



EU-SOUTH KOREA FREE TRADE AGREEMENT

A QUICK READING GUIDE

The agreement comprises 15 Chapters, several annexes and appendices, three protocols and four Understandings. This document provides a quick, non-technical summary of each of the relevant elements of the agreement.

Chapter 1 – Objectives and General Definitions

Chapter 1 defines the objectives of the agreement and provides definitions of the Parties throughout the text.

Chapter 2 – National Treatment and Market Access for Goods

Chapter 2 sets out the objective of removing both customs duties and regulatory obstacles called Non-Tariff Barriers (NTBs) on trade in goods.

- Most customs duties on goods were removed the day the agreement entered into force.
- The remaining customs duties were removed over a transitional period so that domestic producers could gradually adapt to lower duties. Consumers benefit from lower prices and exporters from being more competitive.
- Practically all customs duties on industrial goods were fully removed within five years of the agreement coming into force.
- Taking both industrial and agricultural products, South Korea and the EU eliminated 98.7% of duties in trade value within five years of the agreement coming into force.
- A limited number of highly sensitive agricultural and fisheries products have transitional periods longer than seven years. Rice and a few other agricultural products, all of which the EU is not a significant exporter, are excluded from the agreement.
- The agreement incorporates fundamental WTO rules on non-tariff barriers (NTBs), such as national treatment, prohibition of import and export restrictions, disciplines on state trading, etc.
- The agreement prohibits all export duties. Specific NTBs, such as differing standards relating to automotive, electronics and pharmaceuticals, are dealt with in annexes to the agreement.
- The agreement sets up a Committee on Trade in Goods that shall meet at the request of either party. The Committee can consider broadening the scope of NTB disciplines as well as tackling other issues related to trade in goods between South Korea and the EU.

Annexes on Non-Tariff Barriers

The EU-South Korea FTA is the first EU trade agreement to include specific sectoral disciplines on NTBs to trade. NTBs are all barriers to trade other than tariffs, and arise in many different forms. The costs created by non-tariff barriers are a high burden, often higher than custom duties, particularly for smaller and medium-sized firms. Since a number of these barriers are side effects of the otherwise legitimate pursuit of public policy objectives, overcoming the negative side effects requires finding carefully balanced

solutions. The annexes on NTBs effectively address those regulatory and other barriers that EU industry has identified as being the most significant obstacles to accessing the Korean market in the sectors concerned. In view of their detailed and technical nature, these barriers are very difficult to address and require entering deep into the regulatory practices of trading partners. It is therefore of particular value that the rules on NTBs could largely be based on the European regulatory model.

The Agreement has four sector-specific annexes:

- consumer electronics;
- automotive products;
- pharmaceuticals, and;
- chemicals.

Consumer Electronics

Before the agreement entered into force, exporters of consumer electronics and household appliances, from refrigerators to vacuum cleaners or microwave ovens, were obliged to duplicate cumbersome and expensive testing and certification procedures in order to sell in South Korea. The provisions of the electronics NTB annex provide a solution for such barriers to trade.

Firstly, the annex highlights the role of international standardisation and singles out the relevant international standard-setting bodies.

Secondly, the provisions on conformity assessment encourage the use of declarations of conformity. This means the producer/importer is responsible for ensuring that the product complies with the relevant regulations in South Korea without the need for a compulsory third party certificate.

Elimination of third party certification for a selected number of products was an important outcome of the negotiations. When fully completed, this change in the regulatory system should considerably cut costs and bureaucracy. It will be an important change in the regulatory system for these products in South Korea.

EU exporters are also able to conduct safety testing in the EU, thus reducing regulatory and financial burdens. For a specific list of items, South Korea can continue with a third-party certification regime for electrical safety and electromagnetic compatibility, if it can show on a product-specific basis that allowing supplier's declaration of conformity would create risks for human health and safety.

Motor vehicles

The agreement contains far-reaching provisions to address non-tariff barriers in this sector, which before the agreement EU industry saw as the most significant obstacles to exporting to South Korea.

