条款1.3： 与多边环境协定的关系

如果本协定项下的缔约方义务与附件1-A中列出的协定项下的缔约方义务之间存在不一致， 缔约方不受采取附件1-A中列出的协定项下必要措施的限制， 前提是该措施并非以在相同条件下构成任意或不合理的歧视， 或对国际贸易的隐蔽限制的方式实施。

条款1.4： 义务的范围

1. 每一方应对本协定所有条款的遵守负全部责任， 并应采取其所能采取的合理措施， 以确保其领土内的下级政府及当局遵守本协定。

2. For greater certainty, the provisions of Chapter Twenty-One (Dispute Settlement) may be invoked in respect of measures affecting the observance of this Agreement taken by sub-national governments within the territory of each Party. If a Panel established under Article 21.6 (Establishment of a Panel) has ruled that a provision of this Agreement has not been observed, the responsible Party shall take such reasonable measures as may be available to it to ensure its observance. The provisions relating to suspension of benefits or other obligations apply in cases where it has not been possible to secure such observance.

Article 1.5: 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 and explanatory notes, protocols, annexes, appendices, *et cetera* that are integral parts of the agreements or legal instruments.

Article 1.6: Cultural Cooperation

1. The Parties agree to promote cultural cooperation in order to increase mutual understanding and benefit from each other’s competitive strengths in the development of content for the global market. In this regard, the Parties endeavour to promote cultural exchanges and carry out joint initiatives in various cultural spheres, such as audiovisual coproductions.
2. Recognising that audiovisual coproduction agreements can significantly contribute to the development of the audiovisual industry and to an intensification of cultural and economic exchange, the Parties agree to consider the negotiation of an audiovisual coproduction agreement. Such a future audiovisual coproduction agreement shall form an integral part of this Agreement.
3. The audiovisual coproduction agreement referred to in paragraph 2 would be negotiated between the competent authorities of the Parties, which are the Department of Canadian Heritage for Canada and the Ministry of Culture, Sports and Tourism and the Korea Communications Commission for Korea, or their respective successors.

2. 为进一步明确起见，对于各一方领土内下级政府采取影响本协定遵守的措施，可援引第二十一章（争端解决）的条款。如果根据第21.6条（专家小组的设立）设立的专家小组裁定本协定某条款未被遵守，负责方应采取其所能采取的合理措施，以确保其遵守。在未能确保遵守的情况下，与本协定暂停利益或其他义务相关的条款适用。

第1.5条：对其他协定的引用

在本协定中，若提及或通过引用方式纳入其他协定或法律文件的全部或部分内容，则这些引用包括与协定或法律文件不可分割的相关脚注、解释性及说明性注释、议定书、附件、附录等。

第1.6条：文化合作

1. 缔约方同意促进文化合作，以增进相互理解，并从彼此在开发全球市场内容方面的竞争优势中获益。为此，缔约方致力于促进文化交流，并在各种文化领域开展联合倡议，例如视听合拍。
2. 认识到视听合拍协议可以显著促进视听产业的发展，并加强文化和经济交流，缔约方同意考虑谈判视听合拍协议。此类未来的视听合拍协议应构成本协定不可分割的一部分。
3. 第2段中提到的视听合拍协议将由缔约方主管当局谈判，缔约方主管当局为加拿大的加拿大遗产部和韩国的文化、体育和旅游部以及韩国通信委员会，或其各自的后继者。

4. Article 23.2 (Amendments) does not apply to the audiovisual coproduction agreement referred to in paragraph 2. Any amendments to that agreement shall be done by mutual consent of the competent authorities of the Parties.
5. The dispute settlement provisions of Chapters Eight (Investment) and Twenty-One (Dispute Settlement) do not apply to matters covered by this Article, including an agreement negotiated pursuant to paragraph 2.

Article 1.7: Bilateral Trade and Investment Promotion in the Automotive Sector

The Parties shall cooperate to promote bilateral trade and investment in the automotive sector, which allows the Parties to realise the benefits of global production and supply chains.

