

EU Requests Consultations with South Korea under EU-Korea Trade Agreement Over Labour Rights Commitments



Dear Readers, Happy New Year!

In order to kick-start the year, I wanted to draw your attention to a very interesting development that took place in the field of international trade law at the end of 2018.

On 17 December 2018, the European Union (the **EU**) [requested formal consultations](#) with South Korea following Korea's failure to implement certain sustainable developments commitments made under [the EU-Korea Trade Agreement](#).

This [request for consultations](#) (which was made under Article 13.14 of the EU-Korea Trade Agreement) is the first phase of formal dispute settlement provided for in Chapter 13 of the EU-Korea Trade Agreement. Those consultations will give the EU and Korea an opportunity to discuss the matter, create a channel of communications and find an amicable solution.

The consultations initiated by the EU follow concerns regarding certain Korean labour law provisions. According to

the request for consultations, those provisions violate Article 13.4 of the EU-Korea Trade Agreement (which seeks to enhance multilateral labour standards and agreements). More specifically, the EU believes that those legal provisions violate fundamental rights (such as the freedom of association and the effective recognition of the right to collective bargaining) and key obligations under the *International Labour Organisation's (ILO)* standards. In addition, the EU also believes that Korea's efforts towards ratifying certain ILO Conventions remain insufficient.

Pursuant to Article 13.15 of the EU-Korea Trade Agreement, if the parties are not able to reach a mutual solution during the consultations phase, the EU will be entitled to request that a panel of experts be convened to examine the matter. The panel of experts will then have 90 days to present to the parties a report. The Parties will then "*make their best efforts*" to accommodate advice or recommendations contained in that report.

As [Yuriy Rudyuk](#) (my colleague and a partner at Van Bael & Bellis) put it to me last week, this dispute is interesting in two aspects: (i) it is the first time that the EU is engaging into consultations and in a dispute under one of its trade agreements; and (ii) it provides a clear illustration of the EU's willingness to engage in trade discussions and to enforce trade agreements in order to raise standards in fields which go beyond the typical international trade sphere (in the case at hand: labour law).

PS: Great minds think alike. A couple of minutes before posting this article, I noticed that [Geert van Calster also published an article](#) on that same topic a couple of days ago. For those interested, Geert's post provides a link to the list of experts who may serve as panelists in that EU-Korea dispute.

[UPDATE added on 19 March 2019]: [On 16 January 2019](#), the EU

also formally requested consultations with Ukraine under the EU-Ukraine Association Agreement on Ukraine's export ban on unprocessed wood.

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