

## KEY MARKET ACCESS BARRIERS IN THE REPUBLIC OF KOREA

Key Barriers	Descriptions	Priority Actions (Indicative)								
<p><b>Repaired goods</b> <b>(MADB n° 13703)</b></p>	<p>There is no provision in the EU-Korea FTA which would exempt repaired goods from customs duties on re-entry to Korea after repair in the EU (or vice versa), whereas Korea's FTA with the US includes such a clause. Korea has extended the current duty exemption until the end of 2018. However, unless the duty exemption is further extended after this date through the amendment of the Korean Customs Act, the goods repaired in the EU (in particular aircraft parts) would be subject to customs duties (3% to 8%) when re-entering Korea. As a consequence, EU repair companies risk encountering competitive disadvantages compared to companies located e.g. in the US.</p> <p>The EU earlier proposed to Korea to include a provision on repaired goods in the FTA as part of the package proposal for FTA amendments, which however has not progressed so far.</p> <p><u>Impact/estimated cost:</u> The main European sources of repair services for Korean airlines are 7 EU MS (i.e. Belgium, France, Germany, Ireland, Italy, Netherlands, and UK). According to the Korea Civil Aviation Development Association (KCADA), the Korean airlines (5 in total) outsource repair services from <b>125 EU vendors based in 7 EU Member States</b>. According to the KCADA the annual values (from 2013 to September 2015; in US dollar terms) of repair services provided by EU vendors for all the Korean domestic airlines, were as below:</p> <table border="1" data-bbox="479 1254 1429 1377"> <thead> <tr> <th>Year</th> <th>2013</th> <th>2014</th> <th>2015.1-9</th> </tr> </thead> <tbody> <tr> <td>Invoice Amount (USD million)</td> <td>164.08</td> <td>186.83</td> <td>94.71</td> </tr> </tbody> </table>	Year	2013	2014	2015.1-9	Invoice Amount (USD million)	164.08	186.83	94.71	<p><b>This Key Barrier falls under the scope of the ongoing bilateral discussion in the context of FTA implementation.</b></p> <p>Discussed as part of a possible package of FTA amendments in a series of informal meetings at Director level between the EU and Korea</p> <p>During the last FTA amendment meeting in mid-June 2017, Korea showed some openness to continue exploring a smaller package option related to amendment or implementation items. However, in the Trade Committee in January 2018 Korea adopted a very cautious line.</p> <p>Whilst welcoming the parliamentary passage of the amendments to the relevant legislation, the EU underlined that it was only a provisional solution and that both parties should engage in an open discussion to find a permanent solution.</p>
Year	2013	2014	2015.1-9							
Invoice Amount (USD million)	164.08	186.83	94.71							

<p><b>Exports of meat (restrictions due to BSE and system of meat establishment approval) (MADB n° 10760)</b></p>	<p>Korea has banned imports of beef and beef products from the EU due to Bovine Spongiform encephalopathy (BSE) since 2001. Several Members States have applied for approval to export beef to Korea first group (DK, NL, IE and FR) as of 2006 and second group (AT, BE, ES, DE, HU, IT and SE) as of 2012. Korea does not ban import from some other third countries categorised as similar risk status, including the US and Canada. The EU companies are thus subject to discrimination compared to other exporters.</p> <p>After verbal references to the possibility of launching formal WTO dispute settlement procedures, the Korean authorities accelerated the approval process. The technical review of the applications was finished with a positive recommendation by the MAFRA and the MFDS for the NL and DK and sent to the National Assembly for review. IE and FR will follow shortly.</p> <p>The remaining seven applicant MS received a unified questionnaire from the MAFRA and the MFDS, at the end of September 2017 which officially launches the approval procedure.</p>	<p>Ongoing bilateral discussion:</p> <p>Discussed during the FTA SPS Committee in September 2017, the WTO SPS Committee in November 2017 and discussed during the FTA Trade Committee in January 2018.</p> <p>Planned for discussion during the WTO SPS Committee meeting on 27 February 2018.</p>
