

LETTERS EXCHANGED BETWEEN THE UNITED  
STATES AND KOREA RELATING TO THE TRADE  
AGREEMENT

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MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

THE LETTERS EXCHANGED BETWEEN THE UNITED STATES AND  
KOREA THAT CONTAIN COMMENTS ON THE UNITED STATES-  
KOREA FREE TRADE AGREEMENT



OCTOBER 4, 2011.—Message and accompanying papers referred to the  
Committee on Ways and Means and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE



*To the Congress of the United States:*

By separate message, I have transmitted to the Congress a bill to approve and implement the United States-Korea Free Trade Agreement. In that message, I highlighted new commitments that my Administration, in close coordination with the Congress, successfully negotiated to provide additional market access and a level playing field for American auto manufacturers and workers exporting to Korea.

Herewith I am transmitting the letters exchanged between the United States and Korea that contain those commitments, which further enhance the most commercially significant trade agreement the United States has concluded in more than 17 years. The documents I have transmitted in these two messages constitute the entire United States-Korea trade agreement package.

BARACK OBAMA.

THE WHITE HOUSE, *October 3, 2011.*



EXECUTIVE OFFICE OF THE PRESIDENT  
THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

February 10, 2011

The Honorable Jong-Hoon Kim  
Minister for Trade  
Seoul, Republic of Korea

Dear Minister Kim:

I have the honor to confirm the following understanding reached between the representatives of the Government of the Republic of Korea and the Government of the United States of America ("the Parties") during the course of discussions regarding issues related to the *United States – Korea Free Trade Agreement* (KORUS):

**Section A: Tariffs**

1. Notwithstanding paragraph 2 of Article 2.3 and the United States Schedule to Annex 2-B of the KORUS, the United States shall eliminate duties on certain goods as follows:

- (a) For originating goods of heading 8703 subject to staging category "A" or "C", duties shall remain at the base rate during years one through four. Such goods shall be duty-free, effective January 1 of year five;
- (b) For originating goods of subheading 870390, duties shall be reduced in five equal annual stages, and such goods shall be duty-free, effective January 1 of year five; and
- (c) For originating goods of heading 8704 subject to staging category "G", duties shall remain at the base rate during years one through seven. Beginning on January 1 of year eight, duties on such goods shall be reduced in three equal annual stages, and such goods shall be duty-free, effective January 1 of year ten.

2. Notwithstanding paragraph 2 of Article 2.3 and Korea's Schedule to Annex 2-B of the KORUS, Korea shall eliminate duties on certain goods as follows:

- (a) For originating goods of heading 8703 subject to staging category "A", duties shall be reduced to four percent *ad valorem* on the date the KORUS enters into force. Duties shall remain at four percent *ad valorem* during years one through four, and such goods shall be duty-free, effective January 1 of year five;
- (b) For originating goods of subheading 870390, duties shall be reduced to four percent *ad valorem* on the date the KORUS enters into force. Beginning on January 1 of year two, duties shall be reduced in four equal annual stages, and such goods shall be duty-free, effective January 1 of year five; and
- (c) For originating goods of item 0203299000, duties shall be reduced to 16 percent *ad valorem*, effective January 1, 2012; 12 percent *ad valorem*, effective January 1, 2013; eight percent *ad valorem*, effective January 1, 2014; four

percent *ad valorem*, effective January 1, 2015; and such goods shall be duty-free, effective January 1, 2016.<sup>1</sup>

#### **Section B: Safety Standards**

1. In lieu of paragraphs 2(a) and 2(b) of the self-certification provisions of the letters the Parties exchanged on June 30, 2007 regarding Chapter Nine of the KORUS, Korea shall provide that an originating motor vehicle<sup>2</sup> produced by a manufacturer that sold no more than 25,000 originating motor vehicles in the territory of Korea during the previous calendar year shall be deemed to comply with Korean Motor Vehicle Safety Standards (KMVSS) if the manufacturer certifies that the motor vehicle complies with U.S. Federal Motor Vehicle Safety Standards (FMVSS).<sup>3,4</sup>
2. When the Parties consider that annual sales by a manufacturer of originating motor vehicles in the territory of Korea are approaching the 25,000 vehicle threshold set forth in paragraph 1, and upon request of a Party, the Parties shall conduct a review to consider further acceptance of the operation of paragraph 1.
3. Notwithstanding paragraph 1, commercial vehicles<sup>5</sup> shall comply with the KMVSS items identified in the attached Annex. On request of either Party, the Automotive Working Group as established by Annex 9-B of the KORUS shall discuss modification of the Annex, including its coverage.
4. (a) In exceptional circumstances, where the operation of paragraph 1 creates a serious risk for road safety, human health, or the environment based on substantiated scientific or technical information, Korea may take measures necessary to address the risk, provided that the measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the products of the other Party or a disguised restriction on trade.
   
 (b) Before it implements any such temporary emergency measure, and as soon as practicable, Korea shall notify the United States and the importer, and provide an objective, reasoned and sufficiently detailed explanation of the motivation of the measure. Korea should in most cases provide interested persons and the United States a reasonable opportunity to comment on the measure.

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<sup>1</sup> For greater certainty, duties shall remain at the base rate until December 31, 2011 or the date that the KORUS enters into force, whichever is later.

<sup>2</sup> "Originating motor vehicle" means a motor vehicle that qualifies as an originating good of the United States for purposes of the KORUS.

<sup>3</sup> For purposes of this Section, "U.S. FMVSS" refers to the whole set of safety standards with which motor vehicles of a particular type must comply in order to be sold or offered for sale in the United States.

