

CHAPTER NINE

CROSS-BORDER TRADE IN SERVICES

第九章

跨境服务贸易

Article 9.1: Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of the other Party, including measures affecting:

- (a) the production, distribution, marketing, sale, and delivery of a service;
- (b) the purchase or use of, or payment for, a service;
- (c) the access to and use of distribution, transport, or telecommunications networks and services in connection with the supply of a service;
- (d) the presence in its territory of a service supplier of the other Party; and
- (e) the provision of a bond or other form of financial security as a condition for the provision of a service.

2. For the purposes of this Chapter, measures adopted or maintained by a Party means measures adopted or maintained by:

- (a) a national , sub-national, or local government and authority; or
- (b) a non-governmental body of a Party in the exercise of powers delegated by a national, sub-national, or local government and authority of the Party.

3. Notwithstanding paragraph 1, Articles 9.4 and 9.7 apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment¹ as defined in Article 8.45 (Definitions).

¹ For greater certainty, the application of Articles 9.4 and 9.7 to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment is limited by the scope and coverage specified in this Article, subject to any applicable non-conforming measures and exceptions. For greater certainty, this Chapter, including this paragraph, is not subject to investor-State dispute settlement under Section B of Chapter Eight (Investor – State Dispute Settlement).

第9.1条：范围和覆盖范围

1. 本章适用于一方为影响另一方服务供应商跨境服务贸易而采取或维持的措施，包括影响以下方面的措施：

- (a) 服务的生产、分销、营销、销售和交付；(b) 服务的购买或使用，或支付；(c) 在服务提供过程中接入和使用分销、运输或电信网络和服务；(d) 另一方服务供应商在其领土内的存在；以及(e) 作为提供服务条件的保证金或其他形式的金融担保。

2. 就本章而言，一方采取或维持的措施是指一方采取或维持的措施：

- (a) 国家、次国家或地方政府和机构；或 (b) 一方非政府机构在一方国家、次国家或地方政府和机构授权的权力行使过程中。

3. 不论第1段如何规定，第9.4条和第9.7条适用于一方为受覆盖投资¹（根据第8.45条（定义）定义）在其领土内通过受覆盖投资提供服务而采取或维持的措施。

¹ 为明确起见，将第 9.4 条和第 9.7 条适用于一方采取或维持的、影响其领土内受覆盖投资提供服务的措施，其范围和覆盖范围受本条规定的限制，并受任何适用的非符合措施和例外的约束。为明确起见，本章，包括本段，不适用第八章 B 节（投资者-国家争端解决）下的投资者-国家争端解决。

4. This Chapter does not apply to:
- (a) financial services as defined in Article 10.20 (Definitions);
 - (b) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:
 - (i) aircraft repair and maintenance services;
 - (ii) the selling and marketing of air transport services; or
 - (iii) computer reservation system (CRS) services;
 - (c) procurement by a Party or a state enterprise; or
 - (d) subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees, or insurance.
5. This Chapter is not to be construed to impose an obligation on a Party with respect to a national of the other Party seeking access to its employment market, or a national of the other Party employed on a permanent basis in its territory, and does not confer that national a right with respect to that access or employment.
6. This Chapter does not apply to services supplied in the exercise of governmental authority in a Party’s territory.

Article 9.2: National Treatment

1. Each Party shall accord to service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to its own service suppliers.
2. The treatment accorded by a Party under paragraph 1 means, with respect to a sub-national government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that sub-national government to service suppliers of the Party of which it forms a part.

4. 本章不适用于：
- (a) 第10.20条（定义）中定义的金融服务； (b) 航空服务，包括国内和国际航空运输服务，无论是定期还是不定期，以及支持航空服务的相关服务，但不包括： (i) 航空器维修保养服务； (ii) 航空运输服务的销售和营销；或 (iii) 计算机预订系统（CRS）服务； (c) 一方或国有企业的采购；或 (d) 一方或国有企业提供的补贴或拨款，包括政府支持贷款、担保或保险。
5. 本章不得解释为对一方关于寻求接入其就业市场或另一方在其领土上永久性就业的国民施加义务，也不授予该国民关于该接入或就业的权利。
6. 本章不适用于一方在其领土上在行使政府权力时提供的服务。

第九条：国民待遇

1. 每一方应给予另一方的服务提供者不低于其给予本国服务提供者的、在类似情况下相同的待遇。
2. 一方根据第1段给予的待遇，对于次国家政府而言，是指不低于该次国家政府在与该次国家政府构成一部分的一方提供服务提供者相同情况下给予的最优惠待遇。

Article 9.3: Most-Favoured-Nation Treatment

Each Party shall accord to service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to service suppliers of a non-party.

Article 9.4: Market Access

A Party shall not adopt or maintain, either on the basis of its entire territory or on the basis of a sub-national government, a measure that:

- (a) imposes limitations on:
 - (i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;
 - (ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (iii) the total number of service operations or the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test²; or
 - (iv) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the provision of a specific service in the form of numerical quotas or the requirement of an economic needs test; or
- (b) restricts or requires specific types of legal entity or joint venture through which a service supplier may supply a service.

² This sub-subparagraph does not apply to measures of a Party that limit inputs for the supply of services.

第9.3条：最惠国待遇

每一方应当给予另一方提供服务提供者的待遇，不低于其在相同情况下给予非缔约方服务提供者的待遇。

第9.4条：市场准入

一方不得在其全部领土或基于次国家政府的基础上采取或维持任何措施，该措施：

- (a) 对以下方面施加限制：
 - (i) 服务提供者的数量，无论以数量配额、垄断、独家服务供应商的形式，还是要求进行经济需要测试；(ii) 服务交易或资产的总价值，以数量配额的形式或要求进行经济需要测试；(iii) 服务运营的总数量或以指定数量单位表示的服务产出总量，以配额的形式或要求进行经济需要测试²；或(iv) 在特定服务部门可能雇用的自然人数总量或服务供应商可以雇用并直接必要于提供特定服务的自然人数，以数量配额的形式或要求进行经济需要测试；或
- (b) 限制或要求服务供应商必须通过特定的法律实体或合资企业来提供服务。

² 本款下款不适用于一方限制服务供应投入的措施。

Article 9.5: Local Presence

A Party shall not require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 9.6: Non-Conforming Measures

1. Articles 9.2 through 9.5 do not apply to:
 - (a) an existing non-conforming measure that is maintained by:
 - (i) the national government of a Party, as set out in its Schedule to Annex I;
 - (ii) a sub-national government of a Party as set out by that Party in its Schedule to Annex I³; or
 - (iii) a local government of a Party⁴;
 - (b) the continuation or prompt renewal of a non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 9.2 through 9.5.
2. Articles 9.2 through 9.5 do not apply to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in its Schedule to Annex II.
3. Annex 9-A sets out specific commitments with regard to consultation regarding a non-conforming measure adopted or maintained by a sub-national government.