The provisions provide for wide-ranging recognition of international standards by South Korea. For core safety standards, UN-ECE standards are now considered equivalent to Korean domestic standards. For standards not subject to equivalence or harmonisation, South Korea is committed to ensuring that they continue to be applied in a manner that avoids market access problems.

The agreement also includes a Most Favoured Nation (MFN) clause with respect to any benefits South Korea might grant to a third country as regards internal taxation or emission regulations affecting the car sector. This means that South Korea would have to grant the same benefits to EU carmakers that it gave to producers in other countries.

A number of mechanisms ensure there will be no new artificial barriers erected in the future, including a commitment not to introduce measures that could negatively affect the benefits of the trade agreement.

The technical rules of the trade agreement mean there is no longer any need for EU car makers to conduct supplementary expensive tests to show compliance with a wide range of safety standards (for example, resistance to crash or impact, effectiveness of braking, etc.) because South Korea now recognises tests conducted in the EU to show compliance with EU standards.

Finally, a special accelerated dispute settlement system ensures compliance with the rules negotiated for the car sector. The period foreseen for an arbitration panel ruling is reduced from 120 to 75 days. A Working Group, which meets once a year, monitors the implementation of commitments.

Pharmaceutical products and medical devices

Exporters of pharmaceuticals and medical devices benefit from more transparent pricing decisions. As in many EU Member States, Korean health authorities set the prices at which drugs are reimbursed. However, there are concerns regarding the lack of transparency of the process under which prices are set.

The trade agreement addresses this long-standing concern by:

- introducing detailed binding rules on transparency regarding decisions on reimbursement;
- stipulating the option of having such pricing decisions reviewed by a court;
- ensuring the criteria on which the decisions on reimbursement and pricing are based shall be objective and clear, and;

- setting up a working group for regulatory co-operation. The EU and South Korea should consider requests to accept each other's conformity assessments based on international practices.

Chemicals

The trade agreement fully preserves the EU's regulatory framework in the chemical sector.

It also introduces a number of positive elements for possible future cooperation, highlighting the importance of "*ensuring transparency regarding the content of their laws and regulations and other measures of general application in the area of chemicals.*"

An important point of cooperation is in the area of Good Laboratory Practice and Test Guidelines, where the aim is to seek a harmonised approach to chemical assessment and management.

Chapter 3 – Trade Remedies

The trade remedies chapter includes provisions relating to the use of the traditional trade defence instruments that already exist in World Trade Organization legislation (anti-dumping, anti-subsidy and global safeguards).

The key guiding principle concerning the traditional instruments is to re-affirm the need to respect the rights and obligations foreseen by World Trade Organization legislation. At the same time, the aim is to set out disciplines to limit the use of these instruments to situations where this is necessary, and to ensure fair treatment for all the parties concerned.

Such elements are already standard in EU legislation. For example, the trade agreement:

- requires that the level of duty be lower than the full amount of dumping or subsidy to the extent that this is sufficient to eliminate the injury;
- makes it possible to conduct a public interest test to balance the various interests at stake and to examine the possible impact of duties on businesses before imposing any measures;
- contains provisions aimed at making the investigation process more transparent;
- allows firms involved in proceedings to file documents in English, thereby allowing interested parties to better exercise their rights of defence and to avoid costly translations;

- includes a bilateral safeguard clause allowing either party to temporarily reintroduce the tariffs applied to World Trade Organization members where an increase of imports would cause or threaten serious injury, and;
- sets up a working group on trade remedies as a forum for dialogue on trade remedy co-operation. This allows the investigating authorities of each party to better understand each other's practices and to exchange views in order to raise standards in trade defence proceedings.

Chapter 4 – Technical Barriers to Trade

The Chapter on Technical Barriers to Trade (TBT) aims to reduce obstacles to trade between the EU and South Korea caused by technical regulations, standards, conformity assessment procedures and similar requirements. The EU and South Korea reiterate their commitments under the World Trade Organization Agreement on TBTs. In addition, they undertake to cooperate on standards and regulatory issues, and where appropriate, to establish dialogues between regulators, with the aim of simplifying and avoiding unnecessary divergence in technical requirements applying to products.

