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### REPORT OF THE 2<sup>ND</sup> ROUND OF EU-KOREA FTA NEGOTIATIONS, 16-20 JULY 2007, BRUSSELS

The 2<sup>nd</sup> round of the EU-Korea FTA negotiations took place 16 to 20 July in Brussels. 130 Korean negotiators, and a Commission team of over 50, under the leadership of Korean Deputy Minister KIM Han-soo (MoFAT) and Director Ignacio Garcia Bercero of the European Commission, held detailed talks on all aspects of the FTA.

The discussions covered all parts of a future agreement: Trade in goods (including NTBs, TDI, TBT, SPS, customs and trade facilitation, and rules of origin), establishment, services and e-commerce (including payments and capital movements), rules (intellectual property rights, competition, and government procurement), and regulatory and institutional questions (transparency, sustainable development, and dispute resolution). Talks continued in the good and constructive atmosphere established during the 1<sup>st</sup> round.

**Considerable work** has been done this week. Text-based discussions took place on a paragraph by paragraph basis across all subjects. In a number of areas where discussions continued from the 1<sup>st</sup> round (horizontal provisions for trade in goods, trade defence instruments, trade facilitation, and dispute settlement), they are well advanced. In many chapters new text has been tabled ahead of the round. Here, discussions clarified many questions on concepts and terminology. They also helped to already identify areas of convergence as well as those areas where further discussion will be necessary. In many cases, Korea will have to complete her internal consultation and come back with written comments. A number of issues clearly are for negotiation, such as NTBs, SPS, IPR top-ups, state-aid, or procurement. Yet, no subject has been left aside during the discussions.

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[REDACTED] We impressed on Korea that her offer should show a comparable readiness to liberalize, and that it should offer to the EU the same opportunities as have been given by Korea to other partners. Korea agreed to submit a new offer ahead of the next round in September (17-21). Discussions on the establishment, services and e-commerce chapter remained incomplete to the extent that the Korean offers on financial services and establishment in non-service sectors are still to come. We expect to receive them also before the September round.

The negotiation continued to attract a lot of **media attention in South Korea** from where over 30 journalist came to Brussels to cover the week, in particular via the daily press briefings given by Korean Deputy Minister KIM Han-soo.

The **main outcomes** of the second negotiating round were as follows:

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- [REDACTED] A general exchange of views on the offers and of the overall expectations took place. Korea indicated her readiness to improve her offer in advance of the September round of negotiations.
- Good progress, further consolidating the texts on horizontal provisions for trade in goods (national treatment and market access) and on trade defence instruments. On the latter, agreement has been reached on a number of issues in line with EC law and practice. Differences persist where Korean demands would go beyond. Korea may still request additional specific safeguard measures for certain agricultural products which we do not consider necessary.
- NTB discussions were based on proposals tabled by both parties, though Korea maintained an overall reserve. EC resisted Korean attempts to de-link tariff and NTBs, these have to go hand-in-hand. Korea will examine the technical and practical feasibility of the EC's requests, and Korea will present her own NTB requests according the agreed principles (legal drafting, no targeting, no special treatment). Substantive discussions took place on the sectors concerned: Wines and spirits (no paper), vehicles and parts, electronics, and pharmaceuticals.

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- Detailed and constructive discussions on the TBT text, resulting in substantive progress, but no agreement yet. Difference have been identified on a number of issues (e.g. scope, voluntary character of standards, competing conformity assessment bodies). Korea raised concerns with the uneven implementation of EU environmental legislation. Constructive discussion also on the EC text on SPS with focus on import conditions and regionalisation. [REDACTED] EC organised ad-hoc expert meeting on regionalisation to further explain EC approach. Another ad-hoc expert meeting planned at the margin of the 3<sup>rd</sup> round to address animal welfare.
- Good and productive discussions on trade facilitation, which almost finalised this chapter. EC to provide as soon as possible proposals for customs cooperation and customs enforcement taking into account the existing EU-Korea Customs Cooperation and Mutual Administrative Assistance Agreement. Detailed discussions based on a standard origin protocol prepared by the EC with open questions in particular as regards drawback for non-originating materials, full cumulation, and crew requirement for vessels. Product specific rules have not been discussed. Korea provided detailed information on Gaesong, EC insofar in listening mode. EC also presented standard anti-fraud and administrative errors clauses.

