

CHAPTER ONE
INITIAL PROVISIONS AND 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 existing bilateral and multilateral agreements to which both Parties are party, including the WTO Agreement.
- For greater certainty, this Agreement shall not be construed to derogate 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.

ARTICLE 1.3: 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 regional levels of government.

Section B: General Definitions

ARTICLE 1.4: DEFINITIONS

For purposes of this Agreement, unless otherwise specified:

central level of government means:

- (a) for Korea, the central level of government; and
- (b) for the United States, the federal level of government;

covered investment means, with respect to a Party, an investment, as defined in Article 11.28 (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

第一章 初始条款和定义

A部分：初始条款

第1.1条：自由贸易区的建立

根据《1994年关税与贸易总协定》第二十四条及《服务贸易总协定》第五条的规定，缔约方特此依照本协定条款建立自由贸易区。

第1.2条：与其他协定的关系

- 缔约方确认双方在现行双边和多边协定（包括《世界贸易组织协定》）项下对彼此享有的现行权利和承担的义务。
- 为进一步明确起见，不得将本协定解释为减损缔约方之间任何规定对货物、服务、投资或人提供比本协定更优惠待遇的国际法律义务。

第1.3条：义务的范围

缔约方应确保采取一切必要措施，以使本协定条款（包括其遵守）生效，除非本协定另有规定，地方政府层级亦应遵守。

B部分：一般定义

第1.4条：定义

就本协定而言，除非另有规定：

中央政府层级指：

- (a) 对韩国而言，指中央政府层级；及
- (b) 对美国而言，指联邦政府层级；

涵盖投资指，对一缔约方而言，另一缔约方投资者在其领土内根据第11.28条（定义）所定义的、于本协定生效之日已存在或此后设立、收购或扩大的投资；

关税包括任何关税或进口税以及与货物进口相关的任何形式的费用，包括任何形式的附加税或附加费

connection with such importation,¹ but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994, 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;
- (b) antidumping or countervailing duty that is applied pursuant to a Party’s law; or
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered;

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, 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;

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

¹ For greater certainty, “customs duty” includes an adjustment tariff imposed pursuant to Article 69 of Korea’s *Customs Act*.

与此类进口相关的费用，¹ 但不包括任何：

- (a) 相当于根据《1994年关税与贸易总协定》第三条第二款对缔约方的同类、直接竞争或可替代货物，或对于全部或部分制造或生产进口货物的货物所征收的国内税的费用；(b) 根据缔约方法律实施的反倾销或反补贴税；或(c) 与进口相关的、与服务提供成本相称的费用或其他收费；

《海关估价协定》指包含在《世界贸易组织协定》附件1A中的《1994年关税与贸易总协定第七条实施协定》；

日历日指连续的日期；

企业指根据适用法律组建或组织的任何实体，无论是否以营利为目的，也无论为私人或政府所有或控制，包括任何公司、信托、合伙企业、独资企业、合资企业、协会或类似组织；

一方的企业指根据一方法律组建或组织的企业；

现行指本协定生效之日正在实施的；

可自由使用货币指国际货币基金组织根据其《协定条款》确定的“可自由使用货币”；

《服务贸易总协定》指《世界贸易组织协定》附件1B所包含的《服务贸易总协定》；

《1994年关税与贸易总协定》指《世界贸易组织协定》附件1A所包含的《1994年关税与贸易总协定》；

一方的货物指《1994年关税与贸易总协定》中所理解的国内产品或缔约方可能同意的此类货物，并包括该方的原产货物；

政府采购指政府为政府目的而非为商业销售或转售或用于生产或供应货物或

¹ 为进一步明确，“关税”包括根据韩国关税法第六十九条征收的调节关税。

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 22.2 (Joint Committee);

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

national means:

- (a) with respect to Korea, a Korean national within the meaning of the *Nationality Act*;² and
- (b) with respect to the United States, “national of the United States” as defined in the *Immigration and Nationality Act*;

originating means qualifying under the rules of origin set out in Chapter Four (Textiles and Apparel) or Six (Rules of Origin and Origin Procedures);

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;

regional level of government means, for the United States, a state of the United States, the District of Columbia, or Puerto Rico; for Korea, “regional level of government” is not applicable;

remanufactured goods means goods classified in HS Chapter 84, 85, 87, or 90, or under heading 94.02 that:

- (a) are entirely or partially comprised of recovered goods as defined in Article 6.22 (Definitions); and

² 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.