The agreement includes specific undertakings on good regulatory practice:

- transparency in making rules;
- using international standards where possible;
- providing the other Party with an opportunity to discuss rules before they are made, and;
- allowing sufficient time for the other Party to comment on them and to take account of their adoption.

Similar considerations apply to technical standards. There are also provisions on marking and labelling, whereby requirements to mark or label products will be minimised as far as possible, and will be non-discriminatory.

The agreement also sets up a mechanism for co-ordination between the EU and South Korea to keep these matters under consideration and to address any specific issues.

Chapter 5 – Sanitary and Phytosanitary Measures

The Chapter on Sanitary and Phytosanitary (SPS) measures deals with plant and animal health and hygiene. It aims to:

- make it easier to trade between the EU and South Korea in animals, plants and products made from them, while maintaining high levels of human, animal and plant health, and;
- ensure full transparency as regards sanitary and phytosanitary measures affecting trade.

It also includes provisions on cooperation in animal welfare.

These objectives are achieved by:

- a formal dialogue on sanitary and phytosanitary issues affecting trade, and;
- specific commitments on:
 - transparency (especially regarding import conditions);
 - consultation;
 - working towards developing a common understanding on international standards;
 - equal treatment of all EU Member States, and;
 - a procedure for the recognition of disease-free areas – in other words, areas eligible for exporting products to the other Party.

The agreement sets up a Committee on Sanitary and Phytosanitary Measures for implementing the agreement's provisions on them. This Committee develops the necessary procedures and arrangements, monitors progress, and provides a forum for discussion of any problems arising from SPS measures.

Chapter 6 – Customs and Trade Facilitation

The agreement enhances co-operation in customs and customs-related matters. The EU and South Korea commit themselves to:

- pursue harmonisation of documentation and data requirements, so as to make it easier to trade between one another;
- develop effective communication with the business sector;
- help each other on tariff classification, valuation and preferential origin of goods;
- promote strong and efficient enforcement of intellectual property rights regarding import, export and transit, and;
- improve the security of sea containers and other shipments imported into, transhipped through or transiting the Parties, while facilitating trade.

The agreement also provides a comprehensive benchmark for applying modern and trade-friendly customs and border-related procedures. It builds on international standards and

addresses the majority of the issues raised in the WTO Trade Facilitation Negotiating Group.

To provide increased transparency and legal certainty, the trade facilitation provisions included in the agreement provide for:

- advance rulings;
- appeal procedures;
- detailed rules on publishing customs and trade related legislation, fees and charges;
- designating inquiry points, and;
- consultations with representatives of the trading community.

To simplify and streamline border procedures, the chapter contains provisions on:

- cutting fees and charges;
- risk management;
- electronic submissions;
- eliminating pre-shipment inspections, and;
- simplifying customs procedures and customs valuation.

The agreement sets up a Customs Committee. It is made up of representatives of the customs authorities and other competent authorities of the Parties responsible for customs and trade facilitation matters.

The Committee serves a forum:

- to discuss and endeavour to resolve any difference that may arise between the Parties regarding customs and trade facilitation matters, such as:
 - tariff classification;
 - origin of goods, and;
 - mutual administrative assistance in customs matters.
- to formulate recommendations and opinions that it considers necessary to achieve the objectives set out in the customs and trade facilitation chapter of the agreement.

In between the Committee meetings, both sides cooperate closely through informal channels and in the margins of many international meetings, for example at the World Customs Organization or the World Trade Organization.

Chapter 7 – Trade in Services, Establishment and E-Commerce

The trade agreement significantly improves South Korea's commitments under the World Trade Organization's General Agreement on Trade in Services (GATS).

The agreement also liberalises investment, in both most of the services sector and most of the non-services sector. The scope of the agreement includes:

- transport;
- telecommunications;
- finance;
- legal services;
- environmental services, and;
- construction.

The agreement does not include audio-visual services.

Examples of improvements:

- **telecommunications** – South Korea has relaxed foreign ownership requirements, allowing 100% indirect ownership.