<sup>4</sup> For greater certainty, nothing in this paragraph shall prevent Korea from applying relevant provisions of Korea's Automobile Management Act, as amended, relating to post-market verification and associated regulations pertaining to witnessing of tests and comments on the results of the compliance investigation, to verify the compliance of the originating motor vehicles with U.S. FMVSS. For that purpose, the United States shall, upon request, provide Korea with relevant scientific and technical information related to U.S. FMVSS.

<sup>5</sup> "Commercial vehicles" does not include pickup trucks with a gross vehicle weight of 4.5 metric tons or less that comply with all U.S. FMVSS relevant for that vehicle type and are produced for general consumers rather than custom-built to a specific order.

5. (a) Neither Party shall prevent or unduly delay the placing on its market of a motor vehicle product on the ground that the product incorporates a new technology or a new feature which has not yet been regulated unless the Party can demonstrate, based on scientific or technical information, that this new technology or new feature creates a risk for human health, safety, or the environment.
- (b) When a Party decides to refuse the placing on its market or require the withdrawal from its market of a motor vehicle product on the ground that the product incorporates a new technology or a new feature creating a risk for human health, safety, or the environment, the Party shall immediately notify the other Party and the importer of the product of its decision. The notification shall include all relevant scientific or technical information.

#### **Section C: Transparency**

1. Except in those urgent circumstances referred to in Articles 2.10 and 5.7 of the TBT Agreement, for any technical regulation or conformity assessment procedure that would require a substantial change in motor vehicle design or technology, each Party shall provide an interval between the date of publication of the technical regulation or conformity assessment procedure and the date on which compliance with the measure becomes mandatory that is usually not less than 12 months.
2. Each Party shall periodically<sup>6</sup> conduct post-implementation reviews of its existing significant regulations affecting motor vehicles. For purposes of this paragraph, “post-implementation review” means an examination of the effectiveness of a standard, technical regulation, or conformity assessment procedure after it has been implemented, including an assessment of whether it achieves its stated objectives, the burden it imposes, and its compatibility with other standards, technical regulations, or conformity assessment procedures the Party has adopted. This paragraph shall apply to Korea beginning two years after the date the KORUS enters into force.
3. Notwithstanding Article 23.3 of the KORUS, Article 21.1 of the KORUS shall apply to a new taxation measure of Korea on motor vehicles that is based on fuel economy or greenhouse gas emissions. The Parties shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect the operation of this paragraph. Neither Party may have recourse to dispute settlement under this understanding for any matter arising under this paragraph.

#### **Section D: Motor Vehicle Safeguard**

A Party may apply a safeguard measure with respect to a motor vehicle of heading 8703 or 8704 using the procedures set forth in Chapter Ten of the KORUS, with the following procedural modifications:<sup>7</sup>

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<sup>6</sup> “Periodically” means normally at least once no later than ten years after the date a measure is adopted, and as appropriate thereafter.

<sup>7</sup> For greater certainty, for purposes of a safeguard measure on a motor vehicle good referenced in Section A of this understanding, references to “the Agreement” or a Party’s “Schedule” in Chapter Ten shall be understood to refer to Section A of this understanding, and the term “end of the tariff elimination period” shall be understood to refer to the end of the tariff elimination period set out for that good in Section A of this understanding.

- (a) In lieu of paragraph 5(b) of Article 10.2, the following shall apply: Neither Party may apply a safeguard measure for a period exceeding two years, except that the period may be extended by up to two years if the competent authorities of the importing Party determine, in conformity with the procedures specified in Article 10.2, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years;
- (b) Paragraphs 6 and 7 of Article 10.2 and paragraph 2 of Article 10.3 shall not apply;
- (c) In lieu of Article 10.4, the following shall apply:<sup>8</sup>
  - (i) A Party applying a bilateral safeguard measure shall consult with the other Party in order to mutually agree on appropriate trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the safeguard measure. The Party shall provide an opportunity for such consultations no later than 30 days after the application of the bilateral safeguard measure;
  - (ii) If the consultations under subparagraph (c)(i) do not result in an agreement on trade liberalizing compensation within 30 days after the consultations begin, the Party whose goods are subject to the safeguard measure may suspend the application of substantially equivalent concessions to the Party applying the safeguard measure; and
  - (iii) The right of suspension referred to in subparagraph (c)(ii) shall not be exercised for the first 24 months during which a safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of the KORUS with the procedures in this understanding; and
- (d) In lieu of the definition of transition period contained in Article 10.6, the following definition shall apply: **transition period** means the period beginning on the date the KORUS enters into force and ending on the date that is ten years after the end of the tariff elimination period, as the case may be for each good.

#### **Section E: Measures Related to Pharmaceutical Products**

Notwithstanding paragraph 1 of Article 18.12 of the KORUS, paragraph 5(b) of Article 18.9 of the KORUS shall apply to Korea beginning three years after the date the KORUS enters into force.

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<sup>8</sup> The absence of a provision on termination of the right of suspension shall not prejudice a panel's interpretation of this paragraph.

#### Section F: Final Provisions and Dispute Settlement

1. The Parties shall apply Article 1.3 (Extent of Obligations), paragraphs 2 through 5 of Annex 2-B, Article 22.16 (Private Rights), paragraph 1 of Article 23.1 (General Exceptions), Article 23.2 (Essential Security), Article 23.4 (Disclosure of Information), and Article 24.6 (Authentic Text) of the KORUS to this understanding, *mutatis mutandis*.
2. Except as otherwise provided in this understanding, terms used in this understanding that have an assigned meaning in Article 1.4, Article 2.15, Article 9.10, or Article 10.6 of the KORUS shall have that assigned meaning for purposes of this understanding.
3. The Joint Committee established pursuant to the KORUS shall address a matter arising under this understanding, and to this end the Parties shall apply Section A of Chapter 22 of the KORUS to this understanding, *mutatis mutandis*.
4. The Parties shall apply Section B of Chapter 22 and Annex 22-A of the KORUS to this understanding, *mutatis mutandis*.<sup>9</sup>
5. The Annex and footnotes to this understanding constitute an integral part of this understanding.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments, which shall enter into force on the date that the KORUS enters into force and terminate on the date that the KORUS terminates.

