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REPORT OF THE 5TH ROUND OF EU-KOREA FTA NEGOTIATIONS, 19 – 23 NOVEMBER 2007, BRUSSELS

The 5th round of EU-Korea FTA negotiations took place on 19 to 23 November 2007 in Brussels. Korea fielded 150 participants for detailed discussions with the over 50 strong Commission team. The 5th round covered again all aspects of negotiations with South Korea. The sides were led by Korean Deputy Minister KIM Han-soo and Director Ignacio Garcia Bercero of the European Commission.

The discussions covered trade in goods (including general text, tariffs, NTBs, TDI, TBT, SPS, customs and trade facilitation, and rules of origin), establishment and services with detailed discussions on offers and text, and rules (IPR, competition including subsidies, government procurement, transparency, trade and sustainable development, dispute settlement and mediation mechanism).

This was another week of very intensive negotiations. **Progress** was made with good discussions on **establishment and services** which, for the first time, focussed on how to reduce the gap between the respective offers, and where Korea showed welcome signs of flexibility to raise her offer to KORUS level in a number of sectors. Positive movements also in the different **rules** areas (IPR, competition, subsidies, TBT, SPS, sustainable development, trade facilitation), though in each chapter, there are still issues outstanding,

Art. 4.1(a)
third indent

[REDACTED] The process of removing brackets and cleaning the texts continued across the board. Text based discussions now also on subsidies.

Art. 4.1(a)
third indent

[REDACTED]
[REDACTED] Korea has opted to submit her 2nd revised offer just before the 5th round. This offer has been considered sufficiently balanced overall to allow for detailed negotiations. In the discussions, differences remained on how the value of the respective offers is perceived, and on ways to move forward towards a balanced outcome for both sides.

Art. 4.1(a)
third indent

No substantive discussion took place on automotive **NTBs** where Korea and the EC pursue different approaches, [REDACTED]

Thirdly, Korea has made it clear that she seeks changes to the standard approach normally taken on **rules of origin**.

Media attention is higher in South Korea than in the EC, and about 20 Korean journalists came to Brussels to cover the round, including through daily press briefings by the Korean chief negotiator KIM Han-soo. Vis-à-vis the press, Ignacio Garcia-Bercero emphasized that a rapid conclusion of this FTA remains possible if a way is found for dealing with car NTBs, tariffs, and rules of origin, though the potential difficulties should not be underestimated.

No Korean protestors have been noticed during this round in Brussels.

The main outcomes of the 5th round of FTA negotiations are:

- The EU and Korean tariff offers have been discussed in detail and in all sectors, industry, agriculture, and fisheries. The discussion took place on the basis of the EC's initial offer and the 2nd revised Korean offer. This revised offer had been welcome as an important step by Korea with the potential of opening the door for intensive tariff negotiations in which both partners will explore the scope for improvements of their respective offers.

As the latest Korean offer had only been received a couple of days prior to the round, the EC's expectation was that meetings would prepare for subsequent negotiating steps, notably in clarifying sensitivities and identifying possible scope for improvements. There remained differences of view on the value of the respective offers, and on ways to move forward towards a balance outcome for both sides. Together with her 2nd revised offer, Korea has also presented requests to the EC.

- As for the sectoral non-tariff issues, no discussion has taken place on automotive NTBs. The EC is seeking real market access improvements in Korea notably through substantial progress on the acceptance by Korea that international standards are considered equivalent with her domestic standards. Korea has announced to hold further internal consultations in this regard.

Art. 4.1(a)
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Very detailed and text-based discussions on the complex question of electronics' conformity assessment,

Art. 4.1(a)
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A recent Korean proposal for a chemicals text has been confronted with EC concerns on approach, linkage with TBT provisions, and substantive provisions. Korea would reflect further, but signalled the importance of transparency and cooperation aspects.

Art. 4.1(a)
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The pharmaceuticals text is scheduled for an intersessional contact following the 5th round.

- Some brackets have been removed in the general texts on trade in goods and on trade defence instruments. Discussions on the remaining issues in the trade in goods text helped to clarify the positions.

Art. 4.1(a)
third indent

those instances where the initial Korean drafting goes beyond EC law and practice in anti-dumping and anti-subsidies.

- Good and constructive discussions on TBT and SPS, reaching agreement on many open issues (scope and labelling/marketing provisions in TBT; regionalisation, establishment, and application of dispute settlement in SPS).

Art. 4.1(a)
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- Also on customs and trade facilitation, the text has been further cleaned, including acceptance by Korea of customs cooperation on IP enforcement and supply chain security, and leaving only matters of divergence on substance in brackets [REDACTED]

Art. 4.1(a)
third indent

Discussion also continued on mutual administrative assistance, and on the provision on administrative cooperation. [REDACTED]

Art. 4.1(a)
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[REDACTED]

- Five intensive days of services and investment discussions, in two parallel sessions, saw [REDACTED]

Art. 4.1(a)
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[REDACTED] A another reading of the text produced further unbracketing, though discussions will have to continue at the next round.

- A detailed reading of the IPR chapter brought progress notably on the enforcement provisions, and the expert discussions helped to further clarify the respective legislative framework notably on copyrights and related rights, geographical indications, and some aspects of designs and patents, where common language still needs to be found. On GIs, Korean internal consultations are ongoing, [REDACTED]

Art. 4.1(a)
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[REDACTED] Korea asked that draft language on criminal sanctions be presented.

- Good discussions on competition, antitrust and mergers, largely unbracketed the text. [REDACTED]

Art. 4.1(a)
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[REDACTED] As for the state aid chapter, Korea engaged in discussions of the 2nd EC proposal which resolved the initial Korean reservations. Korean internal consultations are ongoing, and the main Korean concern being the scope of the chapter.

- Good progress on government procurement, finalizing the text, and deepening discussions on market access. Korea presented her revised request, and various trading scenarios have been discuss to prepare for an exchange of offers. [REDACTED]

Art. 4.1(a)
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- Steady progress also on the trade and sustainable development chapter. Most outstanding issues relate to coverage on environment and labour issues, as well as to the level of protection and the enforcement of domestic legislation.

- Good discussions on transparency, dispute settlement and mediation mechanism revisited and narrowed some of the outstanding issues (the scope for bilateral dispute settlement, relation with the WTO dispute settlement mechanism, the scope for and the automatic triggering of the mediation mechanism).

Overall, an impressive amount of work has been done in the run-up to and during this week. It produced good progress, notably in the many rules areas where only a limited number of issues remain outstanding, [REDACTED]

Art. 4.1(a)
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For **follow-up**, it has been agreed with Korea that a full set of consolidated texts will be exchanged within the following two weeks to fully capture the state of discussion. Intersessional discussions of the different negotiating groups (video conferences) should take place where necessary or useful for advancing the discussions.

It was also agreed that discussion on horizontal questions like general and institutional provisions should start at the next round.

No specific date has been fixed for the 6th round of EU-Korea FTA negotiations in Seoul. Before that, a way should be found for taking forward the negotiations on the main difficult areas (tariffs, NTBs, and rules of origin).

Art. 4.1(b)

Ignacio GARCIA BERCERO [REDACTED]

Enclosures

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Art. 4.1(b)