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PROPOSAL

from:	the Commission
dated:	12 April 2010
Subject:	Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Pierre de BOISSIEU, Secretary-General of the Council of the European Union.

Encl.: COM(2010) 137 final - ANNEX I



EUROPEAN COMMISSION

Brussels, 9.4.2010
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ANNEX I

Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part

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Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part

THE KINGDOM OF BELGIUM,
THE REPUBLIC OF BULGARIA,
THE CZECH REPUBLIC,
THE KINGDOM OF DENMARK,
THE FEDERAL REPUBLIC OF GERMANY,
THE REPUBLIC OF ESTONIA,
THE HELLENIC REPUBLIC,
THE KINGDOM OF SPAIN,
THE FRENCH REPUBLIC,
IRELAND,
THE ITALIAN REPUBLIC,
THE REPUBLIC OF CYPRUS,
THE REPUBLIC OF LATVIA,
THE REPUBLIC OF LITHUANIA,
THE GRAND DUCHY OF LUXEMBURG,
THE REPUBLIC OF HUNGARY,
MALTA,
THE KINGDOM OF THE NETHERLANDS,
THE REPUBLIC OF AUSTRIA,
THE REPUBLIC OF POLAND,
THE PORTUGUESE REPUBLIC,
ROMANIA,
THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the *Treaty on European Union* and the *Treaty on the Functioning of the European Union*, hereinafter referred to as the “Member States of the European Union”, and

THE EUROPEAN UNION, of the one part, and

THE REPUBLIC OF KOREA, hereinafter referred to as “Korea”, of the other part:

RECOGNISING their longstanding and strong partnership based on the common principles and values reflected in the Framework Agreement;

DESIRING to further strengthen their close economic relationship as part of and in a manner coherent with their overall relations, and convinced that this Agreement will create a new climate for the development of trade and investment between the Parties;

CONVINCED that this Agreement will create an expanded and secure market for goods and services and a stable and predictable environment for investment, thus enhancing the competitiveness of their firms in global markets;

REAFFIRMING their commitment to *the Charter of the United Nations* signed in San Francisco on 26 June 1945 and *the Universal Declaration of Human Rights* adopted by the General Assembly of the United Nations on 10 December 1948;

REAFFIRMING their commitment to sustainable development and convinced of the contribution of international trade to sustainable development in its economic, social and environmental dimensions, including economic development, poverty reduction, full and productive employment and decent work for all as well as the protection and preservation of the environment and natural resources;

RECOGNISING the right of the Parties to take measures necessary to achieve legitimate public policy objectives on the basis of the level of protection that they deem appropriate, provided that such measures do not constitute a means of unjustifiable discrimination or a disguised restriction on international trade, as reflected in this Agreement;

RESOLVED to promote transparency as regards all relevant interested parties, including the private sector and civil society organisations;

DESIRING to raise living standards, promote economic growth and stability, create new employment opportunities and improve the general welfare by liberalising and expanding mutual trade and investment;

SEEKING to establish clear and mutually advantageous rules governing their trade and investment and to reduce or eliminate the barriers to mutual trade and investment;

RESOLVED to contribute to the harmonious development and expansion of world trade by removing obstacles to trade through this Agreement and to avoid creating new barriers to trade or investment between their territories that could reduce the benefits of this Agreement;

DESIRING to strengthen the development and enforcement of labour and environmental laws and policies, promote basic workers' rights and sustainable development and implement this Agreement in a manner consistent with these objectives; and

BUILDING on their respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994 (hereinafter referred to as the "WTO Agreement") and other multilateral, regional and bilateral agreements and arrangements to which they are party;

HAVE AGREED as follows:

CHAPTER ONE

OBJECTIVES AND GENERAL DEFINITIONS

Article 1.1: Objectives

1. The Parties hereby establish a free trade area on goods, services, establishment and associated rules in accordance with this Agreement.
2. The objectives of this Agreement are:
 - (a) to liberalise and facilitate trade in goods between the Parties, in conformity with Article XXIV of the *General Agreement on Tariffs and Trade 1994* (hereinafter referred to as “GATT 1994”);
 - (b) to liberalise trade in services and investment between the Parties, in conformity with Article V of the *General Agreement on Trade in Services* (hereinafter referred to as “GATS”);
 - (c) to promote competition in their economies, particularly as it relates to economic relations between the Parties;
 - (d) to further liberalise, on a mutual basis, the government procurement markets of the Parties;
 - (e) to adequately and effectively protect intellectual property rights;
 - (f) to contribute, by removing barriers to trade and by developing an environment conducive to increased investment flows, to the harmonious development and expansion of world trade;
 - (g) to commit, in the recognition that sustainable development is an overarching objective, to the development of international trade in such a way as to contribute to the objective of sustainable development and strive to ensure that this objective is integrated and reflected at every level of the Parties’ trade relationship; and
 - (h) to promote foreign direct investment without lowering or reducing environmental, labour or occupational health and safety standards in the application and enforcement of environmental and labour laws of the Parties.

Article 1.2: General Definitions

Throughout this Agreement, references to:

the Parties mean, on the one hand, the European Union or its Member States or the European Union and its Member States within their respective areas of competence as derived from the *Treaty on European Union* and the *Treaty on the Functioning of the European Union* (hereinafter referred to as the “EU Party”), and on the other hand, Korea;

the Framework Agreement mean the *Framework Agreement for Trade and Cooperation between the European Community and its Member States, on the one hand, and the Republic of Korea, on the other hand*, signed at Luxembourg on 28 October 1996 or any agreement updating, amending or replacing it; and

the Customs Agreement mean the *Agreement between the European Community and the Republic of Korea on Cooperation and Mutual Administrative Assistance in Customs Matters*, signed at Brussels on 10 April 1997.

CHAPTER TWO

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

SECTION A

COMMON PROVISIONS

Article 2.1: Objective

The Parties shall progressively and reciprocally liberalise trade in goods over a transitional period starting from the entry into force of this Agreement, in accordance with this Agreement and in conformity with Article XXIV of GATT 1994.

Article 2.2: Scope and Coverage

This Chapter shall apply to trade in goods¹ between the Parties.

Article 2.3: Customs Duty

For the purposes of this Chapter, a **customs duty** includes any duty or charge of any kind imposed on, or in connection with, the importation of a good, including any form of surtax or surcharge imposed on, or in connection with, such importation² A customs duty does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article 2.8 in respect of the like domestic good or in respect of an article from which the imported good has been manufactured or produced in whole or in part;
- (b) duty imposed pursuant to a Party's law consistently with Chapter Three (Trade Remedies);
- (c) fee or other charge imposed pursuant to a Party's law consistently with Article 2.10; or
- (d) duty imposed pursuant to a Party's law consistently with Article 5 of the Agreement on Agriculture, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the "Agreement on Agriculture").

Article 2.4: Classification of Goods

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature interpreted in conformity with the Harmonised System of the

¹ For the purposes of this Agreement, goods means products as understood in GATT 1994 unless otherwise provided in this Agreement

² The Parties understand that this definition is without prejudice to the treatment that the Parties, in line with the WTO Agreement, may accord to trade conducted on an MFN basis.

International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983 (hereinafter referred to as the “HS”).

SECTION B

ELIMINATION OF CUSTOMS DUTIES

Article 2.5: Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods of the other Party in accordance with its Schedule included in Annex 2-A.
2. For each good, the base rate of customs duties, to which the successive reductions are to be applied under paragraph 1, shall be that specified in the Schedules included in Annex 2-A.
3. If at any moment a Party reduces its applied MFN customs duty rate after the entry into force of this Agreement, that duty rate shall apply as regards trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule included in Annex 2-A.
4. Three years after the entry into force of this Agreement, on the request of either Party, the Parties shall consult to consider accelerating and broadening the scope of the elimination of customs duties on imports between them. A decision by the Parties in the Trade Committee, following such consultations, on the acceleration or broadening of the scope of the elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules included in Annex 2-A for that good.

Article 2.6: Standstill

Except as otherwise provided in this Agreement, including as explicitly set out in each Party’s Schedule included in Annex 2-A, neither Party may increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party. This shall not preclude that either Party may raise a customs duty to the level established in its Schedule included in Annex 2-A following a unilateral reduction.

Article 2.7: Administration and Implementation of Tariff-Rate Quotas

1. Each Party shall administer and implement the tariff-rate quotas (hereinafter referred to as “TRQs”) set out in Appendix 2-A-1 of its Schedule included in Annex 2-A in accordance with Article XIII of GATT 1994, including its interpretative notes and the *Agreement on Import Licensing Procedures*, contained in Annex 1A to the WTO Agreement.
2. Each Party shall ensure that:

- (a) its procedures for administering its TRQs are transparent, made available to the public, timely, non-discriminatory, responsive to market conditions, minimally burdensome to trade, and reflect end-user preferences;
 - (b) any person of a Party that fulfils the importing Party's legal and administrative requirements shall be eligible to apply and to be considered for a TRQ allocation by the Party. Unless the Parties otherwise agree by decision of the Committee on Trade in Goods, any processor, retailer, restaurant, hotel, food service distributor or institution, or any other person is eligible to apply for, and to be considered to receive, a TRQ allocation. Any fees charged for services related to an application for a TRQ allocation shall be limited to the actual cost of the services rendered;
 - (c) except as specified in Appendix 2-A-1 of its Schedule included in Annex 2-A, it does not allocate any portion of a TRQ to a producer group, condition access to a TRQ allocation on the purchase of domestic production, or limit access to a TRQ allocation to processors; and
 - (d) it allocates TRQs in commercially viable shipping quantities and, to the maximum extent possible, in the amounts that importers request. Except as otherwise stipulated in the provisions for each TRQ and the applicable tariff line in Appendix 2-A-1 of a Party's Schedule included in Annex 2-A, each TRQ allocation shall be valid for any item or mixture of items subject to a particular TRQ, regardless of the item's or mixture's specification or grade, and shall not be conditioned on the item's or mixture's intended end-use or package size.
3. Each Party shall identify the entities responsible for administering its TRQs.
 4. Each Party shall make every effort to administer its TRQs in a manner that allows importers to fully utilise TRQ quantities.
 5. Neither Party may condition application for, or utilisation of, TRQ allocations on the re-export of a good.
 6. On the written request of either Party, the Parties shall consult regarding a Party's administration of its TRQs.
 7. Except as otherwise provided in Appendix 2-A-1 of its Schedule included in Annex 2-A, each Party shall make the entire quantity of the TRQ established in that Appendix available to applicants beginning on the date of entry into force of this Agreement during the first year, and on the anniversary of the entry into force of this Agreement of each year thereafter. Over the course of each year, the importing Party's administering authority shall publish, in a timely fashion on its designated publicly available Internet site, utilisation rates and remaining quantities available for each TRQ.

SECTION C

NON-TARIFF MEASURES

Article 2.8: National Treatment

Each Party shall accord national treatment to goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.9: Import and Export Restrictions

Neither Party may adopt or maintain any prohibition or restriction other than duties, taxes or other charges on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, in accordance with Article XI of GATT 1994 and its interpretative notes. To this end, Article XI of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.10: Fees and Other Charges on Imports

Each Party shall ensure that all fees and charges of whatever character (other than customs duties and the items that are excluded from the definition of a customs duty under Article 2.3(a), (b) and (d)) imposed on, or in connection with, importation are limited in amount to the approximate cost of services rendered, are not calculated on an *ad valorem* basis, and do not represent an indirect protection to domestic goods or taxation of imports for fiscal purposes.

Article 2.11: Duties, Taxes or Other Fees and Charges on Exports

Neither Party may maintain or institute any duties, taxes or other fees and charges imposed on, or in connection with, the exportation of goods to the other Party, or any internal taxes, fees and charges on goods exported to the other Party that are in excess of those imposed on like goods destined for internal sale.

Article 2.12: Customs Valuation

The Agreement on Implementation of Article VII of GATT 1994 contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “Customs Valuation Agreement”), is incorporated into and made part of this Agreement, *mutatis mutandis*. The reservations and options provided for in Article 20 and paragraphs 2 through 4 of Annex III of the Customs Valuation Agreement shall not be applicable.

Article 2.13: State Trading Enterprises

1. The Parties affirm their existing rights and obligations under Article XVII of GATT 1994, its interpretative notes and the *Understanding on the Interpretation of Article XVII of GATT 1994*, contained in Annex 1A to the WTO Agreement which are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Where a Party requests information from the other Party on individual cases of state trading enterprises, the manner of their operation and the effect of their operations on bilateral trade, the requested Party shall have regard to the need to ensure maximum transparency possible without prejudice to Article XVII.4(d) of GATT 1994 on confidential information.

Article 2.14: Elimination of Sectoral Non-Tariff Measures

1. The Parties shall implement their commitments on sector-specific non-tariff measures on goods in accordance with the commitments set out in Annexes 2-B through 2-E.
2. Three years after the entry into force of this Agreement and on the request of either Party, the Parties shall consult to consider broadening the scope of their commitments on sector-specific non-tariff measures on goods.

SECTION D

SPECIFIC EXCEPTIONS RELATED TO GOODS

Article 2.15: General Exceptions

1. The Parties affirm that their existing rights and obligations under Article XX of GATT 1994 and its interpretative notes, which are incorporated into and made part of this Agreement, shall apply to trade in goods covered by this Agreement, *mutatis mutandis*.
2. The Parties understand that before taking any measures provided for in subparagraphs (i) and (j) of Article XX of GATT 1994, the Party intending to take the measures shall supply the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties may agree on any means needed to put an end to the difficulties. If no agreement is reached within 30 days of supplying such information, the Party may apply measures under this Article on the good concerned. Where exceptional and critical circumstances requiring immediate action make prior information or examination impossible, the Party intending to take the measures may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

SECTION E

INSTITUTIONAL PROVISIONS

Article 2.16: Committee on Trade in Goods

1. The Committee on Trade in Goods established pursuant to Article 15.2.1 (Specialised Committees) shall meet on the request of a Party or of the Trade Committee to consider any matter arising under this Chapter and comprise representatives of the Parties.

2. The Committee's functions shall include:
 - (a) promoting trade in goods between the Parties, including through consultations on accelerating and broadening the scope of tariff elimination and broadening of the scope of commitments on non-tariff measures under this Agreement and other issues as appropriate; and
 - (b) addressing tariff and non-tariff measures to trade in goods between the Parties and, if appropriate, referring such matters to the Trade Committee for its consideration,

in so far as these tasks have not been entrusted to the relevant Working Groups established pursuant to Article 15.3.1 (Working Groups).

Article 2.17: Special Provisions on Administrative Co-operation

1. The Parties agree that administrative co-operation is essential for the implementation and the control of preferential tariff treatment granted under this Chapter and underline their commitments to combat irregularities and fraud in customs and related matters.
2. Where a Party has made a finding, on the basis of objective information, of a failure to provide administrative co-operation and/or irregularities or fraud, on the request of that Party, the Customs Committee shall meet within 20 days of such request to seek, as a matter of urgency, to resolve the situation. The consultations held within the framework of the Customs Committee will be considered as fulfilling the same function as consultation under Article 14.3 (Consultations).

CHAPTER THREE

TRADE REMEDIES

SECTION A

BILATERAL SAFEGUARD MEASURES

Article 3.1: Application of a Bilateral Safeguard Measure

1. If, as a result of the reduction or elimination of a customs duty under this Agreement, originating goods of a Party are being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to a domestic industry producing like or directly competitive goods, the importing Party may adopt measures provided for in paragraph 2 in accordance with the conditions and procedures laid down in this Section.
2. The importing Party may take a bilateral safeguard measure which:
 - (a) suspends further reduction of the rate of customs duty on the good concerned provided for under this Agreement; or
 - (b) increases the rate of customs duty on the good to a level which does not exceed the lesser of:
 - (i) the MFN applied rate of customs duty on the good in effect at the time the measure is taken; or
 - (ii) the base rate of customs duty specified in the Schedules included in Annex 2-A (Elimination of Customs Duties) pursuant to Article 2.5.2 (Elimination of Customs Duties).

Article 3.2: Conditions and Limitations

1. A Party shall notify the other Party in writing of the initiation of an investigation described in paragraph 2 and consult with the other Party as far in advance of applying a bilateral safeguard measure as practicable, with a view to reviewing the information arising from the investigation and exchanging views on the measure.
2. A Party shall apply a bilateral safeguard measure only following an investigation by its competent authorities in accordance with Articles 3 and 4.2(c) of the *Agreement on Safeguards* contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “Agreement on Safeguards”) and to this end, Articles 3 and 4.2(c) of the Agreement on Safeguards are incorporated into and made part of this Agreement, *mutatis mutandis*.
3. In the investigation described in paragraph 2, the Party shall comply with the requirements of the Article 4.2(a) of the Agreement on Safeguards and to this end,

Article 4.2(a) of the Agreement on Safeguards is incorporated into and made part of this Agreement, *mutatis mutandis*.

4. Each Party shall ensure that its competent authorities complete any such investigation within one year of its date of initiation.
5. Neither Party may apply a bilateral safeguard measure:
 - (a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate adjustment;
 - (b) for a period exceeding two years, except that the period may be extended by up to two years if the competent authorities of the importing Party determine, in conformity with the procedures specified in this Article, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years; or
 - (c) beyond the expiration of the transition period, except with the consent of the other Party.
6. When a Party terminates a bilateral safeguard measure, the rate of customs duty shall be the rate that, according to its Schedule included in Annex 2-A (Elimination of Customs Duties), would have been in effect but for the measure.

Article 3.3: Provisional Measures

In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis pursuant to a preliminary determination that there is clear evidence that imports of an originating good from the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and such imports cause serious injury, or threat thereof, to the domestic industry. The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the requirements of Articles 3.2.2 and 3.2.3. The Party shall promptly refund any tariff increases if the investigation described in Article 3.2.2 does not result in a finding that the requirements of Article 3.1 are met. The duration of any provisional measure shall be counted as part of the period prescribed by Article 3.2.5(b).

Article 3.4: Compensation

1. A Party applying a bilateral safeguard measure shall consult with the other Party in order to mutually agree on appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the safeguard measure. The Party shall provide an opportunity for such consultations no later than 30 days after the application of the bilateral safeguard measure.
2. If the consultations under paragraph 1 do not result in an agreement on trade liberalising compensation within 30 days after the consultations begin, the Party

whose goods are subject to the safeguard measure may suspend the application of substantially equivalent concessions to the Party applying the safeguard measure.

3. The right of suspension referred to in paragraph 2 shall not be exercised for the first 24 months during which a bilateral safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of this Agreement.

Article 3.5: Definitions

For the purposes of this Section:

serious injury and **threat of serious injury** shall be understood in accordance with Article 4.1(a) and (b) of the Agreement on Safeguards. To this end, Article 4.1(a) and (b) is incorporated into and made part of this Agreement, *mutatis mutandis*; and

transition period means a period for a good from the date of entry into force of this Agreement until 10 years from the date of completion of tariff reduction or elimination, as the case may be for each good.

SECTION B

AGRICULTURAL SAFEGUARD MEASURES

Article 3.6: Agricultural Safeguard Measures

1. A Party may apply a measure in the form of a higher import duty on an originating agricultural good listed in its Schedule included in Annex 3, consistent with paragraphs 2 through 8, if the aggregate volume of imports of that good in any year exceeds a trigger level as set out in its Schedule included in Annex 3.
2. The duty under paragraph 1 shall not exceed the lesser of the prevailing MFN applied rate, or the MFN applied rate of duty in effect on the day immediately preceding the date this Agreement enters into force, or the tariff rate set out in its Schedule included in Annex 3.
3. The duties each Party applies under paragraph 1 shall be set according to its Schedules included in Annex 3.
4. Neither Party may apply or maintain an agricultural safeguard measure under this Article and at the same time apply or maintain with respect to the same good:
 - (a) a bilateral safeguard measure in accordance with Article 3.1;
 - (b) a measure under Article XIX of GATT 1994 and the Agreement on Safeguards; or
 - (c) a special safeguard measure under Article 5 of the Agreement on Agriculture.
5. A Party shall implement any agricultural safeguard measure in a transparent manner. Within 60 days after imposing an agricultural safeguard measure, the Party applying the measure shall notify the other Party in writing and provide the other Party with

relevant data concerning the measure. On the written request of the exporting Party, the Parties shall consult regarding the application of the measure.

6. The implementation and operation of this Article may be the subject of discussion and review in the Committee on Trade in Goods referred to in Article 2.16 (Committee on Trade in Goods).
7. Neither Party may apply or maintain an agricultural safeguard measure on an originating agricultural good:
 - (a) if the period specified in the agricultural safeguard provisions of its Schedule included in Annex 3 has expired; or
 - (b) if the measure increases the in-quota duty on a good subject to a TRQ set out in Appendix 2-A-1 of its Schedule included in Annex 2-A (Elimination of Customs Duties).
8. Any supplies of the goods in question which were en route on the basis of a contract made before the additional duty is imposed under paragraphs 1 through 4 shall be exempted from any such additional duty, provided that they may be counted in the volume of imports of the goods in question during the following year for the purpose of triggering paragraph 1 in that year.

SECTION C

GLOBAL SAFEGUARD MEASURES

Article 3.7: Global Safeguard Measures

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Agreement on Safeguards. Unless otherwise provided in this Article, this Agreement does not confer any additional rights or impose any additional obligations on the Parties with regard to measures taken under Article XIX of GATT 1994 and the Agreement on Safeguards.
2. At the request of the other Party, and provided it has a substantial interest, the Party intending to take safeguard measures shall provide immediately ad hoc written notification of all pertinent information on the initiation of a safeguard investigation, the provisional findings and the final findings of the investigation.
3. For the purposes of this Article, it is considered that a Party has a substantial interest when it is among the five largest suppliers of the imported goods during the most recent three-year period of time, measured in terms of either absolute volume or value.
4. Neither Party may apply, with respect to the same good, at the same time:
 - (a) a bilateral safeguard measure in accordance with Article 3.1; and
 - (b) a measure under Article XIX of GATT 1994 and the Agreement on Safeguards.

5. Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) for any matter arising under this Section.

SECTION D

ANTI-DUMPING AND COUNTERVAILING DUTIES

Article 3.8: General Provisions

1. Except as otherwise provided for in this Chapter, the Parties maintain their rights and obligations under Article VI of GATT 1994, the *Agreement on Implementation of Article VI of GATT 1994*, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “Anti-Dumping Agreement”) and the *Agreement on Subsidies and Countervailing Measures*, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “SCM Agreement”).
2. The Parties agree that anti-dumping and countervailing duties should be used in full compliance with the relevant WTO requirements and should be based on a fair and transparent system as regards proceedings affecting goods originating in the other Party. For this purpose the Parties shall ensure, immediately after any imposition of provisional measures and in any case before the final determination, full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply measures, without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement. Disclosures shall be made in writing, and allow interested parties sufficient time to make their comments.
3. In order to ensure the maximum efficiency in handling anti-dumping or countervailing duty investigations, and in particular considering the adequate right of defence, the use of English shall be accepted by the Parties for documents filed in anti-dumping or countervailing duty investigations. Nothing in this paragraph shall prevent Korea from requesting a clarification written in Korean if:
 - (a) the meaning of the documents filed is not deemed reasonably clear by Korea’s investigating authorities for the purposes of the anti-dumping or countervailing duty investigation; and
 - (b) the request is strictly limited to the part which is not reasonably clear for the purposes of the anti-dumping or countervailing duty investigation.
4. Provided that it does not unnecessarily delay the conduct of the investigation, interested parties shall be granted the opportunity to be heard in order to express their views during the anti-dumping or countervailing duty investigations.

Article 3.9: Notification

1. After receipt by a Party’s competent authorities of a properly documented anti-dumping application with respect to imports from the other Party, and no later than 15 days before initiating an investigation, the Party shall provide written notification to the other Party of its receipt of the application.

2. After receipt by a Party's competent authorities of a properly documented countervailing duty application with respect to imports from the other Party, and before initiating an investigation, the Party shall provide written notification to the other Party of its receipt of the application and afford the other Party a meeting to consult with its competent authorities regarding the application.

Article 3.10: Consideration of Public Interests

The Parties shall endeavor to consider the public interests before imposing an anti-dumping or countervailing duty.

Article 3.11: Investigation after Termination Resulting from a Review

The Parties agree to examine, with special care, any application for initiation of an anti-dumping investigation on a good originating in the other Party and on which anti-dumping measures have been terminated in the previous 12 months as a result of a review. Unless this pre-initiation examination indicates that the circumstances have changed, the investigation shall not proceed.

Article 3.12: Cumulative Assessment

When imports from more than one country are simultaneously subject to anti-dumping or countervailing duty investigation, a Party shall examine, with special care, whether the cumulative assessment of the effect of the imports of the other Party is appropriate in light of the conditions of competition between the imported goods and the conditions of competition between the imported goods and the like domestic goods.

Article 3.13: De-minimis Standard Applicable to Review

1. Any measure subject to a review pursuant to Article 11 of the Anti-Dumping Agreement shall be terminated where it is determined that the likely recurring dumping margin is less than the *de-minimis* threshold set out in Article 5.8 of the Anti-Dumping Agreement.
2. When determining individual margins pursuant to Article 9.5 of the Anti-Dumping Agreement, no duty shall be imposed on exporters or producers in the exporting Party for which it is determined, on the basis of representative export sales, that the dumping margin is less than the *de-minimis* threshold set out in Article 5.8 of the Anti-Dumping Agreement.

Article 3.14: Lesser Duty Rule

Should a Party decide to impose an anti-dumping or countervailing duty, the amount of such duty shall not exceed the margin of dumping or countervailable subsidies, and it should be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.

Article 3.15: Dispute Settlement

Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) for any matter arising under this Section.

SECTION E

INSTITUTIONAL PROVISIONS

Article 3.16: Working Group on Trade Remedy Co-operation

1. The Working Group on Trade Remedy Co-operation established pursuant to Article 15.3.1 (Working Groups) is a forum for dialogue for trade remedy co-operation.
2. The functions of the Working Group shall be to:
 - (a) enhance a Party's knowledge and understanding of the other Party's trade remedy laws, policies and practices;
 - (b) oversee the implementation of this Chapter;
 - (c) improve co-operation between the Parties' authorities having responsibility for matters on trade remedies;
 - (d) provide a forum for the Parties to exchange information on issues relating to anti-dumping, subsidies and countervailing measures and safeguards;
 - (e) provide a forum for the Parties to discuss other relevant topics of mutual interest including:
 - (i) international issues relating to trade remedies, including issues relating to the WTO Doha Round Rules negotiations; and
 - (ii) practices by the Parties' competent authorities in anti-dumping, and countervailing duty investigations such as the application of "facts available" and verification procedures; and
 - (f) co-operate on any other matters that the Parties agree as necessary.
3. The Working Group shall normally meet annually and, if necessary, additional meetings could be organised at the request of either Party.

CHAPTER FOUR

TECHNICAL BARRIERS TO TRADE

Article 4.1: Affirmation of the TBT Agreement

The Parties affirm their existing rights and obligations with respect to each other under the *Agreement on Technical Barriers to Trade*, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “TBT Agreement”) which is incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 4.2: Scope and Definitions

1. This Chapter applies to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures as defined in the TBT Agreement that may affect trade in goods between the Parties.
2. Notwithstanding paragraph 1, this Chapter does not apply to:
 - (a) technical specifications prepared by governmental bodies for production or consumption requirements of such bodies; or
 - (b) sanitary and phytosanitary measures as defined in Annex A of the *Agreement on the Application of Sanitary and Phytosanitary Measures*, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “SPS Agreement”).
3. For the purposes of this Chapter, the definitions of Annex 1 to the TBT Agreement shall apply.

Article 4.3: Joint Co-operation

1. The Parties shall strengthen their co-operation in the field of standards, technical regulations and conformity assessment procedures with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. To this end, they may establish regulatory dialogues at both the horizontal and sectoral levels.
2. In their bilateral co-operation, the Parties shall seek to identify, develop and promote trade facilitating initiatives which may include, but are not limited to:
 - (a) reinforcing regulatory co-operation through, for example, the exchange of information, experiences and data and scientific and technical co-operation with a view to improving the quality and level of their technical regulations and making efficient use of regulatory resources;
 - (b) where appropriate, simplifying technical regulations, standards and conformity assessment procedures;

- (c) where the Parties agree, and where appropriate, for example where no international standard exists, avoiding unnecessary divergence in approach to regulations and conformity assessment procedures, and working towards the possibility of converging or aligning technical requirements; and
 - (d) promoting and encouraging bilateral co-operation between their respective organisations, public or private, responsible for metrology, standardisation, testing, certification and accreditation.
3. On request, a Party shall give due consideration to proposals that the other Party makes for co-operation under the terms of this Chapter.

Article 4.4: Technical Regulations

1. The Parties agree to make best use of good regulatory practice, as provided for in the TBT Agreement. In particular, the Parties agree:
- (a) to fulfil the transparency obligations of the Parties as indicated in the TBT Agreement;
 - (b) to use relevant international standards as a basis for technical regulations including conformity assessment procedures, except when such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, and where international standards have not been used as a basis, to explain on request to the other Party the reasons why such standards have been judged inappropriate or ineffective for the aim pursued;
 - (c) when a Party has adopted or is proposing to adopt a technical regulation, to provide the other Party on request with available information regarding the objective, legal basis and rationale for the technical regulation;
 - (d) to establish mechanisms for providing improved information on technical regulations (including through a public website) to the other Party's economic operators, and in particular to provide written information, and as appropriate and available, written guidance on compliance with their technical regulations to the other Party or its economic operators upon request without undue delay;
 - (e) to take appropriate consideration of the other Party's views where a part of the process of developing a technical regulation is open to public consultation, and on request to provide written responses to the comments made by the other Party;
 - (f) when making notifications in accordance with the TBT Agreement, to allow at least 60 days following the notification for the other Party to provide comments in writing on the proposal; and
 - (g) to leave sufficient time between the publication of technical regulations and their entry into force for economic operators of the other Party to adapt, except where urgent problems of safety, health, environmental protection or national

security arise or threaten to arise, and where practicable to give appropriate consideration to reasonable requests for extending the comment period.

2. Each Party shall ensure that economic operators and other interested persons of the other Party are allowed to participate in any formal public consultative process concerning development of technical regulations, on terms no less favourable than those accorded to its own legal or natural persons.
3. Each Party shall endeavour to apply technical regulations uniformly and consistently throughout its territory. If Korea notifies the EU Party of an issue of trade that appears to arise from variations in the legislation of the Member States of the European Union that Korea considers not to be compatible with the Treaty on the Functioning of the European Union, the EU Party will make its best endeavours to address the issue in a timely manner.

Article 4.5: Standards

1. The Parties reconfirm their obligations under Article 4.1 of the TBT Agreement to ensure that their standardising bodies accept and comply with the Code of Good Practice for the Preparation and Adoption of Standards in Annex 3 to the TBT Agreement, and also have regard to the principles set out in *Decisions and Recommendations adopted by the Committee* since 1 January 1995, G/TBT/1/rev.8, 23 May 2002, Section IX (*Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement*), issued by the WTO Committee on Technical Barriers to Trade.
2. The Parties undertake to exchange information on:
 - (a) their use of standards in connection with technical regulations;
 - (b) each other's standardisation processes, and the extent of use of international standards as a base for their national and regional standards; and
 - (c) co-operation agreements implemented by either Party on standardisation, for example information on standardisation issues in free trade agreements with third parties.

Article 4.6: Conformity Assessment and Accreditation

1. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures conducted in the territory of the other Party, including:
 - (a) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specific technical regulations conducted by bodies located in the territory of the other Party;
 - (b) accreditation procedures for qualifying conformity assessment bodies located in the territory of the other Party;

- (c) governmental designation of conformity assessment bodies located in the territory of the other Party;
 - (d) recognition by a Party of the results of conformity assessment procedures conducted in the territory of the other Party;
 - (e) voluntary arrangements between conformity assessment bodies in the territory of each Party; and
 - (f) the importing Party's acceptance of a supplier's declaration of conformity.
2. Having regard in particular to those considerations, the Parties undertake:
- (a) to intensify their exchange of information on these and similar mechanisms with a view to facilitating the acceptance of conformity assessment results;
 - (b) to exchange information on conformity assessment procedures, and in particular on the criteria used to select appropriate conformity assessment procedures for specific products;
 - (c) to exchange information on accreditation policy, and to consider how to make best use of international standards for accreditation, and international agreements involving the Parties' accreditation bodies, for example, through the mechanisms of the International Laboratory Accreditation Co-operation and the International Accreditation Forum; and
 - (d) in line with Article 5.1.2 of the TBT Agreement, to require conformity assessment procedures that are not more strict than necessary.
3. Principles and procedures established in respect of development and adoption of technical regulations under Article 4.4 with a view to avoiding unnecessary obstacles to trade and ensuring transparency and non-discrimination shall also apply in respect of mandatory conformity assessment procedures.

Article 4.7: Market Surveillance

The Parties undertake to exchange views on market surveillance and enforcement activities.

Article 4.8: Conformity Assessment Fees

The Parties reaffirm their obligation under Article 5.2.5 of the TBT Agreement, that fees for mandatory conformity assessment of imported products shall be equitable in relation to the fees charged for conformity assessment of like products of national origin or originating in other countries, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body, and undertake to apply this principle in the areas covered by this Chapter.

Article 4.9: Marking and Labelling

1. The Parties note the provision of paragraph 1 of Annex 1 of the TBT Agreement, that a technical regulation may include or deal exclusively with marking or labelling requirements, and agree that where their technical regulations contain mandatory marking or labelling, they will observe the principles of Article 2.2 of the TBT Agreement, that technical regulations should not be prepared with a view to, or with the effect of, creating unnecessary obstacles to international trade, and should not be more trade restrictive than necessary to fulfil a legitimate objective.
2. In particular, the Parties agree that where a Party requires mandatory marking or labelling of products:
 - (a) the Party shall endeavour to minimise its requirements for marking or labelling other than marking or labelling relevant to consumers or users of the product. Where labelling for other purposes, for example, for fiscal purpose is required, such a requirement shall be formulated in a manner that is not more trade restrictive than necessary to fulfil a legitimate objective;
 - (b) the Party may specify the form of labels or markings, but shall not require any prior approval, registration or certification in this regard. This provision is without prejudice to the right of the Party to require prior approval of the specific information to be provided on the label or marking in the light of the relevant domestic regulation;
 - (c) where the Party requires the use of a unique identification number by economic operators, the Party shall issue such number to the economic operators of the other Party without undue delay and on a non-discriminatory basis;
 - (d) the Party shall remain free to require that the information on the marks or labels be in a specified language. Where there is an international system of nomenclature accepted by the Parties, this may also be used. The simultaneous use of other languages shall not be prohibited, provided that, either the information provided in the other languages shall be identical to that provided in the specified language, or that the information provided in the additional language shall not constitute a deceptive statement regarding the product; and
 - (e) the Party shall, in cases where they consider that legitimate objectives under the TBT Agreement are not compromised thereby, endeavour to accept non-permanent or detachable labels, or marking or labelling in the accompanying documentation rather than physically attached to the product.

Article 4.10: Co-ordination Mechanism

1. The Parties agree to nominate TBT Co-ordinators and to give appropriate information to the other Party when their TBT Co-ordinator changes. The TBT Co-ordinators shall work jointly in order to facilitate the implementation of this Chapter and co-operation between the Parties in all matters pertaining to this Chapter.
2. The Co-ordinator's functions shall include:

- (a) monitoring the implementation and administration of this Chapter, promptly addressing any issue that either Party raises related to the development, adoption, application or enforcement of standards, technical regulations and conformity assessment procedures, and upon either Party's request, consulting on any matter arising under this Chapter;
 - (b) enhancing co-operation in the development and improvement of standards, technical regulations and conformity assessment procedures;
 - (c) arranging the establishment of regulatory dialogues as appropriate in accordance with Article 4.3;
 - (d) arranging the establishment of working groups, which may include or consult with non-governmental experts and stakeholders as mutually agreed by the Parties;
 - (e) exchanging information on developments in non-governmental, regional and multilateral fora related to standards, technical regulations and conformity assessment procedures; and
 - (f) reviewing this Chapter in light of any developments under the TBT Agreement.
3. The Co-ordinators shall communicate with one another by any agreed method that is appropriate for the efficient and effective discharge of their functions.

CHAPTER FIVE

SANITARY AND PHYTOSANITARY MEASURES

Article 5.1: Objective

1. The objective of this Chapter is to minimize the negative effects of sanitary and phytosanitary measures on trade while protecting human, animal or plant life or health in the Parties' territories.
2. Furthermore, this Chapter aims to enhance co-operation between the Parties on animal welfare issues, taking into consideration various factors such as livestock industry conditions of the Parties.

Article 5.2: Scope

This Chapter applies to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.

Article 5.3: Definition

For the purposes of this Chapter, **sanitary or phytosanitary measure** means any measure defined in paragraph 1 of Annex A of the SPS Agreement.

Article 5.4: Rights and Obligations

The Parties affirm their existing rights and obligations under the SPS Agreement.

Article 5.5: Transparency and Exchange of Information

The Parties shall:

- (a) pursue transparency as regards sanitary and phytosanitary measures applicable to trade;
- (b) enhance mutual understanding of each Party's sanitary and phytosanitary measures and their application;
- (c) exchange information on matters related to the development and application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties with a view to minimizing their negative trade effects; and
- (d) communicate, upon request of a Party, the requirements that apply to the import of specific products.

Article 5.6: International Standards

The Parties shall:

- (a) co-operate, at the request of a Party, to develop a common understanding on the application of international standards in areas which affect, or may affect trade between them with a view to minimizing negative effects on trade between them; and
- (b) co-operate in the development of international standards, guidelines and recommendations.

Article 5.7: Import Requirements

1. The general import requirements of a Party shall apply to the entire territory of the other Party.
2. Additional specific import requirements may be imposed on the exporting Party or parts thereof based on the determination of the animal or plant health status of the exporting Party or parts thereof made by the importing Party in accordance with the SPS Agreement, the Codex Alimentarius Commission, the World Organisation for Animal Health (hereinafter referred to as the “OIE”) and the International Plant Protection Convention (hereinafter referred to as the “IPPC”) guidelines and standards.

Article 5.8: Measures Linked to Animal and Plant Health

1. The Parties shall recognise the concept of pest- or disease-free areas and areas of low pest or disease prevalence, in accordance with the SPS Agreement, OIE and IPPC standards, and shall establish an appropriate procedure for the recognition of such areas, taking into account any relevant international standard, guideline or recommendation.
2. When determining such areas, the Parties shall consider factors such as geographical location, ecosystems, epidemiological surveillance and the effectiveness of sanitary or phytosanitary controls in such areas.
3. The Parties shall establish close co-operation on the determination of pest- or disease-free areas and areas of low pest or disease prevalence with the objective of acquiring confidence in the procedures followed by each Party for the determination of such areas. The Parties shall endeavour to complete this confidence-building activity within about two years from the entry into force of this Agreement. The successful completion of the confidence-building co-operation shall be confirmed by the Committee on Sanitary and Phytosanitary Measures referred to in Article 5.10.
4. When determining such areas, the importing Party shall in principle base its own determination of the animal or plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement, OIE and IPPC standards, and take into consideration the determination made by the exporting Party. In this connection, if a Party does not

accept the determination made by the other Party, the Party not accepting the determination shall explain the reasons and shall be ready to enter into consultations.

5. The exporting Party shall provide necessary evidence in order to objectively demonstrate to the importing Party that such areas are, and are likely to remain, pest- or disease-free areas and areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

Article 5.9: Co-operation on Animal Welfare

The Parties shall:

- (a) exchange information, expertise and experiences in the field of animal welfare and adopt a working plan for such activities; and
- (b) co-operate in the development of animal welfare standards in international fora, in particular with respect to the stunning and slaughter of animals.

Article 5.10: Committee on Sanitary and Phytosanitary Measures

1. The Committee on Sanitary and Phytosanitary Measures established pursuant to Article 15.2.1 (Specialised Committees) may:
 - (a) develop the necessary procedures or arrangements for the implementation of this Chapter;
 - (b) monitor the progress of the implementation of this Chapter;
 - (c) confirm the successful completion of the confidence-building activity referred to in Article 5.8.3;
 - (d) develop procedures for the approval of establishments for products of animal origin and, where appropriate, of production site for products of plant origin; and
 - (e) provide a forum for discussion of problems arising from the application of certain sanitary or phytosanitary measures with a view to reaching mutually acceptable alternatives. In this connection, the Committee shall be convened as a matter of urgency, at the request of a Party, so as to carry out consultations.
2. The Committee shall be comprised of representatives of the Parties and shall meet once a year on a mutually agreed date. The venue of meetings shall also be mutually agreed. The agenda shall be agreed before the meetings. The chairmanship shall alternate between the Parties.