Sincerely,  
  
 Ron Kirk

Attachment

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<sup>9</sup> For greater certainty: (a) Where a matter arises under the KORUS and this understanding, a Party may include claims regarding provisions of either or both agreements in a single consultations request, Joint Committee referral, and panel request, and a single dispute settlement proceeding shall address the matter set forth by the Party; (b) The contingent list, model rules of procedure, and code of conduct under Chapter 22 of the KORUS shall be used for this understanding; (c) For purposes of this understanding, the reference to "benefit the Party could reasonably have expected to accrue to it" in Article 22.4(c) refers to a benefit the Party could reasonably have expected to accrue to it under Section A of this understanding; (d) For purposes of this understanding, the reference to "benefits" that a Party may suspend in Article 22.13 includes benefits accruing to the other Party under this understanding and benefits accruing to the other Party under the KORUS; and (e) Neither Party may claim in a dispute settlement proceeding that a measure is inconsistent with one or more provisions of the KORUS if the measure is consistent with the relevant provisions of this understanding.

**Annex**

No.	KMVSS Items	KMVSS Citations
1	<b>Maximum length, width and height</b>	Article 4
2	<b>Maximum gross vehicle weight</b>	Article 6
3	<b>Weight distribution</b>	Article 7
4	<b>Maximum stable inclination angle</b>	Article 8
5	<b>Minimum turning radius</b>	Article 9
6	<b>Driving system: mudguard</b>	Article 12.3
7	<b>Steering effort</b>	Articles 14 & 89
8	<b>Brake systems (with or without anti-lock brake system) (except passenger cars)</b>	Articles 15 & 90 (except 90.1)
9	<b>Fuel device (including liquefied petroleum gas container)</b>	Article 17
10	<b>Frame and body: side guard</b>	Article 19.3
11	<b>Rear underrun protection (except trailers)</b>	Articles 19.4 & 96
12	<b>Inside height and width for standing passengers</b>	Articles 28 & 31
13	<b>Militarization device: pintle hook</b>	Article 46
14	<b>Retro-reflection device</b>	Articles 49 & 107
15	<b>Speedometer</b>	Articles 54.1 & 110
16	<b>Speed limiter</b>	Articles 54.2-4 & 110-2

[TRANSLATION].

February 10, 2011

The Honorable Ron Kirk  
United States Trade Representative  
Washington, D.C.

Dear Ambassador Kirk:

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 understanding reached between the representatives of the Government of the Republic of Korea and the Government of the United States of America ("the Parties") during the course of discussions regarding issues related to the *United States – Korea Free Trade Agreement* (KORUS):

#### Section A: Tariffs

1. Notwithstanding paragraph 2 of Article 2.3 and the United States Schedule to Annex 2-B of the KORUS, the United States shall eliminate duties on certain goods as follows:

- (a) For originating goods of heading 8703 subject to staging category "A" or "C", duties shall remain at the base rate during years one through four. Such goods shall be duty-free, effective January 1 of year five;
- (b) For originating goods of subheading 870390, duties shall be reduced in five equal annual stages, and such goods shall be duty-free, effective January 1 of year five; and
- (c) For originating goods of heading 8704 subject to staging category "G", duties shall remain at the base rate during years one through seven. Beginning on January 1 of year eight, duties on such goods shall be reduced in three equal annual stages, and such goods shall be duty-free, effective January 1 of year ten.

2. Notwithstanding paragraph 2 of Article 2.3 and Korea's Schedule to Annex 2-B of the KORUS, Korea shall eliminate duties on certain goods as follows:

- (a) For originating goods of heading 8703 subject to staging category "A", duties shall be reduced to four percent *ad valorem* on the date the KORUS enters into force. Duties shall remain at four percent *ad valorem* during

years one through four, and such goods shall be duty-free, effective January 1 of year five;

- (b) For originating goods of subheading 870390, duties shall be reduced to four percent *ad valorem* on the date the KORUS enters into force. Beginning on January 1 of year two, duties shall be reduced in four equal annual stages, and such goods shall be duty-free, effective January 1 of year five; and
- (c) For originating goods of item 0203299000, duties shall be reduced to 16 percent *ad valorem*, effective January 1, 2012; 12 percent *ad valorem*, effective January 1, 2013; eight percent *ad valorem*, effective January 1, 2014; four percent *ad valorem*, effective January 1, 2015; and such goods shall be duty-free, effective January 1, 2016.<sup>1</sup>

#### **Section B: Safety Standards**

1. In lieu of paragraphs 2(a) and 2(b) of the self-certification provisions of the letters the Parties exchanged on June 30, 2007 regarding Chapter Nine of the KORUS, Korea shall provide that an originating motor vehicle<sup>2</sup> produced by a manufacturer that sold no more than 25,000 originating motor vehicles in the territory of Korea during the previous calendar year shall be deemed to comply with Korean Motor Vehicle Safety Standards (KMVSS) if the manufacturer certifies that the motor vehicle complies with U.S. Federal Motor Vehicle Safety Standards (FMVSS).<sup>3,4</sup>
2. When the Parties consider that annual sales by a manufacturer of originating motor vehicles in the territory of Korea are approaching the 25,000 vehicle threshold set forth in paragraph 1, and upon request of a Party, the Parties shall conduct a review to consider further acceptance of the operation of paragraph 1.
3. Notwithstanding paragraph 1, commercial vehicles<sup>5</sup> shall comply with the KMVSS items identified in the attached Annex. On request of either Party, the Automotive Working Group as established by Annex 9-B of the KORUS shall discuss modification of the Annex, including its coverage.

