EU-Korea FTA
Short EU-South Korea FTA presentation

The Free Trade Agreement (FTA) between the EU and South Korea is the first completed of the new generation of FTA launched by the EU in 2007. South Korea was designated a priority FTA partner in the Global Europe trade policy strategy of 2006. Global Europe argued that a comprehensive and ambitious FTA with South Korea, aiming at the highest possible degree of trade liberalization including far-reaching liberalization of services and investments, was clearly in the interests of both sides. The FTA is provisionally applied since 1 July 2011.

The text of the Agreement was translated into EU official languages and Korean. The authentic text of the FTA in 22 EU official language versions was published in the Official Journal of the European Union.

“This Free Trade Agreement is the most ambitious trade deal ever concluded by the EU and should become a game-changer for our trade relations with Asia” - EU Trade Commissioner Karel De Gucht.

“Korean businesses will have significantly enhanced access to the world’s largest markets. Most importantly, consumers in the two markets will be able to enjoy a broader variety of products at more affordable prices.” - Korean Minister for Trade, Mr. Jong-Hoon KIM.


Trade and Investment Statistics

KOREA-EU Bilateral Trade (2010)

• EU goods exports to South Korea 2010: €28 billion
• EU goods imports from South Korea 2010: €38.7 billion

The main EU exports to and imports from South-Korea in 2010 were power/non-electrical machinery, chemicals, transport equipment, optical and photo equipment and base metals.

KOREA-FRANCE Bilateral Trade (2010)

• Korea exports to France: €3.16 billion (Wireless Telephone, Ships, Automobile, Spaceship Parts, Refrigerator, etc.)
• France exports to Korea: €3.2 billion (Integrated Circuit Semiconductors, Pump, Medical Supplies, Cosmetics, Automobile Parts, etc.)

Source : European Commission Trade and MOFAT (http://ec.europa.eu/, www.mofat.go.kr)
The Key Benefits of the EU-South Korea Free Trade Agreement

Tariff elimination for exports of industrial and agricultural goods

Tackling non-tariff barriers in electronics, pharmaceutical and medical devices sectors

Securing horizontal commitments on transparency

Protection of intellectual property rights

Enhanced access to government procurement

Strong competition rules

Improved market access for services suppliers

Commitment to sustainable development

Effective and fast dispute settlement

Main steps for the best use of the EU-South Korea FTA

Be aware of the tariff heading of the exported goods

Verify the tariff preference applicable to given goods (DG Trade’s access to market database - European Commission)

Check the regulation of the goods at delivery, in order to avoid blocking due to other regulations than the preferential origin

Ensure that the goods respond to the FTA rules of origin

Verify the logistics (respect of the rule of direct transport)

Over €6,000, in order to benefit from the preference, the exporter must become an approved exporter, to issue an Origin Declaration

Keep the evidence of the origin declaration for 5 years (on import and export)

Source: Europa (http://europa.eu/)
## Q&A about the EU-Korea FTA for both sides

### 1/ How will the FTA reduce the custom duties for the industries?

<table>
<thead>
<tr>
<th>Industry</th>
<th>Trade Country</th>
<th>Duty Percentage</th>
<th>Before FTA</th>
<th>After FTA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cosmetics</td>
<td>EU → Korea, Korea → EU</td>
<td>8% 0%</td>
<td>0% in 5 years 0%</td>
<td></td>
</tr>
<tr>
<td>Pharmaceuticals</td>
<td>EU → Korea, Korea → EU</td>
<td>6.2% 0%</td>
<td>0% in 3 years 0%</td>
<td></td>
</tr>
<tr>
<td>Medical Devices</td>
<td>EU → Korea, Korea → EU</td>
<td>5% 0%</td>
<td>0% in 7 years 0%</td>
<td></td>
</tr>
<tr>
<td>Chemicals</td>
<td>EU → Korea, Korea → EU</td>
<td>6.2% 4.8%</td>
<td>0% in 7 years</td>
<td></td>
</tr>
<tr>
<td>Machineries &amp; Electronic Appliances</td>
<td>EU → Korea, Korea → EU</td>
<td>7.2% 3%</td>
<td>0% in 7 years 0% in 5 years</td>
<td></td>
</tr>
<tr>
<td>Alcohol Beverages</td>
<td>EU → Korea, EU → Korea</td>
<td>15% 15%</td>
<td>0% Immediately 0% in 5 years</td>
<td></td>
</tr>
<tr>
<td>- Wine, Champagne</td>
<td>EU → Korea, EU → Korea</td>
<td>15% 15%</td>
<td>0% Immediately 0% in 5 years</td>
<td></td>
</tr>
<tr>
<td>- Cognac</td>
<td>EU → Korea, EU → Korea</td>
<td>15% 15%</td>
<td>0% Immediately 0% in 5 years</td>
<td></td>
</tr>
<tr>
<td>Textile products (for 99% of products)</td>
<td>EU → Korea, Korea → EU</td>
<td>10% 8.2%</td>
<td>0% Immediately 0% in 5 years</td>
<td></td>
</tr>
<tr>
<td>Iron &amp; Steel products</td>
<td>EU → Korea, Korea → EU</td>
<td>7.2% 3.1%</td>
<td>0% in 3 years</td>
<td></td>
</tr>
</tbody>
</table>

### 2/ What is the procedure to become an Approved Exporter?

All you need to do is fill out a “prior Origin Declaration” (Déclaration Préalable d'Origine – DPO) one single time, for all of the goods and importing countries that you wish to include under AE status. Customs will examine your DPO to make sure that you fully understand the applicable rules of origin and the availability of information required to determine the preferential origin of goods.