Article 5.11: Dispute Settlement

Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER SIX

CUSTOMS AND TRADE FACILITATION

Article 6.1: Objectives and Principles

With the objectives of facilitating trade and promoting customs co-operation on a bilateral and multilateral basis, the Parties agree to co-operate and to adopt and apply their import, export and transit requirements and procedures for goods on the basis of the following objectives and principles:

- (a) in order to ensure that import, export and transit requirements and procedures for goods are efficient and proportionate;
 - (i) each Party shall adopt or maintain expedited customs procedures while maintaining appropriate customs control and selection procedures;
 - (ii) import, export and transit requirements and procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives;
 - (iii) each Party shall provide for clearance of goods with a minimum of documentation and make electronic systems accessible to customs users;
 - (iv) each Party shall use information technology that expedites procedures for the release of goods;
 - (v) each Party shall ensure that its customs authorities and agencies involved in border controls including import, export and transit matters, co-operate and co-ordinate their activities; and
 - (vi) each Party shall provide that the use of customs brokers is optional.
- (b) import, export and transit requirements and procedures shall be based on international trade and customs instruments and standards which the Parties have accepted;
 - (i) international trade and customs instruments and standards shall be the basis for import, export and transit requirements and procedures, where such instruments and standards exist, except when they would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued; and
 - (ii) data requirements and processes shall be progressively used and applied in accordance with World Customs Organization (hereinafter referred to as the “WCO”) Customs Data Model and related WCO recommendations and guidelines;
- (c) requirements and procedures shall be transparent and predictable for importers, exporters and other interested parties;

- (d) each Party shall consult in a timely manner with representatives of the trading community and other interested parties, including on significant new or amended requirements and procedures prior to their adoption;
- (e) risk management principles or procedures shall be applied to focus compliance efforts on transactions that merit attention;
- (f) each Party shall co-operate and exchange information for the purpose of promoting the application of, and compliance with, the trade facilitation measures agreed upon under this Agreement; and
- (g) measures to facilitate trade shall not prejudice the fulfilment of legitimate policy objectives, such as the protection of national security, health and the environment.

Article 6.2: Release of Goods

1. Each Party shall adopt and apply simplified and efficient customs and other trade-related requirements and procedures in order to facilitate trade between the Parties.
2. Pursuant to paragraph 1, each Party shall ensure that its customs authorities, border agencies or other competent authorities apply requirements and procedures that:
 - (a) provide for the release of goods within a period no longer than that required to ensure compliance with its customs and other trade-related laws and formalities. Each Party shall work to further reduce release time;
 - (b) provide for advance electronic submission and eventual processing of information before physical arrival of goods, “pre-arrival processing”, to enable the release of goods on arrival;
 - (c) allow importers to obtain the release of goods from customs before, and without prejudice to, the final determination by its customs authority of the applicable customs duties, taxes and fees;³ and
 - (d) allow goods to be released for free circulation at the point of arrival, without temporary transfer to warehouses or other facilities.

Article 6.3: Simplified Customs Procedure

The Parties shall endeavour to apply simplified import and export procedures for traders or economic operators which meet specific criteria decided by a Party, providing in particular more rapid release and clearance of goods, including advance electronic submission and processing of information before physical arrival of consignments, a lower incidence of physical inspections, and facilitation of trade with regard to, for example, simplified declarations with a minimum of documentation.

³ A Party may require an importer to provide sufficient guarantee in the form of a surety, a deposit or some other appropriate instruments, covering the ultimate payment of the customs duties, taxes and fees in connection with the importation of the goods.

Article 6.4: Risk Management

Each Party shall apply risk management systems, to the extent possible in an electronic manner, for risk analysis and targeting that enable its customs authorities to focus inspection activities on high-risk goods and that simplify the clearance and movement of low-risk goods. Each Party shall draw upon the revised *International Convention on the Simplification and Harmonisation of Customs Procedures* of 1999 (hereinafter referred to as the “Kyoto Convention”) and WCO Risk Management Guidelines for its risk management procedures.

Article 6.5: Transparency

1. Each Party shall ensure that its customs and other trade-related laws, regulations and general administrative procedures and other requirements, including fees and charges, are readily available to all interested parties, via an officially designated medium, and where feasible and possible, official website.
2. Each Party shall designate or maintain one or more inquiry or information points to address inquiries by interested persons concerning customs and other trade-related matters.
3. Each Party shall consult with, and provide information to, representatives of the trading community and other interested parties. Such consultations and information shall cover significant new or amended requirements and procedures and the opportunity to comment shall be provided prior to their adoption.

Article 6.6: Advance Rulings

1. Upon written request from traders, each Party shall issue written advance rulings, through its customs authorities, prior to the importation of a good into its territory in accordance with its laws and regulations, on tariff classification, origin or any other such matters as the Party may decide.
2. Subject to any confidentiality requirements in its laws and regulations, each Party shall publish, e.g. on the Internet, its advance rulings on tariff classification and any other such matters as the Party may decide.
3. To facilitate trade, the Parties shall include in their bilateral dialogue regular updates on changes in their respective legislation on the matters referred to in paragraphs 1 and 2.

Article 6.7: Appeal Procedures

1. Each Party shall ensure that with respect to its determinations on customs matters and other import, export and transit requirements and procedures, persons concerned who are the subject of such determinations shall have access to review or appeal of such determinations. A Party may require that an appeal be initially heard by the same agency, its supervisory authority or a judicial authority prior to a review by a higher independent body, which may be a judicial authority or administrative tribunal.

2. The producer or exporter may provide, upon request of the reviewing authority to the producer or exporter, information directly to the Party conducting the administrative review. The exporter or producer providing the information may ask the Party conducting the administrative review to treat that information as confidential in accordance with its laws and regulations.

Article 6.8: Confidentiality

1. Any information provided by persons or authorities of a Party to the authorities of the other Party pursuant to the provisions of this Chapter shall, including where requested pursuant to Article 6.7, be treated as a confidential or restricted nature, depending on the laws and regulations applicable in each Party. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws and regulations of the Party that received it.
2. Personal data may be exchanged only where the Party receiving the data undertakes to protect such data in a manner at least equivalent to that applicable to that particular case in the Party that may supply them. The person providing information shall not stipulate any requirements which are more onerous than those applicable to it in its own jurisdiction.
3. Information referred to in paragraph 1 shall not be used by the authorities of the Party which has received it for purposes other than what it has been provided for without the express permission of the person or authority providing it.
4. Other than with the express permission of the person or authority that provided it, the information referred to in paragraph 1 shall not be published or otherwise disclosed to any persons, except where obliged or authorised to do so under the laws and regulations of the Party that received it in connection with legal proceedings. The person that provided the information shall be notified of such disclosure, wherever possible, in advance.
5. Where an authority of a Party requests information pursuant to the provisions of this Chapter, it shall notify the requested persons of any possibility of disclosure in connection with legal proceedings.
6. The requesting Party shall, unless otherwise agreed by the person who provided the information, wherever appropriate, use all available measures under the applicable laws and regulations of that Party to maintain the confidentiality of information and to protect personal data in case of applications by a third party or other authorities for the disclosure of the information concerned.

Article 6.9: Fees and Charges

With regard to all fees and charges of whatever character other than customs duties and the items that are excluded from the definition of a customs duty under Article 2.3 (Customs duty) imposed in connection with importation or exportation:

- (a) fees and charges shall only be imposed for services provided in connection with the importation or exportation in question or for any formality required for undertaking such importation or exportation;
- (b) fees and charges shall not exceed the approximate cost of the service provided;
- (c) fees and charges shall not be calculated on an ad valorem basis;
- (d) fees and charges shall not be imposed with respect to consular services;
- (e) the information on fees and charges shall be published via an officially designated medium, and where feasible and possible, official website. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fees and charges that will be applied, and when and how payment is to be made; and
- (f) new or amended fees and charges shall not be imposed until information in accordance with subparagraph (e) is published and made readily available.

Article 6.10: Pre-Shipment Inspections

Each Party shall not require the use of pre-shipment inspections or their equivalent.

Article 6.11: Post Clearance Audit

Each Party shall provide traders with the opportunity to benefit from the application of efficient post clearance audits. The application of post clearance audits shall not impose unwarranted or unjustified requirements or burdens on traders.

Article 6.12: Customs Valuation

The Customs Valuation Agreement without the reservations and options provided for in Article 20 and paragraphs 2 through 4 of Annex III of the Customs Valuation Agreement, shall be incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 6.13: Customs Co-operation

1. The Parties shall enhance their co-operation in customs and customs-related matters.
2. The Parties undertake to develop trade facilitation actions in customs matters taking account of the work done in this connection by international organisations. This may include testing of new customs procedures.
3. The Parties affirm their commitment to the facilitation of the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques and procedures and on computerised systems in accordance with the provisions of this Agreement.
4. The Parties shall commit to:

- (a) pursuing the harmonisation of documentation and data elements used in trade according to international standards for the purpose of facilitating the flow of trade between them in customs-related matters regarding the importation, exportation and transit of goods;
 - (b) intensifying co-operation between their customs laboratories and scientific departments and to working towards the harmonisation of customs laboratories methods;
 - (c) exchanging customs' personnel;
 - (d) jointly organising training programmes on customs-related issues, for the officials who participate directly in customs procedures;
 - (e) developing effective mechanisms for communicating with the trade and business communities;
 - (f) assisting to the extent practicable each other in the tariff classification, valuation and determination of origin for preferential tariff treatment of imported goods;
 - (g) promoting strong and efficient intellectual property rights enforcement by customs authorities, regarding imports, exports, re-exports, transit, transshipments and other customs procedures, and in particular as regards counterfeit goods; and
 - (h) improving the security, while facilitating trade, of sea-container and other shipments from all locations that are imported into, transhipped through, or transiting the Parties. The Parties agree that the objectives of the intensified and broadened co-operation include, but are not limited to:
 - (i) working together to reinforce the customs related aspects for securing the logistics chain of international trade; and
 - (ii) co-ordinating positions, to the greatest extent practicable, in any multilateral fora where issues related to container security may be appropriately raised and discussed.
5. The Parties recognise that technical co-operation between them is fundamental to facilitating compliance with the obligations set forth in this Agreement and to achieving high levels of trade facilitation. The Parties, through their customs administrations, agree to develop a technical co-operation programme under mutually agreed terms as to the scope, timing and cost of co-operative measures in customs and customs-related areas.
6. Through the Parties' respective customs administrations and other border-related authorities, the Parties shall review relevant international initiatives on trade facilitation, including, *inter alia*, relevant work in the WTO and WCO, to identify areas where further joint action would facilitate trade between the Parties and promote shared multilateral objectives. The Parties shall work together to establish, wherever possible, common positions in international organisations in the field of customs and trade facilitation, notably in the WTO and WCO.

7. The Parties shall assist each other in implementation and enforcement of this Chapter,—the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation and their respective customs laws or regulations.

Article 6.14: Mutual Administrative Assistance in Customs Matters

1. The Parties shall provide mutual administrative assistance in customs matters in accordance with the provisions laid down in the Protocol on Mutual Administrative Assistance in Customs Matters.
2. Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) under this Agreement for matters covered by Article 9.1 of the Protocol on Mutual Administrative Assistance in Customs Matters.

Article 6.15: Customs Contact Points

1. The Parties shall exchange lists of designated contact points for matters arising under this Chapter and the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation.
2. The contact points shall endeavour to resolve operational matters covered by this Chapter through consultations. If a matter cannot be resolved through the contact points, the matter shall be referred to the Customs Committee referred to in this Chapter.

Article 6.16: Customs Committee

1. The Customs Committee established pursuant to Article 15.2.1 (Specialised Committees) shall ensure the proper functioning of this Chapter and the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation and the Protocol on Mutual Administrative Assistance in Customs Matters and examine all issues arising from their application. For matters covered by this Agreement, it shall report to the Trade Committee set up under Article 15.1.1 (Trade Committee).
2. The Customs Committee shall consist of representatives of the customs and other competent authorities of the Parties responsible for customs and trade facilitation matters, for the management of the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation and the Protocol on Mutual Administrative Assistance in Customs Matters.
3. The Customs Committee shall adopt its rules of procedure and meet annually alternating between the Parties.
4. On the request of a Party, the Customs Committee shall meet to discuss and endeavour to resolve any difference that may arise between the Parties on matters as included in this Chapter and the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation and the Protocol on Mutual

Administrative Assistance in Customs Matters, including trade facilitation, tariff classification, origin of goods and mutual administrative assistance in customs matters, in particular relating to Articles 7 and 8 of the Protocol on Mutual Administrative Assistance in Customs Matters.

5. The Customs Committee may formulate resolutions, recommendations or opinions which it considers necessary for the attainment of the common objectives and sound functioning of the mechanisms established in this Chapter and the Protocol concerning the Definition of 'Originating Products' and Methods of Administrative Co-operation and the Protocol on Mutual Administrative Assistance in Customs Matters.

CHAPTER SEVEN
TRADE IN SERVICES, ESTABLISHMENT AND ELECTRONIC COMMERCE

SECTION A

GENERAL PROVISIONS

Article 7.1: Objective, Scope and Coverage

1. The Parties, reaffirming their respective rights and obligations under the WTO Agreement, hereby lay down the necessary arrangements for progressive reciprocal liberalisation of trade in services and establishment and for co-operation on electronic commerce.
2. Nothing in this Chapter shall be construed to impose any obligation with respect to government procurement.
3. This Chapter shall not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.
4. Consistent with this Chapter, each Party retains the right to regulate and to introduce new regulations to meet legitimate policy objectives.
5. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.
6. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of a specific commitment in this Chapter and its Annexes.⁴

Article 7.2: Definitions

For the purposes of this Chapter:

- (a) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;
- (b) **measures adopted or maintained by a Party** means measures taken by:
 - (i) central, regional or local governments and authorities; and

⁴ The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under the terms of a specific commitment in this Chapter and its Annexes.

- (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;
- (c) **person** means either a natural person or a juridical person;
- (d) **natural person** means a national of Korea or one of the Member States of the European Union according to its respective legislation;
- (e) **juridical person** means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;
- (f) **juridical person of a Party** means:
 - (i) a juridical person set up in accordance with the laws of one of the Member States of the European Union or of Korea respectively, and having its registered office, central administration⁵ or principal place of business in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply, or of Korea respectively. Should the juridical person have only its registered office or central administration in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply or of Korea, it shall not be considered as a juridical person of the European Union or of Korea respectively, unless it engages in substantive business operations⁶ in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply or of Korea respectively; or
 - (ii) in the case of establishment in accordance with Article 7.9(a), a juridical person owned or controlled by natural persons of the EU Party or of Korea respectively, or by a juridical person of the European Union or of Korea identified under subparagraph (i) respectively.

A juridical person is:

- (i) **owned** by persons of the EU Party or of Korea if more than 50 percent of the equity interest in it is beneficially owned by persons of the EU Party or of Korea respectively;

⁵ **Central administration** means the head office where ultimate decision-making takes place.

⁶ In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the EU Party understands the concept of “effective and continuous link” with the economy of a Member State of the European Union enshrined in Article 48 of the Treaty as equivalent to the concept of “substantive business operations” provided for in paragraph 6 of Article V of the GATS. Accordingly, for a juridical person set up in accordance with the laws of Korea and having only its registered office or central administration in the territory of Korea, the EU Party shall only extend the benefits of this Agreement if that juridical person possesses an effective and continuous link with the economy of Korea.

- (ii) **controlled** by persons of the EU Party or of Korea if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;
- (iii) **affiliated** with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;
- (g) Notwithstanding subparagraph (f), shipping companies established outside the EU Party or Korea and controlled by nationals of a Member State of the European Union or of Korea respectively, shall also be covered by this Agreement, if their vessels are registered in accordance with the respective legislation of that Member State of the European Union or of Korea and carry the flag of a Member State of the European Union or of Korea;⁷
- (h) **economic integration agreement** means an agreement substantially liberalising trade in services and establishment pursuant to the WTO Agreement in particular Articles V and V bis of GATS;
- (i) **aircraft repair and maintenance services** means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance;
- (j) **computer reservation system** (hereinafter referred to as “CRS”) **services** means services provided by computerised systems that contain information about air carriers’ schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;
- (k) **selling and marketing of air transport services** means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services, nor the applicable conditions; and
- (l) **service supplier** means any person that supplies or seeks to supply a service, including as an investor.

Article 7.3: Committee on Trade in Services, Establishment and Electronic Commerce

1. The Committee on Trade in Services, Establishment and Electronic Commerce established pursuant to Article 15.2.1 (Specialised Committees) shall comprise representatives of the Parties. The principal representative of the Parties for the Committee shall be an official of its authority responsible for the implementation of this Chapter.
2. The Committee shall:

⁷ This subparagraph shall not apply to establishment.

- (a) supervise and assess the implementation of this Chapter;
- (b) consider issues regarding this Chapter that are referred to it by a Party; and
- (c) provide opportunities for relevant authorities to exchange information on prudential measures with respect to Article 7.46.

SECTION B

CROSS-BORDER SUPPLY OF SERVICES

Article 7.4: Scope and Definitions

1. This Section applies to measures of the Parties affecting the cross-border supply of all service sectors with the exception of:

- (a) audio-visual services⁸;
- (b) national maritime cabotage; and
- (c) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:
 - (i) aircraft repair and maintenance services;
 - (ii) the selling and marketing of air transport services;
 - (iii) CRS services; and
 - (iv) other services auxiliary to air transport services, such as ground handling services, rental service of aircraft with crew and airport management services.

2. Measures affecting the cross-border supply of services include measures affecting:

- (a) the production, distribution, marketing, sale and delivery of a service;
- (b) the purchase, payment or use of a service;
- (c) the access to and use of, in connection with the supply of a service, networks or services which are required by the Parties to be offered to the public generally; and
- (d) the presence in a Party's territory of a service supplier of the other Party.

3. For the purposes of this Section:

⁸ The exclusion of audio-visual services from the scope of this Section is without prejudice to the rights and obligations derived from the Protocol on Cultural Co-operation.

- (a) **cross-border supply of services** is defined as the supply of a service:
 - (i) from the territory of a Party into the territory of the other Party; and
 - (ii) in the territory of a Party to the service consumer of the other Party;
- (b) **services** includes any service in any sector except services supplied in the exercise of governmental authority; and
- (c) a **service supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

Article 7.5: Market Access

1. With respect to market access through the cross-border supply of services, each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in the specific commitments contained in Annex 7-A.
2. In sectors where market access commitments are undertaken, the measures which a Party shall not adopt or maintain either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in Annex 7-A, are defined as:
 - (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;⁹
 - (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test; and
 - (c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test.¹⁰

Article 7.6: National Treatment

1. In the sectors where market access commitments are inscribed in Annex 7-A and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the cross-border supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.

⁹ This subparagraph includes measures which require a service supplier of the other Party to have an establishment within the meaning of Article 7.9(a) or to be resident in a Party's territory as a condition for the cross-border supply of services.

¹⁰ This subparagraph does not cover measures of a Party which limit inputs for the cross-border supply of services.

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of a Party compared to like services or service suppliers of the other Party.
4. Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

ARTICLE 7.7: LISTS OF COMMITMENTS

1. The sectors liberalised by each Party pursuant to this Section and, by means of reservations, the market access and national treatment limitations applicable to services and service suppliers of the other Party in those sectors are set out in the lists of commitments included in Annex 7-A.
2. Neither Party may adopt new, or more, discriminatory measures with regard to services or service suppliers of the other Party in comparison with treatment accorded pursuant to the specific commitments undertaken in conformity with paragraph 1.

Article 7.8: MFN Treatment¹¹

1. With respect to any measures covered by this Section affecting the cross-border supply of services, unless otherwise provided for in this Article, each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords to like services and service suppliers of any third country in the context of an economic integration agreement signed after the entry into force of this Agreement.
2. Treatment arising from a regional economic integration agreement granted by either Party to services and service suppliers of a third party shall be excluded from the obligation in paragraph 1, only if this treatment is granted under sectoral or horizontal commitments for which the regional economic integration agreement stipulates a significantly higher level of obligations than those undertaken in the context of this Section as set out in Annex 7-B.
3. Notwithstanding paragraph 2, the obligations arising from paragraph 1 shall not apply to treatment granted:

¹¹ Nothing in this Article shall be interpreted as extending the scope of this Section.

- (a) under measures providing for recognition of qualifications, licences or prudential measures in accordance with Article VII of GATS or its Annex on Financial Services;
 - (b) under any international agreement or arrangement relating wholly or mainly to taxation; or
 - (c) under measures covered by the MFN exemptions listed in Annex 7-C.
4. This Chapter shall not be so construed as to prevent any Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zone of services that are both locally produced and consumed.

SECTION C

ESTABLISHMENT

Article 7.9: Definitions

For the purposes of this Section:

- (a) **establishment** means:
 - (i) the constitution, acquisition or maintenance of a juridical person;¹² or
 - (ii) the creation or maintenance of a branch or representative officewithin the territory of a Party for the purpose of performing an economic activity.
- (b) **investor** means any person that seeks to perform or performs an economic activity through setting up an establishment;¹³
- (c) **economic activity** includes any activities of an economic nature except activities carried out in the exercise of governmental authority, i.e. activities carried out neither on a commercial basis nor in competition with one or more economic operators;
- (d) **subsidiary of a juridical person of a Party** means a juridical person which is effectively controlled by another juridical person of that Party; and

¹² The terms “constitution” and “acquisition” of a juridical person shall be understood as including capital participation in a juridical person with a view to establishing or maintaining lasting economic links.

¹³ Where the economic activity is not performed directly by a juridical person but through other forms of establishment such as a branch or a representative office, the investor including the juridical person shall, nonetheless, through such establishment be accorded the treatment provided for investors under this Agreement. Such treatment shall be extended to the establishment through which the economic activity is performed and need not be extended to any other parts of the investor located outside the territory where the economic activity is performed.

- (e) **branch of a juridical person** means a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will, if necessary, be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.

Article 7.10: Scope

With a view to improving the investment environment, and in particular the conditions of establishment between the Parties, this Section applies to measures by the Parties affecting establishment¹⁴ in all economic activities with the exception of:

- (a) mining, manufacturing and processing¹⁵ of nuclear materials;
- (b) production of, or trade in, arms, munitions and war material¹⁶;
- (c) audio-visual services;¹⁷
- (d) national maritime cabotage; and
- (e) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:
 - (i) aircraft repair and maintenance services;
 - (ii) the selling and marketing of air transport services;
 - (iii) CRS services; and
 - (iv) other services auxiliary to air transport services, such as ground handling services, rental service of aircraft with crew and airport management services.

Article 7.11: Market Access

1. With respect to market access through establishment, each Party shall accord to establishments and investors of the other Party treatment no less favourable than that

¹⁴ Investment protection, other than the treatment deriving from Article 7.12, including investor-state dispute settlement procedures, is not covered by this Chapter.

¹⁵ For greater certainty, processing of nuclear materials covers all the activities included in the International Standard Industrial Classification of all Economic Activities as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No 4, ISIC REV 3.1, 2002 code 2330.

¹⁶ War material is limited to any product which is solely intended and made for military use in connection with the conduct of war or defence activities.

¹⁷ The exclusion of audio-visual services from the scope of this Section is without prejudice to the rights and obligations derived from the Protocol on Cultural Co-operation.

provided for under the terms, limitations and conditions agreed and specified in the specific commitments contained in Annex 7-A.

2. In sectors where market access commitments are undertaken, the measures which a Party shall not adopt or maintain either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in Annex 7-A, are defined as:
 - (a) limitations on the number of establishments whether in the form of numerical quotas, monopolies, exclusive rights or other establishment requirements such as economic needs test;
 - (b) limitations on the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (c) limitations on the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;¹⁸
 - (d) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholdings or the total value of individual or aggregate foreign investment;
 - (e) measures which restrict or require specific types of legal entity or joint ventures through which an investor of the other Party may perform an economic activity; and
 - (f) limitations on the total number of natural persons, other than key personnel and graduate trainees as defined in Article 7.17, that may be employed in a particular sector or that an investor may employ and who are necessary for, and directly related to, the performance of the economic activity in the form of numerical quotas or the requirement of an economic needs test.

Article 7.12: National Treatment¹⁹

1. In the sectors inscribed in Annex 7-A, and subject to any conditions and qualifications set out therein, with respect to all measures affecting establishment, each Party shall accord to establishments and investors of the other Party treatment no less favourable than that it accords to its own like establishments and investors.
2. A Party may meet the requirement of paragraph 1 by according to establishments and investors of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like establishments and investors.

¹⁸ Subparagraphs (a) through (c) do not cover measures taken in order to limit the production of an agricultural product.

¹⁹ This Article applies to measures governing the composition of boards of directors of an establishment, such as nationality and residency requirements.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of establishments or investors of the Party compared to like establishments or investors of the other Party.
4. Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant establishments or investors.

Article 7.13: Lists of Commitments

1. The sectors liberalised by each Party pursuant to this Section and, by means of reservations, the market access and national treatment limitations applicable to establishments and investors of the other Party in those sectors are set out in the lists of commitments included in Annex 7-A.
2. Neither Party may adopt new, or more, discriminatory measures with regard to establishments and investors of the other Party in comparison with treatment accorded pursuant to the specific commitments undertaken in conformity with paragraph 1.

Article 7.14: MFN Treatment²⁰

1. With respect to any measures covered by this Section affecting establishment, unless otherwise provided for in this Article, each Party shall accord to establishments and investors of the other Party treatment no less favourable than that it accords to like establishments and investors of any third country in the context of an economic integration agreement signed after the entry into force of this Agreement.²¹
2. Treatment arising from a regional economic integration agreement granted by either Party to establishments and investors of a third party shall be excluded from the obligation in paragraph 1, only if this treatment is granted under sectoral or horizontal commitments for which the regional economic integration agreement stipulates a significantly higher level of obligations than those undertaken in the context of this Section as set out in Annex 7-B.
3. Notwithstanding paragraph 2, the obligations arising from paragraph 1 shall not apply to treatment granted:
 - (a) under measures providing for recognition of qualifications, licences or prudential measures in accordance with Article VII of GATS or its Annex on Financial Services;
 - (b) under any international agreement or arrangement relating wholly or mainly to taxation; or

²⁰ Nothing in this Article shall be interpreted as extending the scope of this Section.

²¹ The obligation contained in this paragraph does not extend to the investment protection provisions not covered by this Chapter, including provisions relating to investor-state dispute settlement procedures.

- (c) under measures covered by an MFN exemption listed in Annex 7-C.
- 4. This Chapter shall not be so construed as to prevent any Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zone of services that are both locally produced and consumed.

Article 7.15: Other Agreements

Nothing in this Chapter shall be deemed to:

- (a) limit the rights of investors of the Parties to benefit from any more favourable treatment provided for in any existing or future international agreement relating to investment to which one of the Member States of the European Union and Korea are party; and
- (b) derogate from the international legal obligations of the Parties under those agreements that provide investors of the Parties with more favourable treatment than that provided for under this Agreement.

Article 7.16: Review of the Investment Legal Framework

- 1. With a view to progressively liberalising investments, the Parties shall review the investment legal framework²², the investment environment and the flow of investment between them consistently with their commitments in international agreements no later than three years after the entry into force of this Agreement and at regular intervals thereafter.
- 2. In the context of the review referred to in paragraph 1, the Parties shall assess any obstacles to investment that have been encountered and shall undertake negotiations to address such obstacles, with a view to deepening the provisions of this Chapter, including with respect to general principles of investment protection.

SECTION D

TEMPORARY PRESENCE OF NATURAL PERSONS FOR BUSINESS

Article 7.17: Scope and Definitions

- 1. This Section applies to measures of the Parties concerning the entry into, and temporary stay in, their territories of key personnel, graduate trainees, business services sellers, contractual service suppliers and independent professionals subject to Article 7.1.5.
- 2. For the purposes of this Section:

²² This includes this Chapter and Annexes 7-A and 7-C.

- (a) **key personnel** means natural persons employed within a juridical person of a Party other than a non-profit organisation and who are responsible for the setting up or the proper control, administration and operation of an establishment. Key personnel comprises business visitors responsible for setting up an establishment and intra-corporate transfers;
- (i) **business visitors** means natural persons working in a senior position who are responsible for setting up an establishment. They do not engage in direct transactions with the general public and do not receive remuneration from a source located within the host Party; and
- (ii) **intra-corporate transferees** means natural persons who have been employed by a juridical person of a Party or have been partners in it (other than as majority shareholders) for at least one year and who are temporarily transferred to an establishment (including subsidiaries, affiliates or branches) in the territory of the other Party. The natural person concerned shall belong to one of the following categories.

Managers

Natural persons working in a senior position within a juridical person, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or shareholders of the business or their equivalents, including:

- (A) directing the establishment or a department or sub-division thereof;
- (B) supervising and controlling the work of other supervisory, professional or managerial employees; and
- (C) having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions.

Specialists

Natural persons working within a juridical person who possess uncommon knowledge essential to the establishment's production, research equipment, techniques or management. In assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession.

- (b) **graduate trainees** means natural persons who have been employed by a juridical person of a Party for at least one year, who possess a university degree and who are temporarily transferred to an establishment in the territory of the

other Party for career development purposes or to obtain training in business techniques or methods;²³

- (c) **business service sellers** means natural persons who are representatives of a service supplier of a Party seeking temporary entry into the territory of the other Party for the purpose of negotiating the sale of services or entering into agreements to sell services for that service supplier. They do not engage in making direct sales to the general public and do not receive remuneration from a source located within the host Party;
- (d) **contractual service suppliers** means natural persons employed by a juridical person of a Party which has no establishment in the territory of the other Party and which has concluded a *bona fide* contract to supply services with a final consumer in the latter Party requiring the presence on a temporary basis of its employees in that Party in order to fulfil the contract to provide services²⁴; and
- (e) **independent professionals** means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who have no establishment in the territory of the other Party and who have concluded a *bona fide* contract to supply services with a final consumer in the latter Party requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services²⁵.

Article 7.18: Key Personnel and Graduate Trainees

1. For every sector liberalised in accordance with Section C and subject to any reservations listed in Annex 7-A, each Party shall allow investors of the other Party to transfer to their establishment natural persons of that other Party, provided that such employees are key personnel or graduate trainees as defined in Article 7.17. The temporary entry and stay of key personnel and graduate trainees shall be permitted for a period of up to three years for intra-corporate transferees²⁶, 90 days in any 12 month period for business visitors²⁷, and one year for graduate trainees.
2. For every sector liberalised in accordance with Section C, the measures which a Party shall not maintain or adopt, unless otherwise specified in Annex 7-A, are defined as limitations on the total number of natural persons that an investor may transfer as key personnel or graduate trainees in a specific sector in the form of

²³ The recipient establishment may be required to submit a training programme covering the duration of stay for prior approval, demonstrating that the purpose of the stay is for training corresponding to the level of a university degree.

²⁴ The service contract referred to under this subparagraph shall comply with the laws, regulations and requirements of the Party where the contract is executed.

²⁵ The service contract referred to under this subparagraph shall comply with the laws, regulations and requirements of the Party where the contract is executed.

²⁶ A Party may authorise an extension for the period allowed in conformity with the laws and regulations in force in its territory.

²⁷ This paragraph is without prejudice to the rights and obligations deriving from bilateral visa waiver agreements between Korea and one of the Member States of the European Union.

numerical quotas or a requirement of an economic needs test and as discriminatory limitations.²⁸

Article 7.19: Business Service Sellers

For every sector liberalised in accordance with Section B or C and subject to any reservations listed in Annex 7-A, each Party shall allow the temporary entry and stay of business service sellers for a period of up to 90 days in any 12 month period.²⁹

Article 7.20: Contractual Service Supplier and Independent Professionals

1. The Parties reaffirm their respective obligations arising from their commitments under the GATS as regards the temporary entry and stay of contractual service suppliers and independent professionals.
2. No later than two years after the conclusion of the negotiations pursuant to Article XIX of GATS and to the *Ministerial Declaration* of the WTO Ministerial Conference adopted on 14 November 2001, the Trade Committee shall adopt a decision containing a list of commitments concerning the access of contractual service suppliers and independent professionals of a Party to the territory of the other Party. Taking into account the results of those GATS negotiations, the commitments shall be mutually beneficial and commercially meaningful.

SECTION E

REGULATORY FRAMEWORK

SUB-SECTION A

PROVISIONS OF GENERAL APPLICATION

Article 7.21: Mutual Recognition

1. Nothing in this Chapter shall prevent a Party from requiring that natural persons possess the necessary qualifications and/or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.
2. The Parties shall encourage the relevant representative professional bodies in their respective territories to jointly develop and provide recommendations on mutual recognition to the Trade Committee, for the purpose of the fulfilment, in whole or in part, by service suppliers and investors in services sectors, of the criteria applied by each Party for the authorisation, licensing, operation and certification of service

²⁸ Unless otherwise provided in Annex 7-A, neither Party may require that an establishment appoints to senior management positions natural persons of any particular nationality or having residency in its territory.

²⁹ This Article is without prejudice to the rights and obligations deriving from bilateral visa waiver agreements between Korea and one of the Member States of the European Union.

suppliers and investors in services sectors and, in particular, professional services, including temporary licensing.

3. On receipt of a recommendation referred to in paragraph 2, the Trade Committee shall, within a reasonable time, review the recommendation with a view to determining whether it is consistent with this Agreement.
4. When, in conformity with the procedure set out in paragraph 3, a recommendation referred to in paragraph 2 has been found to be consistent with this Agreement and there is a sufficient level of correspondence between the relevant regulations of the Parties, the Parties shall, with a view to implementing that recommendation, negotiate, through their competent authorities, an agreement on mutual recognition (hereinafter referred to as an “MRA”) of requirements, qualifications, licences and other regulations.
5. Any such agreement shall be in conformity with the relevant provisions of the WTO Agreement and, in particular, Article VII of GATS.
6. The Working Group on MRA established pursuant to Article 15.3.1 (Working Groups) shall operate under the Trade Committee and shall comprise representatives of the Parties. With a view to facilitating the activities of paragraph 2, the Working Group shall meet within one year of the entry into force of this Agreement, unless the Parties agree otherwise.
 - (a) The Working Group should consider, for services generally, and as appropriate for individual services, the following matters:
 - (i) procedures for encouraging the relevant representative bodies in their respective territories to consider their interest in mutual recognition; and
 - (ii) procedures for fostering the development of recommendations on mutual recognition by the relevant representative bodies.
 - (b) The Working Group shall function as a contact point for issues relating to mutual recognition raised by relevant professional bodies of either Party.

Article 7.22: Transparency and Confidential Information

1. The Parties, through the mechanisms established pursuant to Chapter Twelve (Transparency), shall respond promptly to all requests by the other Party for specific information:
 - (a) on international agreements or arrangements, including on mutual recognition, which pertain to or affect matters falling under this Chapter; and
 - (b) on standards and criteria for licensing and certification of service suppliers, including information concerning the appropriate regulatory or other body to consult regarding such standards and criteria. Such standards and criteria include requirements regarding education, examination, experience, conduct

and ethics, professional development and re-certification, scope of practice, local knowledge and consumer protection.

2. Nothing in this Agreement shall require any Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interests, or which would prejudice legitimate commercial interests of particular enterprises, public or private.
3. Each Party's regulatory authorities shall make publicly available the requirements, including any documentation required, for completing applications relating to the supply of services.
4. On the request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.
5. On the request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent possible, inform the applicant of the reasons for denial of the application.
6. A Party's regulatory authority shall make an administrative decision on a completed application of an investor or a cross-border service supplier of the other Party relating to the supply of a service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not possible for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable period of time thereafter.

Article 7.23: Domestic Regulation

1. Where authorisation is required for the supply of a service or for establishment on which a specific commitment has been made, the competent authorities of a Party shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Party shall provide, without undue delay, information concerning the status of the application.
2. Each Party shall institute or maintain judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected investor or service supplier, for a prompt review of, and where justified, appropriate remedies for, administrative decisions affecting establishment, cross-border supply of services or temporary presence of natural persons for business purpose. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Parties shall ensure that the procedures in fact provide for an objective and impartial review.
3. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute

unnecessary barriers to trade in services, while recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet public policy objectives, each Party shall endeavour to ensure, as appropriate for individual sectors, that such measures are:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service; and
 - (b) in the case of licensing procedures, not in themselves a restriction on the supply of the service.
4. This Article shall be amended, as appropriate, after consultations between the Parties, to bring under this Agreement the results of the negotiations pursuant to paragraph 4 of Article VI of GATS or the results of any similar negotiations undertaken in other multilateral fora in which both Parties participate once they become effective.

Article 7.24: Governance

Each Party shall, to the extent practicable, ensure that internationally agreed standards for regulation and supervision in the financial services sector and for the fight against tax evasion and avoidance are implemented and applied in its territory. Such internationally agreed standards are, *inter alia*, the *Core Principle for Effective Banking Supervision* of the Basel Committee on Banking Supervision, the *Insurance Core Principles and Methodology*, approved in Singapore on 3 October 2003 of the International Association of Insurance Supervisors, the *Objectives and Principles of Securities Regulation* of the International Organisation of Securities Commissions, the *Agreement on Exchange of Information on Tax Matters* of the Organisation for Economic Co-operation and Development (hereinafter referred to as the “OECD”), the *Statement on Transparency and Exchange of Information for Tax Purposes* of the G20, and the *Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing* of the Financial Action Task Force.

SUB-SECTION B

COMPUTER SERVICES

Article 7.25: Computer Services

1. In liberalising trade in computer services in accordance with Sections B through D, the Parties subscribe to the understanding set out in the following paragraphs.
2. CPC³⁰ 84, the United Nations code used for describing computer and related services, covers the basic functions used to provide all computer and related services including computer programmes defined as the sets of instructions required to make computers work and communicate (including their development and implementation), data processing and storage, and related services, such as

³⁰ CPC means the Central Products Classification as set out in Statistical Office of the United Nations, Statistical Papers, Series M, N^o 77, *CPC Prov*, 1991.

consultancy and training services for staff of clients. Technological developments have led to the increased offering of these services as a bundle or package of related services that can include some or all of these basic functions. For example, services such as web or domain hosting, data mining services and grid computing consist of a combination of basic computer services functions respectively.

3. Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide:
- (a) consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance or management of or for computers or computer systems;
 - (b) computer programmes plus consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programmes;
 - (c) data processing, data storage, data hosting or database services;
 - (d) maintenance and repair services for office machinery and equipment, including computers; or
 - (e) training services for staff of clients, related to computer programs, computers or computer systems, and not elsewhere classified.

4. Computer and related services enable the provision of other services such as banking by both electronic and other means. The Parties recognise that there is an important distinction between the enabling service such as web-hosting or application hosting and the content or core service that is being delivered electronically such as banking, and that in such cases the content or core service is not covered by CPC 84.

SUB-SECTION C

POSTAL AND COURIER SERVICES

Article 7.26: Regulatory Principles

No later than three years after the entry into force of this Agreement, with a view to ensuring competition in postal and courier services not reserved to a monopoly in each Party, the Trade Committee shall set out the principles of the regulatory framework applicable to those services. Those principles shall aim to address issues such as anti-competitive practices, universal service, individual licenses and nature of the regulatory authority.³¹

SUB-SECTION D

³¹ For greater certainty, nothing in this Article shall be interpreted as intending to change the regulatory framework of the existing regulatory body in Korea which regulates private delivery service suppliers upon the entry into force of this Agreement.

TELECOMMUNICATIONS SERVICES

Article 7.27: Scope and Definitions

1. This Sub-section sets out the principles of the regulatory framework for the basic telecommunications services³², other than broadcasting, liberalised pursuant to Sections B through D of this Chapter.
2. For the purposes of this Sub-section:
 - (a) **telecommunications services** means all services consisting of the transmission and reception of electro-magnetic signals and does not cover the economic activity consisting of the provision of content which requires telecommunications for its transport;
 - (b) **public telecommunications transport service** means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally;
 - (c) **public telecommunications transport network** means the public telecommunications infrastructure which permits telecommunications between and among defined network termination points;
 - (d) **regulatory authority** in the telecommunication sector means the body or bodies charged with the regulation of telecommunications mentioned in this Sub-section;
 - (e) **essential facilities** means facilities of a public telecommunications transport network or service that:
 - (i) are exclusively or predominantly provided by a single or limited number of suppliers; and
 - (ii) cannot feasibly be economically or technically substituted in order to provide a service;
 - (f) **major supplier** in the telecommunication sector means a supplier that has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for telecommunications services as a result of its control over essential facilities or the use of its position in the market;
 - (g) **interconnection** means linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken;

³² These include services listed in items from a through g under C. Telecommunication Services of 2. Communication Services in the MTN/GNS/W/120.

