CHAPTER 2 TRADE IN GOODS

ARTICLE 2.1

Scope

1. This Chapter shall apply to the products listed below, which must originate in Korea or an EFTA State except when the rights and obligations of the Parties are governed by the GATT 1994:

(a) all products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (hereinafter referred to as "the HS"), excluding the products listed in Annex III;

(b) processed agricultural products as provided for in Annex IV; and

(c) fish and other marine products as provided for in Annex V.

2. Korea and each EFTA State have concluded agreements on trade in agricultural products on a bilateral basis. These agreements form part of the instruments establishing the free trade area between Korea and the EFTA States.

ARTICLE 2.2

Rules of Origin and Customs Procedures

The provisions on rules of origin and customs procedures are set out in Annex I.

ARTICLE 2.3

Customs Duties

1. Upon the entry into force of this Agreement, Korea and the EFTA States shall abolish all customs duties and other duties or charges on imports and exports of products originating in in Korea or in an EFTA State except as otherwise provided for in Annex VI.

2. No new customs duties and other duties or charges on imports and exports of products originating in Korea or in an EFTA State shall be introduced.

3. "Customs duties and other duties or charges on imports and exports" includes any duty or charge of any kind imposed in connection with the importation or

exportation of a product, including any form of surtax or surcharge in connection with such importation or exportation, but does not include any charge imposed in conformity with Articles III and VIII of the GATT 1994.

ARTICLE 2.4

Base Rate of Customs Duties

1. For each product the base rate of customs duties, to which the successive reductions set out in Annexes IV, V and VI are to be applied, shall be the most-favoured nation (hereinafter referred to as "MFN") customs duty rate applied on 1 January 2005.

2. If at any moment a Party reduces its MFN customs duty rates for one or more goods covered by this Agreement, that duty rate shall apply if and for as long as it is lower than the customs duty rate calculated in accordance with the tariff elimination schedule set out in Annexes IV, V and VI. During the application of the reduced MFN rate, the Parties shall consult upon request with a view to continuing the elimination schedule based on the reduced MFN customs duty rate.

3. The reduced customs duty rates calculated in accordance with Annexes IV, V and VI shall be applied rounded to the first decimal place.

ARTICLE 2.5

Import and Export Restrictions

1. Upon the entry into force of this Agreement, all import or export prohibitions or restrictions on trade in goods between the Parties, other than customs duties and taxes, whether made effective through quotas, import or export licenses or other measures, shall be eliminated on all products of each Party, except as specified in Annex V.

2. No new measures as referred to in paragraph 1 shall be introduced.

ARTICLE 2.6

National Treatment

The Parties shall apply national treatment in accordance with Article III of the GATT 1994, including its interpretative notes, which is hereby incorporated into and made part of this Agreement.

ARTICLE 2.7

Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

2. The Parties shall exchange names and addresses of contact points with sanitary and phytosanitary expertise in order to facilitate technical consultations and the exchange of information.

ARTICLE 2.8

Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as "the TBT Agreement"), which is hereby incorporated into and made part of this Agreement.

2. The Parties shall strengthen their cooperation in the field of technical regulations, standards and conformity assessment with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. To this end, they shall in particular cooperate in:

(a) reinforcing the role of international standards as a basis for technical regulations, including conformity assessment procedures;

(b) promoting the accreditation of conformity assessment bodies on the basis of relevant Standards and Guides of the International Standards Organisation (ISO)/International Electrotechnical Commission (IEC); and

(c) promoting the mutual acceptance of conformity assessment results of bodies referred to in paragraph 2(b) which have been recognised under an appropriate multilateral agreement between their respective accreditation systems or bodies.

3. The Parties shall, within the context of this Article, expeditiously broaden the exchange of information and give favourable consideration to any written request for consultation.

4. The Parties recognise that a broad range of mechanisms exists to facilitate the acceptance in a Party's territory of the results of conformity assessment procedures conducted in another Party's territory, including:

(a) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specified regulations conducted by bodies located in the territory of the other Party;

(b) accreditation procedures for qualifying conformity assessment bodies;

(c) government designation of conformity assessment bodies;

(d) recognition by one Party of the results of conformity assessments performed in another Party's territory;

(e) voluntary arrangements between conformity assessment bodies in each Party's territory; and

(f) the importing Party's acceptance of a supplier's declaration of conformity.

The Parties shall, at the latest three years after the date of entry into force of this Agreement, assess in the Joint Committee referred to in Article 8.1 (hereinafter referred to as the "Joint Committee") progress with regard to the acceptance of the results of conformity assessment between them and, to the extent necessary, agree on further steps.

5. Without prejudice to paragraph 1, the Parties agree to exchange information and to hold expert consultations to address any matter that may arise from the application of specific technical regulations, standards and conformity assessment procedures and which according to Korea or one or more of the EFTA States has created or is likely to create an obstacle to trade between the Parties, with a view to working out an appropriate solution in conformity with the TBT Agreement. The Joint Committee shall be informed of such consultations.

ARTICLE 2.9

Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, except as provided for in paragraph 2.

2. Before a Party initiates an investigation to determine the existence, degree and effect of any alleged subsidy in Korea or in an EFTA State, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to investigation and allow for a 30 day period with a view to finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if any Party so requests within ten days from the receipt of the notification.