<p><b>Regionalisation (MADB n° 12740)</b></p>	<p>Korea does not accept regionalisation on imported food. In the event of an animal disease outbreak a country-wide ban is imposed on meat products from the affected Member States (MS), whilst the concept of regionalisation is applied to domestic product.</p> <p>During the FTA SPS Committee in September 2017, the EU asked Korea to lift the country-wide ban in place for pork meat from Poland due to ASF and to recognise regionalisation for poultry diseases as applied in the EU. The Korean side claims that regionalization can be recognised on the basis of the OIE terrestrial code, but insufficient documentation was submitted so far. In May 2017 the MAFRA proposed Poland to renew the risk assessment procedure excluding the AFS affected regions.</p>	<p>Ongoing bilateral discussion:</p> <p>Discussed during the FTA SPS Committee in early September 2017, the WTO SPS Committee in November 2017 and at Meeting between Director-General MAFRA / 2 Trade Directors in January 2018.</p> <p>The EU emphasized the need for progress and better understanding of the regionalisation concept as applied in the EU.</p>

<p><b>Intellectual Property Right: Public Performance Rights (MADB n° 13665)</b></p>	<p>Korea did not fully implement the obligations under the FTA on remuneration to be paid when phonograms are played in public (so-called Public Performance Rights). Under Korean legislation, phonograms played in public are allowed for free, which can be deemed to be in breach of the FTA commitments.</p> <p>Given mounting pressure from the EU since entry into force of the FTA in 2011, the Korean government eventually amended its Presidential Decree concerned in 2017, as a short-term pragmatic solution to fulfil its FTA commitment. However this falls short of EU expectations, on the basis that: it still excludes large parts of relevant places such as all restaurants and still many relevant venues below a size of 3000sqm (leaving out 99.72% of retailers and wholesalers), and also many other venues below 50sqm; that the fees for venues covered are very low in worldwide comparison. The accordingly amended Presidential Decree has recently become law and, after a transition phase of one year, it will start to apply.</p>	<p><b>This measure falls under the scope of FTA implementation and so it is part of ongoing bilateral consultation.</b></p> <p>Discussed at the last two FTA Trade Committee meetings in 2015 and 2016; and Discussed at the IP Dialogue Meeting in September 2017; and Discussed briefly at the FTA Trade Committee in January 2018</p> <p>Whereas the amended Presidential Decree is not likely to be changed in the near future, the ongoing domestic discussion about the royalties-level is expected to be finalised in May-June 2018, ahead of the implementation of the Presidential Decree scheduled for August 2018.</p>
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<p><b>Direct transport</b> <b>(MADB n° 11061)</b></p>	<p>The EU-Korea FTA includes, in its Protocol on Rules of Origin, a provision (Article 13.1) establishing that in order to benefit from FTA preferential treatment, the originating goods shall be transported <b>directly</b> from one Party to the other Party, without having been altered. Products constituting one single consignment may be transported through the territories with, should the occasion arise, trans-shipment or temporary warehousing in such territories, but they are not allowed to be released for free circulation in the country of transit or warehousing and to undergo operations other than unloading, reloading or any operation designed to preserve them in good condition. The implementation of this provision has created difficulties in practical terms for EU exporters who use logistical platforms in third countries such as Singapore or Hong Kong. After the arrival of the consignment in the respective harbours/airports it is not possible to split the „single“ consignment for different customers/partners in the region.</p> <p>The EU has engaged in numerous formal and informal policy dialogues with Korea in the context of FTA implementation, in order to obtain modifications to this provision to allow EU exporters to benefit from FTA preferential treatment, without unnecessarily disrupting and/or impeding the reasonable use of their logistical hubs, but there has been no progress so far.</p>	<p><b>This measure falls under the scope of FTA implementation and amendment and so it is part of ongoing bilateral discussion.</b></p> <p>Discussed as part of a possible package of FTA amendments in a series of informal meetings at Director level between the EU and Korea; and placed on the agenda of the EU-Korea FTA Customs Committee in April 2017, with no substantive discussion.</p> <p>During the last FTA amendment meeting in mid-June 2017, Korea showed some openness to continue exploring a smaller package option related to amendment or implementation items, possibly including amendments on many smaller issues related to the Rules of Origin Protocol.</p> <p>However, in the Trade Committee in January 2018 Korea adopted a very cautious line.</p>