- (h) **universal service** means the set of services that must be made available to all users in the territory of a Party regardless of their geographical location and at an affordable price;³³
- (i) **end-user** means a final consumer of or subscriber to a public telecommunications transport service, including a service supplier other than a supplier of public telecommunications transport services;
- (j) **non-discriminatory** means treatment no less favourable than that accorded to any other user of like public telecommunications transport networks or services in like circumstances; and
- (k) **number portability** means the ability of end-users of public telecommunications transport services to retain, at the same location, the same telephone numbers without impairment of quality, reliability or convenience when switching between the same category of suppliers of public telecommunications transport services.

Article 7.28: Regulatory Authority

1. A regulatory authority for telecommunications services shall be legally distinct from and functionally independent of any supplier of telecommunications services.
2. The regulatory authority shall be sufficiently empowered to regulate the telecommunications services sector. The tasks to be undertaken by a regulatory authority shall be made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.
3. The decisions of, and the procedures used by, the regulatory authority shall be impartial with respect to all market participants.

Article 7.29: Authorisation to Provide Telecommunications Services

1. Provision of services shall, to the extent practicable, be authorised following a simplified authorisation procedure.
2. A license can be required to address issues of attributions of frequencies, numbers and rights of way. The terms and conditions for such license shall be made publicly available.
3. Where a license is required:
 - (a) all the licensing criteria and the reasonable period of time normally required to reach a decision concerning an application for a licence shall be made publicly available;

³³ The scope and implementation of universal services shall be decided by each Party.

- (b) the reasons for the denial of a licence shall be made known in writing to the applicant upon request; and
- (c) license fees³⁴ required by any Party for granting a licence shall not exceed the administrative costs normally incurred in the management, control and enforcement of the applicable licences.³⁵

Article 7.30: Competitive Safeguards on Major Suppliers

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

- (a) engaging in anti-competitive cross-subsidisation³⁶;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other service suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

Article 7.31: Interconnection

1. Each Party shall ensure that suppliers of public telecommunications transport networks or services in its territory provide, directly or indirectly within the same territory, to suppliers of public telecommunications transport services of the other Party the possibility to negotiate interconnection. Interconnection should in principle be agreed on the basis of commercial negotiations between the companies concerned.
2. Regulatory authorities shall ensure that suppliers that acquire information from another undertaking during the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.
3. Interconnection with a major supplier shall be ensured at any technically feasible point in the network. Such interconnection shall be provided:
 - (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates, and of a quality no less favourable than that provided for its own like services, for like services of non-affiliated service suppliers or for like services of its subsidiaries or other affiliates;

³⁴ License fees do not include payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

³⁵ This subparagraph shall take effect no later than five years after the entry into force of this Agreement. Each Party shall ensure that licence fees are imposed and applied in a non-discriminatory manner upon the entry into force of this Agreement.

³⁶ Or margin squeeze for the EU Party

- (b) in a timely fashion, on terms and conditions (including technical standards and specifications) and at cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
 - (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.
- 4. The procedures applicable for interconnection with a major supplier shall be made publicly available.
- 5. Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers.³⁷

Article 7.32: Number Portability

Each Party shall ensure that suppliers of public telecommunications transport services in its territory, other than suppliers of voice over internet protocol services, provide number portability to the extent technically feasible, and on reasonable terms and conditions.

Article 7.33: Allocation and Use of Scarce Resources

- 1. Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, shall be carried out in an objective, timely, transparent and non-discriminatory manner.
- 2. The current state of allocated frequency bands shall be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

Article 7.34: Universal Service

- 1. Each Party has the right to define the kind of universal service obligations it wishes to maintain.
- 2. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, objective and non-discriminatory way. The administration of such obligations shall also be neutral with respect to competition and not be more burdensome than necessary for the kind of universal service defined by each Party.

³⁷ Each Party will implement this obligation in accordance with its relevant legislation.

Article 7.35: Confidentiality of Information

Each Party shall ensure the confidentiality of telecommunications and related traffic data by means of a public telecommunications transport network and publicly available telecommunications services without restricting trade in services.

Article 7.36: Resolution of Telecommunications Disputes

Recourse

1. Each Party shall ensure that:
 - (a) service suppliers may have recourse to a regulatory authority or other relevant body of the Party to resolve disputes between service suppliers or between service suppliers and users regarding matters set out in this Sub-section; and
 - (b) in the event of a dispute arising between suppliers of public telecommunications transport networks or services in connection with rights and obligations that arise from this Sub-section, a regulatory authority concerned shall, at the request of either party to the dispute issue a binding decision to resolve the dispute in the shortest possible time frame and in any case within a reasonable period of time.

Appeal and Judicial Review

2. Any service supplier whose legally protected interests are adversely affected by a determination or decision of a regulatory authority:
 - (a) shall have a right to appeal against that determination or decision to an appeal body.³⁸ Where the appeal body is not judicial in character, written reasons for its determination or decision shall always be given and its determination or decision shall also be subject to review by an impartial and independent judicial authority. Determinations or decisions taken by appeal bodies shall be effectively enforced; and
 - (b) may obtain review of the determination or decision by an impartial and independent judicial authority of the Party. Neither Party may permit an application for judicial review to constitute grounds for non-compliance with the determination or decision of the regulatory authority unless the relevant judicial body stays such determination or decision.

SUB-SECTION E

FINANCIAL SERVICES

³⁸ For disputes between service suppliers or between service suppliers and users, the appeal body shall be independent of the parties involved in the dispute.

Article 7.37: Scope and Definitions

1. This Sub-section sets out the principles of the regulatory framework for all financial services liberalised pursuant to Sections B through D.
2. For the purposes of this Sub-section:

financial services means any service of a financial nature offered by a financial service supplier of a Party. Financial services include the following activities:

- (a) Insurance and insurance-related services:
 - (i) direct insurance (including co-insurance):
 - (A) life;
 - (B) non-life;
 - (ii) reinsurance and retrocession;
 - (iii) insurance inter-mediation, such as brokerage and agency; and
 - (iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services; and
- (b) Banking and other financial services (excluding insurance):
 - (i) acceptance of deposits and other repayable funds from the public;
 - (ii) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;
 - (iii) financial leasing;
 - (iv) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
 - (v) guarantees and commitments;
 - (vi) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (A) money market instruments (including cheques, bills and certificates of deposits);
 - (B) foreign exchange;
 - (C) derivative products including, but not limited to, futures and options;
 - (D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

- (E) transferable securities; and
- (F) other negotiable instruments and financial assets, including bullion;
- (vii) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (viii) money broking;
- (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (x) settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
- (xi) provision and transfer of financial information, and financial data processing and related software; and
- (xii) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (i) through (xi), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

financial service supplier means any natural person or juridical person of a Party that seeks to provide or provides financial services and does not include a public entity.

public entity means:

- (a) a government, a central bank or a monetary authority of a Party or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
- (b) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.

new financial service means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party.

Article 7.38: Prudential Carve-out³⁹

1. Each Party may adopt or maintain measures for prudential reasons⁴⁰, including:
 - (a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; and
 - (b) ensuring the integrity and stability of the Party's financial system.
2. These measures shall not be more burdensome than necessary to achieve their aim, and where they do not conform to the other provisions of this Agreement, they shall not be used as a means of avoiding each Party's commitments or obligations under such provisions.
3. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.
4. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

Article 7.39: Transparency

The Parties recognise that transparent regulations and policies governing the activities of financial service suppliers are important in facilitating access of foreign financial service suppliers to, and their operations in, each other's markets. Each Party commits to promoting regulatory transparency in financial services.

Article 7.40: Self-Regulatory Organisations

When a Party requires membership or participation in, or access to, any self-regulatory organisations, securities or futures exchange or market, clearing agency or any other organisation or association, in order for financial service suppliers of the other Party to supply financial services on an equal basis to financial service suppliers of the Party, or when the Party provides directly or indirectly such entities with privileges or advantages in supplying financial services, the Party shall ensure observance of the obligations of Articles 7.6, 7.8, 7.12 and 7.14 by such self-regulatory organisation.

Article 7.41: Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant to financial

³⁹ Any measure which is applied to financial service suppliers established in a Party's territory that are not regulated and supervised by the financial supervisory authority of that Party would be deemed to be a prudential measure for the purposes of this Agreement. For greater certainty, any such measure shall be taken in line with this Article.

⁴⁰ It is understood that the term "prudential reasons" may include the maintenance of the safety, soundness, integrity or financial responsibility of individual financial service suppliers.

service suppliers of the other Party established in its territory access to payment and clearing systems operated by public entities and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to a Party's lender of last resort facilities.

Article 7.42: New Financial Services

Each Party shall permit a financial service supplier of the other Party established in its territory to provide any new financial service that the Party would permit its own financial service suppliers to supply, in like circumstances, under its domestic law, provided that the introduction of the new financial service does not require a new law or modification of an existing law. A Party may determine the institutional and juridical form through which the service may be provided and may require authorisation for the provision of the service. Where such authorisation is required, a decision shall be made within a reasonable period of time and the authorisation may be refused only for prudential reasons.

Article 7.43: Data Processing

No later than two years after the entry into force of this Agreement, and in no case later than the effective date of similar commitments stemming from other economic integration agreements:

- (a) each Party shall permit a financial service supplier of the other Party established in its territory to transfer information in electronic or other form, into and out of its territory, for data processing where such processing is required in the ordinary course of business of such financial service supplier; and
- (b) each Party, reaffirming its commitment⁴¹ to protect fundamental rights and freedom of individuals, shall adopt adequate safeguards to the protection of privacy, in particular with regard to the transfer of personal data.

Article 7.44: Specific Exceptions

1. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory activities or services forming part of a public retirement plan or statutory system of social security, except when those activities may be carried out, as provided by its domestic regulations, by financial service suppliers in competition with public entities or private institutions.

⁴¹ For greater certainty, this commitment indicates the rights and freedoms set out in the *Universal Declaration of Human Rights*, the *Guidelines for the Regulation of Computerized Personal Data Files* (adopted by the United General Assembly Resolution 45/95 of 14 December 1990), and the *OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data* (adopted by the Council on 23 September 1980).

2. Nothing in this Agreement shall apply to activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies.
3. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory activities or services for the account or with the guarantee or using the financial resources of the Party, including its public entities except when those activities may be carried out, as provided by its domestic regulations, by financial service suppliers in competition with public entities or private institutions.

Article 7.45: Dispute Settlement

1. Chapter Fourteen (Dispute Settlement) shall apply to the settlement of disputes on financial services arising exclusively under this Chapter, except as otherwise provided in this Article.
2. The Trade Committee shall, no later than six months after the entry into force of this Agreement, establish a list of 15 individuals. Each Party shall propose five individuals respectively and the Parties shall also select five individuals who are not nationals of either Party and who shall act as chairperson to the arbitration panel. Those individuals shall have expertise or experience in financial services law or practice, which may include the regulation of financial service suppliers, and shall comply with Annex 14-C (Code of Conduct for Members of Arbitration Panels and Mediators).
3. When panellists are selected by lot pursuant to Article 14.5.3 (Establishment of the Arbitration Panel), Article 14.9.3 (The Reasonable Period of Time for Compliance), Article 14.10.3 (Review of any Measure Taken to Comply with the Arbitration Panel Ruling), Article 14.11.4 (Temporary Remedies in case of Non-compliance), Article 14.12.3 (Review of any Measure Taken to Comply after the Suspension of Obligations), Articles 6.1, 6.3 and 6.4 (Replacement) of Annex 14-B (Rules of Procedure for Arbitration), the selection shall be made in the list established pursuant to paragraph 2.
4. Notwithstanding Article 14.11, where a panel finds a measure to be inconsistent with this Agreement and the measure under dispute affects the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in its financial services sector. Where such measure affects only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector.

Article 7.46: Recognition

1. A Party may recognise prudential measures of the other Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement between the Parties, or may be accorded autonomously.

2. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1 with a third party, whether at the time of entry into force of this Agreement or thereafter, shall afford adequate opportunity for the other Party to negotiate its accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances exist.

SUB-SECTION F

INTERNATIONAL MARITIME TRANSPORT SERVICES

Article 7.47: Scope, Definitions and Principles

1. This Sub-section sets out the principles regarding the liberalisation of international maritime transport services pursuant to Sections B through D.
2. For the purposes of this Sub-section:
 - (a) **international maritime transport** includes door to door transport operations, which is the carriage of goods using more than one mode of transport, involving a sea-leg, under a single transport document, and to this effect includes the right to directly contract with providers of other modes of transport;
 - (b) **maritime cargo handling services** means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:
 - (i) the loading/discharging of cargo to/from a ship;
 - (ii) the lashing/unlashing of cargo; and
 - (iii) the reception/delivery and safekeeping of cargoes before shipment or after discharge;
 - (c) **customs clearance services** (alternatively ‘customs house brokers services’) means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity;
 - (d) **container station and depot services** means activities consisting in storing containers in port areas with a view to their stuffing/stripping, repairing and making them available for shipments; and

- (e) **maritime agency services** means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:
 - (i) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and
 - (ii) acting on behalf of the companies organising the call of the ship or taking over cargoes when required.
- 3. In view of the existing levels of liberalisation between the Parties in international maritime transport:
 - (a) the Parties shall apply effectively the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis; and
 - (b) each Party shall grant to ships flying the flag of the other Party or operated by service suppliers of the other Party treatment no less favourable than that accorded to its own ships with regard to, inter alia, access to ports, use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.
- 4. In applying these principles, the Parties shall:
 - (a) not introduce cargo-sharing arrangements in future bilateral agreements with third parties concerning maritime transport services, including dry and liquid bulk and liner trade, and not activate such cargo-sharing arrangements in case they exist in previous bilateral agreements; and
 - (b) upon the entry into force of this Agreement, abolish and abstain from introducing any unilateral measures and administrative, technical and other obstacles which could restrict free and fair competition or constitute a disguised restriction or have discriminatory effects on the free supply of services in international maritime transport.
- 5. Each Party shall permit international maritime service suppliers of the other Party to have an establishment in its territory under conditions of establishment and operation no less favourable than those accorded to its own service suppliers or those of any third party, whichever are the better, in accordance with the conditions inscribed in its list of commitments.
- 6. Each Party shall make available to international maritime transport suppliers of the other Party on reasonable and non-discriminatory terms and conditions the following services at the port:
 - (a) pilotage;

- (b) towing and tug assistance;
- (c) provisioning;
- (d) fuelling and watering;
- (e) garbage collecting and ballast waste disposal;
- (f) port captain's services;
- (g) navigation aids; and
- (h) shore-based operational services essential to ship operations, including communications, water and electrical supplies, emergency repair facilities, anchorage, berth and berthing services.

SECTION F

ELECTRONIC COMMERCE

Article 7.48: Objective and Principles

1. The Parties, recognising the economic growth and trade opportunities that electronic commerce provides, the importance of avoiding barriers to its use and development, and the applicability of the WTO Agreement to measures affecting electronic commerce, agree to promote the development of electronic commerce between them, in particular by co-operating on the issues raised by electronic commerce under this Chapter.
2. The Parties agree that the development of electronic commerce must be fully compatible with the international standards of data protection, in order to ensure the confidence of users of electronic commerce.
3. The Parties agree not to impose customs duties on deliveries by electronic means.⁴²

Article 7.49: Co-operation on Regulatory Issues

1. The Parties shall maintain a dialogue on regulatory issues raised by electronic commerce, which will, *inter alia*, address the following issues:
 - (a) the recognition of certificates of electronic signatures issued to the public and the facilitation of cross-border certification services;
 - (b) the liability of intermediary service providers with respect to the transmission or storage of information;

⁴² The inclusion of the provisions on electronic commerce in this Chapter is made without prejudice to Korea's position on whether deliveries by electronic means should be categorised as trade in services or goods.

- (c) the treatment of unsolicited electronic commercial communications;
 - (d) the protection of consumers in the ambit of electronic commerce;
 - (e) the development of paperless trading; and
 - (f) any other issues relevant for the development of electronic commerce.
2. The dialogue can include exchange of information on the Parties' respective legislation on these issues as well as on the implementation of such legislation.

SECTION G

EXCEPTIONS

Article 7.50: Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on establishment or cross-border supply of services, nothing in this Chapter shall be construed to prevent the adoption or enforcement by either Party of measures:

- (a) necessary to protect public security or public morals or to maintain public order⁴³;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the conservation of exhaustible natural resources if such measures are applied in conjunction with restrictions on domestic investors or on the domestic supply or consumption of services;
- (d) necessary for the protection of national treasures of artistic, historic or archaeological value;
- (e) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;
 - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
 - (iii) safety;

⁴³ The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

- (f) inconsistent with Articles 7.6 and 7.12, provided that the difference in treatment is aimed at ensuring the equitable or effective⁴⁴ imposition or collection of direct taxes in respect of economic activities, investors or service suppliers of the other Party.

⁴⁴ Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which:

- (a) apply to non-resident investors and service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory;
- (b) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory;
- (c) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures;
- (d) apply to consumers of services supplied in or from the territory of the other Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory;
- (e) distinguish investors and service suppliers subject to tax on worldwide taxable items from other investors and service suppliers, in recognition of the difference in the nature of the tax base between them; or
- (f) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base.

Tax terms or concepts in this paragraph and this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Party taking the measure.

CHAPTER EIGHT

PAYMENTS AND CAPITAL MOVEMENTS

Article 8.1: Current Payments

The Parties undertake to impose no restrictions on, and to allow, all payments and transfers on the current account of balance of payments between residents of the Parties to be made in freely convertible currency, in accordance with the *Articles of Agreement of the International Monetary Fund*.

Article 8.2: Capital Movements

1. With regard to transactions on the capital and financial account of balance of payments, the Parties undertake to impose no restrictions on the free movement of capital relating to direct investments made in accordance with the laws of the host country, to investments and other transactions liberalised in accordance with Chapter Seven (Trade in Services, Establishment and Electronic Commerce) and to the liquidation and repatriation of such invested capital and of any profit generated therefrom.
2. Without prejudice to other provisions in this Agreement, the Parties shall ensure, with regard to transactions not covered by paragraph 1 on the capital and financial account of balance of payments, in accordance with the laws of the host country, the free movement by investors of the other Party of capital relating to, *inter alia*,:
 - (a) credits related to commercial transactions including the provision of services in which a resident of a Party is participating;
 - (b) financial loans and credits; or
 - (c) capital participation in a juridical person with no intention of establishing or maintaining lasting economic links.
3. Without prejudice to other provisions in this Agreement, the Parties shall not introduce any new restrictions on the movement of capital between residents of the Parties and shall not make the existing arrangements more restrictive.
4. The Parties may hold consultations with a view to further facilitating the movement of capital between them in order to promote the objectives of this Agreement.

Article 8.3: Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on capital movements, nothing in this Chapter shall be construed to prevent the adoption or enforcement by either Party of measures:

- (a) necessary to protect public security and public morals or to maintain public order; or
- (b) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:
 - (i) the prevention of criminal or penal offenses, deceptive and fraudulent practices or to deal with the effects of a default on contracts (bankruptcy, insolvency and protection of the right of creditors);
 - (ii) measures adopted or maintained to ensure the integrity and stability of a Party's financial system;
 - (iii) Issuing, trading or dealing in securities, options, futures or other derivatives;
 - (iv) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or
 - (v) ensuring compliance with orders or judgements in juridical or administrative proceedings.

Article 8.4: Safeguard Measures

1. Where, in exceptional circumstances, payments and capital movements between the Parties cause or threaten to cause serious difficulties for the operation of monetary policy or exchange rate policy⁴⁵ in Korea or one or more Member States of the European Union, safeguard measures with regard to capital movements that are strictly necessary⁴⁶ may be taken by the Parties concerned⁴⁷ for a period not exceeding six months.⁴⁸
2. The Trade Committee shall be informed forthwith of the adoption of any safeguard measure and, as soon as possible, of a time schedule for its removal.

⁴⁵ “serious difficulties for the operation of monetary policy or exchange rate policy” shall include, but not be limited to, serious balance of payments or external financial difficulties, and the safeguard measures under this Article shall not apply with respect to foreign direct investments.

⁴⁶ In particular, safeguard measures provided for in this Article should be applied in such a way that they:

- (a) are not confiscatory;
- (b) do not constitute a dual or multiple exchange rate practice;
- (c) do not otherwise interfere with investors' ability to earn a market rate of return in the territory of the Party who took safeguard measures on any restricted assets;
- (d) avoid unnecessary damage to the commercial, economic or financial interests of the other Party;
- (e) are temporary and phased out progressively as the situation calling for imposition of such measures improves; and
- (f) are promptly published by the competent authorities responsible for foreign exchange policy.

⁴⁷ The European Union or Member States of the European Union or Korea

⁴⁸ As long as the circumstances present at the time of initial adoption of safeguard measures or any equivalent thereto still exist, the application of safeguard measures can be extended once for another six months by the Party concerned. However, if extremely exceptional circumstances arise such that a Party seeks further extension of the safeguard measures, it will co-ordinate in advance with the other Party concerning the implementation of any proposed extension.

CHAPTER NINE

GOVERNMENT PROCUREMENT

Article 9.1: General Provisions

1. The Parties reaffirm their rights and obligations under the *Agreement on Government Procurement* contained in Annex 4 to the WTO Agreement (hereinafter referred to as the “GPA 1994”) and their interest in further expanding bilateral trading opportunities in each Party’s government procurement market.
2. The Parties recognise their shared interest in promoting international liberalisation of government procurement markets in the context of the rules-based international trading system. The Parties shall continue to co-operate in the review under Article XXIV:7 of the GPA 1994 and in other appropriate international fora.
3. Nothing in this Chapter shall be construed to derogate from either Party’s rights or obligations under the GPA 1994, or from an agreement which replaces it.
4. For all procurement covered by this Chapter, the Parties shall apply the provisionally agreed revised GPA text⁴⁹ (hereinafter referred to as the “revised GPA”), with the exception of the following:
 - (a) most favoured treatment for goods, services and suppliers of any other Party (subparagraph 1(b) and paragraph 2 of Article IV of the revised GPA);
 - (b) special and differential treatment for developing countries (Article V of the revised GPA);
 - (c) conditions for participation (paragraph 2 of Article VIII of the revised GPA) which shall be replaced by: “shall not impose the condition that, in order for a supplier of a Party to participate in a procurement or be awarded a contract, the supplier has previously been awarded one or more contracts by a procuring entity of the other Party or that the supplier has prior work experience in the territory of that Party, except when prior works experience is essential to meet the requirements of the procurement;”
 - (d) institutions (Article XXI of the revised GPA); and
 - (e) final provisions (Article XXII of the revised GPA).
5. For the purposes of the application of the revised GPA under paragraph 4:
 - (a) “Agreement” in the revised GPA means “Chapter,” except that “countries not Parties to this Agreement” means “non-Parties” and “Party to the Agreement” means “Party”;

⁴⁹ Contained in WTO Document negs 268(Job No[1].8274) dated 19 November 2007.

- (b) “other Parties” in the revised GPA means “the other Party”; and
- (c) “the Committee” in the revised GPA means “the Working Group”.

Article 9.2: Scope and Coverage

1. The procurement covered by this Chapter shall be all procurement covered by each Party’s Annexes to the GPA 1994 and any note attached thereto, including their amendments or replacements.
2. For the purposes of this Agreement, build-operate-transfer contracts (hereinafter referred to as “BOT contracts”) and public works concessions, as defined in Annex 9, shall be subject to Annex 9.

Article 9.3: Government Procurement Working Group

The Working Group on Government Procurement established pursuant to Article 15.3.1 (Working Groups) shall meet, as mutually agreed or upon request of a Party, to:

- (a) consider issues regarding government procurement and BOT contracts or public works concessions that are referred to it by a Party;
- (b) exchange information relating to the government procurement and BOT contracts or public works concessions opportunities in each Party; and
- (c) discuss any other matters related to the operation of this Chapter.

CHAPTER TEN

INTELLECTUAL PROPERTY

SECTION A

GENERAL PROVISIONS

Article 10.1: Objectives

The objectives of this Chapter are to:

- (a) facilitate the production and commercialisation of innovative and creative products in the Parties; and
- (b) achieve an adequate and effective level of protection and enforcement of intellectual property rights.

Article 10.2: Nature and Scope of Obligations

1. The Parties shall ensure an adequate and effective implementation of the international treaties dealing with intellectual property to which they are party including the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement (hereinafter referred to as the “TRIPS Agreement”). The provisions of this Chapter shall complement and specify the rights and obligations between the Parties under the TRIPS Agreement.
2. For the purposes of this Agreement, intellectual property rights embody:
 - (a) copyright, including copyright in computer programmes and in databases, and related rights;
 - (b) the rights related to patents;
 - (c) trademarks;
 - (d) service marks;
 - (e) designs;
 - (f) layout-designs (topographies) of integrated circuits;
 - (g) geographical indications;
 - (h) plant varieties; and
 - (i) protection of undisclosed information.

3. Protection of intellectual property includes protection against unfair competition as referred to in article 10 *bis* of the *Paris Convention for the Protection of Industrial Property* (1967) (hereinafter referred to as the “Paris Convention”).

Article 10.3: Transfer of Technology

1. The Parties agree to exchange views and information on their practices and policies affecting transfer of technology, both within their respective territories and with third countries. This shall in particular include measures to facilitate information flows, business partnerships, licensing and subcontracting. Particular attention shall be paid to the conditions necessary to create an adequate enabling environment for technology transfer in the host countries, including, *inter alia*, issues such as development of human capital and legal framework.
2. Each Party shall take measures, as appropriate, to prevent or control licensing practices or conditions pertaining to intellectual property rights which may adversely affect the international transfer of technology and which constitute an abuse of intellectual property rights by right holders.

Article 10.4: Exhaustion

The Parties shall be free to establish their own regime for the exhaustion of intellectual property rights.

SECTION B

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION A

COPYRIGHT AND RELATED RIGHTS

Article 10.5: Protection Granted

The Parties shall comply with:

- (a) Articles 1 through 22 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961) (hereinafter referred to as the “Rome Convention”);
- (b) Articles 1 through 18 of the Berne Convention for the Protection of Literary and Artistic Works (1971) (hereinafter referred to as the “Berne Convention”);
- (c) Articles 1 through 14 of the World Intellectual Property Organisation (hereinafter referred to as the “WIPO”) Copyright Treaty (1996) (hereinafter referred to as the “WCT”); and
- (d) Articles 1 through 23 of the WIPO Performances and Phonograms Treaty (1996) (hereinafter referred to as the “WPPT”).

Article 10.6: Duration of Authors' Rights

Each Party shall provide that, where the term of protection of a work is to be calculated on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author's death.

Article 10.7: Broadcasting Organisations

1. The rights of broadcasting organisations shall expire not less than 50 years after the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite.
2. Neither Party may permit the retransmission of television signals (whether terrestrial, cable or satellite) on the Internet without the authorisation of the right holder or right holders, if any, of the content of the signal and of the signal.⁵⁰

Article 10.8: Co-operation on Collective Management of Rights

The Parties shall endeavour to facilitate the establishment of arrangements between their respective collecting societies for the purposes of mutually ensuring easier access and delivery of content between the Parties, as well as ensuring mutual transfer of royalties for use of the Parties' works or other copyright-protected subject matters. The Parties shall endeavour to achieve a high level of rationalisation and to improve transparency with respect to the execution of the task of their respective collecting societies.

Article 10.9: Broadcasting and Communication to the Public

1. For the purposes of this Article:
 - (a) **broadcasting** means the transmission by wireless means for public reception of sounds or of images and sounds or of the representations thereof; such transmission by satellite is also "broadcasting"; transmission of encrypted signals is broadcasting where the means for decrypting are provided to the public by the broadcasting organisation or with its consent; and
 - (b) **communication to the public** means the transmission to the public by any medium, otherwise than by broadcasting, of sounds of a performance or the sounds or the representations of sounds fixed in a phonogram. For the purposes of paragraph 5, "communication to the public" includes making the sounds or representations of sounds fixed in a phonogram audible to the public.
2. Each Party shall provide performers with the exclusive right to authorise or prohibit the broadcasting by wireless means and the communication to the public of their

⁵⁰ For the purposes of this paragraph, retransmission within a Party's territory over a closed and defined subscriber network that is not accessible from outside the Party's territory does not constitute retransmission on the Internet.

performances, except where the performance is itself already a broadcast performance or is made from a fixation.

3. Each Party shall provide performers and producers of phonograms with the right to a single equitable remuneration, if a phonogram published for commercial purposes or a reproduction of such phonogram is used for broadcasting by wireless means or for any communication to the public.
4. Each Party shall establish in its legislation that the single equitable remuneration shall be claimed from the user by performers or producers of phonograms, or by both. The Parties may enact legislation that, in the absence of an agreement between performers and producers of phonograms, sets the terms according to which performers and producers of phonograms shall share the single equitable remuneration.
5. Each Party shall provide broadcasting organisations with the exclusive right to authorise or prohibit:
 - (a) the re-broadcasting of their broadcasts;
 - (b) the fixation of their broadcasts; and
 - (c) the communication to the public of their television broadcasts if such communication is made in places accessible to the public against payment of an entrance fee. It shall be a matter for the domestic law of the State where protection of this right is claimed to determine the conditions under which it may be exercised.

Article 10.10: Artists' Resale Right in Works of Art

The Parties agree to exchange views and information on the practices and policies concerning the artists' resale right. Within two years of the entry into force of this Agreement, the Parties shall enter into consultations to review the desirability and feasibility of introducing an artists' resale right in works of art in Korea.

Article 10.11: Limitations and Exceptions

The Parties may, in their legislation, provide for limitations of, or exceptions to, the rights granted to the right holders referred to in Articles 10.5 through 10.10 in certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holders.

Article 10.12: Protection of Technological Measures

1. Each Party shall provide adequate legal protection against the circumvention of any effective technological measures, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that such person is pursuing that objective.

2. Each Party shall provide adequate legal protection against the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes, of devices, products or components, or the provision of services which:
 - (a) are promoted, advertised or marketed for the purpose of circumvention of;
 - (b) have only a limited commercially significant purpose or use other than to circumvent; or
 - (c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of,any effective technological measures.
3. For the purposes of this Agreement, **technological measure** means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject matter, which are not authorised by the right holder of any copyright or any right related to copyright as provided for by each Party's legislation. Technological measures shall be deemed effective where the use of a protected work or other subject matter is controlled by the right holders through the application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject matter, or a copy control mechanism, which achieves the objective of protection.
4. Each Party may provide for exceptions and limitations to measures implementing paragraphs 1 and 2 in accordance with its legislation and the relevant international agreements referred to in Article 10.5.

Article 10.13: Protection of Rights Management Information

1. Each Party shall provide adequate legal protection against any person knowingly performing without authority any of the following acts:
 - (a) the removal or alteration of any electronic rights management information; or
 - (b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under this Agreement from which electronic rights management information has been removed or altered without authority,if such person knows, or has reasonable grounds to know, that by doing so it is inducing, enabling, facilitating or concealing an infringement of any copyright or any rights related to copyright as provided by the law of the relevant Party.
2. For the purposes of this Agreement, **rights management information** means any information provided by right holders which identifies the work or other subject matter referred to in this Agreement, the author or any other right holder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information.

3. Paragraph 2 shall apply when any of these items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in this Agreement.

Article 10.14: Transitional Provision

Korea shall fully implement the obligations of Articles 10.6 and 10.7 within two years of the entry into force of this Agreement.

SUB-SECTION B

TRADEMARKS

Article 10.15: Registration Procedure

The European Union and Korea shall provide for a system for the registration of trademarks in which the reasons for a refusal to register a trademark shall be communicated in writing and may be provided electronically to the applicant who will have the opportunity to contest such refusal and to appeal a final refusal judicially. The European Union and Korea shall also introduce the possibility for interested parties to oppose trademark applications. The European Union and Korea shall provide a publicly available electronic database of trademark applications and trademark registrations.

Article 10.16: International Agreements

The European Union and Korea shall comply with the *Trademark Law Treaty* (1994) and make all reasonable efforts to comply with the *Singapore Treaty on the Law of Trademarks* (2006).

Article 10.17: Exceptions to the Rights Conferred by a Trademark

Each Party shall provide for the fair use of descriptive terms as a limited exception to the rights conferred by a trademark and may provide for other limited exceptions, provided that limited exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

SUB-SECTION C

GEOGRAPHICAL INDICATIONS^{51,52}

⁵¹ “Geographical indication” in this Sub-section refers to:
(a) geographical indications, designations of origin, quality wines produced in a specified region and table wines with geographical indication as referred to in *Council Regulation (EC) No 510/2006 of 20 March 2006*; *Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008*; *Council Regulation (EEC) No 1601/1991 of 10 June 1991*; *Council Regulation (EC) No 1493/1999 of 17 May 1999*; and *Council Regulation (EC) No 1234/2007 of 22 October 2007*, or provisions replacing these regulations; and

Article 10.18: Recognition of Geographical Indications for Agricultural Products and Foodstuffs and Wines

1. Having examined the *Agricultural Products Quality Control Act*, with its implementing rules, in so far as it relates to the registration, control and protection of geographical indications for agricultural products and foodstuffs in Korea, the European Union concludes that this legislation meets the elements laid down in paragraph 6.
2. Having examined *Council Regulation (EC) No 510/2006*, with its implementing rules, for the registration, control and protection of geographical indications of agricultural products and foodstuffs in the European Union, and *Council Regulation (EC) No 1234/2007* on the common organisation of the market in wine, Korea concludes that this legislation meets the elements laid down in paragraph 6.
3. Having examined a summary of the specifications of the agricultural products and foodstuffs corresponding to the geographical indications of Korea listed in Annex 10-A, which have been registered by Korea under the legislation referred to in paragraph 1, the European Union undertakes to protect the geographical indications of Korea listed in Annex 10-A according to the level of protection laid down in this Chapter.
4. Having examined a summary of the specifications of the agricultural products and foodstuffs corresponding to the geographical indications of the European Union listed in Annex 10-A, which have been registered by the European Union under the legislation referred to in paragraph 2, Korea undertakes to protect the geographical indications of the European Union listed in Annex 10-A according to the level of protection laid down in this Chapter.
5. Paragraph 3 shall apply to geographical indications for wines with respect to geographical indications added pursuant to Article 10.24.
6. The European Union and Korea agree that the elements for the registration and control of geographical indications referred to in paragraphs 1 and 2 are the following:
 - (a) a register listing geographical indications protected in their respective territories;
 - (b) an administrative process verifying that geographical indications identify a good as originating in a territory, region or locality of either Party, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

(b) geographical indications as covered by the *Agricultural Products Quality Control Act* (Act No. 9759, Jun. 9, 2009) and the *Liquor Tax Act* (Act No. 8852, Feb. 29, 2008) of Korea.

⁵² The protection of a geographical indication under this Sub-section is without prejudice to other provisions in this Agreement.

- (c) a requirement that a registered name shall correspond to a specific product or products for which a product specification is laid down which may only be amended by due administrative process;
- (d) control provisions applying to production;
- (e) legal provisions laying down that a registered name may be used by any operator marketing the agricultural product or foodstuff conforming to the corresponding specification; and
- (f) an objection procedure that allows the legitimate interests of prior users of names, whether those names are protected as a form of intellectual property or not, to be taken into account.

Article 10.19: Recognition of Specific Geographical Indications for Wines,⁵³ Aromatised Wines⁵⁴ and Spirits⁵⁵

1. In Korea, the geographical indications of the European Union listed in Annex 10-B shall be protected for those products which use these geographical indications in accordance with the relevant laws of the European Union on geographical indications.
2. In the European Union, the geographical indications of Korea listed in Annex 10-B shall be protected for those products which use these geographical indications in accordance with the relevant laws of Korea on geographical indications.

⁵³ Wines within the meaning of this Sub-section are products falling under heading 22.04 of the HS and which:

(a) comply with Council Regulation (EC) 1234/2007 of 22 October 2007, Commission Regulation (EC) 606/2009 of 10 July 2009 and Commission Regulation (EC) 607/2009 of 14 July 2009, or legislation replacing it; or

(b) comply with *Agricultural Products Quality Control Act* (Act No. 9759, Jun. 9, 2009) and the *Liquor Tax Act* (Act No. 8852, Feb. 29, 2008) of Korea.

⁵⁴ Aromatised wines within the meaning of this Sub-section are products falling under heading 22.05 of the HS and which:

(a) comply with Council Regulation (EEC) No 1601/1991 of 10 June 1991, or legislation replacing it; or

(b) comply with *Agricultural Products Quality Control Act* (Act No. 9759, Jun. 9, 2009) and the *Liquor Tax Act* (Act No. 8852, Feb. 29, 2008) of Korea.

⁵⁵ Spirits within the meaning of this Sub-section are products falling under heading 22.08 of the HS and which:

(a) comply with Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008, and Commission Regulation (EEC) No 1014/90 of 24 April 1990, or legislation replacing it; or

(b) comply with *Agricultural Products Quality Control Act* (Act No. 9759, Jun. 9, 2009) and the *Liquor Tax Act* (Act No. 8852, Feb. 29, 2008) of Korea.

Article 10.20: Right of Use

A name protected under this Sub-section may be used by any operator marketing agricultural products, foodstuffs, wines, aromatised wines or spirits conforming to the corresponding specification.

Article 10.21: Scope of Protection

1. Geographical indications referred to in Articles 10.18 and 10.19 shall be protected against:
 - (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;
 - (b) the use of a geographical indication identifying a good for a like good⁵⁶ not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or transcription or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like; and
 - (c) any other use which constitutes an act of unfair competition within the meaning of Article 10 bis of the Paris Convention.
2. This Agreement shall in no way prejudice the right of any person to use, in the course of trade, that person’s name or the name of that person’s predecessor in business, except where such name is used in such a manner as to mislead consumers.
3. If geographical indications of the Parties are homonymous, protection shall be granted to each indication provided that it has been used in good faith. The Working Group on Geographical Indications shall decide the practical conditions of use under which the homonymous geographical indications will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled. If a geographical indication protected through this Agreement is homonymous with a geographical indication of a third country, each Party shall decide the practical conditions of use under which the homonymous geographical indications will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.
4. Nothing in this Agreement shall oblige the European Union or Korea to protect a geographical indication which is not or ceases to be protected in its country of origin or which has fallen into disuse in that country.

⁵⁶ For all goods, the term “like good” shall be interpreted in line with Article 23.1 of the TRIPS Agreement relating to the use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question.

5. The protection of a geographical indication under this Article is without prejudice to the continued use of a trademark which has been applied for, registered or established by use, if that possibility is provided for by the legislation concerned, in the territory of a Party before the date of the application for protection or recognition of the geographical indication, provided that no grounds for the trademark's invalidity or revocation exist in the legislation of the Party concerned. The date of application for protection or recognition of the geographical indication is determined in accordance with Article 10.23.2.

Article 10.22: Enforcement of Protection

The Parties shall enforce the protection provided for in Articles 10.18 through 10.23 on their own initiative by appropriate intervention of their authorities. They shall also enforce such protection at the request of an interested party.

Article 10.23: Relationship with Trademarks

1. The registration of a trademark that corresponds to any of the situations referred to in Article 10.21.1 in relation to a protected geographical indication for like goods, shall be refused or invalidated by the Parties, provided an application for registration of the trademark is submitted after the date of application for protection or recognition of the geographical indication in the territory concerned.
2. For the purposes of paragraph 1:
 - (a) for geographical indications referred to in Articles 10.18 and 10.19, the date of application for protection or recognition shall be the date when this Agreement enters into force; and
 - (b) for geographical indications referred to in Article 10.24, the date of application for protection or recognition shall be the date of a Party's receipt of a request by the other Party to protect or recognise a geographical indication.

Article 10.24: Addition of Geographical Indications for Protection⁵⁷

1. The European Union and Korea agree to add geographical indications to be protected to the Annexes 10-A and 10-B in accordance with the procedure set out in Article 10.25.

⁵⁷

If a proposal is made by:

(a) Korea for an originating product falling into the scope of the legislation of the European Union set out under Article 10.18.2 and footnotes of Article 10.19; or

(b) the European Union for an originating product falling into the scope of the legislation of Korea set out under Article 10.18.1 and footnotes of Article 10.19,

to add a name of origin to this Agreement which has been recognised by either Party as a geographical indication within the meaning of Article 22.1 of the TRIPS Agreement through laws of either Party other than those referred to in Articles 10.18.1 and 10.18.2 and footnotes of Article 10.19, the Parties agree to examine whether the geographical indication can be added to this Agreement pursuant to this Sub-section.

