

Committee on Regional Trade Agreements
Sixty-fifth Session

**CONSIDERATION OF THE FREE TRADE AGREEMENT BETWEEN
THE EUROPEAN UNION AND THE REPUBLIC OF KOREA,
GOODS AND SERVICES**

Note on the Meeting of 19 June 2012

Chairman: Mr. F. Riegert (France)

1. The 65th Session of the Committee on Regional Trade Agreements (hereinafter 'CRTA' or the 'Committee') was convened in Airgram WTO/AIR/3940 dated 8 May 2012.
2. Under Agenda Item B.III of this session, the CRTA considered the Free Trade Agreement (FTA) between the European Union and Korea (hereinafter the 'Agreement'), goods and services.
3. The Chairman said that the Agreement had entered into force on 1 July 2011. It had been notified to the WTO by the Parties on 7 July 2011 under Article XXIV:7(a) of the GATT 1994 and the Understanding on the Interpretation of Article XXIV of GATT 1994 as an Agreement establishing a free trade area (document WT/REG296/N/1) and under GATS Article V:7(a) as an Agreement providing for the liberalization of trade in services within the meaning of Article V of the GATS (document S/C/N/594). The text of the Agreement was available, together with its Annexes, on the Parties' official websites. The Factual Presentation on the goods and services aspects (document WT/REG296/1 dated 29 March 2012) had been prepared by the Secretariat on its own responsibility in full consultation with the Parties, in accordance with paragraph 7(b) of the Transparency Mechanism for Regional Trade Agreements (document WT/L/671). In addition, written questions and replies on this Agreement had been distributed in document WT/REG296/2 dated 14 June 2012. He proposed to organize the consideration of the Agreement by first asking the Parties and then other Members to give any general comments and then use the Factual Presentation, document WT/REG296/1, to guide the debate.
4. The representative of Korea said it was a pleasure to have the opportunity to discuss the Korea-EU Free Trade Agreement. He said Korea was a strong supporter of the WTO multilateral trading system and an active participant in the current DDA negotiations. At the same time, it was actively pursuing an FTA policy because it believed that FTAs could be compatible with, and even supplementary to, the WTO. Of course, not all FTAs were necessarily so, which was why the CRTA reviewed RTAs to see whether they were compatible with WTO principles. The Korea-EU FTA was the most comprehensive, high-level trade deal that either Korea or the EU had concluded. The Parties were of the view that it was fully consistent with the principles and rules of the WTO and fully satisfied the WTO requirement to cover "substantially all the trade" in goods and "substantial sectoral coverage" in services as provided for in GATT Article XXIV and GATS Article V.
5. In trade in goods, the Parties had achieved a high level of liberalization in terms of tariff elimination. Within five years, 93.6% of Korean tariffs and 99.6% of EU tariffs would be removed. In terms of trade, these numbers were equal to 97% of Korean imports from the EU and 100% of

Korean exports to the EU. In particular, 90.7% of Korea's industrial tariffs and 97.3% of the EU's industrial tariffs had been removed immediately upon the provisional application of the Agreement on 1 July 2011.

6. In services, the Agreement covered all the sectors described in the Services Sectoral Classification List (document MTN.GNS/W/120) except health related and social services for Korea. It also covered all four modes of supply of services. In this way, the Agreement had achieved liberalization that went beyond the Parties' existing GATS commitments. While Korea had made commitments in 98 of 155 services sectors in its GATS Schedule, it had made specific commitments in 115 sectors under the FTA. As the Factual Presentation showed, Korea had made additional commitments exceeding those under the GATS in a number of sub-sectors including legal services, veterinary services, and research and development services on natural sciences.