EU satellite broadcasters are able to operate directly cross-border into South Korea, thus avoiding having to liaise with a Korean firm.

- **environmental services** – South Korea now allows EU firms to provide some services related to the treatment of non-industrial wastewater and sewage.
- **shipping and maritime services** – EU shipping firms have:
 - full access to the South Korean market;
 - the right of establishment in South Korea, and;
 - non-discriminatory treatment in the use of port services and infrastructure.

The agreement also brings new business opportunities for European companies in the area of many maritime auxiliary services.

- **construction services** – South Korea has abolished the existing subcontracting requirement.
- **financial services** – EU financial firms gain substantial market access to South Korea and are able to freely transfer data from their branches and affiliates to their headquarters.

- **express delivery services** – EU providers of international express delivery firms can provide services in South Korea.

Chapter 8 – Payments and Capital Movements

The agreement includes provisions on free capital movement. These include standard safeguards for both sides, with a possibility to apply measures to ensure the stability of the financial system.

Chapter 9 – Government Procurement

The agreement offers the opportunity to expand procurement opportunities to public works concessions and ‘Build-Operate-Transfer’ contracts not yet covered by what South Korea agreed to under the Government Procurement Agreement. Such contracts are of significant commercial interest to European suppliers, who are recognised global leaders in this area. Guaranteeing European firms practical and legal access to such tenders would bring substantial new tendering opportunities.

The EU-South Korea agreement:

- covers, at equivalent thresholds, ‘Build-Operate-Transfer’ contracts from all central and sub-central procuring entities that South Korea agreed to include in the Government Procurement Agreement.
- It also includes ‘Build-Operate-Transfer’ procurement contracts of all procuring entities (including cities, districts and counties) of:
 - Seoul Metropolitan City
 - Incheon Metropolitan City
 - Gyonggi-do Province
 - Busan Metropolitan City (South Korea’s largest harbour)

This additional coverage represents more than half of South Korea’s economy and population.

Chapter 10 – Intellectual Property

Protecting and enforcing intellectual property rights (IPR) is crucial to European competitiveness. The EU-South Korea agreement contains ambitious provisions in this area, including on copyright, designs and geographical indications. These provisions complement the 1995 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) between members of the World Trade Organization and are more up-to-date.

The chapter also includes a strong section on enforcement of intellectual property rights. It is based on the EU's internal rules in this area.

- **copyright** – the provisions are in line with the latest international developments. The chapter also includes a provision that should make it easier for EU rights holders to be adequately paid for the use of their music or other artistic works in South Korea.
- **designs** – have become an economically important intellectual property right. The chapter includes provisions that fill the gap in TRIPS on designs, including provisions on unregistered designs.
- **geographical indications** – Korean consumers are eager for quality EU agricultural products, especially EU geographical indications. Geographical indications – or GIs – are signs used on products that have a specific geographical origin and possess qualities or a reputation due to that origin.

EU wines, spirits, cheese or hams have a very good reputation in South Korea. The agreement gives a high level of protection for commercially important European geographical indications, so that only genuine products can be sold in South Korea using their names.

Examples are:

- Champagne
- Irish whiskey
- Grappa
- Ouzo
- Polska Wódka
- Prosciutto di Parma
- Szegedi szalámi
- Jambon de Bayonne
- Manchego
- Parmigiano Reggiano
- Vinho Verde
- Tokaj
- Bayerisches Bier
- České pivo

The agreement protects around 160 major EU GIs. All agricultural GIs, and not only those relating to wines and spirits, have the same high level of protection.

The agreement also protects GIs from South Korea. This means that when EU consumers buy products such as Boseong green tea, they will know they are getting the authentic Korean product.

Both the EU and South Korea are committed to protecting additional GIs through a procedure set out in the agreement.

Chapter 11 – Competition

In the competition chapter, the EU and South Korea agreed to prohibit and sanction certain practices and transactions involving goods or services that distort competition and trade between them.

This implies that neither the EU nor South Korea will tolerate anti-competitive practices that harm consumers and raise prices, such as:

- cartels;
- abusive behaviour by companies with a dominant market position, and;
- anti-competitive mergers.

