



**COUNTRY
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South Korea

INTERNATIONAL TRADE

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This country-specific Q&A provides an overview of international trade laws and regulations applicable in South Korea.

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SOUTH KOREA

INTERNATIONAL TRADE



1. What has been your jurisdiction's historical level of interaction with the WTO (e.g. membership date for the GATT/WTO, contribution to initiatives, hosting of Ministerials, trade policy reviews)?

Republic of Korea (Korea) has been deeply involved in the multilateral process in the WTO since its establishment in 1995. Korea has actively participated in the multilateral trading system from the time it joined the GATT on July 12, 1967, the predecessor to the WTO.

Korea's involvement in the WTO has been instrumental in shaping its trade policies and practices and contributing to the global trading system. Korea has been supportive of multilateral trade agreements and has actively participated in WTO negotiations and activities to promote free trade. It plays a role in shaping global trade policies and participates in WTO negotiations on topics such as WTO reform, investment facilitation, agriculture, services, and intellectual property.

2. Are there any WTO agreements to which your jurisdiction is not party (e.g. Government Procurement Agreement)? Is your jurisdiction seeking to accede to these agreements?

As an active member of the WTO, Korea has a general policy to participate in every multilateral process in the WTO. However, there is one plurilateral agreement where Korea is not a party: Agreement on Trade in Civil Aircraft, which entered into force on January 1, 1980. According to the WTO, this agreement aims to "eliminate[s] import duties on all aircraft, other than military aircraft, as well as on all other products covered by the agreement — civil aircraft engines and their parts and components, all components and sub-assemblies of civil aircraft, and flight simulators and their parts and components." Other than this agreement, Korea participates in almost every WTO agreements.

3. Is your jurisdiction participating in any ongoing WTO negotiations (e.g. E-Commerce Joint Initiative) and what has been its role?

Korea has been actively participating in ongoing WTO negotiations. For example, Korea is deeply involved in the negotiations of the WTO reform and the Joint Initiative on E-commerce. In particular, Korea has been playing a leading role in the WTO Investment Facilitation for Development Agreement, which was agreed in July 2023. As a co-chair of the negotiations, Korea has been leading the negotiations alongside Chile. In particular, Korea chaired the WTO Ministerial Conference on Investment Promotion on the sidelines of the Davos Forum (attended by 52 countries) in January 2023, which laid an important foundation and momentum for the agreement by garnering support for an early conclusion of the investment facilitation negotiations.

4. Has your jurisdiction engaged in the WTO dispute settlement system in the past 5 years? If so, in which disputes and in which capacity (as a party to a dispute or as a third party)?

Korea is a frequent user of the WTO dispute settlement system. In the past five years, Korea has concluded several disputes, including the two historic disputes: Korea, Republic of — Import Bans, and Testing and Certification Requirements for Radionuclides (WT/DS495) and United States — Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea (WT/DS464). In this period, Korea has newly participated in five disputes as a party: four disputes as a complainant and one dispute as a respondent. Korea is also a third party to 22 disputes. Here is a summary of the disputes where Korea is a Party:

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Complainant (4)

- United States — Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available (WT/DS539) (consultation requested on February 14, 2018)
- United States — Safeguard measure on imports of crystalline silicon photovoltaic products (WT/DS545) (consultation requested on May 14, 2018)
- United States — Safeguard measure on imports of large residential washers (WT/DS546) (consultation requested on May 14, 2018)
- Japan — Measures Related to the Exportation of Products and Technology to Korea (WT/DS590) (consultation requested on September 11, 2019)

Respondent (1)

- Korea, Republic of — Measures Affecting Trade in Commercial Vessels (second complaint) (Japan) (WT/DS594, formerly WT/DS571) (the second consultation requested on January 31, 2020)

5. Has your jurisdiction expressed any views on reform of the WTO, in particular, the dispute settlement system and the Appellate Body?

Korea has actively participated in the DSU review negotiation more than twenty years ago. Korea has submitted several proposals to clarify and improve the WTO dispute settlement system. Based on these experiences, Korea has been playing a leading role to revitalize the multilateral trade dispute settlement system, since the Appellate Body was paralyzed in December 2019. Currently, Korea is actively participating in the U.S.-led informal sessions, which is taking place behind closed doors.

