

TRANSPARENCY

Side-by-Side Chart Transparency	
EU – KOREA	U.S. – KOREA
Definitions	
<p>Article 12.1 For purposes of this Chapter: Measure of general application means any general or abstract act, procedure, interpretation or other requirement, including non-binding measures. It does not include a ruling that applies to a particular person; and Interested person means any natural or legal person that may be subject to any rights or obligations under measures of general application, within the meaning of Article 12.2</p>	<p>Article 21.7 For purposes of this Chapter: act or refrain from acting in relation to the performance of official duties includes any use of the official’s position, whether or not within the official’s authorized competence; administrative ruling of general application means an administrative ruling or interpretation 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 or quasi-judicial 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; foreign official means any person holding a legislative, administrative, or judicial office of a foreign country, at any level of government, whether appointed or elected; any person exercising a public function for a foreign country at any level of government, including for a public agency or public enterprise; and any official or agent of a public international organization; public function means any temporary or permanent, paid or honorary activity, performed by a natural person in the name of a Party or in the service of a Party, such as procurement, at the central level of government; and public official means any official or employee of a Party at the central level of government, whether appointed or elected.</p>
Objectives and Scope	
<p>Article 12.2 Recognizing the impact which their respective regulatory environment may</p>	

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<p>have on trade between them, the Parties shall pursue an efficient and predictable regulatory environment for economic operators, especially small ones doing business in their territories. The Parties, reaffirming their respective commitments under the WTO Agreement, hereby lay down clarifications and improved arrangements for transparency, consultation and better administration of measures of general application, in so far as these may have an impact on any matter covered by this Agreement.</p>	
Publication	
<p>Article 12.3</p> <p>1. Each Party shall ensure that measures of general application that may have an impact on any matter covered by this Agreements:</p> <p>(a) are readily available to interested persons, in a non-discriminatory manner, via an officially designated medium, and where feasible and possible, electronic means, in such a manner as to enable interested persons and the other Party to become acquainted with them;</p> <p>(b) provide an explanation of the objective of, and rationale for, such measures; and</p> <p>(c) allow for sufficient time between publication and entry into force of such measures, taking due account of the requirements of legal certainty, legitimate expectations and proportionality.</p> <p>2. Each Party shall:</p> <p>(a) endeavor to publish in advance any measure of general application that it proposes to adopt or to amend, including an explanation of, and rationale for the proposal.</p> <p>(b) provide reasonable opportunities for interested persons to comment on such proposed measure, allowing, in particular, for sufficient time for such opportunities; and</p> <p>(c) endeavor to take into account the comments received from interested persons with respect to such proposed measure.</p>	<p>Article 21.1</p> <p>1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.</p> <p>2. To the extent possible, each Party shall:</p> <p>(a) publish in advance any such measures that it proposes to adopt; and</p> <p>(b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.</p> <p>3. With respect to proposed regulations¹ of general application of its central level of government respecting any matter covered by this Agreement that are published in accordance with paragraph 2(a), each Party:</p> <p>(a) shall publish the proposed regulations in a single official journal of national circulation and shall encourage their distribution through additional outlets;</p> <p>(b) should in most cases publish the proposed regulations not less than 40 days before the date public comments are due; and</p> <p>(c) shall include in the publication an explanation of the purpose of and rationale for the proposed regulations.</p> <p>4. With respect to regulations of general application adopted by its central level of government respecting any matter covered by this Agreement, each Party:</p> <p>(a) shall publish the regulations in a single official journal of national circulation and shall encourage their distribution through additional outlets;</p> <p>(b) shall include in the publication an explanation of the purpose of and rationale for the regulations; and</p> <p>(c) shall address significant, substantive comments received during the</p>

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	<p>comment period and explain substantive revisions it made to the proposed regulations, in its official journal or in a prominent location on an official government Internet site.</p> <p>¹ For purposes of paragraphs 3 and 4, regulation means, for Korea, Presidential Decrees, Ordinances of the Prime Minister, and Ministerial Ordinances.</p>
Provision of Information, Enquiries and Contact Points	
<p>Article 12.4 Enquiries and Contact Points</p> <p>1. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from any interested person regarding any measures of general application which may have an impact on matters covered by this Agreement which are proposed or in force, and how they would be applied. Enquiries may be addressed through enquiry or contact points established under this Agreement or any other mechanism as appropriate.</p> <p>2. The Parties recognize that such response provided for in paragraph 1 may not be definitive or legally binding but for information purposes only, unless otherwise provided for in their laws and regulations.</p> <p>3. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure of general application that the requesting Party considers might affect the operation of this Agreement, regardless of whether the requesting Party has previously been notified of that measure.</p> <p>4. Each Party shall endeavor to identify or create enquiry or contact points for interested persons of the other Party with the task of seeking to effectively resolve problems for them that may arise from the application of measures of general application. Such processes should be easily accessible, time-bound, result-oriented and transparent. They shall be without prejudice to the Parties' rights and obligations under Chapter fourteen (Dispute Settlement) and Annex 14-A (Mediation Mechanism for Non-Tariff Measures).</p>	<p>Article 21.2 Provision of Information</p> <p>On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure that the requesting Party considers might affect the operation of this Agreement, regardless of whether the requesting Party has been previously notified of that measure.</p>
Review and Appeal	
<p>Article 12.6</p> <p>1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purpose of the prompt review</p>	<p>Article 21.4</p> <p>1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purpose of the prompt review</p>