³ For the purposes of this Article, sub-national government does not include local government.

⁴ For Korea, local government means a local government as defined in the *Local Autonomy Act*.

第9.5条：本地存在

一方不得要求另一方服务供应商设立或维持代表处或任何形式的企业，或在其领土内居住，作为跨境提供服务的前提条件。

第9.6条：非符合措施

1. 第9.2条至第9.5条不适用于：
 - (a) 一个由以下机构维持的现有不符合措施：(i) 一方根据其附件I的附录所列的中央政府；(ii) 一方根据该方在其附件I的附录中规定设立的次国家政府³；或 (iii) 一方的本地政府⁴；(b) 指在子句(a)中提到的非符合措施的延续或及时更新；或 (c) 对在子句(a)中提到的非符合措施的修订，只要该修订不会降低该措施在修订前与第9.2条至第9.5条的一致性。
2. 第9.2条至第9.5条不适用于一方根据其附件II所列的关于部门、子部门或活动的措施。
3. 附件9-A规定了次国家政府采用或维持的非符合性措施的相关磋商的具体承诺。

³ 根据本条文的定义，次国家政府不包括地方政府。⁴ 对于韩国，地方政府是指根据《地方自治法》定义的地方政府。

Article 9.7: Domestic Regulation

1. If a Party requires authorisation for the supply of a service covered by this Chapter, the Party, through its competent authorities, shall, within a reasonable period of time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the Party, through its competent authorities, shall provide, without undue delay, information concerning the status of the application.
2. The Parties note their mutual obligations related to domestic regulation in Article VI:4 of the GATS and affirm their commitment respecting the development of any necessary disciplines pursuant to Article VI:4 of the GATS. To the extent that any such disciplines are adopted by the WTO Members, the Parties shall, as appropriate, review them jointly with a view to determining whether this Article needs to be supplemented.

Article 9.8: Recognition

1. For the purposes of fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing, or certification of service suppliers, and subject to the requirements of paragraph 5, a Party may recognise the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonisation or otherwise, may be based on an agreement or arrangement with the country concerned or may be accorded autonomously.
2. If a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted in the territory of a non-party, Article 9.3 is not to be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licenses or certifications granted in the territory of the other Party.
3. On request of the other Party, a Party shall promptly provide information, including appropriate descriptions, concerning a recognition agreement or arrangement that the Party or relevant bodies in its territory have concluded.

第9.7条：国内法规

1. 如果一方需要就本章涵盖的服务提供获得授权，该一方应通过其主管当局，在提交的申请被其法律法规认为完整后的合理期限内，通知申请人有关该申请的决定。应申请人的要求，该一方应通过其主管当局，在不合理延迟的情况下，提供有关该申请地位的资讯。
2. 缔约方注意到其关于国内法规的相互义务，这些义务与GATS第六条：4款相关，并重申其尊重根据GATS第六条：4款制定任何必要纪律的承诺。在WTO成员采用此类纪律的情况下，缔约方应根据需要，联合审查这些纪律，以确定本条是否需要补充。

第9.8条：承认

1. 为履行其关于服务提供者授权、许可或认证的标准或标准的目的，在全部或部分情况下，并遵守第5段的要求，一方可以承认在特定国家获得的教育或经验、满足的要求或授予的许可证或认证。此类承认可以通过协调或其他方式实现，可以基于与有关国家的协议或安排，也可以自主给予。
2. 如果一方承认，无论是自主地还是通过协议或安排，在非缔约方的领土内获得的教育或经验、满足的要求或授予的许可证或认证，第9.3条不应被解释为要求该方承认在另一方领土内获得的教育或经验、满足的要求或授予的许可证或认证。
3. 根据另一方的要求，一方应及时提供信息，包括适当的描述，有关该方或其领土内的相关机构已缔结的承认协议或安排。

4. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate accession to such an agreement or arrangement or to negotiate a comparable one with that other Party. If a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licenses, or certifications obtained or requirements met in that other Party's territory should be recognised.

5. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing, or certification of service suppliers, or a disguised restriction on trade in services.

6. The Parties shall endeavour to ensure that the relevant bodies in their respective territories:

- (a) exchange information and enter into negotiations with the relevant bodies of the other Party to develop an agreement or arrangement referred to in paragraph 1;
- (b) meet within 12 months of the date of entry into force of this Agreement, to develop an agreement or arrangement referred to in paragraph 1, for sectors set out in Annex 9-B;
- (c) be guided by Annex 9-C for the negotiations of such agreement or arrangement; and
- (d) provide notification following the conclusion of an agreement or arrangement to the Commission.

7. On receipt of a notification referred to in paragraph 6(d), the Commission shall review the agreement or arrangement within a reasonable period of time to determine whether it is consistent with this Agreement. Based on the Commission's review, each Party shall ensure that its respective competent authorities, if appropriate, implement the agreement or arrangement within a mutually agreed period of time.

4. 参与第1段所述类型协议或安排的一方，无论是现有的还是未来的，如果另一方有兴趣，应给予另一方充分的机会，以谈判加入该协议或安排或与另一方谈判一个可比较的协议。如果一方自主给予承认，应给予另一方充分的机会，以证明在该另一方领土内获得的教育、经验、许可证或认证或满足的要求应予承认。

5. 一方不得以构成在应用其标准或标准来授权、许可或认证服务提供者的方式授予承认，或以隐蔽方式限制服务贸易，从而在各国之间进行歧视。

6. 缔约方应努力确保其各自领土内的相关机构：

- (a) 交换信息并与另一方的相关机构进行谈判，以发展第1段中提到的协议或安排；(b)在本协议生效之日起12个月内会晤，以发展第1段中提到的协议或安排，适用于附件9-B中列出的部门；(c)在谈判此类协议或安排时应遵循附件9-C；以及(d)在达成协议或安排后向委员会提供通知。

7. 收到第6(d)段所述的通知后，委员会应在合理的时间内审查协议或安排，以确定其是否符合本协议。基于委员会的审查，每一方应确保其各自的主管当局，如适用，在协商一致的时间内实施协议或安排。