To enforce their action against such practices, the EU and South Korea:

- agreed to maintain effective competition laws;
- agreed to maintain an appropriately equipped competition authority responsible for addressing such anti-competitive practices;
- recognised the importance of respecting the principles of due process when applying competition laws, and;
- agreed that competition law should also apply to state-controlled enterprises and monopolies.

These commitments ensure that companies from the EU and South Korea have equal access to each other's markets.

The agreement also contains provisions laying down the main principles for consultation and cooperation between the EU and South Korea.

A **Cooperation Agreement**¹ between the EU and South Korea on anti-competitive activities sets out detailed rules on cooperation between them. In it, the EU and South Korea agree to remedy or remove distortions of competition caused by subsidies where they affect international trade.

¹ Cooperation Agreement between the EU and South Korea on anti-competitive activities (OJ L 202/35 of 4 August 2009).

This section is important because it prohibits certain types of highly distortive subsidies:

- subsidies covering debts or liabilities of an enterprise without any limitation, in law or in fact, as to the amount or duration, and;
- subsidies to ailing businesses, without a credible restructuring plan based on realistic assumptions that would allow them to return to long-term viability without further reliance on state support. The turnaround has to be made within a reasonable time, and the business must make a significant contribution to the costs of restructuring.

The section also contains transparency provisions according to which the EU and South Korea have to:

- report annually the total amount, type and the sectoral distribution of subsidies, and;
- provide further information on subsidy schemes or individual subsidies upon request.

The rules on subsidies apply to goods, with the exception of agriculture and fisheries.

This section is subject to the dispute settlement mechanism.

Chapter 12 – Transparency

As domestic regulatory environments affect trade, the agreement sets out the criteria to be followed to ensure an efficient and predictable regulatory environment for businesses, especially small ones. EU firms doing business in South Korea have often expressed concern about the lack of transparency in the country's regulatory environment.

Therefore, it is significant that in their agreement, the EU and South Korea have made firm commitments to transparency that apply to all regulations having an impact on matters covered by the agreement.

In particular, they undertake to:

- allow interested persons to comment on proposed new regulatory measures;
- set up enquiry or contact points to respond to questions arising from the application of regulations or to seek to resolve problems arising from such regulations, and;
- include due process requirements for administrative proceedings, including regarding the review or appeal of administrative actions in areas covered by the trade agreement.

Chapter 13 – Trade and Sustainable Development

The EU-South Korea agreement includes provisions establishing shared commitments and a framework for cooperation on trade and sustainable development. At the time, the agreement broke new ground in this area.

The agreement:

- enables close dialogue and continued engagement between the EU and South Korea in the areas of environment and labour;
- includes firm commitments on both sides to labour and environmental standards, and;
- sets up institutional structures to implement and monitor the commitments between the parties, including through civil society involvement.

Key elements of the Trade and Sustainable Development Chapter include:

Labour

- a shared commitment to the International Labour Organization's core labour standards and decent work agenda, and;
- a commitment to ratify and effectively implement all conventions identified as up to date by the International Labour Organization – in other words, those which go beyond those Conventions relating to the core labour standards.

Environment

- a commitment from both sides to effectively implement all multilateral environment agreements to which they are party.

Upholding standards

The agreement confirms the EU and South Korea's:

- right to regulate, while aiming for a high level of protection in the fields of environment and labour, and;
- commitment to refrain from waiving or derogating from such standards in a manner that affects trade or investment between the parties.

Monitoring

The agreement provides for strong monitoring mechanisms, building on public scrutiny through civil society involvement by both South Korea and the EU.

Accordingly, each side has set up a Domestic Advisory Group composed of a balanced number of representatives from civil society, including environment, labour and business organisations. The two groups meet annually in a civil society forum to discuss the implementation of the sustainable development aspects of the chapter.

A Committee on Trade and Sustainable Development Cooperation monitors the implementation of the commitments each side made under the agreement.