6. What are the key bilateral and/or

regional free trade agreements (FTAs) in force for your jurisdiction and from which dates did they enter into force?

Korea has been active in negotiating and signing both bilateral and regional free trade agreements. Korea has signed 21 FTAs with 59 countries.

Key FTAs may include the followings:

- Korea-European Union Free Trade Agreement took effect on July 1, 2011.
- Korea-U.S. Free Trade Agreement entered into force on March 15, 2012.
- Korea-Australia Free Trade Agreement went into effect on December 12, 2014.
- Korea-Canada Free Trade Agreement entered into force on January 1, 2015.
- Korea-China Free Trade Agreement became effective on December 20, 2015.
- Korea-New Zealand Free Trade Agreement took effect on December 20, 2015.
- Korea-Vietnam Free Trade Agreement started on December 20, 2015.
- Korea-UK Free Trade Agreement: The FTA entered into force on January 1, 2021.
- Regional Comprehensive Economic Partnership (RCEP) entered into force on February 1, 2022.
- Comprehensive Economic Partnership Agreement (CEPA) with ASEAN: Korea has FTAs with several ASEAN member countries, and it signed the ASEAN-Republic of Korea Comprehensive Economic Partnership Agreement, which has been implemented with various ASEAN countries. These agreements have varying entry into force dates.

7. Is your jurisdiction currently negotiating any FTAs (or signed any FTAs that have not yet entered into force) and, if any, with which jurisdictions? What are your jurisdiction's priorities in those negotiations (e.g. consolidating critical mineral supply chains, increasing trade in financial services, etc.)? For both FTAs under negotiation and signed FTAs, when

are they expected to enter into force?

In response to the global trend of FTAs, Korea has actively promoted FTAs to secure stable overseas markets and strengthen the competitiveness of the Korean economy through openness. Reflecting the recent changes in the trade environment and industrial structure, the Korean government promotes FTAs from three perspectives: innovation, expansion, and utilization. First, in terms of innovation, Korea tries to secure export markets for new industries and services through FTAs and promote industrial upgrading by harmonizing domestic systems with global trade norms. Second, in terms of expansion, Korea tries to enhance the FTA network with the emerging countries to strengthen cooperation with these countries. Finally, in terms of utilization, Korea tries to propose measures to help SMEs, create jobs, and improve consumer welfare by utilizing the FTAs.

Korea is currently in negotiation with Korea-China-Japan FTA, Ecuador, MERCOSUR, Russia, Malaysia, and Uzbekistan.

In addition, Korea is also negotiating with the Indo-Pacific Economic Framework (IPEF). The IPEF is a framework for economic cooperation among countries in the Indo-Pacific region, launched in May 2022 at the initiative of the United States. It involves 14 countries: Australia, Brunei Darussalam, Fiji India, Indonesia, Japan, the Republic of Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, and Vietnam. The IPEF has four pillars: (1) Trade; (2) Supply Chains; (3) Clean Energy, Decarbonization, and Infrastructure; and (4) Tax and Anti-Corruption. Countries may choose the pillars for participation; however, Korea participates in the entire four pillars.

In April 2022, Korea has decided to participate in the accession negotiation with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). However, official negotiations for Korea's accession have not yet begun. CPTPP is an FTA, the member countries of which are Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore and Vietnam. In July 2023, the United Kingdom signed the Accession Protocol that enables the United Kingdom to join the CPTPP.

8. Which five countries are the biggest trading partners for your jurisdiction in relation to each of exports and imports and which goods or services are particularly important to your jurisdiction's external

trade relationships?

In terms of exports, Korea's top five destinations are China, the United States, Vietnam, Japan, and Hong Kong, respectively. When it comes to imports, the top five sources are China, the United States, Japan, Australia, and Saudi Arabia. These rankings have remained consistent for both exports and imports throughout 2022 and from January to September 2023.

Key commodities in Korea's foreign trade (based on HSK 2023 item numbers) include semiconductors (854232, 854231, 852990), which are the largest export items. Other significant exports are petroleum products (271019, 271012), automobiles/electric vehicles (870323, 870380, 870322, 870899, 870324, 870340), secondary battery-related items (284190, 850760), displays (852412, 854239), and shipbuilding (890190). Important import items for Korea include natural resources such as crude oil, natural gas, coal and copper (270900, 271111, 270112, 271012, 260300). Other significant imports are semiconductor manufacturing-related items such as equipment (854231, 854232, 848620), and secondary battery-related items such as lithium-ion batteries, raw materials including lithium oxide and hydroxide (850760, 282520).