Article 9.9: Temporary Licensing

1. If the Parties agree, each Party shall encourage the relevant bodies in its territory to develop procedures for the temporary licensing of professional service suppliers of the other Party.
2. Notwithstanding Article 9.8, each Party shall endeavour to ensure that the relevant bodies in their respective territories:
 - (a) exchange information and enter into negotiations with the relevant bodies of the other Party to develop procedures for the temporary licensing of professional service suppliers of the other Party;
 - (b) meet within 12 months of the date of entry into force of this Agreement, to develop procedures referred to in subparagraph (a) for the sectors set out in Annex 9-B;
 - (c) be guided by Annex 9-C for the negotiations concerning procedures referred to in subparagraph (a); and
 - (d) provide notification to the Commission regarding the implementation of any such procedures by the relevant bodies in the Parties’ respective territories.
3. On receipt of a notification referred to in paragraph 2(d), the Commission shall review the procedures within a reasonable period of time to determine whether they are consistent with this Agreement. Based on the Commission’s review, each Party shall ensure that its respective competent authorities, if appropriate, implement the procedures within a mutually agreed period of time.
4. If a relevant body in the territory of a Party implements procedures for the temporary licensing of professional service suppliers of a non-party, the Party shall notify the existence of such procedures promptly to the other Party and shall, within a reasonable period of time, provide information on the terms and conditions that were agreed upon for the implementation of the procedures.

第9.9条：临时许可

1. 如果缔约方同意，每一方应鼓励其领土内的相关机构制定临时许可另一方专业服务供应商的程序。
2. 不论第9.8条如何规定，每一方应努力确保其各自领土内的相关机构：
 - (a) 与另一方的相关机构交换信息并进行谈判，以制定对另一方专业服务供应商进行临时许可的程序；(b) 在本协议生效之日起12个月内会晤，以制定第9-B附件中规定的部门的相关程序；(c) 在关于第(a)项所述程序的谈判中，以第9-C附件为指导；以及(d) 向委员会提供通知，说明相关机构在缔约方各自领土内实施此类程序的任何情况。
3. 收到第2(d)段所述的通知后，委员会应在合理的时间内审查该程序，以确定其是否符合本协议。根据委员会的审查结果，每一方应确保其各自的主管当局，如适用，在协商一致的时间内实施该程序。
4. 如果一方在其领土内的相关机构实施了针对非缔约方的专业服务供应商的临时许可程序，该方应迅速通知另一方此类程序的存在，并在合理期限内提供有关实施程序所商定的条款和条件的详细信息。

Article 9.10: Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-party, and the denying Party adopts or maintains measures with respect to the non-party or a person of the non-party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.
2. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-party or of the denying Party that has no substantial business activities in the territory of the other Party.

Article 9.11: Payments and Transfers

1. Each Party shall permit all payments and transfers relating to the cross-border supply of services to be made freely and without delay into and out of its territory.
2. Each Party shall permit such payments and transfers relating to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing at the time of payment or transfer.
3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a payment or transfer through the equitable, non-discriminatory, and good faith application of its law relating to:
- (a) bankruptcy, insolvency, or the protection of the rights of creditors;
 - (b) issuing, trading, or dealing in securities, futures, options, or derivatives;
 - (c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
 - (d) criminal or penal offences; or

第9.10条：拒绝利益

1. 如果一方服务供应商属于非缔约方所有或控制的企业，且拒绝方针对非缔约方或非缔约方人士采取或维持的措施禁止与该企业进行交易，或者如果本章节的条款给予该企业利益，这些措施将被违反或规避，则一方可以拒绝给予另一方该服务供应商本章的益处。
2. 一方可以拒绝向另一方服务供应商提供本章的利益，如果该服务供应商是受非缔约方或拒绝方人员拥有或控制的企业，且该企业在另一方的领土内没有实质性的业务活动。

第9.11条：付款和转账

1. 每一方应允许与跨境服务供应相关的所有付款和转账自由且无延迟地进入和离开其领土。
2. 每一方应允许与跨境服务供应相关的付款和转账以支付时或转账时有效的市场汇率为自由使用货币进行。
3. 尽管有第1段和第2段的规定，一方可以通过对其与以下相关的法律进行公平、非歧视性、善意的适用来阻止或延迟付款或转账：
- (a) 破产、资不抵债或保护债权人权利；
 - (b) 发行、交易或处理证券、期货、期权或衍生品；
 - (c) 在必要时协助执法或金融监管机构时进行转账的财务报告或记录保存；
 - (d) 刑事或刑事犯罪；或

- (e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

Article 9.12: Definitions

For the purposes of this Chapter:

aircraft repair and maintenance services means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance;

computer reservation system (CRS) services means services supplied by computerised systems that contain information about air carriers’ schedules, availability, fares, and fare rules, through which reservations can be made or tickets may be issued;

cross-border trade in services or **cross-border supply of services** means the supply of a service:

- (a) from the territory of a Party into the territory of the other Party;
- (b) in the territory of a Party by a person of that Party to a person of the other Party; or
- (c) by a national of a Party in the territory of the other Party,

but does not include the supply of a service in the territory of a Party by a covered investment, as defined in Article 8.45 (Definitions);

enterprise means an “enterprise” as defined in Article 1.8 (Definitions of General Application) and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organised under the domestic law of a Party, and a branch of that enterprise located in the territory of a Party and carrying out business activities there;

professional services means services, the supply of which requires specialised post-secondary education, or equivalent training or experience or examination, and for which the right to practice is granted or restricted by a Party, but does not include services supplied by tradespersons or crew members of a vessel or aircraft;

selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising, and distribution, but does not include the pricing of air transport services nor the applicable conditions;

- (e) 确保遵守司法或行政程序中的命令或判决。

第9.12条：定义

本章规定中：

航空器维修保养服务是指当航空器或其一部分在停用时进行的此类活动，不包括所谓的航线维护；

计算机预订系统（CRS）服务是指由包含航空承运人时刻表、可用性、票价和票价规则信息的计算机系统提供的服务，通过这些系统可以进行预订或签发机票；

跨境服务贸易或跨境服务供应是指服务的提供：

- (a) 从一方领土到另一方领土； (b) 在一方领土内由该方人员向另一方人员提供服务；或 (c) 由一方国民在另一方领土内提供服务，但不包括根据第 8.45条（定义）在一方领土内由受覆盖投资提供的服务；

企业是指根据第1.8条（一般适用定义）中定义的“企业”，以及企业的分支机构；

一方企业是指根据一方国内法律成立或组织的企业，以及位于一方领土内并从事业务活动的该企业的分支机构；

专业服务是指需要专门的高等后教育、或同等培训或经验或考试的服务，并且其执业权由一方授予或限制，但不包括由船员或飞机乘务员提供的服务；

航空运输服务的销售和营销是指相关航空公司销售和自由营销其航空运输服务的机会，包括营销的所有方面，如市场调研、广告和分销，但不包括航空运输服务的定价或适用条件；

service supplied in the exercise of governmental authority means a service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers; and

service supplier of a Party means a person of that Party that seeks to supply or supplies a service⁵.