In South Korea, according to the number of goods produced, the Korean exporter can choose between two types of Approved Exporter status:

- **Company Specific Approved Exporter Status**: recommended when the exporter produces multi goods. In this case, product specific authorization for each product can be cumbersome.
**Product Specific Approved Exporter Status**: recommended when the exporter produces one or two different kinds of goods. In this case, company specific authorization can be costly because it requires strict requirement such as origin electronic management system.

3/ My Korean client informs me that I have to issue an Origin Declaration. What are the conditions?

- **For shipments of a value less than or equal to EUR 6,000**, if the goods are of a European Union (EU) preferential origin, any exporter is able to issue an origin declaration on the invoice or any other commercial document.
- **For shipments with a value exceeding EUR 6,000**, the exporter should have the Approved Exporter status. He has to register a "prior Origin Declaration" to the customs authority locally competent.

4/ Is it possible to issue the origin declaration retrospectively?

- **At import in the EU**, if the operator is not able to present it at the time of customs clearance, it can be presented within 2 years after the release for free circulation of the goods.
- **At import in South Korea**, the origin declaration must be presented within one year. It is recommended to the EU exporters to apply quickly for the approved exporter status so that their clients can benefit from the preference. On presenting the origin declaration after the import in the EU, the operator shall benefit from the refund of duty paid. In case of importations in South Korea, it is necessary to refer to Korea Customs Service (KCS).

5/ What are the different terms existing in this agreement?

An Origin Declaration has a 12-month validity and can only be issued after the entry into force of the FTA. When goods are cleared through customs, if there is no origin declaration on invoice or any other commercial document as a justification of the preferential origin, the exporter has:

- **1 year** to present a valid origin declaration (issued in the last 12 months) for the import to South Korea
- **2 years** to present a valid proof (issued in the last 12 months) for the import to EU
- Until June, 30th, 2012 to present a valid proof (issued in the last 12 months) if the goods have been put in storage before July 1st, 2011 and cleared through customs after this date.
6/ How to respect the direct transport rule when only a few direct maritime shipping lines exist?

The free trade agreement states that the goods must be shipped in one single consignment. If transhipping, the goods should remain under the surveillance of the customs authorities during the transhipment. Evidence may be asked to ensure that the rule of direct transport is respected and in particular, a certificate of the other country’s customs authority.

7/ To optimize the logistics costs of European components exported to Korea, a company chooses to consolidate these shipments coming from different European countries in a single location in the EU, in order to ship complete containers. Is the rule of direct transport respected?

UE = 1 single custom territory. Even if the goods come from different Member States of the EU, the rule of direct transport is respected. The free trade agreement is signed between South Korea and the EU without distinction of the different Member States.

8/ What is the impact of a triangular trade? Is it possible to ask for the preference whereas the documents flow (invoice sent from a third country) differs from the goods flow?

Only physical flows matter regarding customs clearance. The origin declaration must be issued by the European exporter; the invoice can be issued by another operator even located in a third country. The free trade agreement origin protocol states that the origin declaration can be issued on a delivery note or any other commercial document by the European exporter.

9/ My product is not made entirely in the EU, but also in a different country (e.g.: Turkey, Morocco...). What are the consequences?

The principle of territoriality requires that all of the operations be carried out in the EU or in South Korea. If, at any moment, an operation is done in a third country, outside the agreement (outside the EU or South Korea), the preferential origin is lost. Consequently, even if the operator carries out minor alterations on the product outside the EU or South Korea, he will not benefit from the tariff preference.
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FTV consulting & interpretation, as a member of FKCCI, provides Korean/French translation service as well as business consulting for clients who want to establish or to develop business in Korea, France, or North Africa.
10/ Will the EU-South Korea FTA modify the rules concerning the translation of the instructions manuals and labelling?

The FTA does not modify the existing rules, but the government can modify the regulations, beyond the EU-South Korea FTA.

Source: French Customs (www.douane.gouv.fr), courtesy translation by FTV Interpretation

NEW INCOTERMS® 2011, effective January 1, 2011

WHAT INCOTERMS ARE - International Commercial Terms also known as INCOTERMS®, are a set of three-letter standard trade terms most commonly used in international contracts for the sale of goods.