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<sup>1</sup> For greater certainty, duties shall remain at the base rate until December 31, 2011 or the date that the KORUS enters into force, whichever is later.

<sup>2</sup> "Originating motor vehicle" means a motor vehicle that qualifies as an originating good of the United States for purposes of the KORUS.

<sup>3</sup> For purposes of this Section, "U.S. FMVSS" refers to the whole set of safety standards with which motor vehicles of a particular type must comply in order to be sold or offered for sale in the United States.

<sup>4</sup> For greater certainty, nothing in this paragraph shall prevent Korea from applying relevant provisions of Korea's Automobile Management Act, as amended, relating to post-market verification and associated regulations pertaining to witnessing of tests and comments on the results of the compliance investigation, to verify the compliance of the originating motor vehicles with U.S. FMVSS. For that purpose, the United States shall, upon request, provide Korea with relevant scientific and technical information related to U.S. FMVSS.

<sup>5</sup> "Commercial vehicles" does not include pickup trucks with a gross vehicle weight of 4.5 metric tons or less that comply with all U.S. FMVSS relevant for that vehicle type and are produced for general consumers rather than custom-built to a specific order.

- 4. (a) In exceptional circumstances, where the operation of paragraph 1 creates a serious risk for road safety, human health, or the environment based on substantiated scientific or technical information, Korea may take measures necessary to address the risk, provided that the measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the products of the other Party or a disguised restriction on trade.
- (b) Before it implements any such temporary emergency measure, and as soon as practicable, Korea shall notify the United States and the importer, and provide an objective, reasoned and sufficiently detailed explanation of the motivation of the measure. Korea should in most cases provide interested persons and the United States a reasonable opportunity to comment on the measure.
- 5. (a) Neither Party shall prevent or unduly delay the placing on its market of a motor vehicle product on the ground that the product incorporates a new technology or a new feature which has not yet been regulated unless the Party can demonstrate, based on scientific or technical information, that this new technology or new feature creates a risk for human health, safety, or the environment.
- (b) When a Party decides to refuse the placing on its market or require the withdrawal from its market of a motor vehicle product on the ground that the product incorporates a new technology or a new feature creating a risk for human health, safety, or the environment, the Party shall immediately notify the other Party and the importer of the product of its decision. The notification shall include all relevant scientific or technical information.

#### **Section C: Transparency**

- 1. Except in those urgent circumstances referred to in Articles 2.10 and 5.7 of the TBT Agreement, for any technical regulation or conformity assessment procedure that would require a substantial change in motor vehicle design or technology, each Party shall provide an interval between the date of publication of the technical regulation or conformity assessment procedure and the date on which compliance with the measure becomes mandatory that is usually not less than 12 months.
- 2. Each Party shall periodically<sup>6</sup> conduct post-implementation reviews of its existing significant regulations affecting motor vehicles. For purposes of this paragraph, "post-implementation review" means an examination of the effectiveness of a standard, technical regulation, or conformity assessment procedure after it has been implemented, including an assessment of whether it achieves its stated objectives, the burden it imposes, and its compatibility with other standards, technical regulations, or conformity

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<sup>6</sup> "Periodically" means normally at least once no later than ten years after the date a measure is adopted, and as appropriate thereafter.

assessment procedures the Party has adopted. This paragraph shall apply to Korea beginning two years after the date the KORUS enters into force.

3. Notwithstanding Article 23.3 of the KORUS, Article 21.1 of the KORUS shall apply to a new taxation measure of Korea on motor vehicles that is based on fuel economy or greenhouse gas emissions. The Parties shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect the operation of this paragraph. Neither Party may have recourse to dispute settlement under this understanding for any matter arising under this paragraph.

#### **Section D: Motor Vehicle Safeguard**

A Party may apply a safeguard measure with respect to a motor vehicle of heading 8703 or 8704 using the procedures set forth in Chapter Ten of the KORUS, with the following procedural modifications:<sup>7</sup>

- (a) In lieu of paragraph 5(b) of Article 10.2, the following shall apply: Neither Party may apply a safeguard measure for a period exceeding two years, except that the period may be extended by up to two years if the competent authorities of the importing Party determine, in conformity with the procedures specified in Article 10.2, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years;
- (b) Paragraphs 6 and 7 of Article 10.2 and paragraph 2 of Article 10.3 shall not apply;
- (c) In lieu of Article 10.4, the following shall apply:<sup>8</sup>
  - (i) A Party applying a bilateral safeguard measure shall consult with the other Party in order to mutually agree on appropriate trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the safeguard measure. The Party shall provide an opportunity for such consultations no later than 30 days after the application of the bilateral safeguard measure;
  - (ii) If the consultations under subparagraph (c)(i) do not result in an agreement on trade liberalizing compensation within 30 days after

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<sup>7</sup> For greater certainty, for purposes of a safeguard measure on a motor vehicle good referenced in Section A of this understanding, references to "the Agreement" or a Party's "Schedule" in Chapter Ten shall be understood to refer to Section A of this understanding, and the term "end of the tariff elimination period" shall be understood to refer to the end of the tariff elimination period set out for that good in Section A of this understanding.