⁵ For the purposes of Articles 9.2 and 9.3, the treatment that a Party is required to accord to a service supplier of the other Party pursuant to these Articles extends to the relevant services supplied by that service supplier. For the purposes of Articles 9.2 and 9.3, “service suppliers” has the same meaning as “services and service suppliers” as used in Articles XVII and II of the GATS, respectively.

政府行使权力中提供的劳务是指既非以商业为基础提供，也未与一个或多个服务提供者竞争的服务；和

一方服务供应商是指寻求供应或供应服务的该方人员⁵。

⁵ 根据第9.2条和第9.3条的规定，一方根据这些条款应给予另一方服务供应商的待遇，适用于该服务供应商提供的有关服务。根据第9.2条和第9.3条的规定，“服务提供者”的含义与GATS第XVII条和第II条中使用的“服务和服务提供者”相同。

Annex 9-A

**Consultations Regarding Non-Conforming Measures
Maintained by a Sub-National Government**

If a Party considers that an Annex I non-conforming measure applied by a sub-national government of the other Party creates a material impediment to a service supplier of the Party, an investor of the Party, or a covered investment, it may request consultations with regard to that measure. If a Party considers that an Annex I non-conforming measure applied by a sub-national government of the other Party prevents the development of a mutual recognition agreement or arrangement or prevents a service supplier of a Party from receiving the benefits of such an agreement or arrangement, it may also request consultations with regard to that measure. The Parties shall enter into consultations with a view to exchanging information on the operation of the measure and to considering whether further steps are necessary and appropriate.

附件9-A

关于次国家政府维持的非符合措施磋商

如果一方认为另一方次国家政府适用的附件I非符合性措施对一方的服务供应商、一方的投资者或受覆盖投资造成了实质性障碍，它可以就该项措施请求磋商。如果一方认为另一方次国家政府适用的附件I非符合性措施阻止了相互承认协议或安排的达成或阻止了一方的服务供应商获得该协议或安排的利益，它也可以就该项措施请求磋商。缔约方应进行磋商，以交换有关该措施运作的信息，并考虑是否需要并适当采取进一步步骤。

Sectors to be Developed: Mutual Recognition Agreements or Arrangements

- 1. Engineering Services
- 2. Architectural Services
- 3. Veterinary Services

待发展领域：相互承认协议或安排

- 1. 工程服务 2. 建筑服务 3.
- 兽医服务

**Guidelines for Mutual Recognition Agreements
or Arrangements for the Professional Services Sector**

Introductory Notes

This Annex provides practical guidance for governments, negotiating entities or other entities entering into mutual recognition negotiations for the professional services sector. These guidelines are non-binding and are intended to be used by the Parties on a voluntary basis. They do not modify or affect the rights and obligations of the Parties under this Agreement.

The objective of these guidelines is to facilitate the negotiation of mutual recognition agreements or arrangements (hereinafter referred to as “MRAs”).

The examples listed under this Annex are provided by way of illustration. The listing of these examples is indicative and is intended neither to be exhaustive, nor as an endorsement of the application of such measures by the Parties.

Section A – Conduct of Negotiations and Relevant Obligations

Introductory Note

With reference to the obligations of the Parties under Article 9.8, this Section sets out elements considered useful in the discharge of these obligations.

Opening of Negotiations

1. The information supplied by a Party to the Commission should include the following:
 - (a) the intent to enter into negotiations;
 - (b) the entities involved in discussions (for example, governments, national organisations in the professional services sector or institutes which have authority, statutory or otherwise, to enter into such negotiations);

专业服务部门互认协议或安排指南

引言

本附件为政府、谈判方或其他实体进行专业服务部门互认谈判提供实用指南。这些指南具有非约束性，旨在由缔约方在自愿基础上使用。它们不修改或影响缔约方在本协议项下的权利和义务。

本指南的目的是促进互认协议或安排（以下简称“互认协议”）的谈判。

本附件列出的示例旨在说明。这些示例的列举是指示性的，既不旨在详尽，也不作为缔约方应用此类措施认可。

A部分——谈判行为和相关义务

引言

根据第9.8条中缔约方的义务，本节列出了在履行这些义务时被认为有用的要素。

谈判开启

1. 一方向委员会提供的信息应包括以下内容：
 - (a) 进入谈判的意向；
 - (b) 参与讨论的实体（例如，专业服务部门中的政府、国家组织或有权进行此类谈判的机构）；

- (c) a contact point to obtain further information;
- (d) the subject of the negotiations (specific activity covered); and
- (e) the expected time of the start of negotiations and an indicative date for the expression of interest by third parties.

Results

2. Upon the conclusion of an MRA by a Party, the information it should supply to the Commission includes:
- (a) the content of a new MRA; or
 - (b) the significant modifications to an existing MRA.

Follow-up Actions

3. Follow-up actions by a Party supplying information under paragraph 1 include ensuring that:
- (a) the conduct of negotiations and the MRA comply with the provisions of this Chapter, and in particular, Article 9.8; and
 - (b) the Party adopts measures and undertakes actions required to ensure the implementation and monitoring of the MRA in accordance with Article 9.8.7.

Single Negotiating Entity

4. Where no single negotiating entity exists, the Parties are encouraged to establish one.

Section B – Form and Content of MRAs

Introductory Note

This Section sets out various issues that may be addressed in MRA negotiations and, if so agreed during the negotiations, included in the MRA. It includes some basic ideas on what a Party might require of foreign professionals seeking to take advantage of an MRA.

- (c) 获取进一步信息的联系点；(d) 谈判的主题（涵盖的具体活动）；以及
- (e) 谈判开始预计时间和对第三方表达兴趣的指示性日期。

结果

2. 当一方缔结MRA时，其应向委员会提供的信息包括：
- (a) 新MRA的内容；或 (b) 现有MRA的重大修改。

后续行动

3. 一方根据第1段提供信息所采取的后续行动包括确保：
- (a) 谈判行为和MRA符合本章的规定，特别是第9.8条；以及 (b) 一方采取措施并采取行动，以确保根据第9.8.7条实施和监督MRA。

单一谈判实体

4. 当不存在单一谈判实体时，缔约方被鼓励建立一个。

B部分 – 互认安排的形式和内容

引言

本节列出了在MRA谈判中可能解决的问题，并在谈判中达成一致的情况下，将其纳入MRA。它包括一些关于一方可能要求寻求利用MRA的外国专业人士的基本想法。

Participants

5. The MRA should identify clearly:
- (a) the parties to the MRA (for example, governments, national professional organisations, or institutes);
 - (b) competent authorities or organisations other than the parties to the MRA, if any, and their position in relation to the MRA; and
 - (c) the status and area of competence of each party to the MRA.

