Free Trade Agreement between the Republic of Korea and Peru (2010)

FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF KOREA AND THE REPUBLIC OF PERU PREAMBLE The Republic of Peru (hereinafter referred to as "Peru") and the Republic of Korea (hereinafter referred to as "Korea"), collectively referred to as "the Parties", resolved to:
STRENGTHEN the special bonds of friendship and cooperation between them;
PROMOTE broad-based economic development in order to reduce poverty and generate opportunities for sustainable economic growth;
ENSURE a predictable legal framework for trade, business, and investment;
CREATE new employment opportunities and effectively improve labor conditions and living standards in their respective territories;
AVOID distortions to their trade;
PROMOTE transparency and prevent and combat corruption, including bribery, and human rights violations-related rackets in international trade and investment;
IMPLEMENT this Agreement in a manner consistent with environmental protection and conservation and basic human and fundamental rights protection and promote sustainable development;
REAFFIRM their consent to strengthen and enhance the multilateral trading system as reflected by the World Trade Organization; and
REAFFIRM their commitment to the "Bogor Goals" of free and open trade and investment of the Asia-Pacific Economic Cooperation;
HAVE AGREED as follows:

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 Subsides 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;
territory (1) 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.

Chapter TWO. National Treatment and Market Access for Goods

Article 2.1. Scope of Application

Except as otherwise provided in this Agreement, this Chapter shall apply to trade in goods of a Party.

Section A. NATIONAL TREATMENT

Article 2.2. National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes, and to this end Article III of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.
2. Paragraph 1 shall not apply to the measures set out in Annex 2A.

Section B. ELIMINATION OF CUSTOMS DUTIES

Article 2.3. Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.
2. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods in accordance with its Schedule set out in Annex 2B.
3. The Parties may deny preferential tariff treatment under this Agreement for used goods. For purposes of this paragraph, used goods includes those identified as such in headings or sub-headings of the HS and those reconstructed, repaired, recovered, remanufactured, or any other similar goods that, after having been used, have been subject to a process to restore their original characteristics or specifications, or to restore the functionality they had when they were new. (1)
4. Upon request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules set out in Annex 2B.
5. An agreement between the Parties to accelerate the elimination of a customs duty on a good, shall supersede any duty rate or staging category determined pursuant to their 1 This paragraph shall not apply to used vehicles that are classified in heading 8703 of the HS, provided that they do not fall within the scope of the measures referred to in Annex 2A. Accordingly, each Party shall provide preferential tariff treatment under this Agreement for such used vehicles. Schedules set out in Annex 2B for such good, when approved by the Parties in accordance with Article 22.1 (Joint Commission) and their applicable legal procedures.
6. For greater certainty, a Party may:
(a) raise a customs duty to the level established in its Schedule set out in Annex 2B following a unilateral reduction for the respective year; or
(b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO or in accordance with Chapter Twenty-Three (Dispute Settlement).

(1) This paragraph shall not apply to used vehicles that are classified in heading 8703 of the HS, provided that they do not fall within the scope of the measures referred to in Annex 2A. Accordingly, each Party shall provide preferential tariff treatment under this Agreement for such used vehicles.

Section C. SPECIAL REGIMES

Article 2.4. Waiver of Customs Duties

1. Neither Party shall adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.
2. Neither Party shall, explicitly or implicitly, condition on the fulfillment of a performance requirement the continuation of

any existing waiver of customs duties.

Article 2.5. Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for the following goods, regardless of their origin:
(a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry in accordance with the laws of the importing Party;
(b) goods intended for display or demonstration;
(c) commercial samples and advertising films and recordings; and
(d) goods admitted for sports purposes.
2. Each Party, upon request of the person concerned and for reasons its customs authority considers valid, shall extend the time limit for temporary admission beyond the period initially fixed.
3. Neither Party shall condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that the good:
(a) be used solely by or under the personal supervision of a national or resident of the other Party in the exercise of business activity, trade, profession or sport activity of that person;
(b) not be sold or leased while in its territory;
(c) be accompanied by a security in an amount no greater than 110 percent of the charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;
(d) be capable of identification when exported;
(e) be exported on the departure of the person referred to in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, or within one year, unless extended;
(f) be admitted in no greater quantity than is reasonable for its intended use; and
(g) be otherwise admissible into the Party's territory under its law.
4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good plus any other charges or penalties provided for under its law.
5. Each Party shall adopt or maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.
6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted.
7. Each Party shall provide that its customs authority or other competent authority relieves the importer or another person responsible for a good admitted under this Article of any liability for failure to export the good on presentation of satisfactory proof to the customs authority of the importing Party that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.
8. Neither Party shall:
(a) prevent a vehicle or container used in international traffic that enters its territory from the territory of the other Party from exiting its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;
(b) require any security or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container;
(c) condition the release of any obligation, including any security, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and
(d) require that the vehicle or carrier bringing a container from the territory of the other Party into its territory be the same vehicle or carrier that takes the container to the territory of the other Party.
9. For purposes of paragraph 8, vehicle means a truck, a truck tractor, a tractor, a trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

Article 2.6. Goods Re-entered after Repair or Alteration

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that reenters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration.
2. Neither Party shall apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration.
3. For purposes of this Article, repair or alteration does not include an operation or process that:

(a) destroys a good's essential characteristics or creates a new or commercially different good; or
(b) transforms an unfinished good into a finished good.

Article 2.7. Duty-free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:
(a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or
(b) such materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article 2.8. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any non-tariff measures that prohibit or restrict the importation of any good of the other Party or the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 and its interpretative notes, and to this end Article XI of GATT 1994 and its interpretive notes are incorporated into and made part of this Agreement, mutatis mutandis.
2. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining: (a) export and import price requirements, except as permitted in enforcement of countervailing and anti-dumping duty orders and undertakings;
(b) import licensing conditioned on the fulfillment of a performance requirement; or
(c) voluntary export restraints inconsistent with Article VI of GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Agreement.
3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 2A.
4. Neither Party shall, as a condition for engaging in importation or for the importation of a good, require a person of the other Party to establish or maintain a contractual or other relationship with a distributor in its territory.
5. Nothing in paragraph 4 prevents a Party from requiring the designation of an agent for purposes of facilitating communications between regulatory authorities of the Party and a person of the other Party.
6. For purposes of paragraph 4: distributor means a person of a Party who is responsible for the commercial distribution, agency, concession, or representation in the territory of that Party of goods of the other Party.

Article 2.9. Import Licensing

1. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement and to this end the Import Licensing Agreement is incorporated into and made part of this Agreement, mutatis mutandis.
2. (a) Promptly after the entry into force of this Agreement, each Party shall notify the other Party of its existing import licensing procedures, if any. The notification shall:
(i) include the information specified in Article 5 of the Import Licensing Agreement; and
(ii) be without prejudice as to whether the import licensing procedure is consistent with this Agreement.
(b) Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government website or in a single official journal. The Party shall do so at least 20 days before the new procedure or modification takes effect. (2)
3. Neither Party shall apply an import licensing procedure to a good of the other Party unless the Party has met the requirements of paragraph 2 with respect to that procedure.

(2) This subparagraph shall not apply to a law or regulation that takes effect less than 20 days after it is published.

Article 2.10. Administrative Fees and Formalities

1. Each Party shall ensure that all fees and charges of whatever character imposed on or in connection with the importation or exportation of goods are consistent with Article VIII:1 of GATT 1994 and its interpretive notes. To this end, Article VIII:1 of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.
2. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation

of any good of the other Party.
3. Each Party shall make available and maintain through the Internet a current list of the fees and charges it imposes in connection with importation or exportation.

Article 2.11. Export Taxes

Neither Party shall adopt or maintain any duty, tax, or other charge on the export of any good to the territory of the other Party, unless the duty, tax, or charge is also adopted or maintained on the good when destined for domestic consumption.

Article 2.12. State Trading Enterprises

The rights and obligations of the Parties with respect to state trading enterprises shall be governed by Article XVII of GATT 1994, its interpretative notes, and the Understanding on the Interpretation of Article XVII of GATT 1994, which are incorporated into and made part of this Agreement, mutatis mutandis. 2 This subparagraph shall not apply to a law or regulation that takes effect less than 20 days after it is published.

Article 2.13. Customs Valuation

1. The Customs Valuation Agreement and any successor Agreement shall govern the customs valuation rules applied by the Parties to their trade. To this end, the Customs Valuation Agreement and any successor Agreement, as well as the WTO Decisions of Committee on Customs Valuation, are incorporated into and made part of this Agreement, mutatis mutandis.
2. The custom laws of the Parties shall comply with Article VII of GATT 1994 and the Customs Valuation Agreement.

Section D. OTHER MEASURES

Article 2.14. Agricultural Safeguard Measures

1. Notwithstanding Article 2.3, a Party may apply a measure in the form of a higher import duty on an originating agricultural good listed in that Party's Schedule set out in Annex 2C, consistent with this Article if the aggregate volume of imports of that good in any year exceeds a trigger level as set out in its Schedule set out in Annex 2C.
2. The higher import duty under paragraph 1 shall not exceed the lesser of:
(a) the prevailing most-favored-nation (MFN) applied rate;
(b) the most-favored-nation (MFN) applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement;
(c) the base rate set out in its Schedule set out in Annex 2B; or
(d) the duty set out in its Schedule set out in Annex 2C.
3. Neither Party shall apply or maintain an agricultural safeguard measure under this Article and at the same time apply or maintain, with respect to the same good:
(a) a bilateral safeguard measure under Chapter Eight (Trade Remedies);
(b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement; or
(c) a special safeguard measure under Article 5 of the Agriculture Agreement.
4. A Party shall implement any agricultural safeguard measure in a transparent manner. Within 60 days after imposing an agricultural safeguard measure, the Party applying the measure shall notify the other Party in writing and provide the other Party with relevant data concerning the measure. Upon written request of the exporting Party, the Parties shall consult regarding application of the measure.
5. The Committee on Trade in Goods established under Article 2.17 may review and discuss the implementation and operation of this Article.
6. Neither Party shall apply or maintain an agricultural safeguard measure on an originating agricultural good if the period specified in the agricultural safeguard provisions of the Party's Schedule set out in Annex 2C has expired.

Article 2.15. Agricultural Export Subsidies

Neither Party shall introduce or reintroduce an export subsidy on an agricultural good destined for the territory of the other Party. (3)

(3) Korea confirms that no subsidized agricultural goods is or will be exported to Peru.

Article 2.16. Price Band System

Peru may maintain its price band system established in its Supreme Decree N° 115-2001-EF and its amendments, with respect to the goods subject to the application of the system and listed in Annex 2D.

Section F. INSTITUTIONAL PROVISIONS

Article 2.17. Committee on Trade In Goods

1. The Parties hereby establish a Committee on Trade in Goods comprising officials of each Party. The meetings of the Committee and any ad-hoc working group shall be coordinated by the Ministry of Foreign Affairs and Trade of Korea and the Ministry of Foreign Trade and Tourism of Peru, or their respective successors.
2. The Committee shall meet upon request of a Party or the Joint Commission to consider matters arising under this Chapter, Chapter Three (Rules of Origin), Four (Origin Procedures) or Five (Customs Administration and Trade Facilitation).
3. The Committee's functions shall include, inter alia:
(a) promoting trade in goods between the Parties, including through consultations on accelerating, or broadening the scope of, tariff elimination under this Agreement and other issues as appropriate;
(b) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, referring such matters to the Joint Commission for its consideration;
(c) reviewing the future amendments to the HS to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any conflicts between:
(i) subsequent amendments to HS 2007 and Annex 2B; or
(ii) Annex 2B and national nomenclatures;
(d) consulting on and endeavoring to resolve any difference that may arise between the Parties on matters related to the classification of goods under the HS;
(e) consulting on matters related to this Chapter in coordination with other committees, working groups or any other bodies established under this Agreement; and
(f) establishing ad-hoc working groups with specific commands.
4. The Committee shall meet at least once a year unless otherwise agreed by the Parties. When special circumstances arise, the Committee shall meet at any time upon request of a Party.
5. The Parties hereby establish an ad-hoc Working Group on Trade in Agricultural and Fishery Goods. In order to solve any obstacle to the trade of agricultural and fishery goods between the Parties, the ad-hoc Working Group shall meet upon request of a Party. The ad-hoc Working Group shall report to the Committee on Trade in Goods.

(3) Korea confirms that no subsidized agricultural goods is or will be exported to Peru.

Section D. DEFINITIONS

Article 2.18. Definitions

For purposes of this Chapter:
advertising films and recordings means recorded visual media or audio materials, consisting essentially of images and/or sound, showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party, provided that such materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public;
agricultural goods means those goods referred to in Article 2 of the Agriculture Agreement;
commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than the amount specified in a Party's laws, regulations, or procedures governing temporary admission, or so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples;
consular transactions means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party for purposes of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;
consumed means:
(a) actually consumed; or
(b) further processed or manufactured so as to result in a substantial change in the value, form, or use of the good or in the

production of another good;
duty-free means free of customs duty;
export subsidies shall have the meaning assigned to that term in Article 1(e) of the Agriculture Agreement, including any amendment of that Article;
goods intended for display or demonstration includes their component parts, ancillary apparatus, and accessories;
goods temporarily admitted for sports purposes means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory such goods are admitted;
import licensing means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party;
Import Licensing Agreement means the Agreement on Import Licensing Procedures, contained in Annex 1A to the WTO Agreement;
performance requirement means a requirement that:
(a) a given level or percentage of goods or services be exported;
(b) domestic goods or services of the Party granting a waiver of customs duties or an import license be substituted for imported goods;
(c) a person benefiting from a waiver of customs duties or an import license purchase other goods or services in the territory of the Party granting the waiver of customs duties or the import license, or accord a preference to domestically produced goods;
(d) a person benefiting from a waiver of customs duties or an import license produce goods or supply services, in the territory of the Party granting the waiver of customs duties or the import license, with a given level or percentage of domestic content; or
(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows; but does not include a requirement that an imported good be:
(f) subsequently exported;
(g) used as a material in the production of another good that is subsequently exported;
(h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or
(i) substituted by an identical or similar good that is subsequently exported; and printed advertising materials means those goods classified in Chapter 49 of the HS, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials, and posters, that are used to promote, publicize, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.

Chapter THREE. Rules of Origin

Article 3.1. Originating Goods

1. Except as otherwise provided in this Chapter, a good shall be treated as originating in a Party where the good is:
(a) wholly obtained or produced entirely in the territory of one or both of the Parties;
(b) produced entirely in the territory of one or both of the Parties, exclusively from originating materials under this Chapter; or
(c) produced entirely in the territory of one or both of the Parties using non-originating materials, satisfying the requirements under Annex 3A.
2. Additionally, the good shall satisfy all the other applicable requirements of this Chapter.

Article 3.2. Wholly Obtained or Produced Goods

For purposes of Article 3.1.1(a), the following goods are wholly obtained or produced entirely in the territory of one or both of the Parties:
(a) live animals born and raised in the territory of Korea or Peru;
(b) goods obtained from live animals born and raised in the territory of Korea or Peru;
(c) goods obtained by hunting, trapping, fishing, or aquaculture in the territory of Korea or Peru; (1)
(d) goods of sea-fishing and other goods taken from the sea outside the territory of a Party by vessels registered or recorded with a Party and flying its flag;
(e) goods produced on board factory ships, exclusively from the goods referred to in subparagraph (d), provided that such factory ships are registered or recorded with a Party and fly its flag;
(f) plants and plant products grown and harvested, picked, or gathered in the territory of Korea or Peru;
(g) mineral goods and other naturally occurring substances extracted from the soil, waters, seabed, or beneath the seabed of Korea or Peru;

(h) goods taken or extracted by a Party or a person of a Party from the seabed or beneath the seabed outside the territory of a Party, provided that the Party has rights to exploit them;
(i) waste and scrap derived from:
(i) manufacturing operations conducted in the territory of Korea or Peru; or
(ii) used goods collected in the territory of Korea or Peru, provided that such waste and scrap is fit only for the recovery of raw materials; and
(j) goods produced exclusively from goods specified in subparagraphs (a) through (i).

(1) Notwithstanding this subparagraph, goods of sea-fishing and other goods taken from the sea within the territories of the Parties by vessels registered or recorded with a non-Party and flying its flag shall not be regarded as wholly obtained or produced entirely in the territory of one or both of the Parties under this Article.

Article 3.3. Regional Value Content (rvc)

1. The regional value content of a good shall be calculated on the basis of one of the following methods:
(a) Method Based on Value of Non-Originating Materials (Build-down Method)

$$RVC = \frac{FOB - VNM}{FOB} \times 100$$

(b) Method Based on Value of Originating Materials (Build-up Method)

$$RVC = \frac{VOM}{FOB} \times 100$$

where,
RVC is the regional value content, expressed as a percentage;
FOB is the free on board value of the good;
VNM is the value of the non-originating materials; and
VOM is the value of the originating materials.
2. The value of the non-originating materials shall be:
(a) in the case of a material imported directly by the producer of a good, the CIF value at the time of importation of the material;
(b) in the case of a material acquired by the producer in the territory where the good is produced, the transaction value, without considering the costs of freight, insurance, packing, and the other costs incurred in the transportation of the material from the warehouse of the supplier to the place where the producer is; or
(c) in the case of a self-produced material or where the relationship between the producer of the good and the seller of the material influences the price actually paid or payable for the material, the sum of all costs incurred in the production of the material, including general expenses. Additionally, it will be possible to add an amount for profit equivalent to the profit added in the normal course of trade.
3. The values referred to in this Article shall be determined in accordance with the Customs Valuation Agreement.

Article 3.4. Intermediate Materials

1. When an originating good is used in the subsequent production of another good, no account shall be taken of the non-originating materials contained in the originating good for purposes of determining the originating status of the subsequently produced good.
2. When a non-originating good is used in the subsequent production of another good:
(a) for purposes of calculating the value of the non-originating materials of the subsequently produced good, an account shall be taken only of the non-originating materials contained in the non-originating good; and
(b) for purposes of calculating the value of the originating materials of the subsequently produced good, an account shall be taken of the originating materials contained in the non-originating good.

Article 3.5. Non-qualifying Operations

1. The following operations shall be considered to be non-qualifying operations to confer the status of originating goods, whether or not the requirements under this Chapter are satisfied:

(a) operations to ensure the preservation of goods in good condition during transport and storage;
(b) changes of packing or breaking-up or assembly of packages;
(c) washing, cleaning, removal of dust, oxide, oil, paint, or other coverings;
(d) ironing or pressing of textiles;
(e) simple painting and polishing operations;
(f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
(g) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and all other simple packing operations;
(h) simple mixing of products, whether or not of different kinds;
(i) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts; (j) slaughter of animals; or
(k) a combination of two or more operations specified in subparagraphs (a) through (j).
2. All operations carried out in a Party on a given good shall be considered together when determining whether the operations undergone by that good are to be regarded as non-qualifying within the meaning of paragraph 1.
3. For purposes of this Article:
(a) simple means activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity;
(b) simple mixing means activities which need neither special skills nor machines, apparatus, or equipment especially produced or installed for carrying out the activity but does not include chemical reaction; and
(c) chemical reaction means a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

Article 3.6. Accumulation

1. Originating goods or materials from the territory of a Party, incorporated into a good in the territory of the other Party, shall be considered to be originating in the territory of the other Party.
2. Production carried out by a producer in the territory of a Party may be accumulated with the production of one or more producers in the territory of that Party or the other Party, in such way that the production of the materials incorporated into the good shall be considered as carried out by that producer, provided that the good satisfies the requirements established in Article 3.1 and all other applicable requirements in this Chapter.

Article 3.7. De Minimis

1. A good that does not undergo a change in tariff classification in accordance with Annex 3A shall nonetheless be considered to be originating if the value of all non-originating materials that have been used in its production and do not undergo the applicable change in tariff classification does not exceed 10 percent of the value of the good, determined in accordance with Article 3.3 if:
(a) the value of such non-originating materials is included in the value of non-originating materials for any applicable regional value content requirement; and
(b) the good satisfies all other applicable requirements in this Chapter.
2. Paragraph 1 shall not apply to goods classified in Chapters 1 through 14 and in Chapters 50 through 63 of the HS. A good classified in Chapters 50 through 63 of the HS, produced in the territory of a Party, shall be considered an originating good if the total weight of all non-originating fibers or yarns used in the production of the component that determines the tariff classification of that good, that do not undergo the applicable change in tariff classification, does not exceed 10 percent of the weight of the good.

Article 3.8. Fungible Goods or Materials

1. In determining whether a good or material is originating for purposes of granting preferential tariff treatment, any fungible goods or materials shall be distinguished by:
(a) physically separating each fungible good or material; or
(b) using any inventory management method, such as averaging, last-in-first-out (LIFO) or first-in-first-out (FIFO), recognized in the generally accepted accounting principles of a Party in which the production is performed or otherwise accepted by the Party in which the production is performed.
2. The inventory management method selected under paragraph 1 for a particular fungible good or material shall continue to be used for that good or material throughout the fiscal year of the person that selected the inventory management method.

Article 3.9. Sets

A set, as defined in General Rule 3 of the HS, shall be regarded as originating when all the components of the set are originating. Nevertheless, when a set is composed of originating and non-originating goods, the set as a whole shall be regarded as originating, provided that the value of the non-originating goods does not exceed 15 percent of the total value of the set, determined in accordance with Article 3.3.

Article 3.10. Accessories, Spare Parts, and Tools

The origin of the accessories, spare parts, or tools delivered with a good at the time of importation:
(a) shall be disregarded if the good is subject to a change in tariff classification requirement; and
(b) shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good, if the good is subject to a regional value content requirement, provided that:
(a) the accessories, spare parts, or tools are not invoiced separately from the good, regardless of whether they appear specified or separately identified in the invoice itself; and
(b) the quantities and value of the accessories, spare parts, or tools are customary for the good.

Article 3.11. Packaging Materials and Containers for Retail Sale

1. Where packaging materials and containers are classified with a good, the origin of the packaging materials and containers in which the good is packaged for retail sale, shall be disregarded in determining the origin of the good, provided that:
(a) the good is wholly obtained or produced entirely in the territory of one or both of the Parties as set out in Article 3.1.1(a);
(b) the good is produced exclusively from originating materials, as set out in Article 3.1.1(b); or
(c) the good is subject to a change in tariff classification requirement set out in Annex 3A. 2. Where a good is subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account when determining the origin of the good.

Article 3.12. Packing Materials and Containers for Shipment

Packing materials and containers used to protect a good during its transportation shall not be taken into account when determining the origin of the good.

Article 3.13. Indirect Materials

1. For purposes of determining whether a good is originating, the origin of the indirect materials defined in paragraph 2 shall not be taken into account.
2. Indirect materials means articles used in the production of a good which are neither physically incorporated into it, nor form part of it, including:
(a) fuel, energy, catalysts, and solvents;
(b) equipment, devices, and supplies used for testing or inspecting the goods; (c) gloves, glasses, footwear, clothing, safety equipment, and supplies;
(d) tools, dies, and molds;
(e) spare parts and materials used in the maintenance of equipment and buildings;
(f) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings; and
(g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Article 3.14. Direct Transport

1. In order for originating goods to maintain their originating status, the goods shall be transported directly between the Parties.
2. Notwithstanding paragraph 1, the following shall be considered to be transported directly from the exporting Party to the importing Party:
(a) goods that are transported without passing through the territory of a non-Party; and
(b) goods whose transport involves transit through one or more non-Parties, with or without trans-shipment or temporary storage in such non-Parties, under control of the customs authority, provided that the goods do not:
(i) enter into trade or commerce there; and

(ii) undergo any operation there other than unloading and reloading, repacking, or any operation required to keep them in good condition.
3. Compliance with paragraphs 1 and 2 shall be demonstrated by presenting the following documentation to the customs authority of the importing Party:
(a) in the case of transit or trans-shipment, the transportation documents, such as the airway bill, the bill of lading, or the multimodal or combined transportation document, that certify the transport from the country of origin to the importing country, as the case may be; and
(b) in the case of storage, the transportation documents, such as the airway bill, the bill of lading, or the multimodal or combined transportation document, that certify the transport from the country of origin to the importing country, as the case may be, as well as the documents issued by the customs authority or other competent authority that authorized this operation in accordance with the domestic legislation of the non-Party.

Article 3.15. Principle of Territoriality

1. The conditions for acquiring originating status set out in Articles 3.1 through 3.14 must be fulfilled without interruption in the territory of one or both of the Parties.
2. Notwithstanding paragraph 1, an originating good exported from a Party to a non-Party shall when returned be considered to be non-originating unless it can be demonstrated to the satisfaction of the customs authorities in accordance with laws and regulations of the importing Party concerned that the returning good:
(a) is the same as that exported; and
(b) has not undergone any operation beyond that necessary to preserve it in good condition while being exported.
3. Notwithstanding paragraphs 1 and 2, goods listed in Annex 3B shall be considered to be originating in accordance with Annex 3B, even if such goods have undergone operations and processes outside the territories of the Parties.

Article 3.16. Definitions

For purposes of this Chapter:
aquaculture means the farming of aquatic organisms, including fish, mollusks, crustaceans, other aquatic invertebrates, and aquatic plants, from seedstock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding, protection from predators, etc.;
CIF means the value of the good in the country of origin inclusive of the cost of insurance and freight up to the port or place of entry in the country of importation;
competent authority means:
(a) for Korea, the Ministry of Strategy and Finance, or its successor; and
(b) for Peru, the Ministry of Foreign Trade and Tourism, or its successor;
exporter means a person located in the territory of a Party from where a good is exported by such a person; **FOB** means the value of the good free on board, inclusive of the cost of transportation to the port or site of final shipment abroad, regardless of the mode of transportation;
fungible goods or materials means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;
generally accepted accounting principles means recognized consensus or substantial authoritative support given in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information and the preparation of financial statements. Generally accepted accounting principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures; good means any merchandise, product, article, or material;
importer means a person located in the territory of a Party where a good is imported by such a person; **material** means a good that is used in the production of another good, including any components, ingredients, raw materials, parts, or pieces;
non-originating good or non-originating material means a good or material that does not qualify as originating under this Chapter;
originating material means a material that qualifies as originating under Article 3.1;
producer means a person who engages in the production of a good in the territory of a Party; and **production** means growing, raising, extracting, picking, gathering, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, or assembling a good.

Chapter FOU. Origin Procedures

Article 4.1. Certificate of Origin

1. Each Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good imported

from the territory of the other Party on the basis of a Certificate of Origin.
2. In order to obtain preferential tariff treatment, an importer shall, in accordance with the procedures applicable in the importing Party, request preferential tariff treatment at the time of importation of an originating good.
3. A Certificate of Origin which certifies that a good being exported from the territory of a Party into the territory of the other Party qualifies as originating shall:
(a) be in a printed or electronic format; and
(b) be completed in English in conformity with the specimen and the instructions contained therein as set out in Annex 4B, which may be amended by agreement between the Parties.
4. Each Party shall:
(a) require an exporter in its territory to complete and sign a Certificate of Origin for any exportation of a good for which an importer may claim preferential tariff treatment upon importation of the good into the territory of the other Party; and
(b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate of Origin on the basis of:
(i) its knowledge that the good qualifies as originating;
(ii) its reasonable reliance on the producer's written representation that the good qualifies as originating; or (iii) a completed and signed Certificate of Origin for the good voluntarily provided to the exporter by the producer.
5. A Certificate of Origin, duly completed and signed by an exporter or producer in a Party, may apply to:
(a) a single shipment of one or more goods into the territory of the other
(b) multiple shipments of identical goods to the same importer within any period specified in the Certificate of Origin, not exceeding 12 months from its date of issuance. Party; or

Article 4.2. Waiver of Certificate of Origin

A Certificate of Origin shall not be required where:
(a) the customs value of the importation does not exceed 1,000 US dollars or the equivalent amount in the currency of the importing Party, or such higher amount as may be established by the importing Party, unless the importing Party considers the importation to be carried out or planned for purposes of evading compliance with the Party's laws governing claims for preferential tariff treatment under this Agreement; or (b) it is a good for which the importing Party does not require the importer to present a Certificate of Origin demonstrating origin.

Article 4.3. Validity of Certificate of Origin

1. A Certificate of Origin shall be valid for one year from its date of issuance in the exporting Party and be submitted within the same period to the customs authority of the importing Party in accordance with applicable procedures of the importing Party.
2. Notwithstanding paragraph 1:
(a) in the event that the good referred to in the Certificate of Origin is temporarily admitted or stored under control of the customs authority of a non-Party, the term of validity of the Certificate of Origin may be extended for one additional year; and
(b) in the event that the good referred to in the Certificate of Origin is temporarily admitted or stored under control of the customs authority of the importing Party, the term of validity of the Certificate of Origin shall be suspended for the amount of time the customs authority has authorized such operations.

Article 4.4. Claims for Preferential Tariff Treatment

1. Except as otherwise provided for in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment to:
(a) make a written statement in the customs declaration, based on a valid Certificate of Origin, indicating that the good qualifies as originating;
(b) have in its possession the Certificate of Origin at the time the statement referred to in subparagraph (a) is made;
(c) have in its possession the documents which certify that the requirements established in Article 3.14 (Direct Transport) have been met, where applicable; and
(d) submit the valid Certificate of Origin, as well as the documents referred to in subparagraph (c) to the customs authority, where it is required.
2. Where an importer has a reason to believe that a Certificate of Origin on which a statement was based contains incorrect information, the importer shall make a corrected statement and pay any customs duty owed.
3. Where an importer does not comply with any requirements under this Chapter or Chapter Three (Rules of Origin), preferential tariff treatment shall be denied to the goods imported from the territory of the exporting Party.

Article 4.5. Post-importation Claims for Preferential Tariff Treatment

Where a good was originating when it was imported into the territory of the importing Party, but the importer of the good did not claim preferential tariff treatment at the time of importation, that importer may, within the period specified in the Party's legislation or within one year following the date of importation, claim preferential tariff treatment and apply for a refund of any excess duties paid as a result of the good not having been accorded preferential tariff treatment, upon presentation to the importing Party of:
(a) a written or electronic declaration or statement, in accordance with the legislation of the importing Party, that the good was originating at the time of importation;
(b) a copy of a Certificate of Origin demonstrating that the good was originating; and
(c) such other documents related to the importation of the good as the importing Party may require.

Article 4.6. Record Keeping Requirements

1. The records that may be used to prove that a good covered by a Certificate of Origin is originating and has fulfilled other requirements under this Chapter and Chapter Three (Rules of Origin) include, but are not limited to:
(a) documents related to the purchase of, cost of, value of, and payment for, the exported good;
(b) documents related to the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the exported good;
(c) documents related to the production of the good in the form in which it was exported; and
(d) such other documents as the Parties may agree.
2. An exporter or producer in the territory of the exporting Party that completes and signs a Certificate of Origin shall keep, at least for five years from the date of issuance of the Certificate of Origin, the records referred to in paragraph 1.
3. An importer claiming preferential tariff treatment for a good imported into the territory of a Party shall keep, at least for five years from the date of importation of the good, the records related to the importation, including a copy of the Certificate of Origin.
4. An importer, exporter, or producer may choose to keep the records referred to in paragraph 1 in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic, or written form.

Article 4.7. Formal Errors

1. Upon discovering formal errors in a Certificate of Origin, namely those that do not affect the originating status of the goods, the customs authority of the importing Party shall notify the importer of the errors that make the Certificate of Origin unacceptable.
2. The importer shall submit the appropriate correction of the Certificate of Origin within 30 days following the date of the receipt of the notification.
3. The correction shall contain the amendment, the date of the amendment, and, where applicable, the number of the Certificate of Origin and shall be signed by the person who issued the original Certificate of Origin.
4. If the importer fails to submit the correction within the period referred to in paragraph 2, the competent authority of the importing Party may proceed to conduct a verification under Article 4.8.

Article 4.8. Verification

1. For purposes of determining whether a good imported into the territory of a Party from the territory of the other Party qualifies as originating, the competent authority of the importing Party may conduct a verification by means of:
(a) written requests for additional information from the importer;
(b) written requests for additional information from the exporter or producer through the competent authority of the exporting Party;
(c) requests that the competent authority of the exporting Party assists in verifying the origin of the good; or (d) verification visits to the premises of an exporter or producer in the territory of the other Party, along with officials of the competent authority of the exporting Party, to observe the facilities and the production processes of the good and to review the records referred to in Article 4.6.1, including accounting files.
2. Requests made under paragraph 1(b) or 1(c) by the competent authority of the importing Party and all the information provided in response by the competent authority of the exporting Party shall be in English.
3. Where the importer, exporter, or producer fails to answer the written request for additional information that the importing Party made under paragraph 1(a) or 1(b) within 90 days following the date of the receipt of the request, the importing Party may deny preferential tariff treatment to the relevant good.
4. Where the competent authority of the importing Party requests assistance under paragraph 1(c):

(a) it shall provide the competent authority of the exporting Party with:
(i) the reasons why such assistance for verification is requested;
(ii) the Certificate of Origin of the good or a copy thereof; and
(iii) any information and documents as may be necessary for purposes of such request;
(b) the competent authority of the exporting Party shall provide the competent authority of the importing Party with a written statement in English, including facts and findings, and any supporting documents made available by the exporter or producer. This statement shall indicate clearly whether the documents are authentic and whether the good concerned is originating and has fulfilled other requirements under this Chapter and Chapter Three (Rules of Origin). If the good can be considered to be originating, the statement shall include a detailed explanation of how the good obtained the originating status; and
(c) in case where the competent authority of the exporting Party fails to provide the written statement within 150 days following the date of the receipt of the request or where the written statement provided does not contain sufficient information, the importing Party may deny preferential tariff treatment to the relevant good.
5. Where the competent authority of the importing Party intends to conduct a verification under paragraph 1(d), it shall notify in writing, 30 days prior to the verification visit, the competent authority of the exporting Party of such a request. In case where the competent authority of the exporting Party does not give its written consent to such a request within 30 days following the date of the receipt of the notification, the importing Party may deny preferential tariff treatment to the relevant good.
6. The importing Party shall, within one year following the initiation of the verification, notify the importer and the exporting Party, including the exporter or producer through the competent authority of the exporting Party, in writing, of the determination whether the good is originating, as well as factual findings and the legal basis for the determination.
7. Where, at the time of importation, the customs authority of the importing Party has a reasonable doubt on the origin of a good, the good may be released upon a deposit or the payment of duties, pending the outcome of the verification. The deposit or duties paid shall be refunded once the outcome of the verification confirms that the good qualifies as originating.
8. A Party may suspend preferential tariff treatment to an importer on any subsequent import of a good when the competent authority of the Party had already determined that an identical good was not eligible for such treatment, until it is demonstrated that the good complies with the requirements under this Chapter and Chapter Three (Rules of Origin).
9. A Party may provide all the information requested under this Article, supporting documents, and all other related information electronically to the other Party.

Article 4.9. Penalties

Penalties shall be imposed on any person who does not comply with this Chapter or Chapter Three (Rules of Origin).

Article 4.10. Confidentiality

1. A Party shall maintain the confidentiality of the information provided by the other Party in accordance with this Chapter, when requested by the other Party, and protect it from disclosure that could prejudice the competitive position of the person providing the information. Any violation of the confidentiality shall be treated in accordance with the domestic legislation of each Party.
2. The information provided in accordance with this Chapter shall not be disclosed without specific permission of the person or authority providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

Article 4.11. Denial of Preferential Tariff Treatment

Except as otherwise provided in this Chapter, the importing Party may deny a claim for preferential tariff treatment or recover unpaid duties, where the good does not meet the requirements under this Chapter or Chapter Three (Rules of Origin).