Section B – General Definitions

Article 1.8: Definitions of General Application

For the purposes of this Agreement, unless otherwise specified:

Commission means the Joint Commission established under Article 20.1 (Joint Commission);

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

- (a) 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, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

4. 第23.2条（修正案）不适用于第2段中提到的视听合拍协议。对该协议的任何修正应由缔约方主管当局的相互同意来完成。

5. 第八章（投资）和第二十一章（争端解决）的争端解决条款不适用于本条款所涵盖的事项，包括根据第2段达成的协定。

第1.7条：汽车领域双边贸易和投资促进

缔约方应合作促进汽车领域的双边贸易和投资，这将使缔约方能够实现全球生产和供应链的效益。

B部分 – 一般定义

第1.8条：一般定义

就本协定而言，除非另有规定：

联合委员会是指根据第20.1条（联合委员会）设立的联合委员会；

关税包括任何关税或进口税，以及对货物的进口所征收的任何形式的费用，包括与该进口相关的附加税或附加费，但不包括：

- (a) 相当于与1994年关税及贸易总协定第III条：2款一致地征收的内部税的费用，或任何一方均为缔约方的后续协定的等效条款，针对一方的同类、直接竞争或可替代商品，或针对进口货物已制造或生产的全部或部分来源的商品；

- (b) an anti-dumping or countervailing duty that is applied pursuant to a Party’s domestic law and consistent with WTO obligations and the provisions of this Agreement;
- (c) a fee or other charge in connection with importation commensurate with the cost of services rendered; and
- (d) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions and tariff rate quotas;

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;

Dispute Settlement Understanding (DSU) means the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, contained in Annex 2 to the WTO Agreement;

enterprise means an entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally-owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, or other association;

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;

GPA means the *Agreement on Government Procurement*, contained in Annex 4 to the WTO Agreement;

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, Chapter Notes and subheading Notes;

- (b) 依据一方国内法适用并符合WTO义务和本协定规定的反倾销或反补贴税；(c) 与进口相关的费用或其他收费，相当于提供的服务成本；以及
- (d) 在进口货物上提供的或收取的溢价，源于任何招标制度，涉及数量进口限制和关税配额的管理；

海关估价协定是指1994年关税及贸易总协定第 VII 条的实施协定，包含在WTO 协定附件 1A 中；

日指日历日，包括周末和假日；

争端解决谅解书（DSU）是指关于争端解决规则和程序的谅解书，包含在WTO 协定附件 2 中；

企业指根据适用法律成立或组织的实体，无论是否营利，以及是否为私营或国有或政府控制的，包括公司、信托、合伙企业、个体工商户、合资企业或其他协会；

现行指在本协定生效之日生效；

GATS 指服务贸易总协定，包含在 WTO 协定附件 1B 中；

GATT 1994是指1994年关税及贸易总协定，包含在WTO协定附件1A中；

GPA是指政府采购协定，包含在WTO协定附件4中；

协调制度（HS）是指协调商品描述和编码制度，包括其解释总则、章节注释和子目注释；

heading means any four-digit number, or the first four digits of a number, used in the nomenclature of the Harmonized System;

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

national means a natural person who is:

- (a) for Canada, a Canadian citizen or permanent resident under Canadian legislation; and
- (b) for Korea, a Korean national under Korean legislation;

New York Convention means the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, done at New York on 10 June 1958;

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

person means a natural person or an enterprise;

person of a Party means a national of a Party, or an enterprise of a Party;

Safeguards Agreement means the *Agreement on Safeguards*, contained in Annex1A 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, except as set out in Annex 15-A (Country-Specific Definitions of State Enterprise), an enterprise owned or controlled through ownership interests, by a Party;

subheading means any six-digit number, or the first six digits of a number, used in the nomenclature of the Harmonized System;

tariff classification means the classification of a good or material under a chapter, heading or subheading of the Harmonized System;

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

标题是指协调制度分类目录中使用的任何四位数， 或一个数字的前四位；

措施包括一项法律、法规、程序、要求或惯例；

国民是指：

- (a) 对于加拿大， 根据加拿大立法的加拿大公民或永久居民； 以及 (b) 对于韩国， 根据韩国立法的韩国国民；

纽约公约是指 1958 年 6 月 10 日在纽约签订的《承认及执行外国仲裁裁决公约》；

原产地是指符合第三章（原产地规则）中规定的原产地规则；

个人是指自然人或企业；

一方当事人指一方的国民， 或一方企业；

保障措施协定指包含于WTO协定附件1A中的保障措施协定；

卫生或植物卫生措施指在SPS协定附件A第1段中提到的任何措施；

SPS协定指包含于WTO协定附件1A中的《卫生与植物卫生措施协定》；

国有企业指除附件15-A（国家特定定义的国有企业）中另有规定外， 由一方通过所有权利益拥有或控制的企业；

子目指协调制度分类目录中使用的任何六位数数字， 或该数字的前六位；

关税分类是指根据协调制度中的章节、标题或子目对商品或材料进行的分类；

TRIPS协定是指包含在WTO协定附件1C中的与贸易有关的知识产权协定；

Universal Declaration of Human Rights means the *Universal Declaration of Human Rights*, adopted by the General Assembly of the United Nations on 10 December 1948;

