

CHAPTER ONE
INITIAL PROVISIONS AND DEFINITIONS

ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

The Parties to this Agreement, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a Free Trade Area.

ARTICLE 1.2: RELATION TO OTHER AGREEMENTS

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement.
2. In the event of any inconsistency between this Agreement and other agreements to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution, taking into consideration general principles of international law.
3. If any provision of the WTO Agreement that the Parties have incorporated into this Agreement is amended and accepted by the Parties at the WTO, such amendment shall be deemed incorporated automatically into this Agreement.

ARTICLE 1.3: EXTENT OF OBLIGATIONS

Each Party shall ensure within its territory the observance of all obligations and commitments under this Agreement by its respective central, regional, and local levels of government.

ARTICLE 1.4: GENERAL DEFINITIONS

For purposes of this Agreement, unless otherwise specified:

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

Agriculture Agreement means the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement;

CBD means the *Convention on Biological Diversity*, concluded at Rio de Janeiro on June 5, 1992;

central level of government means:

- (a) for Peru, the national level of government; and
- (b) for Korea, the central level of government;

covered investment means, with respect to a Party, an investment in its territory of an investor of the other Party existing on the date of entry into force of this Agreement, as well as investments established, acquired, or expanded thereafter;

customs authority means the authority that is responsible under the law of a Party for the administration and enforcement of customs laws and regulations;

customs duty includes any duty or a charge of any kind imposed on, or in connection with, the importation of goods, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
- (b) anti-dumping, countervailing, or safeguard duty that is applied in accordance with Article VI of GATT 1994, the AD Agreement, the SCM Agreement, Article XIX of GATT 1994, the Safeguards Agreement, and Article 5 of the Agriculture Agreement; or
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered;

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

days means calendar days;

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

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

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

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

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

goods of a Party means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree and includes originating goods of that Party;

Harmonized System (hereinafter referred to as "HS") means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes;

heading means the first four digits in the tariff classification number under the HS;

IMF means the International Monetary Fund;

Joint Commission means the Joint Commission established under Article 22.1 (Joint Commission);

local level of government means:

- (a) for Peru, the provincial and local municipalities; and
- (b) for Korea, a local government as defined in the *Local Autonomy Act*;

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

national means:

- (a) for Peru, a natural person who has the nationality of Peru by birth, naturalization, or option in accordance with Articles 52 and 53 of the *Political Constitution of Peru (Constitución Política del Perú)* and other relevant domestic legislation, or a permanent resident in Peru; and
- (b) for Korea, a Korean national within the meaning of the *Nationality Act*;

originating means qualifying in accordance with the rules of origin established under Chapter Three (Rules of Origin);

person means a natural person or an enterprise;

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

regional level of government means:

- (a) for Peru, regional government in accordance with the *Political Constitution of Peru (Constitución Política del Perú)* and other applicable legislation; and
- (b) for Korea, “regional level of government” is not applicable since a regional government does not exist in Korea;

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

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

subheading means the first six digits in the tariff classification number under the HS;

territory¹ means:

- (a) for Peru, the mainland territory, the islands, the maritime zones, and the air space above them over which Peru exercises sovereignty or sovereign rights and jurisdiction in accordance with its domestic law and international law; and
- (b) for Korea, the land, maritime, and air space over which Korea exercises sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with its domestic law and international law;

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

WTO means the World Trade Organization; and

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

¹ For greater certainty, the definition of and references to “territory” contained in this Agreement apply exclusively for purposes of determining the geographical scope of application of this Agreement.