Purpose of the MRA

6. The purpose of the MRA should be clearly stated.

Scope of the MRA

7. The MRA should set out clearly:
- (a) its scope in terms of the specific profession or titles and professional activities it covers in the territories of the Parties;
 - (b) who is entitled to use the professional titles concerned;
 - (c) whether the recognition mechanism is based on qualifications, on the licence obtained in the country of origin or on some other requirement; and
 - (d) whether it covers temporary access, permanent access, or both, to the profession concerned.

MRA Provisions

8. The MRA should clearly specify the conditions to be met for recognition in the territories of each Party and the level of equivalence agreed between the parties to the MRA. The precise terms of the MRA depend on the basis on which the MRA is founded, as discussed above. In case the requirements of the various sub-national jurisdictions of a party to an MRA are not identical, the difference should be clearly presented. The MRA should address the applicability of the recognition granted by one sub-national jurisdiction in the other sub-national jurisdictions of the party to the MRA.

参与者

5. 互认安排应明确说明：
- (a) 互认安排的缔约方（例如，政府、国家专业组织或机构）；(b) 互认安排的缔约方以外的主管当局或组织，如有，及其与互认安排的关系；以及(c) 互认安排每一缔约方的地位和管辖范围。

互认安排的目的

6. 互认安排的目的应明确说明。

互认安排的范围

7. 互认安排应明确列出：
- (a) 其涵盖缔约方领土内特定职业或头衔及专业活动的范围；(b) 有权使用相关专业头衔的人员；(c) 认可机制是否基于资格、原籍国的许可证或其他要求；以及(d) 是否涵盖有关专业的临时准入或永久准入，或两者兼有。

互认安排的规定

8. 互认安排应明确说明每一方领土内应满足的认可条件以及互认安排的缔约方之间同意的对等水平。互认安排的确切条款取决于其成立的基础，如上所述。如果一方互认安排的各地方当局的要求不相同，则应清楚说明差异。互认安排应解决一方地方当局授予的认可在另一方地方当局的适用性。

Eligibility for Recognition - Qualifications

9. If the MRA is based on recognition of qualifications, then it should, where applicable, state:
- (a) the minimum level of education required (including entry requirements, length of study, and subjects studied);
 - (b) the minimum level of experience required (including location, length, and conditions of practical training or supervised professional practice prior to licensing, and framework of ethical and disciplinary standards);
 - (c) examinations passed, especially examinations of professional competence;
 - (d) the extent to which home country qualifications are recognised in the host country; and
 - (e) the qualifications which the parties are prepared to recognise, for instance, by listing particular diplomas or certificates issued by certain institutions, or by reference to particular minimum requirements to be certified by the authorities of the country of origin, including whether the possession of a certain level of qualification would allow recognition for some activities but not others.

Eligibility for Recognition - Registration

10. If the MRA is based on recognition of the licensing or registration decision made by regulators in the country of origin, it should specify the mechanism by which eligibility for such recognition may be established.
11. (a) Where it is considered necessary to provide for additional requirements in order to ensure the quality of the service, the MRA should set out the conditions under which those requirements may apply, for example, in case of shortcomings in relation to qualification requirements in the host country or knowledge of local law, practice, standards, and regulations. This knowledge should be essential for practice in the host country or required because there are differences in the scope of licensed practice.

承认资格 - 资格

9. 如果互认安排基于资格的认可，则应在其适用范围内说明：
- (a) 所要求的最低教育水平（包括入学要求、学习年限和所学科目）；(b) 所要求的最低经验水平（包括地点、年限以及许可前实践培训或受监督的专业实践的条件，以及道德和纪律标准的框架）；(c) 通过的考试，尤其是专业能力考试；(d) 本国资格在东道国得到承认的程度；以及(e) 各方准备承认的资格，例如，通过列出由某些机构签发的特定文凭或证书，或参考需要由来源国当局认证的特定最低要求，包括是否拥有一定水平的资格将允许对某些活动承认但对其他活动不承认。

承认资格 - 注册

10. 如果MRA基于来源国监管机构做出的许可或注册决定，则应说明如何建立此类承认的资格的机制。
11. (a) 当认为需要提供附加要求以确保服务质量时，MRA 应规定这些要求可能适用的条件，例如，在东道国资格要求存在缺陷或对地方法律、实践、标准和法规缺乏了解的情况下。这种知识对于在东道国实践或因许可实践范围存在差异而必须具备。

- (b) Where additional requirements are deemed necessary, the MRA should set out in detail what they entail (for example, examination, aptitude test, additional practice in the host country or in the country of origin, practical training, and language used for examination).

Mechanisms for Implementation

- 12. The MRA should state:
 - (a) the rules and procedures to be used to monitor and enforce the provisions of the MRA;
 - (b) the mechanisms for dialogue and administrative cooperation between the parties; and
 - (c) the means of arbitration for disputes under the MRA.
- 13. As a guide to the treatment of individual applicants, the MRA should include details on:
 - (a) the focal point of contact in each party for information on all issues relevant to the application (name and address of competent authorities, licensing formalities, information on additional requirements which need to be met in the host country, etc.);
 - (b) the length of procedures for the processing of applications by the relevant authorities of the host country;
 - (c) the documentation required of applicants and the form in which it should be presented and any time limits for applications;
 - (d) acceptance of documents and certificates issued in the country of origin in relation to qualifications and licensing;
 - (e) the procedures of appeal to or review by the relevant authorities; and
 - (f) the fees that might be reasonably required.
- 14. The MRA should also include the following commitments:
 - (a) that requests about the measures will be promptly dealt with;

- (b) 当认为需要附加要求时，MRA 应详细说明其具体内容（例如，考试、能力测试、在东道国或来源国的额外实践、实践培训以及考试语言）。

实施机制

- 12. MRA 应规定：
 - (a) 用于监控和执行 MRA 规定的规则和程序；(b) 缔约方之间对话和行政合作的机制；以及 (c) 根据 MRA 解决争议的仲裁方式。
- 13. 作为指导个人申请处理的指南，MRA 应包括以下详细信息：
 - (a) 每一方负责所有与申请相关问题的联系点信息（主管当局名称和地址、许可程序、在东道国需要满足的附加要求信息等）；(b) 东道国相关当局处理申请的程序长度；(c) 申请人需要提交的文件、应提交的文件形式以及申请的时间限制；(d) 接受在来源国签发的与资格和许可相关的文件和证书；(e) 向或由相关当局提出申诉或审查的程序；以及 (f) 可能合理要求收取的费用。
- 14. MRA 还应包括以下承诺：
 - (a) 有关措施的要求将得到及时处理；

- (b) that adequate preparation time will be provided where necessary;
- (c) that any exams or tests will be arranged with reasonable periodicity;
- (d) that fees to applicants seeking to take advantage of the terms of the MRA will be in proportion to the cost to the host country or organisation; and
- (e) that information on any assistance programmes in the host country for practical training, and any commitments of the host country in that context, be supplied.