<sup>8</sup> The absence of a provision on termination of the right of suspension shall not prejudice a panel's interpretation of this paragraph.

the consultations begin, the Party whose goods are subject to the safeguard measure may suspend the application of substantially equivalent concessions to the Party applying the safeguard measure; and

- (iii) The right of suspension referred to in subparagraph (c)(ii) shall not be exercised for the first 24 months during which a safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of the KORUS with the procedures in this understanding; and
- (d) In lieu of the definition of transition period contained in Article 10.6, the following definition shall apply: **transition period** means the period beginning on the date the KORUS enters into force and ending on the date that is ten years after the end of the tariff elimination period, as the case may be for each good.

#### **Section E: Measures Related to Pharmaceutical Products**

Notwithstanding paragraph 1 of Article 18.12 of the KORUS, paragraph 5(b) of Article 18.9 of the KORUS shall apply to Korea beginning three years after the date the KORUS enters into force.

#### **Section F: Final Provisions and Dispute Settlement**

1. The Parties shall apply Article 1.3 (Extent of Obligations), paragraphs 2 through 5 of Annex 2-B, Article 22.16 (Private Rights), paragraph 1 of Article 23.1 (General Exceptions), Article 23.2 (Essential Security), Article 23.4 (Disclosure of Information), and Article 24.6 (Authentic Text) of the KORUS to this understanding, *mutatis mutandis*.
2. Except as otherwise provided in this understanding, terms used in this understanding that have an assigned meaning in Article 1.4, Article 2.15, Article 9.10, or Article 10.6 of the KORUS shall have that assigned meaning for purposes of this understanding.
3. The Joint Committee established pursuant to the KORUS shall address a matter arising under this understanding, and to this end the Parties shall apply Section A of Chapter 22 of the KORUS to this understanding, *mutatis mutandis*.
4. The Parties shall apply Section B of Chapter 22 and Annex 22-A of the KORUS to this understanding, *mutatis mutandis*.<sup>9</sup>

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<sup>9</sup> For greater certainty: (a) Where a matter arises under the KORUS and this understanding, a Party may include claims regarding provisions of either or both agreements in a single consultations request, Joint Committee referral, and panel request, and a single dispute settlement proceeding shall address the matter set forth by the Party; (b) The contingent list, model rules of procedure, and code of conduct under Chapter 22 of the KORUS shall be used for this understanding; (c) For purposes of this understanding, the reference to "a benefit the Party could reasonably have

5. The Annex and footnotes to this understanding constitute an integral part of this understanding.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments, which shall enter into force on the date that the KORUS enters into force and terminate on the date that the KORUS terminates.

I have the further honor to confirm that my Government shares this understanding and that your letter and this letter in reply shall constitute an agreement between our two Governments, which shall enter into force on the date that the KORUS enters into force and terminate on the date that the KORUS terminates.

Sincerely,

/Sgd/  
Jong-Hoon Kim

Attachment

**Annex**

No.	KMVSS Items	KMVSS Citations
1	Maximum length, width and height	Article 4
2	Maximum gross vehicle weight	Article 6
3	Weight distribution	Article 7
4	Maximum stable inclination angle	Article 8
5	Minimum turning radius	Article 9
6	Driving system: mudguard	Article 12.3
7	Steering effort	Articles 14 & 89
8	Brake systems (with or without anti-lock brake system) (except passenger cars)	Articles 15 & 90 (except 90.1)
9	Fuel device (including liquefied petroleum gas container)	Article 17
10	Frame and body: side guard	Article 19.3
11	Rear underrun protection (except trailers)	Articles 19.4 & 96
12	Inside height and width for standing passengers	Articles 28 & 31
13	Militarization device: pintle hook	Article 46
14	Retro-reflection device	Articles 49 & 107
15	Speedometer	Articles 54.1 & 110
16	Speed limiter	Articles 54.2-4 & 110-2



MINISTER FOR TRADE  
MINISTRY OF FOREIGN AFFAIRS AND TRADE  
SEOUL, KOREA

2011년 2월 10일

론 커크 대사  
미합중국 무역대표  
워싱턴 디씨

론 커크 대사 귀하,

본인은 다음과 같은 내용의 금일자 귀하의 서한을 접수하였음을 확인하는 영광을 가지는 바입니다.

“본인은 「대한민국과 미합중국 간의 자유무역협정」(“한·미 자유무역협정”)과 관련되는 사안에 관한 논의 과정에서 대한민국 정부와 미합중국 정부(“양 당사국”)의 대표들 간에 도달한 다음의 양해를 확인하는 영광을 가지는 바입니다.

제 1 절  
관 세

1. 한·미 자유무역협정 제2.3조제2항 및 부속서 2-나의 미합중국 양허표에도 불구하고, 미합중국은 특정 상품에 대한 관세를 다음과 같이 철폐한다.

가. 단계별 양허유형 A 또는 C의 대상이 되는 제8703호의 원산지 상품에 대하여, 관세는 이행 1년차부터 이행 4년차까지 기준관세율을 유지한다. 이행 5년차 1월 1일부터 그 상품에 대하여 무관세가 적용된다.

나. 소호 870390의 원산지 상품에 대하여, 관세는 5단계에 걸쳐 매년 균등하게 철폐되어, 이행 5년차 1월 1일부터 그 상품에 대하여 무관세가 적용된다. 그리고,

다. 단계별 양허유형 G의 대상이 되는 제8704호의 원산지 상품에 대하여, 관세는 이행 1년차부터 이행 7년차까지 기준관세율을 유지한다. 그 상품에 대한 관세는 이행 8년차 1월 1일을 시작으로 3단계에 걸쳐 매년 균등하게 철폐되어, 이행 10년차 1월 1일부터 그 상품에 대하여 무관세가 적용된다.