Article 4.12. Modifications

1. If a Party considers that this Chapter or Chapter Three (Rules of Origin) needs to be modified, that Party may submit a modification proposal to the other Party, along with supporting rationale and studies.
2. A Party shall respond to the proposal made by the other Party within 180 days following the submission of the proposal.
3. In case where the Parties do not reach an agreement, either Party may refer the matter to the Committee on Customs, Origin, and Trade Facilitation established under Article 5.25 (Committee on Customs, Origin, and Trade Facilitation) for consideration.

Article 4.13. Implementation

1. During the period of five years following the date of entry into force of this Agreement, Annex 4A shall apply in lieu of Articles 4.1 and 4.6.1
2. After the period referred to in paragraph 1, Article 4.1 and 4.6 shall apply in lieu of Annex 4A.
3. During the period referred to in paragraph 1, the term Certificate of Origin used in Articles 4.2, 4.3, 4.4, 4.5, 4.7, 4.8, and 4.13 and Chapter Three (Rules of Origin) shall have the meaning of Proof of Origin referred to in Rule 1 of Annex 4A.
4. For purposes of accepting Certificates of Origin in an electronic format, the Parties shall, after one year following the date of entry into force of this Agreement, initiate the discussion on developing an electronic certification system to ensure the effective and efficient implementation of this Chapter, in a manner to be jointly determined by the competent authorities of the Parties.

Article 4.14. Uniform Regulations

1. The Parties may establish and implement, through their respective laws, regulations, or administrative policies, Uniform Regulations regarding the interpretation, application, and administration of this Chapter and Chapter Three (Rules of Origin).
2. Each Party shall implement any modification of, or addition to, the Uniform Regulations within such period as the Parties may agree. 1 Proofs of Origin issued in accordance with Annex 4A, until the last day of the calendar year in which Articles 4.1 and 4.6 start to apply, shall be accepted by the Parties. Persons and authorized bodies referred to in Rule 6 of Annex 4A shall keep the documents referred therein even if Annex 4A ceases to apply.

Article 4.15. Definitions

For purposes of this Chapter:
competent authority means:
(a) for Korea, the Korea Customs Service, or its successor; and
(b) for Peru, the Ministry of Foreign Trade and Tourism, or its successor; and identical goods means goods that are the same in all respects relevant to the particular rule of origin that qualify the goods as originating.

Chapter FIVE. Customs Administration and Trade Facilitation

Section A. TRADE FACILITATION

Article 5.1. Scope of Application and Objectives

1. This Chapter shall apply, in accordance with the Parties' respective international obligations and domestic customs laws, to customs procedures applied to goods traded between the Parties and to the movement of means of transport between the Parties.
2. The objectives of this Chapter are to:
(a) simplify and harmonize customs procedures of the Parties;
(b) ensure predictability, consistency, and transparency in the application of customs laws, including administrative procedures of the Parties;
(c) ensure the efficient and expeditious clearance of goods and movement of means of transport;
(d) facilitate trade between the Parties; and
(e) promote cooperation between the customs administrations, within the scope of application of this Chapter.

Article 5.2. Competent Authorities

1. The competent authorities for the administration of this Chapter are:
(a) for Korea, the Ministry of Strategy and Finance, or its successor; and
(b) for Peru, the Ministry of Foreign Trade and Tourism, or its successor.
2. Each competent authority shall designate one or more contact points for purposes of this Chapter and provide contact details of such contact points to the competent authority of the other Party. Competent authorities of the Parties shall promptly notify each other of any changes to the contact details of their contact points.

Article 5.3. Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, and transparent and facilitate trade.
2. Customs procedures of each Party shall, where possible and to the extent permitted by its respective customs laws, conform with the trade-related instruments of the World Customs Organization (hereinafter referred to as "WCO") to which the Party is a party, including those of the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) (as amended) and Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention).
3. Each Party shall provide for clearance of goods with minimum documentation requirements and make electronic systems accessible to customs users and use information technology that expedites procedures for the release of goods.
4. Customs administrations of the Parties shall facilitate the clearance, including the release, of goods in administering their procedures.
5. Each Party shall endeavor to provide a focal point, electronic or otherwise, through which its traders may submit all regulatory information that is required in order to obtain the clearance, including the release, of goods.

Article 5.4. Customs Valuation

The Parties shall apply Article VII of GATT 1994 and the Customs Valuation Agreement to goods traded between them.

Article 5.5. Tariff Classification

The Parties shall apply the International Convention on the Harmonized Commodity Description and Coding System to goods traded between them.

Article 5.6. Review and Appeal

1. Each Party shall ensure that with respect to its determinations (1) on customs matters including origin of goods and preferential tariff treatment and other import, export, and transit requirements and procedures, persons concerned who are the subject of such determinations (2) shall have access to:
(a) a level of administrative review independent of the employee or office that issued the determinations; and (b) judicial review of the determinations.
2. A producer or exporter may provide, upon request of the reviewing authority, information directly to the Party conducting the administrative review, and may request such Party to treat that information as confidential in accordance with the rules applicable in that Party. This information shall be provided in accordance with the rules determined by the Parties.

(1) For purposes of this Article, a determination, if made by Peru, means an administrative act.

(2) It shall be understood that these persons need a representative domiciled in the territory of the Party where the review or appeal is made.

Article 5.7. Advance Rulings

1. The Parties shall adopt or maintain procedures for the issuance of advance rulings on the following matters:
(a) tariff classification;
(b) execution of the rules of origin; and
(c) such other matters as the Parties may agree.
2. Procedures for the issuance of these advance rulings shall include at least:
(a) a maximum term of 120 days for issuance or such shorter period as may be established by a Party, starting from the date on which all the requirements by the competent authority are met;
(b) conditions for their validation, revocation, and publication; and
(c) sanctions
3. Upon written request of importers, exporters, or producers, each Party shall issue, through its customs administration or competent authority, written advance rulings on customs matters, in particular on tariff classification and rules of origin, in accordance with the legislation of each Party.
4. Detailed procedures, and in particular deadlines, for the issuance, use, and revocation of advance rulings shall be set out in the legislation of each Party.
5. Peru shall fully implement the obligations under paragraph 1 from January 1, 2012.

Article 5.8. Use of Automated Systems In the Paperless Trading Environment

1. The customs administrations shall use information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within the WCO.
2. The customs administrations shall endeavor to use information technology that expedites procedures for the release of goods, including the submission and processing of information and data before arrival of the shipment, as well as electronic or automated systems for risk management and targeting.
3. The Parties shall endeavor to ensure the simultaneous inspection of goods by the relevant domestic authorities at a single time and place when goods enter or leave the Parties' customs territory at a single time and place.

Article 5.9. Risk Management

1. Each customs administration shall focus its inspection activities on high-risk shipments of goods and facilitate the clearance, including release, of low-risk goods in administering customs procedures. Additionally, customs administrations shall exchange information related to applied techniques on risk management, ensuring the confidentiality of the information.
2. Each Party shall endeavor to mutually accept the certification given to the economic operator by the customs administration of the exporting Party throughout its supply chain which follows international standards and promotes safer trade in cooperation with governments and international organizations.
3. The Parties shall fully implement the obligation under paragraph 2 within three years following the date of entry into force of this Agreement.

Article 5.10. Publication and Inquiry Points

1. Each customs administration shall publish all customs laws and administrative procedures it applies or enforces.
2. Each customs administration shall designate one or more inquiry points to deal with inquiries from interested persons of either Party on customs matters arising from the implementation of this Agreement, and provide details of such inquiry points to the other customs administration. Information concerning the procedures for making such inquiries shall be accessible to the public.
3. Each customs administration shall endeavor to provide the other customs administration with timely notice of any significant modification to its customs laws or procedures governing the movement of goods and means of transport that is likely to substantially affect the operation of this Chapter.

Article 5.11. Express Consignments

Each customs administration shall adopt or maintain separate and expeditious customs procedures for express shipments while maintaining appropriate customs control and selection. Those procedures shall, under normal circumstances, provide an express clearance of goods after submission of all the necessary customs documents, regardless of their weight or customs value.

Article 5.12. Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties.
2. In accordance with paragraph 1, each Party shall ensure that its customs administration or competent authority adopt or maintain procedures that:
(a) provide for the release of goods within a period no longer than that required to ensure compliance with its customs laws and to the extent possible within 48 hours following the goods' arrival;
(b) provide for advance electronic submission and processing of information before physical arrival of goods to enable the release of goods on arrival;
(c) allow goods to be released at the point of arrival without temporary transfer to warehouses or other facilities; and
(d) allow importers to withdraw goods from customs before, and without prejudice to, the final determination by its customs administration of the applicable customs duties, taxes, and fees.
3. A Party may require an importer to provide sufficient guarantee in the form of a surety, a deposit, or other appropriate instrument, covering the ultimate payment of the customs duties, taxes, and fees in connection with the importation of the good.

Section B. CUSTOMS COOPERATION

Article 5.13. Customs Cooperation

1. The Parties shall enhance their cooperation in customs and customs-related matters.
2. The Parties affirm their commitment to the facilitation of the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques and procedures and on computerized systems in accordance with this Agreement.
3. The Parties shall assist each other, in the areas within their competence, in the manner and under the conditions set out in this Chapter to ensure that the customs legislation is correctly applied, in particular by preventing, detecting, and investigating operations in breach of that legislation.
4. The Parties shall commit to:
(a) pursuing the harmonization of documentation used in trade and data elements in accordance with international standards, for purposes of facilitating the flow of trade between them, in customs-related matters regarding the importation, exportation, and transit of goods;
(b) intensifying cooperation between their customs laboratories and scientific departments and working towards the harmonization of customs laboratories methods ;
(c) exchanging customs' experts of the Parties;
(d) jointly organizing training programs on customs-related issues for the officials who participate directly in customs procedures;
(e) developing effective mechanisms for communicating with the trade and business communities;
(f) assisting each other, to the extent possible, in tariff classification, valuation, and determination of origin, for the preferential tariff treatment of imported goods, and other customs matters including non-preferential origin;
(g) promoting strong and efficient intellectual property rights enforcement by customs authorities, regarding imports, exports, re-exports, transit, transshipments, and other customs procedures, and in particular regarding counterfeit goods; and
(h) improving the security, while facilitating trade, of sea-container and other shipments from all locations that are imported into, trans-shipped through, or transiting Korea or Peru. The Parties agree that the objectives of the intensified and broadened cooperation include, but are not limited to:
(i) working together to reinforce the customs-related aspects for securing the logistics chain of international trade; and
(ii) coordinating positions, to the extent possible, in any multilateral fora where issues related to container security may be appropriately raised and discussed.

Article 5.14. Implementation of the Customs Cooperation

1. The implementation of this Section shall be entrusted to the customs administration of the Parties. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in the field of data protection.
2. The Parties shall consult each other on the detailed rules of implementation which are adopted in accordance with this Chapter.
3. The Parties shall exchange the contact points for the exchange of information.

Article 5.15. Mutual Administrative Assistance on Customs Matters

1. Upon request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure compliance with customs legislation, including information on non-preferential origin, tariff classification, valuation, determination of origin, and operations noted or planned which are or might be in breach of such legislation.
2. Upon request of the applicant authority, the requested authority shall inform it whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. Upon request of the applicant authority, the requested authority shall, within the framework of its laws, take the necessary steps to ensure special surveillance of:
(a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been in breach of customs legislation;
(b) places where goods are stored in a way that gives grounds for suspecting that they are intended to be used in operations in breach of customs legislation;
(c) movements of goods notified as possibly giving rise to substantial breaches of customs legislation; and
(d) means of transport for which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.
4. The Parties shall provide each other, on their own initiative and in accordance with their laws, rules, and other legal instruments, with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information on:

(a) operations which are or appear to be in breach of such legislation and which may be of interest to other Party;
(b) new means or methods employed in carrying out such operations;
(c) goods known to be subject to substantial breaches of customs legislation;
(d) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been in substantial breach of customs legislation; or
(e) means of transport for which there are reasonable grounds for believing that they have been, are, or may be used in operations in substantial breach of customs legislation.

Article 5.16. Form and Substance of Requests for Assistance

1. Requests for assistance in accordance with this Chapter shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. In urgent situations, oral requests may be accepted, but shall be confirmed in writing immediately.
2. Requests for assistance in accordance with this Chapter shall include the following information:
(a) the applicant authority;
(b) the measure requested;
(c) the object of and the reason for the request;
(d) the legal or regulatory provisions and other legal elements involved;
(e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations; and
(f) a summary of the relevant facts and of the inquiries already carried out.
3. Requests shall be submitted in English. Where the documents are made in a language other than English, the requested authority may require the applicant authority to submit a translation of the documents into English.
4. If a request does not meet the formal requirements set out above, its correction or completion may be requested.

Article 5.17. Execution of Requests

ArticleFREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF KOREA AND THE REPUBLIC OF PERU PREAMBLE The Republic of Peru (hereinafter referred to as "Peru") and the Republic of Korea (hereinafter referred to as "Korea"), collectively referred to as "the Parties", resolved to:
STRENGTHEN the special bonds of friendship and cooperation between them;
PROMOTE broad-based economic development in order to reduce poverty and generate opportunities for sustainable economic growth;
ENSURE a predictable legal framework for trade, business, and investment;
CREATE new employment opportunities and effectively improve labor conditions and living standards in their respective territories;
AVOID distortions to their trade;
PROMOTE transparency and prevent and combat corruption, including bribery, and human rights violations-related rackets in international trade and investment;
IMPLEMENT this Agreement in a manner consistent with environmental protection and conservation and basic human and fundamental rights protection and promote sustainable development;
REAFFIRM their consent to strengthen and enhance the multilateral trading system as reflected by the World Trade Organization; and
REAFFIRM their commitment to the "Bogor Goals" of free and open trade and investment of the Asia-Pacific Economic Cooperation;
HAVE AGREED as follows:BodyInitial Provisions and DefinitionsONEEstablishment of a Free Trade Area1.1The Parties to this Agreement, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a Free Trade Area.Relation to other Agreements1.21. 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.Extent of Obligations1.3Each 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.General Definitions1.4For 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 Subsides 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;
territory (1) 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.National Treatment and Market Access for GoodsTWOScope of Application2.1Except as otherwise provided in this Agreement, this Chapter shall apply to trade in goods of a Party.NATIONAL TREATMENTANational Treatment2.21. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes, and to this end Article III of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.
2. Paragraph 1 shall not apply to the measures set out in Annex 2A.ELIMINATION OF CUSTOMS DUTIESBElimination of Customs Duties2.31. Except as otherwise provided in this Agreement, neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.
2. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods in accordance with its Schedule set out in Annex 2B.
3. The Parties may deny preferential tariff treatment under this Agreement for used goods. For purposes of this paragraph, used goods includes those identified as such in headings or sub-headings of the HS and those reconstructed, repaired, recovered, remanufactured, or any other similar goods that, after having been used, have been subject to a process to restore their original characteristics or specifications, or to restore the functionality they had when they were new. (1)
4. Upon request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules set out in Annex 2B.
5. An agreement between the Parties to accelerate the elimination of a customs duty on a good, shall supersede any duty rate or staging category determined pursuant to their 1 This paragraph shall not apply to used vehicles that are classified in heading 8703 of the HS, provided that they do not fall within the scope of the measures referred to in Annex 2A. Accordingly, each Party shall provide preferential tariff treatment under this Agreement for such used vehicles. Schedules set out in Annex 2B for such good, when approved by the Parties in accordance with Article 22.1 (Joint Commission) and their applicable legal procedures.
6. For greater certainty, a Party may:
(a) raise a customs duty to the level established in its Schedule set out in Annex 2B following a unilateral reduction for the respective year; or
(b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO or in accordance with Chapter Twenty-Three (Dispute Settlement).(1) This paragraph shall not apply to used vehicles that are classified in heading 8703 of the HS, provided that they do not fall within the scope of the measures referred to in Annex 2A. Accordingly, each Party shall provide preferential tariff treatment under this Agreement for such used vehicles.SPECIAL REGIMESCWaiver of Customs Duties2.41. Neither Party shall adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.
2. Neither Party shall, explicitly or implicitly, condition on the fulfillment of a performance requirement the continuation of any existing waiver of customs duties.Temporary Admission of Goods2.51. Each Party shall grant duty-free temporary admission for the following goods, regardless of their origin:
(a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry in accordance with the laws of the importing Party;
(b) goods intended for display or demonstration;
(c) commercial samples and advertising films and recordings; and
(d) goods admitted for sports purposes.
2. Each Party, upon request of the person concerned and for reasons its customs authority considers valid, shall extend the time limit for temporary admission beyond the period initially fixed.
3. Neither Party shall condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that the good:
(a) be used solely by or under the personal supervision of a national or resident of the other Party in the exercise of business activity, trade, profession or sport activity of that person;
(b) not be sold or leased while in its territory;
(c) be accompanied by a security in an amount no greater than 110 percent of the charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;
(d) be capable of identification when exported;
(e) be exported on the departure of the person referred to in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, or within one year, unless extended;
(f) be admitted in no greater quantity than is reasonable for its intended use; and
(g) be otherwise admissible into the Party's territory under its law.
4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and

any other charge that would normally be owed on the good plus any other charges or penalties provided for under its law.
5. Each Party shall adopt or maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.
6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted.
7. Each Party shall provide that its customs authority or other competent authority relieves the importer or another person responsible for a good admitted under this Article of any liability for failure to export the good on presentation of satisfactory proof to the customs authority of the importing Party that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.
8. Neither Party shall:
(a) prevent a vehicle or container used in international traffic that enters its territory from the territory of the other Party from exiting its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;
(b) require any security or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container;
(c) condition the release of any obligation, including any security, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and
(d) require that the vehicle or carrier bringing a container from the territory of the other Party into its territory be the same vehicle or carrier that takes the container to the territory of the other Party.
9. For purposes of paragraph 8, vehicle means a truck, a truck tractor, a tractor, a trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.Goods Re-entered after Repair or Alteration2.61. Neither Party shall apply a customs duty to a good, regardless of its origin, that reenters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration.
2. Neither Party shall apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration.
3. For purposes of this Article, repair or alteration does not include an operation or process that:
(a) destroys a good's essential characteristics or creates a new or commercially different good; or
(b) transforms an unfinished good into a finished good.Duty-free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials2.7Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:
(a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or
(b) such materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.Import and Export Restrictions2.81. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any non-tariff measures that prohibit or restrict the importation of any good of the other Party or the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 and its interpretative notes, and to this end Article XI of GATT 1994 and its interpretive notes are incorporated into and made part of this Agreement, mutatis mutandis.
2. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining: (a) export and import price requirements, except as permitted in enforcement of countervailing and anti-dumping duty orders and undertakings;
(b) import licensing conditioned on the fulfillment of a performance requirement; or
(c) voluntary export restraints inconsistent with Article VI of GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Agreement.
3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 2A.
4. Neither Party shall, as a condition for engaging in importation or for the importation of a good, require a person of the other Party to establish or maintain a contractual or other relationship with a distributor in its territory.
5. Nothing in paragraph 4 prevents a Party from requiring the designation of an agent for purposes of facilitating communications between regulatory authorities of the Party and a person of the other Party.
6. For purposes of paragraph 4: distributor means a person of a Party who is responsible for the commercial distribution, agency, concession, or representation in the territory of that Party of goods of the other Party.Import Licensing2.91. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement and to this end the Import Licensing Agreement is incorporated into and made part of this Agreement, mutatis mutandis.
2. (a) Promptly after the entry into force of this Agreement, each Party shall notify the other Party of its existing import licensing procedures, if any. The notification shall:

(i) include the information specified in Article 5 of the Import Licensing Agreement; and
(ii) be without prejudice as to whether the import licensing procedure is consistent with this Agreement.
(b) Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government website or in a single official journal. The Party shall do so at least 20 days before the new procedure or modification takes effect. (2)
3. Neither Party shall apply an import licensing procedure to a good of the other Party unless the Party has met the requirements of paragraph 2 with respect to that procedure.(2) This subparagraph shall not apply to a law or regulation that takes effect less than 20 days after it is published.Administrative Fees and Formalities2.101. Each Party shall ensure that all fees and charges of whatever character imposed on or in connection with the importation or exportation of goods are consistent with Article VIII:1 of GATT 1994 and its interpretive notes. To this end, Article VIII:1 of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.
2. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.
3. Each Party shall make available and maintain through the Internet a current list of the fees and charges it imposes in connection with importation or exportation.Export Taxes2.11Neither Party shall adopt or maintain any duty, tax, or other charge on the export of any good to the territory of the other Party, unless the duty, tax, or charge is also adopted or maintained on the good when destined for domestic consumption.State Trading Enterprises2.12The rights and obligations of the Parties with respect to state trading enterprises shall be governed by Article XVII of GATT 1994, its interpretative notes, and the Understanding on the Interpretation of Article XVII of GATT 1994, which are incorporated into and made part of this Agreement, mutatis mutandis. 2 This subparagraph shall not apply to a law or regulation that takes effect less than 20 days after it is published.Customs Valuation2.131. The Customs Valuation Agreement and any successor Agreement shall govern the customs valuation rules applied by the Parties to their trade. To this end, the Customs Valuation Agreement and any successor Agreement, as well as the WTO Decisions of Committee on Customs Valuation, are incorporated into and made part of this Agreement, mutatis mutandis.
2. The custom laws of the Parties shall comply with Article VII of GATT 1994 and the Customs Valuation Agreement.OTHER MEASURESDAgricultural Safeguard Measures2.141. Notwithstanding Article 2.3, a Party may apply a measure in the form of a higher import duty on an originating agricultural good listed in that Party's Schedule set out in Annex 2C, consistent with this Article if the aggregate volume of imports of that good in any year exceeds a trigger level as set out in its Schedule set out in Annex 2C.
2. The higher import duty under paragraph 1 shall not exceed the lesser of:
(a) the prevailing most-favored-nation (MFN) applied rate;
(b) the most-favored-nation (MFN) applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement;
(c) the base rate set out in its Schedule set out in Annex 2B; or
(d) the duty set out in its Schedule set out in Annex 2C.
3. Neither Party shall apply or maintain an agricultural safeguard measure under this Article and at the same time apply or maintain, with respect to the same good:
(a) a bilateral safeguard measure under Chapter Eight (Trade Remedies);
(b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement; or
(c) a special safeguard measure under Article 5 of the Agriculture Agreement.
4. A Party shall implement any agricultural safeguard measure in a transparent manner. Within 60 days after imposing an agricultural safeguard measure, the Party applying the measure shall notify the other Party in writing and provide the other Party with relevant data concerning the measure. Upon written request of the exporting Party, the Parties shall consult regarding application of the measure.
5. The Committee on Trade in Goods established under Article 2.17 may review and discuss the implementation and operation of this Article.
6. Neither Party shall apply or maintain an agricultural safeguard measure on an originating agricultural good if the period specified in the agricultural safeguard provisions of the Party's Schedule set out in Annex 2C has expired.Agricultural Export Subsidies2.15Neither Party shall introduce or reintroduce an export subsidy on an agricultural good destined for the territory of the other Party. (3) (3) Korea confirms that no subsidized agricultural goods is or will be exported to Peru.Price Band System2.16Peru may maintain its price band system established in its Supreme Decree N° 115-2001-EF and its amendments, with respect to the goods subject to the application of the system and listed in Annex 2D.INSTITUTIONAL PROVISIONSFCommittee on Trade In Goods2.171. The Parties hereby establish a Committee on Trade in Goods comprising officials of each Party. The meetings of the Committee and any ad-hoc working group shall be coordinated by the Ministry of Foreign Affairs and Trade of Korea and the Ministry of Foreign Trade and Tourism of Peru, or their respective successors.
2. The Committee shall meet upon request of a Party or the Joint Commission to consider matters arising under this Chapter, Chapter Three (Rules of Origin), Four (Origin Procedures) or Five (Customs Administration and Trade Facilitation).
3. The Committee's functions shall include, inter alia:
(a) promoting trade in goods between the Parties, including through consultations on accelerating, or broadening the scope

of, tariff elimination under this Agreement and other issues as appropriate;
(b) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, referring such matters to the Joint Commission for its consideration;
(c) reviewing the future amendments to the HS to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any conflicts between:
(i) subsequent amendments to HS 2007 and Annex 2B; or
(ii) Annex 2B and national nomenclatures;
(d) consulting on and endeavoring to resolve any difference that may arise between the Parties on matters related to the classification of goods under the HS;
(e) consulting on matters related to this Chapter in coordination with other committees, working groups or any other bodies established under this Agreement; and
(f) establishing ad-hoc working groups with specific commands.
4. The Committee shall meet at least once a year unless otherwise agreed by the Parties. When special circumstances arise, the Committee shall meet at any time upon request of a Party.
5. The Parties hereby establish an ad-hoc Working Group on Trade in Agricultural and Fishery Goods. In order to solve any obstacle to the trade of agricultural and fishery goods between the Parties, the ad-hoc Working Group shall meet upon request of a Party. The ad-hoc Working Group shall report to the Committee on Trade in Goods.(3) Korea confirms that no subsidized agricultural goods is or will be exported to Peru.DEFINITIONSDDefinitions2.18For purposes of this Chapter:
advertising films and recordings means recorded visual media or audio materials, consisting essentially of images and/or sound, showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party, provided that such materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public;
agricultural goods means those goods referred to in Article 2 of the Agriculture Agreement;
commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than the amount specified in a Party's laws, regulations, or procedures governing temporary admission, or so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples;
consular transactions means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party for purposes of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;
consumed means:
(a) actually consumed; or
(b) further processed or manufactured so as to result in a substantial change in the value, form, or use of the good or in the production of another good;
duty-free means free of customs duty;
export subsidies shall have the meaning assigned to that term in Article 1(e) of the Agriculture Agreement, including any amendment of that Article;
goods intended for display or demonstration includes their component parts, ancillary apparatus, and accessories;
goods temporarily admitted for sports purposes means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory such goods are admitted;
import licensing means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party;
Import Licensing Agreement means the Agreement on Import Licensing Procedures, contained in Annex 1A to the WTO Agreement;
performance requirement means a requirement that:
(a) a given level or percentage of goods or services be exported;
(b) domestic goods or services of the Party granting a waiver of customs duties or an import license be substituted for imported goods;
(c) a person benefiting from a waiver of customs duties or an import license purchase other goods or services in the territory of the Party granting the waiver of customs duties or the import license, or accord a preference to domestically produced goods;
(d) a person benefiting from a waiver of customs duties or an import license produce goods or supply services, in the territory of the Party granting the waiver of customs duties or the import license, with a given level or percentage of domestic content; or
(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows; but does not include a requirement that an imported good be:
(f) subsequently exported;

(g) used as a material in the production of another good that is subsequently exported;
(h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or
(i) substituted by an identical or similar good that is subsequently exported; and printed advertising materials means those goods classified in Chapter 49 of the HS, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials, and posters, that are used to promote, publicize, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.Rules of OriginTHREEOriginating Goods3.11. Except as otherwise provided in this Chapter, a good shall be treated as originating in a Party where the good is:
(a) wholly obtained or produced entirely in the territory of one or both of the Parties;
(b) produced entirely in the territory of one or both of the Parties, exclusively from originating materials under this Chapter; or
(c) produced entirely in the territory of one or both of the Parties using non-originating materials, satisfying the requirements under Annex 3A.
2. Additionally, the good shall satisfy all the other applicable requirements of this Chapter.Wholly Obtained or Produced Goods3.2For purposes of Article 3.1.1(a), the following goods are wholly obtained or produced entirely in the territory of one or both of the Parties:
(a) live animals born and raised in the territory of Korea or Peru;
(b) goods obtained from live animals born and raised in the territory of Korea or Peru;
(c) goods obtained by hunting, trapping, fishing, or aquaculture in the territory of Korea or Peru; (1)
(d) goods of sea-fishing and other goods taken from the sea outside the territory of a Party by vessels registered or recorded with a Party and flying its flag;
(e) goods produced on board factory ships, exclusively from the goods referred to in subparagraph (d), provided that such factory ships are registered or recorded with a Party and fly its flag;
(f) plants and plant products grown and harvested, picked, or gathered in the territory of Korea or Peru;
(g) mineral goods and other naturally occurring substances extracted from the soil, waters, seabed, or beneath the seabed of Korea or Peru;
(h) goods taken or extracted by a Party or a person of a Party from the seabed or beneath the seabed outside the territory of a Party, provided that the Party has rights to exploit them;
(i) waste and scrap derived from:
(i) manufacturing operations conducted in the territory of Korea or Peru; or
(ii) used goods collected in the territory of Korea or Peru, provided that such waste and scrap is fit only for the recovery of raw materials; and
(j) goods produced exclusively from goods specified in subparagraphs (a) through (i).(1) Notwithstanding this subparagraph, goods of sea-fishing and other goods taken from the sea within the territories of the Parties by vessels registered or recorded with a non-Party and flying its flag shall not be regarded as wholly obtained or produced entirely in the territory of one or both of the Parties under this Article.Regional Value Content (rvc)3.31. The regional value content of a good shall be calculated on the basis of one of the following methods:
(a) Method Based on Value of Non-Originating Materials (Build-down Method)

$$RVC = \frac{FOB - VNM}{FOB} \times 100$$

(b) Method Based on Value of Originating Materials (Build-up Method)

$$RVC = \frac{VOM}{FOB} \times 100$$

where,
RVC is the regional value content, expressed as a percentage;
FOB is the free on board value of the good;
VNM is the value of the non-originating materials; and
VOM is the value of the originating materials.
2. The value of the non-originating materials shall be:
(a) in the case of a material imported directly by the producer of a good, the CIF value at the time of importation of the material;
(b) in the case of a material acquired by the producer in the territory where the good is produced, the transaction value, without considering the costs of freight, insurance, packing, and the other costs incurred in the transportation of the material from the warehouse of the supplier to the place where the producer is; or
(c) in the case of a self-produced material or where the relationship between the producer of the good and the seller of the material influences the price actually paid or payable for the material, the sum of all costs incurred in the production of the

material, including general expenses. Additionally, it will be possible to add an amount for profit equivalent to the profit added in the normal course of trade.
3. The values referred to in this Article shall be determined in accordance with the Customs Valuation Agreement.Intermediate Materials3.41. When an originating good is used in the subsequent production of another good, no account shall be taken of the non-originating materials contained in the originating good for purposes of determining the originating status of the subsequently produced good.
2. When a non-originating good is used in the subsequent production of another good:
(a) for purposes of calculating the value of the non-originating materials of the subsequently produced good, an account shall be taken only of the non-originating materials contained in the non-originating good; and
(b) for purposes of calculating the value of the originating materials of the subsequently produced good, an account shall be taken of the originating materials contained in the non-originating good.Non-qualifying Operations3.51. The following operations shall be considered to be non-qualifying operations to confer the status of originating goods, whether or not the requirements under this Chapter are satisfied:
(a) operations to ensure the preservation of goods in good condition during transport and storage;
(b) changes of packing or breaking-up or assembly of packages;
(c) washing, cleaning, removal of dust, oxide, oil, paint, or other coverings;
(d) ironing or pressing of textiles;
(e) simple painting and polishing operations;
(f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
(g) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and all other simple packing operations;
(h) simple mixing of products, whether or not of different kinds;
(i) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts; (j) slaughter of animals; or
(k) a combination of two or more operations specified in subparagraphs (a) through (j).
2. All operations carried out in a Party on a given good shall be considered together when determining whether the operations undergone by that good are to be regarded as non-qualifying within the meaning of paragraph 1.
3. For purposes of this Article:
(a) simple means activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity;
(b) simple mixing means activities which need neither special skills nor machines, apparatus, or equipment especially produced or installed for carrying out the activity but does not include chemical reaction; and
(c) chemical reaction means a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.Accumulation3.61. Originating goods or materials from the territory of a Party, incorporated into a good in the territory of the other Party, shall be considered to be originating in the territory of the other Party.
2. Production carried out by a producer in the territory of a Party may be accumulated with the production of one or more producers in the territory of that Party or the other Party, in such way that the production of the materials incorporated into the good shall be considered as carried out by that producer, provided that the good satisfies the requirements established in Article 3.1 and all other applicable requirements in this Chapter.De Minimis3.71. A good that does not undergo a change in tariff classification in accordance with Annex 3A shall nonetheless be considered to be originating if the value of all non-originating materials that have been used in its production and do not undergo the applicable change in tariff classification does not exceed 10 percent of the value of the good, determined in accordance with Article 3.3 if:
(a) the value of such non-originating materials is included in the value of non-originating materials for any applicable regional value content requirement; and
(b) the good satisfies all other applicable requirements in this Chapter.
2. Paragraph 1 shall not apply to goods classified in Chapters 1 through 14 and in Chapters 50 through 63 of the HS. A good classified in Chapters 50 through 63 of the HS, produced in the territory of a Party, shall be considered an originating good if the total weight of all non-originating fibers or yarns used in the production of the component that determines the tariff classification of that good, that do not undergo the applicable change in tariff classification, does not exceed 10 percent of the weight of the good.Fungible Goods or Materials3.81. In determining whether a good or material is originating for purposes of granting preferential tariff treatment, any fungible goods or materials shall be distinguished by:
(a) physically separating each fungible good or material; or
(b) using any inventory management method, such as averaging, last-in-first-out (LIFO) or first-in-first-out (FIFO), recognized in the generally accepted accounting principles of a Party in which the production is performed or otherwise accepted by the Party in which the production is performed.
2. The inventory management method selected under paragraph 1 for a particular fungible good or material shall continue to be used for that good or material throughout the fiscal year of the person that selected the inventory management method.Sets3.9A set, as defined in General Rule 3 of the HS, shall be regarded as originating when all the components of the

set are originating. Nevertheless, when a set is composed of originating and non-originating goods, the set as a whole shall be regarded as originating, provided that the value of the non-originating goods does not exceed 15 percent of the total value of the set, determined in accordance with Article 3.3.Accessories, Spare Parts, and Tools3.10The origin of the accessories, spare parts, or tools delivered with a good at the time of importation:
(a) shall be disregarded if the good is subject to a change in tariff classification requirement; and
(b) shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good, if the good is subject to a regional value content requirement, provided that:
(a) the accessories, spare parts, or tools are not invoiced separately from the good, regardless of whether they appear specified or separately identified in the invoice itself; and
(b) the quantities and value of the accessories, spare parts, or tools are customary for the good.Packaging Materials and Containers for Retail Sale3.111. Where packaging materials and containers are classified with a good, the origin of the packaging materials and containers in which the good is packaged for retail sale, shall be disregarded in determining the origin of the good, provided that:
(a) the good is wholly obtained or produced entirely in the territory of one or both of the Parties as set out in Article 3.1.1(a);
(b) the good is produced exclusively from originating materials, as set out in Article 3.1.1(b); or
(c) the good is subject to a change in tariff classification requirement set out in Annex 3A. 2. Where a good is subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account when determining the origin of the good.Packing Materials and Containers for Shipment3.12Packing materials and containers used to protect a good during its transportation shall not be taken into account when determining the origin of the good.Indirect Materials3.131. For purposes of determining whether a good is originating, the origin of the indirect materials defined in paragraph 2 shall not be taken into account.
2. Indirect materials means articles used in the production of a good which are neither physically incorporated into it, nor form part of it, including:
(a) fuel, energy, catalysts, and solvents;
(b) equipment, devices, and supplies used for testing or inspecting the goods; (c) gloves, glasses, footwear, clothing, safety equipment, and supplies;
(d) tools, dies, and molds;
(e) spare parts and materials used in the maintenance of equipment and buildings;
(f) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings; and
(g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.Direct Transport3.141. In order for originating goods to maintain their originating status, the goods shall be transported directly between the Parties.
2. Notwithstanding paragraph 1, the following shall be considered to be transported directly from the exporting Party to the importing Party:
(a) goods that are transported without passing through the territory of a non-Party; and
(b) goods whose transport involves transit through one or more non-Parties, with or without trans-shipment or temporary storage in such non-Parties, under control of the customs authority, provided that the goods do not:
(i) enter into trade or commerce there; and
(ii) undergo any operation there other than unloading and reloading, repacking, or any operation required to keep them in good condition.
3. Compliance with paragraphs 1 and 2 shall be demonstrated by presenting the following documentation to the customs authority of the importing Party:
(a) in the case of transit or trans-shipment, the transportation documents, such as the airway bill, the bill of lading, or the multimodal or combined transportation document, that certify the transport from the country of origin to the importing country, as the case may be; and
(b) in the case of storage, the transportation documents, such as the airway bill, the bill of lading, or the multimodal or combined transportation document, that certify the transport from the country of origin to the importing country, as the case may be, as well as the documents issued by the customs authority or other competent authority that authorized this operation in accordance with the domestic legislation of the non-Party.Principle of Territoriality3.151. The conditions for acquiring originating status set out in Articles 3.1 through 3.14 must be fulfilled without interruption in the territory of one or both of the Parties.
2. Notwithstanding paragraph 1, an originating good exported from a Party to a non-Party shall when returned be considered to be non-originating unless it can be demonstrated to the satisfaction of the customs authorities in accordance with laws and regulations of the importing Party concerned that the returning good:
(a) is the same as that exported; and
(b) has not undergone any operation beyond that necessary to preserve it in good condition while being exported.
3. Notwithstanding paragraphs 1 and 2, goods listed in Annex 3B shall be considered to be originating in accordance with Annex 3B, even if such goods have undergone operations and processes outside the territories of the

