

[TRANSLATION]

June 30, 2007

The Honorable Susan C. Schwab
United States Trade Representative
Washington, D.C.

Dear Ambassador Schwab:

I have the honor to confirm the following understandings reached between the delegations of the Republic of Korea and the United States of America during the course of negotiations regarding Chapters Eleven (Investment) and Twelve (Cross-Border Trade in Services) of the Free Trade Agreement between our two Governments signed this day:

- (1) During the negotiations, the Parties discussed certain measures related to resource recycling and to policies to encourage low-emission motor vehicle distribution. The Parties shared the understanding that these measures relating to: (i) the obligation to recycle products and packaging materials; (ii) the submission of recycling performance plans and results; (iii) payment of applicable recycling levies; (iv) the obligation to distribute a certain percentage of low-emission motor vehicles; and (v) the submission and approval of plans to distribute low-emission motor vehicles are not inconsistent with Article 11.8 (Performance Requirements).
- (2) During the negotiations, the Parties discussed regulations that prohibit an enterprise from concurrently holding two or more business licenses to supply different services. The Parties shared the understanding that, for the purpose of the Agreement, such restrictions are not inconsistent with Article 12.4 (Market Access).
- (3) During the negotiations, the Parties discussed existing regulations applicable to the establishment, extension, or transfer of educational institutions within certain geographical areas under the *Seoul Metropolitan Area Readjustment Planning Act* (Law No. 7308, December 31, 2004). The Parties shared the understanding that such restrictions are not inconsistent with Article 12.4 (Market Access).
- (4) During the negotiations, the Parties discussed a measure that allows local higher education institutions to jointly operate curricula only with higher education institutions organized under Korean law, or with foreign higher education institutions that have obtained accreditation from a foreign government or authorized foreign accreditation bodies. The Parties shared the understanding that such a measure is not inconsistent with Article 11.3 (National Treatment) and Article 12.2 (National Treatment).
- (5) During the negotiations, the Parties discussed a measure that may establish requirements regarding the types and quantities of raw materials for producing liquor under the *Liquors Act* (Law No. 7841, Dec. 31, 2005) and its subordinate regulations. The Parties shared the understanding that such measure is not inconsistent with Article 11.8 (Performance

Requirement), provided that it is applied in a manner consistent with the WTO Agreement on Trade-Related Investment Measures.

- (6) During the negotiations, the Parties discussed regulations that control a rail transportation company's ability to stop supplying its service, including closure or liquidation of the company. The Parties shared the understanding that such restrictions are not inconsistent with Article 12.4 (Market Access).
- (7) During the negotiations, the Parties discussed regulations on zoning and land use. The Parties shared the understanding that measures concerning zoning and land use are not inconsistent with Article 12.4 (Market Access).

I have the honor to propose that this letter and your letter in reply confirming that your Government shares these understandings shall constitute an integral part of the Free Trade Agreement.

Sincerely,

[SGN]
Hyun Chong Kim

June 30, 2007

The Honorable Hyun Chong Kim
Minister for Trade
Seoul, Republic of Korea

Dear Minister Kim:

I have the honor to acknowledge receipt of your letter of this date, which reads as follows:

I have the honor to confirm the following understandings reached between the delegations of the Republic of Korea and the United States of America during the course of negotiations regarding Chapters Eleven (Investment) and Twelve (Cross-Border Trade in Services) of the Free Trade Agreement between our two Governments signed this day:

- (1) During the negotiations, the Parties discussed certain measures related to resource recycling and to policies to encourage low-emission motor vehicle distribution. The Parties shared the understanding that these measures relating to: (i) the obligation to recycle products and packaging materials; (ii) the submission of recycling performance plans and results; (iii) payment of applicable recycling levies; (iv) the obligation to distribute a certain percentage of low-emission motor vehicles; and (v) the submission and approval of plans to distribute low-emission motor vehicles are not inconsistent with Article 11.8 (Performance Requirements).
- (2) During the negotiations, the Parties discussed regulations that prohibit an enterprise from concurrently holding two or more business licenses to supply different services. The Parties shared the understanding that, for the purpose of the Agreement, such restrictions are not inconsistent with Article 12.4 (Market Access).
- (3) During the negotiations, the Parties discussed existing regulations applicable to the establishment, extension, or transfer of educational institutions within certain geographical areas under the *Seoul Metropolitan Area Readjustment Planning Act* (Law No. 7308, December 31, 2004). The Parties shared the understanding that such restrictions are not inconsistent with Article 12.4 (Market Access).
- (4) During the negotiations, the Parties discussed a measure that allows local higher education institutions to jointly operate curricula only with higher education institutions organized under Korean law, or with foreign higher education institutions that have obtained accreditation from a foreign government or authorized foreign accreditation bodies. The Parties shared the understanding that

such a measure is not inconsistent with Article 11.3 (National Treatment) and Article 12.2 (National Treatment).

- (5) During the negotiations, the Parties discussed a measure that may establish requirements regarding the types and quantities of raw materials for producing liquor under the *Liquors Act* (Law No. 7841, Dec. 31, 2005) and its subordinate regulations. The Parties shared the understanding that such measure is not inconsistent with Article 11.8 (Performance Requirement), provided that it is applied in a manner consistent with the WTO Agreement on Trade-Related Investment Measures.
- (6) During the negotiations, the Parties discussed regulations that control a rail transportation company's ability to stop supplying its service, including closure or liquidation of the company. The Parties shared the understanding that such restrictions are not inconsistent with Article 12.4 (Market Access).
- (7) During the negotiations, the Parties discussed regulations on zoning and land use. The Parties shared the understanding that measures concerning zoning and land use are not inconsistent with Article 12.4 (Market Access).

I have the honor to propose that this letter and your letter in reply confirming that your Government shares these understandings shall constitute an integral part of the Free Trade Agreement.

I have the further honor to confirm that my Government shares these understandings and that your letter and this letter in reply shall constitute an integral part of the Free Trade Agreement.

Sincerely,

Susan C. Schwab