ARTICLE 2.10

Anti-Dumping

1. The Parties retain their rights and obligations under Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the GATT 1994 (hereinafter referred to as the "WTO Agreement on Anti-Dumping"), subject to the following:

(a) The Parties shall endeavour to refrain from initiating anti-dumping procedures against each other. To this end, when a Party receives a properly documented application and before initiating an investigation under the WTO Agreement on Anti-Dumping, the Party shall notify in writing the other Party whose goods are allegedly being dumped and allow for consultations with a view to finding a mutually acceptable solution. The outcome of the consultations shall be communicated to the other Parties.

(b) If a Party takes a decision to impose an anti-dumping duty pursuant to Article 9.1 of the WTO Agreement on Anti-Dumping, the Party taking such a decision shall apply the "lesser duty" rule by imposing a duty which is less than the dumping margin where such lesser duty would be adequate to remove the injury to the domestic industry.

2. Five years after the entry into force of this Agreement, the Parties shall in the Joint Committee review whether there is need to maintain the possibility to take anti-dumping measures between them. If the Parties decide, after the first review, to maintain the possibility they shall thereafter conduct biennial reviews of this matter in the Joint Committee.

ARTICLE 2.11

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is being imported into the territory of

another Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take emergency measures to the minimum extent necessary to remedy or prevent the injury, subject to the provisions of the following paragraphs of this Article.

2. Emergency measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

3. The Party intending to take an emergency action under this Article shall immediately, and in any case before taking a measure, make notification to the other Parties and the Joint Committee. The notification shall contain all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, precise description of the product involved, and the proposed measure, proposed date of introduction, expected duration and timetable for the progressive removal of the measure. A Party that may be affected by the measure shall be offered compensation in the form of substantially equivalent trade liberalization in relation to the imports from any such Party.

4. If the conditions in paragraph 1 are met, the importing Party may:

(a) suspend the further reduction of any rate of customs duty provided for under this Agreement for the product; or

(b) increase the rate of customs duty for the product to a level not to exceed the lesser of:

(i) the MFN rate of duty applied at the time the action is taken; or

(ii) the MFN rate of duty applied on the day immediately preceding the date of the entry into force of this Agreement.

5. Emergency measures shall be taken for a period not exceeding one year. In very exceptional circumstances, after review by the Joint Committee, measures may be taken up to a total maximum period of three years. No measures shall be applied to the import of a product, which has previously been subject to such a measure, for a period of, at least, three years since the expiry of the measure.

6. The Joint Committee shall, within 30 days from the date of notification, examine the information provided under paragraph 3 in order to facilitate a mutually acceptable resolution of the matter. In the absence of such resolution, the importing Party may adopt a measure pursuant to paragraph 4 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the

measure is taken may take compensatory action. The safeguard measure and the compensatory action shall be immediately notified to the other Parties and the Joint Committee. In the selection of the safeguard measure and the compensatory action, priority must be given to the action which least disturbs the functioning of this Agreement. The compensatory action shall normally consist of suspension of concessions having substantially equivalent trade effects or concessions substantially equivalent to the value of the additional duties expected to result from the emergency action. The Party taking such action shall apply the action only for the minimum period necessary to achieve the substantially equivalent trade effects and in any event, only while the measure under paragraph 4 is being applied.

7. Upon the termination of the measure, the rate of customs duty shall be the rate which would have been in effect but for the measure.

8. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional emergency measure pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. The Party intending to take such a measure shall immediately notify the other Parties and the Joint Committee thereof. Within 30 days of the date of the notification, the pertinent procedures set out in paragraphs 2 to 6, including for compensatory action, shall be initiated. Any compensation shall be based on the total period of application of the provisional emergency measure and of the emergency measure.

9. Any provisional measures shall be terminated within 200 days at the latest. The period of application of any such provisional measure shall be counted as part of the duration of the measure set out in paragraph 4 and any extension thereof. Any tariff increases shall be promptly refunded if the investigation described in paragraph 2 does not result in a finding that the conditions of paragraph 1 are met.

10. Five years after the date of entry into force of this Agreement, the Parties shall in the Joint Committee review whether there is need to maintain the possibility to take safeguard measures between them. If the Parties decide, after the first review to maintain the possibility, they shall thereafter conduct biennial review of this matter in the Joint Committee.

ARTICLE 2.12

Balance-of-Payments Difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance-of-payments purposes.

2. A Party in serious balance-of-payments difficulties, or under imminent threat thereof, may, in accordance with the conditions established under the GATT 1994 and

the WTO Understanding on the Balance-of-Payments Provisions, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance-of-payments situation. The relevant provisions of the GATT 1994 and the WTO Understanding on the Balance-of-Payments Provisions are hereby incorporated into and made part of this Agreement.

3. The Party introducing a measure under this Article shall promptly notify the other Parties and the Joint Committee thereof.

ARTICLE 2.13

Exceptions and other Rights and Obligations

The following rights and obligations of the Parties shall be governed by the corresponding Articles of the GATT 1994, which are hereby incorporated into and made part of this Agreement:

(a) in respect of state trading enterprises, by Article XVII and the Understanding on the Interpretation of Article XVII;

(b) in respect of general exceptions, by Article XX; and

(c) in respect of security exceptions, by Article XXI.