9. What are the three most important domestic and three most important international developments that are likely to have the biggest impact on your jurisdiction's trade profile and priorities?

Domestically, Korea's rapidly low birthrate and aging population are decreasing the working-age population, which is expected to accelerate the overseas relocation of existing labor-intensive industries in the near future. This will likely lead to a decrease in domestic exports and the number of export items. Additionally, the industrial structure is advancing, and the service industry is expanding, particularly in games and cultural content exports. As domestic industry expands overseas production, exports of intermediate goods also continue to expand.

Internationally, significant impacts on Korea's trade include changes in China's global value chain (GVC) participation structure from final goods to intermediate goods exports, the ongoing strategic competition between the US and China, and supply chain reorganization due to the coronavirus pandemic. The increasing proportion of China's exports of intermediate goods means that China is emerging as a competitor to Korea in the international intermediate goods market. In addition, the strategic competition between the United

States and China has expanded from trade to cutting-edge technology, and the supply chain has been reorganized around the United States and the European Union (EU) after COVID-19, which is having a significant impact on Korean trade.

10. Has your jurisdiction taken any specific domestic measures to address sustainability issues in international supply chains, for example in relation to forced labour, human rights and environmental issues? Is it seeking to address these issues in any FTAs or other international agreements?

Regarding sustainability, the Korean government has enacted a basic law. The Framework Act on Sustainable Development was enacted on January 4, 2022, and entered into force on July 5, 2022. The purpose of this Act is to ensure that present and future generations enjoy a better life, and to achieve the sustainable development of the State and local areas, and, by extension, human society by pursuing sustainable economic growth and an inclusive society, and also by seeking to tackle climate and environmental crisis through balance and harmony between the economy, society, and the environment.

Regarding human rights, the government announced the enactment of the Framework Act on Human Rights Policy (draft) on June 30, 2021. The bill has been submitted to the National Assembly but has not yet been processed. Additionally, a bill on human rights and environmental protection for corporate sustainable management was submitted to the National Assembly by lawmakers.

Regarding environmental issues, it is worth noting that the Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis has been enacted to respond to the climate crisis, entered into force on March 25, 2022. The purpose of this Act is to strengthen policy measures to reduce greenhouse gases and adapt to climate change for preventing serious impacts of climate crisis, to resolve economic, environmental, and social disparity that may arise in the course of transition to a carbon neutral society, and to foster, promote, and revitalize green technology and green industry for a harmonious development of the economy and environment, thereby improving the quality of life of present and future generations, protecting the ecosystem and climate system, and contributing to the sustainable development of the international community.

Further, the Korean government released the "K-ESG Guidelines" setting forth 27 "Social Values" that companies should pursue through ESG management. The purpose of the K-ESG Guidelines is to set forth the key elements of ESG management so that companies can freely put an effective ESG management into practice.

The Korea-EU FTA includes a chapter on trade and sustainable development. The chapter reaffirms the commitment of the EU and Korea to contribute to sustainable development by integrating labour and environmental (including climate) protection in the bilateral trade relationship. Since the Korea-US FTA included chapters on labor and the environment, many of the FTAs concluded by Korea have included chapters or provisions on labor and the environment. Additionally, Korea is participating in IPEF negotiations to establish new norms covering supply chains, decarbonization, etc.

11. Is your jurisdiction taking any specific domestic measures to promote near-shoring/on-shoring for strategic goods (i.e. domestic subsidies, import tariffs, or export restrictions)? Is it seeking to address these issues in any FTAs or other international agreements?