Parties.Definitions3.16For purposes of this Chapter:
aquaculture means the farming of aquatic organisms, including fish, mollusks, crustaceans, other aquatic invertebrates, and aquatic plants, from seedstock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding, protection from predators, etc.;
CIF means the value of the good in the country of origin inclusive of the cost of insurance and freight up to the port or place of entry in the country of importation;
competent authority means:
(a) for Korea, the Ministry of Strategy and Finance, or its successor; and
(b) for Peru, the Ministry of Foreign Trade and Tourism, or its successor;
exporter means a person located in the territory of a Party from where a good is exported by such a person; **FOB** means the value of the good free on board, inclusive of the cost of transportation to the port or site of final shipment abroad, regardless of the mode of transportation;
fungible goods or materials means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;
generally accepted accounting principles means recognized consensus or substantial authoritative support given in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information and the preparation of financial statements. Generally accepted accounting principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures; good means any merchandise, product, article, or material;
importer means a person located in the territory of a Party where a good is imported by such a person; **material** means a good that is used in the production of another good, including any components, ingredients, raw materials, parts, or pieces;
non-originating good or non-originating material means a good or material that does not qualify as originating under this Chapter;
originating material means a material that qualifies as originating under Article 3.1;
producer means a person who engages in the production of a good in the territory of a Party; and **production** means growing, raising, extracting, picking, gathering, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, or assembling a good.Origin ProceduresFOUCertificate of Origin4.11. Each Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good imported from the territory of the other Party on the basis of a Certificate of Origin.
2. In order to obtain preferential tariff treatment, an importer shall, in accordance with the procedures applicable in the importing Party, request preferential tariff treatment at the time of importation of an originating good.
3. A Certificate of Origin which certifies that a good being exported from the territory of a Party into the territory of the other Party qualifies as originating shall:
(a) be in a printed or electronic format; and
(b) be completed in English in conformity with the specimen and the instructions contained therein as set out in Annex 4B, which may be amended by agreement between the Parties.
4. Each Party shall:
(a) require an exporter in its territory to complete and sign a Certificate of Origin for any exportation of a good for which an importer may claim preferential tariff treatment upon importation of the good into the territory of the other Party; and
(b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate of Origin on the basis of:
(i) its knowledge that the good qualifies as originating;
(ii) its reasonable reliance on the producer's written representation that the good qualifies as originating; or (iii) a completed and signed Certificate of Origin for the good voluntarily provided to the exporter by the producer.
5. A Certificate of Origin, duly completed and signed by an exporter or producer in a Party, may apply to:
(a) a single shipment of one or more goods into the territory of the other
(b) multiple shipments of identical goods to the same importer within any period specified in the Certificate of Origin, not exceeding 12 months from its date of issuance. Party; orWaiver of Certificate of Origin4.2A Certificate of Origin shall not be required where:
(a) the customs value of the importation does not exceed 1,000 US dollars or the equivalent amount in the currency of the importing Party, or such higher amount as may be established by the importing Party, unless the importing Party considers the importation to be carried out or planned for purposes of evading compliance with the Party's laws governing claims for preferential tariff treatment under this Agreement; or (b) it is a good for which the importing Party does not require the importer to present a Certificate of Origin demonstrating origin.Validity of Certificate of Origin4.31. A Certificate of Origin shall be valid for one year from its date of issuance in the exporting Party and be submitted within the same period to the customs authority of the importing Party in accordance with applicable procedures of the importing Party.
2. Notwithstanding paragraph 1:
(a) in the event that the good referred to in the Certificate of Origin is temporarily admitted or stored under control of the customs authority of a non-Party, the term of validity of the Certificate of Origin may be extended for one additional year;

and
(b) in the event that the good referred to in the Certificate of Origin is temporarily admitted or stored under control of the customs authority of the importing Party, the term of validity of the Certificate of Origin shall be suspended for the amount of time the customs authority has authorized such operations.Claims for Preferential Tariff Treatment4.41. Except as otherwise provided for in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment to:
(a) make a written statement in the customs declaration, based on a valid Certificate of Origin, indicating that the good qualifies as originating;
(b) have in its possession the Certificate of Origin at the time the statement referred to in subparagraph (a) is made;
(c) have in its possession the documents which certify that the requirements established in Article 3.14 (Direct Transport) have been met, where applicable; and
(d) submit the valid Certificate of Origin, as well as the documents referred to in subparagraph (c) to the customs authority, where it is required.
2. Where an importer has a reason to believe that a Certificate of Origin on which a statement was based contains incorrect information, the importer shall make a corrected statement and pay any customs duty owed.
3. Where an importer does not comply with any requirements under this Chapter or Chapter Three (Rules of Origin), preferential tariff treatment shall be denied to the goods imported from the territory of the exporting Party.Post-importation Claims for Preferential Tariff Treatment4.5Where a good was originating when it was imported into the territory of the importing Party, but the importer of the good did not claim preferential tariff treatment at the time of importation, that importer may, within the period specified in the Party's legislation or within one year following the date of importation, claim preferential tariff treatment and apply for a refund of any excess duties paid as a result of the good not having been accorded preferential tariff treatment, upon presentation to the importing Party of:
(a) a written or electronic declaration or statement, in accordance with the legislation of the importing Party, that the good was originating at the time of importation;
(b) a copy of a Certificate of Origin demonstrating that the good was originating; and
(c) such other documents related to the importation of the good as the importing Party may require.Record Keeping Requirements4.61. The records that may be used to prove that a good covered by a Certificate of Origin is originating and has fulfilled other requirements under this Chapter and Chapter Three (Rules of Origin) include, but are not limited to:
(a) documents related to the purchase of, cost of, value of, and payment for, the exported good;
(b) documents related to the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the exported good;
(c) documents related to the production of the good in the form in which it was exported; and
(d) such other documents as the Parties may agree.
2. An exporter or producer in the territory of the exporting Party that completes and signs a Certificate of Origin shall keep, at least for five years from the date of issuance of the Certificate of Origin, the records referred to in paragraph 1.
3. An importer claiming preferential tariff treatment for a good imported into the territory of a Party shall keep, at least for five years from the date of importation of the good, the records related to the importation, including a copy of the Certificate of Origin.
4. An importer, exporter, or producer may choose to keep the records referred to in paragraph 1 in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic, or written form.Formal Errors4.71. Upon discovering formal errors in a Certificate of Origin, namely those that do not affect the originating status of the goods, the customs authority of the importing Party shall notify the importer of the errors that make the Certificate of Origin unacceptable.
2. The importer shall submit the appropriate correction of the Certificate of Origin within 30 days following the date of the receipt of the notification.
3. The correction shall contain the amendment, the date of the amendment, and, where applicable, the number of the Certificate of Origin and shall be signed by the person who issued the original Certificate of Origin.
4. If the importer fails to submit the correction within the period referred to in paragraph 2, the competent authority of the importing Party may proceed to conduct a verification under Article 4.8.Verification4.81. For purposes of determining whether a good imported into the territory of a Party from the territory of the other Party qualifies as originating, the competent authority of the importing Party may conduct a verification by means of:
(a) written requests for additional information from the importer;
(b) written requests for additional information from the exporter or producer through the competent authority of the exporting Party;
(c) requests that the competent authority of the exporting Party assists in verifying the origin of the good; or (d) verification visits to the premises of an exporter or producer in the territory of the other Party, along with officials of the competent authority of the exporting Party, to observe the facilities and the production processes of the good and to review the records referred to in Article 4.6.1, including accounting files.
2. Requests made under paragraph 1(b) or 1(c) by the competent authority of the importing Party and all the information

provided in response by the competent authority of the exporting Party shall be in English.
3. Where the importer, exporter, or producer fails to answer the written request for additional information that the importing Party made under paragraph 1(a) or 1(b) within 90 days following the date of the receipt of the request, the importing Party may deny preferential tariff treatment to the relevant good.
4. Where the competent authority of the importing Party requests assistance under paragraph 1(c):
(a) it shall provide the competent authority of the exporting Party with:
(i) the reasons why such assistance for verification is requested;
(ii) the Certificate of Origin of the good or a copy thereof; and
(iii) any information and documents as may be necessary for purposes of such request;
(b) the competent authority of the exporting Party shall provide the competent authority of the importing Party with a written statement in English, including facts and findings, and any supporting documents made available by the exporter or producer. This statement shall indicate clearly whether the documents are authentic and whether the good concerned is originating and has fulfilled other requirements under this Chapter and Chapter Three (Rules of Origin). If the good can be considered to be originating, the statement shall include a detailed explanation of how the good obtained the originating status; and
(c) in case where the competent authority of the exporting Party fails to provide the written statement within 150 days following the date of the receipt of the request or where the written statement provided does not contain sufficient information, the importing Party may deny preferential tariff treatment to the relevant good.
5. Where the competent authority of the importing Party intends to conduct a verification under paragraph 1(d), it shall notify in writing, 30 days prior to the verification visit, the competent authority of the exporting Party of such a request. In case where the competent authority of the exporting Party does not give its written consent to such a request within 30 days following the date of the receipt of the notification, the importing Party may deny preferential tariff treatment to the relevant good.
6. The importing Party shall, within one year following the initiation of the verification, notify the importer and the exporting Party, including the exporter or producer through the competent authority of the exporting Party, in writing, of the determination whether the good is originating, as well as factual findings and the legal basis for the determination.
7. Where, at the time of importation, the customs authority of the importing Party has a reasonable doubt on the origin of a good, the good may be released upon a deposit or the payment of duties, pending the outcome of the verification. The deposit or duties paid shall be refunded once the outcome of the verification confirms that the good qualifies as originating.
8. A Party may suspend preferential tariff treatment to an importer on any subsequent import of a good when the competent authority of the Party had already determined that an identical good was not eligible for such treatment, until it is demonstrated that the good complies with the requirements under this Chapter and Chapter Three (Rules of Origin).
9. A Party may provide all the information requested under this Article, supporting documents, and all other related information electronically to the other Party.Penalties4.9Penalties shall be imposed on any person who does not comply with this Chapter or Chapter Three (Rules of Origin).Confidentiality4.101. A Party shall maintain the confidentiality of the information provided by the other Party in accordance with this Chapter, when requested by the other Party, and protect it from disclosure that could prejudice the competitive position of the person providing the information. Any violation of the confidentiality shall be treated in accordance with the domestic legislation of each Party.
2. The information provided in accordance with this Chapter shall not be disclosed without specific permission of the person or authority providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.Denial of Preferential Tariff Treatment4.11Except as otherwise provided in this Chapter, the importing Party may deny a claim for preferential tariff treatment or recover unpaid duties, where the good does not meet the requirements under this Chapter or Chapter Three (Rules of Origin).Modifications4.121. If a Party considers that this Chapter or Chapter Three (Rules of Origin) needs to be modified, that Party may submit a modification proposal to the other Party, along with supporting rationale and studies.
2. A Party shall respond to the proposal made by the other Party within 180 days following the submission of the proposal.
3. In case where the Parties do not reach an agreement, either Party may refer the matter to the Committee on Customs, Origin, and Trade Facilitation established under Article 5.25 (Committee on Customs, Origin, and Trade Facilitation) for consideration.Implementation4.131. During the period of five years following the date of entry into force of this Agreement, Annex 4A shall apply in lieu of Articles 4.1 and 4.6.1
2. After the period referred to in paragraph 1, Article 4.1 and 4.6 shall apply in lieu of Annex 4A.
3. During the period referred to in paragraph 1, the term Certificate of Origin used in Articles 4.2, 4.3, 4.4, 4.5, 4.7, 4.8, and 4.13 and Chapter Three (Rules of Origin) shall have the meaning of Proof of Origin referred to in Rule 1 of Annex 4A.
4. For purposes of accepting Certificates of Origin in an electronic format, the Parties shall, after one year following the date of entry into force of this Agreement, initiate the discussion on developing an electronic certification system to ensure the effective and efficient implementation of this Chapter, in a manner to be jointly determined by the competent authorities of the Parties.Uniform Regulations4.141. The Parties may establish and implement, through their respective laws, regulations, or administrative policies, Uniform Regulations regarding the interpretation, application, and administration of this Chapter and Chapter Three (Rules of Origin).

2. Each Party shall implement any modification of, or addition to, the Uniform Regulations within such period as the Parties may agree. 1 Proofs of Origin issued in accordance with Annex 4A, until the last day of the calendar year in which Articles 4.1 and 4.6 start to apply, shall be accepted by the Parties. Persons and authorized bodies referred to in Rule 6 of Annex 4A shall keep the documents referred therein even if Annex 4A ceases to apply.Definitions4.15For purposes of this Chapter: competent authority means:
(a) for Korea, the Korea Customs Service, or its successor; and
(b) for Peru, the Ministry of Foreign Trade and Tourism, or its successor; and identical goods means goods that are the same in all respects relevant to the particular rule of origin that qualify the goods as originating.Customs Administration and Trade FacilitationFIVETRADE FACILITATIONAScope of Application and Objectives5.11. This Chapter shall apply, in accordance with the Parties' respective international obligations and domestic customs laws, to customs procedures applied to goods traded between the Parties and to the movement of means of transport between the Parties.
2. The objectives of this Chapter are to:
(a) simplify and harmonize customs procedures of the Parties;
(b) ensure predictability, consistency, and transparency in the application of customs laws, including administrative procedures of the Parties;
(c) ensure the efficient and expeditious clearance of goods and movement of means of transport;
(d) facilitate trade between the Parties; and
(e) promote cooperation between the customs administrations, within the scope of application of this Chapter.Competent Authorities5.21. The competent authorities for the administration of this Chapter are:
(a) for Korea, the Ministry of Strategy and Finance, or its successor; and
(b) for Peru, the Ministry of Foreign Trade and Tourism, or its successor.
2. Each competent authority shall designate one or more contact points for purposes of this Chapter and provide contact details of such contact points to the competent authority of the other Party. Competent authorities of the Parties shall promptly notify each other of any changes to the contact details of their contact points.Facilitation5.31. Each Party shall ensure that its customs procedures and practices are predictable, consistent, and transparent and facilitate trade.
2. Customs procedures of each Party shall, where possible and to the extent permitted by its respective customs laws, conform with the trade-related instruments of the World Customs Organization (hereinafter referred to as "WCO") to which the Party is a party, including those of the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) (as amended) and Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention).
3. Each Party shall provide for clearance of goods with minimum documentation requirements and make electronic systems accessible to customs users and use information technology that expedites procedures for the release of goods.
4. Customs administrations of the Parties shall facilitate the clearance, including the release, of goods in administering their procedures.
5. Each Party shall endeavor to provide a focal point, electronic or otherwise, through which its traders may submit all regulatory information that is required in order to obtain the clearance, including the release, of goods.Customs Valuation5.4The Parties shall apply Article VII of GATT 1994 and the Customs Valuation Agreement to goods traded between them.Tariff Classification5.5The Parties shall apply the International Convention on the Harmonized Commodity Description and Coding System to goods traded between them.Review and Appeal5.61. Each Party shall ensure that with respect to its determinations (1) on customs matters including origin of goods and preferential tariff treatment and other import, export, and transit requirements and procedures, persons concerned who are the subject of such determinations (2) shall have access to:
(a) a level of administrative review independent of the employee or office that issued the determinations; and (b) judicial review of the determinations.
2. A producer or exporter may provide, upon request of the reviewing authority, information directly to the Party conducting the administrative review, and may request such Party to treat that information as confidential in accordance with the rules applicable in that Party. This information shall be provided in accordance with the rules determined by the Parties.(1) For purposes of this Article, a determination, if made by Peru, means an administrative act. (2) It shall be understood that these persons need a representative domiciled in the territory of the Party where the review or appeal is made. Advance Rulings5.71. The Parties shall adopt or maintain procedures for the issuance of advance rulings on the following matters:
(a) tariff classification;
(b) execution of the rules of origin; and
(c) such other matters as the Parties may agree.
2. Procedures for the issuance of these advance rulings shall include at least:
(a) a maximum term of 120 days for issuance or such shorter period as may be established by a Party, starting from the date on which all the requirements by the competent authority are met;
(b) conditions for their validation, revocation, and publication; and
(c) sanctions
3. Upon written request of importers, exporters, or producers, each Party shall issue, through its customs administration or

competent authority, written advance rulings on customs matters, in particular on tariff classification and rules of origin, in accordance with the legislation of each Party.
4. Detailed procedures, and in particular deadlines, for the issuance, use, and revocation of advance rulings shall be set out in the legislation of each Party.
5. Peru shall fully implement the obligations under paragraph 1 from January 1, 2012.Use of Automated Systems In the Paperless Trading Environment5.81. The customs administrations shall use information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within the WCO.
2. The customs administrations shall endeavor to use information technology that expedites procedures for the release of goods, including the submission and processing of information and data before arrival of the shipment, as well as electronic or automated systems for risk management and targeting.
3. The Parties shall endeavor to ensure the simultaneous inspection of goods by the relevant domestic authorities at a single time and place when goods enter or leave the Parties' customs territory at a single time and place.Risk Management5.91. Each customs administration shall focus its inspection activities on high-risk shipments of goods and facilitate the clearance, including release, of low-risk goods in administering customs procedures. Additionally, customs administrations shall exchange information related to applied techniques on risk management, ensuring the confidentiality of the information.
2. Each Party shall endeavor to mutually accept the certification given to the economic operator by the customs administration of the exporting Party throughout its supply chain which follows international standards and promotes safer trade in cooperation with governments and international organizations.
3. The Parties shall fully implement the obligation under paragraph 2 within three years following the date of entry into force of this Agreement.Publication and Inquiry Points5.101. Each customs administration shall publish all customs laws and administrative procedures it applies or enforces.
2. Each customs administration shall designate one or more inquiry points to deal with inquiries from interested persons of either Party on customs matters arising from the implementation of this Agreement, and provide details of such inquiry points to the other customs administration. Information concerning the procedures for making such inquiries shall be accessible to the public.
3. Each customs administration shall endeavor to provide the other customs administration with timely notice of any significant modification to its customs laws or procedures governing the movement of goods and means of transport that is likely to substantially affect the operation of this Chapter.Express Consignments5.11Each customs administration shall adopt or maintain separate and expeditious customs procedures for express shipments while maintaining appropriate customs control and selection. Those procedures shall, under normal circumstances, provide an express clearance of goods after submission of all the necessary customs documents, regardless of their weight or customs value.Release of Goods5.121. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties.
2. In accordance with paragraph 1, each Party shall ensure that its customs administration or competent authority adopt or maintain procedures that:
(a) provide for the release of goods within a period no longer than that required to ensure compliance with its customs laws and to the extent possible within 48 hours following the goods' arrival;
(b) provide for advance electronic submission and processing of information before physical arrival of goods to enable the release of goods on arrival;
(c) allow goods to be released at the point of arrival without temporary transfer to warehouses or other facilities; and
(d) allow importers to withdraw goods from customs before, and without prejudice to, the final determination by its customs administration of the applicable customs duties, taxes, and fees.
3. A Party may require an importer to provide sufficient guarantee in the form of a surety, a deposit, or other appropriate instrument, covering the ultimate payment of the customs duties, taxes, and fees in connection with the importation of the good.CUSTOMS COOPERATIONBCustoms Cooperation5.131. The Parties shall enhance their cooperation in customs and customs-related matters.
2. The Parties affirm their commitment to the facilitation of the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques and procedures and on computerized systems in accordance with this Agreement.
3. The Parties shall assist each other, in the areas within their competence, in the manner and under the conditions set out in this Chapter to ensure that the customs legislation is correctly applied, in particular by preventing, detecting, and investigating operations in breach of that legislation.
4. The Parties shall commit to:
(a) pursuing the harmonization of documentation used in trade and data elements in accordance with international standards, for purposes of facilitating the flow of trade between them, in customs-related matters regarding the importation, exportation, and transit of goods;
(b) intensifying cooperation between their customs laboratories and scientific departments and working towards the harmonization of customs laboratories methods ;

(c) exchanging customs' experts of the Parties;
(d) jointly organizing training programs on customs-related issues for the officials who participate directly in customs procedures;
(e) developing effective mechanisms for communicating with the trade and business communities;
(f) assisting each other, to the extent possible, in tariff classification, valuation, and determination of origin, for the preferential tariff treatment of imported goods, and other customs matters including non-preferential origin;
(g) promoting strong and efficient intellectual property rights enforcement by customs authorities, regarding imports, exports, re-exports, transit, transshipments, and other customs procedures, and in particular regarding counterfeit goods; and
(h) improving the security, while facilitating trade, of sea-container and other shipments from all locations that are imported into, trans-shipped through, or transiting Korea or Peru. The Parties agree that the objectives of the intensified and broadened cooperation include, but are not limited to:
(i) working together to reinforce the customs-related aspects for securing the logistics chain of international trade; and
(ii) coordinating positions, to the extent possible, in any multilateral fora where issues related to container security may be appropriately raised and discussed.Implementation of the Customs Cooperation5.141. The implementation of this Section shall be entrusted to the customs administration of the Parties. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in the field of data protection.
2. The Parties shall consult each other on the detailed rules of implementation which are adopted in accordance with this Chapter.
3. The Parties shall exchange the contact points for the exchange of information.Mutual Administrative Assistance on Customs Matters5.151. Upon request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure compliance with customs legislation, including information on non-preferential origin, tariff classification, valuation, determination of origin, and operations noted or planned which are or might be in breach of such legislation.
2. Upon request of the applicant authority, the requested authority shall inform it whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. Upon request of the applicant authority, the requested authority shall, within the framework of its laws, take the necessary steps to ensure special surveillance of:
(a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been in breach of customs legislation;
(b) places where goods are stored in a way that gives grounds for suspecting that they are intended to be used in operations in breach of customs legislation;
(c) movements of goods notified as possibly giving rise to substantial breaches of customs legislation; and
(d) means of transport for which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.
4. The Parties shall provide each other, on their own initiative and in accordance with their laws, rules, and other legal instruments, with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information on:
(a) operations which are or appear to be in breach of such legislation and which may be of interest to other Party;
(b) new means or methods employed in carrying out such operations;
(c) goods known to be subject to substantial breaches of customs legislation;
(d) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been in substantial breach of customs legislation; or
(e) means of transport for which there are reasonable grounds for believing that they have been, are, or may be used in operations in substantial breach of customs legislation.Form and Substance of Requests for Assistance5.161. Requests for assistance in accordance with this Chapter shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. In urgent situations, oral requests may be accepted, but shall be confirmed in writing immediately.
2. Requests for assistance in accordance with this Chapter shall include the following information:
(a) the applicant authority;
(b) the measure requested;
(c) the object of and the reason for the request;
(d) the legal or regulatory provisions and other legal elements involved;
(e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations; and
(f) a summary of the relevant facts and of the inquiries already carried out.
3. Requests shall be submitted in English. Where the documents are made in a language other than English, the requested authority may require the applicant authority to submit a translation of the documents into English.

4. If a request does not meet the formal requirements set out above, its correction or completion may be requested.Execution of Requests5.171. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or upon request of other authorities of that same Party, by supplying information already possessed, by carrying out appropriate inquiries, or by arranging for them to be carried out. This paragraph shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own.
2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Party and the answer shall be sent at the latest within 120 days following the date of the receipt of the request.
3. Duly authorized officials of a Party may be present in the offices of the requested authority or any other concerned authority in accordance with paragraph 1, to obtain information related to activities that are or may be operations in breach of customs legislation which the applicant authority needs for purposes of this Chapter.
4. Duly authorized officials of a Party involved may be present at inquiries or verifications carried out in the territory of the other Party.

Article 5.18. Exceptions to the Obligation to Provide Assistance

1. The Parties may refuse to give assistance as provided for in this Chapter, where such assistance would:
(a) be likely to prejudice their sovereignty, public policy, security, or other essential interests;
(b) involve currency or tax regulations other than customs legislation; or
(c) violate an industrial, commercial, or professional secret.
2. Where the applicant authority requests assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.
3. If assistance is refused, the decision and the reasons therefor shall be notified to the applicant authority without delay.

Article 5.19. Confidentiality

1. Any information communicated in any form in accordance with this Chapter, shall be treated as confidential or restricted. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the receiving Party.
2. Personal data, that is, all information related to an identified or identifiable individual, may be exchanged only where the receiving Party undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the supplying Party.

Article 5.20. Use of Information

1. Information obtained shall be used solely for purposes of this Chapter. Where a Party requests the use of such information for other purposes, the Party shall ask for the prior written consent of the authority which furnished the information. Such use shall then be subject to any restrictions laid down by that authority. Information related to illicit drug trafficking may be communicated to other authorities.
2. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings instituted for failure to comply with customs legislation. The customs administration which supplied that information shall be notified of such use without delay.
3. The Parties may, in their records of evidence, reports, and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with this Chapter.

Article 5.21. Experts and Witnesses

An official of a requested authority may be authorized to appear, within the limitations of the authorization granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Chapter in the jurisdiction of the other Party, and produce such objects, documents, or authenticated copies thereof, as may be needed for the proceedings. The request for an appearance shall indicate specifically on what matters and by virtue of what title or qualification the official will be questioned.

Article 5.22. Assistance Expenses

The Parties shall waive all claims on each other for the reimbursement of expenses incurred in accordance with this Chapter, except, as appropriate, for expenses related to experts and witnesses and to interpreters and translators who are not public officials.

Article 5.23. Review of Customs Procedures

1. Each customs administration shall periodically review its procedures with a view to their further simplification and the development of mutually beneficial arrangements to facilitate the trade between the Parties.
2. In applying a risk management approach to customs control, each customs administration shall regularly review the performance, effectiveness, and efficiency of its systems.

Article 5.24. Consultations

1. Without prejudice to Article 5.25, a Party may at any time request consultations with the other Party on any matter arising from the operation, or implementation of this Chapter, including tariff classification, customs valuation, and origin determination. Such consultations shall be conducted through the relevant contact points, and shall take place within 30 days following the date of receipt of the request, unless the Parties determine otherwise.
2. In the event that such consultations fail to resolve the matter, the requesting Party may refer the matter to the Committee on Customs, Origin, and Trade Facilitation established under Article 5.25 for consideration.
3. The Parties may consult each other on any trade facilitation issues arising from procedures to secure trade and the movement of means of transport between the Parties.

Article 5.25. Committee on Customs, Origin, and Trade Facilitation

1. The Parties hereby establish a Committee on Customs, Origin, and Trade Facilitation, which shall ensure the proper functioning of this Chapter and Chapters Three (Rules of Origin) and Four (Origin Procedures), and examine all issues arising from their application. For matters covered by this Agreement, it shall report to the Joint Commission.
2. The Committee shall consist of the competent authorities and other relevant authorities of the Parties responsible for rules of origin, origin procedures, trade facilitation, and customs matters.
3. The Committee shall:
(a) ensure the effective, uniform, and consistent administration of this Chapter and Chapters Three (Rules of Origin) and Four (Origin Procedures), and enhance cooperation in this regard;
(b) maintain the Annex 3A (Product Specific Rules of Origin) on the basis of the transposition of the HS;
(c) advise the Joint Commission of proposed solutions to address issues related to:
(i) interpretation, application, and administration of this Chapter and Chapters Three (Rules of Origin) and Four (Origin Procedures);
(ii) tariff classification and customs valuation related to the determination of origin;
(iii) calculation of the regional value content; and
(iv) the adoption by either Party of operational practices not in conformity with this Chapter and Chapters Three (Rules of Origin) and Four (Origin Procedures) that may adversely affect the trade between the Parties;
(d) adopt customs practices and standards which facilitate commercial exchange between the Parties in accordance with international standards;
(e) settle any disputes related to interpretation, application, and administration of this Chapter, including tariff classification. If the Committee does not reach a decision on the tariff classification, the Committee shall hold the appropriate consultations at, and seek recommendations from, the WCO. Such recommendations of the WCO shall be applied by the Parties;
(f) propose to the Joint Commission for approval of the modification proposals under Article 4.12 (Modifications) in the event a consensus is reached between the Parties; (g) work on the development of an electronic certification and verification system; and (h) examine any other origin-related matters not covered by the Committee on Trade in Goods established under Article 2.17 (Committee on Trade in Goods).
4. The Committee may formulate resolutions, any recommendations, or opinions which it considers necessary for the attainment of the common objectives and sound functioning of the mechanisms established in this Chapter and Chapters Three (Rules of Origin) and Four (Origin Procedures).

Section C. DEFINITIONS

Article 5.26. Definitions

For purposes of this Chapter:
applicant authority means a competent administrative authority which has been appointed by a Party to make a request;
breaches of customs legislation means any violation or attempted violation of that legislation;
customs administration means:

(a) for Korea, the Korea Customs Service, or its successor; and
(b) for Peru, the National Superintendence of Tax Administration (Superintendencia Nacional de Administración Tributaria), or its successor.
customs laws means any legislation administered, applied, or enforced by the customs administration of a Party;
customs legislation means any legal or regulatory provision adopted by Korea or Peru, governing the import, export, and transit of goods and their placing under any customs procedure, including measures of prohibition, restriction, and control;
customs procedures means the treatment applied by each customs administration to goods and means of transport that are subject to customs control;
goods means all goods falling within Chapters 1 to 97 of the HS;
means of transport means various types of vessels, vehicles, aircraft, and pack-animals which enter or leave the territory carrying persons, goods, or articles; and
requested authority means a competent administrative authority which has been appointed by a Party to receive a request.

Chapter SIX. Sanitary and Phytosanitary Measures

Article 6.1. Objectives

The objectives of this Chapter are to:
(a) minimize the negative effects on trade of sanitary and phytosanitary measures while protecting human, animal, or plant life or health in the Parties' territories;
(b) ensure that the Parties' sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on trade between the Parties;
(c) provide a committee to deal with matters related to sanitary and phytosanitary measures that may, directly or indirectly, affect trade between the Parties;
(d) strengthen communication and cooperation between the Parties' competent authorities having responsibility for matters covered by this Chapter; and
(e) deepen mutual understanding of each Party's sanitary and phytosanitary regulations and procedures.

Article 6.2. Scope of Application

This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.

Article 6.3. Affirmation of the Sps Agreement

The Parties affirm their existing rights and obligations with respect to each other under the SPS Agreement.

Article 6.4. Equivalence

The importing Party shall accept the sanitary and phytosanitary measures of the exporting Party as equivalent, even if these measures differ from its own measures, if the exporting Party objectively demonstrates to the importing Party that its measures achieve the importing Party's appropriate level of sanitary and phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing, and other relevant procedures.

Article 6.5. Risk Assessment

Without prejudice to Article 5 of the SPS Agreement, the Parties shall endeavor to give due consideration to a request for risk assessment of the other Party.

Article 6.6. Adaptation to Regional Conditions, Including Pest-or Disease-free Areas and Areas of Low Pest or Disease Prevalence

1. Each Party shall recognize the concepts of pest-or disease-free areas and areas of low pest or disease prevalence in accordance with the SPS Agreement.
2. The exporting Party claiming that areas within its territory are pest-or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Party that

such areas are, and are likely to remain, pest-or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing, and other relevant procedures.
3. In connection with paragraphs 1 and 2, if a Party does not accept the determination on pest-or disease-free areas or areas of low pest or disease prevalence made by the other Party, the Party not accepting the determination shall explain the reasons in a timely manner.

Article 6.7. Committee on Sanitary and Phytosanitary Matters

1. The Parties hereby agree to establish a Committee on Sanitary and Phytosanitary Matters comprising representatives of each Party's competent authorities who have responsibility for sanitary and phytosanitary matters.
2. The objectives of the Committee shall be to:
(a) enhance each Party's implementation of the SPS Agreement;
(b) protect human, animal, or plant life or health;
(c) enhance cooperation and consultation on sanitary and phytosanitary matters; and
(d) facilitate trade between the Parties.
3. Recognizing that the resolution of sanitary and phytosanitary matters must rely on science and risk-based assessment and is best achieved through bilateral technical cooperation and consultation, the Committee shall seek to enhance any present or future relationships between the Parties' agencies with responsibility for sanitary and phytosanitary matters. For this purpose, the Committee shall:
(a) monitor the implementation of this Chapter;
(b) pursue transparency regarding sanitary and phytosanitary measures applicable to trade;
(c) facilitate the exchange of information on matters related to the application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties;
(d) promote coordination of technical cooperation activities related to development, implementation, and application of sanitary and phytosanitary measures;
(e) improve mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes related to those measures;
(f) discuss and review issues arising from the application of sanitary and phytosanitary measures;
(g) cooperate to develop a common understanding on the application of international standards, guidelines, and recommendations; and
(h) deal with other issues agreed by the Parties.
4. The Parties shall adopt the Committee's terms of reference within a reasonable time following the entry into force of this Agreement.
5. The Committee shall be coordinated by:
(a) for Korea, the Ministry for Food, Agriculture, Forestry and Fisheries, or its successor; and
(b) for Peru, the Ministry of Foreign Trade and Tourism, or its successor.
6. The Parties will exchange the contact details of their respective coordinators referred to in paragraph 5 after the entry into force of this Agreement in order to facilitate communication with respect to the implementation of this Chapter.
7. The Committee shall meet within one year following the date of entry into force of this Agreement and thereafter every two years unless the Parties otherwise agree. The Committee may meet in person or by any technological means available to the Parties.