Licensing and Other Provisions in the Host Country

15. Where applicable:
- (a) the MRA should also set out the means by which, and the conditions under which, a licence is actually obtained following the establishment of eligibility, and what such licence entails (a licence and its content, membership of a professional body, use of professional or academic titles, etc.);
 - (b) a licensing requirement, other than qualifications, should include, for example:
 - (i) an office address, an establishment requirement, or a residency requirement;
 - (ii) a language requirement;
 - (iii) proof of good conduct and financial standing;
 - (iv) professional indemnity insurance;
 - (v) compliance with host country’s requirements for use of trade or firm names; and
 - (vi) compliance with host country ethics, for instance independence and incompatibility;
 - (c) in order to ensure the transparency of the system, the MRA should include the following details for each party:
 - (i) the relevant laws and regulations to be applied (disciplinary action, financial responsibility, liability, etc.);

(b) 在必要时将提供充足的准备时间； (c) 任何考试或测试都将合理定期安排； (d) 享受MRA条款的申请人的费用将与东道国或组织的成本成比例；以及 (e) 提供有关东道国为实践培训提供的任何援助计划以及东道国在此背景下的任何承诺的信息。

东道国的许可及其他规定

15. 如适用：
- (a) MRA 还应说明其制定的方式以及其制定的条件
r
哪项，在资格确立后实际上会获得许可，以及此类许可包含的内容（许可及其内容、专业机构成员资格、使用专业或学术头衔等）； (b) 除资格要求外，许可要求应包括，例如： (i) 办公地址、设立要求或居住要求； (ii) 语言要求； (iii) 良好行为和财务状况证明； (iv) 职业赔偿保险； (v) 遵守东道国关于使用贸易或公司名称的要求；以及 (vi) 遵守东道国道德规范，例如独立性和不相容性。
 - (c) 为了确保系统的透明度， MRA 应为每一方包含以下详细信息：
 - (i) 应适用的相关法律法规（纪律处分、财务责任、责任等）；

- (ii) the principles of discipline and enforcement of professional standards, including disciplinary jurisdiction and any consequential limitations on the professionals;
- (iii) the means for ongoing verification of competence;
- (iv) the criteria for, and procedures relating to, revocation of the registration of professionals; and
- (v) regulations relating to any nationality and residency requirements needed for the purposes of the MRA.

Revision of the MRA

16. If the MRA includes terms under which it can be reviewed or revoked, the details of such terms should be clearly stated.

(ii) 纪律和执行专业标准的准则，包括纪律管辖权和对专业人士的后果性限制； (iii) 持续能力验证的方式； (iv) 专业人士注册撤销的标准和相关程序； 以及 (v) 与国籍和居住要求相关的法规，这些要求对于实现MRA的目的是必要的。

MRA 的修订

16. 如果MRA包括可以审查或撤销的条款，则此类条款的详细信息应明确说明。

September 22, 2014

2014年9月22日

Mr. Ian Burney
Chief Negotiator for Canada
Ottawa, Canada

伊恩·伯尼先生 加拿大首席
谈判代表 加拿大渥太华

Dear Mr. Ian Burney,

尊敬的伊恩·伯尼先生

I have the honour to confirm the following understandings reached between the delegations of the Republic of Korea and Canada during the course of negotiations regarding Chapters Eight (Investment) and Nine (Cross-Border Trade in Services) of the Free Trade Agreement between our two Governments:

我谨确认韩国代表团和加拿大代表团在谈判过程中就我们两国政府自由贸易协定第八章（投资）和第九章（跨境服务贸易）达成的以下共识：

- (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 8.8 (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 Free Trade Agreement, such restrictions are not inconsistent with Article 9.4 (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. 11690, 23 March 2013). The Parties shared the understanding that such restrictions are not inconsistent with Article 9.4 (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 organised under Korean law, or with foreign higher education institutions that have obtained accreditation from a foreign government or authorised foreign accreditation bodies. The Parties shared the understanding that such a measure is not inconsistent with Articles 8.3 (National Treatment) and 9.2 (National Treatment).

(1) 在谈判过程中，缔约方讨论了与资源回收和鼓励低排放汽车分销政策相关的某些措施。缔约方达成共识，这些措施与以下内容相关：(i) 回收产品和包装材料的义务；(ii) 提交回收绩效计划和结果；(iii) 支付适用的回收费；(iv) 分销一定比例低排放汽车的义务；以及 (v) 提交和批准分销低排放汽车的计划，这些措施与第8.8条（绩效要求）不一致。

(2) 在谈判过程中，缔约方讨论了禁止企业同时持有两个或多个营业执照以提供不同服务的法规。缔约方达成共识，就自由贸易协定而言，此类限制与第9.4条（市场准入）不一致。(3) 在谈判过程中，缔约方讨论了根据首尔都市区域调整规划法案（第11690号法律，2013年3月23日）在特定地理区域内设立、延期或转让教育机构的现有法规。缔约方达成共识，此类限制与第9.4条（市场准入）不一致。

(4) 在谈判中，缔约方讨论了一项措施，该措施允许当地高等教育机构只能与根据韩国法律组织的高等教育机构，或已从外国政府或授权的外国认证机构获得认证的外国高等教育机构联合运营课程。缔约方认为此类措施与第8.3条（国民待遇）和第9.2条（国民待遇）不一致。

- (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. 11873, 7 June, 2013) and its subordinate regulations. The Parties shared the understanding that such measure is not inconsistent with Article 8.8 (Performance Requirements), 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 9.4 (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 9.4 (Market Access).