2. 한·미 자유무역협정 제2.3조제2항 및 부속서 2-나의 대한민국 양허표에도 불구하고, 대한민국은 특정 상품에 대한 관세를 다음과 같이 철폐한다.

가. 단계별 양허유형 A의 대상이 되는 제8703호의 원산지 상품에 대하여, 관세는 한·미 자유무역협정 발효일에 종가세 4퍼센트로 인하된다. 관세는 이행 1년차부터 이행 4년차까지 종가세 4퍼센트를 유지하여, 이행 5년차 1월 1일부터 그 상품에 대하여 무관세가 적용된다.

나. 소호 870390의 원산지 상품에 대하여, 관세는 한·미 자유무역협정 발효일에 종가세 4퍼센트로 인하된다. 관세는 이행 2년차 1월 1일을 시작으로 4단계에 걸쳐 매년 균등하게 철폐되어, 이행 5년차 1월 1일부터 그 상품에 대하여 무관세가 적용된다. 그리고,

다. 0203299000의 원산지 상품에 대하여, 관세는 2012년 1월 1일부터 종가세 16퍼센트, 2013년 1월 1일부터 종가세 12퍼센트, 2014년 1월 1일부터 종가세 8퍼센트, 2015년 1월 1일부터 종가세 4퍼센트로 인하되어, 2016년 1월 1일부터 그 상품에 대하여 무관세가 적용된다.<sup>1)</sup>

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1) 보다 명확히 하기 위하여, 관세는 2011년 12월 31일 또는 한·미 자유무역협정이 발효하는 날 중 더 나중의 날까지 기본세율을 유지한다.

제 2 절  
안전기준

1. 한·미 자유무역협정 제9장에 관하여 양 당사국이 2007년 6월 30일 교환한 서한의 자기인증 조항 나호1목 및 나호2목을 대신하여, 대한민국은 직전연도 동안 대한민국 영역 내에서 25,000대 이하의 원산지 자동차를 판매한 제작자가 생산한 원산지 자동차<sup>2)</sup>는 그 제작자가 미합중국 연방 자동차 안전기준을 준수한다고 인증하는 경우, 그 자동차는 대한민국 자동차 안전기준을 준수하는 것으로 간주된다고 규정한다.<sup>3)4)</sup>
2. 양 당사국이 원산지 자동차 제작사의 대한민국 영역 내에서의 연간 판매가 제1항에 규정된 25,000대 기준에 근접하고 있다고 판단할 때, 그리고, 어느 한 쪽 당사국의 요청에 따라 양 당사국은 제1항 운용의 추가 수용을 고려하기 위한 검토를 실시한다.
3. 제1항에도 불구하고, 상용차<sup>5)</sup>는 별첨 부속서에서 확인된 대한민국 자동차 안전기준 항목을 준수한다. 어느 한 쪽 당사국의 요청이 있는 경우 한·미 자유무역협정 부속서 9-나에 의하여 설치되는 자동차 작업반은 이 부속서의 적용 범위를 포함하여 그 수정에 대하여 논의한다.
4. 가. 예외적인 상황에서, 실증된 과학적 또는 기술적 정보에 근거하여 제1항의 운용이 도로 안전, 인간의 건강 또는 환경에 대한 중대한 위험을 초래하는 경우, 대한민국은 그 위험을 다루기 위하여 필요한 조치를 취할 수 있다. 다만, 그러한 조치는 다른 쪽 당사국의 제품에 대하여 자의적이거나 정당화될 수 없는 차별의 수단 또는 무역에 대한 위장된 제한을 구성하게 될 방식으로 적용되어서는 아니 된다.

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2) “원산지 자동차”란 한·미 자유무역협정의 목적상 미합중국 원산지 상품으로서의 자격을 갖춘 자동차를 말한다.  
 3) 이 절의 목적상, 「미합중국 연방 자동차 안전기준」은 특정한 종류의 자동차가 미합중국 내에서 판매되거나 판매할 목적으로 제공되기 위하여 준수해야만 하는 안전기준의 총체를 지칭한다.  
 4) 보다 명확히 하기 위하여, 이 항의 그 어떠한 규정도 대한민국이 원산지 자동차의 미합중국 연방 자동차 안전기준 준수 여부를 검증하기 위하여 시판 후 검증에 관한 대한민국의 「자동차관리법」(법이 개정된 경우에도 같다)의 관련 조항과 시험 참관 및 적합 조사 결과에 대한 의견에 관한 관련 규정을 적용하는 것을 방해하지 아니 한다. 그러한 목적을 위하여, 미합중국은 「미합중국 연방 자동차 안전기준」과 관련된 과학적이고 기술적인 정보를 요청 시 대한민국에 제공한다.  
 5) “상용차”는 차량 총중량이 4.5톤 이하이고, 그 차종에 관련된 모든 미합중국 연방 자동차 안전기준을 준수하며, 특정 주문에 따라 맞춤형으로 제작되기 보다는 일반 소비자를 위하여 생산되는 픽업트럭은 포함하지 아니 한다.

나. 대한민국은 그러한 일시적인 긴급조치를 시행하기 전에, 그리고 실행 가능한 한 조속히, 미합중국 및 수입자에게 통보하고, 그 조치의 동기에 대한 객관적이고, 논증되며 충분히 자세한 설명을 제공한다. 대한민국은 대부분의 경우, 그 조치에 대한 의견을 제시할 합리적인 기회를 이해관계인 및 미합중국에게 제공하여야 할 것이다.