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<p><b>Cumbersome customs and administrative procedures (MADB n° 13662, 11083)</b></p>	<p>There are numerous cases where EU businesses and suppliers of EU goods encounter problems related to: customs verification of rules of origin; a lack of flexibility in application of rules and regulations and a perceived eagerness to find reasons to impose penalties that do not always look proportional, and this in a way which differs from how the rules are applied to domestic industry. All this leads to the perception of a deteriorating business environment for European companies in Korea.</p> <p>The purpose of the Origin provisions under the EU-Korea FTA is to ensure that tariff preference is granted <u>only</u> to the products originating in either of the Parties of the Agreement. Therefore, refusing tariff preferences for over-formalistic reasons related to the origin declaration is often not in line with the text, and in any case not with the spirit of the FTA, as long as there is no real doubt about the EU origin of the product. In addition, there are extremely limited circumstances in which preferential tariff treatment can be denied without sending a request for origin verification, and there is a concern that an over-formalistic interpretation of the facts are being used to fit more types of cases into these exceptions than is intended under the FTA.</p>	<p><b>This measure falls under the scope of FTA implementation and so it is part of ongoing bilateral discussion.</b></p> <p>Discussed at the Customs Committee meetings since 2012; and raised on numerous occasions through all bilateral channels available, including the Trade Committee in January 2018, the Joint Committee in December 2018 and the EU Ambassador's courtesy meeting with the Korea Customs Committee's Commissioner Kim Young-Moon in December 2017.</p>
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<p><b>Truck tractors (MADB n° 11081)</b></p>	<p>Truck tractors or cargo trucks (HS code 8701.20) were inadvertently not included into the scope of application of Annex 2-C of the FTA. A truck tractor is the front part of a truck, incorporating the cabin and engine, which can be separated and attached to different trailers or cargos. Consequently truck tractors cannot benefit from the tables of equivalence in Annex 2-C of the FTA. They must comply with the Korean standards/regulations, and thus adapt their truck tractor designs(which poses in particular problems for the safety belts systems). The Korean government requests EU manufacturers to prove the compliance status of the affected vehicles or to start a recall process. This causes real market access problems for EU automobile industry. The EU earlier proposed to Korea to include "truck tractors" in the list of products to which the provisions of Annex 2-C applies, as part of the package proposal for FTA amendments, but there has not been progress on this matter.</p> <p>Also, related to trucks, the relevant Korean vehicle safety standard stipulates that the width of "Heavy Duty Commercial Vehicles" in Korea cannot exceed 2.5m. Due to this limitation EU companies cannot sell any buses in Korea and it also limits the models of EU trucks which can be imported.</p> <p>KATRI latest research released in 2017 indicated that the established standard of vehicle width might result in confusion as the way to measure is different from other national regulations. Therefore, KATRI's idea is not to change the standard but to change the way to measure (making it equivalent to the US system), namely to increase the excluded items(e.g. signal lamp) when measuring width, height, and length.</p> <p>Concerning vehicle width, alignment of measuring methods (a positive development though) does not address the key issue i.e. dimensions of container vehicles (ISO compatible) and large refrigerated vehicles. As such the Korean market remains inaccessible to these EU manufactured vehicles.</p>	<p><b>This measure falls under the scope of FTA implementation and so it is part of ongoing bilateral discussions:</b></p> <p>Discussed as part of a possible package of FTA amendments in a series of informal meetings at Director level between the EU and Korea; and discussed at the FTA Working Group Meeting on Automobiles in June 2017</p> <p>However, in the Trade Committee in January 2018 Korea adopted a very cautious line on FTA amendments.</p> <p>On vehicle width, the issue has been raised in several fora for the past years. The release of the report presents positive developments and the Delegation will raise the issue in the upcoming months with Korean authorities. The upcoming EU-Korea FTA working will take place before the summer.</p>