The Act on Assistance to Korean Off-Shore Enterprises in Repatriation is in force. The purpose of this Act is to contribute to the development of the national economy by facilitating their repatriation to Korea through preparation of a system to efficiently assist Korean off-shore enterprises in repatriation to and resettlement in Korea. The Korean government provides location and facility subsidies to ease the burden of initial investment costs for companies returning to Korea in terms of securing locations and investing in facilities. Location subsidies are supported up to 42% of the investment amount (within a limit of KRW 500 million), and facility investment subsidies are supported up to a maximum of 31% of the investment amount (within a total of KRW 6 billion for location subsidies). Additionally, the government provides corporate and income tax reduction benefits to ensure smooth business settlement in the early stages of returning to the country. Depending on the type of return, 50-100% corporate or income tax is reduced for up to 7 years. Moreover, it alleviates the burden of initial domestic facility investment by providing a reduction in tariffs incurred when new or used equipment is imported by eligible companies. In order to ensure a smooth supply and demand of key human resources for companies returning to Korea, the issuance of E-7 visas (Special

Activity Visas) is permitted to foreign production managers, and additional employment of general foreign workers is permitted to ensure a smooth supply and demand of human resources for companies returning to Korea.

There are no cases where issues related to the promotion of near-shoring/on-shoring have been directly addressed in Korea's existing FTAs or other international agreements. However, near-shoring, on-shoring, and friend-shoring are being promoted in countries such as the United States and the EU that have already concluded FTAs with Korea, and the FTAs concluded between Korea and these countries provide an important legal foundation for cooperation for this purpose.

12. What is the legal regime governing trade sanctions in your country? Has it evolved in response to ongoing geopolitical developments, such as the on-going crisis in Ukraine?

The Korean government joined the efforts of the international community for peaceful resolution of the on-going crisis in Ukraine by implementing new sanctions and export controls against Russia. The financial sanctions against Russia introduced by the government includes suspension of financial transactions with 11 Russian entities and their subsidiaries (Sberbank, VEB, PSB, VTB, Otkritie, Sovcom, Novikom, the Central Bank of the Russian Federation ("CBR"), the National Wealth Fund of the Russian Federation ("NWF"), the Russian Direct Investment Fund ("RDIF"), and Bank Rossiya), suspension of trading in the primary or secondary market of Russian government bonds newly issued on or after March 2, 2022, and exclusion of seven Russian banks (Bank Rossiya, VEB, PSB, VTB, Otkritie, Sovcom, and Novikom) from the SWIFT system.

On February 28, 2022, the Korean government implemented export control measures against Russia that are substantively similar to those imposed by the international community and the United States. On March 6, 2022, the Korean government announced similar export control measures on Belarus, which it found had effectively supported Russia's invasion of Ukraine.

It has not yet been found that the Korean government has introduced separate domestic regulations for sanctions against Russia.

13. Does your jurisdiction use trade

remedies and, if so, what remedies are most commonly used? And in which jurisdictions and on which products are they most commonly applied?

Since 1987, when the Korea Trade Commission (KTC) was established, Korea has been utilizing trade remedy measures, mainly anti-dumping measures. Countervailing duty measures have never been imposed, and a total of only 34 safeguard measures have been investigated.

According to the trend of trade remedy surveys by country, China is the largest, followed by Japan, the United States, and the EU, with four countries with a large trade share with Korea accounting for 63% of the total. By item, chemical products are 35%, paper and wood products are 17.2%, machinery and electronics are 12.7%, followed by steel metals.

14. What is the key legislation relating to anti-dumping duties, countervailing duties and safeguards? What are the authorities responsible for investigating and deciding whether these remedies are applied?

The Customs Act and the Act on the Investigation of Unfair International Trade Practices and Remedy against Injury to Industry ("Act on the Investigation") are the two main domestic laws as regards trade remedies in Korea. English versions of the Customs Act and Act on the investigation are available at http://elaw.klri.re.kr/eng_service/lawView.do?hseq=37150&lang=ENG and http://elaw.klri.re.kr/eng_service/lawView.do?hseq=31963&lang=ENG.

Trade remedy investigations and trade remedy measures are conducted by different government bodies.

Trade remedy investigations are conducted by KTC (<https://www.ktc.go.kr/main.do>), a government body within the Ministry of Trade, Industry and Energy (MOTIE). If affirmative decisions are made by the KTC, the Ministry of Economy and Finance (MOEF) (<https://english.moef.go.kr>) imposes trade remedy measures such as anti-dumping duties, countervailing duties and safeguard measures. The Korea Customs Service (KCS) is responsible for collecting any duties arising from trade remedy cases (<https://www.customs.go.kr/english/mainind.do>).