Settling Differences

The agreement sets up mechanisms for settling differences through an independent panel of experts. The Committee on Trade and Sustainable Development monitors the panel of experts' recommendations. The panel of experts should seek the advice of the Domestic Advisory Groups and competent international organisations, such as the International Labour Organization or relevant multilateral environmental organisations. The panel's reports will be made publicly available to the Domestic Advisory Groups.

Chapter 14 – Dispute Settlement

The agreement's Dispute Settlement mechanism is based on the model of the World Trade Organization's Dispute Settlement Understanding, but its procedures are much faster.

Consultation

The first step of the procedure is the consultation between the parties, with a view to reaching a solution.

Arbitration

If the parties do not find a solution, the dispute is referred to an arbitration panel. The panel is composed of three experts chosen by the parties or selected by lot from a list agreed in advance.

The panel:

- receives submissions from the parties;
- holds a hearing that is open to the public;
- can receive written submissions from interested persons or companies informing the panel of their views, and;
- issues within 120 days after it was set up a ruling that is binding on the parties.

After the ruling:

- the party in breach of the agreement has a reasonable period of time – agreed between the parties or decided by an arbitrator – to comply with the agreement;
- by the end of the compliance period, the party in breach of the agreement must have remedied the situation, and;
- if the complaining party considers the defending party is still in breach of the agreement, it can refer the issue back to the panel. If the panel confirms that the defending party is still in breach of the agreement, the complainant can impose proportionate sanctions.

Time limits in the arbitration procedure are reduced in:

- urgent cases ;
- disputes on the application of the trade agreement's sectoral annex on motor vehicles and parts, and;
- disputes on the trade agreement's special clause on Duty Drawback.

Mediation

The trade agreement also contains a mediation mechanism that the parties can use to tackle market access problems due to non-tariff measures. The aim of this mechanism is not to review the legality of a measure, but rather to find a quick and effective solution to a market access problem.

Under the mediation mechanism:

- a mediator – agreed upon jointly by the parties or selected by lot from a list agreed in advance – helps the parties.
- the mediator meets the parties and within 60 days of his/her nomination delivers an advisory opinion and proposes a solution.
- the mediator's opinion and proposal are not binding: the parties are free to accept them or use them as a basis for a solution.

- the mediation mechanism does not preclude recourse to dispute settlement, during or after the mediation procedure.

Chapter 15 – Institutional, General and Final Provisions

The agreement is managed by a Trade Committee co-chaired by the European Commissioner for Trade and South Korea’s Minister of Trade. The Trade Committee meets yearly and sets its own agenda.

The agreement sets up six specialised committees:

- Committee on Trade in Goods
- Committee on Sanitary and Phytosanitary Measures
- Customs Committee
- Committee on Trade in Services, Establishment and Electronic Commerce
- Committee on Trade and Sustainable Development
- Committee on Outward Processing Zones on the Korean Peninsula

The agreement sets up working groups:

- Working Group on Motor Vehicles and Parts
- Working Group on Pharmaceutical Products and Medical Devices
- Working Group on Chemicals
- Working Group on Trade Remedy Co-operation
- Working Group on Mutual Recognition Agreements on Services
- Working Group on Government Procurement
- Working Group on Geographical Indications

The EU cooperates closely with all relevant stakeholders to ensure effective implementation of the commitments made under the trade agreement. The European Commission consults business organisations, trade unions and environmental organisations with a view to ensuring the most appropriate mechanisms to monitor implementation.

The agreement also set up a Committee on Cultural Cooperation. By derogation from the institutional provisions of Chapter 15, the Trade Committee has no jurisdiction over the Protocol on Cultural Cooperation. The Committee on Cultural Cooperation exercises all functions of the Trade Committee where this is necessary in order to implement the trade agreement.

PROTOCOL 1: RULES OF ORIGIN

Rules of origin play an important role in all preferential trade agreements. Indeed, they define the 'economic nationality' of the products. A product's 'economic nationality' is needed to determine the duties applicable to it when it is traded across borders.

In all free trade agreements or other international trade arrangements, the EU Rules of Origin are set out in a protocol with annexes.