Article 6.8. Dispute Settlement

Neither Party shall have recourse to Chapter Twenty-Three (Dispute Settlement) for any matter arising under this Chapter.

Article 6.9. Definitions

For purposes of this Chapter: SPS Agreement means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement; and definitions in Annex A to the SPS Agreement shall apply.

Chapter SEVEN. Technical Barriers to Trade

Article 7.1. Objective

The objective of this Chapter is to increase and facilitate trade between the Parties by:
(a) improving the implementation of the TBT Agreement;
(b) ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary

obstacles to trade; and
(c) enhancing joint cooperation between the Parties.

Article 7.2. Relation to the Tbt Agreement

The Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement, and to this end the TBT Agreement is incorporated into and made part of this Agreement, mutatis mutandis.

Article 7.3. Scope of Application

1. This Chapter shall apply to the preparation, adoption, and application of all standards, technical regulations, and conformity assessment procedures of the Parties that may affect trade in goods between the Parties.
2. Notwithstanding paragraph 1, this Chapter shall not apply to sanitary and phytosanitary measures covered by Chapter Six (Sanitary and Phytosanitary Measures) or to purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies covered by Chapter Sixteen (Government Procurement).

Article 7.4. International Standards

1. Each Party shall use relevant international standards, guides, and recommendations, to the extent provided in Articles 2.4 and 5.4 of the TBT Agreement, as a basis for its technical regulations and conformity assessment procedures. 2. In determining whether an international standard, guide, or recommendation for purposes of Articles 2, 5, and Annex 3 of the TBT Agreement exists, each Party shall apply Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement (Annex 4 to G/TBT/9), adopted on November 13, 2000 by the WTO Committee on Technical Barriers to Trade.

Article 7.5. Equivalence of Technical Regulations

1. Each Party shall, upon written request of the other Party, give positive consideration to accepting as equivalent technical regulations of the other Party, even if these regulations differ from its own, provided that it is satisfied that these regulations adequately fulfill the objectives of its own regulations.
2. Where a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall, upon request of the other Party, explain the reasons for its decision.

Article 7.6. Conformity Assessment Procedures

1. The Parties recognize 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 the other Party's territory. The Parties shall exchange information on the range of mechanisms used in their territories.
2. The Parties shall accept, whenever possible, the results of the conformity assessment procedures conducted in the territory of the other Party, even when those procedures differ from its own, provided that those procedures offer a satisfactory assurance of conformity with applicable technical regulations or standards equivalent to its own procedures. Where a Party does not accept the results of conformity assessment procedures conducted in the other Party, it shall, upon request of the other Party, explain the reasons for its decision.
3. Prior to accepting the results of a conformity assessment procedure in accordance with paragraph 2, the Parties may consult on matters such as the technical competence of the conformity assessment bodies involved in order to enhance confidence in the permanent reliability of each one of the conformity assessment results.
4. Each Party may accredit or otherwise recognize conformity assessment bodies in the territory of the other Party on terms no less favorable than those it accords to conformity assessment bodies in its territory. If a Party accredits or otherwise recognizes a body assessing conformity with a particular technical regulation or standard in its territory and it refuses to accredit or otherwise recognize a body in the territory of the other Party assessing conformity with that technical regulation or standard, it shall, upon request of the other Party, explain the reasons for its decision.
5. The Parties shall give positive consideration to a request by the other Party to negotiate agreements for the mutual recognition of the results of their respective conformity assessment procedures. Where a Party declines such request, it shall, upon request of the other Party, explain the reasons for its decision. The Parties shall work together to implement the mutual recognition agreements to which both Parties are party.

Article 7.7. Transparency

1. Each Party shall electronically notify the other Party's representative to the Committee on Technical Barriers to Trade established under Article 7.9, at the same time as it submits its notification to the WTO Central Registry of Notifications in accordance with the TBT Agreement of:
(a) its proposed technical regulations and conformity assessment procedures; and
(b) its technical regulations and conformity assessment procedures adopted to address urgent problems of safety, health, environmental protection, or national security arising or threatening to arise.
2. Each Party shall also notify the other Party of its proposed technical regulations and conformity assessment procedures that are in accordance with the technical content of relevant international standards and that may have a significant effect on trade between the Parties.
3. The notification of technical regulations and conformity assessment procedures shall include an on-line link to, or a copy of, the complete text of the notified document. Where possible, the Parties shall provide an on-line link to, or a copy of, the complete text of the notified document in English.
4. Each Party shall allow a period of at least 60 days following the notification of its proposed technical regulations and conformity assessment procedures for the public and the other Party to provide written comments, except where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise. A Party shall give positive consideration to a reasonable request of the other Party for extending the comment period.
5. Each Party shall publish or otherwise make publicly available, in print or electronically, its responses or a summary of its responses to significant comments it receives, no later than the date it publishes the final technical regulation or conformity assessment procedure.
6. Each Party shall, upon request of the other Party, provide information on the objectives of, and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.
7. A Party shall give positive consideration to a reasonable request of the other Party, received prior to the end of the comment period following the notification of a proposed technical regulation, for extending the period of time between the adoption of the technical regulation and its entry into force, except where this would be ineffective in fulfilling the legitimate objectives pursued.
8. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are available on an official website that is free of charge and publicly accessible.
9. Where a Party detains at a port of entry a good imported from the territory of the other Party due to a failure to comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention of the good.

Article 7.8. Technical Cooperation

1. The Parties agree to cooperate and provide technical assistance, to the extent possible, in order to, inter alia:
(a) encourage the implementation of this Chapter;
(b) encourage the implementation of the TBT Agreement;
(c) strengthen the relevant organizations of standardization, technical regulation, and conformity assessment, including their training of the human resources;
(d) increase the cooperation between the standardizing, technical regulatory, or conformity assessment bodies in the Parties' territories, including participation and collaboration in international organizations;
(e) enhance cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures; and
(f) facilitate the consideration of any sector-specific proposal a Party makes for further cooperation between governmental and non-governmental standardizing or conformity assessment bodies in the Parties' territories.
2. Upon request of a Party that has an interest in developing a similar technical regulation of the other Party, that other Party shall endeavor to provide, to the extent practicable, relevant information, studies, or other documents, except for confidential information, on which it has relied in the development of the technical regulation.

Article 7.9. Committee on Technical Barriers to Trade

1. The Parties hereby establish a Committee on Technical Barriers to Trade comprising representatives of each Party as set out in paragraph 4.
2. The Committee shall:
(a) monitor the implementation, enforcement, and administration of this Chapter;
(b) promptly address any issue that a Party raises related to the development, adoption, application, or enforcement of standards, technical regulations, or conformity assessment procedures;
(c) enhance cooperation between the Parties in the areas set out in Article 7.8;
(d) facilitate the process for the negotiation of a mutual recognition agreement;
(e) exchange information, upon request of a Party, on standards, technical regulations, and conformity assessment procedures, including the Parties respective views regarding third party issues;

(f) exchange information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standards, technical regulations, and conformity assessment procedures;
(g) upon written request of a Party, consult on any matter arising under this Chapter;
(h) review this Chapter in light of any developments under the WTO Committee on Technical Barriers to Trade and, if necessary, develop recommendations for amendments to this Chapter;
(i) establish, if necessary to achieve the objectives of this Chapter, issue or sector-specific ad-hoc working groups;
(j) as it considers appropriate, report to the Joint Commission on the implementation of this Chapter;
(k) take any other steps that the Parties consider will assist them in implementing this Chapter; and
(l) establish its own rules.
3. Where the Parties have had recourse to consultations under paragraph 2(g), the consultations shall, if the Parties agree, constitute consultations under Article 23.4 (Consultations).
4. The Committee shall be coordinated by:
(a) for Korea, the Korean Agency for Technology and Standards, or its successor; and
(b) for Peru, the Vice Ministry of Foreign Trade, or its successor.
5. The Committee shall meet at least every two years unless the Parties otherwise agree. The Committee may meet in person or by any technological means available to the Parties.

Article 7.10. Information Exchange

1. Any information or explanation requested by a Party in accordance with this Chapter shall be provided by the other Party, in print or electronically, within 60 days, which may be extended with prior justification of the Party providing information or explanation.
2. Nothing in this Chapter shall be construed to require a Party to furnish any information the disclosure of which it considers is contrary to its essential security interests.

Article 7.11. Definition

For purposes of this Chapter, TBT Agreement means the Agreement on Technical Barriers to Trade, contained in Annex 1A to the WTO Agreement.

Chapter EIGHT. Trade Remedies

Section A. GLOBAL SAFEGUARD MEASURES

Article 8.1. Global Safeguard Measures

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement. 2. This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken in accordance with Article XIX of GATT 1994 and the Safeguards Agreement, except that a Party taking a global safeguard measure may exclude imports of an originating good of the other Party if such imports are not a substantial cause of serious injury or threat thereof.
3. Neither Party may apply, with respect to the same good, at the same time:
(a) a bilateral safeguard measure; and
(b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

Section B. BILATERAL SAFEGUARD MEASURES

Article 8.2. Imposition of a Bilateral Safeguard Measure

1. A Party may apply a measure set out in paragraph 2, during the transition period only, if, as a result of the reduction or elimination of a customs duty in accordance with this Agreement, an originating good of the other Party is being imported into the Party's territory 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 a domestic industry producing a like or directly competitive good.
2. If the conditions in paragraph 1 are met, a Party may take a bilateral safeguard measure which:
(a) suspends the further reduction of any rate of customs duty on the good provided for under this Agreement; or
(b) increases the rate of customs duty on the good to a level not to exceed the lesser of
(i) the most-favored-nation (MFN) applied rate of customs duty in effect at the time the measure is applied; and (ii) the base

rate of customs duty as provided in the schedule set out in Annex 2B (Elimination of Customs Duties).1
3. A Party shall apply a bilateral safeguard measure to imports of an originating good irrespective of their source.

1The Parties understand that neither tariff rate quotas nor quantitative restrictions would be a permissible form of a bilateral safeguard measure.

Article 8.3. Standards for a Bilateral Safeguard Measure

1. Neither Party may apply a safeguard measure:
(a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate adjustment;
(b) for a period exceeding two years, except that the period may be extended by up to two years if the competent authority of the importing Party determines, in conformity with the procedures set out in Article 8.4, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the domestic industry is adjusting; or
(c) beyond the expiration of the transition period.
2. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure is over one year, the Party applying the measure shall progressively liberalize it at regular intervals during the period of application.
3. Upon the termination of a bilateral safeguard measure, the Party that has applied the measure shall apply the rate of customs duty set out in the Party's Schedule set out in Annex 2B (Elimination of Customs Duties) as if the measure had never been applied.
4. A Party shall not apply a bilateral safeguard measure more than once on the same good until a period of time equal to the duration of the previous bilateral safeguard measure, including any extension, has elapsed commencing from the termination of the previous bilateral safeguard measure, provided that the period of non-application is at least one year.

Article 8.4. Investigation Procedures and Transparency Requirements

1. A Party shall apply a bilateral safeguard measure only following an investigation by the Party's competent investigating authority in accordance with Articles 3 and 4.2(c) of the Safeguards Agreement. To this end, Articles 3 and 4.2(c) of the Safeguards Agreement are incorporated into and made part of this Agreement, mutatis mutandis.
2. In the investigation described in paragraph 1, a Party shall comply with the requirements of Article 4.2(a) of the Safeguards Agreement. To this end, Article 4.2(a) of the 1 The Parties understand that neither tariff rate quotas nor quantitative restrictions would be a permissible form of a bilateral safeguard measure. Safeguards Agreement is incorporated into and made part of this Agreement, mutatis mutandis.
3. Each Party shall ensure that its competent investigating authority completes any such investigation within one year following its date of initiation.

Article 8.5. Provisional Bilateral Safeguard Measures

1. In critical circumstances, where delay would cause damage that would be difficult to repair, a Party may apply a provisional bilateral safeguard measure pursuant to a preliminary determination by its competent investigating authority that there is clear evidence that the increased imports of an originating good from the other Party, as the result of the reduction or elimination of a customs duty under this Agreement, constitute a substantial cause of serious injury, or threat thereof, to a domestic industry.
2. The duration of the provisional bilateral safeguard measure, taking any forms set out in Article 8.2, shall not exceed 180 days, during which the pertinent requirements of Articles 8.2 and 8.4 shall be met. The guarantees or received funds arising from the imposition of a provisional bilateral safeguard measure shall be promptly liberated or refunded, as it corresponds, when the investigation does not determine that increased imports constitute a substantial cause of serious injury, or threat thereof, to a domestic industry. The duration of any such provisional bilateral safeguard measure shall be counted as part of the duration of a bilateral safeguard measure.

Article 8.6. Notification and Consultation

1. A Party shall promptly notify the other Party in writing upon:
(a) initiating a bilateral safeguard proceeding under this Section;
(b) applying a provisional bilateral safeguard measure; and
(c) taking a final decision to apply or extend a bilateral safeguard measure.
2. A Party shall provide to the other Party a copy of the public version of the report of its competent investigating authority

in accordance with Article 8.4.1.
3. Upon request of a Party whose good is subject to a bilateral safeguard proceeding under this Section, the Party conducting that proceeding shall enter into consultations with the requesting Party to review a notification under paragraph 1 or any public notice or report that the competent investigating authority has issued in connection with the proceeding.
4. All notifications during any bilateral safeguard investigation shall be exchanged in English.

Article 8.7. Compensation

1. No later than 30 days after it applies a bilateral safeguard measure, the Party applying the measure shall afford an opportunity to the other Party to consult with it regarding appropriate trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. The Party applying the measure shall provide such compensation as the Parties mutually agree.
2. If the Parties are unable to reach an agreement on compensation within 30 days following the commencement of consultations, the Party against whose originating good the measure is applied may suspend the application of concessions with respect to originating goods of the Party applying the measure that have trade effects substantially equivalent to the measure.
3. The Party against whose originating good the measure is applied shall notify the Party applying the measure in writing and in English before suspending concessions under paragraph 2.
4. The obligation to provide compensation under paragraph 1 and the right to suspend concessions under paragraph 2 shall terminate on the date of the termination of the bilateral safeguard measure.

Article 8.8. Definitions

For purposes of this Section: bilateral safeguard measure means a measure described in Article 8.2.2; competent investigating authority means:
(a) for Korea, the Korea Trade Commission, or its successor; and
(b) for Peru, the Vice Ministry of Foreign Trade, or its successor; domestic industry means, with respect to an imported good, the producers as a whole of the like or directly competitive good operating within the territory of a Party or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of such good; serious injury means a significant overall impairment in the position of a domestic industry; substantial cause means a cause which is important and not less than any other cause; threat of serious injury means serious injury that, on the basis of facts and not merely on allegation, conjecture, or remote possibility, is clearly imminent; and transition period means the 10-year period following the date of entry into force of this Agreement, except that for any good for which the Schedule set out in Annex 2B (Elimination of Customs Duties) of the Party applying the bilateral safeguard measure provides for the Party to eliminate its customs duties on the good over a period of 10 years or more, transition period means the customs duty elimination period for the good set out in that Schedule plus five years.

Section C. ANTI-DUMPING AND COUNTERVAILING MEASURES

Article 8.9. Anti-dumping and Countervailing Measures

1. Each Party retains its rights and obligations under Article VI of GATT 1994, the AD Agreement, and the SCM Agreement regarding the application of anti-dumping and countervailing measures.
2. During any anti-dumping and countervailing duty investigation involving the Parties, the Parties agree to exchange all notifications, exporter/producer questionnaires, and information requirements (2) in English.
3. Should a Party decide to impose an anti-dumping or countervailing duty, the amount of such duty shall not exceed the margin of dumping or subsidies, and the investigating Party shall endeavor to apply a duty which is less than the margin of dumping or subsidies, if such lesser duty would be adequate to remove the injury to the domestic industry.
4. Upon receipt by a Party's competent investigating authority of a properly documented countervailing duty application with respect to imports from the other Party, and before initiating an investigation, the Party shall provide written notification to the other Party of its receipt of the application and afford the other Party a meeting to consult with its competent investigating authority regarding the application, as provided for in Article 13 of the SCM Agreement.
5. Where a Party's competent investigating authority conducts an anti-dumping or countervailing duty investigation with respect to imports from the other Party, in addition to the notifications in accordance with the relevant provisions of the AD Agreement and the SCM Agreement, and independently of the notifications provided directly to the producers or exporters, it shall provide to the other Party written notification of the initiation of such investigation procedure, together with a copy of the exporter/producer questionnaire and the list of the known main exporters or producers.
6. The Party that received the notification in accordance with paragraph 5:
(a) shall endeavor to send the list of producers and exporters of the good under investigation to the competent investigating

authority of the other Party, together with their addresses, within 30 days;
(b) shall endeavor to inform the exporters or producers, or the relevant trade or industrial associations of the good under investigation, of the information received from the competent investigating authority of the other Party; and
(c) may collect responses of the exporters or producers to the questionnaire and send the collected responses to the competent investigating authority of the other Party by the due date specified in the questionnaire.

(2) The parties concerned shall provide all documents and information required by the competent investigating authority through the exporter/producer questionnaires and information requirements in the competent investigating authority's official national language. The competent investigating authority shall accept translations of such documents and information, as long as the translator's identification and signature are included.

Article 8.10. Definition

For purposes of this Section:
competent investigating authority means:
(a) for Korea, the Korea Trade Commission, or its successor; and
(b) for Peru, the National Institute of the Defense of Competition and the Protection of Intellectual Property, or its successor.

Section D. COOPERATION MECHANISMS ON TRADE REMEDIES

Article 8.11. Cooperation Mechanisms on Trade Remedies

1. The Parties may establish cooperation mechanisms between the competent investigating authorities and relevant agencies of each Party to promote a better understanding of their respective laws, their application and, in general, any aspect of trade policy regarding trade remedies matters by sharing information and experiences.
2. The Parties may undertake cooperative activities through cooperation mechanisms on trade remedies matters that they consider appropriate, such as:
(a) enhancing each Party's knowledge and understanding of the other Party's trade remedy laws, policies, and practices;
(b) improving cooperation between the Parties' agencies responsible for trade remedies matters;
(c) exchanging information on multilateral issues related to trade remedies, including those related to WTO negotiations such as disciplines with regards to lesser duty rule and prohibition of zeroing in anti-dumping investigations; and
(d) subject to each Party's laws and regulations, providing a meeting or other similar opportunities after the notification of the receipt of a properly documented application for the initiation of an anti-dumping investigation. Such a meeting or similar opportunities shall not interfere with a Party's procedures for the initiation of an anti-dumping investigation.

Chapter NINE. Investment

Section A. INVESTMENT

Article 9.1. Scope of Application

1. This Chapter shall apply to measures adopted or maintained by a Party related to:
(a) investors of the other Party;
(b) covered investments; and
(c) with respect to Articles 9.7 and 9.9, all investments in the territory of the Party.
2. For greater certainty, this Chapter does not bind a Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.
3. A Party's obligations under this Section shall apply to non-governmental bodies (1) when they exercise any regulatory, administrative, or other governmental authority delegated to them by that Party, such as the authority to expropriate, grant licenses, approve commercial transactions, or impose quotas, fees, or other charges.

(1) For purposes of this Chapter, the term "non-governmental bodies" includes state enterprises.

Article 9.2. Relation to other Chapters

1. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent

of the inconsistency.
2. A requirement by a Party that a service supplier of the other Party post a bond or other form of financial security as a condition of the cross-border supply of a service does not of itself make this Chapter applicable to measures adopted or maintained by the Party related to such cross-border supply of the service. This Chapter applies to measures adopted or maintained by the Party related to the posted bond or financial security, to the extent that such bond or financial security is a covered investment.
3. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter Twelve (Financial Services).

Article 9.3. National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.
2. Each Party shall accord to covered investments treatment no less favorable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

Article 9.4. Most-favored-nation Treatment (2)

1. Each Party shall accord to investors of the other Party treatment no less favorable than that it accords, in like circumstances, to investors of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.
2. Each Party shall accord to covered investments treatment no less favorable than that it accords, in like circumstances, to investments in its territory of investors of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

(2) For greater certainty, Article 9.4 shall be interpreted in accordance with Annex 9A.

Article 9.5. Minimum Standard of Treatment

1. Each Party shall accord to covered investments treatment in accordance with customary international law minimum standard of treatment of aliens, (3) including fair and equitable treatment and full protection and security.
2. The concepts of "fair and equitable treatment" and "full protection and security" in paragraph 1 do not require treatment in addition to or beyond that which is required by that standard, and do not create additional substantive rights. The obligation in paragraph 1 to provide:
(a) "fair and equitable treatment" includes the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world; and
(b) "full protection and security" requires each Party to provide the level of police protection required under customary international law.
3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article. 2 For greater certainty, Article 9.4 shall be interpreted in accordance with Annex 9A.

(3) Customary international law results from a general and consistent practice of States that they follow from a sense of legal obligation. Regarding Article 9.5, customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the economic rights and interests of aliens.

Article 9.6. Senior Management and Boards of Directors

1. Neither Party may require that an enterprise of that Party, that is a covered investment, appoint to senior management positions natural persons of any particular nationality.
2. A Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Party that is a covered investment, be of a particular nationality, or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Article 9.7. Performance Requirements

1. Neither Party may impose or enforce any requirement, or enforce any commitment or undertaking4, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of a Party or of a non-Party:
(a) to export a given level or percentage of goods or services;
(b) to achieve a given level or percentage of domestic content;
(c) to purchase, use, or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;
(d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;
(e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
(f) to transfer technology, (5) a production process, or other proprietary knowledge to a person in its territory; or
(g) to supply exclusively from the territory of the Party the goods that such investment produces or the services that such investment provides to a specific regional market or to the world market.
2. A measure that requires an investment to use a technology to meet generally applicable health, safety, or environmental requirements shall not be construed to be inconsistent with paragraph 1(f). For greater certainty, Articles 9.3 and 9.4 apply to the measure.
3. Neither Party may condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of a Party or of a non-Party, on compliance with any of the following requirements:
(a) to achieve a given level or percentage of domestic content;
(b) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from persons in its territory;
(c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or
(d) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings.
4. (a) Nothing in paragraph 3 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.
(b) Paragraph 1(f) does not apply where:
(i) a Party authorizes use of an intellectual property right in accordance with Article 31 of the TRIPS Agreement, and to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or
(ii) the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority, to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this Agreement.(6)
(c) Provided that such measures are not applied in an arbitrary, discriminatory, or unjustifiable manner, and provided that such measures do not constitute a disguised restriction on international trade or investment, paragraphs 1(b), (c), and (f), and 3(a) and (b), shall not be construed to prevent a Party from adopting or maintaining measures, including environmental measures:
(i) necessary to secure compliance with laws and regulations that are not inconsistent with this Agreement; (ii) necessary to protect human, animal, or plant life or health; or
(iii) necessary to the conservation of living or non-living exhaustible natural resources.
5. Paragraphs 1 and 3 shall not apply to any commitment, undertaking, or requirement other than those set out in those paragraphs.
6. The provisions of:
(a) paragraphs 1(a), (b), and (c), and 3(a) and (b) shall not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs;
(b) paragraphs 1(b), (c), (f), and (g), and 3(a) and (b) shall not apply to procurement as defined in Article 16.20 (Definitions); and (c) paragraphs 3(a) and (b) shall not apply to requirements imposed by an importing Party related to the content of goods necessary to qualify for preferential tariffs or preferential quotas.
7. Nothing in this Article shall be construed to derogate from the rights and obligations of the Parties under the TRIMs Agreement.
8. This Article does not preclude enforcement of any commitment, undertaking, or requirement between private parties, where a Party did not impose or require the commitment, undertaking, or requirement.

(4) For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 3 shall not constitute a "commitment or undertaking" for purposes of paragraph 1.

(5) For greater certainty, nothing in paragraph 1 shall be construed to prevent a Party, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of a Party or of a non-Party, from imposing or enforcing a requirement or enforcing a commitment or undertaking to train workers in its territory, provided that such training does not require the transfer of a particular technology, a production process, or other proprietary knowledge to a person in its territory.

(6) The Parties recognize that a patent does not necessarily confer market power.

Article 9.8. Non-conforming Measures

1. Articles 9.3, 9.4, 9.6, and 9.7 do not apply to:
(a) any existing non-conforming measure that is maintained by a Party at:
(i) the central level of government, as set out by that Party in its Schedule set out in Annex I; or
(ii) a local level of government;
(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 9.3, 9.4, 9.6, or 9.7.
2. Articles 9.3, 9.4, 9.6, and 9.7 do not apply to measures that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out in its Schedule set out in Annex II.
3. Neither Party may, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule set out in Annex II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.
4. Articles 9.3 and 9.4 do not apply to any measure that is an exception to, or derogation from, a Party's obligations under the TRIPS Agreement, as specifically provided in that agreement.
5. Articles 9.3, 9.4, and 9.6 shall not apply to:
(a) procurement as defined in Article 16.20 (Definitions); or
(b) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.

Article 9.9. Health, Safety, and Environmental Measures

1. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining, or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental concerns.
2. The Parties recognize that it is inappropriate to encourage investment by relaxing their health, safety, or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion, or retention in its territory of an investment of an investor. If a Party considers that the other Party has offered such encouragement, the Parties shall consult, upon request, with a view to avoiding any such encouragement.

Article 9.10. Special Formalities and Information Requirements

1. Nothing in Article 9.3 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as a requirement that covered investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not materially impair the protections afforded by a Party to investors of the other Party and covered investments in accordance with this Chapter.
2. Notwithstanding Articles 9.3 and 9.4, a Party may require an investor of the other Party or its covered investments to provide information on that investment solely for informational or statistical purposes. The Party shall protect any confidential business information from any disclosure that would prejudice the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 9.11. Compensation for Losses

1. Each Party shall accord to investors of the other Party, and to covered investments, non-discriminatory treatment with respect to measures it adopts or maintains related to losses suffered by investments in its territory owing to armed conflict or civil strife.
2. Paragraph 1 shall not apply to existing measures related to subsidies or grants that would be inconsistent with Article 9.3 but for Article 9.8.5(b).

Article 9.12. Expropriation

1. Neither Party may expropriate or nationalize a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization (hereinafter referred to as the "expropriation"), except:
(a) for a public purpose8;
(b) in a non-discriminatory manner;
(c) on payment of prompt, adequate, and effective compensation; and (d) in accordance with due process of law and Article 9.5.
2. The compensation referred to in paragraph 1(c) shall:
(a) be paid without delay;
(b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation");
(c) not reflect any change in value occurring because the intended expropriation had become known earlier; and
(d) be fully realizable and freely transferable.
3. If the fair market value is denominated in a freely usable currency, the compensation referred to in paragraph 1(c) shall be no less than the fair market value on the date of expropriation, plus interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.
4. If the fair market value is denominated in a currency that is not freely usable, the compensation referred to in paragraph 1(c) – converted into the currency of payment at the market rate of exchange prevailing on the date of payment – shall be no less than:
(a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date, plus
(b) interest, at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation until the date of payment.
5. The investor affected shall have a right, under the law of the Party making the expropriation, to promptly review, by a judicial or other independent authority of that Party, its case and the valuation of its investment in accordance with the principles set out in this Article.
6. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation, or creation of intellectual property rights, to the extent that such issuance, revocation, limitation, or creation is consistent with Chapter Seventeen (Intellectual Property Rights).

(7) Article 9.12 shall be interpreted in accordance with Annex 9B.

(8) The term "public purpose" is a treaty term to be interpreted in accordance with international law. It is not meant to create any inconsistency with the same or similar concepts in the domestic law of the Parties, such as "national security" or "public necessity."

Article 9.13. Transfers (9)

1. Each Party shall permit all transfers related to a covered investment to be made freely and without delay into and out of its territory. Such transfers include:
(a) contributions to capital, including the initial contribution;
(b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance, and other fees, returns in kind, and other amounts derived from the investment;
(c) proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;
(d) payments made under a contract entered into by the investor, or the covered investment, including payments made pursuant to a loan agreement;
(e) payments made in accordance with Articles 9.11 and 9.12; and
(f) payments arising under Section B.
3. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable, non-discriminatory, and good

faith application of its laws related to:
(a) bankruptcy, insolvency, or the protection of the rights of creditors;
(b) issuing, trading, or dealing in securities, futures, options, or derivatives;
(c) criminal or penal offenses;
(d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or
(e) ensuring compliance with orders or judgements in judicial or administrative proceedings.
4. Neither Party may require its investors to transfer or penalize its investors that fail to transfer the income, earnings, profits, or other amounts derived from, or attributable to, investments in the territory of the other Party.
5. Paragraph 4 shall not be construed to prevent a Party from imposing any measure through the equitable, non-discriminatory, and good faith application of its laws related to the matters set out in subparagraphs (a) through (e) of paragraph 3.
6. Notwithstanding paragraph 1, a Party may restrict transfers in kind in circumstances where it could otherwise restrict transfers under this Agreement and as set out in paragraph 3.

(9) For greater certainty, Annex 9C applies to this Article. 2. Each Party shall permit transfers related to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

Article 9.14. Denial of Benefits

Subject to prior notification and consultations, and in accordance with the procedures set out in Article 21.2 (Notification and Provision of Information), a Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such Party and to investments of such investor where the Party establishes that the enterprise is owned or controlled by persons of a non-Party, or of the denying Party, and has no substantive business operations in the territory of the other Party.

Article 9.15. Subrogation

1. If a Party or a designated agency of a Party makes a payment to any of its investors under a guarantee, a contract of insurance, or other form of indemnity it has granted in respect of an investment of an investor of that Party, the other Party shall recognize the subrogation or transfer of any right or claim in respect of such investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.
2. Where a Party or a designated agency of a Party has made a payment to an investor of that Party and has taken over rights and claims of the investor, that investor shall not, unless authorized to act on behalf of the Party or the designated agency of the Party making the payment, pursue those rights and claims against the other Party.

Section B. SETTLEMENT OF DISPUTES BETWEEN AN INVESTOR AND THE HOST PARTY

Article 9.16. Investor-state Dispute Settlement

1. This Article shall apply to disputes between a Party and an investor of the other Party concerning an alleged breach of an obligation of the former Party under this Chapter, which causes loss or damage to the investor or its investments.
2. The disputing parties shall initially seek to resolve the dispute by consultations and negotiations, which may include the use of non-binding third-party procedures.
3. Any such dispute which has not been settled within a period of six months from the date of request for consultations and negotiations may be submitted to the courts or administrative tribunals of the Party concerned or to arbitration. In the latter event, the investor has the choice, among any of the following:
(a) the ICSID Convention and the ICSID Rules of Procedure for Arbitration Proceedings, provided that both the disputing Party and the Party of the disputing investor are parties to the ICSID Convention;
(b) the ICSID Additional Facility Rules, provided that either the disputing Party or the Party of the disputing investor, but not both, is a party to the ICSID Convention;
(c) the UNCITRAL Arbitration Rules; or
(d) any other arbitration institution or any other arbitration rules, if disputing parties so agree.
4. Once the investor has submitted the dispute to either the courts or administrative tribunals of the disputing Party or any of the arbitration mechanisms provided for in paragraph 3, the choice of the procedure shall be definitive and exclusive.
5. Each Party hereby consents to the submission of a dispute to arbitration under paragraphs 3(a), (b), and (c) in accordance

with this Article, provided that: (10)
(a) the submission of the dispute to such arbitration takes place within three years from the date on which the disputing investor became aware, or should reasonably have become aware, of a breach of an obligation under this Chapter and of the loss or damage incurred by the disputing investor or its investment; and
(b) the disputing investor gives written notice which shall be delivered at least 90 days before the claim to arbitration is submitted, to the disputing Party of its intention to submit the dispute to such arbitration and which: (11)
(i) states the name and address of the disputing investor;
(ii) selects one of the fora in paragraph 3 as the forum for dispute settlement;
(iii) waives its right to initiate any proceedings, excluding proceedings for interim injunctive relief referred to in paragraph 6, before any of the other dispute settlement fora referred to in paragraph 3 in relation to the matter under dispute; and
(iv) briefly summarizes the alleged breaches of the disputing Party under this Chapter (including the articles alleged to have been breached) and the loss or damage allegedly caused to the investor or its investment.
6. Notwithstanding paragraph 4, the disputing investor may initiate or continue an action that seeks interim injunctive relief that does not involve the payment of monetary damages or the resolution of the substance of the matter in dispute before a court or administrative tribunal of the disputing Party, provided that the action is brought for the sole purpose of preserving the disputing investor's rights and interests during the pendency of the arbitration.
7. The arbitral tribunal established under paragraph 3 shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law. 10 In case where the Parties agree to submit the dispute to other arbitration institution or in accordance with any other arbitration rules, provided for in paragraph 3(d), the conditions established in paragraphs 5(a) and (b) shall apply.
8. The arbitral tribunal shall decide as a preliminary question any objection by the disputing Party that a dispute is not within the tribunal's competence or jurisdiction, or that, as a matter of law, a claim submitted is not a claim for which an award in favor of the disputing investor may be made under paragraph 9.
9. The award rendered by the arbitral tribunal shall include:
(a) a judgment whether or not there has been a breach by the disputing Party of any obligation under Section A with respect to the disputing investor and its investments; and
(b) a remedy if there has been such breach. The remedy shall be limited to one or both of the following:
(i) payment of monetary damages and applicable interest; and
(ii) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest in lieu of restitution. Costs may also be awarded in accordance with the applicable arbitration rules.
10. The award rendered in accordance with paragraph 9 shall be final and binding to the disputing parties.
11. The assumption of expenses incurred by the disputing parties in the arbitration shall be established:
(a) by the arbitration institution to which the dispute has been submitted, in accordance with its rules of procedure for arbitration proceedings; or
(b) in accordance with the rules of procedure for arbitration proceedings agreed by the disputing parties, where applicable.
12. Neither Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its investors and the other Party shall have consented to submit or have submitted to arbitration under this Article, unless such other Party has failed to abide by and comply with the award rendered in such dispute. Diplomatic protection, for purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

(10) In case where the Parties agree to submit the dispute to other arbitration institution or in accordance with any other arbitration rules, provided for in paragraph 3(d), the conditions established in paragraphs 5(a) and (b) shall apply.

(11) The request for consultations and negotiations and the notice of intent should be referred to the competent authorities of the disputing Party, as follows:
For Peru:
General Directorate of International Economy, Competition and Private Investment Affairs (Dirección General de Asuntos de Economía Internacional, Competencia e Inversión Privada) Ministry of Economy and Finance (Ministerio de Economía y Finanzas) Jirón Lampa 277, 5th floor (Jirón Lampa # 277 piso 5) Lima 1, Perú;
For Korea: Office of International Legal Affairs, Ministry of Justice, Government Complex, Gwacheon Korea

Article 9.17. Term of the Bilateral Investment Treaty

1. Subject to paragraph 2, the Parties hereby agree that the Bilateral Investment Treaty, as well as all the rights and obligations derived from the said Treaty, will cease to have effect on the date of entry into force of this Agreement.
2. Any and all investments made pursuant to the Bilateral Investment Treaty before the entry into force of this Agreement

will be governed by the rules of the said Treaty regarding any matter arising while the Treaty was in force. An investor may only submit an arbitration claim pursuant to the Bilateral Investment Treaty, regarding any matter arising while the said Treaty was in force, in accordance with the rules and procedures established in it, and provided that no more than three years have elapsed since the date of entry into force of this Agreement.