15. What is the process for a domestic business and/or industry to seek trade remedies (i.e. key documentation, evidence required, etc.)? How can foreign producers participate in trade remedies investigations in your jurisdiction?

With respect to anti-dumping or countervailing duty investigations for a domestic business and/or industry, persons interested in the domestic industry that suffers material injury, under article 51 of the Customs Act, or 'the minister of the competent ministry in charge of such domestic industry' may ask the Minister of Economy and Finance to levy anti-dumping or countervailing duties as prescribed by Ordinance of the Ministry of Economy and Finance, and such request shall be deemed a request filed with the KTC established pursuant to the provisions of article 27 of the Act on the Investigation of Unfair International Trade Practices and Remedy against Injury to Industry (Act on the Investigation) for making an investigation necessary to levy anti-dumping or countervailing duties (article 51 of the Customs Act and articles 59 and 73 of the Enforcement Decree of the Customs Act).

As for safeguard investigations, where the increased import of particular goods is causing, or is feared to cause, serious injury to a domestic industry that produces the same kind of goods as the particular goods or goods in direct competition with the particular goods, any interested person in such domestic industry or the heads of the central administrative agencies in charge of the domestic industry may apply to the KTC for an investigation into the injury to the domestic industry caused by the importing of such goods (article 15 of Act on the Investigation).

For anti-dumping duty investigations, evidential data fully attesting to the fact of dumping goods imported and material injury caused thereby must be included in the filing. For safeguard investigations, evidence of serious injury caused by increased imports must be included in the filing (article 59.4 of the Enforcement Decree of the Customs Act).

For countervailing duty investigations, adequate evidential data concerning the fact of importing goods for which subsidies are paid and the fact of material injury caused thereby must be provided to the KTC (article 74.2 of the Enforcement Decree of the Customs Act). As for safeguard investigations, the details, scope and duration of measures that are necessary for remedying the injury to the domestic industry concerned, where there is serious injury or a threat of

serious injury to the domestic industry concerned, must be provided to the KTC (article 15 of the Enforcement Decree of Act on the Investigation).

Upon receiving a request for an anti-dumping or countervailing duty investigation, the KTC shall decide whether to make an investigation into the fact of dumping or importing goods for which subsidies etc are paid, and the fact of damage etc caused thereby, within two months from the day on which such request is received. Upon receipt of any safeguard application, the KTC shall decide whether to commence an investigation in consultation with the head of a related central administrative agency within 30 days from the date of the application.

Any person who intends to request an anti-dumping duty investigation shall furnish the data including the information on the relevant goods, material injury etc caused by the import of the relevant goods to the domestic industry, the extent of support by domestic producers of the goods of the same kind for the relevant request of an

investigation and evidential data fully attesting to the fact of dumping goods imported and material injury etc caused thereby (article 59.4 of Enforcement Decree of the Customs Act). Any person interested in the

domestic industry that suffers material injury etc due to the import of goods for which subsidies etc are paid shall, when he or she intends to file an application for an investigation thereof, file an application stating the matters, including the information on the relevant goods, material injury etc caused by the import of the relevant goods to the domestic industry and the extent of support by domestic producers of the goods of the same kind for the relevant request of an investigation, appended by related evidential data, with the KTC (article 73.4

of Enforcement Decree of the Customs Act). A person who applies for a safeguard investigation, as to whether increased imports of particular goods cause injury to the domestic industry in accordance with article 15 of the Act, shall submit to the KTC an application indicating the information including the goods concerned, the circumstances in which imports of the goods concerned have caused or are threatening to cause serious injury to the domestic industry and the details, scope and duration of measures that are necessary for remedying the injury to the domestic industry concerned, where there is serious injury or a threat of serious injury to the domestic industry concerned etc accompanied by the materials verifying the details of the request (article 15 of

the Enforcement Decree of Act on the investigation).

Regarding foreign producers, when the KTC determines to commence an anti-dumping or countervailing duty investigation, it shall notify the applicant for such investigation, the government of the supplying country of the relevant goods, a supplier and other interested persons of matters concerning the determination of the investigation commencement and shall publish such matters in the Official Gazette within 10 days from the day on which the decision to commence the investigation is made (articles 60.3 and 74.3 of the Enforcement Decree of the Customs Act). However, where a decision on whether to commence a safeguard investigation is made, the KTC shall publish such fact in the Official Gazette (article 16.2 of the Enforcement Decree of the Act).