商业销售或转售服务；

协调制度（HS）指商品名称及编码协调制度，包括其解释通则、类注和章注，由缔约方在各自关税法中采纳和实施；

进口许可程序协议指《WTO协定》附件1A所包含的进口许可程序协议；

联合委员会指根据第22.2条（联合委员会）设立的联合委员会；

措施包括任何法律、法规、程序、要求或惯例；

国民指：

- (a) 就韩国而言，指《国籍法》所定义的韩国国民；² 及 (b) 就美国而言，指《移民和国籍法》定义的“美国国民”；

原产指符合第四章（纺织品和服装）或第六章（原产地规则和原产地程序）中规定的原产地规则；

人指自然人或企业；

缔约方的人指一方的国民或企业；

优惠关税待遇指本协定适用于原产货物的关税税率；

地区级政府指，对美国而言，美国的一个州、哥伦比亚特区或波多黎各；对韩国而言，“地区级政府”不适用；

再制造货物指归入HS编码第84章、85章、87章或90章，或税目94.02项下的货物，且满足以下条件：

- (a) 全部或部分由第6.22条（定义）所界定的回收货物组成；且

² 居住在朝鲜半岛军事分界线以北地区的自然人无权享受本协定规定的利益。

- (b) have a similar life expectancy and enjoy a factory warranty similar to such new goods;

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 owned, or controlled through ownership interests, by a Party;³

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

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 domestic law; and
- (b) with respect to the United States,
 - (i) the customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;
 - (ii) the foreign trade zones located in the United States and Puerto Rico; and
 - (iii) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise sovereign rights with respect to the seabed and subsoil and their natural resources;

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement;⁴

³ For greater certainty, ownership, or control through ownership interests, may be direct or indirect.

⁴ 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.

- (b) 具有与全新货物相似的预期寿命，并享有类似的工厂保修；

保障措施协定指《WTO协定》附件1A中所含的《保障措施协定》；

卫生或植物检疫措施指《实施卫生与植物卫生措施协定》附件A第1款所述的任何措施；

实施卫生与植物卫生措施协定指《WTO协定》附件1A中所含的《实施卫生与植物卫生措施协定》；

国有企业指由一缔约方拥有或通过所有权权益控制的企业；³

技术性贸易壁垒协定指《WTO协定》附件1A中所含的《技术性贸易壁垒协定》；

领土指：

- (a) 就韩国而言，指韩国行使主权的陆地、海域和领空，以及根据国际法和其国内法可行使主权权利或管辖权的毗连领海外部界限及以外的海域，包括海床和底土；及(b) 就美国而言，(i) 美国的关税领土，包括50个州、哥伦比亚特区和波多黎各；(ii) 位于美国和波多黎各的对外贸易区；及(iii) 美国领海以外任何区域，在该区域内，根据国际法和其国内法，美国可就海床和底土及其自然资源行使主权权利；

《与贸易有关的知识产权协定》指作为《世界贸易组织协定》附件1C的《与贸易有关的知识产权协定》；⁴

³ 为更明确起见，通过所有权权益实现的拥有或控制可以是直接或间接的。

⁴ 为更明确起见，“与贸易有关的知识产权协定”包括WTO成员根据《世界贸易组织协定》授予的、对《与贸易有关的知识产权协定》任何条款现行有效的任何豁免。

WTO means the World Trade Organization; and

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

世界贸易组织指世界贸易组织； 和

世界贸易组织协定指1994年4月15日签订的建立世界贸易组织的马拉喀什协定。