Section C. Definitions

Article 9.18. Definitions

For purposes of this Chapter:

Bilateral Investment Treaty means the Agreement between the Government of the Republic of Korea and the Government of the Republic of Peru for the Promotion and Reciprocal Protection of Investments,done at Seoul, June 3, 1993;

disputing investor means an investor that makes a claim under Section B;

disputing parties means the disputing investor and the disputing Party;

disputing Party means a Party against which a claim is made under Section B;

disputing party means the disputing investor or the disputing Party;

enterprise means an enterprise as defined in Article 1.4 (General Definitions), and its branch;

freely usable currency means any currency designated as such by the IMF and any amendments thereto;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Convention means the Convention on the Settlement of Investment Disputes between

States and Nationals of other States, done at Washington, March 18, 1965;

investment means every asset that an investor owns or controls, directly or indirectly, and that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

(a) an enterprise;

(b) shares, stock, and other forms of equity participation in an enterprise;

(c) bonds, debentures, other debt instruments, and loans(12) (13) (14)

(d) futures, options, and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;

(f) intellectual property rights;

(g) licenses, authorizations, permits, and similar rights conferred pursuant to domestic law; (15) (16) and

(h) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges.(17)

For purposes of this Agreement, a claim to payment that arises solely from the commercial sale of goods and services is not an investment, unless it is a loan that has the characteristics of an investment.

investment of an investor of a Party means an investment owned or controlled directly or indirectly by an investor of such Party;

investor of a non-Party means an investor other than an investor of a Party, that seeks to make, (18) is making, or has made an investment;

investor of a Party means a Party or state enterprise thereof, or a national or an enterprise of a Party, that seeks to make, (19) is making, or has made an investment in the territory of the

other Party, provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of

the State of his or her dominant and effective nationality;

negotiated restructuring means the restructuring or rescheduling of a debt instrument that has been effected through (i) a modification or amendment of such debt instrument, as provided for under the terms of such debt instrument, or (ii) a comprehensive debt exchange or other similar process in which the holders of no less than 75 percent of the aggregate principal amount of the outstanding debt under such debt instrument have consented to such debt exchange or other process;

state enterprise means an enterprise that is owned or controlled through ownership interests by a Party;

TRIMs Agreement means the Agreement on Trade-Related Investment Measures, contained in Annex 1A to the WTO Agreement; and

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law, approved by the United Nations General Assembly on December 15, 1976.

(12) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due and result from the sale of goods or services, are less likely to have such characteristics.

13Loans issued by a Party to the other Party are not investments.

14Subparagraph(c) shall be interpreted in accordance with Annex 9D.

15Whether a particular type of license, authorization, permit, or similar instrument (including a concession, to the extent that it has the nature of such an instrument) has the characteristics of an investment depends on such factors as the nature and extent of the rights that the holder has under the law of a Party. Among the licenses, authorizations, permits, and similar instruments that do not have the characteristics of an investment are those that do not create any rights protected under the law of a Party. For greater certainty, the foregoing is without prejudice to whether any asset associated with the license, authorization, permit, or similar instrument has the characteristics of an investment.

16The term “investment” does not include an order or judgment entered in a judicial or administrative action.

17For greater certainty, market share, market access, expected gains, and opportunities for profit-making are not, by themselves, investments.

18For greater certainty, it is understood that an investor “seeks to make an investment” only when the investor has taken concrete steps necessary to make said investment, such as when the investor has made an application for a permit or license authorizing the establishment of an investment.

19For greater certainty, it is understood that an investor “seeks to make an investment” only when the investor has taken concrete steps necessary to make said investment, such as when the investor has made an application for a permit or license authorizing the establishment of an investment.

Annex 9A. MOST-FAVORED-NATION TREATMENT

For greater certainty, treatment “with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments” referred to in paragraphs 1 and 2 of Article 9.4 does not encompass dispute resolution mechanisms, such as those set out in Section B, that are provided for in international treaties or trade agreements.

Annex 9B. EXPROPRIATION

The Parties confirm their shared understanding that:

(a) An action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right in an investment.

(b) Article 9.12.1 addresses two situations. The first is direct expropriation, where an investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure.

(c) The second situation addressed by Article 9.12.1 is indirect expropriation, where an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

(i) The determination of whether an action or series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:

(A) the economic impact of the government action, although the fact that an action or series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(B) the extent to which the government action interferes with distinct, reasonable investment-backed expectations; and

(C) the character of the government action, including its objectives and context. Relevant considerations could include whether the investor bears a disproportionate burden, such as a special sacrifice, that exceeds what the investor or investment should be expected to endure for the public interest.

(ii) Except in rare circumstances, such as, for example, when a measure or series of measures have an extremely severe or disproportionate effect in light of its purpose, non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, the environment, and real estate policy measures (for example, measures to improve the housing conditions for low-income households), do not constitute indirect expropriations. (20)

(20) For greater certainty, the list of "legitimate public welfare objectives" in subparagraph (c)(ii) is not exhaustive.

Annex 9C. TEMPORARY SAFEGUARD MEASURES

1. Nothing in this Chapter, Chapter Ten (Cross-Border Trade in Services), or Twelve (Financial Services) shall be construed to prevent a Party from adopting or maintaining temporary safeguard measures with regard to payments and capital movements:

(a) in the event of serious balance of payments or external financial difficulties or threat thereof; or

(b) where, in exceptional circumstances, payments and capital movements cause or threaten to cause serious difficulties for macroeconomic management, in particular, the operation of monetary policy or exchange rate policy in either Party.

2. Measures referred to in paragraph 1:

(a) shall not exceed a period of one year; however, if extremely exceptional circumstances arise such that a Party seeks to extend such measures, the Party will coordinate in advance with the other Party concerning the implementation of any proposed extension;

(b) shall be consistent with the Articles of Agreement of the International Monetary Fund;

(c) shall not exceed those necessary to deal with the circumstances described in paragraph 1;

(d) shall avoid unnecessary damage to the commercial, economic, or financial interests of the other Party;

(e) shall not otherwise interfere with investors' ability to earn a market rate of return in the territory of the Party on any restricted assets; (21)

(f) shall be temporary and phased out progressively as the situation described in paragraph 1 improves;

(g) shall not be confiscatory;

(h) shall promptly be notified to the other Party;

(i) are applied in a manner consistent with Articles 9.3, 10.2 (National Treatment), and 12.2 (National Treatment) and Articles 9.4, 10.3 (Most- Favored-Nation Treatment), and 12.3 (Most-Favored-Nation Treatment) subject to the Schedules set out in

Annex I, Annex II, and Annex III, and relevant Annexes in this Chapter, Chapter Ten (Cross-Border Trade in Services), or Twelve (Financial Services);

(j) shall not constitute a dual or multiple exchange rate practice; and

(k) shall not restrict payments or transfers associated with foreign direct investment. (22)

3. Nothing in this Chapter, Chapter Ten (Cross-Border Trade in Services), or Chapter Twelve (Financial Services) shall be regarded to affect the rights enjoyed and obligations undertaken by a Party as a party to the Articles of Agreement of the International Monetary Fund.

(21) For greater certainty, for Korea, the term "restricted assets" in subparagraph (e) refers only to assets invested in the territory of Korea by an investor of Peru that are restricted from being transferred out of the territory of Korea.

(22) For greater certainty, for Peru, payments or transfers associated with foreign direct investment refers to proceeds that come from the stocks, acquired by a foreign investor, proceeds from the sale of stocks, the principal, interest, and service charges paid for a loan extended to a foreign-capital invested company by its overseas holding company or by a company in a relationship with the holding company of the capital investment, and the compensation paid in accordance with a contract for the introduction of technology.

Annex 9D. Public Debt

1. The Parties recognize that the purchase of debt issued by a Party entails commercial risk. For greater certainty, no award may be made in favor of a disputing investor for a claim with respect to default or nonpayment of debt issued by a Party unless the disputing investor meets its burden of proving that such default or nonpayment constitutes an uncompensated expropriation for purposes of Article 9.12 or a breach of any other obligation under this Chapter.

2. No claim that a restructuring of debt issued by a Party breaches an obligation under this Chapter may be submitted to, or if already submitted continue in, arbitration under this Chapter if the restructuring is a negotiated restructuring at the time of submission, or becomes a negotiated restructuring after such submission, except for a claim that the restructuring violates Article 9.3 or 9.4.

3. Subject to paragraph 2, an investor of the other Party may not submit a claim under this Chapter that a restructuring of debt issued by a Party breaches an obligation under this Chapter (other than Article 9.3 or 9.4) unless 270 days have elapsed from the date of the events giving rise to the claim.

Chapter TEN. Cross-border Trade In Services

Article 10.1. Scope of Application

1. This Chapter shall apply to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of the other Party. Such measures include measures affecting:

(a) the production, distribution, marketing, sale, and delivery of a service;

(b) the purchase or use of, or payment for, a service;

(c) the access to and use of distribution, transport, or telecommunications networks and services in connection with the supply of a service;

(d) the presence in its territory of a service supplier of the other Party; and

(e) the provision of a bond or other form of financial security as a condition for the supply of a service.

2. For purposes of this Chapter, measures adopted or maintained by a Party means measures adopted or maintained by:

3. (a) central, regional, or local governments or authorities; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.

This Chapter shall not apply to:

(a) financial services as defined in Article 12.20 (Definitions), except that paragraph 4 shall apply where the financial services are supplied by a covered investment that is not a covered investment in a financial institution as defined in Article 12.20 (Definitions) in the Party's territory;

(b) air services, (1) including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) the selling and marketing of air transport services; and

(iii) computer reservation system (CRS) services;

(c) procurement as defined in Article 16.20 (Definitions); or

(d) subsides or grants provided by a Party, including government-supported loans, guarantees, and insurance. (2)

4. Articles 10.4, 10.7, 10.8, and footnote 2 shall apply to measures adopted or maintained (3) by a Party affecting the supply of a service in its territory by a covered investment .

5. This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory and does not confer any right on that national with respect to that access or employment.

6. This Chapter shall not apply to services supplied in the exercise of governmental authority in a Party's territory. A service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

(1) For greater certainty, the term "air services" includes but is not limited to traffic rights.

(2) Notwithstanding paragraph 3(d) of Article 10.1, the Party which considers that it is adversely affected by a subsidy or grant of the other Party may request consultations with the other Party on such matters. Such requests shall be accorded sympathetic consideration. The term "consultations" referred to in this footnote does not mean "consultations" in accordance with Article 23.4 (Consultations).

(3) For greater certainty, the scope of application of Articles 10.4, 10.7, 10.8, and footnote 2 on measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment is limited to the scope of application specified in Article 10.1, subject to any applicable non-conforming measures and exceptions. The Parties understand that nothing in this Chapter, including paragraph 4 of Article 10.1, is subject to Section B (Settlement of Disputes between an Investor and the Host Party) of Chapter Nine (Investment).

Article 10.2. National Treatment

Each Party shall accord to service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to its own service suppliers.

Article 10.3. Most-favored-nation Treatment

Each Party shall accord to service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to service suppliers of a non-Party.

Article 10.4. Market Access

Neither Party shall adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:
(a) impose limitations on:
(i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;
(ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; (4) or
(iv) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or
(b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

(4) Subparagraph (a)(iii) of this Article shall not cover measures of a Party that limit inputs for the supply of services.

Article 10.5. Local Presence

Neither Party shall require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 10.6. Non-conforming Measures

1. Articles 10.2 through 10.5 shall not apply to:
(a) any existing non-conforming measure that is maintained by a Party at:
(i) the central level of government, as set out by that Party in its Schedule set out in Annex I; or
(ii) a local level of government;
(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 10.2, 10.3, 10.4, or 10.5.
2. Articles 10.2 through 10.5 shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in its Schedule set out in Annex II.

Article 10.7. Transparency In Developing and Applying Regulations (5)

Further to Chapter Twenty-One (Transparency):
(a) each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding its regulations related to the subject matter of this Chapter;6
(b) to the extent possible, each Party shall:
(i) publish in advance any measure that it proposes to adopt related to the subject matter of this Chapter; and
(ii) provide interested persons and the other Party with a reasonable opportunity to comment on such proposed measures. If a Party does not provide advance notice of and opportunity for comment on regulations it proposes to adopt related to the subject matter of this Chapter, it shall, to the extent possible, address in writing the reasons for not doing so; and
(c) to the extent possible, each Party shall allow reasonable time between publication of final regulations related to the subject matter of this Chapter and their effective date.

(5) For greater certainty, “regulations” includes regulations establishing or applying to licensing authorization or criteria at the central, regional and local levels of government.

6The implementation of the obligation to establish appropriate mechanisms for small administrative agencies may need to take into account resources and budget constraints.

Article 10.8. Domestic Regulation

1. Where a Party requires authorization for the supply of a service, the Party's competent authorities shall, within a reasonable time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application. Upon request of the applicant, the Party's competent authorities shall provide, without undue delay, information on the status of the application. This obligation shall not apply to authorization requirements that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule set out in Annex II.
2. With a view to ensuring that measures related to qualification requirements and procedures, technical standards, and

licensing requirements do not constitute unnecessary barriers to trade in services, each Party shall endeavor to ensure, as appropriate for individual sectors, that such measures are:
(a) based on objective and transparent criteria, such as competence and the ability to supply the service;
(b) not more burdensome than necessary to ensure the quality of the service; and
(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.
3. If the results of the negotiations related to Article VI:4 of GATS (or the results of any similar negotiations undertaken in other multilateral fora in which both Parties participate) enter into effect, this Article shall be amended, as appropriate, after consultations between the Parties, to bring those results into effect under this Agreement.(7)

(7) For greater certainty, nothing in this Article prejudices either Party's position in any other forum regarding matters covered by this Article.

Article 10.9. Recognition

1. For purposes of the fulfillment, in whole or in part, of its standards or criteria for the authorization, licensing, or certification of services suppliers, and subject to the requirements of paragraph 4, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based on an agreement or arrangement with the country concerned or may be accorded autonomously.

2. Where a Party recognizes, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted in the territory of a non-Party, nothing in Article 10.3 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licenses or certifications granted in the territory of the other Party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if that other Party is interested, to negotiate accession to such an agreement or arrangement or to negotiate a comparable one with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licenses, or certifications obtained or requirements met in that other Party's territory should be recognized.

4. Neither Party shall accord recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing, or certification of services suppliers, or a disguised restriction on trade in services.

5. Annex 10A shall apply to measures adopted or maintained by a Party related to the licensing or certification of professional service suppliers as set out in that Annex.

Article 10.10. Implementation

The Parties shall consult annually, or as otherwise agreed, through various means including any technological means available to the Parties to review the implementation of this Chapter and consider other matters of mutual interest affecting trade in services.

Article 10.11. Denial of Benefits

Subject to prior notification and consultations, (8) a Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party or of the denying Party and the enterprise has no substantial business activities in the territory of the other Party.

(8) The term "consultations" referred to in this Article does not mean "consultations" in accordance with Article 23.4 (Consultations).

Article 10.12. Payments and Transfers (9)

1. Each Party shall permit all transfers and payments related to the cross-border supply of services to be made freely and without delay into and out of its territory.
2. Each Party shall permit such transfers and payments related to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.
3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer or payment through the equitable, non-

discriminatory, and good faith application of its laws related to:
(a) bankruptcy, insolvency, or the protection of the rights of creditors;
(b) issuing, trading, or dealing in securities, futures, options, or derivatives;
(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
(d) criminal or penal offences; or
(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

(9) For greater certainty, Annex 9C (Temporary Safeguard Measures) applies to this Article.

Article 1013. Definitions

For purposes of this Chapter:

cross-border trade in services or cross-border supply of services means the supply of a service:

(a) from the territory of one Party into the territory of the other Party;

(b) in the territory of one Party by a person of that Party to a person of the other Party; or

(c) by a national of a Party in the territory of the other Party,

but does not include the supply of a service in the territory of a Party by a covered investment;

enterprise means an "enterprise" as defined in Article 1.4 (Definitions), and its branch;

professional services means services, the supply of which requires specialized post- secondary education, or equivalent training or experience or examination, and for which the right to practice is granted or restricted by a Party, but does not include services supplied by trades-persons or vessel and aircraft crew members; and

service supplier of a Party means a person of that Party that seeks to supply or supplies a service. (10)

(10) For purposes of Articles 10.2, 10.3, and 10.4, "services suppliers" has the same meaning as "services and service suppliers" as used in Articles XVII, II, and XVI of GATS, respectively.

Chapter ELEVEN. Temporary Entry for Business Persons

Article 11.1. General Principles

1. Further to Article 11.2, this Chapter reflects the preferential trading relationship between the Parties, the mutual objective to facilitate temporary entry for business persons on a reciprocal basis and in accordance with Annex 11A, and the need to establish transparent criteria and procedures for temporary entry, to ensure border security, and to protect the domestic labor force and permanent employment in their respective territories.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of the other Party, (1) nor shall it apply to measures regarding nationality, citizenship, residence, or employment on a permanent basis.

(1) For greater certainty, this paragraph shall not be construed to nullify or impair the obligations under Section C of Annex 11A.

Article 11.2. General Obligations

1. Each Party shall apply its measures related to this Chapter in accordance with Article 11.1 and, in particular, shall expeditiously apply those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

2. Nothing in this Chapter shall be construed to prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to unduly impair or delay trade in goods or services or conduct of investment activities under this Agreement.

The sole fact of requiring a visa for natural persons shall not be regarded as unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

Article 11.3. Relation to other Chapters

1. Nothing in this Agreement, including provisions provided for in Chapter Ten (Cross- Border Trade in Services), shall be construed to impose any obligation on a Party regarding its immigration measures, except as specifically identified in this Chapter, Chapters One (Initial Provisions and Definitions), Twenty-One (Transparency), Twenty-Two (Administration of the Agreement), Twenty-Three (Dispute Settlement), Twenty-Four (Exceptions), and Twenty-Five (Final Provisions).

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

Article 11.4. Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons who comply with immigration measures applicable to temporary entry such as those related to public health, safety, and national security, in accordance with this Chapter, including Annex 11A and Appendix 11A-3.

2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might adversely affect:

(a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or

(b) the employment of any person who is involved in such dispute.

3. Where a Party, in accordance with paragraph 2, refuses to issue an immigration document authorizing employment, it shall inform in writing the business person of the reasons for the refusal.

4. Each Party shall limit any fees for processing applications for temporary entry of business persons so as not to unduly impair or delay trade in goods or services or the conduct of investment activities under this Agreement and not to exceed the administrative costs normally rendered.

Article 11.5. Provision of Information

1. Further to Article 21.1 (Publication), and recognizing the importance to the Parties of transparency of temporary entry information, each Party shall:
(a) provide the other Party with relevant materials that will enable the other Party to become acquainted with its measures related to this Chapter; and
(b) no later than six months after the date of entry into force of this Agreement, prepare, publish, and make available in its own territory, and in the territory of the other Party, explanatory material regarding the requirements for temporary entry under this Chapter, including references to applicable laws and regulations, in such a manner that will enable business persons of the other Party to become acquainted with them.
2. Each Party shall collect and maintain, and, upon request, make available to the other Party in accordance with its laws, data regarding the granting of temporary entry under this Chapter to business persons of the other Party who have been issued immigration documentation, including data specific to each occupation, profession, or activity.

Article 11.6. Working Group

1. The Parties hereby establish a Working Group on Temporary Entry for Business Persons comprising representatives of each Party, which include immigration officials.

2. The Working Group shall meet, when necessary, to consider matters arising under this Chapter, such as:

(a) the implementation and administration of this Chapter;

(b) the development and adoption of common criteria and interpretation for the implementation of the Chapter;

(c) the development and implementation of measures to further facilitate temporary entry of business persons on a reciprocal basis; and

(d) any measures of mutual interest.

Article 11.7. Dispute Settlement

1. A Party shall not initiate proceedings under Chapter Twenty-Three (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:

(a) the matter involves a pattern of practice; and

(b) the business person has exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph 1(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within six months of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 11.8. Transparency In Processing of Applications

1. Further to Article 21.1 (Publication), each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding applications and procedures related to the temporary entry of business persons.

2. Upon request of the applicant, the Party shall endeavor to provide, without undue delay, information on the status of the application or the decision about the application.

Article 11.9. Definitions

For purposes of this Chapter:

business person means a national of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment activities;

contractual service supplier means a business person of a Party who:

(a) possesses appropriate educational and other qualifications relevant to the service to be provided;

(b) is engaged in the supply of a contracted service as an employee of a juridical person that has no commercial presence in the other Party, where the juridical person obtains a service contract from a juridical person of the other Party;

(c) should have been an employee of the juridical person for a period of no less than one year immediately preceding the date of application for admission. The contract shall comply with the laws and regulations of the other Party; and

(d) is required to receive no remuneration from a juridical person located in the other Party;

executive means a business person within an organization who primarily directs the management of the organization, exercises wide latitude in decision-making, and receives only general supervision or direction from higher level executives, the board of directors, and/or stockholders of the business;

independent professional means a business person who:

(a) possesses appropriate educational and other qualifications relevant to the service to be provided;

(b) is a self-employed services supplier who is engaged in the supply of a contracted service, where the professional has a service contract from a person (2)of the other Party. The contract shall comply with the laws and regulations of the other Party; and

(c) receives remuneration from a person of the Party where the service is supplied;

labor dispute means a dispute between a union and employer related to terms and conditions of employment;

manager means a business person within an organization who primarily directs the organization or a department or sub-division of the organization, supervises, and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions such as promotion or leave authorization, and exercises discretionary authority over day-to-day operations;

professional means a business person of a Party who is engaged in a specialty occupation requiring:

(a) theoretical and practical application of a body of specialized knowledge; and

(b) attainment of a post-secondary degree, requiring four years of study, (3) or the equivalent of such a degree, as a minimum for entry into the occupation ;

specialist means a business person who possesses specialized knowledge of the company's products or services and its application in international markets, or an advanced level of expertise or knowledge of the company's processes and procedures. A specialist may include, but is not limited to, professionals; and

temporary entry means entry into the territory of a Party by a business person of the other Party without the intent to establish permanent residence.

(2) If a Party observes, within two years following the entry into force of this Agreement, that the independent professionals that have entered into its territory pursuant to a service contract between natural persons do not comply with the relevant immigration measures, that Party reserves the right to allow under this Chapter only independent professionals of the other Party pursuant to a service contract with a juridical person. The Party which considers that it is adversely affected may request consultations with the other Party on such matters. Such requests shall be accorded sympathetic consideration. The term "consultations" referred to in this footnote does not mean "consultations" in accordance with Article 23.4 (Consultations).

(3) With respect to Korea, the requirements for a Peruvian national seeking temporary entry under Section B of Appendix 11A-2 shall be those defined in the Immigration Control Act of Korea and its enforcement decree and guideline.

Chapter TWELVE. Financial Services

Article 12.1. Scope of Application

1. This Chapter shall apply to measures adopted or maintained by a Party related to:

(a) financial institutions of the other Party;

(b) investors of the other Party, and investments of such investors, in financial institutions in the Party's territory; and

(c) cross-border trade in financial services.

2. Chapters Nine (Investment) and Ten (Cross-Border Trade in Services) shall apply to

measures described in paragraph 1 only to the extent that these Chapters or Articles of these Chapters are incorporated into this Chapter.

(a) Articles 9.9 (Health, Safety, and Environmental Measures), 9.10 (Special Formalities and Information Requirements), 9.12 (Expropriation), 9.13 (Transfers), 9.14 (Denial of Benefits), and 10.11 (Denial of Benefits) are hereby incorporated into and made part of this Chapter.

(b) Section B (Settlement of Disputes between an Investor and the Host Party) of Chapter Nine (Investment) is hereby incorporated into and made part of this Chapter solely for claims that a Party has breached Article 9.10 (Special Formalities and Information Requirements), 9.12 (Expropriation), 9.13 (Transfers), or 9.14 (Denial of Benefits) as incorporated into this Chapter.

(c) Article 9.13 (Transfers) is incorporated into and made part of this Chapter to the extent that cross-border trade in financial services is subject to obligations under Article 12.5.

3. This Chapter shall not apply to measures adopted or maintained by a Party related to:

(a) activities or services forming part of a public retirement plan or statutory system of social security; (1)or

(b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter applies to the extent that a Party allows any of the activities or services referred to in subparagraph (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

4. This Chapter shall not apply to laws, regulations, or requirements governing the procurement by government agencies of

financial services purchased for governmental purposes and not with a view to commercial resale or use in the supply of services for commercial sale.

(1) Annex 12A sets out the Parties' understanding with respect to certain activities or services described in paragraph 3(a).

Article 12.2. National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favorable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments in financial institutions in its territory.

2. Each Party shall accord to financial institutions of the other Party and to investments of investors of the other Party in financial institutions treatment no less favorable than that it accords to its own financial institutions, and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.

3. For purposes of the national treatment obligations in Article 12.5.1, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

Article 12.3. Most-favored-nation Treatment

Each Party shall accord to investors of the other Party, financial institutions of the other Party, investments of investors in financial institutions, and cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to the investors, financial institutions, investments of investors in financial institutions, and cross-border financial service suppliers of a non-Party, in like circumstances.

Article 12.4. Market Access for Financial Institutions

A Party shall not adopt or maintain, with respect to financial institutions of the other Party or investors of the other Party seeking to establish such institutions, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(a) impose limitations on:

(i) the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirements of an economic needs test;

(ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of financial service operations or on the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;(2) or

(iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or

(b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

(2) Subparagraph (a)(iii) shall not cover measures of a Party which limit inputs for the supply of financial services.

Article 12.5. Cross-border Trade

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the services specified in Annex 12B.

2. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of the other Party. This obligation

does not require a Party to permit such suppliers to do business or solicit in its territory. Each Party may define “doing business” and “solicitation” for purposes of this obligation, provided that those definitions are not inconsistent with paragraph 1.

3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

Article 12.6. New Financial Services (3)

Each Party shall permit a financial institution of the other Party to supply any new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action by the Party.(4) Notwithstanding Article 12.4(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. Where a Party requires a financial institution to obtain authorization to supply a new financial service, the Party shall decide within a reasonable time whether to issue the authorization and the 2 Subparagraph (a)(iii) shall not cover measures of a Party which limit inputs for the supply of financial services. 3 The Parties understand that nothing in this Article prevents a financial institution of a Party from applying to the other Party to request that it authorize the supply of a financial service that is supplied in neither Party's territory. Such application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to the obligations of this Article. 4 For greater certainty, this Article shall not apply to cross-border trade in financial services. authorization may be refused only for prudential reasons.

(3) The Parties understand that nothing in this Article prevents a financial institution of a Party from applying to the other Party to request that it authorize the supply of a financial service that is supplied in neither Party’s territory. Such application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to the obligations of this Article.

(4) For greater certainty, this Article shall not apply to cross-border trade in financial services.

Article 12.7. Treatment of Certain Information

Nothing in this Chapter requires a Party to furnish or allow access to:
(a) information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or
(b) any confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

Article 12.8. Senior Management and Boards of Directors

1. A Party shall not require financial institutions of the other Party to engage individuals of any particular nationality as senior managerial or other essential personnel.
2. A Party shall not require that more than a minority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

Article 12.9. Non-conforming Measures

1. Articles 12.2 through 12.5 and Article 12.8 shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in Section A of its Schedule set out in Annex III; or

(ii) a local level of government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 12.2, 12.3, 12.4, or 12.8. (5)

2. Articles 12.2 through 12.5 and Article 12.8 shall not apply to any measure that a Party adopts or maintains with respect to

sectors, sub-sectors, or activities, as set out by the Party in Section B of its Schedule set out in Annex III.

3. A non-conforming measure set out in an entry in a Party's Schedule set out in Annex I or II as not subject to Article 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment), 10.2 (National Treatment), or 10.3 (Most-Favored-Nation Treatment), shall be treated as a non-conforming measure not subject to Article 12.2 or 12.3, as the case may be, to the extent that the measure, sector, sub-sector, or activity set out in the entry is covered by this Chapter.

(5) For greater certainty, Article 12.5 shall apply to an amendment to any non-conforming measure referred to in subparagraph (a) only to the extent that the amendment decreases the conformity of the measure, as it existed on the date of entry into force of the Agreement, with Article 12.5.

Article 12.10. Exceptions

1. Notwithstanding any other provision of this Chapter or Chapter Nine (Investment), Thirteen (Telecommunications), including specifically Article 13.2 (Relation to Other Chapters), or Fourteen (Electronic Commerce), and Chapter Eleven (Temporary Entry of Business Persons), in addition, Article 12.1 with respect to the supply of financial services in the territory of a Party by a covered investment, a Party shall not be prevented from adopting or maintaining measures for prudential reasons, (6) including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's commitments or obligations under such provisions.

2. Nothing in this Chapter or Chapter Nine (Investment), Thirteen (Telecommunications), including specifically Article 13.2 (Relation to Other Chapters), or Fourteen (Electronic Commerce), and Chapter Eleven (Temporary Entry of Business Persons), in addition, Article 12.1 with respect to the supply of financial services in the territory of a Party by a covered investment, applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 9.7 (Performance Requirements) with respect to measures covered by Chapter Nine (Investment) or under Article 9.13 (Transfers) or 10.12 (Payments and Transfers).

3. Notwithstanding Articles 9.13 (Transfers) and 10.12 (Payments and Transfers), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory, and good faith application of measures related to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent a Party from adopting or enforcing measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those related to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services.

(6) It is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or, financial responsibility of individual financial institutions or cross-border financial service suppliers.

Article 12.11. Transparency

1. The Parties recognize that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating access of foreign financial institutions and foreign cross-border financial service suppliers to, and their operations in, each other's markets. Each Party commits to promoting regulatory transparency in financial services.

2. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective, and impartial manner.

3. In lieu of Article 21.1 (Publication), each Party, to the extent practicable:

(a) shall publish in advance any regulations of general application related to the subject matter of this Chapter that it proposes to adopt and the purpose of the regulation;

(b) shall provide interested persons and the other Party a reasonable opportunity to comment (7) on such proposed regulations; and

(c) should at the time it adopts final regulations, address in writing substantive comments received from interested persons with respect to the proposed regulations. (8)

4. To the extent practicable, each Party should allow reasonable time between

publication of final regulations of general application and their effective date.

5. Each Party shall ensure that the rules of general application adopted or maintained by self-regulatory organizations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.

6. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this Chapter.

7. Each Party's regulatory authorities shall make publicly available the requirements, including any documentation required, for completing applications related to the supply of financial services.

8. Upon request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

9. A Party's regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a financial institution, or a cross-border financial service supplier of the other Party related to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable time thereafter.

10. Upon request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for denial of the application.

(7) For greater certainty, when a Party publishes regulations in advance as described in subparagraph (a), the Party shall provide an address, whether electronic or otherwise, to which interested persons and the other Party may send their comments.

(8) For greater certainty, a Party may consolidate its responses to the comments received from interested persons and publish them in a separate document from the document setting forth the final regulations.

Article 12.12. Self-regulatory Organizations (9)

Where a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organization to provide a financial service in or into the territory of that Party, the Party shall ensure that the self-regulatory organization observes the obligations of Articles 12.2 and 12.3.

(9) For greater certainty, an organization is subject to this Article to the extent that membership or participation in, or access to, the organization is required to supply a financial service.

Article 12.13. Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant financial institutions of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to the Party's lender of last resort facilities.

Article 12.14. Recognition

1. A Party may recognize prudential measures of a non-Party in the application of measures covered by this Chapter. Such recognition may be:

(a) accorded autonomously;

(b) achieved through harmonization or other means; or

(c) based on an agreement or arrangement with the non-Party.

2. A Party according recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation, and, if appropriate, procedures concerning the sharing of information between the Parties.

3. Where a Party accords recognition of prudential measures under paragraph 1(c) and the circumstances described in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

Article 12.15. Specific Commitments

Annex 12C sets out certain specific commitments by each Party.

Article 12.16. Financial Services Committee

1. The Parties hereby establish a Financial Services Committee. The principal representative of each Party shall be an official of the Party's competent authorities responsible for financial services set out in Annex 12D.

2. The Committee shall:

(a) supervise the implementation of this Chapter and its further elaboration;

(b) consider issues regarding financial services that are referred to it by a Party; and

(c) participate in the dispute settlement procedures in accordance with Article 12.19.

3. The Committee shall meet annually, or as otherwise agreed, to assess the functioning

of this Agreement as it applies to financial services.

4. The Committee shall report to the Joint Commission on the results of each of its meetings.

Article 12.17. Consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request. The Parties shall report the results of their consultations to the Committee.

2. Consultations under this Article shall include officials of the authorities specified in Annex 12D.

3. Nothing in this Article shall be construed to require financial regulators participating in consultations under paragraph 1 to disclose information or take any action that would interfere with specific regulatory, supervisory, administrative, or enforcement matters.

4. Nothing in this Article shall be construed to require a Party to derogate from its relevant law regarding sharing of information among financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties.

Article 1218. Dispute Settlement

1. Chapter Twenty-Three (Dispute Settlement) shall apply as modified by this Article to the settlement of disputes arising under this Chapter.

2. When a Party claims that a dispute arises under this Chapter, Article 23.6 (Request for a Panel) shall apply, except that:

(a) where the Parties so agree, the panel shall be composed entirely of panelists meeting the qualifications in paragraph 3; and

(b) in any other case,

(i) each Party may select panelists meeting the qualifications set out in paragraph 3 or in Article 23.7 (Qualifications of Panelists); and

(ii) if the Party complained against invokes Article 12.10, the chair of the panel shall meet the qualifications set out in paragraph 3, unless the Parties otherwise agree.

3. Financial services panelists shall:

(a) have expertise or experience in financial services law or practice, which may include the regulation of financial institutions;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgment;

(c) be independent of, and not be affiliated with or take instructions from, a disputing Party; and

(d) comply with the code of conduct to be established by the Joint Commission.

4. Notwithstanding Article 23.17 (Non-Implementation and Compensation), where a

panel finds a measure to be inconsistent with this Agreement and the measure under dispute affects:

(a) only the financial services sector, the complaining Party may suspend benefits only in the financial services sector;

(b) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the Party's financial services sector; or

(c) only a sector other than the financial services sector, the complaining Party shall not suspend benefits in the financial services sector.

Article 12.19. Investment Disputes In Financial Services

1. Where an investor of a Party submits a claim under Article 9.16 (Investor-State Dispute Settlement) to arbitration under Chapter Nine (Investment) and the respondent invokes an exception under Article 12.10 as a defense within 120 days following the date the claim is submitted to the arbitration under Chapter Nine (Investment), upon filing of such a defense by the respondent, the tribunal shall refer the matter in writing to the Committee for a decision in accordance with paragraph 2. The tribunal shall not proceed pending its receipt of a decision of such matter by the Committee or a report of such matter by the panel under this Article.

2. In a referral pursuant to paragraph 1, the Committee shall decide the issue of whether and to what extent Article 12.10 is a valid defense to the claim of the investor. Each Party may make oral and written submissions to the Committee regarding such issue. The Committee shall promptly transmit a copy of its decision to the tribunal and to the Joint Commission. The decision shall be binding on the tribunal.