The International Chamber of Commerce (ICC) has published revisions to its International Commercial Terms, also known as INCOTERMS®.

The number of Incoterms® rules has been reduced from 13 to 11.
- DAF, DES, DEQ, and DDU designations have been eliminated
- Two new terms, DAT (Delivered at Terminal) and DAP (Delivered at Place), have been added.

WHAT INCOTERMS DO - INCOTERMS define the respective tasks, costs and risks involved in the delivery of goods, from the Seller to the Buyer.

WHAT INCOTERMS DO NOT DO - INCOTERMS by themselves DO NOT
- Constitute a contract
- Supersede the law governing the contract
- Define where title transfers
- Address the price, currency or credit terms

INCOTERMS are grouped into two classes

<table>
<thead>
<tr>
<th>TERMS FOR ANY TRANSPORT MODE</th>
<th>MARITIME-ONLY TERMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXW</td>
<td>EX WORKS</td>
</tr>
<tr>
<td>FCA</td>
<td>FREE CARRIER</td>
</tr>
<tr>
<td>CPT</td>
<td>CARRIAGE PAID TO</td>
</tr>
<tr>
<td>CIP</td>
<td>CARRIAGE &amp; INSURANCE PAID TO</td>
</tr>
<tr>
<td>DAT</td>
<td>DELIVERED AT TERMINAL</td>
</tr>
<tr>
<td>DAP</td>
<td>DELIVERED AT PLACE</td>
</tr>
<tr>
<td>DDP</td>
<td>DELIVERED DUTY PAID</td>
</tr>
</tbody>
</table>

Source: International Chamber of Commerce (www.iccwbo.org)
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Practical information

FTA Official Website (Korean and English)
www.fta.go.kr/

In Korea

• Korean Customs
  http://english.customs.go.kr
  http://fta.customs.go.kr / +82-1577-8577

• FTA Implementation Division, Korea Customs Service
  +82-(0)42-481-3222/3284

• About FTA legislation:
  Multilateral Customs Cooperation Division, Ministry of Strategy and Finance:
  +82-(0)2-2150-9355

• French-Korean Chamber of Commerce and Industry
  www.fkcci.com

• Economic Section of the French Embassy (Mission Economique)
  www.tresor.economie.gouv.fr/se/coree

In France

• French Customs / Customs Office near your Business
  www.douane.gouv.fr
1. How can an exporter benefit from the EU-Korea FTA?

(1) Obtain authorization as an approved exporter in the EU
(2) Check HS code and applicable rules of origin of the imported products; ensure the shipment to Korea meets “direct transport rule”
(3) Apply for preferential tariff and submit proof of origin
   • Declare eligibility at the customs (if in possession of proof of origin)
   • Claim duty refund (if retroactively submitting proof of origin)
(4) Keep records and documents
   • Under the EU-Korea FTA, records and documents must be kept for five years from import declaration date
   • This is an obligation shared by importer/ exporter/ producer

2. What are the languages that can be used in C/O and other proof of origin documents?

(1) The EU-Korea FTA does not provide explicitly which language can be used in C/O and other proof of origin documents, except that the origin declaration may be made in any of the 22 languages used in the EU or Korean.
(2) However, in practice, the Korean government seems to be of the position that while English is the preferred and prevalent language used in C/O and other documents, they cannot require English to be the governing language in private contracts between exporters and importers.
(3) Of course, if the customs authorities in Korea encounter difficulties in understanding the contents of submitted documents due to linguistic reasons, pursuant to Article 19 of the Protocol Concerning the Definition of ‘Originating Products’ and Methods of Administrative Cooperation of the EU-Korea FTA (“Protocol on Origin”), they may require translation of documents.
(4) Also, according to the interpretive guideline issued by the Korea Customs Service, EU exporters making origin declaration can indicate the country names listed in the Protocol (e.g. “The French Republic”), the country names that are used and accepted internationally (e.g. “France”), ISO code of countries (e.g. “FR”), and “EU” or “EC” as the origin in their own language.

3. Does obtaining authorization as an approved exporter in the EU mean all of its goods exported to Korea will be automatically recognized as originating in the EU?

(1) No, being an approved exporter only means you have the capacity to determine origin. It is upon the exporters to verify origin and issue Certificate of Origin (C/O) only to goods satisfying rules of origin. If there are any mistakes or inaccuracy in C/O, exporters will be held primarily liable.
(2) Also, being an approved exporter does not exempt you from record-keeping or obligation to cooperate with post-exportation verification.
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Asia Pacific Legal 500 [2010/2011]
Chambers Global 2011 Guide
Chambers Asia 2011 Guide
IFLR 1000 (2011)

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- Criminal Defense
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- Health
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- Intellectual Property
- International Arbitration
- IT, Telecommunications & Media
- Labor & Employment
- Litigation & Arbitration
- Mergers & Acquisitions
- Private Equity & Venture Capital
- Project Finance
- Real Estate
- Structured Finance
- Securities-Capital Markets
- Tax