

REPUBLIC OF KOREA
PERMANENT MISSION TO THE UNITED NATIONS

MUN/038/15

19 February 2015

The Permanent Mission of the Republic of Korea to the United Nations presents its compliments to the Secretariat of the United Nations and, in reference to the Report of the International Law Commission (A/69/10) Chapter III (Specific issues on which comments would be of particular interest to the Commission), has the honour to transmit the enclosed comments of the Government of the Republic of Korea, including the relevant domestic laws and judicial precedents

The Permanent Mission of the Republic of Korea to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

Enclosed As stated

Secretariat of the United Nations
New York

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United Nations General Assembly Sixth Committee
New York



E. Provisional application of treaties

Except cases of the provisional application of multilateral treaties in general circumstances, our government has consented to the provisional application of the Free Trade Agreement (FTA) between the Republic of Korea, of the one Part, and the European Union and its Member States, of the other part

Article 15 10

5 (a) "This Agreement shall be provisionally applied starting on the first day of the month following the date on which the EU and Korea have notified each other of the completion of their respective relevant procedures"

For the provisional application of the Korea-EU FTA, the same procedure required to effectuate treaties has been taken. In the Republic of Korea, the treaty-making power lies in the President (Constitution of the Republic of Korea, art 60)². On the other hand, the National Assembly of the Republic of Korea shall have the right to consent to the conclusion and ratification of important treaties (Constitution, art 73)³

The legal effect of this provisional application is also the same as the effectuation of the FTA. After the FTA was applied provisionally, there was no additional action required for the effectuation of the said FTA. Likewise, the "Additional Protocol to the Free Trade Agreement between the Republic of Korea, of the one part, and the European Union and its Member State, of the other part, to take account of the Accession of Croatia to the European Union" signed on March 2014 has also provisionally been applied.

² Article 73 The President shall conclude and ratify treaties; accredit, receive or dispatch diplomatic envoys, and declare war and conclude peace.

³ Article 60 (1) The National Assembly shall have the right to consent to the conclusion and ratification of treaties pertaining to mutual assistance or mutual security, treaties concerning important international organizations; treaties of friendship, trade and navigation, treaties pertaining to any restriction in sovereignty, peace treaties; treaties which will burden the State or people with an important financial obligation, or treaties related to legislative matters