3. Where the Committee has not decided the issue within 60 days following the receipt of the referral under paragraph 1, either Party may, within 10 days thereafter, request the establishment of a panel under Article 23.6 (Request for a Panel) to decide the issue. The panel shall be constituted in accordance with Article 12.18. Each Party may make oral and written submissions to the panel regarding such issue. Further to Article 23.13 (Report of the Panel), the panel shall promptly transmit its final report to the Committee and to the tribunal. The report shall be binding on the tribunal.

4. Where no request for the establishment of a panel pursuant to paragraph 3 has been made within 10 days after the 60-day period referred to in paragraph 3, the tribunal may proceed to decide the matter.

5. Without any prejudice to Article 9.16 (Investor-State Dispute Settlement), the arbitrators of the tribunal shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions, in the event that the tribunal proceeds to decide the matter in accordance with paragraph 4.

Article 12.20. Definitions

For purposes of this Chapter:

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of such services;

cross-border trade in financial services or cross-border supply of financial services means the supply of a financial service:

(a) from the territory of a Party into the territory of the other Party;

(b) in the territory of a Party by a person of that Party to a person of the other Party; or

(c) by a national of a Party in the territory of the other Party,

but does not include the supply of a financial service in the territory of a Party by an investment in that territory;

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;

financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of the other Party;

financial service means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

(a) Direct insurance (including co-insurance):

(i) life;

(ii) non-life;

(b) Reinsurance and retrocession;

(c) Insurance intermediation, such as brokerage and agency; and

(d) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services;

Banking and other financial services (excluding insurance)

(e) Acceptance of deposits and other repayable funds from the public;

(f) Lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;

(g) Financial leasing;

(h) All payment and money transmission services, including credit, charge, and debit cards, travelers checks, and bankers drafts;

(i) Guarantees and commitments;

(j) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market, or otherwise, the following:

(i) money market instruments (including checks, bills, certificates of deposits);

(ii) foreign exchange;

(iii) derivative products including, but not limited to, futures and options;

(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(v) transferable securities; and

(vi) other negotiable instruments and financial assets, including bullion;

(k) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(l) Money broking;

(m) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;

(n) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(p) Advisory, intermediation, and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;

investment means investment as defined in Article 9.18 (Definitions), except that, with respect to loans and debt instruments referred to in the Article:

(a) a loan to or debt instrument issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in whose territory the financial institution is located; and

(b) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument issued by a financial institution referred to in subparagraph (a), is not an investment;

for greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment for purposes of Chapter Nine (Investment), if such loan or debt instrument meets the criteria for investments set out in Article 9.18 (Definitions);

investor of a Party means a Party or state enterprise thereof, or a person of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party, provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his or her dominant and effective nationality;

new financial service means a financial service not supplied in the Party's territory that is supplied within the territory of the other Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

person of a Party means person of a Party as defined in Article 1.4 (General Definitions) and, for greater certainty, does not include a branch of an enterprise of a non-Party;

public entity means a central bank or monetary authority of a Party, or any financial institution owned or controlled by a Party; for purposes of Chapter Fifteen (Competition Policy), a central bank or monetary authority of a Party, or any financial institution that performs a financial regulatory function and is owned or controlled by a Party, shall not be considered a designated monopoly or a state enterprise; and

self-regulatory organization means any non-governmental body, including any securities or futures exchange or market, clearing agency, or other organization or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions, by statute or delegation from central, regional, or local governments or authorities; for purposes of Chapter Fifteen (Competition Policy), a self-regulatory organization shall not be considered a designated monopoly.

Chapter THIRTEEN. Telecommunications

Article 13.1. Scope of Application

1. This Chapter shall apply to:

(a) measures related to access to and use of public telecommunications networks and services;

(b) measures related to obligations of suppliers of public telecommunications networks and services;

(c) other measures related to public telecommunications networks or services; and

(d) measures related to the supply of value-added services. (1)

2. Except to ensure that enterprises operating broadcast stations and cable systems have

continued access to and use of public telecommunications networks and services, as set out in Article 13.3, this Chapter shall not apply to any measure related to broadcast or cable distribution of radio or television programming.

3. Nothing in this Chapter shall be construed to:

(a) require a Party, or require a Party to compel any enterprise, to establish, construct, acquire, lease, operate, or provide telecommunications networks or services not offered to the public generally;

(b) require a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network;

(c) require a Party to authorize an enterprise of the other Party to establish, construct, acquire, lease, operate, or supply telecommunications networks or services, other than as specifically provided in this Agreement; or

(d) prevent a Party from prohibiting persons operating private networks from using their networks to supply public telecommunications networks or services to third persons.

(1) For purposes of this Chapter, each Party may classify which services in its territory are value-added services.

Article 13.2. Relation to other Chapters

In the event of any inconsistency between this Chapter and another Chapter, this Chapter shall prevail to the extent of the inconsistency.

Section A. ACCESS TO AND USE OF PUBLIC TELECOMMUNICATIONS NETWORKS AND SERVICES

Article 13.3. Access to and Use of Public Telecommunications Networks and Services (2)

1. Each Party shall ensure that service suppliers of the other Party have access to and use of any public telecommunications network and service, including leased circuits, offered in its territory or across its borders, on reasonable and non-discriminatory terms and conditions, including as set out in paragraphs 2 through 6.

2. Each Party shall ensure that service suppliers of the other Party are permitted to:

(a) purchase or lease, and attach terminal or other equipment that interfaces with a public telecommunications network;

(b) interconnect privately leased or owned circuits with public telecommunications networks and services in its territory or with circuits leased or owned by another service supplier;

(c) perform switching, signaling, and processing functions;

(d) use operating protocols of their choice, other than as necessary to ensure the availability of telecommunications networks and services to the public generally; and

(e) provide services to individual or multiple end-users over any leased or owned circuits.

3. Each Party shall ensure that service suppliers of the other Party may use public

telecommunications networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of messages, or to protect the privacy of personal data of end-users, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and

services, other than as necessary to:

(a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services available to the public generally; or

(b) protect the technical integrity of public telecommunications networks or services.

6. Provided that conditions for access to and use of public telecommunications networks and services satisfy the criteria set out in paragraph 5, such conditions may include:

(a) a requirement to use specified technical interfaces, including interface protocols, for interconnection with such networks or services;

(b) requirements, where necessary, for the inter-operability of such networks and services;

(c) type approval of terminal or other equipment which interfaces with the network and technical requirements related to the attachment of such equipment to such networks; or

(d) notification, registration, and licensing.

(2) For greater certainty, this Article does not prohibit a Party from requiring an enterprise to obtain a license, concession, or other type of authorization to supply any public telecommunications network or service within its territory.

Section B. ADDITIONAL OBLIGATIONS RELATED TO MAJOR SUPPLIERS OF PUBLIC TELECOMMUNICATIONS SERVICES

Article 13.4. Treatment by Major Suppliers

Each Party shall ensure that a major supplier in its territory accords suppliers of public telecommunications services of the other Party treatment no less favorable than such major supplier accords to its subsidiaries, its affiliates, or any non-affiliated service suppliers regarding:

(a) the availability, provisioning, rates, or quality of like public telecommunications networks or services; and

(b) the availability of technical interfaces necessary for interconnection.

Article 13.5. Competitive Safeguards

1. Each Party shall maintain appropriate measures for purposes of preventing suppliers of public telecommunications services that, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 include in particular: (a) engaging in anti-competitive cross-subsidization;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available, in a timely manner, to suppliers of public telecommunications networks or services, technical information on essential facilities and commercially relevant information that are necessary for them to provide services.

Article 13.6. Interconnection

General Terms and Conditions

1. Each Party shall ensure that a major supplier is required to provide interconnection at any technically feasible point in the network. Such interconnection is provided:

(a) under non-discriminatory terms, conditions, including technical standards and specifications, and rates, and of a quality no less favorable than that provided for its own like services, for like services of non-affiliated service suppliers, or for like services of its subsidiaries or other affiliates;

(b) in a timely manner, on terms and conditions, including technical standards and specifications, and at cost-oriented rates,

that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and

(c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

Public Availability of the Procedures for Interconnection Negotiations

2. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.

Transparency of Interconnection Arrangements

3. Each Party shall ensure that a major supplier in its territory makes publicly available either its interconnection agreements or a reference interconnection offer.

Section C. OTHER MEASURES

Article 13.7. Independent Regulatory Bodies

Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications networks or services. Each Party shall ensure that its regulatory decisions and procedures are impartial with respect to all market participants.

Article 13.8. Universal Service

1. Each Party has the right to define the kind of universal service obligations that it wishes to maintain.
2. Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory, and competitively neutral manner and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

Article 13.9. Licensing Process

1. When a Party requires a supplier of public telecommunications networks or services to have a license, concession, permit, registration, or other type of authorization, the Party shall make publicly available:

(a) all the licensing or authorization criteria and procedures it applies;

(b) the period of time it normally requires to reach a decision concerning an application for a license, concession, permit, registration, or other type of authorization; and

(c) the terms and conditions of all licenses or authorizations.

2. Each Party shall ensure that, upon request, an applicant receives the reasons for the denial of a license, concession, permit, registration, or other type of authorization.

Article 13.10. Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies, numbers, and rights-of-way, in an objective, timely, transparent, and non-discriminatory manner.
2. Each Party shall make publicly available the current state of allocated frequency bands but retains the right not to provide detailed identification of frequencies allocated or assigned for specific government uses.
3. A Party's measures allocating and assigning spectrum and managing frequencies shall not be considered inconsistent with Article 10.4 (Market Access), as it applies to either Chapter Nine (Investment) or Ten (Cross-Border Trade in Services). Accordingly, each Party retains the right to establish and apply its spectrum and frequency management policies that may limit the number of suppliers of public telecommunications networks or services. Each Party also retains the right to allocate frequency bands, taking into account present and future needs and spectrum availability.

Article 13.11. Resolution of Telecommunications Disputes (3)

Further to Articles 21.3 (Administrative Proceedings) and 21.4 (Review and Appeal), each Party shall ensure the following:

Resource

(a) (i) enterprises of the other Party may have recourse to a telecommunications regulatory body or other relevant body of the Party to resolve disputes regarding the Party's measures related to matters set out in Articles 13.3 through 13.6; and

(ii) suppliers of public telecommunications services or networks of the other Party that have requested interconnection with a major supplier in the Party's territory may have recourse, within a reasonable and publicly specified period after the supplier requests interconnection, to its telecommunications regulatory body to resolve disputes regarding the terms, conditions, and rates for interconnection with such major supplier;

Reconsideration (4)

(b) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may petition the body to reconsider that determination or decision. Neither Party shall permit such a petition to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body unless an appropriate authority stays such determination or decision; and

Judicial Review

(c) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may obtain review of the determination or decision by an impartial and independent judicial authority of the Party. Neither Party shall permit an application for judicial review to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body unless the relevant judicial body stays such determination or decision.

(3) The Parties understand that for purposes of this Article, the term "enterprise" applies only to natural persons or juridical persons organized under the laws of each Party.

(4) For Korea, subparagraph (b) shall not apply to a determination or decision of the telecommunications regulatory body with respect to disputes between telecommunications service suppliers or between telecommunications service suppliers and users. For Peru, suppliers of public telecommunication services or networks may not petition for reconsideration of administrative rulings of general application, as defined in Article 21.5 (Definition), unless otherwise provided for under its laws and regulations.

Article 13.12. Transparency

Further to Articles 21.1 (Publication) and 21.2 (Notification and Provision of Information), and in addition to the other provisions in this Chapter related to the publication of information, each Party shall ensure that:

(a) rulemakings, including the basis for such rulemakings, of its telecommunications regulatory body and tariffs filed with its telecommunications regulatory body are promptly published or otherwise made publicly available;

(b) interested persons are provided, to the extent possible, with adequate advance public notice of, and the opportunity to comment on, any rulemaking proposed by the telecommunications regulatory body; and

(c) its measures related to public telecommunications networks or services are made publicly available, including measures related to:

(i) tariffs and other terms and conditions of service;

(ii) specifications of technical interfaces;

(iii) conditions for attaching terminal or other equipment to the public telecommunications networks or services;

(iv) notification, permit, registration, or licensing requirements, if any;

(v) information on bodies responsible for preparing, amending, and adopting standard-related measures; and

(vi) procedures related to judicial and other adjudicatory proceedings.

Section D. DEFINITIONS

Article 13.13. Definitions

For purposes of this Chapter:

cost-oriented means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

end-user means a final consumer of, or subscriber to, a public telecommunications network or service, including a service supplier other than a supplier of public telecommunications networks or services;

enterprise means an enterprise as defined in Article 1.4 (General Definitions), and its branch;

enterprise of the other Party means both an enterprise constituted or organized under the laws of the other Party and an enterprise owned or controlled by a person of the other Party;

essential facilities means facilities of a public telecommunications network or service that:

(a) are exclusively or predominantly provided by a single or limited number of

suppliers; and

(b) cannot feasibly be economically or technically substituted in order to supply a service;

interconnection means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

intra-corporate communications means telecommunications through which a company communicates within the company or with or among its subsidiaries, branches and subject to laws and regulations of a Party, affiliates. For these purposes, subsidiaries, branches and where applicable, affiliates shall be as defined by each Party. Intra-corporate communications excludes commercial or non-commercial services that are supplied to companies that are not related subsidiaries, branches or affiliates, or that are offered to customers or potential customers;

leased circuits means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a user;

major supplier means a supplier of public telecommunications services that has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications services as a result of:

(a) control over essential facilities; or

(b) use of its position in the market;

non-discriminatory means treatment no less favorable than that accorded to any other user of like public telecommunications networks or services in like circumstances;

public telecommunications network means telecommunications infrastructure used to provide public telecommunications services;

public telecommunications service means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally. Such services may include, inter alia, telephone and data transmission typically involving customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information, and excludes value-added services;

reference interconnection offer means an interconnection offer extended by a major supplier and filed with, or approved by, a telecommunications regulatory body that sufficiently details the terms, rates, and conditions for interconnection such that a supplier of public telecommunications networks or services that is willing to accept it may obtain interconnection with the major supplier on that basis;

service supplier of the other Party means a person of the other Party that seeks to supply or supplies services, including a supplier of public telecommunications networks or services;

supply of a service means the provision of a service:

(a) from the territory of a Party into the territory of the other Party;

(b) in the territory of a Party by a person of that Party to a person of the other Party;

(c) by a service supplier of a Party, through an enterprise in the territory of the other Party; or

(d) by a national of a Party in the territory of the other Party;

telecommunications means the transmission and reception of signals by any electromagnetic means;

telecommunications regulatory body means a national body responsible for the regulation of telecommunications; and

user means a consumer or a supplier of public telecommunications networks or services.

Chapter FOURTEEN. Electronic Commerce

Article 14.1. General Provisions

1. The Parties recognize the economic growth and opportunity that electronic commerce provides and the applicability of the WTO Agreement to measures affecting electronic commerce.

2. Each Party shall endeavor to adopt measures to facilitate trade conducted by electronic means by addressing issues related to the digital environment.

3. The Parties recognize the importance of avoiding unnecessary barriers to trade conducted by electronic means. Having regard to its policy objectives, each Party shall endeavor to prevent measures that:

(a) unduly hinder trade conducted by electronic means; or

(b) have the effect of treating trade conducted by electronic means more restrictively than trade conducted by other means.

Article 14.2. Relation to other Chapters

In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency.

Article 14.3. Electronic Supply of Services

The Parties affirm that measures affecting the supply of a service delivered or performed electronically are subject to the obligations in the relevant provisions of Chapters Nine (Investment), Ten (Cross-Border Trade in Services), and Twelve (Financial Services), which are subject to any exceptions or non-conforming measures set out in this Agreement that are applicable to such obligations.

Article 14.4. Customs Duties

1. Neither Party shall apply customs duties, fees, or charges on, or in connection with, the importation or exportation of digital products by electronic means.
2. For greater certainty, this Chapter does not preclude a Party from imposing internal taxes or other internal charges on digital products delivered electronically, provided that such taxes or charges are imposed in a manner consistent with this Agreement.

Article 14.5. Consumer Protection

1. The Parties recognize the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices in electronic commerce.
2. To this end, the Parties shall exchange information on their experiences in protecting consumers engaged in electronic commerce.

Article 14.6. Paperless Trading

1. Each Party shall endeavor to make trade administration documents publicly available in electronic form.
2. Each Party shall endeavor to accept trade administration documents submitted electronically as the legal equivalent of the paper version of such documents.

Article 14.7. Protection of Personal Information

1. The Parties recognize the importance of protecting personal information in the digital environment.
2. To this end, each Party commits to:
(a) adopting or maintaining legislation for the protection of personal information of users engaged in electronic commerce; and
(b) exchanging information on their experiences in protecting personal information.

Article 14.8. Electronic Authentication and Digital Certificates

1. The Parties commit to establishing cooperation mechanisms between the national accreditation and digital certification authorities for electronic transactions.
2. Each Party shall work towards the recognition, at the central level of government, of digital certificates issued by the other Party.

Article 14.9. Cooperation

Recognizing the global nature of electronic commerce, the Parties commit to:
(a) working together to facilitate the use of electronic commerce of small and medium-sized enterprises; (1) (b) sharing information and experiences on laws, regulations, and programs in the area of electronic commerce, including those related to data privacy, consumer confidence, security in electronic communications, authentication, intellectual property rights, and electronic government;
(c) working to maintain cross-border flows of information as an essential element in fostering a vibrant environment for electronic commerce;
(d) fostering electronic commerce by encouraging the private sector to adopt codes of conduct, model contracts, guidelines, and enforcement mechanisms; and
(e) actively participating in regional and multilateral fora to promote the development of electronic commerce.

(1) For purposes of this Article, for Peru, “small and medium-sized enterprises” includes micro enterprises as defined in Peru’s domestic legislation.

Article 14.10. Definitions

For purposes of this Chapter:

delivered or performed electronically means delivered or performed through telecommunications, alone or in conjunction with other information and communication technologies;

digital products means computer programs, text, video, images, sound recordings, and other products that are digitally encoded;

electronic authentication means the process or act of establishing the identity of a party to an electronic communication or transaction or ensuring the integrity of an electronic communication;

personal information means any information related to an identified or identifiable natural person;

trade administration documents means forms that a Party issues or controls that must be completed by, or for, an importer or exporter in connection with the importation or exportation of goods; and

trade conducted by electronic means means trade conducted through telecommunications, alone or in conjunction with other information and communication technologies.

Chapter FIFTEEN. Competition Policy

Article 15.1. Objectives

Recognizing the importance of free competition in trade relations, the Parties understand that proscribing anti-competitive business conducts, implementing competition policies, and cooperating on matters covered by this Chapter will help avoid undermining the benefits of trade liberalization.

Article 15.2. Implementation

1. Each Party shall maintain competition laws that promote and protect the competitive process in its market by proscribing anti-competitive business conducts. Each Party shall take appropriate action with respect to anti-competitive business conducts with the objective of promoting economic efficiency and consumer welfare.
2. Each Party shall maintain an authority or authorities responsible for the enforcement of its competition laws.
3. The enforcement policy of the Parties' competition authorities shall be consistent with the principles of transparency, timeliness, non-discrimination, and procedural fairness. Particularly, regarding transparency, each Party shall make available to the other Party information on exemptions provided for in its competition laws.

Article 15.3. Cooperation

1. The Parties recognize the importance of cooperation and coordination between their respective competition authorities to promote effective competition law enforcement and to fulfill the objectives of this Agreement.
2. Accordingly, the Parties shall cooperate on issues of competition law enforcement and policy implementation, including through notification, consultation, technical assistance, and exchange of non-confidential information.
3. The Parties' competition authorities shall endeavor to identify ways to further strengthen cooperation on competition matters of mutual interest.

Article 15.4. Notifications

1. Each Party, through its competition authority, shall notify in English the competition authority of the other Party of an enforcement activity regarding an anti-competitive business conduct if it considers that such enforcement activity may affect important interests of the other Party.
2. Provided that it is not contrary to the Parties' competition laws and does not affect any investigation being carried out, the notification shall take place at an early stage of the enforcement activity.
3. Without prejudice to any action under its competition laws and to its full freedom of ultimate decision, the competition authority administering the enforcement activity shall take into consideration the views expressed by the other Party.

Article 15.5. Consultations

1. To foster mutual understanding between the Parties or to address specific matters arising under this Chapter, and without prejudice to the autonomy of each Party to develop, maintain, and enforce its competition laws and policies, each Party shall, upon request of the other Party, enter into consultations on issues raised by the other Party.
2. The Party to which a request for consultations has been addressed shall give full and sympathetic consideration to the concerns of the other Party.

Article 15.6. Confidentiality

1. The competition authority of a Party shall, upon request of the competition authority of the other Party, endeavor to provide information to facilitate effective enforcement of their respective competition laws, provided that it does not affect any ongoing investigation and is compatible with the rules and standards of confidentiality of the Party providing information.
2. The competition authority of a Party shall maintain the confidentiality of any information provided as confidential by the competition authority of the other Party and shall not disclose such information to any entity that is not authorized by the Party providing information.

Article 15.7. Technical Assistance

The Parties may provide each other with technical assistance including exchange of experiences and capacity building for the implementation of their competition laws and policies, and for the promotion of competition culture.

Article 15.8. Cross-border Consumer Protection

1. The Parties recognize the importance of cooperation and coordination on matters related to their consumer protection laws in order to enhance consumer welfare. Accordingly, the Parties shall cooperate, through their competent authorities, in appropriate cases of mutual concern, including through consultation, technical assistance, and exchange of information related to the enforcement of their consumer protection laws.
2. Nothing in this Article shall limit the discretion of the competent authority of a Party to decide whether to take action in

response to a request by the competent authority of the other Party, nor shall it preclude any of these authorities from taking action with respect to any particular matter.
3. Each Party shall endeavor to identify, in areas of mutual concern and consistent with its own important interests, obstacles to effective cooperation with the other Party in the enforcement of its consumer protection laws.

Article 15.9. State Enterprises and Designated Monopolies

1. Nothing in this Chapter shall be construed to prevent a Party from establishing or maintaining state enterprises or designated monopolies.
2. The Parties shall ensure that state enterprises and designated monopolies are subject to their respective competition laws and do not adopt or maintain any anti-competitive practices that affect trade between the Parties, insofar as the application of this provision does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

Article 15.10. Dispute Settlement

Neither Party may have recourse to Chapter Twenty-Three (Dispute Settlement) for any matter arising under this Chapter.

Article 15.11. Definitions

For purposes of this Chapter: anti-competitive business conducts means:
(a) agreements between enterprises and decisions by associations of enterprises, which have the purpose or effect of impeding, restricting, or distorting competition, as specified in the Parties' respective competition laws;
(b) abuse of a dominant position, as specified in the Parties' respective competition laws; or
(c) concentrations of enterprises which significantly impede effective competition, as specified in the Parties' respective competition laws;
competition authority means:
(a) for Korea, the Korea Fair Trade Commission, or its successor; and
(b) for Peru, the National Institute for the Defense of Competition and Protection of Intellectual Property and the Supervisory Body for Private Investment in Telecommunications, or their successors;
competition laws means:
(a) for Korea, the Monopoly Regulation and Fair Trade Act and its implementing regulations; and
(b) for Peru, the Repression of Anticompetitive Conducts Law and the Antimonopoly and Antioligopoly Law of the Electricity Sector and their implementing regulations; and
consumer protection laws means:
(a) for Korea, the Framework Act on Consumers and the Fair Labeling and Advertising Act and their implementing regulations; and
(b) for Peru, the Consumer Protection Code and the Repression of Unfair Competition Law and their implementing regulations.

Chapter SIXTEEN. Government Procurement

Article 16.1. Scope of Application

Application of Chapter
1. This Chapter applies to any measure of a Party regarding covered procurement.
2. For purposes of this Chapter, covered procurement means procurement of goods, services, or any combination thereof:
(a) not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;
(b) by any contractual means, including purchase, lease, rental, or hire purchase, with or without an option to buy;
(c) for which the value, as estimated in accordance with paragraphs 5 through 7 as appropriate, equals or exceeds the relevant threshold specified in Annex 16A;
(d) that is conducted by a procuring entity; and (e) that is not otherwise excluded from coverage under paragraph 4 or Annex 16A. 3. For purposes of this Chapter, build-operate-transfer contracts (hereinafter referred to as "BOT contracts") and public works concession contracts shall be subject to Annex 16B.
4. This Chapter shall not apply to:
(a) non-contractual agreements or any form of assistance that a Party, including its procuring entities, provides, including cooperative agreements, grants, loans, subsidies, equity infusions, guarantees, and fiscal incentives;
(b) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for

regulated financial institutions, or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities. For greater certainty, this Chapter shall not apply to procurement of banking, financial, or specialized services related to the following activities:
(i) the incurring of public indebtedness; or
(ii) public debt management;
(c) purchases funded by international grants, loans, or other assistance, where the provision of such assistance is subject to conditions inconsistent with this Chapter; and
(d) hiring of government employees and related employment measures.
Valuation
5. In estimating the value of a procurement for purposes of ascertaining whether it is a covered procurement, a procuring entity shall:
(a) neither divide a procurement into separate procurements nor use a particular method for estimating the value of a procurement for purposes of avoiding the application of this Chapter; and
(b) take into account all forms of remuneration, including any premiums, fees, commissions, interest, other revenue streams that may be provided for in the procurement, and, where the procurement provides for the possibility of option clauses, the total maximum value of the procurement, inclusive of optional purchases.
6. Where an individual requirement for a procurement results in the award of more than one contract, or in the award of contracts in separate parts (hereinafter referred to as "recurring procurements"), the calculation of the total estimated maximum value shall be based on:
(a) the value of recurring procurements of the same type of good or service awarded during the preceding 12 months or the procuring entity's preceding fiscal year, adjusted, where possible, to take into account anticipated changes in the quantity or value of the good or service being procured over the following 12 months; or
(b) the estimated value of recurring procurements of the same type of good or service to be awarded during the 12 months following the initial contract award or the procuring entity's fiscal year.
7. Where the total estimated maximum value of a procurement over its entire duration is not known, the procurement shall be covered by this Chapter.
8. Nothing in this Chapter shall prevent a Party from developing new procurement policies, procedures, or contractual means, provided that they are consistent with this Chapter.

Article 16.2. Exceptions to the Chapter

1. Nothing in this Chapter shall be construed to prevent a Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests related to the procurement of arms, ammunition, or war materials, or to procurement indispensable for national security or for national defense purposes.
2. Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures:
(a) necessary to protect public morals, order, or safety;
(b) necessary to protect human, animal, or plant life or health;
(c) necessary to protect intellectual property; or
(d) related to goods or services of persons with disabilities, philanthropic institutions, or prison labor.
3. The Parties understand that subparagraph 2(b) includes environmental measures necessary to protect human, animal, or plant life or health.

Article 16.3. General Principles

National Treatment and Non-Discrimination
1. With respect to any measure covered by this Chapter, each Party shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering such goods or services, treatment no less favorable than that accorded to domestic goods, services, and suppliers.
2. With respect to any measure covered by this Chapter, a Party shall not:
(a) treat a locally established supplier less favorably than another locally established supplier on the basis of degree of foreign affiliation or ownership; nor
(b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.
Use of Electronic Means
3. When conducting covered procurement by electronic means, a procuring entity shall:
(a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally

available information technology systems and software; and
(b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.
Conduct of Procurement 4. A procuring entity shall conduct covered procurement in a transparent and impartial manner that:
(a) is consistent with this Chapter;
(b) avoids conflicts of interest; and (c) prevents corrupt practices.
Rules of Origin
5. For purposes of covered procurement, each Party shall apply to covered procurement of goods or services imported from or supplied from the other Party the rules of origin that it applies in the normal course of trade to the same goods or services from the other Party.
Offsets
6. A procuring entity shall not seek, take account of, impose, or enforce offsets at any stage of a procurement.
Measures Not Specific to Procurement
7. Paragraphs 1 and 2 shall not apply to:
(a) customs duties and charges of any kind imposed on, or in connection with importation;
(b) the method of levying such duties and charges;
(c) other import regulations or formalities; and
(d) measures affecting trade in services other than measures governing covered procurement.

Article 16.4. Publication of Procurement Information

Each Party shall:
(a) promptly publish any measure of general application and any modification thereto regarding covered procurement, in an electronic medium listed in Section H of Annex 16A, and in such a manner as to enable the other Party and its suppliers to become acquainted with them; and
(b) provide an explanation thereof to the other Party, upon request.

Article 16.5. Publication of Notices

Notice of Intended Procurement
1. For each covered procurement, a procuring entity shall publish a notice inviting suppliers to submit tenders, or where appropriate, applications for participation for that procurement, except in the circumstances described in Article 16.9. The notice shall be published in an electronic medium listed in Section H of Annex 16A, and each such notice shall be accessible during the entire period established for tendering for the relevant procurement.
2. Each notice of intended procurement shall include:
(a) a description of the intended procurement;
(b) the procurement method;
(c) any conditions that suppliers must fulfill to participate in the procurement;
(d) the name of the procuring entity issuing the notice;
(e) the address and contact point where suppliers may obtain all documents related to the procurement;
(f) where applicable, the address and any final date for the submission of requests for participation in the procurement;
(g) the address and the final date for the submission of tenders;
(h) where applicable, for recurring contracts, if possible, an estimate of the timing of subsequent notices of intended procurement;
(i) the dates for delivery of the goods or services to be procured or the duration of the contract; and
(j) an indication that the procurement is covered by this Chapter.
3. Procuring entities shall publish the notices in a timely manner through means which offer the widest possible and non-discriminatory access to the interested suppliers of the Parties. These means shall be accessible free of charge through a single point of access specified in Annex 16A.
4. Each Party shall encourage its procuring entities to publish in an electronic medium listed in Section H of Annex 16A, as early as possible in each fiscal year, a notice regarding their future procurement plans. Such notices should include the subject matter of the procurement and the planned date of the publication of the notice of intended procurement.
Notice of Planned Procurement Summary Notice 5. For purposes of this Chapter, each Party, including its procuring entities, shall endeavor to use English as the language for publishing the notice for each case of intended procurement. The notice shall contain at least the following information:
(a) the subject matter of the procurement; (b) the final date for the submission of tenders; and
(c) the address and contact point from which documents related to the procurement may be requested.

Article 16.6. Conditions for Participation

1. Where a Party requires suppliers to satisfy registration, qualification, or any other requirements or conditions for participation in order to participate in a procurement, the procuring entity shall publish a notice inviting suppliers to apply for participation. The procuring entity shall publish the notice sufficiently in advance to provide interested suppliers with sufficient time to prepare and submit applications and for the procuring entity to evaluate and make its determination based on such applications.
2. In establishing the conditions for participation, a procuring entity shall:
(a) limit such conditions to those that are essential to ensure that a supplier has the legal, financial, commercial, and technical abilities to fulfill the requirements and technical specifications of the procurement on the basis of that supplier's business activities outside the territory of the Party of the procuring entity, as well as its business activities, if any, inside the territory of the Party of the procuring entity; and
(b) base its determination solely on the conditions that the procuring entity has specified in advance in notices or tender documentation;
3. In assessing whether a supplier satisfies the conditions for participation, a procuring entity:
(a) shall not impose the condition that, in order for a supplier to participate in a procurement or be awarded a contract, the supplier has previously been awarded one or more contracts by a procuring entity of the Party;
(b) may require relevant prior experience where essential to meet the requirements of the procurement; and (c) shall allow all domestic suppliers and suppliers of the other Party that satisfy the conditions for participation to be recognized as qualified and to participate in the procurement.
4. Where there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:
(a) bankruptcy;
(b) false declarations;
(c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;
(d) final judgments in respect of serious crimes or other serious offences;
(e) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier; or
(f) failure to pay taxes.
5. Procuring entities shall not adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement.
6. The process of, and the time required for, registering and qualifying suppliers shall not be used in order to exclude suppliers of the other Party from being considered for a particular procurement.
7. A procuring entity shall promptly communicate to any supplier that has applied for qualification its decision on whether that supplier is qualified. Where a procuring entity rejects an application for qualification or ceases to recognize a supplier as qualified, the procuring entity shall, upon request of the supplier, promptly provide it with a written explanation.

Article 16.7. Information on Intended Procurements

Tender Documentation
1. A procuring entity shall promptly provide to suppliers interested in participating in a procurement tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders.
2. Unless already provided in the notice of intended procurement, such documentation shall include a complete description of:
(a) the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is unknown, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings, or instructional materials;
(b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection therewith;
(c) all evaluation criteria to be considered in the awarding of the contract, and, except where price is the sole criterion, the relative importance of such criteria;
(d) where the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;
(e) where the procuring entity will hold an electronic auction, the rules, including identification of the elements of the tender related to the evaluation criteria, on which the auction will be conducted;
(f) where there will be a public opening of tenders, the date, time, and place for the opening and, where appropriate, the persons authorized to be present;
(g) any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, e.g., paper or electronic means; and
(h) any dates for the delivery of goods or the supply of services or the duration of the contract.
3. A procuring entity shall make available relevant tender documentation in an electronic medium listed in Section H of Annex 16A.
Technical Specifications
4. A procuring entity shall not prepare, adopt, or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to trade between the Parties.

5. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, where appropriate:
(a) specify the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and
(b) base the technical specification on international standards, where such exist; otherwise, on national technical regulations, recognized national standards, or building codes.
6. A procuring entity shall not prescribe any technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer, or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, words such as "or equivalent" are also included in the tender documentation.
7. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.
8. For greater certainty, this Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources or protect the environment. Modifications
9. Where, in the course of a covered procurement, a procuring entity modifies the criteria or technical requirements set out in a notice or tender documentation provided to participating suppliers, or amends or reissues a notice or tender documentation, it shall transmit in writing all such modifications, or amended or re-issued notice or tender documentation:
(a) to all suppliers that are participating at the time of the modification, amendment, or re-issuance, if known, and in all other cases, in the same manner as the original information was made available; and
(b) in adequate time to allow such suppliers to modify and re-submit amended tenders, as appropriate.

Article 16.8. Time-periods

1. A procuring entity shall provide suppliers with sufficient time to submit applications to participate in a procurement and to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement.
2. A procuring entity that uses selective tendering shall ensure that the final date for the submission of requests for participation shall not, in principle, be less than 25 days from the date of publication of the notice of intended procurement. Where a state of urgency duly substantiated by the procuring entity renders this time-period impracticable, the time-period may be reduced to not less than 10 days.
3. Except as provided for in paragraphs 4 and 5, a procuring entity shall establish that the final date for the submission of tenders shall not be less than 40 days from the date on which:
(a) in the case of open tendering, the notice of intended procurement is published; or
(b) in the case of selective tendering, the procuring entity notifies suppliers that they will be invited to submit tenders.
4. A procuring entity may reduce the time-period for tendering set out in accordance with paragraph 3 by five days for each one of the following circumstances:
(a) the notice of intended procurement is published by electronic means;
(b) all the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and
(c) the procuring entity accepts tenders by electronic means.
5. A procuring entity may reduce the time-period for tendering set out in paragraphs 3 and 4 to not less than 10 days:
(a) where the procuring entity published a notice in an electronic medium listed in Section H of Annex 16A containing the information specified in paragraphs 3 and 4 of Article 16.5 at least 40 days and not more than 12 months in advance;
(b) in the case of the second or subsequent publication of notices for procurement of a recurring nature;
(c) where the procuring entity procures commercial goods or services; or
(d) where a state of urgency duly substantiated by the procuring entity renders such time-period impracticable.

