

CHAPTER ONE
INITIAL PROVISIONS AND GENERAL DEFINITIONS

SECTION A: INITIAL PROVISIONS

ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

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

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 and other agreements to which both Parties are party.
2. In the event of any inconsistency between this Agreement and other agreements to which both Parties are party, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement.

SECTION B: GENERAL DEFINITIONS

ARTICLE 1.3: DEFINITIONS

For purposes of this Agreement, unless otherwise specified:

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

central level of government means:

- (a) for Colombia, the national level of government¹; and
- (b) for Korea, the central level of government;

covered investment means, with respect to a Party, an investment, as defined in Article 8.28 (Definitions), in its territory of an investor of the other Party that is in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

customs duty includes any duty or charge of any kind imposed on or in connection with the importation of a product of the other Party, including any form of surtax or surcharge imposed on or in connection with such importation, but does not include any:

¹ For greater certainty, the *Departamentos* are part of the local level of government.

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, or any equivalent provision of a successor agreement to which both Parties are party;
- (b) antidumping, countervailing, or safeguard duty that is applied in accordance with a Party's law and consistently with Chapter 7 (Trade Remedies);
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered;
- (d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions or tariff rate quotas; and
- (e) duty imposed pursuant to any agricultural safeguard measure taken under the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement.

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

days means calendar days;

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

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

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

financial institution means any financial intermediary or other enterprise that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

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

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

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

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

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

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

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

Joint Commission means the Joint Commission established under Article 19.1 (Joint Commission);

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

national means:

(a) for Colombia, Colombians by birth or naturalization, in accordance with Article 96 of the Colombian Constitution (*Constitución Política de Colombia*); and

(b) for Korea, a Korean national within the meaning of the *Nationality Act*;

originating means qualifying under the rules of origin set out in Chapter 3 (Rules of Origin and Origin Procedures);

person means a natural person or an enterprise;

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

preferential tariff treatment means the duty rate applicable under this Agreement to an originating good;

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

sanitary or phytosanitary measure means any measure referred to in paragraph 1 of Annex A to the SPS Agreement;

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

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

state enterprise means an enterprise that is owned, or controlled through ownership

interests, by a Party;²

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

territory means:

- (a) for Colombia, its land territory, both continental and insular, its airspace and maritime and sub-maritime areas and other elements over which it exercises sovereignty, sovereign rights or jurisdiction in accordance with its Colombian Constitution (*Constitución Política de Colombia*), its law, and international law including applicable international treaties; 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 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;³

WTO means the World Trade Organization; and

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

² For greater certainty, ownership, or control through ownership interests, may be direct or indirect.

³ For greater certainty, “TRIPS Agreement” includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.