2. The European Union and Korea agree to process, without undue delay, the other's requests for adding geographical indications to be protected to the Annexes.
3. A name may not be registered as a geographical indication where it conflicts with the name of a plant variety, including a grape variety, or an animal breed and as a result is likely to mislead the consumer as to the true origin of the product.

Article 10.25: Working Group on Geographical Indications

1. The Working Group on Geographical Indications established pursuant to Article 15.3.1 (Working Groups) shall meet, as mutually agreed or upon request of a Party, for the purpose of intensifying co-operation between the Parties and dialogue on geographical indications. The Working Group may make recommendations and adopt decisions by consensus.
2. The location of the meeting shall alternate between the Parties. It shall meet at a time and a place and in a manner which may include by videoconference, mutually determined by the Parties, but no later than 90 days after the request.
3. The Working Group may decide:
 - (a) to modify Annexes 10-A and 10-B to add individual geographical indications of the European Union or Korea that, after having completed the relevant procedure referred to in Articles 10.18.3 and 10.18.4, where applicable, are also determined by the other Party to constitute geographical indications and will be protected in the territory of that other Party;
 - (b) to modify⁵⁸ the Annexes referred to in subparagraph (a) to remove individual geographical indications that cease to be protected in the Party of origin⁵⁹ or that, in accordance with the applicable legislation, no longer meet the conditions to be considered a geographical indication in the other Party; and
 - (c) that a reference to legislation in this Agreement should be taken to be a reference to that legislation as amended and replaced and in force at a particular date after the entry into force of this Agreement.
4. The Working Group shall also ensure the proper functioning of this Sub-section and may consider any matter related to its implementation and operation. In particular, it shall be responsible for:
 - (a) exchanging information on legislative and policy developments on geographical indications;

⁵⁸ This refers to the modification of the geographical indication as such, including the name and product category. Modifications of specifications as referred to in Articles 10.18.3 and 10.18.4 or modifications of the responsible control bodies as referred to in Article 10.18.6(d) remain the sole responsibility of the Party where a geographical indication originates. Such modifications may be communicated for information purposes.

⁵⁹ A decision to cease protection of a geographical indication remains the sole responsibility of the Party where the geographical indication originates.

- (b) exchanging information on individual geographical indications for the purpose of considering their protection in accordance with this Agreement; and
 - (c) exchanging information to optimise the operation of this Agreement.
5. The Working Group may discuss any matter of mutual interest in the area of geographical indications.

Article 10.26: Individual Applications for Protection of Geographical Indications

The provisions of this Sub-section are without prejudice to the right to seek recognition and protection of a geographical indication under the relevant legislation of the European Union or Korea.

SUB-SECTION D

DESIGNS

Article 10.27: Protection of Registered Designs

1. The European Union and Korea shall provide for the protection of independently created designs that are new and that are original or have individual character.⁶⁰
2. This protection shall be provided by registration, and shall confer exclusive rights upon their holders in accordance with this Sub-section.

Article 10.28: Rights Conferred by Registration

The owner of a protected design shall have the right to prevent third parties not having the owner's consent, at least from making, offering for sale, selling, importing, exporting or using articles bearing or embodying the protected design when such acts are undertaken for commercial purposes, unduly prejudice the normal exploitation of the design, or are not compatible with fair trade practice.

Article 10.29: Protection Conferred to Unregistered Appearance

The European Union and Korea shall provide the legal means to prevent the use of the unregistered appearance of a product, only if the contested use results from copying the

⁶⁰ Korea considers designs not to be new if an identical or similar design has been publicly known or publicly worked before the application for design registration is filed. Korea considers designs not to be original if they could have been easily created from the combinations of designs that have been publicly known or publicly worked before the application for design registration is filed. The European Union considers designs not to be new if an identical design has been made available to the public before the filing date of a registered design or before the date of disclosure of an unregistered design. The European Union considers design not to have individual character if the overall impression it produces on the informed users does not differ from the overall impression produced on such a user by any design which has been made available to the public.

unregistered appearance of such product.⁶¹ Such use shall at least cover presenting,⁶² importing or exporting goods.

Article 10.30: Term of Protection

1. The duration of protection available in the Parties following registration shall amount to at least 15 years.
2. The duration of protection available in the European Union and Korea for unregistered appearance shall amount to at least three years.

Article 10.31: Exceptions

The European Union and Korea may provide limited exceptions to the protection of designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

Design protection shall not extend to designs dictated essentially by technical or functional considerations.

A design right shall not subsist in a design which is contrary to public policy or to accepted principles of morality.

Article 10.32: Relationship with Copyright

A design protected by a design right registered in the European Union or in Korea in accordance with this Sub-section shall also be eligible for protection under the law of copyright applicable in the territory of the Parties as from the date on which the design was created or fixed in any form.⁶³

SUB-SECTION E

PATENTS

Article 10.33: International Agreement

The Parties shall make all reasonable efforts to comply with articles 1 through 16 of the

⁶¹ For the purposes of this Article, the European Union and Korea consider that “unregistered design” and “unregistered appearance” have a similar meaning. The conditions for protection of “unregistered design” or “unregistered appearance” are provided for:

(a) by Korea in the Unfair Competition Prevention and Trade Secret Protection Act (Act No. 8767, Dec. 21, 2007); and

(b) by the European Union in the Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs, as last amended by Council Regulation (EC) No 1891/2006 of 18 December 2006.

⁶² For the purposes of this Article, the European Union considers “presenting” as “offering” or “putting on the market” and Korea considers “presenting” as “assigning, leasing or exhibition for assigning or leasing.”

⁶³ The protection of a design under the law of copyright is not granted automatically, but granted only if a design qualifies for protection in accordance with the law of copyright.

Article 10.34: Patents and Public Health

1. The Parties recognise the importance of the *Declaration on the TRIPS Agreement and Public Health*, adopted on 14 November 2001 (hereinafter referred to as the “Doha Declaration”) by the Ministerial Conference of the WTO. In interpreting and implementing the rights and obligations under this Sub-section, the Parties are entitled to rely upon the Doha Declaration.
2. Each Party shall contribute to the implementation of and shall respect the *Decision of the WTO General Council of 30 August 2003* on paragraph 6 of the Doha Declaration, as well as the *Protocol amending the TRIPS Agreement*, done at Geneva on 6 December 2005.

Article 10.35: Extension of the Duration of the Rights Conferred by Patent Protection

1. The Parties recognise that pharmaceutical products⁶⁴ and plant protection products⁶⁵ protected by a patent in their respective territories are subject to an administrative authorisation or registration procedure before being put on their markets.
2. The Parties shall provide, at the request of the patent owner, for the extension of the duration of the rights conferred by the patent protection to compensate the patent owner for the reduction in the effective patent life as a result of the first authorisation to place the product on their respective markets. The extension of the duration of the rights conferred by the patent protection may not exceed five years⁶⁶.

Article 10.36: Protection of Data Submitted to Obtain a Marketing Authorisation for Pharmaceutical⁶⁷ Products

1. The Parties shall guarantee the confidentiality, non-disclosure of and non-reliance on data submitted for the purpose of obtaining an authorisation to put a pharmaceutical product on the market.

⁶⁴ As defined in Annex 2-D (Pharmaceutical Products and Medical Devices)

⁶⁵ Plant protection products, in the form in which they are supplied to the user, consist of or contain active substances, safeners or synergists, and are intended for one of the following uses:

(a) protecting plants or plant products against all harmful organisms or preventing the action of such organisms, unless the main purpose of these products is considered to be for reasons of hygiene rather than for the protection of plants or plant products;

(b) influencing the life processes of plants, such as substances influencing their growth, other than as a nutrient;

(c) preserving plant products, in so far as such substances or products are not subject to the European Union’s special provisions on preservatives;

(d) destroying undesired plants or parts of plants, except algae unless the products are applied on soil or water to protect plants; or

(e) checking or preventing undesired growth of plants, except algae unless the products are applied on soil or water to protect plants.

⁶⁶ This is without prejudice to a possible extension for paediatric use, if provided for by the Parties.

⁶⁷ As defined in Annex 2-D (Pharmaceutical Products and Medical Devices)

2. For that purpose, the Parties shall ensure in their respective legislation that data, as referred to in Article 39 of the TRIPS Agreement, concerning safety and efficacy, submitted for the first time by an applicant to obtain a marketing authorisation for a new pharmaceutical product in the territory of the respective Parties, is not used for granting another marketing authorisation for a pharmaceutical product, unless proof of the explicit consent of the marketing authorisation holder to use these data is provided.
3. The period of data protection should be at least five years starting from the date of the first marketing authorisation obtained in the territory of the respective Parties.

Article 10.37: Protection of Data Submitted to Obtain Marketing Authorisation for Plant Protection Products

1. The Parties shall determine safety and efficacy requirements before authorising the placing on their respective markets of plant protection products.
2. The Parties shall ensure that tests, study reports or information submitted for the first time by an applicant to obtain a marketing authorisation for a plant protection product is not used by third parties or relevant authorities for the benefit of any other person aiming at achieving a marketing authorisation for a plant protection product, unless proof of the explicit consent of the first applicant to use these data is provided. This protection will be hereinafter referred to as data protection.
3. The period of data protection should be at least 10 years starting from the date of the first marketing authorisation in the respective Parties.

Article 10.38: Implementation

The Parties shall take the necessary measures to ensure full effectiveness of the protection foreseen in this Sub-section and actively co-operate and engage in a constructive dialogue in that regard.

SUB-SECTION F

OTHER PROVISIONS

Article 10.39: Plant Varieties

Each Party shall provide for the protection of plant varieties and comply with the *International Convention for the Protection of New Varieties of Plants (1991)*.

Article 10.40: Genetic Resources, Traditional Knowledge and Folklore

1. Subject to their legislation, the Parties shall respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the involvement and

approval of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.

2. The Parties agree to regularly exchange views and information on relevant multilateral discussions:
 - (a) in WIPO, on the issues dealt with in the framework of the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore;
 - (b) in the WTO, on the issues related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity (hereinafter referred to as the “CBD”), and the protection of traditional knowledge and folklore; and
 - (c) in the CBD, on the issues related to an international regime on access to genetic resources and benefit sharing.
3. Following the conclusion of the relevant multilateral discussions referred to in paragraph 2, the Parties agree, at the request of either Party, to review this Article in the Trade Committee in the light of the results and conclusion of such multilateral discussions. The Trade Committee may adopt any decision necessary to give effect to the results of the review.

SECTION C

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Article 10.41: General Obligations

1. The Parties reaffirm their commitments under the TRIPS Agreement, and in particular its Part III and shall ensure that the following complementary measures, procedures and remedies are available under their legislation so as to permit effective action against any act of infringement of intellectual property rights⁶⁸ covered by this Agreement.
2. Those measures, procedures and remedies shall:
 - (a) include expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements;
 - (b) be fair and equitable;
 - (c) not be unnecessarily complicated or costly, or entail unreasonable time limits or unwarranted delays; and
 - (d) be effective, proportionate and dissuasive, and be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

⁶⁸ As defined in Article 10.2.2(a) through (h)

Article 10.42: Entitled Applicants

Each Party shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in this Section and in Part III of the TRIPS Agreement:

- (a) the holders of intellectual property rights in accordance with the provisions of the applicable law;
- (b) all other persons authorised to use those rights, in particular licensees, in so far as permitted by, and in accordance with, the provisions of the applicable law;
- (c) intellectual property collective rights management bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by, and in accordance with, the provisions of the applicable law; or
- (d) a federation or an association having the legal standing and authority to assert those rights, in so far as permitted by, and in accordance with, the provisions of the applicable law.

SUB-SECTION A

CIVIL MEASURES, PROCEDURES AND REMEDIES

Article 10.43: Evidence

Each Party shall take such measures as necessary, in the case of an infringement of an intellectual property right committed on a commercial scale, to enable the competent judicial authorities to order, where appropriate and following a party's application, the submission of banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.

Article 10.44: Provisional Measures for Preserving Evidence

1. Each Party shall ensure that, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may, on application by a party who has presented reasonably available evidence to support its claims that its intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information.
2. Each Party may provide that such measures include the detailed description, with or without the taking of samples, or the physical seizure of the infringing goods, and in appropriate cases, the materials and implements used in the production or distribution of these goods and the documents relating thereto. Those measures shall be taken, if necessary without the other party being heard, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed.

Article 10.45: Right of Information

1. Each Party shall ensure that, during civil proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order the infringer and/or any other person which is party to a litigation or a witness therein to provide information on the origin and distribution networks of the goods or services which infringe an intellectual property right.
 - (a) “Any other person” in this paragraph means a person who:
 - (i) was found in possession of the infringing goods on a commercial scale;
 - (ii) was found to be using the infringing services on a commercial scale;
 - (iii) was found to be providing on a commercial scale services used in infringing activities; or
 - (iv) was indicated by the person referred to in this subparagraph as being involved in the production, manufacture or distribution of the goods or the provision of the services.
 - (b) Information shall, as appropriate, comprise:
 - (i) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers; or
 - (ii) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.
2. This Article shall apply without prejudice to other statutory provisions which:
 - (a) grant the right holder rights to receive fuller information;
 - (b) govern the use in civil or criminal proceedings of the information communicated pursuant to this Article;
 - (c) govern responsibility for misuse of the right of information;
 - (d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph 1 to admit his own participation or that of his close relatives in an infringement of an intellectual property right; or
 - (e) govern the protection of confidentiality of information sources or the processing of personal data.

Article 10.46: Provisional and Precautionary Measures

1. Each Party shall ensure that the judicial authorities may, at the request of the applicant, issue an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, to forbid, on a provisional basis and subject, where appropriate, to a recurring penalty payment where provided for by its legislation, the continuation of the alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder. An interlocutory injunction may also be issued against an intermediary⁶⁹ whose services are being used by a third party to infringe copyright, related rights, trademarks or geographical indications.
2. An interlocutory injunction may also be issued to order the seizure of the goods suspected of infringing an intellectual property right so as to prevent their entry into or movement within the channels of commerce.
3. In the case of an infringement committed on a commercial scale, each Party shall ensure that, if the applicant demonstrates circumstances likely to endanger the recovery of damages, the judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of bank accounts and other assets.

Article 10.47: Corrective Measures

1. Each Party shall ensure that the competent judicial authorities may order, at the request of the applicant and without prejudice to any damages to the right holder by reason of the infringement, and without compensation of any sort, destruction of goods that they have found to be infringing an intellectual property right or any other measures to definitively remove those goods from the channels of commerce. If appropriate, the competent judicial authorities may also order destruction of materials and implements principally used in the creation or manufacture of those goods.
2. The judicial authorities shall order that those measures be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.
3. In considering a request for corrective measures, the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.

Article 10.48: Injunctions

1. Each Party shall ensure that, where a judicial decision is taken finding an infringement of an intellectual property right, the judicial authorities may issue

⁶⁹ For the purposes of this paragraph, the scope of “intermediary” is determined in each Party’s legislation, but shall include those who deliver or distribute infringing goods, and also where appropriate, include online service providers.

against the infringer an injunction aimed at prohibiting the continuation of the infringement.

2. Where provided for by law, non-compliance with an injunction shall, where appropriate, be subject to a recurring penalty payment, with a view to ensuring compliance. Each Party shall also ensure that right holders are in a position to apply for an injunction against intermediaries⁷⁰ whose services are being used by a third party to infringe copyright, related rights, trademarks or geographical indications.

Article 10.49: Alternative Measures

Each Party may provide that, in appropriate cases and at the request of the person liable to be subject to the measures provided for in Article 10.47 or 10.48, the competent judicial authorities may order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in Article 10.47 or 10.48 if that person acted unintentionally and without negligence, if execution of the measures in question would cause him or her disproportionate harm and if pecuniary compensation to the injured party appears reasonably satisfactory.

Article 10.50: Damages

1. Each Party shall ensure that when the judicial authorities set damages:
 - (a) they shall take into account all appropriate aspects, such as the negative economic consequences, including lost profits, which the injured party has suffered, any unfair profits made by the infringer and, in appropriate cases, elements other than economic factors, such as the moral prejudice caused to the right holder by the infringement; or
 - (b) as an alternative to subparagraph (a), they may, in appropriate cases, set the damages as a lump sum on the basis of elements such as at least the amount of royalties or fees which would have been due if the infringer had requested authorisation to use the intellectual property right in question.
2. Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity, the Parties may provide that the judicial authorities may order the recovery of profits or the payment of damages which may be pre-established.
3. In civil judicial proceedings, each Party, at least with respect to works, phonograms, and performances protected by copyright or related rights, and in cases of trademark counterfeiting, may establish or maintain pre-established damages, which shall be available on the election of the right holder.

⁷⁰ For the purposes of this paragraph, the scope of “intermediary” is determined in each Party’s legislation, but shall include those who deliver or distribute infringing goods, and also where appropriate, include online service providers.

Article 10.51: Legal Costs

Each Party shall ensure that reasonable and proportionate legal costs and other expenses incurred by the successful party shall as a general rule be borne by the unsuccessful party, unless equity does not allow as such.

Article 10.52: Publication of Judicial Decisions

In cases of infringement of an intellectual property right, each Party shall ensure that the judicial authorities may order, where appropriate, at the request of the applicant and at the expense of the infringer, appropriate measures for the dissemination of the information concerning the decision, including displaying the decision and publishing it in full or in part. Each Party may provide for other additional publicity measures which are appropriate to the particular circumstances, including prominent advertising.

Article 10.53: Presumption of Authorship or Ownership

In civil proceedings involving copyright or related rights, each Party shall provide for a presumption that, in the absence of proof to the contrary, the person or entity whose name is indicated as the author or related right holder of the work or subject matter in the usual manner is the designated right holder in such work or subject matter.

SUB-SECTION B

CRIMINAL ENFORCEMENT

Article 10.54: Scope of Criminal Enforcement

Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting and copyright and related rights⁷¹ piracy on a commercial scale.

Article 10.55: Geographical Indications and Designs Counterfeiting

Subject to its national or constitutional law and regulations, each Party shall consider adopting measures to establish the criminal liability for counterfeiting geographical indications and designs.

Article 10.56: Liability of Legal Persons

1. Each Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for the offences referred to in Article 10.54.

⁷¹ The term “related rights” is defined by each Party in accordance with its international obligations.

2. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the criminal offences.

Article 10.57: Aiding and Abetting

The provisions of this Sub-section shall apply to aiding and abetting of the offences referred to in Article 10.54.

Article 10.58: Seizure

In case of an offence referred to in Article 10.54, each Party shall provide that its competent authorities shall have the authority to order the seizure of suspected counterfeit trademark goods or pirated copyright goods, any related materials and implements predominantly used in the commission of the alleged offence, documentary evidence relevant to the alleged offence and any assets derived from, or obtained directly or indirectly through the infringing activity.

Article 10.59: Penalties

For the offences referred to in Article 10.54, each Party shall provide for penalties that include sentences of imprisonment and/or monetary fines that are effective, proportionate and dissuasive.

Article 10.60: Confiscation

1. For the offences referred to in Article 10.54, each Party shall provide that its competent authorities shall have the authority to order confiscation and/or destruction of all counterfeit trademark goods or pirated copyright goods, materials and implements predominantly used in the creation of counterfeit trademark goods or pirated copyright goods and the assets derived from, or obtained directly or indirectly, through the infringing activity.
2. Each Party shall ensure that the counterfeit trademark goods and pirated copyright goods that have been confiscated under this Article shall, if not destroyed, be disposed of outside the channels of commerce, under the condition that the goods are not dangerous for the health and security of persons.
3. Each Party shall further ensure that confiscation and destruction under this Article shall occur without compensation of any kind of the defendant.
4. Each Party may provide that its judicial authorities have the authority to order the confiscation of assets the value of which corresponds to that of such assets derived from or obtained directly or indirectly through the infringing activity.

Article 10.61: Rights of Third Parties

Each Party shall ensure that the rights of third parties shall be duly protected and guaranteed.

SUB-SECTION C

LIABILITY OF ONLINE SERVICE PROVIDERS

Article 10.62: Liability of Online Service Providers⁷²

The Parties recognise that the services of intermediaries may be used by third parties for infringing activities. To ensure the free movement of information services and at the same time enforce intellectual property rights in the digital environment, each Party shall provide for the measures set out in Articles 10.63 through 10.66 for intermediary service providers where they are in no way involved with the information transmitted.

Article 10.63: Liability of Online Service Providers: “Mere Conduit”

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, the Parties shall ensure that the service provider is not liable for the information transmitted, on condition that:
 - (a) the provider does not initiate the transmission;
 - (b) the provider does not select the receiver of the transmission; and
 - (c) the provider does not select or modify the information contained in the transmission.
2. The acts of transmission and of provision of access referred to in paragraph 1 include the automatic, intermediate and transient storage of the information transmitted in so far as such storage takes place for the sole purpose of carrying out the transmission in the communication network, and provided that the information is not stored for any period longer than is reasonably necessary for the transmission.
3. This Article shall not affect the possibility, in accordance with the Parties’ legal systems, of a judicial or administrative authority requiring the service provider to terminate or prevent an infringement.

Article 10.64: Liability of Online Service Providers: “Caching”

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, the Parties shall ensure that the service provider is not liable for the automatic, intermediate and temporary storage of that information, performed for the sole

⁷² For the purposes of the function referred to in Article 10.63, service provider means a provider of transmission, routing, or connections for digital online communications without modification of their content between or among points specified by the user of material of the user’s choosing, and for the purpose of the functions referred to in Articles 10.64 and 10.65 service provider means a provider or operator of facilities for online services or network access.

purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that:

- (a) the provider does not modify the information;
 - (b) the provider complies with conditions on access to the information;
 - (c) the provider complies with rules regarding updating of the information, specified in a manner widely recognised and used by industry;
 - (d) the provider does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and
 - (e) the provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a judicial or an administrative authority has ordered such removal or disablement.
2. This Article shall not affect the possibility, in accordance with the Parties' legal systems, of a judicial or administrative authority requiring the service provider to terminate or prevent an infringement.

Article 10.65: Liability of Online Service Providers: "Hosting"

1. Where an information society service is provided that consists of the storage of information provided by a recipient of the service, the Parties shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service, on condition that:
- (a) the provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent; or
 - (b) the provider, upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information.
2. Paragraph 1 shall not apply when the recipient of the service is acting under the authority or the control of the provider.
3. This Article shall not affect the possibility, in accordance with the Parties' legal systems, of a judicial or administrative authority requiring the service provider to terminate or prevent an infringement, nor does it affect the possibility of the Parties establishing procedures governing the removal or disabling of access to information.

Article 10.66: No General Obligation to Monitor

1. The Parties shall not impose a general obligation on providers, when providing the services covered by Articles 10.63 through 10.65, to monitor the information which

they transmit or store, nor a general obligation to actively seek facts or circumstances indicating illegal activity.

2. The Parties may establish obligations for information society service providers to promptly inform the competent authorities of alleged illegal activities undertaken or information provided by recipients of their service, or to communicate to the competent authorities, at their request, information enabling the identification of recipients of their service with whom they have storage agreements.

SUB-SECTION D

OTHER PROVISIONS

Article 10.67: Border Measures

1. Each Party shall, unless otherwise provided for in this Section, adopt procedures⁷³ to enable a right holder, who has valid grounds for suspecting that the importation, exportation, re-exportation, customs transit, transshipment, placement under a free zone,⁷⁴ placement under a suspensive procedure⁷⁵ or a bonded warehouse of goods infringing an intellectual property right⁷⁶ may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation or the detention of such goods.
2. The Parties shall provide that when the customs authorities, in the course of their actions and before an application has been lodged by a right holder or granted, have sufficient grounds for suspecting that goods infringe an intellectual property right,

⁷³ It is understood that there shall be no obligation to apply such procedures to imports of goods put on the market in another country by or with the consent of the right holder.

⁷⁴ “customs transit, transshipment and placement under a free zone” as defined in the Kyoto Convention.

⁷⁵ For Korea, “placement under a suspensive procedure” includes temporary importation and bonded factory. For the European Union, “placement under a suspensive procedure” includes temporary importation, inward processing and processing under customs control.

⁷⁶ For the purposes of this Article, **goods infringing an intellectual property right** means:

(a) counterfeit goods, which are:

- goods, including packaging, bearing without authorisation a trademark identical to the trademark duly registered in respect of the same type of goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the trademark holder’s rights;

- any trademark symbol (logo, label, sticker, brochure, instructions for use or guarantee document), even if presented separately, on the same conditions as the goods referred to in subparagraph (a)(i); or

- packaging materials bearing the trademarks of counterfeit goods, presented separately, on the same conditions as the goods referred to in subparagraph (a)(i);

(b) pirated copyright goods, which are or contain copies made without the consent of the right holder, or of a person duly authorised by the right holder in the country of production, of a copyright or related right, regardless of whether it is registered in each Party’s legislation; or

(c) goods which, according to the legislation of the Party in which the application for customs action is made, infringe:

(i) a patent;

(ii) a plant variety right;

(iii) a registered design; or

(iv) a geographical indication.

they may suspend the release of the goods or detain them in order to enable the right holder to submit an application for action in accordance with the paragraph 1.

3. Any rights or obligations established in the implementation of Section 4 of Part III of the TRIPS Agreement concerning the importer shall also be applicable to the exporter or if necessary to the holder⁷⁷ of the goods.
4. Korea shall fully implement the obligation under paragraphs 1 and 2 with respect to indent (c)(i) and (c)(iii) of footnote 27 within two years of the entry into force of this Agreement.

Article 10.68: Codes of Conduct

The Parties shall encourage:

- (a) the development by trade or professional associations or organisations of codes of conduct aimed at contributing towards the enforcement of intellectual property rights, particularly by recommending the use on optical discs of a code enabling the identification of the origin of their manufacture; and
- (b) the submission to the competent authorities of the Parties of draft codes of conduct and of any evaluations of the application of these codes of conduct.

Article 10.69: Co-operation

1. The Parties agree to co-operate with a view to supporting implementation of the commitments and obligations undertaken under this Chapter. Areas of co-operation include, but are not limited to, the following activities:
 - (a) exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement; exchange of experiences on legislative progress;
 - (b) exchange of experiences on enforcement of intellectual property rights;
 - (c) exchange of experiences on enforcement at central and sub-central level by customs, police, administrative and judiciary bodies; co-ordination to prevent exports of counterfeit goods, including with other countries;
 - (d) capacity-building; and
 - (e) promotion and dissemination of information on intellectual property rights in, inter alia, business circles and civil society; promotion of public awareness of consumers and right holders.

⁷⁷ Including at least the person who is the owner of the goods or the person who has a similar right of disposal over them

2. Without prejudice and as a complement to paragraph 1, the European Union and Korea agree to establish and maintain an effective dialogue on intellectual property issues (IP Dialogue) to address topics relevant to the protection and enforcement of intellectual property rights covered by this Chapter, and any other relevant issue.

CHAPTER ELEVEN

COMPETITION

SECTION A

COMPETITION

Article 11.1: Principles

1. The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties undertake to apply their respective competition laws so as to prevent the benefits of the trade liberalisation process in goods, services and establishment from being removed or eliminated by anti-competitive business conduct or anti-competitive transactions.
2. The Parties shall maintain in their respective territories comprehensive competition laws which effectively address restrictive agreements, concerted practices⁷⁸ and abuse of dominance by one or more enterprises, and which provide effective control of concentrations between enterprises.
3. The Parties agree that the following activities restricting competition are incompatible with the proper functioning of this Agreement, in so far as they may affect trade between them:
 - (a) agreements between enterprises, decisions by associations of enterprises and concerted practices, which have as their object or effect the prevention, restriction or distortion of competition in the territory of either Party as a whole or in a substantial part thereof;
 - (b) any abuse by one or more enterprises of a dominant position in the territory of either Party as a whole or in a substantial part thereof; or
 - (c) concentrations between enterprises, which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position in the territory of either Party as a whole or in a substantial part thereof.

Article 11.2: Definitions

For the purposes of this Section, **competition laws** means:

- (a) for the European Union, Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union, Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, and their implementing regulations and amendments;

⁷⁸ The application of this Article to concerted practices is determined by each Party's competition laws.

- (b) for Korea, the Monopoly Regulation and Fair Trade Act and its implementing regulations and amendments; and
- (c) any changes that instruments set out in this Article may undergo after the entry into force of this Agreement.

Article 11.3: Implementation

1. The Parties shall maintain an authority or authorities responsible for, and appropriately equipped for, the implementation of the competition laws set out in Article 11.2.
2. The Parties recognise the importance of applying their respective competition laws in a transparent, timely and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the parties concerned.
3. Upon request of a Party, the other Party shall make available to the requesting Party public information concerning its competition law enforcement activities and legislation related to the obligations covered by this Section.

Article 11.4: Public Enterprises and Enterprises Entrusted with Special Rights⁷⁹ or Exclusive Rights

1. With respect to public enterprises and enterprises entrusted with special rights or exclusive rights:
 - (a) neither Party shall adopt or maintain any measure contrary to the principles contained in Article 11.1; and
 - (b) the Parties shall ensure that such enterprises are subject to the competition laws set out in Article 11.2,
- in so far as the application of these principles and competition laws does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.
2. Nothing in paragraph 1 shall be construed to prevent a Party from establishing or maintaining a public enterprise, entrusting enterprises with special or exclusive rights or maintaining such rights.

⁷⁹ Special rights are granted by a Party when it designates or limits to two or more the number of enterprises authorised to provide goods or services, other than according to objective, proportional and non-discriminatory criteria, or confers on enterprises legal or regulatory advantages which substantially affect the ability of any other enterprise to provide the same goods or services.

Article 11.5: State Monopolies

1. Each Party shall adjust state monopolies of a commercial character so as to ensure that any discriminatory measure⁸⁰ regarding the conditions under which goods are procured and marketed does not exist between natural or legal persons of the Parties.
2. Nothing in paragraph 1 shall be construed to prevent a Party from establishing or maintaining a state monopoly.
3. This Article is without prejudice to the rights and obligations set out under Chapter Nine (Government Procurement).

Article 11.6: Co-operation

1. The Parties recognise the importance of co-operation and co-ordination between their respective competition authorities to further enhance effective competition law enforcement and to fulfil the objectives of this Agreement through the promotion of competition and the curtailment of anti-competitive business conduct or anti-competitive transactions.
2. The Parties shall co-operate in relation to their respective enforcement policies and in the enforcement of their respective competition laws, including through enforcement co-operation, notification, consultation and exchange of non-confidential information based on the *Agreement between the European Community and the Government of the Republic of Korea concerning cooperation on anti-competitive activities* signed on 23 May 2009.

Article 11.7: Consultation

1. In the absence of more specific rules in the agreement referred to in Article 11.6.2, a Party shall, on request of the other Party, enter into consultations regarding representations made by the other Party, to foster mutual understanding or to address specific matters that arise under this Section. In its request, the other Party shall indicate, if relevant, how the matter affects trade between the Parties.
2. The Parties shall promptly discuss, at the request of a Party, any questions arising from the interpretation or application of this Section.
3. To facilitate discussion of the matter that is the subject of the consultations, each Party shall endeavour to provide relevant non-confidential information to the other Party.

⁸⁰

Discriminatory measure means a measure which does not comply with national treatment, as set out in the relevant provisions of this Agreement, including the terms and conditions set out in the relevant Annexes thereto.

Article 11.8: Dispute Settlement

Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) for any matter arising under this Section.

SECTION B

SUBSIDIES

Article 11.9: Principles

The Parties agree to use their best endeavours to remedy or remove through the application of their competition laws or otherwise, distortions of competition caused by subsidies in so far as they affect international trade, and to prevent the occurrence of such situations.

Article 11.10: Definitions of a Subsidy and Specificity

1. A **subsidy** is a measure which fulfils the conditions set out in Article 1.1 of the SCM Agreement.
2. A subsidy is specific if it falls within the meaning of Article 2 of the SCM Agreement. A subsidy shall be subject to this Section only if it is specific within the meaning of Article 2 of the SCM Agreement.

Article 11.11: Prohibited Subsidies^{81,82}

The following subsidies shall be deemed to be specific under the conditions of Article 2 of the SCM Agreement and shall be prohibited for the purposes of this Agreement in so far as they adversely affect international trade of the Parties⁸³:

- (a) subsidies granted under any legal arrangement whereby a government or any public body is responsible for covering debts or liabilities of certain enterprises within the meaning of Article 2.1 of the SCM Agreement without any limitation, in law or in fact, as to the amount of those debts and liabilities or the duration of such responsibility; and
- (b) subsidies (such as loans and guarantees, cash grants, capital injections, provision of assets below market prices or tax exemptions) to insolvent or ailing enterprises, without a credible restructuring plan based on realistic assumptions with a view to ensuring the return of the insolvent or ailing enterprise within a reasonable period of time to long-term viability and without the enterprise significantly contributing itself to the costs of restructuring. This

⁸¹ The Parties hereby agree that this Article applies to subsidies received only after the date when this Agreement enters into force.

⁸² For the purposes of this Agreement, subsidies for small- and medium-sized enterprises granted in accordance with objective criteria or conditions as provided for in Article 2.1 (b) and footnote 2 attached thereto of the SCM Agreement shall not be subject to this Article.

⁸³ International trade of the Parties comprises both domestic and exports markets.

does not prevent the Parties from providing subsidies by way of temporary liquidity support in the form of loan guarantees or loans limited to the amount needed to merely keep an ailing enterprise in business for the time necessary to work out a restructuring or liquidation plan.

This subparagraph does not apply to subsidies granted as compensation for carrying out public service obligations and to the coal industry.

Article 11.12: Transparency

1. Each Party shall ensure transparency in the area of subsidies. To this end, each Party shall report annually to the other Party on the total amount, types and the sectoral distribution of subsidies which are specific and may affect international trade. Reporting should contain information concerning the objective, form, the amount or budget and where possible the recipient of the subsidy granted by a government or any public body.
2. Such report is deemed to have been provided if it is sent to the other Party, or if the relevant information is made available on a publicly accessible Internet website, by 31 December of the subsequent calendar year.
3. Upon request by a Party, the other Party shall provide further information on any subsidy schemes and particular individual cases of subsidy which is specific. The Parties shall exchange this information, taking into account the limitations imposed by the requirements of professional and business secrecy.

Article 11.13: Relation with the WTO Agreement

The provisions in this Section are without prejudice to the rights of a Party in accordance with the relevant provisions of the WTO Agreement to apply trade remedies or to take dispute settlement or other appropriate action against a subsidy granted by the other Party.

Article 11.14: Monitoring and Review

The Parties shall keep under constant review the matters to which reference is made in this Section. Each Party may refer such matters to the Trade Committee. The Parties agree to review progress in implementing this Section every two years after the entry into force of this Agreement, unless both Parties agree otherwise.

Article 11.15: Scope

1. The provisions of Articles 11.9 through 11.14 shall apply to subsidies for goods with the exception of fisheries subsidies, subsidies related to products covered by Annex 1 of the Agreement on Agriculture and other subsidies covered by the Agreement on Agriculture.
2. The Parties shall use their best endeavors to develop rules applicable to subsidies to services, taking into account developments at the multilateral level, and to exchange

information upon the request of either Party. The Parties agree to hold the first exchange of views on subsidies to services within three years after the entry into force of this Agreement.

CHAPTER TWELVE

TRANSPARENCY

Article 12.1: Definitions

For the purposes of this Chapter:

measure of general application means any general or abstract act, procedure, interpretation or other requirement, including non-binding measures. It does not include a ruling that applies to a particular person; and

interested person means any natural or legal person that may be subject to any rights or obligations under measures of general application, within the meaning of Article 12.2.

Article 12.2: Objective and Scope

Recognising the impact which their respective regulatory environment may have on trade between them, the Parties shall pursue an efficient and predictable regulatory environment for economic operators, especially small ones doing business in their territories. The Parties, reaffirming their respective commitments under the WTO Agreement, hereby lay down clarifications and improved arrangements for transparency, consultation and better administration of measures of general application, in so far as these may have an impact on any matter covered by this Agreement.

Article 12.3: Publication

1. Each Party shall ensure that measures of general application that may have an impact on any matter covered by this Agreement:
 - (a) are readily available to interested persons, in a non-discriminatory manner, via an officially designated medium, and where feasible and possible, electronic means, in such a manner as to enable interested persons and the other Party to become acquainted with them;
 - (b) provide an explanation of the objective of, and rationale for, such measures; and
 - (c) allow for sufficient time between publication and entry into force of such measures, taking due account of the requirements of legal certainty, legitimate expectations and proportionality.
2. Each Party shall:
 - (a) endeavour to publish in advance any measure of general application that it proposes to adopt or to amend, including an explanation of the objective of, and rationale for the proposal;

- (b) provide reasonable opportunities for interested persons to comment on such proposed measure, allowing, in particular, for sufficient time for such opportunities; and
- (c) endeavour to take into account the comments received from interested persons with respect to such proposed measure.

Article 12.4: Enquiries and Contact Points

1. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from any interested person regarding any measures of general application which may have an impact on matters covered by this Agreement which are proposed or in force, and how they would be applied. Enquiries may be addressed through enquiry or contact points established under this Agreement or any other mechanism as appropriate.
2. The Parties recognise that such response provided for in paragraph 1 may not be definitive or legally binding but for information purposes only, unless otherwise provided for in their laws and regulations.
3. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure of general application that the requesting Party considers might affect the operation of this Agreement, regardless of whether the requesting Party has been previously notified of that measure.
4. Each Party shall endeavour to identify or create enquiry or contact points for interested persons of the other Party with the task of seeking to effectively resolve problems for them that may arise from the application of measures of general application. Such processes should be easily accessible, time-bound, result-oriented and transparent. They shall be without prejudice to any appeal or review procedures which the Parties establish or maintain. They shall also be without prejudice to the Parties' rights and obligations under Chapter Fourteen (Dispute Settlement) and Annex 14-A (Mediation Mechanism for Non-Tariff Measures).

Article 12.5: Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures of general application which may have an impact on matters covered by this Agreement, each Party in applying such measures to particular persons, goods or services of the other Party in specific cases, shall:

- (a) endeavour to provide interested persons of the other Party, who are directly affected by a proceeding, with reasonable notice, in accordance with its procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;

- (b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, in so far as time, the nature of the proceeding and the public interest permit; and
- (c) ensure that its procedures are based on, and in accordance with its law.

Article 12.6: Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, correction of administrative action relating to matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.
2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:
 - (a) a reasonable opportunity to support or defend their respective positions; and
 - (b) a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the administrative authority.
3. Each Party shall ensure, subject to appeal or further review as provided for in its law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

Article 12.7: Regulatory Quality and Performance and Good Administrative Behaviour

1. The Parties agree to co-operate in promoting regulatory quality and performance, including through exchange of information and best practices on their respective regulatory reform processes and regulatory impact assessments.
2. The Parties subscribe to the principles of good administrative behaviour, and agree to co-operate in promoting it, including through exchange of information and best practices.

Article 12.8: Non-Discrimination

Each Party shall apply to interested persons of the other Party transparency standards no less favourable than those accorded to its own interested persons, to the interested persons of any third country, or to any third country, whichever are the best.

CHAPTER THIRTEEN

TRADE AND SUSTAINABLE DEVELOPMENT

Article 13.1: Context and Objectives

1. Recalling Agenda 21 on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002 and the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work, the Parties reaffirm their commitments to promoting the development of international trade in such a way as to contribute to the objective of sustainable development and will strive to ensure that this objective is integrated and reflected at every level of their trade relationship.
2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development. They underline the benefit of co-operation on trade-related social and environmental issues as part of a global approach to trade and sustainable development.
3. The Parties recognise that it is not their intention in this Chapter to harmonise the labour or environment standards of the Parties, but to strengthen their trade relations and co-operation in ways that promote sustainable development in the context of paragraphs 1 and 2.

Article 13.2: Scope

1. Except as otherwise provided in this Chapter, this Chapter applies to measures adopted or maintained by the Parties affecting trade-related aspects of labour⁸⁴ and environmental issues in the context of Articles 13.1.1 and 13.1.2.
2. The Parties stress that environmental and labour standards should not be used for protectionist trade purposes. The Parties note that their comparative advantage should in no way be called into question.