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<p>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.</p> <p>2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:</p> <p>(a) a reasonable opportunity to support or defend their respective positions; and</p> <p>(b) a decision based on the evidence and submissions of record or, where required by the Party’s law, the record compiled by the administrative authority.</p> <p>3. Each Party shall ensure, subject to appeal or further review as provided in its law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.</p>	<p>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.</p> <p>2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:</p> <p>(a) a reasonable opportunity to support or defend their respective positions; and</p> <p>(b) a decision based on the evidence and submissions of record or, where required by the Party’s law, the record compiled by the administrative authority.</p> <p>3. Each Party shall ensure, subject to appeal or further review as provided in its law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.</p>
Regulatory Quality and Performance and Good Administrative Behaviour	
<p>Article 12.7</p> <p>1. The Parties agree to co-operate in promoting regulatory quality and performance, including through exchange of information and best practices on their respective regulatory reform processes and regulatory impact assessments.</p> <p>2. The Parties subscribe to the principles of good administrative behavior, and agree to co-operate in promoting it, including through exchange of information and best practices.</p>	
Non-Discrimination	
<p>Article 12.8</p> <p>Each Party shall apply to interested persons of the other Party transparency standards no less favourable than those accorded to its own interested persons, to the interested persons of any third country, or to any third country, whichever are the best.</p>	

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Administrative Proceedings	
<p>Article 6.3 With a view to administering in a consistent, impartial, and reasonable manner all measures of general application which may have an impact on matters covered by this Agreement, each Party in applying such measures to particular persons, goods or services of the other Party in specific cases, shall:</p> <p>(a) endeavor to provide interested persons of the other Party, who are directly affected by a proceeding, with a reasonable notice, in accordance with its 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;</p> <p>(b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, in so far as time, the nature of the proceeding and the public interest permit; and</p> <p>(c) ensure that its procedures are based on, and in accordance with its law.</p>	<p>Article 21.3 With a view to administering in a consistent, impartial, and reasonable manner all measures of general application respecting any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings applying measures referred to in Article 21.1 to particular persons, goods, or services of the other Party in specific cases, that:</p> <p>(a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided 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;</p> <p>(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</p> <p>(c) its procedures are in accordance with its law.</p>
U.S. – KOREA Specific Provisions	
Policy on Private Purchases	
	<p>Article 21.5 Recognizing the benefits of liberalized and expanded bilateral trade and investment, each Party affirms that it is not its policy to discourage private persons in its territory from purchasing or using goods or services of the other Party through formal or informal means of influence or persuasion.</p>
Anti-Corruption	
	<p>Article 21.6</p> <p>1. The Parties reaffirm their resolve to eliminate bribery and corruption in international trade and investment.</p> <p>2. Each Party shall adopt or maintain the necessary legislative or other measures to establish that it is a criminal offense under its law, in matters affecting international trade or investment, for:</p> <p>(a) a public official of the Party or a person who performs public functions for the Party intentionally to solicit or accept, directly or indirectly, any article of</p>

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	<p>monetary value or other benefit, such as a favor, promise, or advantage, for himself or for another person, in exchange for any act or omission in the performance of his public functions;</p> <p>(b) any person subject to the jurisdiction of the Party intentionally to offer or grant, directly or indirectly, to a public official of the Party or a person who performs public functions for the Party any article of monetary value or other benefit, such as a favor, promise, or advantage, for himself or for another person, in exchange for any act or omission in the performance of his public functions;</p> <p>(c) any person subject to the jurisdiction of the Party intentionally to offer, promise, or give any undue pecuniary or other advantage, directly or indirectly, to a foreign official, for that official or for another person, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business; and</p> <p>(d) any person subject to the jurisdiction of the Party to aid or abet, or to conspire in, the commission of any of the offenses described in subparagraphs (a) through (c).</p> <p>3. Each Party shall adopt or maintain appropriate penalties and procedures to enforce the criminal measures that it adopts or maintains in conformity with paragraph 2.</p> <p>4. Each Party shall adopt or maintain appropriate measures to protect persons who, in good faith, report acts of bribery described in paragraph 2.</p> <p>5. The Parties recognize the importance of regional and multilateral initiatives to eliminate bribery and corruption in international trade and investment. The Parties shall endeavor to work jointly to encourage and support appropriate initiatives in relevant international fora.</p>