The protocol contains provisions on:

- the definitions of 'originating products'
- territorial requirements
- 'Duty Drawback'
- 'proofs of origin'
- arrangements for administrative cooperation.

The most important annex is Annex II with the 'list rules'. It lists the working or processing required to be carried out on non-originating materials in order that a product can obtain originating status after manufacturing.

The agreement confirm the EU's Rules of Origin for the most important products in the sensitive sectors of:

- agriculture (such as sugar, pasta, olive oil);
- fisheries (aquaculture);
- non-ferrous metals (notably for copper and aluminium), and;
- textiles and clothing (where the double transformation requirement is kept with only a few derogations, limited by a quota).

The car sector

The agreement sets only a moderate increase in the levels of foreign content, from 40% (the EU standard rule) to 45%.

Consumer electronics and machinery (chapters 84, 85 and 90)

Change of tariff heading (CTH) – implying '*manufacture from materials of any heading, except that of the product*' – is only allowed where:

- the parts of the final product are classified in the same heading as that of the final product,

or:

- where the EU Most Favoured Nation duty is low, so that the economic effect of allowing the CTH rule would be minimal.

The EU ensured that the permissible foreign content would be limited to 45% for the most sensitive consumer electronics items. Under 'Duty Drawback' (DDB)/'inward processing'

schemes, the duties paid on parts used for the production of a final product (for example a car) are refunded when the final product is exported. Such schemes are allowed under the trade agreement.

In the event of a significant increase in foreign sourcing, the trade agreement foresees a special Duty Drawback clause five years after the agreement's entry into force. The clause can limit the duties on parts that can be refunded to a maximum of 5%.

PROTOCOL 2: MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

The Protocol on mutual administrative assistance in customs matters provides a legal framework for assistance between the competent authorities of the EU and South Korea with enquiries related to customs irregularities/fraud. The aim is to ensure customs legislation is applied correctly and to fight breaches of customs rules.

The competent authorities undertake to supply each other with all relevant information to enable them to pursue investigations, including the possibility for officials of the requesting Party to participate in administrative enquiries on the territory of the requested Party.

PROTOCOL 3: CULTURAL COOPERATION

In order to implement the UNESCO Convention on protecting and promoting diversity of cultural expression, the trade agreement includes a dedicated protocol on cultural cooperation.

The Protocol has its own institutional structure independent from other parts of the trade agreement and provides for a special mechanism to settle disputes.

The Protocol:

- sets a framework to engage in policy dialogue on culture and audio-visual issues, and to cooperate in facilitating exchanges regarding cultural activities, notably in the area of:
 - performing arts;
 - publications;
 - protection of cultural heritage sites and historical monuments, and;
 - the audio-visual sector.

- seeks to make it easier for artists and other cultural professionals and practitioners who are not service providers to travel to and work in the territory of the other party.

Audio-visual

The Protocol's specific provision on audio-visual co-productions:

- encourages the conclusion of bilateral coproduction agreements between South Korea and EU Member States, and;
- allows certain finished audio-visual works co-produced by European and Korean partners to qualify as European and Korean works for the purposes of respective legislation on the promotion of local/regional cultural content, provided they meet the strictly defined criteria defined in the legislation.

These criteria (which are even stricter in the animation sector) ensure that a balance is maintained between financial and technical/artistic contributions of the parties, and that the rich tradition of cooperation between businesses from different EU Member States is maintained by requiring participation from co-producers from several different EU Member States.

The audio-visual cooperation scheme's sustainability is ensured by making it possible to terminate the co-production provisions at the end of an initial period. Balanced cooperation over time is preserved by a suspension mechanism, which can be activated if one of the parties modifies its cultural content legislation in a way that adversely affects the other's co-producers.

Facilitating exchanges by promoting co-productions can benefit the parties' professionals by:

- extending circulation opportunities for their works;
- bringing benefits such as training through mutual learning;
- reinforcing local capacity;
- creating detailed knowledge of the habits and preferences of audiences in different countries/regions, and;
- providing an opportunity to develop new formats and works or programmes that, being cross-cultural in nature, can appeal to and address larger and/or different audiences.