Article 13.3: Right to Regulate and Levels of Protection

Recognising the right of each Party to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, each Party shall seek to ensure that those laws and policies provide for and encourage high levels of environmental and labour protection, consistent with the internationally recognised standards or agreements referred to in Articles 13.4 and 13.5, and shall strive to continue to improve those laws and policies.

⁸⁴ When labour is referred to in this Chapter, it includes the issues relevant to the *Decent Work Agenda* as agreed on in the *International Labour Organization* (hereinafter referred to as the “ILO”) and in the *2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work*.

Article 13.4: Multilateral Labour Standards and Agreements

1. The Parties recognise the value of international co-operation and agreements on employment and labour affairs as a response of the international community to economic, employment and social challenges and opportunities resulting from globalisation. They commit to consulting and co-operating as appropriate on trade-related labour and employment issues of mutual interest.
2. The Parties reaffirm the commitment, under the *2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work*, to recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international co-operation and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all, including men, women and young people.
3. The Parties, in accordance with the obligations deriving from membership of the ILO and the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*, adopted by the International Labour Conference at its 86th Session in 1998, commit to respecting, promoting and realising, in their laws and practices, the principles concerning the fundamental rights, namely:
 - (a) freedom of association and the effective recognition of the right to collective bargaining;
 - (b) the elimination of all forms of forced or compulsory labour;
 - (c) the effective abolition of child labour; and
 - (d) the elimination of discrimination in respect of employment and occupation.

The Parties reaffirm the commitment to effectively implementing the ILO Conventions that Korea and the Member States of the European Union have ratified respectively. The Parties will make continued and sustained efforts towards ratifying the fundamental ILO Conventions as well as the other Conventions that are classified as “up-to-date” by the ILO.

Article 13.5: Multilateral Environmental Agreements

1. The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems and they commit to consulting and co-operating as appropriate with respect to negotiations on trade-related environmental issues of mutual interest.
2. The Parties reaffirm their commitments to the effective implementation in their laws and practices of the multilateral environmental agreements to which they are party.
3. The Parties reaffirm their commitment to reaching the ultimate objective of the *United Nations Framework Convention on Climate Change and its Kyoto Protocol*.

They commit to co-operating on the development of the future international climate change framework in accordance with the *Bali Action Plan*⁸⁵.

Article 13.6: Trade Favouring Sustainable Development

1. The Parties reconfirm that trade should promote sustainable development in all its dimensions. The Parties recognise the beneficial role that core labour standards and decent work can have on economic efficiency, innovation and productivity, and they highlight the value of greater policy coherence between trade policies, on the one hand, and employment and labour policies on the other.
2. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services, including environmental technologies, sustainable renewable energy, energy efficient products and services and eco-labelled goods, including through addressing related non-tariff barriers. The Parties shall strive to facilitate and promote trade in goods that contribute to sustainable development, including goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability.

Article 13.7: Upholding Levels of Protection in the Application and Enforcement of Laws, Regulations or Standards

1. A Party shall not fail to effectively enforce its environmental and labour laws, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties.
2. A Party shall not weaken or reduce the environmental or labour protections afforded in its laws to encourage trade or investment, by waiving or otherwise derogating from, or offering to waive or otherwise derogate from, its laws, regulations or standards, in a manner affecting trade or investment between the Parties.

Article 13.8: Scientific Information

The Parties recognise the importance, when preparing and implementing measures aimed at protecting the environment and social conditions that affect trade between the Parties, of taking account of scientific and technical information, and relevant international standards, guidelines or recommendations.

Article 13.9: Transparency

The Parties, in accordance with their respective domestic laws, agree to develop, introduce and implement any measures aimed at protecting the environment and labour conditions that affect trade between the Parties in a transparent manner, with due notice and public

⁸⁵ UNFCCC Decision-1/CP.13 adopted by the thirteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.

consultation, and with appropriate and timely communication to and consultation of non-state actors including the private sector.

Article 13.10: Review of Sustainability Impacts

The Parties commit to reviewing, monitoring and assessing the impact of the implementation of this Agreement on sustainable development, including the promotion of decent work, through their respective participative processes and institutions, as well as those set up under this Agreement, for instance through trade-related sustainability impact assessments.

Article 13.11: Co-operation

Recognising the importance of co-operating on trade-related aspects of social and environmental policies in order to achieve the objectives of this Agreement, the Parties commit to initiating co-operative activities as set out in Annex 13.

Article 13.12: Institutional Mechanism

1. Each Party shall designate an office within its administration which shall serve as a contact point with the other Party for the purpose of implementing this Chapter.
2. The Committee on Trade and Sustainable Development established pursuant to Article 15.2.1 (Specialised Committees) shall comprise senior officials from within the administrations of the Parties.
3. The Committee shall meet within the first year of the entry into force of this Agreement, and thereafter as necessary, to oversee the implementation of this Chapter, including co-operative activities undertaken under Annex 13.
4. Each Party shall establish a Domestic Advisory Group(s) on sustainable development (environment and labour) with the task of advising on the implementation of this Chapter.
5. The Domestic Advisory Group(s) comprise(s) independent representative organisations of civil society in a balanced representation of environment, labour and business organisations as well as other relevant stakeholders.

Article 13.13: Civil Society Dialogue Mechanism

1. Members of Domestic Advisory Group(s) of each Party will meet at a Civil Society Forum in order to conduct a dialogue encompassing sustainable development aspects of trade relations between the Parties. The Civil Society Forum will meet once a year unless otherwise agreed by the Parties. The Parties shall agree by decision of the Committee on Trade and Sustainable Development on the operation of the Civil Society Forum no later than one year after the entry into force of this Agreement.
2. The Domestic Advisory Group(s) will select the representatives from its members in a balanced representation of relevant stakeholders as set out in Article 13.12.5.

3. The Parties can present an update on the implementation of this Chapter to the Civil Society Forum. The views, opinions or findings of the Civil Society Forum can be submitted to the Parties directly or through the Domestic Advisory Group(s).

Article 13.14: Government Consultations

1. A Party may request consultations with the other Party regarding any matter of mutual interest arising under this Chapter, including the communications of the Domestic Advisory Group(s) referred to in Article 13.12, by delivering a written request to the contact point of the other Party. Consultations shall commence promptly after a Party delivers a request for consultations.
2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. The Parties shall ensure that the resolution reflects the activities of the ILO or relevant multilateral environmental organisations or bodies so as to promote greater co-operation and coherence between the work of the Parties and these organisations. Where relevant, subject to the agreement of the Parties, they can seek advice of these organisations or bodies.
3. If a Party considers that the matter needs further discussion, that Party may request that the Committee be convened to consider the matter by delivering a written request to the contact point of the other Party. The Committee shall convene promptly and endeavour to agree on a resolution of the matter. The resolution of the Committee shall be made public unless the Committee otherwise decides.
4. The Committee on Trade and Sustainable Development may seek the advice of either or both Domestic Advisory Group(s) and each Party may seek the advice of its own Domestic Advisory Group(s). A Domestic Advisory Group of a Party may also submit communications on its own initiative to that Party or to the Committee.

Article 13.15: Panel of Experts

1. Unless the Parties otherwise agree, a Party may, 90 days after the delivery of a request for consultations under Article 13.14.1, request that a Panel of Experts be convened to examine the matter that has not been satisfactorily addressed through government consultations. The Parties can make submissions to the Panel of Experts. The Panel of Experts should seek information and advice from either Party, the Domestic Advisory Group(s) or international organisations as set out in Article 13.14, as it deems appropriate. The Panel of Experts shall be convened within two months of a Party's request.
2. The Panel of Experts that is selected in accordance with the procedures set out in paragraph 3, shall provide its expertise in implementing this Chapter. Unless the Parties otherwise agree, the Panel of Experts shall, within 90 days of the last expert being selected, present to the Parties a report. The Parties shall make their best efforts to accommodate advice or recommendations of the Panel of Experts on the implementation of this Chapter. The implementation of the recommendations of the Panel of Experts shall be monitored by the Committee on Trade and Sustainable Development. The report of the Panel of Experts shall be made available to the

Domestic Advisory Group(s) of the Parties. As regards confidential information, the principles in Annex 14-B (Rules of Procedure for Arbitration) apply.

3. Upon the entry into force of this Agreement, the Parties shall agree on a list of at least 15 persons with expertise on the issues covered by this Chapter, of whom at least five shall be non-nationals of either Party who will serve as chair of the Panel of Experts. The experts shall be independent of, and not be affiliated with or take instructions from, either Party or organisations represented in the Domestic Advisory Group(s). Each Party shall select one expert from the list of experts within 30 days of the receipt of the request for the establishment of a Panel of Experts. If a Party fails to select its expert within such period, the other Party shall select from the list of experts a national of the Party that has failed to select an expert. The two selected experts shall decide on the chair who shall not be a national of either Party.

Article 13.16: Dispute Settlement

For any matter arising under this Chapter, the Parties shall only have recourse to the procedures provided for in Articles 13.14 and 13.15.

CHAPTER FOURTEEN

DISPUTE SETTLEMENT

SECTION A

OBJECTIVE AND SCOPE

Article 14.1: Objective

The objective of this Chapter is to avoid and settle any dispute between the Parties concerning the good faith application of this Agreement and to arrive at, where possible, a mutually agreed solution.

Article 14.2: Scope

This Chapter applies to any dispute concerning the interpretation and application of the provisions of this Agreement unless otherwise provided.⁸⁶

SECTION B

CONSULTATIONS

Article 14.3: Consultations

1. The Parties shall endeavour to resolve any dispute regarding the interpretation and application of the provisions referred to in Article 14.2 by entering into consultations in good faith with the aim of reaching a mutually agreed solution.
2. A Party shall seek consultations by means of a written request to the other Party identifying any measure at issue and the provisions of the Agreement that it considers applicable. A copy of the request for consultations shall be delivered to the Trade Committee.
3. Consultations shall be held within 30 days of the date of the submission of the request and take place, unless the Parties agree otherwise, in the territory of the Party complained against. The consultations shall be deemed concluded within 30 days of the date of the submission of the request, unless the Parties agree to continue consultations. All information disclosed during the consultations shall remain confidential.
4. Consultations on matters of urgency, including those regarding perishable or seasonal goods⁸⁷ shall be held within 15 days of the date of the submission of the

⁸⁶ For disputes relating to the Protocol on Cultural Co-operation all references in this Chapter to the Trade Committee shall be understood as referring to the Committee on Cultural Co-operation.

⁸⁷ Seasonal goods are goods whose imports, over a representative period, are not spread over the whole year but concentrated on specific times of the year as a result of seasonal factors.

request, and shall be deemed concluded within 15 days of the date of the submission of the request.

5. If consultations are not held within the time frames laid down in paragraph 3 or 4 respectively, or if consultations have been concluded and no mutually agreed solution has been reached, the complaining Party may request the establishment of an arbitration panel in accordance with Article 14.4.

SECTION C

DISPUTE SETTLEMENT PROCEDURES

SUB-SECTION A

ARBITRATION PROCEDURE

Article 14.4: Initiation of the Arbitration Procedure

1. Where the Parties have failed to resolve the dispute by recourse to consultations as provided for in Article 14.3, the complaining Party may request the establishment of an arbitration panel.
2. The request for the establishment of an arbitration panel shall be made in writing to the Party complained against and the Trade Committee. The complaining Party shall identify in its request the specific measure at issue, and it shall explain how such measure constitutes a breach of the provisions referred to in Article 14.2.

Article 14.5: Establishment of the Arbitration Panel

1. An arbitration panel shall be composed of three arbitrators.
2. Within 10 days of the date of the submission of the request for the establishment of an arbitration panel to the Trade Committee, the Parties shall consult in order to reach an agreement on the composition of the arbitration panel.
3. In the event that the Parties are unable to agree on the composition of the arbitration panel within the time frame laid down in paragraph 2, either Party may request the chair of the Trade Committee, or the chair's delegate, to select all three members by lot from the list established under Article 14.18, one among the individuals proposed by the complaining Party, one among the individuals proposed by the Party complained against and one among the individuals selected by the Parties to act as chairperson. Where the Parties agree on one or more of the members of the arbitration panel, any remaining members shall be selected by the same procedure.
4. The date of establishment of the arbitration panel shall be the date on which the three arbitrators are selected.

Article 14.6: Interim Panel Report

1. The arbitration panel shall issue to the Parties an interim report setting out the findings of facts, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations that it makes, within 90 days of the date of establishment of the arbitration panel. Where it considers that this deadline cannot be met, the chairperson of the arbitration panel must notify the Parties and the Trade Committee in writing, stating the reasons for the delay and the date on which the panel plans to issue its interim report. Under no circumstances should the interim report be issued later than 120 days after the date of the establishment of the arbitration panel.
2. Any Party may submit a written request for the arbitration panel to review precise aspects of the interim report within 14 days of its issuance.
3. In cases of urgency, including those involving perishable or seasonal goods, the arbitration panel shall make every effort to issue its interim report and any Party may submit a written request for the arbitration panel to review precise aspects of the interim report, within half of the respective time frames under paragraphs 1 and 2.
4. After considering any written comments by the Parties on the interim report, the arbitration panel may modify its report and make any further examination it considers appropriate. The final arbitration panel ruling shall include a discussion of the arguments made at the interim review stage.

Article 14.7: Arbitration Panel Ruling

1. The arbitration panel shall issue its ruling to the Parties and to the Trade Committee within 120 days of the date of the establishment of the arbitration panel. Where it considers that this deadline cannot be met, the chairperson of the arbitration panel must notify the Parties and the Trade Committee in writing, stating the reasons for the delay and the date on which the panel plans to issue its ruling. Under no circumstances should the ruling be issued later than 150 days after the date of the establishment of the arbitration panel.
2. In cases of urgency, including those involving perishable or seasonal goods, the arbitration panel shall make every effort to issue its ruling within 60 days of the date of its establishment. Under no circumstances should it take longer than 75 days after its establishment. The arbitration panel may give a preliminary ruling within 10 days of its establishment on whether it deems the case to be urgent.

SUB-SECTION B

COMPLIANCE

Article 14.8: Compliance with the Arbitration Panel Ruling

Each Party shall take any measure necessary to comply in good faith with the arbitration panel ruling, and the Parties will endeavour to agree on the period of time to comply with the ruling.

Article 14.9: The Reasonable Period of Time for Compliance

1. No later than 30 days after the issuance of the arbitration panel ruling to the Parties, the Party complained against shall notify the complaining Party and the Trade Committee of the time it will require for compliance.
2. If there is disagreement between the Parties on the reasonable period of time to comply with the arbitration panel ruling, the complaining Party shall, within 20 days of the notification made under paragraph 1 by the Party complained against, request in writing the original arbitration panel to determine the length of the reasonable period of time. Such request shall be notified to the other Party and to the Trade Committee. The arbitration panel shall issue its ruling to the Parties and to the Trade Committee within 20 days of the date of the submission of the request.
3. In the event that any member of the original arbitration panel is no longer available, the procedures set out in Article 14.5 shall apply. The time limit for issuing the ruling shall be 35 days from the date of the submission of the request referred to in paragraph 2.
4. The Party complained against will inform the complaining Party in writing of its progress to comply with the arbitration panel ruling at least one month before the expiry of the reasonable period of time.
5. The reasonable period of time may be extended by mutual agreement of the Parties.

Article 14.10: Review of any Measure Taken to Comply with the Arbitration Panel Ruling

1. The Party complained against shall notify the complaining Party and the Trade Committee before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.
2. Where there is disagreement between the Parties as to the existence of a measure or consistency with the provisions referred to in Article 14.2 of any measure notified under paragraph 1, the complaining Party may request in writing the original arbitration panel to rule on the matter. Such request shall identify the specific measure at issue and it shall explain how such measure is incompatible with the provisions referred to in Article 14.2. The arbitration panel shall issue its ruling within 45 days of the date of the submission of the request.
3. In the event that any member of the original arbitration panel is no longer available, the procedures set out in Article 14.5 shall apply. The time limit for issuing the ruling shall be 60 days from the date of the submission of the request referred to in paragraph 2.

Article 14.11: Temporary Remedies in case of Non-compliance

1. If the Party complained against fails to notify any measure taken to comply with the arbitration panel ruling before the expiry of the reasonable period of time, or if the arbitration panel rules that no measure taken to comply exists or that the measure

notified under Article 14.10.1 is inconsistent with that Party's obligations under the provisions referred to in Article 14.2, the Party complained against shall, if so requested by the complaining Party, present an offer for temporary compensation.

2. If no agreement on compensation is reached within 30 days of the end of the reasonable period of time or of the issuance of the arbitration panel ruling under Article 14.10 that no measure taken to comply exists or the measure notified under Article 14.10.1 is inconsistent with the provisions referred to in Article 14.2, the complaining Party shall be entitled, upon notification to the Party complained against and to the Trade Committee, to suspend obligations arising from any provision referred to in Article 14.2 at a level equivalent to the nullification or impairment caused by the violation. The notification shall specify the level of obligations that the complaining Party intends to suspend. The complaining Party may implement the suspension 10 days after the date of the notification, unless the Party complained against has requested arbitration under paragraph 4.
3. In suspending obligations, the complaining Party may choose to increase its tariff rates to the level applied to other WTO Members on a volume of trade to be determined in such a way that the volume of trade multiplied by the increase of the tariff rates equals the value of the nullification or impairment caused by the violation.
4. If the Party complained against considers that the level of suspension is not equivalent to the nullification or impairment caused by the violation, it may request in writing the original arbitration panel to rule on the matter. Such request shall be notified to the complaining Party and to the Trade Committee before the expiry of the 10 day period referred to in paragraph 2. The original arbitration panel shall issue its ruling on the level of the suspension of obligations to the Parties and to the Trade Committee within 30 days of the date of the submission of the request. Obligations shall not be suspended until the original arbitration panel has issued its ruling, and any suspension shall be consistent with the arbitration panel ruling.
5. In the event that any member of the original arbitration panel is no longer available, the procedures laid down in Article 14.5 shall apply. The period for issuing the ruling shall be 45 days from the date of the submission of the request referred to in paragraph 4.
6. The suspension of obligations shall be temporary and apply only until any measure found to be inconsistent with the provisions referred to in Article 14.2 has been withdrawn or amended so as to bring it into conformity with those provisions, as established under Article 14.12, or until the Parties have agreed to settle the dispute.

Article 14.12: Review of any Measure Taken to Comply after the Suspension of Obligations

1. The Party complained against shall notify the complaining Party and the Trade Committee of any measure it has taken to comply with the ruling of the arbitration panel and of its request for the termination of the suspension of obligations applied by the complaining Party.
2. If the Parties do not reach an agreement on the compatibility of the notified measure with the provisions referred to in Article 14.2 within 30 days of the date of the

notification, the complaining Party shall request in writing the original arbitration panel to rule on the matter. Such request shall be notified to the Party complained against and to the Trade Committee. The arbitration panel ruling shall be issued to the Parties and to the Trade Committee within 45 days of the date of the submission of the request. If the arbitration panel rules that any measure taken to comply is in conformity with the provisions referred to in Article 14.2, the suspension of obligations shall be terminated.

3. In the event that any member of the original arbitration panel is no longer available, the procedures laid down in Article 14.5 shall apply. The period for issuing the ruling shall be 60 days from the date of the submission of the request referred to in paragraph 2.

SUB-SECTION C

COMMON PROVISIONS

Article 14.13: Mutually Agreed Solution

The Parties may reach a mutually agreed solution to a dispute under this Chapter at any time. They shall notify the Trade Committee of any such solution. Upon notification of the mutually agreed solution, the procedure shall be terminated.

Article 14.14: Rules of Procedure

1. Dispute settlement procedures under this Chapter shall be governed by Annex 14-B.
2. Any hearing of the arbitration panel shall be open to the public in accordance with Annex 14-B.

Article 14.15: Information and Technical Advice

At the request of a Party, or upon its own initiative, the arbitration panel may obtain information from any source, including the Parties involved in the dispute, as it deems appropriate for the arbitration panel proceeding. The arbitration panel also has the right to seek the relevant opinion of experts as it deems appropriate. Any information obtained in this manner must be disclosed to both Parties which may submit comments. Interested natural or legal persons of the Parties are authorised to submit *amicus curiae* briefs to the arbitration panel in accordance with Annex 14-B.

Article 14.16: Rules of Interpretation

Any arbitration panel shall interpret the provisions referred to in Article 14.2 in accordance with customary rules of interpretation of public international law, including the *Vienna Convention on the Law of Treaties*. Where an obligation under this Agreement is identical to an obligation under the WTO Agreement, the arbitration panel shall adopt an interpretation which is consistent with any relevant interpretation established in rulings of the WTO Dispute Settlement Body (hereinafter referred to as the “DSB”). The rulings of the arbitration panel

cannot add to or diminish the rights and obligations provided for in the provisions referred to in Article 14.2.

Article 14.17: Arbitration Panel Decisions and Rulings

1. The arbitration panel shall make every effort to take any decision by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote. In no case shall dissenting opinions of arbitrators be published.
2. Any ruling of the arbitration panel shall be binding on the Parties and shall not create any rights or obligations for natural or legal persons. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the basic rationale behind any findings and conclusions that it makes. The Trade Committee shall make the arbitration panel rulings publicly available in its entirety unless it decides not to do so.

SECTION D

GENERAL PROVISIONS

Article 14.18: List of Arbitrators

1. The Trade Committee shall, no later than six months after the entry into force of this Agreement, establish a list of 15 individuals who are willing and able to serve as arbitrators. Each Party shall propose five individuals to serve as arbitrators. The Parties shall also select five individuals who are not nationals of either Party and shall act as chairperson to the arbitration panel. The Trade Committee will ensure that the list is always maintained at this level.
2. Arbitrators shall have specialised knowledge or experience of law and international trade. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute, or be affiliated with the government of any Party, and shall comply with Annex 14-C.

Article 14.19: Relation with WTO Obligations

1. Recourse to the dispute settlement provisions of this Chapter shall be without prejudice to any action in the WTO framework, including dispute settlement action.
2. However, where a Party has, with regard to a particular measure, initiated a dispute settlement proceeding, either under this Chapter or under the WTO Agreement, it may not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has been concluded. In addition, a Party shall not seek redress of an obligation which is identical under this Agreement and under the WTO Agreement in the two forums. In such case, once a dispute settlement proceeding has been initiated, the Party shall not bring a claim seeking redress of the

identical obligation under the other Agreement to the other forum, unless the forum selected fails for procedural or jurisdictional reasons to make findings on the claim seeking redress of that obligation.

3. For the purposes of paragraph 2:
 - (a) dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* contained in Annex 2 of the WTO Agreement (hereinafter referred to as the "DSU") and are deemed to be concluded when the DSB adopts the Panel's report, and the Appellate Body's report as the case may be, under Articles 16 and 17.14 of the DSU; and
 - (b) dispute settlement proceedings under this Chapter are deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 14.4.1 and are deemed to be concluded when the arbitration panel issues its ruling to the Parties and to the Trade Committee under Article 14.7.
4. Nothing in this Agreement shall preclude a Party from implementing the suspension of obligations authorised by the DSB. The WTO Agreement shall not be invoked to preclude a Party from suspending obligations under this Chapter.

Article 14.20: Time Limits

1. All time limits laid down in this Chapter, including the limits for the arbitration panels to issue their rulings, shall be counted in calendar days, the first day being the day following the act or fact to which they refer.
2. Any time limit referred to in this Chapter may be extended by mutual agreement of the Parties.

CHAPTER FIFTEEN

INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

Article 15.1: Trade Committee

1. The Parties hereby establish a Trade Committee⁸⁸ comprising representatives of the EU Party, on the one hand, and representatives of Korea, on the other.
2. The Trade Committee shall meet once a year in Brussels or Seoul alternately or at the request of either Party. The Trade Committee shall be co-chaired by the Minister for Trade of Korea and the Member of the European Commission responsible for Trade, or their respective designees. The Trade Committee shall agree on its meeting schedule and set its agenda.
3. The Trade Committee shall:
 - (a) ensure that this Agreement operates properly;
 - (b) supervise and facilitate the implementation and application of this Agreement, and further its general aims;
 - (c) supervise the work of all specialised committees, working groups and other bodies established under this Agreement;
 - (d) consider ways to further enhance trade relations between the Parties;
 - (e) without prejudice to the rights conferred in Chapter Fourteen (Dispute Settlement) and Annex 14-A (Mediation Mechanism for Non-Tariff Measures), seek appropriate ways and methods of forestalling problems which might arise in areas covered by this Agreement, or of resolving disputes that may arise regarding the interpretation or application of this Agreement;
 - (f) study the development of trade between the Parties; and
 - (g) consider any other matter of interest relating to an area covered by this Agreement.
4. The Trade Committee may:
 - (a) decide to establish and delegate responsibilities to specialised committees, working groups or other bodies;
 - (b) communicate with all interested parties including private sector and civil society organisations;

⁸⁸ As set out in the Protocol on Cultural Co-operation, the Trade Committee shall have no jurisdiction over the Protocol and the Committee on Cultural Co-operation shall exercise all functions of the Trade Committee as regards that Protocol, where such functions are relevant for the purposes of implementing that Protocol.

- (c) consider amendments to this Agreement or amend provisions of this Agreement in cases specifically provided for in this Agreement;
 - (d) adopt interpretations of the provisions of this Agreement;
 - (e) make recommendations or adopt decisions as envisaged by this Agreement;
 - (f) adopt its own rules of procedure; and
 - (g) take such other action in the exercise of its functions as the Parties may agree.
5. The Trade Committee shall report to the Joint Committee on its activities and those of its specialised committees, working groups and other bodies at each regular meeting of the Joint Committee.
 6. Without prejudice to the rights conferred in Chapter Fourteen (Dispute Settlement) and Annex 14-A (Mediation Mechanism for Non-Tariff Measures), either Party may refer to the Trade Committee any issue relating to the interpretation or application of this Agreement.
 7. When a Party submits information considered as confidential under its laws and regulations to the Trade Committee, specialised committees, working groups or any other bodies, the other Party shall treat that information as confidential.
 8. Recognising the importance of transparency and openness, the Parties affirm their respective practices of considering the views of members of the public in order to draw on a broad range of perspectives in the implementation of this Agreement.

Article 15.2: Specialised Committees

1. The following specialised committees are hereby established under the auspices of the Trade Committee:
 - (a) the Committee on Trade in Goods in accordance with Article 2.16 (Committee on Trade in Goods);
 - (b) the Committee on Sanitary and Phytosanitary Measures in accordance with Article 5.10 (Committee on Sanitary and Phytosanitary Measures);
 - (c) the Customs Committee in accordance with Article 6.16 (Customs Committee). In matters exclusively covered by the Customs Agreement, the Customs Committee acts as the Joint Customs Co-operation Committee established under that Agreement;
 - (d) the Committee on Trade in Services, Establishment and Electronic Commerce in accordance with Article 7.3 (Committee on Trade in Services, Establishment and Electronic Commerce);
 - (e) the Committee on Trade and Sustainable Development in accordance with Article 13.12 (Institutional Mechanism); and

- (f) the Committee on Outward Processing Zones on the Korean Peninsula in accordance with Annex IV of the Protocol concerning the Definition of 'Originating Products' and Methods of Administrative Co-operation.

The remit and tasks of the specialised committees established are defined in the relevant chapters and protocols of this Agreement.

- 2. The Trade Committee may decide to establish other specialised committees in order to assist it in the performance of its tasks. The Trade Committee shall determine the composition, duties and functioning of the specialised committees established pursuant to this Article.
- 3. Unless otherwise provided for in this Agreement, the specialised committees shall normally meet, once a year, at an appropriate level, alternately in Brussels or Seoul, or at the request of either Party or of the Trade Committee and shall be co-chaired by representatives of Korea and the European Union. The specialised committees shall agree on their meeting schedule and set their agenda.
- 4. The specialised committees shall inform the Trade Committee of their schedule and agenda sufficiently in advance of their meetings. They shall report to the Trade Committee on their activities at each regular meeting of the Trade Committee. The creation or existence of a specialised committee shall not prevent either Party from bringing any matter directly to the Trade Committee.
- 5. The Trade Committee may decide to change or undertake the task assigned to a specialised committee or dissolve any specialised committee.

Article 15.3: Working Groups

- 1. The following Working Groups are hereby established under the auspices of the Trade Committee:
 - (a) The Working Group on Motor Vehicles and Parts in accordance with Article 9.2 (Working Group on Motor Vehicles and Parts) of Annex 2-C (Motor Vehicles and Parts);
 - (b) The Working Group on Pharmaceutical Products and Medical Devices in accordance with Article 5.3 (Regulatory Co-operation) of Annex 2-D (Pharmaceutical Products and Medical Devices);
 - (c) The Working Group on Chemicals in accordance with paragraph 4 of Annex 2-E (Chemicals);
 - (d) The Working Group on Trade Remedy Co-operation in accordance with Article 3.16.1 (Working Group on Trade Remedy Co-operation);
 - (e) The Working Group on MRA in accordance with Article 7.21.6 (Mutual Recognition);

- (f) The Working Group on Government Procurement in accordance with Article 9.3 (Government Procurement Working Group); and
 - (g) The Working Group on Geographical Indications in accordance with Article 10.25 (Working Group on Geographical Indications).
2. The Trade Committee may decide to establish other working groups for a specific task or subject matter. The Trade Committee shall determine the composition, duties and functioning of working groups. Any regular or ad-hoc meetings between the Parties whose work addresses matters covered by this Agreement shall be considered working groups within the meaning of this Article.
 3. Unless otherwise provided for in this Agreement, working groups shall meet, at an appropriate level, when circumstances require, or at the request of either Party or of the Trade Committee. They shall be co-chaired by representatives of Korea and the European Union. Working groups shall agree on their meeting schedule and set their agenda.
 4. Working groups shall inform the Trade Committee of their schedule and agenda sufficiently in advance of their meetings. They shall report to the Trade Committee on their activities at each regular meeting of the Trade Committee. The creation or existence of a working group shall not prevent either Party from bringing any matter directly to the Trade Committee.
 5. The Trade Committee may decide to change or undertake the task assigned to a working group or dissolve any working group.

Article 15.4: Decision-Making

1. The Trade Committee shall, for the purpose of attaining the objectives of this Agreement, have the power to take decisions in respect of all matters in the cases provided by this Agreement.
2. The decisions taken shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken. The Trade Committee may also make appropriate recommendations.
3. The Trade Committee shall draw up its decisions and recommendations by agreement between the Parties.

Article 15.5: Amendments

1. The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures, on such date as the Parties may agree.

2. Notwithstanding paragraph 1, the Trade Committee may decide to amend the Annexes, Appendices, Protocols and Notes to this Agreement. The Parties may adopt the decision subject to their respective applicable legal requirements and procedures.

Article 15.6: Contact Points

1. In order to facilitate communication and to ensure the effective implementation of this Agreement, the Parties shall designate co-ordinators upon the entry into force of this Agreement. The designation of co-ordinators is without prejudice to the specific designation of competent authorities under specific chapters of this Agreement.
2. On the request of either Party, the co-ordinator of the other Party shall indicate the office or official responsible for any matter pertaining to the implementation of this Agreement and provide the required support to facilitate communication with the requesting Party.
3. To the extent possible under its legislation, each Party shall provide information through its co-ordinators on the request of the other Party and reply promptly to any question from the other Party relating to an actual or proposed measure that might affect trade between the Parties.

Article 15.7: Taxation

1. This Agreement shall only apply to taxation measures in so far as such application is necessary to give effect to the provisions of this Agreement.
2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention between Korea and the respective Member States of the European Union. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between Korea and the respective Member States of the European Union, the competent authorities under that convention shall have sole responsibility for jointly determining whether any inconsistency exists between this Agreement and that convention.
3. Nothing in this Agreement shall be construed to prevent the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.
4. Nothing in this Agreement shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.

Article 15.8: Balance-of-Payments Exceptions

1. Where a Party is in serious balance-of-payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods, services and establishment.
2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

Any restrictive measures adopted or maintained under this Article shall be non-discriminatory, of limited duration, not go beyond what is necessary to remedy the balance of payments and external financial situation. They shall be in accordance with the conditions established in the WTO Agreement and consistent with the *Articles of Agreement of the International Monetary Fund*, as applicable.

3. Any Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify the other Party of them and present, as soon as possible, a time schedule for their removal.
4. Where the restrictions are adopted or maintained, consultation shall be held promptly in the Trade Committee. Such consultation shall assess the balance-of-payments situation of the concerned Party and the restrictions adopted or maintained under this Article, taking into account, *inter alia*, such factors as:
 - (a) the nature and extent of the balance of payments and the external financial difficulties;
 - (b) the external economic and trading environment; or
 - (c) alternative corrective measures which may be available.

The consultations shall address the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the International Monetary Funds (hereinafter referred to as the “IMF”) relating to foreign exchange, monetary reserves and balance of payments shall be accepted and conclusions shall be based on the assessment by the IMF of the balance of payments and the external financial situation of the concerned Party.

Article 15.9: Security Exceptions

Nothing in this Agreement shall be construed:

- (a) to require any Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;
- (b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

- (i) connected with the production of or trade in arms, munitions or war material or relating to economic activities carried out directly or indirectly for the purpose of provisioning a military establishment;
 - (ii) relating to fissionable and fusionable materials or the materials from which they are derived; or
 - (iii) taken in time of war or other emergency in international relations; or
- (c) to prevent any Party from taking any action in order to carry out its international obligations for the purpose of maintaining international peace and security.

Article 15.10: Entry into Force

1. This Agreement shall be approved by the Parties in accordance with their own procedures.
2. This Agreement shall enter into force 60 days after the date the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures or on such other date as the Parties may agree.
3. Notwithstanding paragraphs 2 and 5, the Parties shall apply the Protocol on Cultural Co-operation from the first day of the third month following the date when Korea has deposited its instrument of ratification of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted in Paris on 20 October 2005 (hereinafter referred to as the “UNESCO Convention”) to the UNESCO Secretariat in Paris unless Korea has deposited its instrument of ratification of the UNESCO Convention before the exchange of notifications referred to in paragraphs 2 or 5.
4. Notifications shall be sent to the Secretary General of the Council of the European Union and to the Ministry of Foreign Affairs and Trade of Korea, or its successor.
5.
 - (a) This Agreement shall be provisionally applied from the first day of the month following the date on which the EU Party and Korea have notified each other of the completion of their respective relevant procedures.
 - (b) In the event that certain provisions of this Agreement cannot be provisionally applied, the Party which cannot undertake such provisional application shall notify the other Party of the provisions which cannot be provisionally applied. Notwithstanding subparagraph (a), provided the other Party has completed the necessary procedures and does not object to provisional application within 10 days of the notification that certain provisions cannot be provisionally applied, the provisions of this Agreement which have not been notified shall be provisionally applied the first day of the month following the notification.
 - (c) A Party may terminate provisional application by written notice to the other Party. Such termination shall take effect on the first day of the month following notification.

(d) Where this Agreement, or certain provisions thereof, is provisionally applied, the term “entry into force of this Agreement” shall be understood to mean the date of provisional application.

Article 15.11: Duration

1. This Agreement shall be valid indefinitely.
2. Either Party may notify in writing the other Party of its intention to denounce this Agreement.
3. The denunciation shall take effect six months after the notification under paragraph 2.

Article 15.12: Fulfilment of Obligations

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.
2. Either Party may immediately take appropriate measures in accordance with international law in case of denunciation of this Agreement not sanctioned by the general rules of international law.

Article 15.13: Annexes, Appendices, Protocols and Notes

The Annexes, Appendices, Protocols and Notes to this Agreement shall form an integral part thereof.

Article 15.14: Relation with Other Agreements

1. Unless specified otherwise, previous agreements between the Member States of the European Union and/or the European Community and/or the European Union and Korea are not superseded or terminated by this Agreement.
2. The present Agreement shall be an integral part of the overall bilateral relations as governed by the Framework Agreement. It constitutes a specific Agreement giving effect to the trade provisions within the meaning of the Framework Agreement.
3. The Protocol on Mutual Administrative Assistance in Customs Matters supersedes the Customs Agreement with regard to the provisions concerning mutual administrative assistance.
4. The Parties agree that nothing in this Agreement requires them to act in a manner inconsistent with their obligations under the WTO Agreement.

Article 15.15: Territorial Application

1. This Agreement shall apply, on the one hand, to the territories in which the *Treaty on European Union* and the *Treaty on the Functioning of the European Union* are applied and under the conditions laid down in those Treaties, and, on the other hand, to the territory of Korea. References to “territory” in this Agreement shall be understood in this sense, unless explicitly stated otherwise.
2. As regards those provisions concerning the tariff treatment of goods, this Agreement shall also apply to those areas of the EU customs territory not covered by paragraph 1.

Article 15.16: Authentic Texts

This Agreement is drawn up in duplicate in the Korean, Bulgarian, Czech, Estonian, Danish, Dutch, English, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

PROTOCOL
CONCERNING THE DEFINITION OF
‘ORIGINATING PRODUCTS’ AND
METHODS OF ADMINISTRATIVE CO-OPERATION

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SECTION A

RULES OF ORIGIN

TITLE I

GENERAL PROVISIONS

Article 1: Definitions

For the purposes of this Protocol:

- (a) **manufacture** means any kind of working or processing including growing, fishing, raising, hunting, assembly or specific operations;
- (b) **material** means any ingredient, raw material, component or part, etc., used in the manufacture of a product;
- (c) **product** means the product being manufactured, even if it is intended for later use as a material in another manufacturing operation;
- (d) **goods** means materials, products or articles;
- (e) **customs value** means the value as determined in accordance with the Customs Valuation Agreement;
- (f) **ex-works price** means the price paid or payable for the product ex works to the manufacturer in a Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or should be, repaid when the product obtained is exported;
- (g) **value of the non-originating materials** means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the EU Party or in Korea;
- (h) **value of originating materials** means the value of such materials as defined in subparagraph (g) applied *mutatis mutandis*;
- (i) **chapters, headings, and subheadings** mean the chapters (two-digit codes), the headings (four-digit codes) and the subheadings (six-digit codes) used in the nomenclature which make up the Harmonised Commodity Description and Coding System, referred to in this Protocol as ‘the Harmonised System’ or ‘HS’;
- (j) **classified** refers to the classification of a product or material under a particular chapter, heading and subheading;
- (k) **consignment** means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering

their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

- (l) **HS** means the Harmonised Commodity Description and Coding System in force, including its general rules and legal notes; and
- (m) **territories** includes territorial sea.

TITLE II DEFINITION OF ‘ORIGINATING PRODUCTS’

Article 2: Originating products

For the purpose of a preferential tariff treatment the following products shall be considered as originating in a Party:

- (a) products wholly obtained in a Party within the meaning of Article 4;
- (b) products obtained in a Party incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Party concerned within the meaning of Article 5; or
- (c) products obtained in a Party exclusively from materials that qualify as originating pursuant to this Protocol.

Article 3: Cumulation of Origin

Notwithstanding Article 2, products shall be considered as originating in a Party if such products are obtained there, incorporating materials originating in the other Party, provided that the working or processing carried out goes beyond the operations referred to in Article 6. It shall not be necessary that such materials have undergone sufficient working or processing.

Article 4: Wholly Obtained Products

1. For the purposes of Article 2(a), the following shall be considered as wholly obtained in a Party:
 - (a) mineral products extracted from the soil or from the seabed in the territory of a Party;
 - (b) vegetable products grown and harvested there;
 - (c) live animals born and raised there;
 - (d) products from live animals raised there;
 - (e) (i) products obtained by hunting, trapping within the land territory or fishing, conducted within the land waters or within the territorial sea of a Party;

- (ii) products of aquaculture, where the fish, crustaceans and mollusc are born and raised there;
 - (f) products of sea fishing and other products taken from the sea outside the territorial sea of a Party by its vessels;
 - (g) products made aboard its factory ships exclusively from products referred to in subparagraph (f);
 - (h) products extracted from marine soil or subsoil outside the territorial sea of a Party provided that a Party has rights to exploit that soil or subsoil;
 - (i) used articles collected there fit only for the recovery of raw materials or for use as waste;
 - (j) waste and scrap derived from manufacturing or processing operations conducted there; or
 - (k) products manufactured in a Party exclusively from the products referred to in this paragraph.
2. The terms ‘its vessels’ and ‘its factory ships’ in paragraph 1(f) and (g) shall apply only to vessels and factory ships:
- (a) which are registered in one of the Member States of the European Union or Korea;
 - (b) which sail under the flag of one of the Member States of the European Union or Korea;
 - (c) which meet one of the following conditions:
 - (i) they are at least 50 percent owned by nationals of one of the Member States of the European Union or Korea; or
 - (ii) they are owned by companies:
 - (A) which have their head office and their main place of business in one of the Member States of the European Union or in Korea; and
 - (B) which are at least 50 percent owned by one of the Member States of the European Union or by Korea, public entities of a Member State of the European Union or Korea, nationals of one of the Member States of the European Union or Korea.