I have the honour 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,

Kyong-lim Choi
Chief Negotiator for the Republic
of Korea

- (5)

在谈判期间，缔约方讨论了一项可能建立关于根据《酒精法》（第11873号法律，2013年6月7日）及其附属法规生产酒精的原料类型和数量要求的措施。缔约方认为，只要此类措施以与《与贸易有关的投资措施协定》一致的方式实施，则与第8.8条（绩效要求）不一致。
- (6)

在谈判中，缔约方讨论了控制铁路运输公司停止提供服务能力的法规，包括公司的关闭或清算。缔约方认为此类限制与第9.4条（市场准入）并不矛盾。
- (7)

在谈判中，缔约方讨论了区域规划和土地利用的法规。缔约方认为涉及区域规划和土地利用的措施与第9.4条（市场准入）并不矛盾。

本人荣幸地提议，本函及贵方回函确认贵国政府认同这些理解，应构成自由贸易协定的组成部分。

此致，

金容林先生 韩国首席谈判代表

September 22, 2014

2014年9月22日

Mr. Kyong-lim Choi
Chief Negotiator for the Republic
of Korea
Seoul, Korea

金容林先生 韩国首席谈判代表
韩国首尔

Dear Mr. Kyong-lim Choi,

尊敬的金容林先生,

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

本人荣幸收到贵方本日来函，内容如下：

I have the honour to confirm the following understandings reached between the delegations of the Republic of Korea and Canada during the course of negotiations regarding Chapters Eight (Investment) and Nine (Cross-Border Trade in Services) of the Free Trade Agreement between our two Governments:

本人荣幸确认大韩民国和加拿大代表团在谈判过程中就自由贸易协定中第八章（投资）和第九章（跨境服务贸易）达成的以下共识：

- (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 8.8 (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 Free Trade Agreement, such restrictions are not inconsistent with Article 9.4 (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. 11690, 23 March 2013). The Parties shared the understanding that such restrictions are not inconsistent with Article 9.4 (Market Access).

(1) 在谈判过程中，缔约方讨论了与资源回收和鼓励低排放汽车分销政策相关的某些措施。缔约方认为，这些措施与：(i) 回收产品和包装材料的义务；(ii) 提交回收绩效计划和结果；(iii) 支付适用的回收费；(iv) 分销一定比例低排放汽车的义务；以及 (v) 提交和批准分销低排放汽车的计划；不与第8.8条（绩效要求）不一致。

(2) 在谈判中，缔约方讨论了禁止企业同时持有两个或多个营业执照以提供不同服务的法规。缔约方认为，就自由贸易协定而言，此类限制与第9.4条（市场准入）并不一致。

(3) 在谈判中，缔约方讨论了根据《首尔都市区域调整规划法案》（第11690号法律，2013年3月23日）在特定地理区域内适用于教育机构设立、延期或转让的现有法规。缔约方分享了对这些限制与第9.4条（市场准入）不一致的理解。

- (4)

During the negotiations, the Parties discussed a measure that allows local higher education institutions to jointly operate curricula only with higher education institutions organised under Korean law, or with foreign higher education institutions that have obtained accreditation from a foreign government or authorised foreign accreditation bodies. The Parties shared the understanding that such a measure is not inconsistent with Articles 8.3 (National Treatment) and 9.2 (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. 11873, 7 June, 2013) and its subordinate regulations. The Parties shared the understanding that such measure is not inconsistent with Article 8.8 (Performance Requirements), 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 9.4 (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 9.4 (Market Access).

I have the honour 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 honour 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,

Ian Burney
Chief Negotiator for Canada

(4) 在谈判中，缔约方讨论了一项措施，该措施允许地方高等教育机构仅与根据韩国法律组织的高等教育机构，或已从外国政府或授权的外国认证机构获得认证的外国高等教育机构联合运营课程。缔约方分享了对该措施与第8.3条（国民待遇）和第9.2条（国民待遇）不一致的理解。

(5) 在谈判中，缔约方讨论了一项可能建立要求的措施，涉及根据《酒精法》（第11873号法律，2013年6月7日）及其附属法规生产酒精所使用的原材料类型和数量。缔约方认为，只要该措施以与《与贸易有关的投资措施协定》一致的方式实施，则该措施与第8.8条（绩效要求）不一致。

(6) 在谈判中，缔约方讨论了控制铁路运输公司停止提供服务能力的法规，包括公司的关闭或清算。缔约方认为，此类限制与第9.4条（市场准入）不一致。

(7) 在谈判中，缔约方讨论了区域规划和土地利用的法规。缔约方认为，涉及区域规划和土地利用的措施与第9.4条（市场准入）不一致。

本人荣幸地提议，本函及贵方确认贵国政府同意这些理解的回函应构成自由贸易协定的组成部分。

我有幸进一步确认，我的政府分享这些理解，并且您的信件和这封回复信将构成自由贸易协定的组成部分。

诚挚地,

伊恩·伯尼 加拿大首席谈判代表

September 22, 2014

Mr. Ian Burney
Chief Negotiator for Canada
Ottawa, Canada

Dear Mr. Ian Burney,

I have the honour to confirm the following understanding reached between the delegations of the Republic of Korea and Canada during the course of negotiations regarding Chapters Eight (Investment) and Nine (Cross-Border Trade in Services) of the Free Trade Agreement between our two Governments:

Notwithstanding Article 8.1 (Scope and Coverage) or 9.1 (Scope and Coverage), cross-border trade in gambling and betting services¹ is not subject to Chapter Nine (Cross-Border Trade in Services) and investment in gambling and betting services is not subject to Chapter Eight (Investment).

For greater certainty, each Party retains the right to adopt or maintain any measure in relation to betting and gambling services, in accordance with its respective laws or regulations.

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

Sincerely,

Kyong-lim Choi
Chief Negotiator for the Republic
of Korea

¹ For greater certainty, “gambling and betting services” includes such services supplied through electronic transmission and services that use *sa-haeng-seong-ge-im-mul*. “*Sa-haeng-seong-ge-im-mul*,” as defined in Article 2 of Korea’s *Game Industry Promotion Act*, includes, *inter alia*, gaming instruments which result in financial loss or gain through betting or by chance.

2014年9月22日

伊恩·伯尼先生 加拿大首席
谈判代表 加拿大渥太华

尊敬的伊恩·伯尼先生，

我谨确认大韩民国和加拿大代表团在谈判过程中就两国政府间自由贸易协定第八章（投资）和第九章（跨境服务贸易）达成的以下共识：

尽管有第8.1条（范围和覆盖）或第9.1条（范围和覆盖）的规定，跨境赌博和博彩服务¹ 不适用第九章（跨境服务贸易），赌博和博彩服务投资不适用第八章（投资）。

为明确起见，每一方保留根据其各自法律或法规采取或维持与博彩和赌博服务相关的任何措施的权利。

我有幸提议，本函及贵方回函确认贵国政府对此理解一致的函件，应构成自由贸易协定的组成部分。

诚挚地，

金容林先生 韩国首席谈判代表

¹ 为明确起见，“赌博和博彩服务”包括通过电子传输提供的服务以及使用沙亨成基姆的服务。“沙亨成基姆”，根据韩国游戏产业促进法第2条的定义，包括但不限于通过赌博或偶然结果导致财务损失或收益的游戏器具。

September 22, 2014

Mr. Kyong-lim Choi
Chief Negotiator for the Republic
of Korea
Seoul, Korea

Dear Mr. Kyong-lim Choi,

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

I have the honour to confirm the following understanding reached between the delegations of the Republic of Korea and Canada during the course of negotiations regarding Chapters Eight (Investment) and Nine (Cross-Border Trade in Services) of the Free Trade Agreement between our two Governments:

Notwithstanding Article 8.1 (Scope and Coverage) or 9.1 (Scope and Coverage), cross-border trade in gambling and betting services¹ is not subject to Chapter Nine (Cross-Border Trade in Services) and investment in gambling and betting services is not subject to Chapter Eight (Investment).