WTO means the World Trade Organization; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994, or any successor agreement to which both Parties are party.

Article 1.9: Country-Specific Definitions

For the purposes of this Agreement, unless otherwise specified:

national government means:

- (a) for Canada, the Government of Canada; and
- (b) for Korea, the Government of the Republic of Korea;

sub-national government means:

- (a) for Canada, provincial, territorial, or local governments; and
- (b) for Korea, as a unitary Republic, the term sub-national government does not apply;

province means:

- (a) for Canada, a province of Canada, and includes the Yukon and the Northwest Territories and Nunavut; and
- (b) for Korea, the term province does not apply; and

territory means:

- (a) for Canada,
 - (i) the land territory, air space, internal waters and territorial sea of Canada;

《世界人权宣言》是指1948年12月10日由联合国大会通过的《世界人权宣言》；
WTO是指世界贸易组织； 和

WTO协定是指1994年4月15日签署的马拉喀什建立世界贸易组织协定， 或任何
缔约方均为缔约方的后续协定。

条款1.9： 国家特定定义

本协定所称， 除非另有规定：

中央政府是指：

- (a) 对于加拿大， 加拿大政府； 以及(b) 对于韩国， 大韩民国政府；

地方政府是指：

- (a) 对于加拿大， 指省、地区或地方政府； 以及 (b) 对于韩国， 作为一个单一制共和国， 术语地方政府不适用；

省指：

- (a) 对于加拿大， 指加拿大的一个省， 包括育空地区和西北地区和努纳武特地区； 以及 (b) 对于韩国， 术语省不适用； 以及

地区指：

- (a) 对于加拿大， (i) 加拿大的陆地领土、领空、内水和领海；

- (ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the *United Nations Convention on the Law of the Sea*, done at Montego Bay on 10 December 1982 (hereinafter referred to as “UNCLOS”); and
 - (iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS; 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 domestic law.

- (ii) 加拿大专属经济区，由其国内法确定，与联合国海洋法公约第五部分一致，该公约于1982年12月10日在蒙特哥贝签署（以下简称“UNCLOS”）； 和
- (iii) 加拿大大陆架，根据其国内法确定，与UNCLOS第六部分一致； 和

(b) 对于韩国，韩国行使主权的陆地、海洋和 **airspace**，以及那些海洋区域，包括邻近和超出其领海外部限界的海底和底土，韩国可根据国际法及其国内法行使主权权利或管辖权。

Multilateral Environmental Agreements

- (a) The *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington on 3 March 1973, as amended on 22 June 1979.
- (b) The *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal on 16 September 1987, as amended 29 June 1990, as amended 25 November 1992, as amended 17 September 1997, as amended 3 December 1999.
- (c) The *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*, done at Basel on 22 March 1989.
- (d) The *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, done at Rotterdam on 10 September 1998.
- (e) The *Stockholm Convention on Persistent Organic Pollutants*, done at Stockholm on 22 May 2001.

多边环境协定

- (a) 《濒危野生动植物种国际贸易公约》，于 1973 年 3 月 3 日在华盛顿签署，并于 1979 年 6 月 22 日修订。
- (b) 蒙特利尔议定书关于消耗臭氧层物质的，于1987年9月16日在蒙特利尔签署，1990年6月29日修正，1992年11月25日修正，1997年9月17日修正, 1999年12月3日修正。
- (c) 巴塞尔公约关于控制危险废物跨界移动及其处置的，于1989年3月22日在巴塞尔签署。(d) 鹿特丹公约关于国际贸易中某些危险化学品和农药的先期知情同意程序，于1998年9月10日在鹿特丹签署。(e) 斯德哥尔摩公约关于持久性有机污染物的，于2001年5月22日在斯德哥尔摩签署。