Article 5: Sufficiently Worked or Processed Products

1. For the purposes of Article 2(b), products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex II or Annex II(a) are fulfilled. The conditions set out in the list in Annex II or Annex II(a) indicate, for all products covered by this Agreement, the

working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. It follows that if:

- (a) non-originating materials undergo sufficient working or processing, which results in an originating product, and when that product is used in the subsequent manufacture of another product, no account shall be taken of the non-originating material contained therein; and
 - (b) non-originating and originating materials undergo processing, which results in a non-originating product, and when that product is used in a subsequent manufacture of another product, account shall be taken only of the non-originating materials contained therein.
2. Notwithstanding paragraph 1, non-originating materials which, according to the conditions set out in the list in Annex II, should not be used in the manufacture of a product may nevertheless be used, provided that:
- (a) their total value does not exceed 10 percent of the ex-works price of the product; and
 - (b) any of the percentages given in the list in Annex II for the maximum value of non-originating materials are not exceeded through the application of this paragraph.
3. Paragraph 2 shall not apply to products falling within Chapters 50 to 63 of the HS.
4. Paragraphs 1 through 3 shall apply subject to the provisions of Article 6.

Article 6: Insufficient Working or Processing

1. Without prejudice to paragraph 2, the following operations shall be considered to be insufficient working or processing to confer the status of originating products whether or not the requirements of Article 5 are satisfied:
- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
 - (b) change of packaging, breaking-up and assembly of packages;
 - (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
 - (d) ironing or pressing of textiles;
 - (e) simple painting and polishing operations;
 - (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
 - (g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
 - (h) peeling, stoning and shelling of fruits, nuts and vegetables;

- (i) sharpening, simple grinding or simple cutting;
 - (j) sifting, screening, sorting, classifying, grading or matching (including the making-up of sets of articles);
 - (k) simple placing in bottles, cans, flasks, bags, cases or boxes, fixing on cards or boards and all other simple packaging operations;
 - (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
 - (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
 - (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
 - (o) testing or calibrations;
 - (p) a combination of two or more operations specified in subparagraphs (a) through (o); or
 - (q) slaughter of animals.
2. All operations carried out in a Party on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 7: Unit of Qualification

1. The unit of qualification for the application of the provisions of this Protocol shall be the product which is considered as the basic unit when determining classification using the nomenclature of the HS. It follows that:
 - (a) when a product composed of a group or assembly of articles is classified under the terms of the HS in a single heading, the whole constitutes the unit of qualification; and
 - (b) when a consignment consists of a number of identical products classified under the same heading of the HS, each product must be taken individually when applying the provisions of this Protocol.
2. Where, under General Rule 5 of the HS, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin, and considered as originating if the product is originating.

Article 8: Accessories, Spare Parts and Tools

Accessories, spare parts and tools delivered with a product, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the product in question.

Article 9: Sets of Goods

Sets, as defined in General Rule 3 of the HS, shall be regarded as originating when all component products are originating, and both the set and the products meet all other applicable requirements in this Protocol. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 percent of the ex-works price of the set.

Article 10: Neutral Elements

In order to determine whether a product originates, it shall not be necessary to determine the origin of the goods which might be used in its manufacture but which do not enter and which are not intended to enter into the final composition of the product.

Article 11: Accounting Segregation of Materials

1. Where identical and interchangeable originating and non-originating materials are used in the manufacture of a product, those materials shall be physically segregated, according to their origin, during storage.
2. Where considerable costs or material difficulties arise in keeping separate stocks of identical and interchangeable originating and non-originating materials used in the manufacture of a product, the producer may use the so-called “accounting segregation” method for managing stocks.
3. This method is recorded and applied in accordance with the generally accepted accounting principles applicable in the Party where the product is manufactured.
4. This method must be able to ensure that, for a specific reference-period, no more products receive originating status than would be the case if the materials had been physically segregated.
5. A Party may require that the application of the method for managing stocks provided for in this Article is subject to a prior authorisation by customs authorities. Should this be the case, the customs authorities may grant such an authorisation subject to any conditions deemed appropriate and they shall monitor the use of the authorisation and may withdraw it at any time whenever the beneficiary makes improper use of it in any manner or fails to fulfil any of the other conditions laid down in this Protocol.

TITLE III TERRITORIAL REQUIREMENTS

Article 12: Principle of Territoriality

1. Except as provided for in Article 3 and paragraph 3 of this Article, the conditions for acquiring originating status set out in Title II must be fulfilled without interruption in a Party.

2. Except as provided for in Article 3, where originating goods exported from a Party to a non-party return, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:
 - (a) the returning goods are the same as those exported; and
 - (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that non-party or while being exported.
3. Notwithstanding paragraphs 1 and 2 of this Article, the Parties agree that certain goods shall be considered to be originating even if they have undergone working or processing outside Korea, on materials exported from Korea and subsequently re-imported there, provided that the working or processing is done in the areas designated by the Parties pursuant to Annex IV.

Article 13: Direct Transport

1. The preferential treatment provided for under this Agreement applies only to products, satisfying the requirements of this Protocol, which are transported directly between the Parties. However, products constituting one single consignment may be transported through other territories with, should the occasion arise, trans-shipment or temporary warehousing in such territories, provided that they are not released for free circulation in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.
2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authority, in accordance with the procedures applicable in the importing Party, by the production of:
 - (a) evidence of the circumstances connected with transshipment or the storage of the originating products in third countries;
 - (b) a single transport document covering the passage from the exporting Party through the country of transit; or
 - (c) a certificate issued by the customs authorities of the country of transit:
 - (i) giving an exact description of the products;
 - (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and
 - (iii) certifying the conditions under which the products remained in the country of transit.

SECTION B

ORIGIN PROCEDURES

TITLE IV DRAWBACK OR EXEMPTION

Article 14: Drawback of, or Exemption from, Customs Duties

1. After five years from the entry into force of this Agreement, upon the request of either Party, the Parties shall jointly review their duty drawback and inward processing schemes. One year after entry into force, and subsequently on a yearly basis, the Parties shall exchange available information on a reciprocal basis on the operation of their duty drawback and inward processing schemes, as well as detailed statistics as follows:
 - 1.1 Import statistics at the 8/10 digit level by country starting from one year after the entry into force of this Agreement shall be provided for imports of materials classified under HS 2007 headings 8407, 8408, 8522, 8527, 8529, 8706, 8707 and 8708, as well as export statistics for 8703, 8519, 8521 and 8525 through 8528. Upon request, such statistics shall be provided on other materials or products. Regular information shall be exchanged on the measures taken to implement limitations on duty drawback and inward processing schemes introduced on the basis of paragraph 3 of this Article.
2. At any time after the initiation of the above review, a Party may request consultations with the other Party with a view to discussing possible limitations on duty drawback and inward processing schemes for a particular product in case there is evidence of a change in sourcing patterns since the entry into force of this Agreement which may have a negative effect on competition for domestic producers of like or directly competitive products in the requesting Party.
 - 2.1 The abovementioned conditions would be established on the basis of evidence provided by the Party requesting consultations that:
 - (a) the rate of increase of dutiable imports into a Party of materials incorporated into a particular product from countries with which no free trade agreement is in force is significantly greater than the rate of increase of exports to the other Party of the product incorporating such materials, unless the Party to which the consultation request is addressed establishes that, *inter alia*:
 - (i) such increase in imports of materials is essentially due to an increase in domestic consumption of the product incorporating such materials of the Party;
 - (ii) such increase in imports of materials is essentially due to use of imported materials in a product other than that covered by paragraph 2;
 - (iii) such increase in imports of materials is due to an increase in exports to countries other than the other Party of the product incorporating such materials; or
 - (iv) such increase in imports of materials is limited to imports of high tech/value components, not lowering the price of the export product of the Party; and

- (b) imports from the Party into the other Party of the product incorporating such materials have significantly increased in absolute terms or relative to domestic production. Consideration shall also be given to pertinent evidence as regards the effect on conditions of competition for producers of the like or directly competitive products of the other Party.⁸⁹
3. In case of disagreement as to whether the conditions in paragraph 2 are fulfilled, the issue shall be determined through binding arbitration by a Panel established in accordance with Article 14.5 (Establishment of the Arbitration Panel) of Chapter Fourteen (Dispute Settlement) as a case of urgency⁹⁰. Should the Panel rule that the conditions of paragraph 2 are fulfilled, unless otherwise agreed, the Parties shall, normally within 90 days and in no case more than 150 days of the ruling, limit the maximum rate of customs duties on non-originating material for that product that can be refunded to five percent.

TITLE V

PROOF OF ORIGIN

ARTICLE 15: GENERAL REQUIREMENTS

1. Products originating in the EU Party shall, on importation into Korea and products originating in Korea shall, on importation into the EU Party benefit from preferential tariff treatment of this Agreement on the basis of a declaration, subsequently referred to as the “invoice declaration”, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified. The texts of the invoice declarations appear in Annex III.
2. Notwithstanding paragraph 1, originating products within the meaning of this Protocol shall, in the cases specified in Article 21, benefit from preferential tariff treatment of this Agreement without it being necessary to submit any of the documents referred to in paragraph 1.

Article 16: Conditions for Making Out an Invoice Declaration

1. An invoice declaration as referred to in Article 15.1 of this Protocol may be made out:
- (a) by an approved exporter within the meaning of Article 17; or
- (b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed 6,000 euros.

⁸⁹ The base year for the purpose of evaluating the statistical data under this Article will be the average of the latest three years immediately before the entry into force of this Agreement, each year being the fiscal year of January through December. The evidence could be based on an aggregate of all materials used as non-originating material for the product concerned or a subset of such materials. In the latter case, limitations on duty drawback and inward processing would only apply to the subset.

⁹⁰ For greater clarity, no additional consultations other than those foreseen in paragraph 2, for which the deadlines are the same as those of Article 14.3.4, are required before a Party may request the establishment of such Panel. The deadlines for the Panel to issue its ruling are indicated in Article 14.7.2.

2. Without prejudice to paragraph 3, an invoice declaration may be made out if the products concerned can be considered as products originating in the EU Party or in Korea and fulfil the other requirements of this Protocol.
3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned including statements from the suppliers or producers in accordance with domestic legislation as well as the fulfilment of the other requirements of this Protocol.
4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the text which appears in Annex III, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting Party. If the declaration is handwritten, it shall be written in ink in capital characters.
5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 17 shall not be required to sign such declarations provided that he gives the customs authorities of the exporting Party a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.
6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing Party no longer than two years or the period specified in the legislation of the importing Party after the importation of the products to which it relates.

Article 17: Approved Exporter

1. The customs authorities of the exporting Party may authorise any exporter, (hereinafter referred to as “approved exporter”), who exports products under this Agreement to make out invoice declarations irrespective of the value of the products concerned in accordance with appropriate conditions in the respective laws and regulations of the exporting Party. An exporter seeking such authorisation must offer to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Protocol.
2. The customs authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.
3. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the invoice declaration.
4. The customs authorities shall monitor the use of the authorisation by the approved exporter.
5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in

paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

Article 18: Validity of Proof of Origin

1. A proof of origin shall be valid for 12 months from the date of issue in the exporting Party, and preferential tariff treatment shall be claimed within the said period to the customs authorities of the importing Party.
2. Proofs of origin which are submitted to the customs authorities of the importing Party after the final date for presentation specified in paragraph 1 may be accepted for the purpose of preferential tariff treatment in accordance with the respective laws and regulations of the importing Party, where the failure to submit these documents by the final date set is due to exceptional circumstances.
3. In cases of belated presentation other than those of paragraph 2, the customs authorities of the importing Party may accept the proofs of origin in accordance with the procedures of the Parties where the products have been presented before the said final date.

Article 19: Claims for Preferential Tariff Treatment and Submission of Proof of Origin

For the purpose of claiming preferential tariff treatment, proofs of origin shall, if required by the laws and regulations of the importing Party, be submitted to the customs authorities of the importing Party. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the application of this Agreement.

Article 20: Importation by Instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled products within the meaning of General Rule 2(a) of the HS falling within Sections XVI and XVII or headings 7308 and 9406 of the HS are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

Article 21: Exemptions from Proof of Origin

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Protocol and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration may be made on a postal customs declaration or on a sheet of paper annexed to that document.
2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way

of trade if it is evident from the nature and quantity of the products that no commercial purpose is intended.

3. Furthermore, the total value of these products shall not exceed:
 - (a) for importation into the EU Party, 500 euros in the case of small packages or 1,200 euros in the case of products forming part of traveller's personal luggage;
 - (b) for importation into Korea, 1,000 US dollars both in the case of small packages and in the case of the products forming part of traveller's personal luggage.
4. For the purpose of paragraph 3, in cases where the products are invoiced in a currency other than euro or US dollars, amounts in the national currencies of the Parties equivalent to the amounts expressed in euro or US dollars shall be fixed in accordance with the current ex-change rate applicable in the importing Party.

Article 22: Supporting Documents

The documents referred to in Article 16.3 used for the purpose of proving that products covered by proofs of origin can be considered as products originating in the EU Party or in Korea and fulfil the other requirements of this Protocol may consist *inter alia* of the following:

- (a) direct evidence of the processes carried out by the exporter, supplier or producer to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;
- (b) documents proving the originating status of materials used, issued or made out in a Party where these documents are used as provided for in its domestic law;
- (c) documents proving the working or processing of materials in a Party, issued or made out in a Party where these documents are used as provided for in its domestic law;
- (d) proofs of origin proving the originating status of materials used issued or made out in a Party in accordance with this Protocol; and
- (e) appropriate evidence concerning working or processing undergone outside territories of the Parties by application of Article 12, proving that the requirements of that Article have been satisfied.

Article 23: Preservation of Proof of Origin and Supporting Documents

1. The exporter making out an invoice declaration shall keep for five years a copy of this invoice declaration as well as the documents referred to in Article 16.3.
2. The importer shall keep all records related to the importation in accordance with laws and regulations of the importing Party.

3. The customs authorities of the importing Party shall keep for five years the invoice declarations submitted to them.
4. The records to be kept in accordance with paragraphs 1 through 3 may include electronic records.

Article 24: Discrepancies and Formal Errors

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs authorities for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the proof of origin null and void if it is duly established that such document does correspond to the products submitted.
2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

Article 25: Amounts Expressed in Euro

1. For the application of the provisions of Article 16.1(b) in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the Member States of the European Union equivalent to the amounts expressed in euro shall be fixed annually by the EU Party and submitted to Korea.
2. A consignment shall benefit from the provisions of Article 16.1(b) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the EU Party.
3. The amounts to be used in any given national currency of the Member States of the European Union shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The European Commission shall notify Korea of these amounts by 15 October and these amounts shall apply from 1 January the following year.
4. The Member States of the European Union may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euro. The rounded-off amount may not differ from the amount resulting from the conversion by more than five percent. The Member States of the European Union may retain unchanged its national currency equivalent of an amount expressed in euro if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than 15 percent in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.
5. The amounts expressed in euro shall be reviewed by the Customs Committee at the request of a Party. When carrying out this review, the Customs Committee shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.

TITLE VI ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION

Article 26: Exchange of Addresses

The customs authorities of the Parties shall provide each other, through the European Commission, with the addresses of the customs authorities responsible for verifying proofs of origin.

Article 27: Verification of Proofs of Origin

1. In order to ensure the proper application of this Protocol, the Parties shall assist each other, through the customs authorities, in checking the authenticity of the proofs of origin and the correctness of the information given in these documents.
2. Subsequent verifications of proofs of origin shall be carried out at random or whenever the customs authorities of the importing Party have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Protocol.
3. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing Party shall return the proofs of origin or a copy of these documents, to the customs authorities of the exporting Party giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on proof of origin is incorrect shall be forwarded in support of the request for verification.
4. The verification shall be carried out by the customs authorities of the exporting Party. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.
5. If the customs authorities of the importing Party decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.
6. The customs authorities requesting the verification shall be informed of the results of this verification including findings and facts, as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in a Party and fulfil the other requirements of this Protocol.
7. If in cases of reasonable doubt there is no reply within 10 months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities shall except in exceptional circumstances, refuse entitlement to the preference.

8. Notwithstanding Article 2 of the Protocol on Mutual Administrative Assistance in Customs Matters, the Parties will refer to Article 7 of that Protocol for joint enquiries related to proofs of origin.

Article 28: Dispute Settlement

1. Where disputes arise in relation to the verification procedures of Article 27 which cannot be settled between the customs authorities requesting verification and the customs authorities responsible for carrying out this verification or where they raise a question as to the interpretation of this Protocol, they shall be submitted to the Customs Committee.
2. In all cases the settlement of disputes between the importer and the competent authorities of the importing Party shall be under the legislation of the said Party.

Article 29: Penalties

Penalties shall be imposed in accordance with the legislation of the Parties on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining preferential treatment for products.

Article 30: Free Zones

1. The Parties shall take all necessary steps to ensure that products traded under cover of a proof of origin which in the course of transport use a free zone situated in their territories, are not substituted by other products and do not undergo handling other than normal operations designed to prevent their deterioration.
2. By means of an exemption to the provisions contained in paragraph 1, when products originating in a Party enter into a free zone under cover of a proof of origin and undergo treatment or processing, another proof of origin can be made out if the treatment or processing undergone is in conformity with the provisions of this Protocol.

SECTION C

CEUTA AND MELILLA

TITLE VII CEUTA AND MELILLA

Article 31: Application of the Protocol

1. The term “EU Party” does not cover Ceuta and Melilla.
2. Products originating in Korea, when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the European Union under Protocol 2 of the *Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities*.

Korea shall grant to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the EU Party.

3. For the purpose of the application of paragraph 2 concerning products originating in Ceuta and Melilla, this Protocol shall apply *mutatis mutandis* subject to the special conditions set out in Article 32.

Article 32: Special Conditions

1. Providing they have been transported directly in accordance with the provisions of Article 13, the following shall be considered as:
 - (a) products originating in Ceuta and Melilla:
 - (i) products wholly obtained in Ceuta and Melilla; or
 - (ii) products obtained in Ceuta and Melilla in the manufacture of which products other than those referred to in subparagraph (a)(i) are used, provided that:
 - (A) the said products have undergone sufficient working or processing within the meaning of Article 5; or
 - (B) those products originate in a Party, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.
 - (b) products originating in Korea:
 - (i) products wholly obtained in Korea; or
 - (ii) products obtained in Korea, in the manufacture of which products other than those referred to in subparagraph(b)(i) are used, provided that:
 - (A) the said products have undergone sufficient working or processing within the meaning of Article 5; or
 - (B) those products originate in Ceuta and Melilla or in the EU Party, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.
2. Ceuta and Melilla shall be considered as a single territory.
3. The exporter or his authorised representative shall enter “Korea” or “Ceuta and Melilla” on invoice declarations.
4. The Spanish customs authorities shall be responsible for the application of this Protocol in Ceuta and Melilla.

SECTION D

FINAL PROVISIONS

TITLE VIII

FINAL PROVISIONS

Article 33: Amendments to the Protocol

The Trade Committee may decide to amend the provisions of this Protocol.

Article 34: Transitional Provisions for Goods in Transit or Storage

The provisions of this Agreement may be applied to goods which comply with the provisions of this Protocol and which on the date of entry into force of this Agreement are either in transit, in the Parties, in temporary storage in customs warehouses or in free zones, subject to the submission to the customs authorities of the importing Party, within 12 months of that date, of a proof of origin made out retrospectively together with the documents showing that the goods have been transported directly in accordance with Article 13.

ANNEX I

INTRODUCTORY NOTES TO THE LIST IN ANNEX II

Note 1:

The list sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of Article 5 of this Protocol.

Note 2:

- 2.1 The first two columns in the list describe the product obtained. The first column gives the subheading number, heading number or chapter number used in the Harmonized System and the second column gives the description of goods used in that system for that subheading, heading or chapter. For each entry in the first two columns, a rule is specified in column 3 or 4. Where, in some cases, the entry in the first column is preceded by an “ex”, this signifies that the rules in column 3 or 4 apply only to the part of that subheading or heading as described in column 2.
- 2.2 Where several subheading or heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in column 3 or 4 apply to all products which, under the Harmonized System, are classified in subheadings or headings of the chapter or in any of the subheadings or headings grouped together in column 1.
- 2.3 Where there are different rules in the list applying to different products within a subheading or heading, each indent contains the description of that part of the subheading or heading covered by the adjacent rules in column 3 or 4.
- 2.4 Where, for an entry in the first two columns, a rule is specified in both columns 3 and 4, the exporter may opt, as an alternative, to apply either the rule set out in column 3 or that set out in column 4. If no origin rule is given in column 4, the rule set out in column 3 is to be applied.

Note 3:

- 3.1. The provisions of Article 5 of this Protocol, concerning products having acquired originating status which are used in the manufacture of other products, shall apply, regardless of whether this status has been acquired inside the factory where these products are used or in another factory in a Party.

Example:

An engine of heading 8407, for which the rule states that the value of the non-originating materials which may be incorporated may not exceed 50 percent of the ex-works price, is made from materials of heading 7201, 7202, 7203, 7204, 7205, or subheading 7224 10.

If this material has been processed in the EU Party from a non-originating ingot, it has already acquired originating status by virtue of the rule for subheading 7224 90 in the list. The material can then count as originating in the value-calculation for the engine, regardless of whether it was produced in the same factory or in another factory in the EU Party. The value

of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

- 3.2. The rule in the list represents the minimum amount of working or processing required, and the carrying-out of more working or processing also confers originating status; conversely, the carrying-out of less working or processing cannot confer originating status. Thus, if a rule provides that non-originating material, at a certain level of manufacture, may be used, the use of such material at an earlier stage of manufacture is allowed, and the use of such material at a later stage is not.
- 3.3. Without prejudice to Note 3.2, where a rule uses the expression "Manufacture from materials of any heading", then materials of any heading(s) (even materials of the same description and heading as the product) may be used, subject, however, to any specific limitations which may also be contained in the rule. However, the expression "Manufacture from materials of any heading, including other materials of heading..." means that materials of any heading(s) may be used, except those of the same description as the product as given in column 2 of the list.
- 3.4. When a rule in the list specifies that a product may be manufactured from more than one material, this means that one or more materials may be used. It does not require that all be used.

Example:

The rule for fabrics of headings 5208 to 5212 provides that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; it is possible to use one or the other, or both.

- 3.5. Where a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule. (See also Note 6.2 below in relation to textiles.)

Example:

The rule for prepared foods of heading 1904, which specifically excludes the use of cereals and their derivatives, does not prevent the use of mineral salts, chemicals and other additives which are not products produced from cereals.

However, this does not apply to products which, although they cannot be manufactured from the particular materials specified in the list, can be produced from a material of the same nature at an earlier stage of manufacture.

Example:

In the case of an article of apparel of ex Chapter 62 made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth – even if non-woven cloths cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn – that is, the fibre stage.

- 3.6. Where, in a rule in the list, two percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. In other words, the maximum value of all the non-originating materials used may never exceed the higher of the percentages given. Furthermore, the individual percentages must not be exceeded, in relation to the particular materials to which they apply.

Note 4:

- 4.1. The term “natural fibres” is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres which have been carded, combed or otherwise processed, but not spun.
- 4.2. The term “natural fibres” includes horsehair of heading 0503, silk of heading 5002 and 5003, as well as wool-fibres and fine or coarse animal hair of headings 5101 to 5105, cotton fibres of headings 5201 to 5203, and other vegetable fibres of headings 5301 to 5305.
- 4.3. The terms “textile pulp”, “chemical materials” and “paper-making materials” are used in the list to describe the materials, not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.
- 4.4. The term “man-made staple fibres” is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of headings 5501 to 5507.

Note 5:

- 5.1. Where, for a given product in the list, reference is made to this Note, the conditions set out in column 3 shall not be applied to any basic textile materials used in the manufacture of this product and which, taken together, represent 10 percent or less of the total weight of all the basic textile materials used. (See also Notes 5.3 and 5.4 below.)
- 5.2. However, the tolerance mentioned in Note 5.1 may be applied only to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

- silk,
- wool,
- coarse animal hair,
- fine animal hair,
- horsehair,
- cotton,
- paper-making materials and paper,

- flax,
- true hemp,
- jute and other textile bast fibres,
- sisal and other textile fibres of the genus *Agave*,
- coconut, abaca, ramie and other vegetable textile fibres,
- synthetic man-made filaments,
- artificial man-made filaments,
- current-conducting filaments,
- synthetic man-made staple fibres,
- artificial man-made staple fibres,
- yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped,
- yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped,
- products of heading 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film,
- other products of heading 5605.

Example:

A yarn, of heading 5205, made from cotton fibres of heading 5203 and synthetic staple fibres of heading 5506, is a mixed yarn. Therefore, non-originating synthetic staple fibres which do not satisfy the origin-rules (which require manufacture from chemical materials or textile pulp) may be used, provided that their total weight does not exceed 10 percent of the weight of the yarn.

Example:

A woollen fabric, of heading 5112, made from woollen yarn of heading 5107 and synthetic yarn of staple fibres of heading 5509, is a mixed fabric. Therefore, synthetic yarn which does not satisfy the origin-rules (which require manufacture from chemical materials or textile pulp), or woollen yarn which does not satisfy the origin-rules (which require manufacture from natural fibres, not carded or combed or otherwise prepared for spinning), or a combination of the two, may be used, provided that their total weight does not exceed 10 percent of the weight of the fabric.

Example:

Tufted textile fabric, of heading 5802, made from cotton yarn of heading 5205 and cotton fabric of heading 5210, is only a mixed product if the cotton fabric is itself a mixed fabric made from yarns classified in two separate headings, or if the cotton yarns used are themselves mixtures.

Example:

If the tufted textile fabric concerned had been made from cotton yarn of heading 5205 and synthetic fabric of heading 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is, accordingly, a mixed product.

- 5.3. In the case of products incorporating “yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped”, this tolerance is 20 percent in respect of this yarn.
- 5.4. In the case of products incorporating “strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film”, this tolerance is 30 percent in respect of this strip.

Note 6:

- 6.1. Where, in the list, reference is made to this Note, textile materials (with the exception of linings and interlinings), which do not satisfy the rule set out in the list in column 3 for the made-up product concerned, may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed eight percent of the ex-works price of the product.
- 6.2. Without prejudice to Note 6.3, materials, which are not classified within Chapters 50 to 63, may be used freely in the manufacture of textile products, whether or not they contain textiles.

Example:

If a rule in the list provides that, for a particular textile item (such as trousers), yarn must be used, this does not prevent the use of metal items, such as buttons, because buttons are not classified within Chapters 50 to 63. For the same reason, it does not prevent the use of slide-fasteners, even though slide-fasteners normally contain textiles.

- 6.3. Where a percentage-rule applies, the value of materials which are not classified within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

ANNEX II

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

*The products mentioned in the list may not all be covered by this Agreement. It is, therefore,
necessary to consult the other parts of this Agreement.*

HS heading	Description of product	Working or processing, carried out on non-originating materials, which confers originating status	
(1)	(2)	(3) or (4)	
Chapter 1	Live animals	All the animals of Chapter 1 shall be wholly obtained	
Chapter 2	Meat and edible meat offal	Manufacture in which all the materials of Chapters 1 and 2 used are wholly obtained	
Chapter 3	Fish and crustaceans, molluscs and other aquatic invertebrates	Manufacture in which all the materials of Chapter 3 used are wholly obtained	
ex Chapter 4	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included; except for:	Manufacture in which all the materials of Chapter 4 used are wholly obtained	
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials of Chapter 4 used are wholly obtained, - all the fruit juice (except that of pineapple, lime or grapefruit) of heading 2009 used is originating, and - the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product 	
Chapter 5	Products of animal origin, not elsewhere specified or included	Manufacture in which all the materials of Chapter 5 used are wholly obtained	
Chapter 6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials of Chapter 6 used are wholly obtained, and - the value of all the materials used does not exceed 50 % of the ex-works price of the product 	
Chapter 7	Edible vegetables and certain roots and tubers	Manufacture in which all the materials of Chapter 7 used are wholly obtained	
Chapter 8	Edible fruit and nuts; peel of citrus fruits or melons	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the fruit and nuts of Chapter 8 used are wholly obtained, and - the value of all the materials of Chapter 17 used does not exceed 30 % of the value of the ex-works price of the product 	

ex Chapter 9	Coffee, tea, maté and spices; except for:	Manufacture in which all the materials of Chapter 9 used are wholly obtained	
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion	Manufacture from materials of any heading	
ex 0902	Tea, whether or not flavoured, except for:	Manufacture from materials of any heading	
0902 10	Green tea (not fermented) in immediate packings of a content not exceeding 3 kg	Manufacture in which all the materials of Chapter 9 used are wholly obtained	
0910 91	Mixtures of spices	Manufacture from materials of any heading	
Chapter 10	Cereals	Manufacture in which all the materials of Chapter 10 used are wholly obtained	
ex Chapter 11	Products of the milling industry; malt; starches; inulin; wheat gluten; except for:	Manufacture in which all the materials of Chapter 7, 8, 10, 11 and 23 used are wholly obtained	
1106 10	Flour, meal and powder of the dried leguminous vegetables of heading 0713	Manufacture from materials of any heading	
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	Manufacture in which all the materials of Chapter 12 used are wholly obtained	
1301	Lac; natural gums, resins, gum-resins and oleoresins (for example, balsams)	Manufacture in which the value of all the materials of heading 1301 used does not exceed 50 % of the ex-works price of the product	
ex 1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products, except for	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
1302 19	Vegetable saps and extracts; other	Manufacture from materials of any heading, except those of sub-heading 1211 20	
1302 31, 1302 32 and 1302 39	Mucilages and thickeners, whether or not modified, derived from vegetable products	Manufacture from materials of any heading	
Chapter 14	Vegetable plaiting materials; vegetable products not elsewhere specified or included	Manufacture in which all the materials of Chapter 14 used are wholly obtained	
ex Chapter 15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; except for:	Manufacture from materials of any heading, except that of the product	

1501	Pig fat (including lard) and poultry fat, other than that of heading 0209 or 1503	Manufacture from meat or edible offal of swine of heading 0203 or 0206 or of meat and edible offal of poultry of heading 0207. However bones of heading 0506 may not be used
1502	Fats of bovine animals, sheep or goats, other than those of heading 1503	Manufacture in which all the materials of Chapter 2 and bones of heading 0506 used are wholly obtained
1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified	Manufacture from materials of any heading
1505	Wool grease and fatty substances derived therefrom (including lanolin)	Manufacture from materials of any heading
1506	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified:	Manufacture from materials of any heading
1507 to ex 1515	Vegetable oils and their fractions, except for:	Manufacture from materials of any heading, except that of the product
1509 and 1510	Olive oil and its fractions, other oils and their fractions obtained solely from olives	Manufacture in which all the vegetable materials used are wholly obtained
1515 50	Sesame oil and its fractions	Manufacture from materials of any heading, except those of Chapter 12
1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared	Manufacture in which: <ul style="list-style-type: none"> - all the materials of Chapter 2 used are wholly obtained, and - all the vegetable materials of chapter 7, 8, 10, 15 and 23 used are wholly obtained. However, materials of headings 1507, 1508, 1511 and 1513 may be used
1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of heading 1516	Manufacture in which: <ul style="list-style-type: none"> - all the materials of Chapters 2 and 4 used are wholly obtained, and - all the vegetable materials of chapter 7, 8, 10, 15 and 23 used are wholly obtained. However, materials of headings 1507, 1508, 1511 and 1513 may be used
Chapter 16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	Manufacture: <ul style="list-style-type: none"> - from animals of Chapter 1, and/or - in which all the materials of Chapter 3 used are wholly obtained

ex Chapter 17	Sugars and sugar confectionery; except for:	Manufacture from materials of any heading, except that of the product	
1701 91	Cane or beet sugar and chemically pure sucrose, in solid form containing added flavouring or colouring matter	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel		
	- Chemically-pure maltose and fructose	Manufacture from materials of any heading, including other materials of heading 1702	
	- Other sugars in solid form, containing added flavouring or colouring matter	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
	- Other	Manufacture in which all the materials used are originating	
ex 1703	Molasses resulting from the extraction or refining of sugar, containing added flavouring or colouring matter	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
1704	Sugar confectionery (including white chocolate), not containing cocoa	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
Chapter 18	Cocoa and cocoa preparations	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:	Manufacture: - from materials of any heading, except that of the product, - in which all the materials of Chapter 4, heading 1006 and Chapter 11 used are wholly obtained, and - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product.	

ex 1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared, except for:	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the cereals and their derivatives (except durum wheat and its derivatives) of Chapters 10 and 11 used are wholly obtained, and - all the materials of Chapters 2 and 3 used are wholly obtained if they represent more than 20% by weight of the product 	
ex 1902 19	Noodles, uncooked, dried and not stuffed, obtained from flour except of 'durum wheat semolina'	Manufacture from materials of any heading, except that of the product	
ex 1902 30	Ramen ■■■, instant noodles, cooked by heating or frying, and packed with mixed seasonings, including hot pepper powder, salt, garlic flavouring powder and a flavouring base	Manufacture from materials of any heading, except that of the product	
1903	Tapioca and substitutes therefore prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms	Manufacture from materials of any heading, except potato starch of heading 1108	
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included;	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except those of heading 1806, - in which all the cereals and flour of Chapter 10 and 11 (except durum wheat and Zea mays maize, and their derivatives) used are wholly obtained, and - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product 	
ex 1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products, except for:	Manufacture from materials of any heading, except those of Chapter 11	
ex 1905 90	Bakers' wares of rice	Manufacture from materials of any heading, except that of the product	
ex Chapter 20	Preparations of vegetables, fruit, nuts or other parts of plants; except for:	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the fruit, nuts or vegetables of Chapter 7, 8 and 12 used are wholly obtained, and - the value of all the materials of Chapter 17 used does not exceed 30% of the ex-works price of the product 	

2006	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product 	
2008 11	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included; groundnuts	Manufacture from materials of any heading, except that of the product	
2008 19	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included; other, including mixtures	Manufacture in which the value of all the originating nuts and oil seeds of headings 0801, 0802 and 1202 to 1207 used exceeds 60 % of the ex-works price of the product	
2008 91, 2008 92, and 2008 99	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included; other, including mixtures other than those of subheading 2008 19	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product 	
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product 	
ex Chapter 21	Miscellaneous edible preparations; except for:	Manufacture from materials of any heading, except that of the product	
ex 2103	Sauces and preparations therefore; mixed condiments and mixed seasonings: except for:	Manufacture from materials of any heading, except that of the product. However, mustard flour or meal or prepared mustard may be used	
2103 30	Mustard flour and meal and prepared mustard	Manufacture from materials of any heading	
2103 90	Other	Manufacture from materials of any heading	

2104 10	Soups and broths and preparations therefore	Manufacture from materials of any heading, except prepared or preserved vegetables of headings 2002 to 2005	
2105	Ice cream and other edible ice, whether or not containing cocoa	Manufacture in which: <ul style="list-style-type: none"> - the value of all the materials of Chapters 4 used does not exceed 30 % of the ex-works price of the product - the value of all the materials of Chapters 17 used does not exceed 30 % of the ex-works price of the product 	
2106	Food preparations not elsewhere specified or included	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, - in which all the materials of subheadings 1211 20 and 1302 19 used are wholly obtained, and - in which the value of all the materials of Chapter 4 used does not exceed 30 % of the ex-works price of the product, and - the value of all the materials of Chapters 17 used does not exceed 30 % of the ex-works price of the product 	
ex Chapter 22	Beverages, spirits and vinegar; except for:	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which all the grapes or materials derived from grapes used are wholly obtained 	
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, - in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product, - in which all the fruit juice used (except that of pineapple, lime or grapefruit) of heading 2009 is originating, and - in which all the materials of subheadings 1211 20 and 1302 19 used are wholly obtained 	

2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher; ethyl alcohol and other spirits, denatured, of any strength	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except heading 2207 or 2208, and - in which all the grapes or materials derived from grapes used are wholly obtained 	
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except heading 2207 or 2208, and - in which all the grapes or materials derived from grapes used are wholly obtained 	
ex Chapter 23	Residues and waste from the food industries; prepared animal fodder; except for:	Manufacture from materials of any heading, except that of the product	
ex 2301	Whale meal; flours, meals and pellets of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption	Manufacture in which all the materials of Chapters 2 and 3 used are wholly obtained	
2303 10	Residues of starch manufacture and similar residues	Manufacture in which all the maize used is wholly obtained	
2306 90	Oil cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, other than those of heading 2304 or 2305; other	Manufacture in which all the olives of chapter 7 used are wholly obtained	
2309	Preparations of a kind used in animal feeding	<p>Manufacture in which</p> <p>all the materials of Chapters 2, 3, 4, 10, 11 and 17, used are originating</p>	
ex Chapter 24	Tobacco and manufactured tobacco substitutes; except for:	Manufacture in which all the materials of Chapter 24 used are wholly obtained	
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	Manufacture in which at least 70% by weight of the unmanufactured tobacco or tobacco refuse of heading 2401 used is originating	
2403 10	Smoking tobacco	Manufacture in which at least 70% by weight of the unmanufactured tobacco or tobacco refuse of heading 2401 used is originating	
ex Chapter 25	Salt; sulphur; earths and stone; plastering materials, lime and cement; except for:	Manufacture from materials of any heading, except that of the product	
2504 10	Natural graphite in powder or in flakes	Manufacture from materials of any heading	

2515 12	Marble and travertine, merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape	Manufacture from materials of any heading	
2516 12	Granitemerely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape	Manufacture from materials of any heading	
2518 20	Calcined or sintered dolomite	Manufacture from materials of any heading	
ex 2519	Crushed natural magnesium carbonate (magnesite), in hermetically-sealed containers, and magnesium oxide, whether or not pure, other than fused magnesia or dead-burned (sintered) magnesia	Manufacture from materials of any heading, except that of the product. However, natural magnesium carbonate (magnesite) may be used	
ex 2520 20	Plasters specially prepared for dentistry	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
2525 20	Mica powder	Grinding of mica or mica waste	
ex 2530 90	Earth colours, calcined or powdered	Calcination or grinding of earth colours	
Chapter 26	Ores, slag and ash	Manufacture from materials of any heading, except that of the product	
Chapter 27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	Manufacture from materials of any heading	
Chapter 28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes;	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 29	Organic chemicals; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 2905 19	Metal alcoholates of alcohols of this heading and of ethanol	Manufacture from materials of any heading, including other materials of heading 2905. However, metal alcoholates of this heading may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
2915	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives.	Manufacture from materials of any heading. However, the value of all the materials of headings 2915 and 2916 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product

ex 2932	- Internal ethers and their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading. However, the value of all the materials of heading 2909 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
	- Cyclic acetals and internal hemiacetals and their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
2933	Heterocyclic compounds with nitrogen hetero-atom(s) only	Manufacture from materials of any heading. However, the value of all the materials of headings 2932 and 2933 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
2934	Nucleic acids and their salts, whether or not chemically defined; other heterocyclic compounds	Manufacture from materials of any heading. However, the value of all the materials of headings 2932, 2933 and 2934 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex Chapter 30	Pharmaceutical products; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
3001	Glands and other organs for organo-therapeutic uses, dried, whether or not powdered; extracts of glands or other organs or of their secretions for organo-therapeutic uses; heparin and its salts; other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included	Manufacture from materials of any heading	
3002	Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products.	Manufacture from materials of any heading	
3006 91	Appliances identifiable for ostomy use	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 31	Fertilizers; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

ex 3105	Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorous and potassium; other fertilizers; goods of this chapter, in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, except for: - sodium nitrate - calcium cyanamide - potassium sulphate - magnesium potassium sulphate	Manufacture: - from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product, and - in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3201	Tannins and their salts, ethers, esters and other derivatives	Manufacture from tanning extracts of vegetable origin	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3204	Synthetic organic colouring matter, whether or not chemically defined; preparations as specified in note 3 to this chapter based on synthetic organic colouring matter; synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, whether or not chemically defined	Manufacture from materials of any heading	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3205	Colour lakes; preparations as specified in note 3 to this chapter based on colour lakes ⁽⁹¹⁾	Manufacture from materials of any heading, except headings 3203, 3204 and 3205. However, materials of heading 3205 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3206	Other colouring matter; preparations as specified in note 3 to this chapter, other than those of heading 3203, 3204 or 3205; inorganic products of a kind used as luminophores, whether or chemically defined	Manufacture from materials of any heading	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