Article 16.9. Tendering Procedures

1. Procuring entities shall award their contracts in a manner consistent with this Chapter, using open, selective, or limited tendering.
Open Tendering
2. A procuring entity shall award contracts by means of open tendering except where paragraphs 16.9.3 through 5 apply.
Selective Tendering
3. Where a Party's law allows the use of selective tendering, a procuring entity shall, for each intended procurement:
(a) publish a notice inviting suppliers to apply for participation in the procurement sufficiently in advance to provide interested suppliers with time to prepare and submit applications and for the procuring entity to evaluate and make its determinations based on such applications; and
(b) allow all domestic suppliers and suppliers of the other Party that the procuring entity has determined satisfy the conditions for participation to submit a tender, unless the procuring entity has stated in the notice of intended procurement or, where publicly available, the tender documentation a limitation on the number of suppliers that will be permitted to tender and the criteria for

such a limitation.
Limited Tendering
4. Provided that it does not use this provision for purposes of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers, a procuring entity may use limited tendering only under the following circumstances:
(a) provided that the requirements of the tender documentation are not substantially modified, where:
(i) no tenders were submitted, or no suppliers requested participation;
(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;
(iii) no suppliers satisfied the conditions for participation; or
(iv) the tenders submitted have been collusive;
(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:
(i) the requirement is for a work of art;
(ii) the protection of patents, copyrights, or other exclusive rights; or
(iii) due to an absence of competition for technical reasons;
(c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services:
(i) can not be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and
(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;
(d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services can not be obtained in time using open tendering or selective tendering, and the use of such method would result in serious injury to the procuring entity;
(e) for goods purchased on a commodity market;
(f) where a procuring entity procures a prototype or a first good or service which is developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development;
(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers; or
(h) where a contract is awarded to a winner of a design contest provided that:
(i) the contest has been organized in a manner that is consistent with the principles of this Chapter, in particular related to the publication of a notice of intended procurement; and
(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.
5. A procuring entity shall prepare a report in writing on each contract awarded under paragraph 4. Such report shall include the name of the procuring entity, the value and kind of goods or services procured, and a statement indicating the circumstances and conditions described in paragraph 4 that justified the use of limited tendering.
6. If, in tendering procedures, a procuring entity allows tenders to be submitted in several languages, one of those languages shall be English.

Article 16.10. Electronic Auctions

Where a procuring entity intends to conduct a covered procurement using an electronic auction, the procuring entity shall provide each participant, before commencing the electronic auction, with:
(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that will be used in the automatic ranking or re-ranking during the auction;
(b) the results of any initial evaluation of the elements of its tender where the contract is to be awarded on the basis of the most advantageous tender; and
(c) any other relevant information on the conduct of the auction.

Article 16.11. Opening of Tenders and Awarding of Contracts

Treatment of Tenders
1. A procuring entity shall receive and open all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.
2. Where a procuring entity provides suppliers with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.
Awarding of Contracts
3. A procuring entity shall require that, in order to be considered for an award, a tender:
(a) be submitted in writing by a supplier that satisfies any conditions for participation; and

(b) at the time of opening, conform to the essential requirements specified in the notices and tender documentation.
4. Unless a procuring entity determines that it is not in the public interest to award a contract, the procuring entity shall award the contract to the supplier that the procuring entity has determined satisfies the conditions for participation and is fully capable of undertaking the contract and whose tender is determined to be the most advantageous solely on the basis of the requirements and evaluation criteria specified in the notices and tender documentation, or where price is the sole criterion, the lowest price.
5. Where a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.
6. A procuring entity shall not cancel a procurement or terminate or modify awarded contracts in a manner that circumvents this Chapter.

Article 16.12. Transparency In Procurement Information

Information Provided to Suppliers
1. A procuring entity shall promptly inform suppliers that have submitted tenders of its contract award decisions and, upon request, shall do so in writing. Subject to Article 16.13, a procuring entity shall, upon request, provide an unsuccessful supplier with an explanation of the reasons that the procuring entity did not select that supplier's tender and the relative advantages of the successful supplier's tender.
2. No later than 72 days after an award, a procuring entity shall publish in a paper or electronic medium listed in Section H of Annex 16A, a notice that includes at least the following information on the contract: (a) the name and address of the procuring entity;
(b) a description of the goods or services procured;
(c) the date of award;
(d) the name and address of the successful supplier;
(e) the contract value; and
(f) where the procuring entity has not used open or selective tendering, an indication of the circumstances in accordance with Article 16.9.4 justifying the procedures used. Publication of Award Information Maintenance of Records
3. A procuring entity shall maintain reports and records of tendering procedures related to covered procurement, including the reports provided for in Article 16.9.5, and shall retain such reports and records for a period of at least three years after the award of a contract.

Article 16.13. Disclosure of Information

Provision of Information to a Party
1. Upon request of the other Party, a Party shall provide promptly any information necessary to determine whether a procurement was conducted fairly, impartially and in accordance with this Chapter. The information shall include information on the characteristics and relative advantages of the successful tender. Non-Disclosure of Information
2. Neither Party, including its procuring entities, authorities, and review bodies, shall disclose information that the person providing it has designated as confidential in accordance with its domestic laws, except with the authorization of such person.
3. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide information to a particular supplier that might prejudice fair competition between suppliers.
4. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities, and review bodies, to release confidential information under this Chapter where release:
(a) would impede law enforcement;
(b) might prejudice fair competition between suppliers;
(c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or
(d) would otherwise be contrary to the public interest.

Article 16.14. Domestic Review Procedures for Supplier Challenges

1. Each Party shall ensure that its procuring entities accord impartial and timely consideration to any complaints from suppliers regarding an alleged breach of this Chapter arising in the context of a covered procurement in which they have, or have had, an interest. Each Party shall encourage suppliers to seek clarification from its procuring entities through consultations with a view to facilitating the resolution of any such complaints.
2. Each Party shall provide a timely, effective, transparent, and non-discriminatory administrative or judicial review procedure in accordance with the due process principle through which a supplier may challenge alleged breaches of this Chapter arising in the context of covered procurements in which the supplier has, or has had, an interest.
3. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement, and to make

appropriate findings and recommendations.
4. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case shall be less than 10 days from the time when the basis of the challenge became known or reasonably should have become known to the supplier.
5. Where a body, other than an authority referred to in paragraph 3, initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.

Article 16.15. Modifications and Rectifications to Coverage

1. Where a Party modifies its coverage of procurement under this Chapter, the Party shall:
(a) notify the other Party in writing; and
(b) include in the notification a proposal of appropriate compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification.
2. Notwithstanding subparagraph 1(b), a Party shall not be obliged to provide compensatory adjustments where: (a) the modification in question is a minor amendment or a rectification of a purely formal nature; or (b) the proposed modification covers an entity over which the Party has effectively eliminated its control or influence.
3. If the other Party does not agree that:
(a) an adjustment proposed under subparagraph 1(b) is adequate to maintain a comparable level of mutually agreed coverage; (b) the proposed modification is a minor amendment or a rectification under subparagraph 2(a); or (c) the proposed modification covers a procuring entity over which the Party has effectively eliminated its control or influence under subparagraph 2(b), it shall object in writing within 30 days following the receipt of the notification referred to in paragraph 1 or be deemed to have agreed to the adjustment or proposed modification, including for purposes of Chapter Twenty-Three (Dispute Settlement).
4. Where the Parties are in agreement on the proposed modification, rectification, or minor amendment, including where a Party has not objected within 30 days under paragraph 3, they shall give effect to the agreement by modifying forthwith Annex 16A.

Article 16.16. Further Negotiations

In case where a Party offers, after the entry into force of this Agreement, to non-Party additional advantages with regard to its government procurement market access coverage agreed under this Chapter, it shall agree, upon request of the other Party, to enter into negotiations with a view to extending coverage under this Chapter on a reciprocal basis.

Article 16.17. Small and Medium-sized Enterprises Participation (1)

1. The Parties recognize the importance of the participation of small and medium-sized enterprises in government procurement.
2. The Parties also recognize the importance of business alliances between suppliers of each Party, and in particular between small and medium-sized enterprises, including the joint participation in tendering procedures.
3. The Parties shall endeavor to work jointly towards exchanging information and facilitating access of small and medium-sized enterprises to government procurement procedures, methods, and contracting requirements, focusing on their special needs.

(1) For purposes of this Article, Article 16.18, and Annex 16B, for Peru, "small and medium-sized enterprises" includes micro enterprises as defined in Peru's domestic legislation.

Article 16.18. Cooperation

1. The Parties recognize the importance of cooperation with a view to achieving a better understanding on their respective government procurement systems, as well as a better access to their respective markets, in particular for small and medium-sized enterprises.
2. The Parties shall endeavor to cooperate on matters such as:
(a) exchange of experiences and information, such as regulatory frameworks, best practices, and statistics; (b) development and use of electronic communications in government procurement systems;
(c) capacity building and technical assistance to suppliers with respect to access to the government procurement market; and
(d) institutional strengthening for the fulfillment of this Chapter, including training government officials.

Article 16.19. Committee on Procurement

1. The Parties hereby establish a Committee on Procurement comprising representatives of each Party.
2. The Committee shall:

(a) evaluate the implementation of this Chapter and recommend to the Parties the appropriate activities;
(b) evaluate and follow up the activities related to cooperation; and
(c) consider further negotiations aimed at broadening the coverage of this Chapter.

Article 16.20. Definitions

For purposes of this Chapter:
commercial goods or services *means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;*
conditions for participation *means any registration, qualification, or other pre-requisites for participation in a procurement; electronic auction means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders.*
in writing or written *means any worded or numbered expression that can be read, reproduced, and later communicated. It may include electronically transmitted and stored information;*
limited tendering *means a procurement method where the procuring entity contacts a supplier or suppliers of its choice;*
measure *means any law, regulation, procedure, requirement, or practice;*
notice of intended procurement *means a notice published by a procuring entity inviting suppliers to submit a request for participation, a tender, or both;*
offsets *means any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade, and similar actions or requirements;*
open tendering *means a procurement method where all interested suppliers may submit a tender. The Parties understand that open tendering includes modalities such as framework agreements and reverse auction in accordance with their respective legislations;*
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 with a view to use in the production or supply of goods or services for commercial sale or resale;*
procuring entity *means an entity covered under Annex 16A;*
selective tendering *means a procurement method where only the suppliers satisfying the conditions for participation are invited by the procuring entity to submit a tender;*
services *includes construction services, unless otherwise specified;*
standard *means a document approved by a recognized body that provides for common and repeated use, rules, guidelines, or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a good, service, process, or production method;*
supplier *means a person or group of persons that provides or could provide goods or services to a procuring entity; and*
technical specification *means a tendering requirement that:*
(a) lays down the characteristics of goods or services to be procured, including quality, performance, safety, and dimensions, or the processes and methods for their production or provision; or
(b) addresses terminology, symbols, packaging, marking, or labeling requirements, as they apply to a good or service.

Chapter SEVENTEEN. Intellectual Property Rights

Article 17.1. Objectives

The objectives of this Chapter are to:
(a) increase the benefits from trade and investment;
(b) foster creations and innovations in their respective territories;
(c) enhance production and commercialization of innovative and creative products; and
(d) facilitate and promote technology transfer between the Parties, through the recognition of intellectual property rights and cooperation.

Article 17.2. Affirmation of International Agreements

1. The Parties affirm the rights and obligations under the TRIPS Agreement, as well as under any other multilateral agreement related to intellectual property, including the agreements administered by the World Intellectual Property Organization (hereinafter referred to as "WIPO"), that are in force between the Parties. 2. Nothing in this Chapter shall prejudice the rights and obligations

under multilateral agreements referred to in paragraph 1.

Article 17.3. More Extensive Protection

The Parties may provide more extensive protection for and enforcement of intellectual property rights under their respective laws than this Chapter requires, provided that the more extensive protection does not contravene this Chapter.

Article 17.4. General Principles

1. The Parties shall grant and ensure adequate, effective, and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights.
2. The Parties recognize that technology transfer contributes to strengthening their capabilities with a view to establishing a sound and viable technological base.
3. The Parties shall accord to the nationals of the other Party treatment no less favorable than that it accords to its own nationals regarding the protection (1) of intellectual property, subject to the exceptions provided in Articles 3 and 5 of the TRIPS Agreement.
4. The Parties recognize the principles established in the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) (hereinafter referred to as the "Declaration"), adopted on November 14, 2001 by the WTO Ministerial Conference, and the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540) (hereinafter referred to as the "Decision"), adopted on August 30, 2003 by the WTO General Council. Likewise, the Parties recognize the importance to promote the implementation and full use of Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property (WHA61.21), adopted on May 24, 2008 by the 61st World Health Assembly.
5. In accordance with Article 8.1 of the TRIPS Agreement, the Parties may use, in formulating or amending their laws and regulations, the exceptions and flexibilities allowed by multilateral agreements related to the protection of intellectual property, and in particular, adopt measures necessary to protect public health and nutrition, taking into consideration the TRIPS Agreement and the principles established in the Declaration and the Decision.
6. Nothing in this Chapter shall hinder a Party from adopting the necessary measures to prevent the abuse of the intellectual property rights by its holders or the resort to practices that unreasonably restrain trade or international transfer of technology.

(1) For purposes of this paragraph, "protection" shall include matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights specifically addressed in this Chapter.

Article 17.5. Genetic Resources and Traditional Knowledge

1. The Parties acknowledge paragraph 19 of the Ministerial Declaration (WT/MIN/(01)DEC/1), adopted on November 14, 2001 by the WTO Ministerial Conference, on the relationship between the TRIPS Agreement and the CBD and the protection of genetic resources, traditional knowledge, and folklore.
2. The Parties recognize the value and importance of biological diversity, traditional knowledge as well as the contribution of knowledge, innovations, and practices of indigenous and local communities to the conservation and sustainable use of biological diversity. Each Party shall have the authority to determine access to genetic resources in accordance with its domestic legislation and endeavor to create conditions to facilitate transparent access to genetic resources for environmentally sound uses.
3. Subject to their domestic legislations and the CBD, the Parties respect knowledge, innovations, and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity and promote their wider application with the involvement and approval of the holders of such knowledge, innovations, and practices.
4. Each Party shall endeavor to seek ways to share information on patent applications based on genetic resources or traditional knowledge by providing:
(a) publicly accessible database that contains relevant information; and
(b) opportunities to file prior art to the appropriate examining authority in writing.
5. The Parties agree to share views and information on discussions in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore, the WTO TRIPS Council, and any other relevant fora in addressing matters related to genetic resources and traditional knowledge. 6. Subject to future developments of multilateral agreements or their respective domestic legislations, the Parties agree to further discuss relevant issues on genetic resources.

Article 17.6. Recognition and Protection of Geographical Indications

1. Recognizing the importance of the protection of geographical indications, each Party shall provide a system for the protection of geographical indications in accordance with Section 3 of Part II of the TRIPS Agreement and protect the geographical indications of

the other Party in accordance with its domestic legislation. This Article shall not prejudice the rights and obligations under free trade agreements that each Party previously concluded with a non-Party.
2. The names listed in Section A of Annex 17A are geographical indications in Peru within the meaning of paragraph 1 of Article 22 of the TRIPS Agreement. Subject to Korea's domestic laws and regulations, in a manner that is consistent with the TRIPS Agreement, such names will be protected as geographical indications in the territory of Korea.
3. The names listed in Section B of Annex 17A are geographical indications in Korea within the meaning of paragraph 1 of Article 22 of the TRIPS Agreement. Subject to Peru's domestic laws and regulations, in a manner that is consistent with the TRIPS Agreement, such names will be protected as geographical indications in the territory of Peru.
4. The Parties shall enter into consultations to protect additional geographical indications, upon request of a Party, after the entry into force of this Agreement. Subject to the result of these consultations and by mutual consent, the Parties shall protect, in accordance with this Chapter, such geographical indications.

Article 17.7. Copyright and Related Rights

1. The Parties shall protect authors of literary or artistic works, the performers, phonogram producers, and broadcasting organizations regarding their works, performances, phonograms, or broadcasts in the most effective way.
Term of protection
2. Each Party shall provide that, where the term of protection of a work (including a photographic work), performance, or phonogram is to be calculated:
(a) on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author's death; and
(b) on a basis other than the life of a natural person, the term shall be:
(i) not less than 70 years from the end of the calendar year of the first authorized publication of the work, performance, or phonogram; or
(ii) failing such authorized publication within 50 years from the creation of the work, performance, or phonogram, not less than 70 years from the end of the calendar year of the creation of the work, performance, or phonogram.
3. Korea shall fully implement the obligations under paragraph 2 within two years after the date of entry into force of this Agreement.
The rights of broadcasting organizations
4. The rights of broadcasting organizations shall expire not less than 50 years after the transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite.
5. Neither Party may permit the retransmission (2) of television signals (whether terrestrial, cable, or satellite) on the Internet without the authorization of the right holder or right holders, if any, of the content of the signal and of the signal.
6. Each Party shall provide for broadcasting organizations the exclusive right to authorize or prohibit: (a) the re-broadcasting of their broadcasts;
(b) the fixation of their broadcasts; and
(c) the reproduction of fixations, made without their consent, of their broadcasts.
7. The Parties may provide in their domestic laws limitations or exceptions to rights of broadcasting organizations in accordance with the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, adopted at Rome on October 26, 1961 (hereinafter referred to as the "Rome Convention").
8. The Parties shall affirm the existing rights and obligations under the Berne Convention for the Protection of Literary and Artistic Works (1971), the Rome Convention, the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty.
9. The Parties will endeavor to promote the activities of collective management associations of copyrights and related rights for the effective distribution of royalties, so that they may be fair and proportional to the use of the works, performances, phonograms, or broadcasts of the right holders of the Parties, in a transparent and good business practices frame, in accordance with their domestic legislation.

(2) For purposes of this paragraph and for greater certainty, retransmission within a Party's territory over a closed and defined subscriber network that is not accessible from outside the Party's territory does not constitute retransmission on the Internet.

Article 17.8. Enforcement

1. The Parties shall establish provisions for the enforcement of intellectual property rights in their domestic laws in accordance with the TRIPS Agreement, in particular Articles 41 through 61.
2. The Parties shall cooperate with a view to eliminating trade in goods infringing intellectual property rights subject to their respective laws, regulations, or policies. Such cooperation may include:
(a) exchange of information on the infringement of intellectual property rights between their respective responsible agencies;
(b) policy dialogue on initiatives for the enforcement of intellectual property rights;

(c) initiatives to control piracy including supervision of provision of equipment and material to organizations involved in piracy activities; and
(d) other activities and initiatives for the enforcement of intellectual property rights as may be determined by the Parties. The Parties will designate contact points responsible for the implementation of this Article.

Article 17.9. Special Requirements Related to Border Measures

1. Each Party shall provide that any right holder initiating procedures for suspension by customs authorities of the release of suspected counterfeit or confusingly similar trademark or pirated copyright goods3 into free circulation is required to provide adequate evidence to satisfy the competent authorities that, under the laws of the importing Party, there is prima facie an infringement of the right holder's intellectual property right and to supply sufficient information that may be reasonably expected to be within the right holder's knowledge to make the suspected goods reasonably recognizable to customs authorities. The requirement to provide information shall not unreasonably deter recourse to these procedures.
2. Each Party shall provide that the competent authorities have the authority to require a right holder initiating procedures to suspend the release of suspected counterfeit or confusingly similar trademark or pirated copyright goods to provide a reasonable security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to these procedures.
3. Where the competent authorities have made a determination that goods are counterfeit or pirated, a Party shall grant the competent authorities the authority to inform the right holder of the names and addresses of the consignor, the importer, and the consignee, and of the quantity of the goods in question.
4. Each Party shall provide that its competent authorities may initiate border measures ex officio with respect to imported, exported, or in-transit merchandise, without the need for a formal complaint from a private party or right holder. Such measures shall be used when there is reason to believe or suspect that such merchandise is counterfeit or pirated.

(3) For purposes of this Article: (a) "counterfeit trademark goods" means any goods, including packaging, bearing without authorization a trademark that is identical to the trademark validly registered in respect of such goods, or that cannot be distinguished in its essential aspects from such a trademark, and that thereby infringes the rights of the owner of the trademark in question under the law of the country of importation; and
(b) "pirated copyright goods" means any goods that are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and that are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.

Article 17.10. Cooperation and Technology Transfer

1. The Parties recognize the importance of technological innovation as well as the transfer and dissemination of technological information to the mutual advantage of technology producers and users, particularly in the new digital economy. Accordingly, the Parties will seek to develop and encourage cooperation programs, through collaboration in science, technology, and innovation.
2. The Parties agree to exchange views and information on the legal framework concerning protection and enforcement of intellectual property rights in accordance with their respective laws, regulations, and policies to:
(a) improve and strengthen intellectual property systems to promote the efficient enforcement of intellectual property rights; and
(b) stimulate the creation and development of intellectual property by persons of each Party, particularly small and medium-sized enterprises.
3. The Parties will encourage and facilitate the following activities, including, but not limited to:
(a) educational projects on the use of intellectual property including information systems on intellectual property;
(b) training and specialization courses for officials on intellectual property rights and other mechanisms;
(c) international search and international preliminary examination under the Patent Cooperation Treaty and facilitation of international patenting process;
(d) patent technology, licensing, and market intelligence;
(e) plant variety protection, including exchange of technical expertise and knowledge; and
(f) other issues of mutual interest concerning intellectual property rights.
4. The Parties shall designate contact points responsible for the compliance of the objective of this Article and for the facilitation of cooperation. The contact points are:
(a) for Peru, the National Council of Science, Technology and Innovation (Consejo Nacional de Ciencia, Tecnología e Innovación Tecnológica-CONCYTEC), or its successors; and
(b) for Korea, the Ministry of Foreign Affairs and Trade, or its successors.

Chapter EIGHTEEN. Labor

Article 18.1. Fundamental Labor Rights

The Parties, in accordance with their obligations as members of the International Labor Organization (hereinafter referred to as the "ILO") and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998) (hereinafter referred to as the "ILO Declaration"), shall endeavor to adopt and maintain in their legislation and practices thereunder, the principles as stated in the ILO Declaration.

Article 18.2. Application and Enforcement of Labor Law

1. A Party shall not fail to effectively enforce its labor laws and regulations, including those it adopts or maintains in accordance with Article 18.1, through a sustained or recurring course of action or inaction, in a manner substantially affecting trade or investment between the Parties.
2. The Parties shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, their laws or regulations implementing Article 18.1, in a manner substantially affecting trade or investment between the Parties, where the waiver or derogation would be inconsistent with the principles as stated in the ILO Declaration.

Article 18.3. Procedure Guarantee and Public Awareness

1. Each Party shall ensure that persons with a recognized interest under its labor laws or regulations in a particular matter have appropriate access to tribunals for the enforcement of the Party's labor laws and regulations. Such tribunals may include administrative, quasi-judicial, judicial, or labor tribunals.
2. Each Party shall ensure that proceedings before such tribunals for the enforcement of its labor laws and regulations are fair, equitable, and transparent.
3. Each Party shall provide that parties to such proceedings may seek existing remedies to ensure the enforcement of their rights under its labor laws and regulations. 4. Each Party shall promote public awareness of its labor laws and regulations.

Article 18.4. Institutional Mechanism

1. The Parties hereby establish a Labor Affairs Council comprising representatives of each Party's Labor Ministry and other competent authorities responsible for labor affairs.
2. The Council shall meet within one year following the date of entry into force of this Agreement and thereafter as necessary, to discuss the matters of mutual interest, and to oversee the implementation of this Chapter, including the cooperative activities on labor under Article 18.5.
3. Each Party shall designate and maintain an office within its administration that shall serve as a contact point with the other Party and assist the Council in carrying out its work, including coordination of cooperative activities on labor under Article 18.5.

Article 18.5. Labor Cooperation

Recognizing the importance of cooperation on trade-related aspects of labor policies in order to achieve the objectives of this Chapter, the Parties commit to initiating cooperative activities as set out in Annex 18A.

Article 18.6. Labor Consultations

1. A Party may request consultations with the other Party in writing regarding any matter of mutual interest arising under this Chapter. The Parties shall commence consultations promptly after a Party delivers such request to the contact point of the other Party.
2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter and may seek advice or assistance from any person or body they consider appropriate.
3. If a Party deems that the matter needs further discussion, the Party may request that the Council be convened to consider the matter by delivering a written request to the contact point of the other Party. The Council shall convene promptly and endeavor to agree on a resolution of the matter.

Article 18.7. Dispute Settlement

Neither Party shall have recourse to Chapter Twenty-Three (Dispute Settlement) for any matter arising under this Chapter.

Chapter NINETEEN. Environment

Article 19.1. General Provisions

1. The Parties affirm their commitments to promote the development of international trade in order to contribute to the objective of sustainable development.
2. The Parties shall seek mutually supportive trade and environmental policies and shall promote the adequate use of their resources in accordance with the objective of sustainable development.
3. Each Party retains the right to exercise prosecutorial discretion and to make decisions on the allocation of resources to comply with its environmental policy objectives.
4. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of the other Party.
5. The Parties agree to strengthen the communication and cooperation between their respective environmental authorities in the development of environmental issues of mutual interest.

Article 19.2. Levels of Protection

Recognizing the right of each Party to establish its own levels of environmental protection and its own environmental development priorities, and to adopt or modify accordingly its environmental laws and policies, each Party shall strive to ensure that those laws and policies provide for and encourage high levels of environmental protection and shall strive to continue to improve its respective levels of environmental protection, including through such environmental laws and policies.

Article 19.3. Multilateral Environmental Agreements

1. The Parties recognize the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems and they commit to consulting and cooperating as appropriate with respect to negotiations on trade-related environmental issues of mutual interest.
2. The Parties shall comply with their obligations under the multilateral environmental agreements to which both Parties are parties.
3. Nothing in this Agreement shall be construed to prevent a Party from adopting measures to comply with the multilateral environmental agreements to which that Party is a party, provided those measures are not applied in a discriminatory and arbitrary manner and do not constitute an unjustifiable barrier to trade.

Article 19.4. Trade Favoring Environment

1. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services.
2. The Parties agree to identify a list of environmental goods and services of mutual interest and to facilitate their trade. Such list could be modified upon request of either Party.

Article 19.5. Application and Enforcement of Environmental Law

1. A Party shall not fail to effectively enforce its environmental laws and regulations, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties.
2. The Parties shall not weaken or reduce the environmental protections provided by their laws and regulations to encourage trade or investment, by waiving or otherwise derogating from, or offering to waive or otherwise derogate from, their laws or regulations in a manner affecting trade or investment between the Parties.

Article 19.6. Biological Diversity

1. The Parties recognize the importance of the conservation and sustainable use of biological diversity as a key element in the achievement of sustainable development.
2. Recognizing that each Party has the sovereign rights over its natural resources and the authority to determine access to its genetic resources in accordance with its domestic legislation, each Party shall endeavor to create conditions to facilitate access to genetic resources for environmentally sound uses.
3. The Parties remain committed to encouraging the conservation and sustainable use of biological diversity and all its components and levels, including plants, animals, and habitats.
4. The Parties recognize the importance of respecting and preserving traditional knowledge and practices of their indigenous and

other communities which contribute to the conservation and sustainable use of biological diversity.
5. The Parties agree to exchange views and information on the conservation and sustainable use of biological diversity, including practices related to genetic resources and/or traditional knowledge and discussions on the CBD.

Article 19.7. Environment and Enterprise

1. The Parties shall exchange information on each Party's environmental guidelines for the enterprises with a view to enhancing a better understanding of them.
2. Each Party shall strive to promote compliance with its environmental guidelines by enterprises operating in its territory.

Article 19.8. Climate Change

1. The Parties recognize that the climate change and its adverse effects are a common concern. In that sense, and under their international commitments, the Parties agree to promote joint measures to limit or reduce the adverse effects of the climate change.
2. For promoting sustainable development, each Party, within its own capacities, shall adopt policies and measures on issues such as:
(a) improvement of energy efficiency;
(b) research, promotion, development and use of new and renewable energy, technologies of carbon dioxide capture, and updated and innovative environmental technologies that do not affect food security or the conservation of biological diversity; and
(c) measures for evaluating the vulnerability and adaptation to climate change.

Article 19.9. Technology Favoring Environment

The Parties agree to promote the development, diffusion, access, use, adequate management, and maintenance of clean and efficient technologies, including those reducing toxic chemical emissions.

Article 19.10. Institutional Mechanism

1. The Parties hereby establish an Environmental Affairs Council comprising high-level representatives of each Party.
2. The Council shall meet within one year following the date of entry into force of this Agreement, and thereafter as necessary, to discuss matters of mutual interest, and oversee the implementation of this Chapter, including cooperative activities undertaken under Annex 19A.
3. Each Party shall designate an office within its administration that shall serve as a contact point with the other Party for purposes of implementing this Chapter.

Article 19.11. Environmental Cooperation

Recognizing the importance of cooperation on trade-related aspects of environmental policies in order to achieve the objectives of this Agreement, the Parties commit to initiating and developing cooperative activities as set out in Annex 19A.

Article 19.12. Environmental Consultations

1. A Party may request consultations with the other Party in writing regarding any matter of mutual interest arising under this Chapter. The Parties shall commence consultations promptly after a Party delivers such request to the contact point of the other Party.
2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.
3. If a Party deems that the matter needs further discussion, the Party may request that the Council be convened to consider the matter by delivering a written request to the contact point of the other Party. The Council shall convene promptly and endeavor to agree on a resolution of the matter.

Article 19.13. Review of Environment Impacts

The Parties shall strive to review, monitor, and assess positive and negative impacts of the implementation of this Agreement on environment.

Article 19.14. Dispute Settlement

Neither Party shall have recourse to Chapter Twenty-Three (Dispute Settlement) for any matter arising under this Chapter.

Chapter TWENTY. Cooperation

Article 20.1. Objective

The objective of this Chapter is to facilitate the establishment of close cooperation aimed, inter alia, at:
(a) strengthening the capacities of the Parties to maximize the opportunities and benefits under this Agreement;
(b) strengthening and developing cooperation at a bilateral, regional, or international level;
(c) promoting economic and social development;
(d) stimulating productive synergies, creating new opportunities for trade and investment, and promoting competitiveness and innovation;
(e) increasing the level of cooperative activities while taking into account the cooperative relation between the Parties; and
(f) encouraging the presence of the Parties and their goods and services in the international markets.

Article 20.2. General Provisions

1. The Parties affirm the importance of all forms of cooperation, with particular attention to economic, trade, and technical cooperation, as a means to contribute to implementing the objectives and principles of this Agreement.
2. Cooperation between the Parties under this Chapter will supplement the cooperation and cooperative activities between the Parties set out in other Chapters of this Agreement and in other bilateral cooperation mechanisms.

Article 20.3. Economic Cooperation

1. The Parties will encourage the utilization of cooperation instruments and mechanisms between the Parties with a view to strengthening the processes of economic integration and increasing commercial exchanges.
2. The objectives of economic cooperation are to:
(a) build up a close relationship between the Parties on existing agreements or arrangements already in effect for trade and economic cooperation; and
(b) advance and strengthen trade and economic relations between the Parties.
3. The Parties will encourage and facilitate, as appropriate, including, but not limited to the following activities:
(a) dialogue on policies and regular exchanges of information and views on ways to promote and expand trade in goods and services between the Parties;
(b) joint elaboration of studies and technical projects of economic interest according to the economic development needs identified by the Parties;
(c) keeping each other informed of important economic and trade issues and any impediments to furthering their economic cooperation;
(d) providing assistance and facilities to business persons and trade missions of a Party that visit the other Party with the knowledge and support of its relevant agencies
(e) supporting dialogue and exchanges of experience among the respective business communities of the Parties;
(f) establishing and developing mechanisms for providing information and identifying opportunities for business cooperation, trade in goods and services and investment; and
(g) stimulating and facilitating roles of public and/or private sectors in areas of economic interest.

Article 20.4. Small and Medium-sized Enterprises Cooperation (1)

The Parties will promote a favorable environment for the development of small and medium-sized enterprises by encouraging relevant private and governmental bodies to build the capacities of small and medium-sized enterprises. The cooperation will include, among others:
(a) designing and developing mechanisms in order to foster partnerships and the development of productive chains;
(b) promoting cooperation between the economic agents of the Parties in order to identify areas of mutual interest and to obtain the maximum benefits possible of trade, investment, and small and medium-sized enterprises;
(c) fostering more dialogue and exchange of information on mandatory procedures, enhanced access to trade promotion networks, business fora, For purposes of this Article, for Peru, "small and medium-sized enterprises" includes micro enterprises as defined in Peru's domestic legislation. business cooperation instruments, and any other relevant information for small and medium-sized enterprises exporters;
(d) promoting training and exchange programs for small and medium-sized enterprises exporters of the Parties; (e) promoting exchange of experiences between the public agencies of the Parties on initiatives and policy instruments for the development of

enterprises in general with special focus on small and medium-sized enterprises; and
(f) encouraging public and private institutions related to small and medium-sized enterprises to cooperate in aspects such as environmental management, information and communications technology, nanotechnology, biotechnology, renewable energy, and other subjects of mutual interest.

(1) For purposes of this Article, for Peru, "small and medium-sized enterprises" includes micro enterprises as defined in Peru's domestic legislation.

Article 20.5. Fisheries and Aquaculture Cooperation

1. The Parties, recognizing the social and economic importance of fish and fisheries products, shall endeavor to cooperate in the field of fisheries and aquaculture.
2. The objectives of cooperation in fisheries and aquaculture are to:
(a) strengthen the research and productive capacities for the development of seedstock and processing of hydro-biological species, with the aim of increasing direct human consumption; and
(b) facilitate information exchange and the conservation of natural resources under the approach of responsible fishing.
3. The Parties will develop fisheries and aquaculture through:
(a) strengthening public and private institutions related to fisheries and aquaculture development and promoting investment in those sectors;
(b) promoting research and development of new products for direct human consumption, as well as the consumption of major aquatic resources to support food security programs;
(c) combating illegal, unreported, and unregulated fishing;
(d) facilitation of mutually beneficial developments in the field of aquaculture;
(e) exchanging information regarding fisheries, aquaculture, and fish resources. For that purpose, the corresponding institutions of the Parties will establish appropriate contact points;
(f) promoting the sustainable and optimal utilization of fish resources of the Parties in compliance with laws and regulations of a Party, through a fisheries cooperation arrangement (2) of which negotiations to begin after entry into force of this Agreement; (3)
(g) exchanging officials, scientists, technicians, and trainees to promote the development of fisheries between the Parties;
(h) promoting the training of national officials and members of the fishery community of the Parties, through their participation in jointly organized courses, visits, seminars, and workshops;
(i) building partnerships and exchange between research institutes of the Parties; and
(j) other forms of cooperation as may be agreed by the Parties.

(2) The fisheries cooperation arrangement may include, among others, the cooperation between the Parties regarding trade facilitation and, enhancement of research of the Parties in the fields of fish resources, hydro- biological species and aquaculture.

(3) The Parties shall make their best efforts to conclude the fisheries cooperation arrangement within two years after entry into force of this Agreement.