5. 가. 어떠한 당사국도 신기술이나 새로운 특성이 인간의 건강, 안전 또는 환경에 위험을 초래한다는 것을 과학적 또는 기술적 정보에 근거하여 증명할 수 있는 경우를 제외하고, 자동차 제품이 아직 규제되지 아니한 그러한 신기술이나 새로운 특성을 포함하고 있다는 것을 이유로 그 제품의 출시를 방해하거나 이를 과도하게 지체시켜서는 아니 된다.

나. 당사국이 자동차 제품이 인간의 건강, 안전 또는 환경에 위험을 초래하는 신기술이나 새로운 특성을 포함하고 있음을 이유로 그 제품의 출시를 거절하거나 자국 시장에서 회수할 것을 요구하는 결정을 한 때에, 다른 쪽 당사국과 그 제품의 수입자에게 자신의 결정을 즉시 통보한다. 이 통보는 모든 관련된 과학적 또는 기술적 정보를 포함한다.

### 제 3 절 특 명 성

1. 「무역에 대한 기술장벽에 관한 협정」 제2.10조 및 제5.7조에 언급된 그러한 긴급한 상황을 제외하고, 자동차 디자인 또는 기술에 있어 실질적인 변화를 요구하게 될 어떠한 기술 규정 또는 적합성 평가 절차에 대해서도 각 당사국은 그 기술규정 또는 적합성 평가 절차의 공포일과 그 조치의 준수가 강제력을 갖는 날 사이에 보통 12개월 이상의 기간을 부여한다.

2. 각 당사국은 자동차에 영향을 미치는 기준의 중요한 규정에 대한 사후이행 검토를 주기적으로<sup>6)</sup> 실시한다. 이 항의 목적상, “사후이행검토”란 명시된 목표를 달성하는지에 대한 평가, 그 부담정도, 그리고 당사국이 채택하는 그 밖의 표준, 기술규정 또는 적합성 평가 절차와의 양립가능성을 포함하여, 표준, 기술규정 또는 적합성 평가 절차가 이행된 이후 그 효과성에 대한 심사를 말한다. 이 항은 한·미 자유무역협정이 발효된 다음 날부터 2년이 지난 시점부터 대한민국에 적용된다.

3. 한·미 자유무역협정 제23.3조에도 불구하고, 한·미 자유무역협정 제21.1조는 연비 또는 온실가스 배출에 기반한 자동차에 관한 대한민국의 새로운 관세조치에 적용된다. 양 당사국은 이 항의 운용에 영향을 미칠 수 있는 모든 사안에 대하여 상호 만족할만한 해결에 이르기 위하여 협력 및 협의를 통한 모든 시도를 한다. 어떠한 당사국도 이 항에서 발생하는 어떠한 사안에 대해서도 이 양해상의 분쟁해결을 이용할 수 없다.

#### 제 4 절 자동차 긴급수입제한조치

당사국은 제8703호 또는 제8704호의 자동차에 대하여 다음의 절차적 수정을 가한 한·미 자유무역협정 제10장에 규정된 절차를 사용하여 긴급수입제한조치를 적용할 수 있다.<sup>7)</sup>

가. 제10.2조제5항나호를 대신하여 다음이 적용된다.

어떠한 당사국도 긴급수입제한조치 적용의 총 기간이 최초 적용 기간과 이에 대한 연장을 포함하여 4년을 초과하지 아니하는 한, 수입 당사국의 권한 있는 당국이 그 조치가 심각한 피해를 방지하거나 구제하기 위하여 그리고 구조조정을 촉진하기 위하여 지속적으로 필요하다는 것과

6) “주기적으로”란 보통 조치가 채택된 다음 날부터 10년 이내에 최소 한번, 그리고 그 이후에는 적절한 때를 말한다.

7) 보다 명확히 하기 위하여, 이 양해의 제1절에 언급된 자동차 상품에 대한 긴급수입제한조치의 목적상, 제10장의 “협정” 또는 당사국의 “양허표”에 대한 언급은 이 양해의 제1절을 지칭하는 것으로 이해되며, “관세철폐기간의 종료”라는 용어는 이 양해의 제1절에서 그 상품에 대하여 규정된 관세철폐기간의 종료를 지칭하는 것으로 이해된다.

그 산업이 구조조정되고 있다는 증거가 있다는 것을 제10.2조에 명시된 절차에 합치되게 판정하는 경우에는 그 기간이 2년까지 연장될 수 있다는 것을 제외하고, 2년을 초과하는 기간 동안에 긴급수입제한조치를 적용할 수 없다.

나. 제10.2조제6항 및 제7항, 그리고 제10.3조제2항은 적용되지 아니 한다.

다. 제10.4조를 대신하여 다음이 적용된다.<sup>8)</sup>

- 1) 양자간 긴급수입제한조치를 적용하는 당사국은 실질적으로 동등한 무역 효과를 가지거나 긴급수입제한조치로부터 발생할 것으로 기대되는 추가적인 관세액과 동등한 양허의 형태로 된 적절한 무역자유화 보상에 관해 상호 합의하기 위하여 다른 쪽 당사국과 협의한다. 그 당사국은 양자간 긴급수입제한조치의 적용 후 30일 이내에 그러한 협의를 위한 기회를 제공한다.
- 2) 제1목에 따른 협의가 협의 개시 후 30일 이내에 무역자유화 보상에 관한 합의에 이르지 못하는 경우, 자신의 상품이 긴급수입제한조치의 적용을 받는 당사국은 긴급수입제한조치를 적용하는 당사국에 대하여 실질적으로 동등한 양허의 적용을 정지할 수 있다. 그리고,
- 3) 제2목에 언급된 정지할 수 있는 권리, 긴급수입제한조치가 이 양해의 절차와 함께 한·미 자유무역협정의 규정에 합치되는 한, 그 긴급수입제한조치가 유효한 최초 24개월 동안 실행되어서는 아니 된다. 그리고,

라. 제10.6조에 포함된 과도기간의 정의 대신, 다음의 정의가 적용된다. 과도기간이란 한·미 자유무역협정이 발효되는 날에 시작되어 각 상품에 대하여 경유에 맞게 관세철폐기간이 종료된 후 10년이 되는 날에 끝나는 기간을 말한다.