7. As a comprehensive Agreement, the FTA's disciplines and commitments went beyond market access commitments in trade in goods and services and extended to other important trade areas such as government procurement and intellectual property rights. With regard to government procurement, the Parties had agreed to early implementation of the recent amendments to the WTO GPA. The texts had already been incorporated into the Korea-EU FTA and specific commitments would automatically be merged into the Agreement when the amended GPA entered into force. For the protection of intellectual property rights, the Parties had committed to high standards that went beyond those of the TRIPS Agreement. For example, the Korea-EU FTA expanded the duration of an author's rights to 70 years from 50 years after the author's death. The Korea-EU FTA also had introduced a Chapter on trade and sustainable development. Based on this Chapter, the Parties would make joint efforts to find a balanced approach to trade liberalization while respecting equally important social values such as labour rights and environment protection. To further facilitate the participation of civil society in this process, the Korea-EU FTA also established a civil society forum. It appeared to be too early to evaluate the effects of the Agreement on bilateral trade and investment, since the Agreement had entered into force in July 2011. However, Korea was of the view that this FTA would play a substantial role in contributing to the growth of bilateral trade in goods, services and investment, laying an excellent foundation for the Parties to develop a strong economic relationship. He concluded by saying that this FTA reflected the strong will of the Parties to choose trade liberalization instead of protectionism as a way to overcome current economic difficulties. He believed that this firm belief in free trade was shared by all Members at this meeting and that this would serve as a catalyst to facilitate further progress in the current DDA negotiations.

8. The representative of the European Union said that the EU-Korea FTA had been signed on 6 October 2010 and had been provisionally applied since 1 July 2011. Indeed, the Parties would soon be celebrating the first year anniversary of the Agreement's implementation. To date 14 of 27 EU Member States had ratified the FTA; once all Member States had completed ratification, the Agreement would be concluded. It was the most comprehensive Agreement that the EU had completed and provided for the elimination of import duties on nearly all products with far reaching liberalization of trade in services and industrial sectors. It also provided strong disciplines in important areas such as intellectual property rights, public procurement, competition, transparency in regulation, strengthened co-operation in customs and sanitary and phytosanitary matters and technical barriers to trade. Specific commitments on non-tariff barriers in sectors such as automotive, pharmaceuticals and electronics had been agreed. Comprehensive provisions on sustainable development had been included, which provided a balanced approach to liberalizing trade while confirming the Parties' commitments to labour and environmental standards. Finally, it included a Cultural Cooperation Protocol building on UNESCO.

9. The Agreement's trade in goods provisions covered products in all Chapters of the Harmonized System. Only a few exceptions, concerning agricultural products, would not be fully liberalized. The FTA established a free-trade area over a transition period of a maximum of five years

for industrial products, with a limited number of products to be liberalized over longer time periods. Agricultural products would be fully liberalized except products such as rice or garlic over a maximum of twenty years. Overall only 42 EU and 57 Korean tariff lines were excluded from tariff elimination, representing respectively less than 0.1% and 0.03% of imports by value from Korea and from the EU. Upon provisional application of the FTA on 1 July 2011, 93.8% of the EU's tariff was duty-free for imports from Korea, corresponding to 87.6% of imports by value from Korea. At the end of the implementation period, 99.5% of imports from Korea and from the EU in terms of tariff lines, representing 99.9% of the value of imports from Korea and from the EU, would be duty free.

10. As already indicated, the Agreement was not limited to the elimination of duties and non-tariff restrictions on bilateral trade, important though that was. It included commitments on services covering all modes of supply. While in its GATS schedule the EU had covered 115 out of 155 services sectors, the FTA significantly enlarged the scope of coverage. However, some services, such as audiovisual services remained excluded.

11. In intellectual property rights, the EU-Korea FTA included provisions covering *inter alia* copyright, designs and geographical indications which complemented and updated the TRIPS Agreement. A strong section on enforcement of intellectual property rights was also included. With regard to government procurement, the FTA offered the opportunity to expand procurement opportunities to public works concessions and "Build-Operate-Transfer" (BOT) contracts not yet covered by the existing Government Procurement Agreement (GPA) commitments and envisaged automatic incorporation of the recent amendments to the GPA once they were in force. In the competition chapter, the Parties had agreed to prohibit and sanction certain practices and transactions involving goods or services which distorted competition and trade between them. This implied that anti-competitive practices such as, for instance, cartels or abusive behaviour by companies with a dominant market position and anti-competitive mergers, would not be tolerated by the Parties and would be subject to effective enforcement action, as they harmed consumers and led to higher prices. The section on subsidies provided that the Parties agreed to remedy or remove distortions to competition caused by subsidies in so far as they affected international trade. Overall, the EU was confident that this Agreement would significantly contribute to growth and enhancement of the EU's strong trade and economic relationship with Korea. In fact, overall bilateral trade between the EU and Korea had risen from the date of provisional application of the FTA when the first tariff cuts kicked in. The EU was committed to supporting the multilateral system and believed that bilateral agreements, such as the EU-Korea FTA, could complement this system, if they were comprehensive and far reaching. It also shared Korea's assessment that this Agreement covered "substantially all the trade" in goods and "substantial sectoral coverage" in services and was therefore fully consistent with the provisions of Article XXIV of GATT and Article V of GATS.

