

CHAPTER 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Article 1.1: Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area in accordance with the provisions of this Agreement.

Article 1.2: General Definitions

For purposes of this Agreement, unless otherwise specified in this Agreement:

AD Agreement means the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

Agreement means Malaysia-Korea Free Trade Agreement;

covered investment means, with respect to a Party, an investment, as defined in Article 11.1 (Definitions), in its territory of an investor of the other Party that is in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

customs authority means the authorities that are responsible under the law of each Party for the administration and enforcement of its customs laws and regulations:

- (a) for Korea, the Ministry of Economy and Finance, or the Korea Customs Service or its successor; and
- (b) for Malaysia, the Royal Malaysian Customs Department, or its successor;

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

- (a) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of GATT 1994;
- (b) additional duty collected as a result of a measure consistent with Chapter 7 (Trade Remedies); or

(c) fee or any charge commensurate with the cost of services rendered;

Customs Valuation Agreement means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

days means calendar days, including weekends and holidays;

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

enterprise of a Party means an enterprise constituted or organised under a Party's law;

existing means in effect on the date of entry into force of this Agreement;

financial services means any service of a financial nature including activities referred to in paragraph 5(a) of the Annex on Financial Services of GATS;

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under its *Articles of Agreement* as may be amended;

GATS means the *General Agreement on Trade in Services* in Annex 1B to the WTO Agreement;

GATT 1994 means the *General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

government procurement means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for a governmental purpose and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale;

Harmonized System or HS means the Harmonized Commodity Description and Coding System including its General Rules of Interpretation, Section Notes, Chapter Notes and Sub-Heading Notes, as adopted and administered by the World Customs Organisations, set out in the Annex to the *International Convention on the Harmonized Commodity Description and Coding System*, as may be amended, adopted and implemented by the Parties in their respective laws;

Import Licensing Agreement means the *Agreement on Import Licensing Procedures* in Annex 1A to the WTO Agreement;

Joint Committee means the Joint Committee established under Article 18.1 (Establishment of Joint Committee);

measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;

national means:

- (a) for Korea, a Korean national within the meaning of *Nationality Act*, as amended; and
- (b) for Malaysia, a citizen under the Malaysian law;

natural person of a Party means a national of a Party;

originating goods means the goods that qualify as an originating goods in accordance with Chapter 3 (Rules of Origin);

perishable goods means goods that rapidly decay due to their natural characteristics in particular in the absence of appropriate storage conditions;

person means a natural person or an enterprise;

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

Preshipment Inspection Agreement means the *Agreement on Preshipment Inspection* in Annex 1A to the WTO Agreement;

publish includes publication in written form or on the internet;

Safeguards Agreement means the *Agreement on Safeguards* in Annex 1A to the WTO Agreement;

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

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

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

territory means:

- (a) for Korea, the land, maritime, and air space over which Korea exercises sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with international law and its domestic law; and
- (b) for Malaysia, its land territory, internal waters and territorial sea, and the seabed and subsoil of the territorial sea, and the air space above such areas over which Malaysia has sovereignty, as well as any maritime area situated beyond the territorial sea as designated or that might in the future be designated under its national law, in accordance with international law, as an area within which Malaysia exercises sovereign rights and jurisdiction with regards to the seabed, subsoil and superjacent waters to the seabed and subsoil as well as the natural resources, whether living or non-living;

Understanding on the Balance-of-Payments Provisions means the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

WTO means the World Trade Organization; and

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

Article 1.3: Objectives

The objectives of this Agreement are to:

- (a) strengthen and enhance economic, trade and investment cooperation between the Parties;
- (b) progressively liberalise and facilitate trade in goods between the Parties through, *inter alia*, progressive elimination of tariff and non-tariff barriers on substantially all trade in goods between the Parties;
- (c) progressively liberalise trade in services between the Parties with substantial sectoral coverage to achieve substantial elimination of restrictions and discriminatory measures with respect to trade in services between the Parties;

- (d) create a liberal, facilitative and competitive investment environment in both Parties, that will enhance investment opportunities and the promotion, protection, facilitation and liberalisation of investment between the Parties;
- (e) explore new areas and develop appropriate measures for closer economic cooperation and integration;
- (f) facilitate the more effective economic integration of the Parties and bridge the development gap between the Parties;
- (g) establish a framework for cooperation and capacity building with a view to promoting the effective and efficient implementation and utilisation of this Agreement;
- (h) bring substantial benefits to the Parties with special consideration of micro, small and medium enterprises (MSMEs); and
- (i) enhance transparency of trade and investment related measures of the Parties by sharing regulatory practices and promoting innovation in areas of mutual interest.