Article 20.6. Tourism Cooperation

The Parties, recognizing that tourism contributes to the enhancement of mutual understanding between the Parties and is an important industry for their economies, will:
(a) explore the possibility of undertaking joint research on tourism development and promotion to increase inbound visitors to each Party;
(b) consider setting up linkages and networks between the websites of the Parties;
(c) encourage tourism authorities and agencies of the Parties to strengthen cooperation in tourism training and education, to ensure high-quality services for tourists of the Parties;
(d) cooperate in joint campaigns to promote tourism in the territories of the Parties through workshops and seminars among tourism authorities and agencies of the Parties;
(e) collaborate to promote the sustainable development of tourism in the territories of the Parties;
(f) exchange information on relevant statistics, promotional materials, policies, and, laws and regulations in tourism and related sectors; and
(g) encourage tourism and transportation authorities and agencies to improve the aviation connectivity between the Parties.

Article 20.7. Forestry Cooperation

1. The Parties will promote and strengthen cooperation in the field of forestry.
2. The Parties will encourage and facilitate, as appropriate, including, but not limited to the following activities:
(a) implementation of sustainable forest management, including the development of related indicators;
(b) management, development, and utilization of forest resources;
(c) forest protection, including the prevention and control of forest fires, diseases, and insect pests;
(d) promotion of joint measures to limit or reduce the adverse effects of the climate change;
(e) investment in forest plantation and wood processing industries;
(f) processing of, supply of, and trade in forest products;
(g) development of eco-forestry technology and conservation of forest ecosystems;
(h) research and development, education, and training; and
(i) any other areas as may be agreed by the Parties.

Article 20.8. Energy and Mineral Resources Cooperation

1. The Parties shall promote cooperation under this Chapter as a means of building a stronger, more stable, and mutually beneficial partnership in the field of energy and mineral resources.
2. Areas of energy and mineral resources cooperation may include, but are not limited to, the following:
(a) upstream activities such as the exploration, exploitation, and production of oil and gas;
(b) downstream activities such as the refining of oil, processing of petrochemicals, liquefaction of gas, and transportation and distribution of crude oil and oil products;
(c) activities such as the exploration, exploitation, production, smelting, refining, processing, transportation, and distribution of mineral resources;
(d) cartographic activities (geodesy, satellite images, remote sensing and, geographic information systems) applied to cadastral, mining, and environmental and geological activities required for an efficient use and administration of the territories of the Parties related to mining activities;
(e) exchange of mining technology for remediation of mining-related environmental liabilities;
(f) exchange of information and experiences on environmental issues and sustainable development in mining;
(g) activities for encouraging and facilitating the business relations regarding energy and mineral resources cooperation between the Parties; and
(h) any other areas as may be agreed by the Parties.
3. The Parties shall facilitate the exchange of information freely available to public on the following subjects in the field of energy and mineral resources:
(a) current investment data for domestic and foreign enterprises;
(b) investment opportunities such as tenders and mining projects;
(c) geological data/information;
(d) relevant laws, regulations, and policies; and
(e) mine reclamation technology and environmental issues that could arise between the developers and the local people in the process of mine development.
4. Each Party shall ensure that its laws and regulations regarding energy and mineral resources are published or otherwise made publicly available.
5. To the extent possible, each Party shall inform the other Party, in advance, of any provision that the Party considers might substantially affect cooperation in energy and mineral resources.
6. Upon request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any provision regarding cooperation in energy and mineral resources, regardless of whether the other Party has been previously informed of the provision.
7. Any notification or information provided under paragraphs 5 and 6 shall be without prejudice as to whether the measure is consistent with this Agreement.
8. The Parties shall:
(a) promote cooperation between the public and private sectors in the Parties, through their government bodies, public organizations, research centers, universities, and enterprises engaged in the field of energy and mineral resources;
(b) encourage and support business opportunities, including investment, related to plant construction in the field of energy and mineral resources, for a stable and mutually beneficial bilateral relationship; and
(c) recognize and facilitate activities related to agreements and cooperation entities that have already been organized, such as the Joint Committee on Energy and Mineral Resources Cooperation.
9. The Parties shall facilitate visits and exchanges of researchers, technicians, and other experts, and shall also promote joint fora, seminars, symposia, conferences, exhibitions, and research projects.

Article 20.9. Science and Technology Cooperation

1. The Parties, recognizing the importance of science and technology in their respective economies, will develop and promote cooperative activities in the field of science and technology.
2. The Parties will encourage and facilitate, as appropriate, including, but not limited to the following activities:
(a) joint research and development, and educational projects, including, if necessary, sharing of equipment, exchange and supply of non confidential scientific and technical data, as well as exchange of scientific samples;
(b) exchange of scientists, researchers, technicians, and experts;
(c) joint organization of seminars, symposia, conferences, and other scientific and technical meetings, including the participation of experts in those activities;
(d) promotion of joint science and technology research activities under existing national programs or policies, where the Parties agree on the necessity of the activities;
(e) exchange of information on practices, policies, laws, regulations, and programs related to science and technology;
(f) cooperation in the commercialization of products and services, as a result of scientific and technological activities; and
(g) any other forms of scientific and technological cooperation as may be agreed by the Parties.
3. Undertaking joint research and development projects, especially in high-end science or key technology areas, may include:
(a) biotechnology;
(b) nanotechnology;
(c) microelectronics;
(d) new materials;
(e) e-government;
(f) manufacturing technology;
(g) environmental technology; and
(h) science and technology policy and research and development systems.

Article 20.10. Information and Communications Technology Cooperation

1. The Parties, recognizing the rapid development, led by the private sector, of Information and Communications Technology (hereinafter referred to as the "ICT") and of business practices regarding ICT-related services both in the domestic and international contexts, will cooperate to promote the development of ICT and ICT-related services with a view to obtaining the maximum benefit of the use of ICT for the Parties. 2. Cooperation in accordance with paragraph 1 may include the following:
(a) promoting dialogue on policy issues;
(b) promoting cooperation between the private sectors of the Parties;
(c) enhancing cooperation in international fora related to ICT; and
(d) undertaking other appropriate cooperative activities.
3. The Parties will encourage cooperation in, including, but not limited to, the following areas:
(a) cyber-infrastructure and policy issues for e-government;
(b) inter-operability of Public Key Infrastructure;
(c) development, processing, management, distribution, and trade of digital contents;
(d) scientific and technical cooperation for the software industry of the Parties;
(e) research and development and management of information technology parks;
(f) research and development on information technology services such as integration of broadcasting and telecommunications;
(g) research and development and deployment of networks and telecommunications, when the Parties agree on the necessity of the activities;
(h) business opportunities in the international markets; and
(i) any other areas as may be agreed by the Parties.

Article 20.11. Maritime Transport Cooperation

The Parties shall promote cooperation in maritime transport through:
(a) establishing contact points to facilitate information exchange on matters related to maritime transportation and logistics services;
(b) arranging training programs and technical cooperation related to port operation and management;
(c) developing exchange programs for training of merchant marine students; and
(d) arranging technical assistance and capacity building activities related to maritime transportation, including the vessel traffic service.

Article 20.12. Cultural Cooperation

1. The objectives of cultural cooperation are to:
(a) respect the existing agreement or arrangement already in effect for cultural cooperation; and
(b) promote cultural exchanges between the Parties.
2. Recognizing that audio-visual, including film, animation, and broadcasting program, co-productions can significantly contribute to the development of the audio-visual industry and to the intensification of cultural and economic exchange between them, the Parties agree to consider and negotiate co-production agreements in the audio-visual sector.
3. The co-production agreement referred to in paragraph 2, once concluded, will be considered to be an integral part of this Agreement. The detailed co-production agreement would be negotiated between the competent authorities of the Parties, which are the Ministry of Education for Peru, and the Ministry of Culture, Sports and Tourism and the Korea Communications Commission for Korea.
4. Co-produced projects in compliance with the co-production agreement referred to in paragraph 3 shall be deemed to be national productions in the territory of each Party and shall thus be fully entitled to all benefits including government support which are accorded under the applicable laws and regulations of each Party. 5. The Parties, in conformity with their respective legislations and without prejudice to the reservations included in their commitments in the other Chapters of this Agreement, shall encourage exchanges of expertise and best practices regarding the protection of cultural heritage sites and historic monuments, including environmental surroundings and cultural landscape.
6. The Parties commit to exchanging information through their diplomatic channels to identify, recover, and avoid the illegal traffic of their cultural heritage.

Article 20.13. Agricultural Cooperation

The objectives of cooperation in agriculture are to:
(a) promote the creation of partnerships for projects in areas of mutual interest, including agricultural research including plantation commodities, the development of small-scale agriculture, the conservation and management of water resources for agricultural use, sustainable agricultural development, and the application of good agricultural practices, among others;
(b) promote the exchange of information on trade in agricultural goods between the Parties; and
(c) develop training programs for leading producers, technicians, and professionals in order to improve the productivity and competitiveness in livestock and agricultural value-added products .

Article 20.14. Committee on Cooperation and Contact Points

1. The Parties hereby establish a Committee on Cooperation comprising representatives of each Party.
2. The Committee on Cooperation shall:
(a) monitor and assess the progress in implementing the cooperation projects agreed by the Parties;
(b) establish rules and procedures for the conduct of its work;
(c) make recommendations on the cooperative activities under this Chapter, in accordance with the strategic priorities of the Parties; and
(d) review, through regular reporting from the Parties, the operation of this Chapter and the application and fulfillment of its objectives.
3. Notwithstanding paragraph 2, the Parties may use diplomatic channels to promote dialogue and cooperation consistent with this Agreement.
4. The Parties will designate contact points to facilitate communication on possible cooperative activities. The contact points will work with government agencies, business sector representatives, and educational and research institutions for the operation of this Chapter.

Article 20.15. Dispute Settlement

Neither Party shall have recourse to Chapter Twenty-Three (Dispute Settlement) for any matter arising under this Chapter.

Chapter TWENTYONE-. Transparency

Article 21.1. Publication

Each Party shall ensure that its laws, regulations, and administrative rulings of general application related to any matter covered by this Agreement are published or otherwise made publicly available.

Article 21.2. Notification and Provision of Information

1. To the extent possible, each Party shall notify the other Party of any measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.
2. Upon request of a Party, the other Party shall promptly provide information and respond to questions regarding any measure, regardless of whether the Party has been previously notified of that measure.
3. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.
4. The information referred to in this Article shall be considered to have been provided when it has been made available by appropriate notification to the WTO or when it has been made available on an official website that is free of charge and publicly accessible.

Article 21.3. Administrative Proceedings

With a view to administering in a consistent, impartial, and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure, in its administrative proceedings applying measures to particular persons, goods, or services of the other Party in specific cases, that:
(a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided with reasonable notice, in accordance with the Party's procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;
(b) such persons are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and
(c) its procedures are in accordance with its law.

Article 21.4. Review and Appeal

1. Each Party shall establish or maintain judicial or administrative tribunals or procedures for purposes of the review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.
2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:
(a) a reasonable opportunity to support or defend their respective positions; and
(b) a decision based on the evidence and submissions of record or, where required by its domestic law, the record compiled by the administrative authority.
3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

Article 21.5. Definition

For purposes of this Chapter: administrative ruling of general application means an administrative ruling or interpretation of general application that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:
(a) a determination or ruling made in an administrative proceeding that applies to a particular person, good, or service of the other Party in a specific case; or
(b) a ruling that adjudicates with respect to a particular act or practice.

Chapter TWENTY-TWO. Administration of the Agreement

Article 22.1. Joint Commission

1. The Parties hereby establish a Joint Commission comprising the Minister of Foreign Trade and Tourism of Peru and the Minister for Trade of Korea, or their respective successors or designees.
2. The Joint Commission shall:
(a) oversee the implementation and application of this Agreement;
(b) evaluate the achievements in the application of this Agreement;
(c) oversee the further elaboration of this Agreement;
(d) seek to resolve disputes that may arise regarding the interpretation or application of this Agreement in accordance with Chapter Twenty-Three (Dispute Settlement);
(e) supervise the work of all committees, working groups, and other bodies established under this Agreement and recommend appropriate actions;

(f) establish its rules and procedures;
(g) establish the amount of remuneration and expenses that will be paid to panelists; (h) prepare and approve a code of conduct of the panelists; and
(i) consider any other matter that may affect the operation of this Agreement, or that is entrusted to it by the Parties.
3. The Joint Commission may:
(a) establish, and delegate responsibilities to, committees, working groups, and other bodies;
(b) consider and adopt any amendments or modifications to the rights and obligations under this Agreement, in accordance with the applicable legal procedures of each Party;
(c) convene to examine further deepening the liberalization in the sectors covered by this Agreement;
(d) issue interpretations of the provisions of this Agreement;
(e) amend or modify, when it considers necessary, the model rules of procedure referred to in Annex 23A (Model Rules of Procedure); or
(f) take such other action in the exercise of its functions as the Parties may agree.
4. All decisions of the Joint Commission shall be taken by consensus.
5. The Joint Commission shall convene at least once a year in regular session and, upon request of either Party, in extraordinary sessions. The sessions shall take place alternately in the territory of each Party, or otherwise by any technological means available to the Parties.

Article 22.2. Agreement Coordinators -contact Points

1. Each Party shall designate an Agreement Coordinator and shall communicate such designation to the other Party within 90 days following the date of entry into force of this Agreement.
2. To facilitate communications between the Parties on any matter covered by this Agreement, each Party's Agreement Coordinator shall act as a contact point to this effect.
3. Any information, request, or notification shall be communicated to the other Party through the contact point, unless otherwise agreed by the Parties.
4. The Agreement Coordinators shall:
(a) work jointly to develop agendas and make other preparations for Joint Commission meetings and follow up on Joint Commission decisions as appropriate;
(b) address any other matter entrusted to it by the Joint Commission; and
(c) provide administrative support to the panels established under Chapter Twenty-Three (Dispute Settlement).
5. Each Party shall be responsible for the operation and costs of its designated Coordinator.

Chapter TWENTY-THREE. Dispute Settlement

Article 23.1. Cooperation

The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation or consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

Article 23.2. Scope of Application

Except as otherwise provided for in this Agreement, this Chapter applies with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that:
(a) a measure of the other Party is inconsistent with its obligations under this Agreement; or
(b) the other Party has otherwise failed to carry out its obligations under this Agreement.

Article 23.3. Choice of Forum

1. Where a dispute regarding any matter arises under this Agreement and under another trade agreement to which both Parties are party, including the WTO Agreement, the complaining Party may select the forum in which to settle the dispute.
2. Unless otherwise agreed by the Parties, once the complaining Party has requested the establishment of a dispute settlement panel under an agreement referred to in paragraph 1 or the intervention of the Joint Commission, the forum selected shall be used to the exclusion of the others in respect of that matter.

Article 23.4. Consultations

1. A Party may request in writing consultations with the other Party with respect to any matter referred to in Article 23.2.
2. The requesting Party shall deliver the request to the other Party and set out in the request the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal and factual basis for the complaint.
3. The requested Party shall respond in writing within 10 days following the date of the receipt of the request.
4. The Parties shall hold the consultations within:
(a) 15 days following the date of the receipt of the request for consultations regarding urgent matters; (1)
(b) 30 days following the date of the receipt of the request for consultations for all other matters; or
(c) such other period as the Parties may agree.
5. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter at issue through consultations under this Article or any other consultation provision of this Agreement.
6. A Party may request the other Party to make available personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to consultations.
7. Consultations may be held in person or by any technological means available to the Parties. Unless otherwise agreed by the Parties, consultations shall be held in the capital of the requested Party.
8. In a consultation, each Party shall:
(a) provide sufficient information to enable a full examination of how the measure or other matter at issue might affect the operation and application of this Agreement; and
(b) treat any confidential information exchanged in the course of consultations on the same basis as the Party providing the information.
9. The consultation period shall not exceed 60 days, or 25 days in the case of urgent matters, following the date of the receipt of the request for consultations, unless otherwise agreed by the Parties.

(1) For greater certainty, "urgent matters" means the matters which concern:
(a) perishable goods, including agricultural and fishery goods, that lose their quality or current condition in a short period of time; or (b) goods, other than perishable goods, or services that lose a substantial portion of their trade value after a certain date in the near future.

Article 23.5. Intervention of the Joint Commission

1. If the Parties fail to settle a dispute within the period established in Article 23.4.9, only the requesting Party under Article 23.4.2 may request in writing the intervention of the Joint Commission.
2. The requesting Party shall deliver the request to the other Party and set out in the request the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal and factual basis for the complaint.
3. Unless otherwise agreed by the Parties, the Joint Commission shall convene within 10 days following the receipt of the request and shall endeavor to resolve the dispute promptly. The Joint Commission may:
(a) seek information and technical advice from such person or body, or establish such working groups or expert groups, as it deems necessary;
(b) have recourse to good offices, conciliation, mediation, or other dispute settlement procedures; or
(c) make recommendations.
4. The Joint Commission may convene in person or by any technological means available to the Parties. Unless otherwise agreed by the Parties, meetings shall be held in the capital of the requested Party.
5. If the Joint Commission fails to settle the dispute within 20 days, or 10 days in the case of urgent matters, following the date on which the Joint Commission convenes in accordance with paragraph 4, the complaining Party may request the establishment of a panel.

Article 23.6. Request for a Panel

1. Upon expiry of the consultation period, or the period for the intervention of the Joint Commission, if such intervention has been requested, or any other period agreed by the Parties, the complaining Party may request in writing the establishment of a panel to consider the matter.
2. The complaining Party shall deliver the request to the other Party and set out in the request the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal and factual basis for the complaint.
3. Unless otherwise agreed by the Parties, the panel shall be selected and perform its functions in a manner consistent with this Chapter, including Annex 23A.
4. A panel may not be established to review a proposed measure.

Article 23.7. Qualifications of Panelists

1. Panelists shall:
(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;
(b) be chosen strictly on the basis of objectivity, impartiality, reliability, and sound judgment;
(c) be independent of, and not be affiliated with or take instructions from, either Party; and
(d) comply with the code of conduct established by the Joint Commission.
2. Individuals who have participated in consultations under Article 23.4 may not serve as panelists for the dispute.

Article 23.8. Panel Selection

1. The Parties shall apply the following procedures in selecting a panel:
(a) The panel shall comprise three members.
(b) Within 15 days following the date of the receipt of the request for the establishment of the panel, each Party shall nominate a panelist. If a Party fails to appoint a panelist within this period, the panelist shall be selected by the other Party, unless the Parties otherwise agree.
(c) The Parties shall endeavor to agree on a third panelist who shall serve as chair within 15 days following the date the second panelist has been selected. If the Parties are unable to agree on the chair of the panel within this period, the Parties shall within the next 10 days exchange their respective list comprising four nominees who are not nationals of either Party. The chair shall then be appointed in the presence of the Parties, in person or by any technological means available to the Parties, by lot from among the nominees on the lists within 10 days following the date of exchange of the lists. If a Party fails to submit its list of four nominees, the chair shall be appointed by lot from among the nominees on the list already submitted by the other Party.
(d) The chair of the panel shall not be a national of either Party, nor have his or her usual place of residence in the territory of either Party, nor be or have been employed by either Party, nor have dealt in any capacity with the subject matter of the dispute, unless the Parties otherwise agree.
(e) The Parties shall endeavor to appoint panelists who have expertise or experience relevant to the subject matter of the dispute.
2. If a Party considers that a panelist has violated, or is in violation of, the code of conduct, the Parties shall consult and if they agree, the panelist shall be replaced with a new panelist in accordance with this Article.

Article 23.9. Role of the Panel

The role of the panel shall be to make an objective assessment of the dispute under its consideration and formulate the necessary findings for settling the dispute in accordance with the terms of reference referred to in Article 23.10.3.

Article 23.10. Model Rules of Procedure

1. Unless the Parties otherwise agree, the panel shall conduct its proceedings in accordance with the model rules of procedure set out in Annex 23A, which shall ensure:
(a) a right to at least one hearing before the panel;
(b) an opportunity for each Party to provide initial and rebuttal written submissions; and (c) that hearings before the panel, deliberations, as well as all submissions and communications exchanged during the hearings, are confidential.
2. The Joint Commission may amend or modify, when it considers necessary, the model rules of procedure set out in Annex 23A.
3. Unless otherwise agreed by the Parties within 10 days of the establishment of the panel, the terms of reference shall be: "To examine, in light of the relevant provisions of this Agreement, the matter referred to in the panel request and issue the report."
4. Panelists fees and other expenses related to the procedure shall be borne by the Parties to the dispute in equal shares.
5. The location of hearings shall alternate between the territories of the Parties. The first hearing will take place in the territory of the Party complained against.
6. Written submissions, oral arguments or presentations at the hearing, panel report, as well as all other written or oral communications between the Parties and the panel, related to panel proceedings, shall be conducted in English.

Article 23.11. Role of Experts

1. Upon request of a Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate.
2. Before the panel seeks information or technical advice, appropriate procedures shall be established in consultation with the Parties. The panel shall:
(a) notify the Parties of its intention to seek information or technical advice in accordance with paragraph 1 and provide the Parties with an adequate period of time to submit their comments or observations; and
(b) provide the Parties with a copy of any information or technical advice received in accordance with paragraph 1, and with a

period of time for the Parties to submit their comments or observations.
3. Where the panel takes into consideration the information or technical advice sought in accordance with paragraph 1, the panel shall also take into account any comment or observation submitted by the Parties with respect to such information or technical advice.

Article 23.12. Consolidation of Proceedings

The panel may consolidate two or more proceedings where such proceedings are related to the same measure or matter.

Article 23.13. Report of the Panel

1. Unless the Parties otherwise agree, the panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the Parties, and any information provided by the Parties in accordance with Annex 23A.
2. Unless the Parties otherwise agree, the panel shall present its report to the Parties, within 120 days, or 80 days in the case of urgent matters, following the selection of the third panelist.
3. The report shall contain:
(a) the findings along with its factual and legal basis;
(b) the determination as to whether a Party has not conformed with its obligations under this Agreement or any other matter that the Parties have requested that the panel address in the terms of reference; and
(c) the recommendations for resolution of the dispute, including the reasonable period of time to implement them, if either Party has requested it.
4. The panel report shall be adopted by the majority of its panelists. The panelists may furnish separate opinions on matters not unanimously agreed.
5. The panel may not disclose which panelists are associated with majority or minority opinions.

Article 23.14. Request for Clarification of the Report

1. Within 10 days following the presentation of the report, either Party may submit a written request to the panel for clarification of any item that the Party considers requires further explanation or definition. The panel shall respond to the request within 10 days following the submission of such request.
2. The submission of the request for clarification will not postpone the deadline for compliance with the panel report, unless the panel otherwise decides.

Article 23.15. Suspension and Termination of Procedure

1. The Parties may agree to suspend the work of the panel at any time for a period not exceeding 12 months following the date of such agreement. If the work of the panel has been suspended for more than 12 months, the authority of the panel shall lapse, unless the Parties otherwise agree. If the authority of the panel lapses, and the Parties have not reached an agreement on the settlement of the dispute, nothing in this Chapter shall prevent a Party from requesting a new proceeding regarding the same matter.
2. The Parties may agree to terminate the panel procedures at any time by jointly notifying the chair of the panel on this respect.

Article 23.16. Implementation of the Report

1. The panel report shall be final and binding unless the Parties otherwise agree.
2. If the report determines that the measure is not conforming to the obligations under this Agreement, the Party complained against shall eliminate the non-conformity.
3. The Parties shall agree on the means to resolve the dispute and on a reasonable period of time to implement them, which normally shall conform to the recommendations of the panel, within 15 days following the receipt of the report of the panel. If the Parties fail to agree on the means to resolve the dispute, the Party complained against shall comply with the recommendations of the panel. If the Parties fail to agree on the reasonable period of time to implement the means, the Party complained against shall comply with the period established in the report.

Article 23.17. Non-implementation and Compensation

1. If the Party complained against fails to implement the means to resolve the dispute or does not comply with the recommendations of the panel within the reasonable period of time agreed by the Parties or established in the panel report, the Party complained against shall enter into negotiations with the complaining Party with a view to establishing a mutually acceptable

compensation. The Parties shall initiate negotiations within 10 days following the date of the receipt of the written request for negotiations.
2. The compensation referred to in paragraph 1 shall be effective as of the moment the Parties agree to it and until the Party complained against complies with the panel report.

Article 23.18. Examination of Implementation

1. Without prejudice to the procedures set out in Article 23.17, once the reasonable period of time agreed by the Parties or established in the panel report has expired, and there is disagreement between the Parties as to the existence or consistency of the measures taken to comply with the determinations and recommendations of the panel, either Party may request the Agreement Coordinators referred to in Article 22.2 (Agreement Coordinators – Contact Points) to convene the original panel to refer the matter to it.
2. The panel shall convene no later than 15 days following the date of the receipt of the request and shall issue its report on the matter within 30 days following its first meeting.
3. Where possible, the panel shall comprise the same panelists as in the original panel. If not possible, the procedure established in Article 23.8 shall be applied, in which event the respective periods set out therein shall be reduced by half.

Article 23.19. Suspension of Benefits

1. If the Parties:
(a) are unable to agree on compensation within 30 days after the period for developing such compensation has begun; or
(b) have agreed on compensation and the complaining Party considers that the Party complained against has failed to observe the terms of the agreement within 20 days following such agreement, the complaining Party may, at any time thereafter, communicate in writing to the Party complained against its intention to suspend the application of benefits. The communication shall specify the level of benefits that the complaining Party proposes to suspend.
2. The complaining Party may initiate the suspension of benefits 30 days following the later date between the date of the communication in accordance with paragraph 1 and the date when the panel issued its report in accordance with Article 23.18.
3. The level of benefits to be suspended shall have an equivalent effect to the adverse trade effect caused by the Party complained against.
4. In considering what benefits to suspend in accordance with paragraph 1:
(a) the complaining Party should first seek to suspend benefits in the same sector or sectors as that or those affected by the measure; and
(b) if the complaining Party considers that it is not practicable or effective to suspend benefits in the same sector or sectors, it may suspend benefits in other sectors.
5. Any suspension of benefits shall be restricted to benefits granted to the Party complained against under this Agreement.
6. The suspension of benefits shall be temporary and may only be applied until such time as the measure found to be inconsistent with this Agreement has been removed, or a mutually satisfactory solution is reached. If the panel established under Article 23.18 decides that the Party complained against has eliminated the non-conformity, the complaining Party shall promptly reinstate any benefits that it had suspended in accordance with this Article.

Article 23.20. Examination of the Level of Suspension of Benefits

1. If the Party complained against considers that the level of benefits suspended or proposed to be suspended is excessive, it may request the Agreement Coordinators to convene the original panel to examine the level of suspension of benefits.
2. In order to examine the level of suspension of benefits, where possible, the panel shall comprise the same panelists as in the original panel. If not possible, the procedure established in Article 23.8 shall be applied, in which event the respective periods set out therein shall be reduced by half.
3. In any event, this panel shall convene no later than 15 days following the date of the receipt of the request and shall issue its decision within 30 days after it convenes.
4. If the panel finds that the level of benefits which the complaining Party has suspended or proposed to suspend is excessive, it shall determine the level of benefits that it considers to be of equivalent effect.

Chapter TWENTY-FOUR. Exceptions

Article 24.1. General Exceptions

1. For purposes of Chapters Two (National Treatment and Market Access for Goods), Three (Rules of Origin), Four (Origin Procedures), Five (Customs Administration and Trade Facilitation), Six (Sanitary and Phytosanitary Measures), Seven (Technical

Barriers to Trade), and Eight (Trade Remedies), Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal, or plant life or health, and that Article XX(g) of GATT 1994 shall apply to measures related to the conservation of living and non-living exhaustible natural resources.
2. For purposes of Chapters Nine (Investment), Ten (Cross-border Trade in Services), Eleven (Temporary Entry for Business Persons), Thirteen (Telecommunications), and Fourteen (Electronic Commerce) , 1 Article XIV of GATS, including its footnotes, is incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XIV(b) of GATS include environmental measures necessary to protect human, animal, or plant life or health.

1This Article is without prejudice as to whether digital products should be classified as goods or services.

Article 24.2. Essential Security

Nothing in this Agreement shall be construed to:
(a) require a Party to furnish, or allow access to, any information the disclosure of which it determines to be contrary to its essential security interests; or
(b) preclude a Party from applying measures that it considers necessary for the fulfillment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

Article 24.3. Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to disclose, or allow access to, confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 24.4. Taxation

1 This Article is without prejudice as to whether digital products should be classified as goods or services. 1. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.
2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.
3. Notwithstanding paragraph 2:
(a) Article 2.2 (National Treatment) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of GATT 1994; and (b) Article 2.11 (Export Taxes) shall apply to taxation measures.
4. Subject to paragraph 2:
(a) Articles 10.2 (National Treatment) and 12.2 (National Treatment) shall apply to taxation measures on income, capital gains, or the taxable capital of corporations that relate to the purchase or consumption of particular services except that nothing in this subparagraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage related to the purchase or consumption of particular services on requirements to provide the service in its territory; and
(b) Articles 9.3 (National Treatment) and 9.4 (Most-Favored-Nation Treatment), 10.2 (National Treatment) and 10.3 (Most-Favored-Nation Treatment), and 12.2 (National Treatment) and 12.3 (Most-Favored-Nation Treatment) shall apply to all taxation measures, other than those on income, capital gains, or the taxable capital of corporations or taxes on inheritances and gifts.
5. Paragraph 4 shall not:
(a) impose any most-favored-nation obligation with respect to an advantage accorded by a Party in accordance with a tax convention;
(b) apply to a non-conforming provision of any existing taxation measure;
(c) apply to the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;
(d) apply to an amendment to a non-conforming provision of any existing taxation measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of the Articles referred to in paragraph 4; or
(e) apply to the adoption or enforcement of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes, as permitted by Article XIV(d) of GATS.
6. Subject to paragraph 2, and without prejudice to the rights and obligations of the Parties under paragraph 3, Article 9.7 (Performance Requirements) shall apply to taxation measures.
7. (a) Articles 9.12 (Expropriation) and 9.16 (Investor-State Dispute Settlement) shall apply to a taxation measure alleged to be an

expropriation. However, no investor may invoke Article 9.12 (Expropriation) as the basis of a claim where it has been determined in accordance with this paragraph that the measure is not an expropriation. (2) An investor that seeks to invoke Article 9.12 (Expropriation) with respect to a taxation measure must first refer to the competent authorities, at the time that it gives written notice of intent under Article 9.16 (Investor-State Dispute Settlement), the issue of whether that taxation measure involves an expropriation. If the competent authorities do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation within a period of six months of such referral, the investor may submit its claim to arbitration under Article 9.16 (Investor-State Dispute Settlement).
(b) For purposes of this paragraph, competent authorities means:
(i) for Korea, the Deputy Minister for Tax and Customs, Ministry of Strategy and Finance, or its successor; and (ii) for Peru, the Ministry of Economy and Finance (Ministerio de Economía y Finanzas), or its successor.
8. For purposes of this Article,
(a) taxes and taxation measures do not include: 2 With reference to Article 9.12 (Expropriation) in assessing whether a taxation measure constitutes expropriation, the following considerations are relevant :
(a) the imposition of taxes does not generally constitutes expropriation. The mere introduction of new taxation measures or the imposition of taxes in more than one jurisdiction in respect of an investment does not in itself constitute expropriation;
(b) taxation measures which are consistent with internationally recognized tax policies, principles, and practices do not constitute expropriation and in particular, taxation measures aimed at preventing the avoidance or evasion of taxes should not, generally, be considered to be expropriatory; and
(c) taxation measures which are applied on a non-discriminatory basis, as opposed to being targeted at investors of a particular nationality or specific individual taxpayers, are less likely to constitute expropriation. A taxation measure should not constitute expropriation if, when the investment is made, it was already in force, and information about the measure was made public or otherwise made publicly available.
(i) a customs duty as defined in Article 1.4 (General Definitions); or
(ii) the measures listed in subparagraphs (b) and (c) of the definition of customs duty set out in Article 1.4 (General Definitions); and
(b) tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement.

(2) With reference to Article 9.12 (Expropriation) in assessing whether a taxation measure constitutes expropriation, the following considerations are relevant:
(a) the imposition of taxes does not generally constitutes expropriation. The mere introduction of new taxation measures or the imposition of taxes in more than one jurisdiction in respect of an investment does not in itself constitute expropriation;
(b) taxation measures which are consistent with internationally recognized tax policies, principles, and practices do not constitute expropriation and in particular, taxation measures aimed at preventing the avoidance or evasion of taxes should not, generally, be considered to be expropriatory; and
(c) taxation measures which are applied on a non-discriminatory basis, as opposed to being targeted at investors of a particular nationality or specific individual taxpayers, are less likely to constitute expropriation. A taxation measure should not constitute expropriation if, when the investment is made, it was already in force, and information about the measure was made public or otherwise made publicly available.

Article 24.5. Balance of Payments Exceptions

1. Where a Party is in serious balance-of-payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods and services.
2. The Parties shall endeavor to avoid the application of the restrictive measures referred to in paragraph 1. Any restrictive measures adopted or maintained under this Article shall be non-discriminatory and of limited duration, and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. They shall be in accordance with the conditions established in the WTO Agreement and consistent with the Articles of Agreement of the International Monetary Fund, as applicable.
3. Any Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify the other Party of them and present, as soon as possible, a time schedule for their removal.
4. Where the restrictions are adopted or maintained, consultation shall be held promptly within the Joint Commission. Such consultation shall assess the balance-of-payments situation of the concerned Party and the restrictions adopted or maintained under this Article, taking into account, inter alia, such factors as:
(a) the nature and extent of the balance of payments and the external financial difficulties;
(b) the external economic and trading environment; or (c) alternative corrective measures which may be available.

The consultations shall address the compliance of any restrictive measures with paragraphs 2 and 3. All findings of statistical and other facts presented by the IMF relating to foreign exchange, monetary reserves, and balance of payments shall be accepted and

conclusions shall be based on the assessment by the IMF of the balance of payments and the external financial situation of the concerned Party.

Chapter TWENTY-FIVE. Final Provisions

Article 25.1. Annexes, Appendices, and Footnotes

The Annexes, Appendices, and footnotes to this Agreement constitute an integral part of this Agreement.

Article 25.2. Entry Into Force

This Agreement shall enter into force 60 days following the date the Parties exchange written notifications certifying that they have completed their respective legal requirements for its entry into force or on such other date as the Parties may agree.

Article 25.3. Amendments

1. The Parties may agree on any amendment to this Agreement.
2. An amendment shall enter into force 45 days following the date the Parties exchange written notifications certifying that they have completed their respective legal requirements for its entry into force or on such other date as the Parties may agree.
3. Unless otherwise provided for in this Agreement, references to laws or regulations in this Agreement include amendments and replacements thereto.

Article 25.4. Termination

A Party may terminate this Agreement after it provides written notification to the other Party. Such termination shall be effective six months following the date of the notification, except for tariff concessions granted under this Agreement, which shall continue in force for a period of one year after the termination becomes effective, unless otherwise agreed by the Parties.

Article 25.5. Authentic Texts

The English, Spanish, and Korean texts of this Agreement are equally valid and authentic. In case of any divergence, the English text shall prevail.

Article Article

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments have signed this Agreement. DONE at Seoul, this 21st day of March, 2011, in two original texts, in the Korean, Spanish, and English languages. FOR THE GOVERNMENT OF FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA THE REPUBLIC OF PERU