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Note 3 to Chapter 32 says that these preparations are those of a kind used for colouring any material or used as ingredients in the manufacture of colouring preparations, provided that they are not classified in another heading in Chapter 32.

ex Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils	Manufacture from materials of any heading, including materials of a different "group" ⁽⁹²⁾ in this heading. However, materials of the same group as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3404	Artificial waxes and prepared waxes with a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
ex Chapter 35	Albuminoidal substances; modified starches; glues; enzymes; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3505	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches: - Starch ethers and esters - Other	Manufacture from materials of any heading, including other materials of heading 3505 Manufacture from materials of any heading, except those of heading 1108	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

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A "group" is regarded as any part of the heading separated from the rest by a semicolon.

ex 3507	Prepared enzymes not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Chapter 36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 37	Photographic or cinematographic goods; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3701	Photographic plates and film in the flat, sensitised, unexposed, of any material other than paper, paperboard or textiles; instant print film in the flat, sensitised, unexposed, whether or not in packs: - Instant print film for colour photography, in packs - Other	Manufacture from materials of any heading, except those of headings 3701 and 3702. However, materials of heading 3702 may be used, provided that their total value does not exceed 30 % of the ex-works price of the product Manufacture from materials of any heading, except those of headings 3701 and 3702. However, materials of headings 3701 and 3702 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3702	Photographic film in rolls, sensitised, unexposed, of any material other than paper, paperboard or textiles; instant print film in rolls, sensitised, unexposed	Manufacture from materials of any heading, except those of headings 3701 and 3702	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3704	Photographic plates, film paper, paperboard and textiles, exposed but not developed	Manufacture from materials of any heading, except those of headings 3701 to 3704	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 38	Miscellaneous chemical products; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3803 00	Refined tall oil	Refining of crude tall oil	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

ex 3805 10	Spirits of sulphate turpentine, purified	Purification by distillation or refining of raw spirits of sulphate turpentine	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3806 30	Ester gums	Manufacture from resin acids	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3808	Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly-papers)	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products
3809	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products
3810	Pickling preparations for metal surfaces; fluxes and other auxiliary preparations for soldering, brazing or welding; soldering, brazing or welding powders and pastes consisting of metal and other materials; preparations of a kind used as cores or coatings for welding electrodes or rods	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products
3811	Anti-knock preparations, oxidation inhibitors, gum inhibitors, viscosity improvers, anti-corrosive preparations and other prepared additives, for mineral oils (including gasoline) or for other liquids used for the same purposes as mineral oils	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products
3812	Prepared rubber accelerators; compound plasticisers for rubber or plastics, not elsewhere specified or included; anti-oxidizing preparations and other compound stabilizers for rubber or plastics	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products
3813	Preparations and charges for fire-extinguishers; charged fire-extinguishing grenades	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3814	Organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product

3818	Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms; chemical compounds doped for use in electronics	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3819	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70 % by weight of petroleum oils or oils obtained from bituminous minerals	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3820	Anti-freezing preparations and prepared de-icing fluids	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Ex 3821 00	Prepared culture media for maintenance of micro-organisms (including viruses and the like) or of plant, human or animal cells	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3822	Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols:		
3823 11 to 3823 19	- Industrial monocarboxylic fatty acids, acid oils from refining	Manufacture from materials of any heading, except that of the product	
3823 70	- Industrial fatty alcohols	Manufacture from materials of any heading, including other materials of heading 3823	
3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products
3901 to 3921	Plastics in primary forms, waste, parings and scrap, of plastic; semi-manufactures and articles of plastics	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 25% of the ex-works price of the product
3907 30 and 3907 40	Epoxide resins; polycarbonates	Manufacture from materials of any heading	
3907 20 and 3907 91	Other polyethers; other polyesters	Manufacture from materials of any heading	
3922 to 3926	Articles of plastics	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	

ex Chapter 40	Rubber and articles thereof; except for:	Manufacture from materials of any heading, except that of the product	
4005	Compounded rubber, unvulcanised, in primary forms or in plates, sheets or strip	Manufacture in which the value of all the materials used, except natural rubber, does not exceed 50 % of the ex-works price of the product	
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, tyre treads and tyre flaps, of rubber:		
Ex 4012 11, ex 4012 12, ex 4012 13 and ex 4012 19.	- Retreaded pneumatic, solid or cushion tyres, of rubber	Retreading of used tyres	
	- Other	Manufacture from materials of any heading, except those of headings 4011 and 4012	
ex 4017	Articles of hard rubber	Manufacture from hard rubber	
ex Chapter 41	Raw hides and skins (other than furskins) and leather; except for:	Manufacture from materials of any heading, except that of the product	
4102 21 and 4102 29	Raw skins of sheep or lambs, without wool on	Removal of wool from sheep or lamb skins, with wool on,	
		or	
		Manufacture from materials of any heading, except that of the product	
4104 to 4106	Tanned or crust hides and skins, without wool or hair on, whether or not split, but not further prepared	Retanning of tanned leather	
		or	
		Manufacture from materials of any heading, except that of the product	
Chapter 42	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk worm gut)	Manufacture from materials of any heading, except that of the product	
ex Chapter 43	Furskins and artificial fur; manufactures thereof; except for:	Manufacture from materials of any heading, except that of the product	
ex 4302 30	Tanned or dressed furskins, assembled:		
	- Plates, crosses and similar forms	Bleaching or dyeing, in addition to cutting and assembly of non-assembled tanned or dressed furskins	
	- Other	Manufacture from non-assembled, tanned or dressed furskins	
4303	Articles of apparel, clothing accessories and other articles of fur skin	Manufacture from non-assembled tanned or dressed furskins of heading 4302	

ex Chapter 44	Wood and articles of wood; wood charcoal; except for:	Manufacture from materials of any heading, except that of the product	
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	Manufacture from materials of any heading	
ex 4407	Wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm, planed, sanded or end-jointed	Planing, sanding or end-jointing	
ex 4408	Sheets for veneering (including those obtained by slicing laminated wood) and for plywood, of a thickness not exceeding 6 mm, spliced, and other wood sawn lengthwise, sliced or peeled of a thickness not exceeding 6 mm, planed, sanded or end-jointed	Splicing, planing, sanding or end-jointing	
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed:	Manufacture of materials of any heading	
ex 4410 to ex 4413	Beatings and mouldings, including moulded skirting and other moulded boards	Beading or moulding	
ex 4415 10	Packing cases, boxes, crates, drums and similar packings, of wood	Manufacture from boards not cut to size	
ex 4416 00	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood	Manufacture from riven staves, not further worked than sawn on the two principal surfaces	
ex 4418	- Builders' joinery and carpentry of wood - Beatings and mouldings	Manufacture from materials of any heading, except that of the product. However, cellular wood panels, shingles and shakes may be used Beading or moulding	
ex 4421 90	Match splints; wooden pegs or pins for footwear	Manufacture from wood of any heading, except drawn wood of heading 4409	
ex Chapter 45	Cork and articles of cork; except for:	Manufacture from materials of any heading, except that of the product	
4503	Articles of natural cork	Manufacture from cork of heading 4501	
Chapter 46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork	Manufacture from materials of any heading, except that of the product	

Chapter 47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	Manufacture from materials of any heading, except that of the product	
ex Chapter 48	Paper and paperboard; articles of paper pulp, of paper or of paperboard; except for:	Manufacture from materials of any heading, except that of the product	
4816	Carbon paper, self-copy paper and other copying or transfer papers (other than those of heading 4809), duplicator stencils and offset plates, of paper, whether or not put up in boxes	Manufacture from paper-making materials of Chapter 47	
4817	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
4818 10	Toilet paper	Manufacture from paper-making materials of Chapter 47	
ex 4820 10	Letter pads	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans; except for:	Manufacture from materials of any heading, except that of the product	
4909	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings	Manufacture from materials of any heading, except those of headings 4909 and 4911	
ex Chapter 50	Silk; except for:	Manufacture from materials of any heading, except that of the product	
ex 5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock), carded or combed	Carding or combing of silk waste	

5004 to ex 5006	Silk yarn and yarn spun from silk waste	<p>Manufacture from ⁽⁹³⁾:</p> <ul style="list-style-type: none"> - raw silk or silk waste, carded or combed or otherwise prepared for spinning, - other natural fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5007	<p>Woven fabrics of silk or of silk waste:</p> <ul style="list-style-type: none"> - Incorporating rubber thread - Other 	<p>Manufacture from single yarn ⁽⁹⁴⁾</p> <p>Manufacture from ⁽⁹⁵⁾:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product</p>	
ex Chapter 51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric; except for:	Manufacture from materials of any heading, except that of the product	
5106 to 5110	Yarn of wool, of fine or coarse animal hair or of horsehair	<p>Manufacture from ⁽⁹⁶⁾:</p> <ul style="list-style-type: none"> - raw silk or silk waste, carded or combed or otherwise prepared for spinning, - natural fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials 	

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

5111 to 5113	Woven fabrics of wool, of fine or coarse animal hair or of horsehair: - Incorporating rubber thread - Other	Manufacture from single yarn ⁽⁹⁷⁾ Manufacture from ⁽⁹⁸⁾ : - coir yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product	
ex Chapter 52	Cotton; except for:	Manufacture from materials of any heading, except that of the product	
5204 to 5207	Yarn and thread of cotton	Manufacture from ⁽⁹⁹⁾ : - raw silk or silk waste, carded or combed or otherwise prepared for spinning, - natural fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials	
5208 to 5212	Woven fabrics of cotton: - Incorporating rubber thread - Other	Manufacture from single yarn ⁽¹⁰⁰⁾ Manufacture from ⁽¹⁰¹⁾ :	

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

		<ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product	
ex Chapter 53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn; except for:	Manufacture from materials of any heading, except that of the product	
5306 to 5308	Yarn of other vegetable textile fibres; paper yarn	Manufacture from ⁽¹⁰²⁾ : <ul style="list-style-type: none"> - raw silk or silk waste, carded or combed or otherwise prepared for spinning, - natural fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5309 to 5311	Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn: <ul style="list-style-type: none"> - Incorporating rubber thread - Other 	Manufacture from single yarn ⁽¹⁰³⁾ Manufacture from ⁽¹⁰⁴⁾ : <ul style="list-style-type: none"> - coir yarn, - jute yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper or	

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For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

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		Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product	
5401 to 5406	Yarn, monofilament and thread of man-made filaments	Manufacture from ⁽¹⁰⁵⁾ : <ul style="list-style-type: none"> - raw silk or silk waste, carded or combed or otherwise prepared for spinning, - natural fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5407 and 5408	Woven fabrics of man-made filament yarn: <ul style="list-style-type: none"> - Incorporating rubber thread - Other 	Manufacture from single yarn ⁽¹⁰⁶⁾ Manufacture from ⁽¹⁰⁷⁾ : <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product	
5501 to 5507	Man-made staple fibres	Manufacture from chemical materials or textile pulp	

¹⁰⁵ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹⁰⁶ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹⁰⁷ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

5508 to 5511	Yarn and sewing thread of man-made staple fibres	<p>Manufacture from ⁽¹⁰⁸⁾:</p> <ul style="list-style-type: none"> - raw silk or silk waste, carded or combed or otherwise prepared for spinning, - natural fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5512 to 5516	<p>Woven fabrics of man-made staple fibres:</p> <ul style="list-style-type: none"> - Incorporating rubber thread - Other 	<p>Manufacture from single yarn ⁽¹⁰⁹⁾</p> <p>Manufacture from ⁽¹¹⁰⁾:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product</p>	
ex Chapter 56	Wadding, felt and non-wovens; special yarns; twine, cordage, ropes and cables and articles thereof; except for:	<p>Manufacture from ⁽¹¹¹⁾:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - chemical materials or textile pulp, or - paper-making materials 	
5602	<p>Felt, whether or not impregnated, coated, covered or laminated:</p> <ul style="list-style-type: none"> - Needleloom felt 	<p>Manufacture from ⁽¹¹²⁾:</p> <ul style="list-style-type: none"> - natural fibres, or - chemical materials or textile pulp <p>However:</p>	

¹⁰⁸ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹⁰⁹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹⁰ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

		<ul style="list-style-type: none"> - polypropylene filament of heading 5402, - polypropylene fibres of heading 5503 or 5506, or - polypropylene filament tow of heading 5501, <p>of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used, provided that their total value does not exceed 40 % of the ex-works price of the product</p>	
5604	Rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated, coated, covered or sheathed with rubber or plastics:	<p>- Other</p> <p>Manufacture from ⁽¹¹³⁾:</p> <ul style="list-style-type: none"> - natural fibres, - man-made staple fibres made from casein, or - chemical materials or textile pulp 	
5604 10	- Rubber thread and cord, textile covered	Manufacture from rubber thread or cord, not textile covered	
5604 90	- Other	<p>Manufacture from ⁽¹¹⁴⁾:</p> <ul style="list-style-type: none"> - natural fibres, not carded or combed or otherwise processed for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5605	Metallised yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal	<p>Manufacture from ⁽¹¹⁵⁾:</p> <ul style="list-style-type: none"> - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5606	Gimped yarn, and strip and the like of heading 5404 or 5405, gimped (other than those of heading 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn	<p>Manufacture from ⁽¹¹⁶⁾:</p> <ul style="list-style-type: none"> - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, - chemical materials or textile pulp, or - paper-making materials 	

¹¹² For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹³ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹⁴ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹⁵ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹⁶ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

Chapter 57	<p>Carpets and other textile floor coverings:</p> <ul style="list-style-type: none"> - Of needleloom felt - Of other felt - Other 	<p>Manufacture from ⁽¹¹⁷⁾:</p> <ul style="list-style-type: none"> - natural fibres, or - chemical materials or textile pulp <p>However:</p> <ul style="list-style-type: none"> - polypropylene filament of heading 5402, - polypropylene fibres of heading 5503 or 5506, or - polypropylene filament tow of heading 5501, <p>of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used, provided that their total value does not exceed 40 % of the ex-works price of the product</p> <p>Jute fabric may be used as a backing</p> <p>Manufacture from ⁽¹¹⁸⁾:</p> <ul style="list-style-type: none"> - natural fibres, not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp <p>Manufacture from ⁽¹¹⁹⁾:</p> <ul style="list-style-type: none"> - coir yarn or jute yarn, - synthetic or artificial filament yarn, - natural fibres, or - man-made staple fibres, not carded or combed or otherwise processed for spinning <p>Jute fabric may be used as a backing</p>	
ex Chapter 58	<p>Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery; except for:</p> <ul style="list-style-type: none"> - Combined with rubber thread - Other 	<p>Manufacture from single yarn ⁽¹²⁰⁾</p> <p>Manufacture from ⁽¹²¹⁾:</p>	

¹¹⁷ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹⁸ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹¹⁹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹²⁰ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹²¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

		<ul style="list-style-type: none"> - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product	
5805	Hand-woven tapestries of the types Gobelins, Flanders, Aubusson, Beauvais and the like, and needle-worked tapestries (for example, petit point, cross stitch), whether or not made up	Manufacture from materials of any heading, except that of the product	
5810	Embroidery in the piece, in strips or in motifs	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50 % of the ex-works price of the product 	
5901	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations	Manufacture from yarn	
5902	Tyre cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon: <ul style="list-style-type: none"> - Containing not more than 90 % by weight of textile materials - Other 	Manufacture from yarn Manufacture from chemical materials or textile pulp	

5903	Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902	<p>Manufacture from yarn</p> <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product</p>
5904	Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape	Manufacture from yarn ⁽¹²²⁾
5905	Textile wall coverings:	
	- Impregnated, coated, covered or laminated with rubber, plastics or other materials	Manufacture from yarn
	- Other	<p>Manufacture from ⁽¹²³⁾:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product</p>
5906	Rubberised textile fabrics, other than those of heading 5902:	
	- Knitted or crocheted fabrics	<p>Manufacture from ⁽¹²⁴⁾:</p> <ul style="list-style-type: none"> - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp

¹²²

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹²³

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹²⁴

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

	- Other fabrics made of synthetic filament yarn, containing more than 90 % by weight of textile materials	Manufacture from chemical materials
	- Other	Manufacture from yarn
5907	Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio back-cloths or the like	Manufacture from yarn or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, rasing, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5 % of the ex-works price of the product
5908	Textile wicks, woven, plaited or knitted, for lamps, stoves, lighters, candles or the like; incandescent gas mantles and tubular knitted gas mantle fabric therefor, whether or not impregnated:	
	- Incandescent gas mantles, impregnated	Manufacture from tubular knitted gas-mantle fabric
	- Other	Manufacture from materials of any heading, except that of the product
5909 to 5911	Textile articles of a kind suitable for industrial use:	
	- Polishing discs or rings other than of felt of heading 5911	Manufacture from yarn or waste fabrics or rags of heading 6310
	- Woven fabrics, of a kind commonly used in papermaking or other technical uses, felted or not, whether or not impregnated or coated, tubular or endless with single or multiple warp and/or weft, or flat woven with multiple warp and/or weft of heading 5911	Manufacture from ⁽¹²⁵⁾ : - coir yarn, - the following materials: -- yarn of polytetrafluoroethylene ⁽¹²⁶⁾ , -- yarn, multiple, of polyamide, coated, impregnated or covered with a phenolic resin, -- yarn of synthetic textile fibres of aromatic polyamides, obtained by polycondensation of <i>m</i> -phenylenediamine and isophthalic acid,

¹²⁵

For special conditions relating to products made of a mixture of textile materials, see Introductory note 5

¹²⁶

The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery.

	- Other	<ul style="list-style-type: none"> -- monofil of polytetrafluoroethylene (¹²⁷), -- yarn of synthetic textile fibres of poly(<i>p</i>-phenylene terephthalamide), -- glass fibre yarn, coated with phenol resin and gimped with acrylic yarn (¹²⁸), -- copolyester monofilaments of a polyester and a resin of terephthalic acid and 1,4-cyclohexanediethanol and isophthalic acid, -- natural fibres, -- man-made staple fibres not carded or combed or otherwise processed for spinning, or -- chemical materials or textile pulp <p>Manufacture from (¹²⁹):</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp 	
Chapter 60	Knitted or crocheted fabrics	<p>Manufacture from (¹³⁰):</p> <ul style="list-style-type: none"> - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp 	
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted	<p>Spinning of natural and/or man-made staple fibres, or extrusion of man-made filament yarn, accompanied by knitting (knitted to shape products) ¹³¹</p> <p>or</p> <p>Knitting and making up including cutting (assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form) ^{132 133}</p>	

¹²⁷ The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery.

¹²⁸ The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery.

¹²⁹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹³⁰ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5

¹³¹ See Introductory Note 5

¹³² See Introductory Note 5

¹³³ See Introductory Note 6

ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted; except for:	<p>Weaving accompanied by making-up (including cutting) ^{134 135}</p> <p>or</p> <p>Embroidering accompanied by making up (including cutting), provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product ¹³⁶</p> <p>or</p> <p>Coating accompanied by making up (including cutting), provided that the value of the uncoated fabric used does not exceed 40 % of the ex-works price of the product ¹³⁷</p> <p>or</p> <p>Making-up preceded by printing accompanied by at least two preparatory finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product ^{138 139}</p>	
ex 6217	<p>Other made up clothing accessories; parts of garments or of clothing accessories, other than those of heading 6212:</p> <p>Interlinings for collars and cuffs, cut out</p>	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 40 % of the ex-works price of the product 	
ex Chapter 63	Other made-up textile articles; sets; worn clothing and worn textile articles; rags; except for:	Manufacture from materials of any heading, except that of the product	
6301 to 6304	<p>Blankets, travelling rugs, bed linen etc.; curtains etc.; other furnishing articles:</p> <ul style="list-style-type: none"> - Of felt, of nonwovens 	<p>Manufacture from (¹⁴⁰):</p> <ul style="list-style-type: none"> - natural fibres, or - chemical materials or textile pulp 	

¹³⁴ See Introductory Note 5

¹³⁵ See Introductory Note 6

¹³⁶ See Introductory Note 6

¹³⁷ See Introductory Note 6

¹³⁸ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹³⁹ See Introductory Note 6.

¹⁴⁰ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

	- Other:	
	-- Embroidered	Manufacture from unbleached single yarn (¹⁴¹)(¹⁴²) or Manufacture from unembroidered fabric (other than knitted or crocheted), provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product
	-- Other	Manufacture from unbleached single yarn (¹⁴³)(¹⁴⁴)
6305	Sacks and bags, of a kind used for the packing of goods	Manufacture from (¹⁴⁵): - natural fibres, - man-made staple fibres, not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp
6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods: - Of nonwovens - Other	Manufacture from (¹⁴⁶)(¹⁴⁷): - natural fibres, or - chemical materials or textile pulp Manufacture from unbleached single yarn (¹⁴⁸)(¹⁴⁹)
6307	Other made-up articles, including dress patterns	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes, or similar textile articles, put up in packings for retail sale	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided that their total value does not exceed 15 % of the ex-works price of the set

¹⁴¹ See Introductory Note 6.

¹⁴² For knitted or crocheted articles, not elastic or rubberised, obtained by sewing or assembling pieces of knitted or crocheted fabrics (cut out or knitted directly to shape), see Introductory Note 6.

¹⁴³ See Introductory Note 6.

¹⁴⁴ For knitted or crocheted articles, not elastic or rubberised, obtained by sewing or assembling pieces of knitted or crocheted fabrics (cut out or knitted directly to shape), see Introductory Note 6.

¹⁴⁵ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹⁴⁶ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹⁴⁷ See Introductory Note 6.

¹⁴⁸ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

¹⁴⁹ See Introductory Note 6.

ex Chapter 64	Footwear, gaiters and the like; parts of such articles; except for:	Manufacture from materials of any heading, except from assemblies of uppers affixed to inner soles or to other sole components of heading 6406	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product
6406	Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable in-soles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof	Manufacture from materials of any heading, except that of the product	
ex Chapter 65	Headgear and parts thereof; except for:	Manufacture from materials of any heading, except that of the product	
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	Manufacture from yarn or textile fibres ⁽¹⁵⁰⁾	
ex Chapter 66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops, and parts thereof; except for:	Manufacture from materials of any heading, except that of the product	
6601	Umbrellas and sun umbrellas (including walking-stick umbrellas, garden umbrellas and similar umbrellas)	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Chapter 67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	Manufacture from materials of any heading, except that of the product	
ex Chapter 68	Articles of stone, plaster, cement, asbestos, mica or similar materials; except for:	Manufacture from materials of any heading, except that of the product	
ex 6803 00	Articles of slate or of agglomerated slate	Manufacture from worked slate	
ex 6812	Articles of asbestos; articles of mixtures with a basis of asbestos or of mixtures with a basis of asbestos and magnesium carbonate	Manufacture from materials of any heading	
ex 6814	Articles of mica, including agglomerated or reconstituted mica, on a support of paper, paperboard or other materials	Manufacture from worked mica (including agglomerated or reconstituted mica)	
Chapter 69	Ceramic products	Manufacture from materials of any heading, except that of the product	
ex Chapter 70	Glass and glassware; except for:	Manufacture from materials of any heading, except that of the product	

¹⁵⁰

See Introductory Note 6.

7006	<p>Glass of heading 7003, 7004 or 7005, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials:</p> <ul style="list-style-type: none"> - Glass-plate substrates, coated with a dielectric thin film, and of a semiconductor grade in accordance with SEMII-standards ⁽¹⁵¹⁾ - Other 	<p>Manufacture from non-coated glass-plate substrate of heading 7006</p> <p>Manufacture from materials of heading 7001</p>
7007	Safety glass, consisting of toughened (tempered) or laminated glass	Manufacture from materials of heading 7001
7008	Multiple-walled insulating units of glass	Manufacture from materials of heading 7001
7009	Glass mirrors, whether or not framed, including rear-view mirrors	Manufacture from materials of heading 7001
7010	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass	<p>Manufacture from materials of any heading, except that of the product</p> <p>or</p> <p>Cutting of glassware, provided that the total value of the uncut glassware used does not exceed 50 % of the ex-works price of the product</p>
7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading 7010 or 7018)	<p>Manufacture from materials of any heading, except that of the product</p> <p>or</p> <p>Cutting of glassware, provided that the total value of the uncut glassware used does not exceed 50 % of the ex-works price of the product</p> <p>or</p> <p>Hand-decoration (except silk-screen printing) of hand-blown glassware, provided that the total value of the hand-blown glassware used does not exceed 50 % of the ex-works price of the product</p>
ex 7019	Articles (other than yarn) of glass fibres	<p>Manufacture from:</p> <ul style="list-style-type: none"> - uncoloured slivers, rovings, yarn or chopped strands, or - glass wool

¹⁵¹

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ex Chapter 71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin; except for:	Manufacture from materials of any heading, except that of the product	
7101	Pearls, natural or cultured, whether or not worked or graded but not strung, mounted or set; pearls, natural or cultured temporarily strung for convenience of transport	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product
7102, 7103 and 7104	Diamonds, other precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture from unworked precious or semi-precious stones or Manufacture from materials of any heading, except that of the product	
7106, 7108 and 7110	Precious metals: - Unwrought	Manufacture from materials of any heading, except those of headings 7106, 7108 and 7110 or Electrolytic, thermal or chemical separation of precious metals of heading 7106, 7108 or 7110 or Alloying of precious metals of heading 7106, 7108 or 7110 with each other or with base metals	
	- Semi-manufactured or in powder form	Manufacture from unwrought precious metals	
7107, 7109 and 7111	Metals clad with precious metals, not further worked than semi-manufactured	Manufacture from materials of any heading	
7116	Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
7117	Imitation jewellery	Manufacture from materials of any heading, except that of the product or Manufacture from base metal parts, not plated or covered with precious metals, provided that the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 72	Iron and steel; except for:	Manufacture from materials of any heading, except that of the product	
7207	Semi-finished products of iron or non-alloy steel	Manufacture from materials of heading 7201, 7202, 7203, 7204, 7205 or 7206	

7208 to 7216	Flat-rolled products, bars and rods, angles, shapes and sections of iron or non-alloy steel	Manufacture from ingots or other primary forms or semi-finished materials of heading 7206 or 7207	
7217	Wire of iron or non-alloy steel	Manufacture from semi-finished materials of heading 7207	
7218 91 and 7218 99	Semi-finished products	Manufacture from materials of heading 7201, 7202, 7203, 7204, 7205 or 7218 10	
7219 to 7222	Flat-rolled products, bars and rods, angles, shapes and sections of stainless steel	Manufacture from ingots or other primary forms or semi-finished materials of heading 7218	
7223	Wire of stainless steel	Manufacture from semi-finished materials of heading 7218	
7224 90	Semi-finished products	Manufacture from materials of heading 7201, 7202, 7203, 7204 7205 or 7224 10	
7225 to 7228	Flat-rolled products, hot-rolled bars and rods, in irregularly wound coils; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel	Manufacture from ingots or other primary forms or semi-finished products of heading 7206, 7207, 7218 or 7224	
7229	Wire of other alloy steel	Manufacture from semi-finished materials of heading 7224	
ex Chapter 73	Articles of iron or steel; except for:	Manufacture from materials of any heading, except that of the product	
7301 10	Sheet piling	Manufacture from materials of heading 7206	
7302	Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Manufacture from materials of heading 7206	
7304, 7305 and 7306	Tubes, pipes and hollow profiles, of iron (other than cast iron) or steel	Manufacture from materials of heading 7206, 7207, 7218 or 7224	
7307 21 to 7307 29	Tube or pipe fittings of stainless steel	Turning, drilling, reaming, threading, deburring and sandblasting of forged blanks, provided that the total value of the forged blanks used does not exceed 35 % of the ex-works price of the product	

7308	Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Manufacture from materials of any heading, except that of the product. However, welded angles, shapes and sections of heading 7301 may not be used
7315 20	Skid chain	Manufacture in which the value of all the materials of heading 7315 used does not exceed 50 % of the ex-works price of the product
ex Chapter 74	Copper and articles thereof; except for:	Manufacture from materials of any heading, except that of the product.
7403 21, 7403 22 and 7403 29	Copper alloys	Manufacture from materials of any heading
7407	Copper bars, rods and profiles	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product
7408	Copper wire	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product
7409	Copper plates, sheets and strip, of a thickness exceeding 0,15 mm	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product
7410	Copper foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,15 mm	Manufacture: <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product

7411	Copper tubes and pipes	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product 	
Chapter 75	Nickel and articles thereof	Manufacture from materials of any heading, except that of the product	
ex Chapter 76	Aluminium and articles thereof; except for:	Manufacture from materials of any heading, except that of the product	
7601	Unwrought aluminium	<p>Manufacture from materials of any heading, except that of the product</p> <p>or</p> <p>Manufacture by thermal or electrolytic treatment from unalloyed aluminium or waste and scrap of aluminium</p>	
7604	Aluminium bars, rods and profiles	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product 	
7605	Aluminium wire	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product 	
7606	Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product 	
7607	Aluminium foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Manufacture from materials of any heading, except that of the product and heading 7606	

7608	Aluminium tubes and pipes	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product 	
7609	Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50% of the ex-works price of the product 	
7616 99	Other articles of aluminium	Manufacture from materials of any heading	
Chapter 77	Reserved for possible future use in the HS		
ex Chapter 78	Lead and articles thereof; except for:	Manufacture from materials of any heading, except that of the product	
7801	Unwrought lead	Manufacture from materials of any heading, except that of the product. However, waste and scrap of heading 7802 may not be used	
ex Chapter 79	Zinc and articles thereof; except for:	Manufacture from materials of any heading, except that of the product.	
7901	Unwrought zinc	Manufacture from materials of any heading, except that of the product. However, waste and scrap of heading 7902 may not be used	
Chapter 80	Tin and articles thereof	Manufacture from materials of any heading, except that of the product	
Chapter 81	Other base metals; cermets; articles thereof	Manufacture from materials of any heading	
ex Chapter 82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal; except for:	Manufacture from materials of any heading, except that of the product	
8206	Tools of two or more of the headings 8202 to 8205, put up in sets for retail sale	Manufacture from materials of any heading, except those of headings 8202 to 8205. However, tools of headings 8202 to 8205 may be incorporated into the set, provided that their total value does not exceed 15 % of the ex-works price of the set	

8207 13 to 8207 30	Rock drilling or earth-boring tools ; dies for drawing or extruding metal; tools for pressing, stamping or punching	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 40 % of the ex-works price of the product 	
8207 40 to 8207 90	Tools for tapping or threading; tools for drilling, other than for rock-drilling; tools for boring or broaching; tools for milling; tools for turning; other interchangeable tools	Manufacture from materials of any heading, except that of the product	
8208	Knives and cutting blades, for machines or for mechanical appliances	Manufacture from materials of any heading, except that of the product	
8211 10 to 8211 93 and 8211 95	Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208	Manufacture from materials of any heading, except that of the product. However, knife blades and handles of base metal may be used	
8214	Other articles of cutlery (for example, hair clippers, butchers' or kitchen cleavers, choppers and mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files)	Manufacture from materials of any heading, except that of the product. However, handles of base metal may be used	
8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware	Manufacture from materials of any heading, except that of the product. However, handles of base metal may be used	
ex Chapter 83	Miscellaneous articles of base metal; except for:	Manufacture from materials of any heading, except that of the product	
8302 41	Other mountings, fittings and similar articles suitable for buildings	Manufacture from materials of any heading, except that of the product. However, other materials of heading 8302 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
8302 60	Automatic door closers	Manufacture from materials of any heading, except that of the product. However, other materials of heading 8302 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
8306 21 to 8306 29	Statuettes and other ornaments, of base metal	Manufacture from materials of any heading, except that of the product. However, other materials of heading 8306 may be used, provided that their total value does not exceed 30 % of the ex-works price of the product	
ex Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof; except for:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

8401	Nuclear reactors; fuel elements (cartridges), non-irradiated, for nuclear reactors; machinery and apparatus for isotopic separation	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8404	Auxiliary plant for use with boilers of heading 8402 or 8403; condensers for steam or other vapour power units	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45 % of the ex-works price of the product
8407	Spark-ignition reciprocating or rotary internal combustion piston engines	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8423	Weighing machinery (excluding balances of a sensitivity of 5 cg or better), including weight operated counting or checking machines; weighing machine weights of all kinds	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8425	Pulley tackle and hoist other than skip hoist; winches and capstans; jacks	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8426	Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8427	Fork-lift trucks; other works trucks fitted with lifting or handling equipment	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8428	Other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics)	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8429	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8430	Other moving, grading, levelling, scrapping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; piledrivers and pile extractors; snowploughs and snowblowers	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8432	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sport-ground rollers	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product

8433	Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8434	Milking machines and dairy machinery	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8443	Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	
8444	Machines for extruding, drawing, texturing or cutting man-made textile materials	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8445	Machines for preparing textile fibres; spinning, doubling or twisting machines and other machinery for producing textile yarns; textile reeling or winding (including weft-winding) machines and machines for preparing textile yarns for use on the machines of heading 8446 or 8447	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8446	Weaving machines (looms)	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8447	Knitting machines, stitch-bonding machines and machines for making gimped yarn, tulle, lace, embroidery, trimmings, braid or net and machines for tufting	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8456	Machine tools for working any material by removal of material, by laser or other light or photon beam, ultrasonic, electrodischarge, electrochemical, electron beam, ionic-beam or plasma arc processes	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8457	Machining centres, unit construction machines (single station) and multi-station transfer machines, for working metal	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8458	Lathes (including turning centres) for removal metal	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product

8459	Machine tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centres) of heading 8458	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8460	Machine tools for deburring, sharpening, grinding, honing, lapping, polishing or otherwise finishing metal or cerments by means of grinding stones, abrasives or polishing products, other than gear cutting, gear grinding or gear finishing machines of heading 8461	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8461	Machine tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine tools working by removing metal or cerments, not elsewhere specified or included	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8462	Machine tools (including presses) for working metal by forging, hammering or die-stamping; machine tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching; presses for working metal or metal carbides, not specified above	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8463	Other machines tools for working metal or cerments, without removing material	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8464	Machine tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8465	Machine tools (including machines for nailing, stapling, glueing or otherwise assembling) for working wood, cork, bone, hard rubber, hard plastics or similar hard materials	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8466	Parts and accessories suitable for use solely or principally with the machines of headings 8456 to 8465, including work or tool holders, self-opening dieheads, dividing heads and other special attachments for machine tools; tool holders for any type of tool for working in the hand	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8467	Tools for working in the hand, pneumatic, hydraulic or with self-contained electronic or non-electric motor	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product

8469	Typewriters other than printers of heading 8443; word-processing machines	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8470	Calculating machines and pocket-size data-recording, reproducing and displaying machines with calculating functions; accounting machines, postage-franking machines, ticket-issuing machines and similar machines, incorporating a calculating device; cash registers	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8471	Automatic data-processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8474	Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cement, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8480	Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
ex Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles; except for:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8504	Electrical transformers, static converters (for example, rectifiers) and inductors	Manufacture in which the value of all the materials used does not exceed 45 % of the ex-works price of the product	
8505	Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetisation; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

8508	Vacuum cleaners	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8509	Electromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8511	Electrical ignition or starting equipment of a kind used for spark-ignition or compression-ignition internal combustion engines; generators and cut-outs of a kind used in conjunction with such engines	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8512	Electrical lighting or signalling equipment (excluding articles of heading 8539), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8514	Industrial or laboratory electric furnaces and ovens (including those functioning by induction or dielectric loss); other industrial or laboratory equipment for the heat treatment of materials by induction or dielectric loss	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8515	Electric (including electrically heated gas), laser or other light or photon beam, ultrasonic, electron beam, magnetic pulse or plasma arc soldering, brazing or welding machines and apparatus, whether or not capable of cutting; electric machines and apparatus for hot spraying of metals or cermets	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8516	Electric instantaneous or storage water heaters and immersion heaters; electric space-heating apparatus and soil-heating apparatus; electrothermic hairdressing apparatus and hand dryers; electric smoothing irons, other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8519	Sound recording or sound reproducing apparatus	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	

8523	Discs, tapes, solid-state non-volatile storage devices, 'smart cards' and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of Chapter 37	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8525	Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8527	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	
8528	Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	
8529	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
8530	Electrical signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields (other than those of heading 8608)	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8531	Electric sound or visual signalling apparatus (for example, bells, sirens, indicator, panels, burglar or fire alarms) other than those of heading 8512 or 8530	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp holders and other connectors, junction boxes), for a voltage not exceeding 1 000 V; connectors for optical fibres, optical fibre bundles or cables	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

8538	Parts suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8539	Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc lamps	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8540	Thermionic, cold cathode or photocathode valves and tubes	Manufacture in which the value of all the materials used does not exceed 45 % of the ex-works price of the product	
8542 31 to 8542 33 and 8542 39	Monolithic integrated circuits	Manufacture from materials of any heading, except that of the product or The operation of diffusion, in which integrated circuits are formed on a semi-conductor substrate by the selective introduction of an appropriate dopant, whether or not assembled and/or tested in a non-party	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
8544	Insulated (including enamelled or anodised) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8545	Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8546	Electrical insulators of any material	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	
8547	Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating materials apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly, other than insulators of heading 8546; electrical conduit tubing and joints therefor, of base metal lined with insulating material	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	

8548	Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter	Manufacture in which the value of all the materials used does not exceed 45 % of the ex-works price of the product	
ex Chapter 86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds; except for:	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8601 10	Rail locomotives powered from an external source of electricity	Manufacture from materials of any heading, except that of the product	
8603 10	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604, powered from an external source of electricity	Manufacture from materials of any heading, except that of the product	
8608	Railway or tramway track fixtures and fittings; mechanical (including electromechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 40 % of the ex-works price of the product 	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8701 to 8707 and 8712	Vehicles other than railway or tramway rolling-stock; bodies and chassis fitted with engines for the motor vehicles of headings 8701 to 8705; bicycles	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	
8708 to 8711 and 8713 to 8716	Parts and accessories for vehicles of headings 8701 to 8705 and 8711 to 8713; Motorcycles; Works trucks and parts thereof; carriages; baby carriages and parts thereof; Trailers and semi-trailers and parts thereof	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 88	Aircraft, spacecraft, and parts thereof; except for:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 8804 00	Rotochutes	Manufacture from materials of any heading, including other materials of heading 8804	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
8805	Aircraft launching gear; deck-arrestor or similar gear; ground flying trainers; parts of the foregoing articles	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

Chapter 89	Ships, boats and floating structures	Manufacture from materials of any heading, except that of the product. However, hulls of heading 8906 may not be used	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof; except for:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
9001	Optical fibres and optical fibre bundles; optical fibre cables other than those of heading 8544; sheets and plates of polarising material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9002	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9012	Microscopes other than optical microscopes; diffraction apparatus	Manufacture from materials of any heading, except that of the product	
9013	Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this chapter	Manufacture from materials of any heading, except that of the product	
9020	Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters	Manufacture from materials of any heading, except that of the product	
9022	Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like	Manufacture from materials of any heading, except that of the product	

9027	Instruments and apparatus for physical or chemical analysis; instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9030	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionising radiations	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9032	Automatic regulating or controlling instruments and apparatus	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 91	Clocks and watches and parts thereof; except for:	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9105	Other clocks	Manufacture in which: <ul style="list-style-type: none"> - the value of all the materials used does not exceed 40 % of the ex-works price of the product, and - the value of all the non-originating materials used does not exceed the value of all the originating materials used 	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9109	Clock movements, complete and assembled	Manufacture in which: <ul style="list-style-type: none"> - the value of all the materials used does not exceed 40 % of the ex-works price of the product, and - the value of all the non-originating materials used does not exceed the value of all the originating materials used 	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

9110	Complete watch or clock movements, unassembled or partly assembled (movement sets); incomplete watch or clock movements, assembled; rough watch or clock movements	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - the value of all the materials used does not exceed 40 % of the ex-works price of the product, and - within the above limit, the value of all the materials of heading 9114 used does not exceed 10 % of the ex-works price of the product 	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9111	Watch cases and parts thereof	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 40 % of the ex-works price of the product 	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9112	Clock cases and cases of a similar type for other goods of this chapter, and parts thereof	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 40 % of the ex-works price of the product 	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9113	Watch straps, watch bands and watch bracelets, and parts thereof:		
Ex 9113 10 and 9113 20	<ul style="list-style-type: none"> - Of metal clad with precious metal or of base metal, whether or not gold- or silver-plated - Other 	<p>Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product</p> <p>Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product</p>	
Chapter 92	Musical instruments; parts and accessories of such articles	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
Chapter 93	Arms and ammunition; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings; except for:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
9406	Prefabricated buildings	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 95	Toys, games and sports requisites; parts and accessories thereof; except for:	Manufacture from materials of any heading, except that of the product	
ex 9503	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50 % of the ex-works price of the product 	
9506 31 and 9506 39	Golf clubs and other golf equipment	Manufacture from materials of any heading, except that of the product. However, roughly-shaped blocks for making golf-club heads may be used	
ex Chapter 96	Miscellaneous manufactured articles; except for:	Manufacture from materials of any heading, except that of the product	
9601 and 9602	<p>Worked ivory, bone, tortoiseshell,</p> <p>horn, antlers, coral, mother-of-pearl</p> <p>and other animal carving material,</p> <p>and articles of these materials</p> <p>(including articles obtained by Moulding).</p> <p>Worked vegetable or mineral carving material and articles of these materials; moulded or carved articles of wax, of stearin, of natural gums or natural resins or of modelling pastes, and other moulded or carved articles, not elsewhere specified or included; worked, unhardened gelatin (except gelatine of heading 3503) and articles of unhardened gelatin s</p>	Manufacture from materials of any heading	

Ex 9603 10, ex 9603 40 and 9603 90	Brooms and brushes (except for besoms and the like and brushes made from marten or squirrel hair), hand-operated mechanical floor sweepers, not motorized, paint pads and rollers, squeegees and mops	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
9605	Travel sets for personal toilet, sewing or shoe or clothes cleaning	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided that their total value does not exceed 15% of the ex-works price of the set	
9606	Buttons, press-fasteners, snap-fasteners and press-studs, button moulds and other parts of these articles; button blanks	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
9608	Ball-point pens; felt-tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609	Manufacture from materials of any heading, except that of the product. However, nibs or nib-points of the same heading as the product may be used	
9612	Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
9613 20	Pocket lighters, gas fuelled, refillable	Manufacture in which the value of all the materials of heading 9613 used does not exceed 30 % of the ex-works price of the product	
ex 9614	Smoking pipes and pipe bowls	Manufacture from roughly-shaped blocks	
Chapter 97	Works of art, collectors' pieces and antiques	Manufacture from materials of any heading, except that of the product	

ANNEX II(a)

ADDENDUM TO THE LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

Common provisions

1. For the products described below, the following rules may also apply instead of the rules set out in Annex II for products originating in Korea, however limited by an annual quota.
2. A proof of origin made out pursuant to this Annex shall contain the following statement in English: “Derogation – Annex II(a) of Protocol ...”.
3. Products can be imported into the EU Party under these derogations upon the provision of a declaration signed by the approved exporter certifying that the products concerned satisfy the conditions of the derogation.
4. As far as a proof of origin is made out for the derogation on surimi preparations (ex 1604 20), the proof of origin shall be accompanied by documentary evidence that the surimi preparation is composed at least of 40 percent of fish per weight of the product and that Alaska Pollak (*theragra Chalcogramma*) species has been used as the primary ingredient of the surimi base.¹⁵²
5. As far as a proof of origin is made out for dyed woven fabrics (5408 22 and 5408 32) the proof of origin shall be accompanied by documentary evidence that the undyed fabric used does not exceed 50 percent of the ex-work price of the product.
6. In the EU Party, any quantities referred to in this Annex shall be managed by the European Commission, which shall take all administrative actions it deems advisable for their efficient management in respect of the applicable legislation of the EU Party.
7. The quotas indicated in the table below will be managed by the European Commission on a first-come, first-served basis. The quantities exported from Korea to the EU Party under these derogations will be calculated on the basis of the imports into the EU Party.