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<p><b>Certification of car parts (MADB n° 13663)</b></p>	<p>In May 2013, Korea introduced a new regime requiring self-certification and Korean “KC” marking (rather than UNECE “E” marking) for 5 car parts (brake hose, seat belt, head lamp, rear reflex reflector and rear under ride protection device). Korea notified to the WTO/TBT (Notification G/TBT/N/KOR/460 dated 18 December 2013) their intention to further extend the system to 18 parts (including tyres) to be implemented in 3 batches from July 2015.</p> <p>Through a series of bilateral dialogues, the Korean side agreed in January 2014 to apply UNECE technical requirements for the parts to be covered by the self-certification scheme and also to grant some flexibility to allow marking on the packaging in certain circumstances. They also confirmed that E-marking would be accepted for tyres due to the equivalence provided under the Motor Vehicles and Parts Annex in the FTA.</p> <p>Then by addendum no. 1 to Notification G/TBT/N/KOR/460 dated 8 May 2015, Korea reduced the number of items to be included in the extension of the scheme to 8 additional parts, in two batches applicable on 1 July 2016 and 1 January 2017 respectively.</p> <p>In November 2017, MoLIT released the amendment draft to "Motor vehicles and Parts self-certification guideline" specifying the regime of marking flexibilities that will enter into force on 10 January 2018. According to the draft, Korea will not allow the "KC" mark on the packaging. However, as requested in the Working Group, some car parts already in the market or under production are exempted from direct marking on the component surface. However, for new car parts, 'Kc' mark on the packaging is not allowed and no generic exemption is guaranteed.</p> <p>As of 10 January 2018, the extended parts certification regime, 8 additional items on top of 5 previous ones, became effective.</p>	<p><b>This measure falls under the scope of FTA implementation and so it is part of ongoing bilateral discussion.</b></p> <p>Discussed at the FTA Working Group Meeting on Automobiles in June 2017</p> <p>The EU has been maintaining pressure on this issue, to ensure no more parts are added to the scope of the self-certification scheme. The EU also needs to ensure that tyres maintain easy access with the E-mark and to obtain the maximum flexibility possible with regard to marking on the packaging rather than on the parts.</p>
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<p><b>Pricing of pharmaceuticals (MADB n° 11060)</b></p>	<p>The Ministry of Health and Welfare (MoHW) has been implementing a series of substantial price cut or price-containment measures, affecting in particular the prices for new and innovative drugs. The MoHW earlier committed itself to putting forward the pricing reform methodologies to properly reward innovation, but has yet to suggest any measures which can have a substantial impact on new drug pricing.</p> <p>The industry's difficult situation has been aggravated by the MoHW's implementation (as of January 2014) of the revised Price-Volume Agreement (PVA), of which the scope was expanded to provide for further cuts in pricing (to drugs whose claimed volume increases by 10% from a year earlier and whose claimed value increases by 5 billion Won). The additional budget capping on individual new drugs used to be imposed in the process of reimbursement listing at the MoHW's discretion. The unpredictable containment measure deteriorates the value of innovative drugs.</p> <p>In July 2016, the MoHW released the revised premium pricing policy (so-called 7.7 pricing policy) as one of the results of a Consultation Body initiated by the Korean government since February 2016. The policy included clearly discriminatory elements against innovative multinational companies by revising the existing unfair conditions to satisfy for selecting Innovative Pharmaceutical Companies (IPCs) – which are entitled to be granted premium pricing for new drugs - in a manner to be further unfavourable to multinational companies.</p> <p>As a whole, EU pharmaceuticals industry remains concerned about Korea's pricing and reimbursement policy which lacks proper reward for innovation and procedural transparency.</p> <p><u>Impact/estimated costs:</u> The new drug prices in Korea remained significantly lower than in other countries (e.g. 44% of the OECD average of newly listed drugs from 2004 to 2013). Currently, Otsuka and Sanofi are the only two multinational pharmaceuticals companies designated as IPCs, out of 46 designated IPCs in total.</p>	<p>Ongoing bilateral discussion at technical level:</p> <p>Discussed during the FTA Working Group Meeting on Pharmaceuticals and Medical Devices in mid-June 2017 in Seoul.</p>
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