Exporters who receive questionnaires from the KTC must notify the KTC as to whether or not they intend to respond to such questionnaires by no later than three weeks from the initiation of the investigation. Exporters who are not specifically identified by the KTC may submit an application to the KTC seeking voluntary participation in the investigation within three weeks of the initiation of the investigation. The KTC has discretion in deciding whether to accept such an application, typically taking into consideration the KTC's workload.

If accepted, the KTC will send a questionnaire to such voluntary respondents, or inform them in writing that they are not included in the investigation. The Minister of Economy and Finance or the KTC may, when deemed necessary or there is a request from any interested person, give such interested person an opportunity to state his or her opinion at a public hearing etc or persons in conflict of their interests an opportunity to consult with each other (articles 64.8 and 78.8 of the Enforcement Decree of the Customs Act).

For anti-dumping and countervailing duty investigations, when any supplier is asked whether he or she has been involved in dumping goods or not, he or she shall be given a period of at least 40 days from the day on which a written inquiry is delivered to him or her for answering such inquiry, and if the relevant supplier asks to extend such period, citing the grounds therefor, proper consideration shall be given to his or her request (article 64.1 of the Enforcement Decree of the Customs Act). The KTC may also issue a supplemental questionnaire. A one or

two-week extension may generally be granted, provided that sufficient reasons for the extension are provided.

16. Does your jurisdiction have any special

regulations or procedures regarding investigation of possible circumvention or evasion of trade remedies? What are the consequences of circumventing or evading trade remedies?

No, there are currently no relevant regulations or procedures regarding investigation of possible circumvention or evasion of trade remedies. But, the Ministry of Economy and Finance has prepared a revision to the Customs Act to introduce circumvention regulations, and new related regulations are expected to be established as early as 2024.

17. What are the substantive legal tests in your jurisdiction for the application of remedies? Does your jurisdiction apply a lesser duty rule and/or a public interest test in anti-dumping investigations? Are there any other notable features of your jurisdiction's trade remedies regime?

According to articles 52 and 58, if it is necessary to consider enhancement of bolstering the competitiveness of the relevant industry, stabilizing prices and promoting trade cooperation with trading partners, etc. when imposing any anti-dumping duties, the Minister of Economy and Finance may investigate such matters and reflect the outcomes of such investigation.

The KTC applies a lesser duty rule in accordance with Article 51 of the Customs Act and Article 65, paragraph 1 of the Enforcement Decree of the same Act.

18. Is there a domestic right of appeal against the authority's decisions? What is the applicable procedure?

Yes, there is a domestic right of appeal against the KTC and MOEF's decisions. As Korea's domestic legislation includes provisions for trade remedies, including anti-dumping and countervailing duty measures, it maintains judicial and administrative procedures for the purpose of the prompt review of an unfavourable trade remedies decision. Paragraph 2 of article 120 of the Customs Act provides that any administrative litigation against any illegal measure shall not be initiated unless a request for evaluation or adjudication and a decision thereon under the Customs Act is made. In other words, an interested party shall file a request for evaluation or adjudication first, and after a decision thereon is made, the party may initiate administrative litigation. According to paragraph 3 of article 120 of the Customs Act, the administrative

litigation shall be initiated within 90 days from the date on which the notice of the decision is given in response to the request for evaluation or adjudication was received.

19. Has your jurisdiction's imposition of any trade remedies been challenged at the WTO? If so, what was the outcome? A general explanation of trends can be provided for jurisdictions involved in significant trade remedies dispute settlement.

There were two WTO challenges against Korea's anti-dumping measures. One was the Korea — Anti-Dumping Duties on Imports of Certain Paper from Indonesia (DS 312) and the other was Korea — Sunset Review of Anti-Dumping Duties on Stainless Steel Bars (DS553), which is pending on Appellate Body(AB) due to current non-operational situation of AB. Regarding DS312, Korea partially lost the case, but completed implementation of the panel's non-conformity decision.