¹⁵² In case of a need the concept of primary ingredient shall be interpreted by the Customs Committee in accordance with Article 28 of this Protocol.

HS heading	Description of the product	Working or processing carried out on non-originating materials that confers originating status	<u>Annual quota</u> <u>for exports from Korea into the EU</u>
(1)	(2)	(3)	(4)
ex 1604 20	Preparations of surimi which are at least composed of 40% of fish per weight of the product and which uses as primary ingredient of the surimi base Alaska Pollak (theragra Chalcogramma) species ¹⁵³	<i>Manufacture from materials of chapter 3</i>	Annual quota for year 1: 2000 Metric tons Annual quota year 2: 2500 Metric tons Annual quota year 3 and onwards: 3500 Metric tons
ex 1905 90	Biscuits	Manufacture from materials of any heading, except that of the product	Annual quota of 270 Metric tons
2402 20	Cigarettes containing tobacco	Manufacture from materials of any heading, except that of the product	Annual quota of 250 Metric tons
5204	Cotton sewing thread, whether or not put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 86 Metric tons
5205	Cotton yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 2310 Metric tons
5206	Cotton yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 377 Metric tons
5207	Cotton yarn (other than sewing thread) put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 92 Metric tons
5408	Woven fabrics of man-made filament yarn	Manufacture from man-made filament yarns or Dyeing accompanied by at least 2 preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the undyed fabric used does not exceed 50 % of the ex-works price of the product	Annual quota of 17, 805, 290 square meters equivalent (SME)
5508	Sewing thread of man-made staple fibres, whether or not put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 286 Metric tons
5509	Yarn (other than sewing thread) of synthetic staple fibres, not put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 3437 Metric tons
5510	Yarn (other than sewing thread) of artificial staple fibres, not put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 1718 Metric tons
5511	Yarn (other than sewing thread) of man-made staple fibres, put up for retail sale	Manufacture from man-made staple fibres, not carded or combed or otherwise prepared for spinning	Annual quota of 203 Metric tons

¹⁵³

See especially paragraph 4 in common provisions.

ANNEX III

TEXT OF THE INVOICE DECLARATION

The invoice declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

Bulgarian version

Износителят на продуктите, обхванати от този документ (митническо разрешение № ... (1)) декларира, че освен където е отбелязано друго, тези продукти са с ... преференциален произход (2).

Spanish version

El exportador de los productos incluidos en el presente documento (autorización aduanera n° ... (1)) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial ... (2).

Czech version

Vývozce výrobků uvedených v tomto dokumentu (číslo povolení ... (1)) prohlašuje, že kromě zřetelně označených, mají tyto výrobky preferenční původ v ... (2).

Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ... (1)), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ... (2).

German version

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ... (1)) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anderes angegeben, präferenzbegünstigte ... (2) Ursprungswaren sind.

Estonian version

Käesoleva dokumendiga hõlmatud toodete eksportija (tolliameti kinnitus nr. ... (1)) deklareerib, et need tooted on ... (2) sooduspäritoluga, välja arvatud juhul kui on selgelt näidatud teisiti.

Greek version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο (άδεια τελωνείου υπ' αριθ. ... (1)) δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησηακής καταγωγής ... (2).

English version

The exporter of the products covered by this document (customs authorization No ... (1)) declares that, except where otherwise clearly indicated, these products are of ... (2) preferential origin.

French version

L'exportateur des produits couverts par le présent document (autorisation douanière n° ... (1)) déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ... (2).

Italian version

L'esportatore delle merci contemplate nel presente documento (autorizzazione doganale n. ... (1)) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ... (2).

Latvian version

Eksportētājs produktiem, kuri ietverti šajā dokumentā (muitas pilnvara Nr. ... (1)), deklarē, ka, izņemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir priekšrocību izcelsme no ... (2).

Lithuanian version

Šiame dokumente išvardintų prekių eksportuotojas (muitinės liudijimo Nr. ... (1)) deklaruoja, kad, jeigu kitaip nenurodyta, tai yra ... (2) preferencinės kilmės prekės.

Hungarian version

A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: ... (1)) kijelentem, hogy eltérő jelzés hiányában az áruk kedvezményes ... (2) származásúak.

Maltese version

L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. ... (1)) jiddikjara li, hlief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali ... (2).

Dutch version

De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ... (1)), verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn (2).

Polish version

Eksporter produktów objętych tym dokumentem (upoważnienie władz celnych nr ... (1)) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają ... (2) preferencyjne pochodzenie.

Portuguese version

O abaixo assinado, exportador dos produtos cobertos pelo presente documento (autorização aduaneira n.º. ... (1)), declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ... (2).

Romanian version

Exportatorul produselor ce fac obiectul acestui document (autorizația vamală nr. ... (1)) declară că, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferențială ... (2).

Slovenian version

Izvoznik blaga, zajetega s tem dokumentom (pooblastilo carinskih organov št ... (1)) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialno ... (2) poreklo.

Slovak version

Vývozca výrobkov uvedených v tomto dokumente (číslo povolenia ... (1)) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v ... (2).

Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa n:o ... (1)) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperätuotteita (2).

Swedish version

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr. ... (1)) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung (2).

Korean version

이 서류(세관인증번호... (1))의 적용대상이 되는 상품의 수출자는, 달리 명확하게

표시되는 경우를 제외하고, 이 상품은... (2)의 특혜원산지상품임을 신고한다.

.....(3)

(Place and date)

.....(4)

(Signature of the exporter, in addition to the name of the person signing the declaration has to be indicated in clear script)

Notes

(1) When the invoice declaration is made out by an approved exporter, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank

(2) Origin of products to be indicated. When the invoice declaration relates, in whole or in part, to products originating in Ceuta and Melilla, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(3) These indications may be omitted if the information is contained on the document itself.

(4) In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

ANNEX IV

COMMITTEE ON OUTWARD PROCESSING ZONES ON THE KOREAN PENINSULA

1. Recognising the Republic of Korea's constitutional mandate and security interests, and both Parties' commitment to promoting peace and prosperity on the Korean Peninsula, and the importance of intra-Korean economic co-operation toward that goal, a Committee on Outward Processing Zones on the Korean Peninsula is established pursuant to Article 15.2.1 (Specialised Committees). The Committee shall review whether the conditions on the Korean Peninsula are appropriate for further economic development through the establishment and development of outward processing zones.
2. The Committee shall be comprised of officials of the Parties. The Committee shall meet on the first anniversary of the entry into force of this Agreement and at least once annually thereafter, or at any time as mutually agreed.
3. The Committee shall identify geographic areas that may be designated outward processing zones. The Committee shall determine whether any such outward processing zone has met the criteria established by the Committee. The Committee shall also establish a maximum threshold for the value of the total input of the originating final good that may be added within the geographic area of the outward processing zone.

JOINT DECLARATION

CONCERNING THE PRINCIPALITY OF ANDORRA

1. Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the HS shall be accepted by Korea as originating in the EU Party within the meaning of this Agreement.
2. The Protocol Concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation shall apply *mutatis mutandis* for the purpose of defining the originating status of the above-mentioned products.

JOINT DECLARATION

CONCERNING THE REPUBLIC OF SAN MARINO

1. Products originating in the Republic of San Marino shall be accepted by Korea as originating in the EU Party within the meaning of this Agreement.
2. The Protocol Concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation shall apply *mutatis mutandis* for the purpose of defining the originating status of the above-mentioned products.

JOINT DECLARATION

CONCERNING THE REVISION OF THE RULES OF ORIGIN CONTAINED IN THE PROTOCOL CONCERNING THE DEFINITION OF ‘ORIGINATING PRODUCTS’ AND METHODS OF ADMINISTRATIVE CO-OPERATION

1. The Parties agree to review the rules of origin contained in the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation and discuss the necessary amendments upon request of one of the Parties. While discussing the amendments to the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation, the Parties shall take into account the development of technologies, production processes, price fluctuations and all other factors, which might justify the changes to the rules of origin.
2. Annex II to the Protocol concerning the Definition of ‘Originating Products’ and Methods of Administrative Co-operation will be adapted in accordance with the periodical changes to the HS.

JOINT DECLARATION ON THE EXPLANATORY NOTES

The Parties agree to the necessity to establish Explanatory Notes to this Protocol. The Notes shall be implemented by the Parties in accordance with their internal procedures.

EXPLANATORY NOTES

1. For the purposes of Article 1, manufacture includes harvesting, trapping, producing, breeding and disassembly.
2. For the purposes of Article 1(g), **ascertainable** means “established in accordance with the Customs Valuation Agreement”.
3. For the purposes of Article 5.1(b), the value of non-originating material can be acquired by deducting from the ex-works price of the product the value of originating material, including self-produced originating material used in producing the resulting non-originating material.
4. The value of originating material that is self-produced includes all the costs incurred in the production of the material and an amount for profit equivalent to the profit added in the normal course of trade.
5. For the purposes of Article 6, “simple” describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction. Chemical reaction means a process, including a biochemical process, which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in molecule.
6. For the purposes of Article 10, neutral elements, for example, will include:
 - (a) energy and fuel;
 - (b) plant and equipment;
 - (c) machines and tools; and
 - (d) goods which do not enter and which are not intended to enter into the final composition of the product.
7. For the purposes of Article 11, **identical and interchangeable materials** means materials being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes, once they are incorporated into the finished product.
8. For the purposes of Article 11, specific “period” will be determined in accordance with the relevant domestic laws and regulations of each Party.
9. Only for the following specific reasons, the preferential treatment may be refused without verification of the proof of origin as the proof can be considered as inapplicable when:
 - (a) the requirements on direct transport of Article 13 have not been fulfilled;

- (b) the proof of origin is produced subsequently for goods that were initially imported fraudulently;
- (c) the proof of origin has been issued by an exporter from a non-party to this Agreement;
- (d) the importer fails to submit a proof of origin to the customs authorities of the importing Party within the period specified in legislation of the importing Party.

10. For the purposes of the Joint Declaration concerning the Principality of Andorra, the customs authorities of the Principality of Andorra shall be responsible for the application of the Joint Declaration in the principality of Andorra.

11. For the purposes of the Joint Declaration concerning the Republic of San Marino, the customs authorities of the Italian Republic shall be responsible for the application of the Joint Declaration in the Republic of San Marino.

PROTOCOL

ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

Article 1: Definitions

For the purposes of this Protocol:

- (a) **customs legislation** shall mean any legal or regulatory provisions applicable in the territories of the Parties, governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;
- (b) **applicant authority** shall mean a competent administrative authority which has been designated by a Party for this purpose and which makes a request for assistance on the basis of this Protocol;
- (c) **requested authority** shall mean a competent administrative authority which has been designated by a Party for this purpose and which receives a request for assistance on the basis of this Protocol;
- (d) **personal data** shall mean all information relating to an identified or identifiable individual;
- (e) **operation in breach of customs legislation** shall mean any violation or attempted violation of customs legislation.

Article 2: Scope

1. The Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.
2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.
3. Assistance to recover duties, taxes or fines is not covered by this Protocol.

Article 3: Assistance on Request

1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is

correctly applied, including information regarding activities noted or planned which are or could be operations in breach of customs legislation.

2. At the request of the applicant authority, the requested authority shall inform it:
 - (a) whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods;
 - (b) whether goods imported into the territory of one of the Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of the applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:
 - (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
 - (b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;
 - (c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;
 - (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

Article 4: Spontaneous Assistance

The Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

- (a) activities which are or appear to be operations in breach of customs legislation and which may be of interest to the other Party;
- (b) new means or methods employed in carrying out operations in breach of customs legislation;
- (c) goods known to be subject to operations in breach of customs legislation;
- (d) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

- (e) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

Article 5: Delivery, Notification

At the request of the applicant authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures in order:

- (a) to deliver any documents; or
- (b) to notify any decisions,

emanating from the applicant authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.

Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

Article 6: Form and Substance of Requests for Assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.
2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the applicant authority;
 - (b) the measure requested;
 - (c) the object of and the reason for the request;
 - (d) the legal or regulatory provisions and other legal elements involved;
 - (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;
 - (f) a summary of the relevant facts and of the enquiries already carried out.
3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority.
4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the meantime precautionary measures may be ordered.

Article 7: Execution of Requests

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own.
2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Party.
3. Duly authorised officials of a Party may, with the agreement of the other Party involved and subject to the conditions laid down by the latter, be present to obtain in the offices of the requested authority or any other concerned authority in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.
4. Duly authorised officials of a Party involved may, with the agreement of the other Party involved and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

Article 8: Form in which Information is to be Communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in writing together with relevant documents, certified copies or other items.
2. This information may be in computerised form.
3. Original documents shall be transmitted only upon request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

Article 9: Exceptions to the Obligation to Provide Assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements, in cases where a Party is of the opinion that assistance under this Protocol would:
 - (a) be likely to prejudice the sovereignty of a Member State of the European Union or that of Korea which has been requested to provide assistance under this Protocol; or
 - (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10.2; or
 - (c) violate an industrial, commercial or professional secret.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.
3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.
4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons therefore must be communicated to the applicant authority without delay.

Article 10: Information Exchange and Confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Party that received it and the corresponding provisions applying to European Union authorities.
2. Personal data may be exchanged only where the Party which may receive them undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Party that may supply them.
3. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, is considered to be for the purposes of this Protocol. Therefore, the Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.
4. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

Article 11: Experts and Witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will

have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

Article 12: Assistance Expenses

The Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

Article 13: Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of Korea and on the other hand to the competent services of the European Commission and the customs authorities of the Member States of the European Union as appropriate. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in particular in the field of data protection. They may recommend to the competent bodies amendments which they consider should be made to this Protocol.
2. The Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

Article 14: Other Agreements

1. Taking into account the respective competences of the European Union and the Member States of the European Union, the provisions of this Protocol shall:
 - (a) not affect the obligations of the Parties under any other international agreement or convention;
 - (b) be deemed complementary to agreements on mutual assistance which have been or may be concluded between individual Member States of the European Union and Korea; and
 - (c) not affect the European Union provisions governing the communication between the competent services of the European Commission and the customs authorities of the Member States of the European Union of any information obtained under this Protocol which could be of interest to the European Union.
2. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual assistance which has been or may be concluded between individual Member States of the European Union and Korea insofar as the provisions of the latter are incompatible with those of this Protocol.

3. In respect of questions relating to the applicability of this Protocol, the Parties shall consult each other to resolve the matter in the framework of the Customs Committee set up under Article 6.16 (Customs Committee) of this Agreement.

PROTOCOL

ON CULTURAL CO-OPERATION

The Parties,

After having ratified the *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions* adopted in Paris on 20 October 2005 (the “UNESCO Convention”), which entered into force on 18 March 2007, according to the procedure set in Article 15.10.3 (Entry into force), intending to effectively implement the UNESCO Convention and to co-operate within the framework of its implementation, building upon the principles of the Convention and developing actions in line with its provisions;

Recognising the importance of the cultural industries and the multi-faceted nature of cultural goods and services as activities of cultural, economic and social value;

Recognising that the process supported by this Agreement adds up to a global strategy aimed at promoting equitable growth and the reinforcement of economic, trade and cultural co-operation between the Parties;

Recalling that the objectives of this Protocol are complemented and supported by existing and future policy instruments managed in other frameworks, with a view to:

- (a) reinforcing the capacities and independence of the Parties’ cultural industries;
- (b) promoting local/regional cultural content;
- (c) recognising, protecting and promoting cultural diversity as a condition for a successful dialogue between cultures; and
- (d) recognising, protecting and promoting cultural heritage, as well as promoting its recognition by local populations and recognising its value as a means for expressing cultural identities;

Stressing the importance of facilitating cultural co-operation between the Parties, and for that purpose to take into account, on a case by case basis, *inter alia*, the degree of development of their cultural industries, the level and structural imbalances of cultural exchanges and the existence of schemes for the promotion of local/regional cultural content,

agree as follows:

Article 1: Scope, Objectives and Definitions

1. Without prejudice to the other provisions of this Agreement, this Protocol sets up the framework within which the Parties shall co-operate for facilitating exchanges regarding cultural activities, goods and services, including *inter alia*, in the audio-visual sector.
2. The exclusion of audio-visual services from the scope of Chapter Seven (Trade in Services, Establishment and Electronic Commerce) is without prejudice to the

rights and obligations derived from this Protocol. For any issue relating to the implementation of this Protocol, the Parties shall have recourse to the procedures provided under Articles 3 and 3bis.

3. While preserving and further developing their capacity to elaborate and implement their cultural policies, with a view to protecting and promoting cultural diversity, the Parties shall endeavor to collaborate with the aim of improving the conditions governing their exchanges of cultural activities, goods and services and redressing the structural imbalances and asymmetrical patterns which may exist in exchanges.
4. For the purposes of this Protocol:

cultural diversity, cultural content, cultural expressions, cultural activities, goods and services, and cultural industries have the same meaning as defined and used in the UNESCO Convention; and

artists and other cultural professionals and practitioners means natural persons that perform cultural activities, produce cultural goods or participate in the direct supply of cultural services.

SECTION A

HORIZONTAL PROVISIONS

Article 2: Cultural Exchanges and Dialogue

1. The Parties shall aim at fostering their capacities to determine and develop their cultural policies, developing their cultural industries and enhancing exchange opportunities for cultural goods and services of the Parties, including through entitlement to benefit from schemes for the promotion of local/regional cultural content.
2. The Parties shall co-operate to foster the development of a common understanding and enhanced exchange of information on cultural and audio-visual matters through a dialogue, as well as on good practices in the field of intellectual property rights protection. This dialogue will take place within the Committee on Cultural Co-operation as well as in other relevant forums as and when appropriate.

Article 3: Committee on Cultural Co-operation

1. No later than six months after this Protocol is applied, a Committee on Cultural Co-operation shall be established. The Committee on Cultural Co-operation shall comprise senior officials from within the administration of each Party who have expertise and experience in cultural matters and practices.
2. The Committee on Cultural Co-operation shall meet within the first year after this Protocol is applied, and thereafter as necessary and at least once a year, to oversee the implementation of this Protocol.

3. By derogation from the institutional provisions of Chapter Fifteen (Institutional, General and Final Provisions), the Trade Committee shall have no jurisdiction over this Protocol and the Committee on Cultural Co-operation shall exercise all functions of the Trade Committee as regards this Protocol, where such functions are relevant for the purposes of implementing this Protocol.
4. Each Party shall designate an office within its administration that shall serve as a Domestic Contact Point with the other Party for the purposes of implementing this Protocol.
5. Each Party shall establish a Domestic Advisory Group(s) on cultural co-operation, comprised of cultural and audio-visual representatives active in the fields covered by this Protocol, to be consulted on issues related to the implementation of this Protocol.
6. A Party may request consultations with the other Party in the Committee on Cultural Co-operation regarding any matter of mutual interest arising under this Protocol. The Committee on Cultural Co-operation shall thereafter promptly convene and make every attempt to arrive at a mutually satisfactory resolution of the matter. In doing so the Committee on Cultural Co-operation may seek the advice of either or both Parties' Domestic Advisory Group(s) and each Party may seek the advice of its own Domestic Advisory Group(s).

Article 3bis: Dispute Settlement

Unless the Parties agree otherwise, and only in case the matter referred to in Article 3.6 of this Protocol has not been satisfactorily addressed through the consultation procedure set out therein, Chapter Fourteen (Dispute Settlement) shall apply to this Protocol subject to the following modifications:

- (a) All the references in Chapter Fourteen (Dispute Settlement) to the Trade Committee shall be understood as referring to the Committee on Cultural Co-operation;
- (b) For the purposes of Article 14.5 (Establishment of the Arbitration Panel), the Parties shall endeavour to agree on arbitrators having necessary knowledge and experience on the subject matters of this Protocol. In the event that the Parties are unable to agree on the composition of the arbitration panel, the selection by the lot, as set out in Article 14.5.3, will take place from the list established under subparagraph (c) and not from the list established under Article 14.18 (List of Arbitrators);
- (c) The Committee on Cultural Co-operation shall, promptly after its establishment, establish a list of 15 individuals who are willing and able to serve as arbitrators. Each Party shall propose five individuals to serve as arbitrators. The Parties shall also select five individuals who are not nationals of either Party and who shall act as chairperson to the arbitration panel. The Committee on Cultural Co-operation will ensure that the list is always maintained at this level. Arbitrators shall have knowledge and experience on the subject matter of this Protocol. In serving as arbitrators, they shall be independent, serve in their individual capacity and not take

instructions from any organisation or government with regard to matters related to the dispute, and shall comply with Annex 14-C (Code of Conduct for Members of Arbitration Panels and Mediators);

- (d) In selecting obligations to suspend pursuant to Article 14.11.2 (Temporary Remedies in case of Non-compliance) in a dispute arising under this Protocol, the complaining Party may only suspend obligations arising from this Protocol; and
- (e) Notwithstanding Article 14.11.2, in selecting obligations to suspend in disputes other than those arising under this Protocol, the complaining Party may not suspend obligations arising from this Protocol.

Article 4: Artists and Other Cultural Professionals and Practitioners

1. The Parties shall endeavour to facilitate, in conformity with their respective legislation, the entry into and temporary stay in their territories of artists and other cultural professionals and practitioners from the other Party, who cannot avail themselves of commitments undertaken on the basis of Chapter Seven (Trade in Services, Establishment and Electronic Commerce) and who are either:

- (a) artists, actors, technicians and other cultural professionals and practitioners from the other Party involved in the shooting of cinematographic films or television programmes; or
- (b) artists and other cultural professionals and practitioners such as visual, plastic and performing artists and instructors, composers, authors, providers of entertainment services and other similar professionals and practitioners from the other Party involved in cultural activities such as, for example, the recording of music or contributing an active part to cultural events such as literary fairs and festivals, among other activities,

provided that they are not engaged in selling their services to the general public or in supplying their services themselves, do not on their own behalf receive any remuneration from a source located within the Party where they are staying temporarily, and are not engaged in the supply of a service in the framework of a contract concluded between a legal person who has no commercial presence in the Party where the artist or other cultural professional or practitioner is staying temporarily and a consumer in that Party.

2. The entry into, and temporary stay in territories of the Parties under paragraph 1, when allowed, shall be for a period of up to 90 days in any 12 month period.
3. The Parties shall endeavour to facilitate, in conformity with their respective legislation, the training of, and increased contacts between, artists and other cultural professionals and practitioners such as:
 - (a) theatrical producers, singer groups, band and orchestra members;
 - (b) authors, composers, sculptors, entertainers and other individual artists;

- (c) artists and other cultural professionals and practitioners participating in the direct supply of circus, amusement park and similar attraction services; and
- (d) artists and other cultural professionals and practitioners participating in the direct supply of ballroom or discotheque services and dance instructors.

SECTION B

SECTORAL PROVISIONS

SUB-SECTION A

PROVISIONS RELATED TO AUDIO-VISUAL WORKS

Article 5: Audio-visual Co-productions

1. For the purposes of this Protocol, a **co-production** means an audio-visual work produced by producers of both Korea and the EU Party into which those producers have invested in accordance with the terms of this Protocol¹⁵⁴.
2. The Parties shall encourage the negotiation of new and implementation of existing co-production agreements between one or several Member States of the European Union and Korea. The Parties reaffirm that the Member States of the European Union and Korea may grant financial benefits to co-produced audio-visual works as defined in relevant existing or future bilateral co-production agreements to which one or several Member States of the European Union and Korea are parties.
3. The Parties, in conformity with their respective legislation, shall facilitate co-productions between producers from the EU Party and Korea, including through entitlement for co-productions to benefit from respective schemes for the promotion of local/regional cultural content.
4. Co-produced audio-visual works shall be entitled to benefit from EU Party scheme for the promotion of local/regional cultural content referred to in paragraph 3 in the form of qualification as European works in accordance with Article 1(n)(i) of Directive 89/552/EEC as amended by Directive 2007/65/EC, or by its subsequent amendments for the purposes of the requirements for the promotion of audio-visual works as provided for by Articles 4.1 and 3i.1 of Directive 89/552/EEC as amended by Directive 2007/65/EC, or by its subsequent amendments.¹⁵⁵
5. Co-produced audio-visual works shall be entitled to benefit from Korean schemes for the promotion of local/regional cultural content referred to in paragraph 3 in the form of qualification as Korean works for the purposes of

¹⁵⁴ In the case of Korea, there is a recognition procedure for co-productions, conducted by the Korean Communications Commission for broadcasting programmes, and the Korean Film Council for films. This recognition procedure is limited to technical check aimed at ensuring that the co-production fulfils the criteria set in paragraph 6. Recognition will be granted to any co-production fulfilling these criteria.

¹⁵⁵ Amendments of the legislation shall be without prejudice to the application of paragraph 10.

Article 40 of the *Promotion of Motion Pictures and Video Products Act* (Act No. 9676, May 21, 2009), or its subsequent amendments and of Article 71 of the *Broadcasting Act* (Act No. 9280, Dec. 31, 2008), or its subsequent amendments and Notice on Programming Ratio (Korea Communications Commission Notice No. 2008-135, Dec. 31, 2008), or its subsequent amendments¹⁵⁶

6. The entitlement for co-productions to benefit from the respective schemes for the promotion of local/regional cultural content referred to in paragraphs 4 and 5 shall be granted on the following conditions:
 - (a) The co-produced audio-visual works are realised between undertakings which are owned and continue to be owned, whether directly or by majority participation, by a Member State of the European Union or Korea respectively and/or by nationals of a Member State of the European Union or nationals of Korea respectively;
 - (b) The representative director(s) or manager(s) of the co-producing undertakings have the nationality of a Member State of the European Union and Korea respectively and can demonstrate their domicile therein;
 - (c) Participation of producers from two Member States of the European Union will be necessary for each co-produced audio-visual work, other than animation works. With respect to animation works participation of producers from three Member States of the European Union will be necessary. The proportion of financial contribution of a producer or producers of each Member State of the European Union shall be no less than 10 percent;
 - (d) The minimum respective financial contributions to a co-produced audio-visual work other than animation works, of the producers of the EU Party (taken together) and the producers of Korea (taken together) may not be less than 30 percent of the total production cost of the audio-visual work. With respect to animation works this contribution may not be less than 35 percent of the total production cost;
 - (e) The contribution of each Party's producers (taken together) includes effective technical and artistic participation and a balance is ensured between the two Parties' contributions. In particular, in co-produced audio-visual works other than animation works the technical and artistic contribution of each Party's producers (taken together) shall not vary by more than 20 percentage points compared to their financial contribution and cannot in any case represent more than 70 percent of the overall contribution. With respect to animation works the technical and artistic contribution of each Party's producers (taken together) shall not vary by more than 10 percentage points compared to their financial contribution and cannot in any case represent more than 65 percent of the overall contribution;

¹⁵⁶

Ibidem

- (f) Participation of producers from third countries that have ratified the UNESCO Convention in a co-produced audio-visual work is accepted to a maximum of 20 percent, where possible, of the total production costs and/or the technical and artistic contribution to the audio-visual work.
7. The Parties reaffirm that the entitlement for co-productions to benefit from their respective schemes for the promotion of local/regional cultural content referred to in paragraphs 4 and 5 ensures reciprocal benefits, and that the co-productions fulfilling the criteria of paragraph 6 are awarded the status of European/Korean works referred to in paragraphs 4 and 5 respectively without any conditions additional to those of paragraph 6.
8. (a) The entitlement for co-productions to benefit from the respective schemes for the promotion of local/regional cultural content referred to in paragraphs 4 and 5 is established for a period of three years following the application of this Protocol. Upon advice from the Domestic Advisory Groups, six months before the expiry, the Committee on Cultural Co-operation will co-ordinate in order to assess the results of the implementation of the entitlement in terms of enhancement of cultural diversity and mutually beneficial co-operation on co-produced works.
- (b) The entitlement will be renewed for a duration of three years and shall thereafter be automatically renewed for further successive periods of the same duration, unless a Party terminates the entitlement by giving notice in writing at least three months before the expiry of the initial or any subsequent period. Six months before the expiry of each renewed period, the Committee on Cultural Co-operation will conduct an assessment on similar terms as described in the subparagraph (a).
- (c) Unless the Parties decide otherwise, termination of such entitlement shall not prevent the co-productions from benefiting from the respective schemes for the promotion of local/regional cultural content referred to in paragraphs 4 and 5 under the conditions of paragraph 6, if the date of the first broadcasting or projection of such co-productions in the respective territories is prior to expiry of any relevant period.
9. Throughout the duration of the entitlement for co-productions to benefit from the schemes for the promotion of local/regional content referred to in paragraphs 4 and 5, the Parties, notably through the Domestic Advisory Groups will regularly monitor the implementation of paragraph 6 and report any problem that may arise in this respect to the Committee on Cultural Co-operation. The Committee on Cultural Co-operation may review at the request of a Party, the entitlement for co-productions to benefit from the schemes for the promotion of local/regional content referred to in paragraphs 4 and 5 and/or the criteria referred to in paragraph 6.
10. With prior notice of two months, a Party may suspend the entitlement to benefit from its scheme(s) for the promotion of local/regional cultural content referred to in paragraphs 4 or 5, if the rights reserved for co-produced works under these paragraphs are adversely affected as a result of the other Party's modification of the relevant legislation referred to in these paragraphs. Before proceeding to

such suspension, the notifying Party shall discuss and review with the other Party in the Committee on Cultural Co-operation the nature and impact of the legislative changes.

Article 6: Other Audio-visual Co-operation

1. The Parties strive to promote audio-visual works of the other Party through the organisation of festivals, seminars and similar initiatives.
2. The Parties shall facilitate, in addition to the dialogue referred to in Article 2.2 of this Protocol, co-operation in the area of broadcasting with an aim to promote cultural exchange through activities such as:
 - (a) promoting exchange of information and views on broadcasting policy and regulatory framework between competent authorities;
 - (b) encouraging co-operation and exchange between the broadcasting industries;
 - (c) encouraging exchange of audio-visual works; and
 - (d) encouraging visits to and participation in international broadcasting events held in the territory of the other Party.
3. The Parties shall endeavour to facilitate the use of international and regional standards in order to ensure compatibility and interoperability of audio-visual technologies, thereby contributing to strengthening cultural exchanges. They shall co-operate towards this objective.
4. The Parties shall endeavour to facilitate rental and leasing of the technical material and equipment, such as radio and television equipment, musical instruments and studio recording equipment, necessary to create and record audio-visual works.
5. The Parties shall endeavour to facilitate the digitalisation of audio-visual archives.

Article 7: Temporary Importation of Material and Equipment for the Purpose of Shooting Audio-visual Works

1. Each Party shall encourage as appropriate the promotion of its territory as a location for the purpose of shooting cinematographic films and television programmes.
2. Notwithstanding the provisions on trade in goods in this Agreement, the Parties shall, in conformity with their respective legislation, examine and allow the temporary importation of the technical material and equipment necessary to carry out the shooting of cinematographic films and television programmes by cultural professionals and practitioners from the territory of a Party into the territory of the other Party.

SUB-SECTION B
PROMOTION OF CULTURAL SECTORS OTHER THAN AUDIO-VISUAL

Article 8: Performing Arts

1. The Parties, in conformity with their respective legislation, shall facilitate through appropriate programmes increased contacts between practitioners of performing arts in areas such as professional exchanges and training including, *inter alia*, participation in auditions, development of networks and promotion of networking.
2. The Parties shall encourage joint productions in the fields of performing arts between producers of one or several Member States of the European Union and Korea.
3. The Parties shall encourage the development of international theatre technology standards and the use of theatre stage signs, including through appropriate standardisation bodies. They shall facilitate the co-operation towards this objective.

Article 9: Publications

The Parties, in conformity with their respective legislation, shall facilitate exchange with and dissemination of publications of the other Party through appropriate programmes in areas such as:

- (a) organisation of fairs, seminars, literary events and other similar events related to publications, including public reading mobile structures;
- (b) facilitating co-publishing and translations; and
- (c) facilitating professional exchanges and training for librarians, writers, translators, booksellers and publishers.

Article 10: Protection of Cultural Heritage Sites and Historic Monuments

The Parties, in conformity with their respective legislation and without prejudice to the reservations included in their commitments in the other provisions of this Agreement, shall encourage, in the framework of appropriate programmes, exchanges of expertise and best practices regarding the protection of cultural heritage sites and historic monuments bearing in mind the UNESCO world heritage mission, including through facilitating the exchange of experts, collaboration on professional training, awareness of the local public and counselling on the protection of the historic monuments and protected spaces and on the legislation and implementation of measures related to heritage, in particular its integration into local life.

Understanding on the cross-border supply of insurance services as committed in the lists of commitments in Annex 7-A (List of Commitments)

With respect to the cross-border supply of insurance services as committed in the lists of commitments in Annex 7-A (List of Commitments), namely insurance of risks relating to:

- (a) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom; and
- (b) goods in international transit,

the Parties confirm that where a Member State of the European Union requires that such supply be made by suppliers established in the European Union, a Korean financial service supplier may supply such services through its establishment to any other Member State of the European Union without being established in the Member State of the European Union where the service is supplied. For further clarification, such supply includes the production, distribution, marketing, sale and delivery of the financial services.

Consultations shall continue between the European Commission and those Member States of the European Union which retain such a requirement of establishment in the European Union to take further steps towards the facilitation of the supply of these services in their territories. The EU Party welcomes Korea's proposal to hold consultations in the future with a view to reaching agreement thereon.

This Understanding shall constitute an integral part of this Agreement.

Understanding on the Korean postal reform plan¹⁵⁷

In the course of the negotiations of this Agreement, the delegation of Korea explained to the delegation of the European Union the Korean government's intention on its postal reform plan.

In this context, Korea has drawn to the attention of the delegation of the European Union the following aspects of its postal reform plan:

Korea intends to expand gradually the exceptions to the Korean Postal Authority's monopoly to increase the scope of private delivery services that are permitted. This will be done through amendments to the *Postal Service Act*, related laws, or their subordinate regulations.

- (a) After these amendments are enacted, the scope of Korean Postal Authority's letter-posts will be clearer through the redefinition of its concept, and the exceptions to the letter-posts monopoly will be extended based on objective standards such as weight, price or a combination thereof.
- (b) In determining the nature and extent of such amendments, Korea will consider various factors, including domestic market conditions, the experience of other countries with postal liberalisation, and the need to ensure universal service. Korea plans to implement these amendments within the next three years from the date of signature of this Agreement.

In applying these reformed criteria Korea will provide non-discriminatory opportunities to all the postal and express delivery service suppliers in Korea.

Korea will also amend Article 3 of the *Enforcement Decree of the Postal Services Act*, thereby expanding the exceptions to the Korean Postal Authority monopoly to include all international document express delivery services by the effective date of this Agreement. For greater certainty, international and domestic express delivery services of all documents are not subject to the postal service monopolies in the Member States of the European Union.

¹⁵⁷ This Understanding is non-binding and not subject to Chapter Fourteen (Dispute Settlement).

Understanding concerning specific commitments on telecommunications services

The following understanding reached between the delegations of Korea and the European Union during the course of negotiations regarding specific commitments on telecommunications services in this Agreement:

If a Party conditions the granting of a license to supply public telecommunications services to a person of the Party in which a person of the other Party holds an equity interest on a finding that the supply of such services would serve the public interest, the Party shall ensure that it: (i) bases any such finding and the procedures for making such a finding on objective and transparent criteria; (ii) employs a presumption in favor of finding that granting a license to a person of the Party in which a person of the other Party holds an equity interest would serve the public interest; and (iii) develops any such procedures consistent with Article 7.22 (Transparency and Confidential Information), Article 7.23 (Domestic Regulation) and Article 7.36 (Resolution of Telecommunications Disputes).

This Understanding shall constitute an integral part of this Agreement.

Understanding on regulations relating to zoning, urban planning and environmental protection

During the negotiations on Chapter Seven (Trade in Services, Establishment and Electronic Commerce) of this Agreement, the Parties discussed regulations relating to zoning, urban planning and environmental protection which are applicable in Korea and in the European Union at the time of signature of this Agreement.

The Parties share the understanding that, in so far as regulations, including regulations relating to zoning, urban planning and environmental protection, constitute non-discriminatory and non-quantitative measures affecting establishment, they are not subject to scheduling.

Based on the common understanding above, the Parties confirm that specific measures maintained by Korea in the following Acts are not subject to scheduling:

- *Seoul Metropolitan Area Readjustment Planning Act*
- *Industrial Cluster Development and Factory Establishment Act*
- *Special Act on the Improvement of Air Environment in the Seoul Metropolitan Area*

The Parties confirm their right to introduce new regulations relating to zoning, urban planning and environmental protection.

This Understanding shall constitute an integral part of this Agreement.

JOINT DECLARATION ON TURKEY

The European Union recalls that according to the Customs Union in force between the European Union and Turkey, the latter has the obligations in relation to countries which are not members of the European Union to align itself on the Common Customs Tariff and, progressively, with the preferential customs regime of the European Union, taking the necessary measures and negotiating agreements on mutually advantageous basis with the countries concerned. Consequently, the European Union had invited Korea to enter into negotiations with Turkey as soon as possible.

Korea informs that Korea will enter into negotiations with Turkey based on the result of a joint feasibility study on an agreement establishing a free trade area between Korea and Turkey.