For greater certainty, each Party retains the right to adopt or maintain any measure in relation to betting and gambling services, in accordance with its respective laws or regulations.

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

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

Sincerely,

Ian Burney
Chief Negotiator for Canada

¹ For greater certainty, “gambling and betting services” includes such services supplied through electronic transmission and services that use *sa-haeng-seong-ge-im-mul*. “*Sa-haeng-seong-ge-im-mul*,” as defined in Article 2 of Korea’s *Game Industry Promotion Act*, includes, *inter alia*, gaming instruments which result in financial loss or gain through betting or by chance.

2014年9月22日

金容林先生 韩国首席谈判代表
韩国首尔

尊敬的金容林先生,

本人荣幸地收到贵方本日来函，内容如下：

本人荣幸地确认，大韩民国与加拿大两国政府就自由贸易协定中第八章（投资）和第九章（跨境服务贸易）的谈判过程中，双方达成以下共识：

尽管有第8.1条（范围和覆盖）或第9.1条（范围和覆盖）的规定，跨境赌博和博彩服务¹ 不适用第九章（跨境服务贸易）， 赌博和博彩服务投资不适用第八章（投资）。

为明确起见，每一方保留根据其各自法律或法规采取或维持与博彩和赌博服务相关的任何措施的权利。

本人荣幸地提议，本函及贵方回函确认贵国政府对此理解表示同意的函件，应构成自由贸易协定的组成部分。

本人进一步荣幸地确认，贵国政府对此理解表示同意，且贵方函件及本回函应构成自由贸易协定的组成部分。

此致,

伊恩·伯尼 加拿大首席谈判代表

¹ 为明确起见，“赌博和博彩服务”包括通过电子传输提供的服务以及使用沙亨成基姆的服务。“沙亨成基姆”，根据韩国游戏产业促进法第2条定义，包括但不限于通过赌博或偶然性导致财务损失或收益的游戏器具。

September 22, 2014

2014年9月22日

Mr. Ian Burney
Chief Negotiator for Canada
Ottawa, Canada

伊恩·伯尼先生 加拿大首席
谈判代表 加拿大渥太华

Dear Mr. Ian Burney,

尊敬的伊恩·伯尼先生,

I have the honour to confirm the following understanding reached between the delegations of the Republic of Korea and Canada during the course of negotiations regarding entries on telecommunications services in the Parties' Schedules to Annex I in the Free Trade Agreement between our two Governments:

我有幸确认以下共识：这是大韩民国和加拿大代表团在谈判过程中就自由贸易协定中缔约方附件I中电信服务条目的条款达成的一致意见：

If a Party conditions the granting of a license to supply public telecommunications services to a person of the Party in which a person of the other Party holds an equity interest on a finding that the supply of such services would serve the public interest, the Party shall ensure that it: (i) bases any such finding and the procedures for making such a finding on objective and transparent criteria; (ii) employs a presumption in favour of finding that granting a license to a person of the Party in which a person of the other Party holds an equity interest would serve the public interest; and (iii) develops any such procedures through a rulemaking consistent with Article 11.10 (Transparency).

如果一方将向在其另一方持有股权利益的人提供公共电信服务的许可证的授予条件为：基于供应此类服务将服务于公共利益的认定，该方应确保其：
(i) 任何此类认定及其制定程序均基于客观透明标准；(ii) 采取有利于认定向在其另一方持有股权利益的一方的人提供许可证将服务于公共利益的推定；以及(iii) 通过与第11.10条（透明度）一致的规则制定来制定此类程序。

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

我有幸提议，这封信以及您回复的确认贵国政府对此理解的信函，应构成自由贸易协定的组成部分。

Sincerely,

诚挚地,

Kyong-lim Choi
Chief Negotiator for the Republic
of Korea

金容林先生 韩国首席谈判代表

September 22, 2014

2014年9月22日

Mr. Kyong-lim Choi
Chief Negotiator for the Republic of Korea
Seoul, Korea

金容林先生 韩国首席谈判代表 韩国首尔

Dear Mr. Kyong-lim Choi,

尊敬的金容林先生,

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

本人荣幸地确认收到贵方本日来函，内容如下：

“I have the honor to confirm the following understanding reached between the delegations of the Republic of Korea and Canada during the course of negotiations regarding entries on telecommunications services in the Parties’ Schedules to Annex I in the Free Trade Agreement between our two Governments:

“本人荣幸地确认大韩民国和加拿大两国政府在关于自由贸易协定中，就附件I中缔约方日程表电信服务条款的谈判过程中达成的以下共识：

If a Party conditions the granting of a license to supply public telecommunications services to a person of the Party in which a person of the other Party holds an equity interest on a finding that the supply of such services would serve the public interest, the Party shall ensure that it: (i) bases any such finding and the procedures for making such a finding on objective and transparent criteria; (ii) employs a presumption in favor of finding that granting a license to a person of the Party in which a person of the other Party holds an equity interest would serve the public interest; and (iii) develops any such procedures through a rulemaking consistent with Article 11.10 (Transparency).

如果一方将发放公共电信服务许可证的条件与另一方持有股权利益的一方人士挂钩，并认定提供此类服务将符合公共利益，则该方应确保其： (i) 基于客观透明标准作出此类认定，并制定作出此类认定的程序； (ii) 采取有利于认定向另一方持有股权利益的一方人士发放许可证将符合公共利益的推定；以及 (iii) 通过与第11.10条（透明度）一致的规则制定程序制定此类程序。

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

我有幸提议，本函及贵方回函确认贵国政府对此理解表示同意，应构成自由贸易协议的组成部分。

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 integral part of the Free Trade Agreement.

我有幸进一步确认，我的政府认同这一理解，并且您的信件和这封回复信将构成自由贸易协定的组成部分。

Sincerely,

诚挚地,

Ian Burney
Chief Negotiator for Canada

伊恩·伯尼 加拿大首席谈判代表