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- [REDACTED] services and investment. This was the first round after the exchange of initial offers at the beginning of July. While further exchanges of views took place on the text, a large part of the week was dedicated to discussions of the initial offers. As Korea has not been able yet to submit offers on establishment in non-services, nor on financial services, the picture was necessarily incomplete.

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[REDACTED] Korea argued that it did not consider this round as a real negotiating round,

but rather an opportunity to seek clarification on both sides' initial offers. Therefore, a lot of ground was covered during the week, but with little progress in terms of bridging the gap between the different positions. Korea also announced that her lead services negotiator will be replaced as of the next Round in September.

- Constructive discussions on IPR mainly of a clarification/explanation nature, going into the detail and rational of every single provision. The significant presence and participation of the COM experts for the different IPs has been highly appreciated by Korea. Difficult future discussions to be expected in particular on copyrights and related rights, designs, patents and enforcement. EC to provide outstanding elements on GIs and criminal sanctions.
- Positive discussions competition (antitrust and mergers), showing general convergence though the parts on public undertakings and state monopolies may prove more difficult. Korea interested to include cooperation on consumer protection which falls in the remit of her competition authority. Korea declared not yet ready for a full substantive discussion on state-aid, and qualified EC proposal as very ambitious. Still detailed EC explanations and clarifications on its draft. Useful Korean comments showing a constructive attitude.

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- [REDACTED] While agreement is close on the text base to start from (July 2007 frozen text), EC priorities of reducing threshold for construction services, addressing the Korean set-aside of SMEs, and expanding the coverage of entities appear to present a tall order for Korea.

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- Considerable convergence on the transparency chapter where Korea seemed very keen on a high level of ambition [REDACTED] Focus was on clarifying terminology, and the follow-up will include exchange of further information on existing enquiry or contact points and problem solving.
- A detailed reading of the trade and sustainable development text resulted in a good understanding of the text and convergence as to its structure and main components. Korean hesitation e.g. on the definition of labour vs. social issues, or establishment, role, and composition of the sustainable development forum.
- Continued constructive and open-minded negotiations on dispute settlement and the mediation mechanism. Basic agreement on dispute settlement, including annexes (rules of procedure and code of conduct) with limited open questions like the scope of bilateral DS or the relation with WTO DS. While still not accepting the inclusion of the mediation mechanism, Korea agreed to examine the mechanics. Clear link with Korea's reluctance on the parallel proposal for a WTO NAMA mediation mechanism.

Detailed **follow-up** steps have been agreed for the different chapters: Possible technical revisions of the draft texts which result from the discussions, or any additional information that the parties have agreed to exchange should be provided rapidly (before the end of July). In most cases, it is now for Korea to provide written comments on the various drafts that have been discussed. These should reach the Commission by the end of August, and where possible earlier, so as to allow for the preparation of the 3<sup>rd</sup> round of negotiations from 17 to 21 September in Brussels. Korea will also rapidly supply her



offer in financial services and for establishment in non-service sectors, and Korea will provide a revised tariff offer before the next round of negotiations. The EC will have to present a number of text elements like on geographical indications or on customs cooperation and enforcement.

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To conclude, a successful round

This put us in a position of strength. In addition, the fact that we have managed to put all the elements on the table was central for the detailed and comprehensive discussions which we have seen across all chapters. Impressive as well the quality of preparation and the level of engagement shown by the Korean negotiators. The brunt of the work ahead of the 3<sup>rd</sup> round of negotiations lies with Korea which will have present improved offers and written comments in most areas.

Big thanks again to all members of the Korea FTA task force, and the many helping hands, for the excellent work in preparation for and during this week, which was essential for getting to where we are standing now.

Art. 4.1(b)

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