20. What authorities are responsible for enforcing customs laws and regulations and what is their role?

Korea Customs Service (hereinafter "KCS") is the responsible governmental authority. KCS' primary roles are: (i) revenue collection; (ii) trade safety & security; (iii) foreign exchange ("FX") compliance; and (iv) FTA implementation. Whilst KCS utilises intricate administrative measures empowered by Korean laws to achieve the aforesaid, its major tools for each role are as follows. For role (i), Post-Clearance Audit conducted by the audit (customs valuation) department of KCS. For role (ii), Criminal Investigation conducted by the special judicial police of KCS. For role (iii), FX Inspection conducted by the FX department of KCS. For role (iv), Origin Verification conducted by the FTA department of KCS.

21. Can importers apply for binding rulings from the customs authority in advance of an import transaction? How can customs decisions be challenged?

In sum, yes. Importers are eligible to request rulings to KCS covering broad areas: customs valuation, tariff classification, pre-clearance regulation, preferential origin determination, etc. Importers may also apply for rulings to the relevant government authorities other

than KCS, with notable examples being: FX regulatory matters (to the Ministry of Economy and Finance); telecommunications and radio wave matters (to the National Radio Research Agency), product safety and KC matters (to the Korean Agency for Technology and Standards) or country of origin marking (to the Ministry of Trade, Industry and Energy).

22. Where can information be found about import tariffs and other customs charges?

The Ministry of Government Legislation, the governmental authority charged with statutory matters, publishes laws and ordinances pertinent to import tariffs and other customs charges. Further, KCS makes detailed regulations, decisions and notices available in its official website (Customs Legal Information Portal; "CLIP"). CLIP also offers miscellaneous legal cases and documents relevant to the customs and trade areas in Korea.

23. Does your jurisdiction have any of the following features: a. Authorised Economic Operator (AEO) or equivalent programme? b. Mutual recognition arrangements (MRAs) with other jurisdictions in relation to their AEO programmes? c. Suspension of duties on any goods imports (for example, for goods for which there is no domestic production)? d. Allowing goods imports valued below a certain amount to enter duty free (de minimis shipments)?

a. Authorised Economic Operator (AEO) or equivalent programme?

Yes. The Customs Act enables enterprises doing business in Korea to receive AEO certifications. KCS' subordinate regulations specify the types (specialised areas), requirements, application procedures, post-certification management and sanctions regarding AEO. Currently there are nine AEO types available in Korea: exporter; importer; customs broker; bonded area operator; bonded goods' transporter; freight forwarder; stevedore; shipping company; and airline.

b. Mutual recognition arrangements (MRAs) with other jurisdictions in relation to their AEO programmes?

Yes. Korean customs law and administrative system actively implements, and have been consistently expanding the scope of, MRAs. As of June 30, 2023, Korea entered into AEO MRAs with twenty-two trade counterpart States, with nineteen of them fully effective

(PRC, USA, Japan, Australia, Chinese Taipei, Singapore, Hong Kong, India, Malaysia, Indonesia, Mexico, UAE, Thailand, Canada, Turkiye, New Zealand, Israel, Peru, Dominican Republic) and three under preparation for full effectuation (Kazakhstan, Mongolia, Uruguay).

c. Suspension of duties on any goods imports (for example, for goods for which there is no domestic production)?

Yes, albeit only when the specified statutory requirements are fully satisfied by the importer, and the pertinent applications for duty reduction or exemption are filed to KCS in a timely, accurate manner. Concerning the foregoing example, Korean small-and-medium businesses ("SMEs") may apply for a 30~70% customs duty reduction when they intend to import goods which are clarified by such goods' relevant industrial association & the Ministry of Trade, Industry and Energy ("MOTIE") to have no domestic production and substantially difficult to be produced domestically. As a side note, the Customs Act of Korea provides an exhaustive list of customs duty reduction and exemption causes.

d. Allowing goods imports valued below a certain amount to enter duty free (de minimis shipments)?

Yes. As of present, the threshold for duty free entry regarding de minimis shipments is US\$ 150, for goods imported by individual consumers for non-commercial, personal use. To clarify further details: the duty free threshold for goods imported as samples is US\$ 250; and the duty free threshold for goods purchased at DFSs is US\$ 800 plus the following: (i) one pack of cigarettes; (ii) two bottles of alcoholic beverage (i.e. total volume cannot exceed two litres and total price cannot exceed US\$ 400); (iii) sixty millilitres of perfume.