12. The representative of Australia thanked the Parties for the answers to the questions his delegation had submitted which were still being analysed in capital. He looked forward to receiving a response to the question which had not yet been answered.

13. The representative of Japan said her delegation understood that the EU, as stated in its trade strategy in 2006, had been seeking to conclude a new generation of high level, comprehensive RTAs. Japan considered that the EU-Korea FTA represented an achievement in this regard. As cited by EU Trade Commissioner Karel de Gucht, this FTA was recognized as a benchmark. As Japan was engaged in a scoping exercise with the EU it had a significant interest in this FTA and attached great importance to its review under the TM. Japan had submitted questions, some of which had already been replied to by the Parties. With regard to trade in goods, Japan was interested in the scope of international standards setting bodies envisaged in the Agreement. For trade in services, Japan had submitted questions on for example, the scope of MFN treatment and the inclusion of the ratchet effect. On intellectual property rights, Japan had submitted questions on geographical indications, especially Korea's relevant domestic laws and regulations in this area and the inter-relationship in

application. Regarding trade and sustainable development, Japan had submitted questions on the incorporation of other international agreements into this FTA, such as ILO Conventions and UN Framework Convention on Climate Change and its Kyoto Protocol.

14. The representative of Canada thanked the Parties for their responses and said that if his capital had follow-up questions, he would forward them to the Parties.

15. The representative of the United States expressed appreciation for the responses received from the Parties. Her delegation would re-submit question 57 in the Q&R document pertaining to the GATS to which the Parties had not responded.

16. The representative of Japan said her delegation would re-submit question 40 in the Q&R document on the movement on natural persons. While appreciating the information provided by Korea, Japan wanted to know if Korea had amended its domestic legislation to comply with the commitment regarding graduate trainees under the Agreement.

17. In response, the representative of the European Union said that a reply to question 57 was still under discussion as the Parties had complementary interpretations, but that it would be provided. The United States had asked the Parties to explain how local presence requirements of the kind described in the footnote to subparagraph 2(a) of Article 7.5 were included within the category of measures that created "limitations on the number of service suppliers". The EU's response was that the quoted footnote clarified that local presence requirements required a service supplier of the other Party to have an establishment or to be resident in a Party's territory as a condition for the cross-border supply of services and as such were prohibited between the Parties unless they were included in the respective lists of commitments. Regarding the second part of question 57 submitted by the United States which made reference to Article XVI.2 of the GATS and the provisions of the Agreement, he said that it was not the intention in the Agreement to interpret the provisions of the GATS.

18. The representative of Korea said that the Parties had done their best to provide responses in time for the meeting and that they would provide replies to outstanding questions in writing. On question 57, he clarified that the position of Korea was not the same as that of the EU; Korea's response to question 57 would be provided in writing.

19. The representative of the United States thanked the EU for its response and made note of the fact that Korea did not yet have a response. She indicated that she would need to raise the issue at a future meeting if she did not get written responses to her delegation's questions.

20. The representative of Australia said his delegation had a follow-up question which it would pursue bilaterally with the Parties.

21. The Chairman said that the consideration of the goods and services aspects of the Free Trade Agreement between the European Union and Korea had allowed the Committee to clarify a number of questions and that oral discussion of the Agreement could be concluded in accordance with paragraph 11 of the TM. If any delegations wished to ask follow up questions they were invited to forward submissions in writing to the Secretariat by 26 June 2012 and the Parties were asked to submit replies in writing by no later than 10 July 2012. If responses had not been submitted by 10 July, the Committee would revert to this Agreement at its next meeting. In accordance with paragraph 13 of the TM all written submissions, as well as minutes of the meeting would be circulated promptly, in all WTO official languages, and would be made available on the WTO website.

22. The Committee took note of the comments made.