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8) 정지할 수 있는 권리의 소멸에 대한 규정의 부재는 이 항에 대한 폐널의 해석을 저해하지 아니 한다.

제 5 절  
의약품과 관련된 조치

한·미 자유무역협정 제18.12조제1항에도 불구하고, 한·미 자유무역협정 제18.9조제5항나호는 한·미 자유무역협정이 발효된 다음 날부터 3년이 지난 시점부터 대한민국에 적용된다.

제 6 절  
최종 규정 및 분쟁 해결

1. 양 당사국은 한·미 자유무역협정 제1.3조(의무의 범위), 부속서 2-나의 제2항부터 제5항까지, 제22.16조(사적 권리), 제23.1조제1항(일반적 예외), 제23.2조(필수적 안보), 제23.4조(정보의 공개) 및 제24.6조(정본)를 필요한 변경을 위하여 이 양해에 적용한다.
2. 이 양해에 달리 규정된 경우를 제외하고, 이 양해에 사용된 것으로서 한·미 자유무역협정의 제1.4조, 제2.15조, 제9.10조 또는 제10.6조에서 부여된 의미를 가진 용어는 이 양해의 목적상 그 부여된 의미를 가진다.
3. 한·미 자유무역협정에 따라 설치된 공동위원회는 이 양해에서 발생하는 사안을 다루고, 이러한 목적을 위하여 양 당사국은 한·미 자유무역협정의 제22장 제1절을 필요한 변경을 위하여 이 양해에 적용한다.
4. 양 당사국은 한·미 자유무역협정 제22장 제2절 및 부속서 22-가를 필요한 변경을 위하여 이 양해에 적용한다.<sup>9)</sup>

9) 보다 명확히 하기 위하여,  
 가. 한·미 자유무역협정 및 이 양해에서 사안이 발생하는 경우, 당사국은 둘 중 하나 또는 두 합의의 규정에 관한 청구를 하나의 협의 요청, 공동위원회 회부 그리고 패널 요청에 포함시킬 수 있고, 하나의 분쟁해결절차가 그 당사국이 제기한 사안을 다룬다.  
 나. 한·미 자유무역협정 제22장의 후보명부, 모범 절차규칙과 행동규범은 이 양해를 위하여 사용된다.  
 다. 이 양해의 목적상, 제22.4조다호의 “자국에 발생할 것으로 합리적으로 기대할 수 있었던 혜택”은 그 당사국이 이 양해의 제1절에 따라 자국에 발생할 것으로 합리적으로 기대할 수 있었던 혜택을 지칭한다.  
 라. 이 양해의 목적상, 제22.13조에서 당사국이 정지할 수 있는 “혜택”에 대한 언급은 이 양해에서 다른 쪽 당사국에 발생하는 혜택과 한·미 자유무역협정에서 다른 쪽 당사국에 발생하는 혜택을 포함한다. 그리고,  
 마. 어느 당사국도 어떠한 조치가 이 양해의 관련 규정에 합치할 경우에는 그 조치가 한·미 자유무역협정의 하나 또는 그 이상의 규정에 불합치한다는 주장을 분쟁해결절차에서 할 수 없다.

5. 이 양해의 부속서와 각주는 이 양해의 불가분의 일부를 구성한다.

본인은 이 서한과 귀 정부가 이 양해를 공유한다는 것을 확인하는 귀하의 회답 서한이 우리 양국 정부간 합의를 구성하고, 이 합의는 한·미 자유무역협정이 발효되는 날에 발효되고 한·미 자유무역협정이 종료되는 날에 종료됨을 제안하는 영광을 가지는 바입니다."

본인은 더 나아가 우리 정부가 이 양해를 공유한다는 것과 귀하의 서한과 이 회답 서한이 우리 양국 정부간 합의를 구성하고 이 합의는 한·미 자유무역협정이 발효되는 날에 발효되고 한·미 자유무역협정이 종료되는 날에 종료된다는 것을 확인하는 영광을 가지는 바입니다.



김종훈

첨부

## 부속서

번호	대한민국 자동차 안전기준 항목	대한민국 자동차 안전기준 조항
1	최대 길이 · 너비 · 높이	제4조
2	최대 차량총중량	제6조
3	중량분포	제7조
4	최대안전경사각도	제8조
5	최소회전반경	제9조
6	주행장치 : 흙받이	제12조제3항
7	조향장치	제14조, 제89조
8	제동장치 (바퀴잠김방지식 주제동장치 설치 여부를 불문하며 승용차는 제외한다)	제15조, 제90조 (제90조제1항은 제외한다)
9	연료장치 (액화석유가스용기를 포함한다)	제17조
10	차대 및 차체 : 측면보호대	제19조제3항
11	후부안전판 (피견인차는 제외한다)	제19조제4항, 제96조
12	입석 승객을 위한 차실 내부 높이 및 너비	제28조, 제31조
13	군용화 장치 : 펀틀후크	제46조
14	후부반사기	제49조, 제107조
15	속도계	제54조제1항, 제110조
16	최고속도제한장치	제54조제2항~제4항, 제110조의2