24. What free trade zones and facilities such as bonded warehouses are available in your jurisdiction?

Korean customs law utilizes both bonded areas and free trade zones (hereinafter "FTZs").

Regarding bonded area: Bonded area in Korea is categorised into: designated storage place; customs inspection place; bonded warehouse; bonded factory; bonded exhibition site; bonded construction work site; bonded store (commonly referred to as 'duty free shop'); and general bonded area (commonly referred to as 'comprehensive bonded area'). A corporation or an individual business intending to operate a bonded area shall, pursuant to the Customs Act and KCS' subordinate regulations, receive a license issued by the regional

Head of Customs Office. Korean law and governmental practice provides a high level of scrutiny regarding the application, approval, and post-surveillance of bonded area licenses. The Customs Act also stipulates that the license shall/may be revoked under certain causes, mostly relevant to legal violations regarding the operation of bonded areas. KCS actively conducts investigations upon bonded area operators to ensure compliance.

Regarding FTZs: Korea has a separate, specialised law apart from the Customs Act, that covers the establishment, entry (usage), customs procedures, and sanctions relating to FTZs. As for day-to-day operations, each regional Port Authority is charged with review of and instructions to private enterprises within the FTZ, whereas KCS also has authority to perform additional inquiries/investigations should it have reasonable doubt that the FTZ users violated customs-related laws.

25. What are the domestic scrutiny and transparency arrangements before and during negotiations for a trade agreement? What domestic ratification procedures are required once a trade agreement is concluded?

Korea has the Act on the Conclusion Procedure and Implementation of Commercial Treaties (the "Act"). The purpose of this Act is to prescribe necessary matters in relation to the procedures for concluding trade agreements and the implementation thereof in order to enhance transparency in the procedures for concluding trade agreements and to promote efficient commercial negotiations with citizens' understanding and participation, as well as to ensure the rights and interests of the Republic of Korea in implementing treaties regarding commerce, thereby contributing to sound development of the national economy.

Upon receipt of a request to disclose information concerning the procedures for concluding and implementing trade agreements, the Korean government shall disclose the relevant information to the applicant pursuant to the Official Information Disclosure Act and shall not refuse to make such disclosure on the grounds that trade negotiations are in progress (Article 4 of the Act). Upon request by any commerce-related special committee of the National Assembly, the government shall submit reports or documents on ongoing trade negotiations or on trade agreements signed by it (Article 5 of the Act). The Minister of Trade, Industry and Energy shall hold a public hearing to hear opinions from interested persons and relevant experts before formulating a plan for concluding

a trade agreement (Article 7 of the Act). Any citizen may present his/her opinion to the government about trade negotiations or trade agreements. In such cases, the government shall endeavor to reflect the opinions so presented in making its policies whenever they are deemed reasonable (Article 8 of the Act). Where a trade agreement is signed, the Minister of Trade, Industry and Energy shall promptly report the progress of the negotiation, the main terms of the treaty, etc. to the relevant committee of the National Assembly. The Minister of Trade, Industry and Energy shall promptly notify the general public of the matters reported to the National Assembly (Article 12 of the Act).

Where a trade agreement is signed, the government shall request the National Assembly to consent to ratify the agreement pursuant to Article 60.1 of the Constitution of the Republic of Korea. Where the government requests the National Assembly to consent to ratification, it shall provide the information, including the results of impact assessment, the estimate of expenses incurred in enforcing the agreement and schemes to raise the funds involved, the complementary measures to protect domestic industries, and the information relating to the enactment or amendment of

Acts necessary for implementing the agreement (Article 13 of the Act).

26. What are the domestic procedures for local traders to request the government take action against measures of other jurisdictions that are inconsistent with WTO and/or FTA rules?

To request the government to take action to the measures inconsistent with WTO and/or FTA rules, local traders must file a petition in writing, including an electronic document, to the Ministry of Trade, Industry and Energy (MOTIE) under Article 8 of the Civil Complaint Processing Act. There are the relevant divisions in the Ministry, including the Trade Legal Affairs and Planning Division, and the Trade Dispute Settlement Division.

Local traders can also request assistance from the Korea Trade-Investment Promotion Agency (KOTRA) in filing a petition with the MOTIE. KOTRA provides free counseling and support services to Korean businesses on trade-related matters.

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